



# Tax Credits Act 2002

## 2002 CHAPTER 21

### PART 1

#### TAX CREDITS

##### Modifications etc. (not altering text)

- C1** Pt. 1 modified (6.4.2003) by [The Tax Credits \(Immigration\) Regulations 2003 \(S.I. 2003/653\)](#), regs. 1, 4 (as amended (6.4.2003 immediately after the coming into force of [S.I. 2003/738](#)) by [S.I. 2003/742](#), regs. 1(1), 56 (with reg. 1(2))
- C2** Pt. 1 modified (6.4.2003 immediately after the coming into force of [S.I. 2003/738](#)) by [The Tax Credits \(Polygamous Marriages\) Regulations 2003 \(S.I. 2003/742\)](#), regs. 1(1), 3-21 (as amended (6.4.2017) by [S.I. 2017/387](#), regs. 1, 7)

#### *General*

### 1 Introductory

- (1) This Act makes provision for—
- a tax credit to be known as child tax credit, and
  - a tax credit to be known as working tax credit.
- (2) In this Act references to a tax credit are to either of those tax credits and references to tax credits are to both of them.
- (3) The following (which are superseded by tax credits) are abolished—
- children's tax credit under section 257AA of the Income and Corporation Taxes Act 1988 (c. 1),
  - working families' tax credit,
  - disabled person's tax credit,
  - the amounts which, in relation to income support and income-based jobseeker's allowance, are prescribed as part of the applicable amount in

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- respect of a child or young person, the family premium, the enhanced disability premium in respect of a child or young person and the disabled child premium,
- (e) increases in benefits in respect of children under sections 80 and 90 of the Social Security Contributions and Benefits Act 1992 (c. 4) and sections 80 and 90 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), and
  - (f) the employment credit under the schemes under section 2(2) of the Employment and Training Act 1973 (c. 50) and section 1 of the Employment and Training Act (Northern Ireland) 1950 (c. 29 (N.I.)) known as “New Deal 50plus”.

#### Commencement Information

- II** S. 1 partly in force; s. 1 not in force at Royal Assent, see s. 61; s. 1(1)(2) in force at 9.7.2002 by [S.I. 2002/1727](#), [art. 2](#); s. 1(3)(e) in force at 6.4.2003 by [S.I. 2003/938](#), [art. 2](#) (with [art. 3](#) and with savings in [S.R. 2003/212](#), [art. 2](#)); s. 1(3)(a)(f) in force at 6.4.2003 and s. 1(3)(b)(c) in force at 8.4.2003 by [S.I. 2003/962](#), [art. 2\(3\)\(a\)\(4\)\(a\)](#)

## [<sup>F12</sup> Functions of Commissioners for Revenue and Customs

The Commissioners for Her Majesty’s Revenue and Customs shall be responsible for the payment and management of tax credits.]

#### Textual Amendments

- F1** S. 2 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 88](#); [S.I. 2005/1126](#), [art. 2\(2\)\(h\)](#)

## 3 Claims

- (1) Entitlement to a tax credit for the whole or part of a tax year is dependent on the making of a claim for it.
- (2) Where the Board—
  - (a) decide under section 14 not to make an award of a tax credit on a claim, or
  - (b) decide under section 16 to terminate an award of a tax credit made on a claim, (subject to any appeal) any entitlement, or subsequent entitlement, to the tax credit for any part of the same tax year is dependent on the making of a new claim.
- (3) A claim for a tax credit may be made—
  - (a) jointly by the members of a [<sup>F2</sup>couple] both of whom are aged at least sixteen and are in the United Kingdom, or
  - (b) by a person who is aged at least sixteen and is in the United Kingdom but is not entitled to make a claim under paragraph (a) (jointly with another).
- (4) Entitlement to a tax credit pursuant to a claim ceases—
  - (a) in the case of a joint claim, if the persons by whom it was made could no longer jointly make a joint claim, and

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- (b) in the case of a single claim, if the person by whom it was made could no longer make a single claim.

[<sup>F3</sup>(5A) In this Part “couple” means—

- (a) a man and woman who are married to each other and are neither—
  - (i) separated under a court order, nor
  - (ii) separated in circumstances in which the separation is likely to be permanent,
- (b) a man and woman who are not married to each other but are living together as husband and wife,
- (c) two people of the same sex who are civil partners of each other and are neither—
  - (i) separated under a court order, nor
  - (ii) separated in circumstances in which the separation is likely to be permanent, or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.]

(7) Circumstances may be prescribed in which a person is to be treated for the purposes of this Part as being, or as not being, in the United Kingdom.

(8) In this Part—

“joint claim” means a claim under paragraph (a) of subsection (3), and  
“single claim” means a claim under paragraph (b) of that subsection.

#### Textual Amendments

- F2** Words in s. 3(3)(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 144\(2\)](#); S.I. 2005/3175, art. 2(1), Sch. 1
- F3** S. 3(5A) substituted for s. 3(5)(6) (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 144\(3\)](#); S.I. 2005/3175, art. 2(1), Sch. 1

#### Commencement Information

- I2** S. 3 partly in force; s. 3 not in force at Royal Assent, see s. 61; s. 3(1)(3) in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003, s. 3(2) in force at 1.1.2003, s. 3(4) in force for certain purposes at 1.8.2002 and s. 3(5)-(8) in force at 9.7.2002 by [S.I. 2002/1727, art. 2](#)

## 4 Claims: supplementary

(1) Regulations may—

- (a) require a claim for a tax credit to be made in a prescribed manner and within a prescribed time,
- (b) provide for a claim for a tax credit made in prescribed circumstances to be treated as having been made on a prescribed date earlier or later than that on which it is made,
- (c) provide that, in prescribed circumstances, a claim for a tax credit may be made for a period wholly or partly after the date on which it is made,

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- (d) provide that, in prescribed circumstances, an award on a claim for a tax credit may be made subject to the condition that the requirements for entitlement are satisfied at a prescribed time,
  - (e) provide for a claim for a tax credit to be made or proceeded with in the name of a person who has died,
  - (f) provide that, in prescribed circumstances, one person may act for another in making a claim for a tax credit,
  - (g) provide that, in prescribed circumstances, a claim for a tax credit made by one member of a [<sup>F4</sup>couple] is to be treated as also made by the other member of [<sup>F5</sup>the couple], and
  - (h) provide that a claim for a tax credit is to be treated as made by a person or persons in such other circumstances as may be prescribed.
- (2) The Board may supply to a person who has made a claim for a tax credit (whether or not jointly with another)—
- (a) any information relating to the claim, to an award made on the claim or to any change of circumstances relevant to the claim or such an award,
  - (b) any communication made or received relating to such an award or any such change of circumstances, and
  - (c) any other information which is relevant to any entitlement to tax credits pursuant to the claim or any such change of circumstances or which appeared to be so relevant at the time the information was supplied.

#### Textual Amendments

- F4** Word in s. 4(1)(g) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 145](#); [S.I. 2005/3175, art. 2\(1\), Sch. 1](#)
- F5** Words in s. 4(1)(g) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 146](#); [S.I. 2005/3175, art. 2\(1\), Sch. 1](#)

#### Commencement Information

- I3** S. 4 wholly in force; s. 4 not in force at Royal Assent, see s. 61; s. 4(1) in force at 9.7.2002 and s. 4(2) in force at 1.8.2002 by [S.I. 2002/1727, art. 2](#)

## 5 Period of awards

- (1) Where a tax credit is claimed for a tax year by making a claim before the tax year begins, any award of the tax credit on the claim is for the whole of the tax year.
- (2) An award on any other claim for a tax credit is for the period beginning with the date on which the claim is made and ending at the end of the tax year in which that date falls.
- (3) Subsections (1) and (2) are subject to any decision by the Board under section 16 to terminate an award.

#### Modifications etc. (not altering text)

- C3** S. 5(2) excluded (17.3.2005) by [Tax Credits Act 2002 \(Transitional Provisions\) Order 2005 \(S.I. 2005/773\), art. 6](#)
- C4** S. 5(2) excluded (1.4.2010) by [Tax Credits Act 2002 \(Transitional Provisions\) Order 2010 \(S.I. 2010/644\), arts. 1, 3\(1\), \(2\)](#)

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#### **Commencement Information**

- I4** S. 5 wholly in force at 6.4.2003; s. 5 not in force at Royal Assent, see s. 61; s. 5(1) in force and s. 5(3) in force for certain purposes at 1.1.2003 and s. 5(2) in force and s. 5(3) otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

## **6 Notifications of changes of circumstances**

- (1) Regulations may provide that any change of circumstances of a prescribed description which may increase the maximum rate at which a person or persons may be entitled to a tax credit is to do so only if notification of it has been given.
- (2) Regulations under subsection (1) may—
  - (a) provide for notification of a change of circumstances given in prescribed circumstances to be treated as having been given on a prescribed date earlier or later than that on which it is given,
  - (b) provide that, in prescribed circumstances, a notification of a change of circumstances may be given for a period wholly or partly after the date on which it is given, and
  - (c) provide that, in prescribed circumstances, an amendment of an award of a tax credit in consequence of a notification of a change of circumstances may be made subject to the condition that the requirements for entitlement to the amended amount of the tax credit are satisfied at a prescribed time.
- (3) Regulations may require that, where a person has or persons have claimed a tax credit, notification is to be given if there is a change of circumstances of a prescribed description which may decrease the rate at which he is or they are entitled to the tax credit or mean that he ceases or they cease to be entitled to the tax credit.
- (4) Regulations under this section may—
  - (a) require a notification to be given in a prescribed manner and within a prescribed time,
  - (b) specify the person or persons by whom a notification may be, or is to be, given, and
  - (c) provide that, in prescribed circumstances, one person may act for another in giving a notification.

#### **Modifications etc. (not altering text)**

- C5** S. 6 modified (8.4.2005) by [Tax Credits Notification of Changes of Circumstances \(Civil Partnership\) \(Transitional Provisions\) Order 2005 \(S.I. 2005/828\)](#), [arts. 1, 2](#)

## **7 Income test**

- (1) The entitlement of a person or persons of any description to a tax credit is dependent on the relevant income—
  - (a) not exceeding the amount determined in the manner prescribed for the purposes of this paragraph in relation to the tax credit and a person or persons of that description (referred to in this Part as the income threshold), or

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- (b) exceeding the income threshold by only so much that a determination in accordance with regulations under section 13(2) provides a rate of the tax credit in his or their case.
- (2) Subsection (1) does not apply in relation to the entitlement of a person or persons to a tax credit for so long as the person, or either of the persons, is entitled to any social security benefit prescribed for the purposes of this subsection in relation to the tax credit.
- (3) In this Part “the relevant income” means—
  - (a) if an amount is prescribed for the purposes of this paragraph and the current year income exceeds the previous year income by not more than that amount, the previous year income,
  - (b) if an amount is prescribed for the purposes of this paragraph and the current year income exceeds the previous year income by more than that amount, the current year income reduced by that amount,
  - (c) if an amount is prescribed for the purposes of this paragraph and the previous year income exceeds the current year income by not more than that amount, the previous year income,
  - (d) if an amount is prescribed for the purposes of this paragraph and the previous year income exceeds the current year income by more than that amount, the current year income increased by that amount, and
  - (e) otherwise, the current year income.
- (4) In this Part “the current year income” means—
  - (a) in relation to persons by whom a joint claim for a tax credit is made, the aggregate income of the persons for the tax year to which the claim relates, and
  - (b) in relation to a person by whom a single claim for a tax credit is made, the income of the person for that tax year.
- (5) In this Part “the previous year income” means—
  - (a) in relation to persons by whom a joint claim for a tax credit is made, the aggregate income of the persons for the tax year preceding that to which the claim relates, and
  - (b) in relation to a person by whom a single claim for a tax credit is made, the income of the person for that preceding tax year.
- (6) Regulations may provide that, for the purposes of this Part, income of a prescribed description is to be treated as being, or as not being, income for a particular tax year.
- (7) In particular, regulations may provide that income of a prescribed description of a person for the tax year immediately before the preceding tax year referred to in subsection (5) is to be treated as being income of that preceding tax year (instead of any actual income of that description of the person for that preceding tax year).
- (8) Regulations may for the purposes of this Part make provision—
  - (a) as to what is, or is not, income, and
  - (b) as to the calculation of income.
- (9) Regulations may provide that, for the purposes of this Part, a person is to be treated—
  - (a) as having income which he does not in fact have, or
  - (b) as not having income which he does in fact have.

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- (10) The Board may estimate the amount of the income of a person, or the aggregate income of persons, for any tax year for the purpose of making, amending or terminating an award of a tax credit; but such an estimate does not affect the rate at which he is, or they are, entitled to the tax credit for that or any other tax year.

#### Commencement Information

- I5** S. 7 wholly in force at 6.4.2003; s. 7 not in force at Royal Assent, see s. 61; s. 7(1)-(5) in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003, s. 7(6)-(9) in force at 9.7.2002 and s. 7(10) in force at 1.8.2002 by [S.I. 2002/1727](#), [art. 2](#) (with [art. 3](#) (as substituted (20.8.2002) by [S.I. 2002/2158](#), [art. 2](#)))

### *Child tax credit*

## 8 Entitlement

- (1) The entitlement of the person or persons by whom a claim for child tax credit has been made is dependent on him, or either or both of them, being responsible for one or more children or qualifying young persons.
- (2) Regulations may make provision for the purposes of child tax credit as to the circumstances in which a person is or is not responsible for a child or qualifying young person.
- (3) For the purposes of this Part a person is a child if he has not attained the age of sixteen; but regulations may make provision for a person who has attained that age to remain a child for the purposes of this Part after attaining that age for a prescribed period or until a prescribed date.
- (4) In this Part “qualifying young person” means a person, other than a child, who—
- (a) has not attained such age (greater than sixteen) as is prescribed, and
  - (b) satisfies prescribed conditions.
- (5) Circumstances may be prescribed in which a person is to be entitled to child tax credit for a prescribed period in respect of a child or qualifying young person who has died.

#### Commencement Information

- I6** S. 8 wholly in force at 6.4.2003; s. 8 not in force at Royal Assent, see s. 61; s. 8 in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 9 Maximum rate

- (1) The maximum rate at which a person or persons may be entitled to child tax credit is to be determined in the prescribed manner.
- (2) The prescribed manner of determination must involve the inclusion of—
- (a) an element which is to be included in the case of all persons entitled to child tax credit, and

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- (b) an element in respect of each child or qualifying young person for whom the person is, or either or both of them is or are, responsible.
- (3) The element specified in paragraph (a) of subsection (2) is to be known as the family element of child tax credit and that specified in paragraph (b) of that subsection is to be known as the individual element of child tax credit.
- (4) The prescribed manner of determination may involve the inclusion of such other elements as may be prescribed.
- (5) The prescribed manner of determination—
  - (a) may include provision for the amount of the family element of child tax credit to vary according to the age of any of the children or qualifying young persons or according to any such other factors as may be prescribed,
  - (b) may include provision for the amount of the individual element of child tax credit to vary according to the age of the child or qualifying young person or according to any such other factors as may be prescribed, and
  - (c) must include provision for the amount of the individual element of child tax credit to be increased in the case of a child or qualifying young person who is disabled and to be further increased in the case of a child or qualifying young person who is severely disabled.
- (6) A child or qualifying young person is disabled, or severely disabled, for the purposes of this section only if—
  - (a) he satisfies prescribed conditions, or
  - (b) prescribed conditions exist in relation to him.
- (7) If, in accordance with regulations under section 8(2), more than one claimant may be entitled to child tax credit in respect of the same child or qualifying young person, the prescribed manner of determination may include provision for the amount of any element of child tax credit included in the case of any one or more of them to be less than it would be if only one claimant were so entitled.
- (8) “Claimant” means—
  - (a) in the case of a single claim, the person who makes the claim, and
  - (b) in the case of a joint claim, the persons who make the claim.

#### **Commencement Information**

- I7** S. 9 wholly in force at 6.4.2003; s. 9 not in force at Royal Assent, see s. 61; s. 9 in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

### *Working tax credit*

## **10 Entitlement**

- (1) The entitlement of the person or persons by whom a claim for working tax credit has been made is dependent on him, or either or both of them, being engaged in qualifying remunerative work.
- (2) Regulations may for the purposes of this Part make provision—



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- (a) as to what is, or is not, qualifying remunerative work, and
  - (b) as to the circumstances in which a person is, or is not, engaged in it.
- (3) The circumstances prescribed under subsection (2)(b) may differ by reference to—
- (a) the age of the person or either of the persons,
  - (b) whether the person, or either of the persons, is disabled,
  - (c) whether the person, or either of the persons, is responsible for one or more children or qualifying young persons, or
  - (d) any other factors.
- (4) Regulations may make provision for the purposes of working tax credit as to the circumstances in which a person is or is not responsible for a child or qualifying young person.

#### Commencement Information

- 18** S. 10 wholly in force at 6.4.2003; s. 10 not in force at Royal Assent, see s. 61; s. 10 in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 11 Maximum rate

- (1) The maximum rate at which a person or persons may be entitled to working tax credit is to be determined in the prescribed manner.
- (2) The prescribed manner of determination must involve the inclusion of an element which is to be included in the case of all persons entitled to working tax credit.
- (3) The prescribed manner of determination must also involve the inclusion of an element in respect of the person, or either or both of the persons, engaged in qualifying remunerative work—
  - (a) having a physical or mental disability which puts him at a disadvantage in getting a job, and
  - (b) satisfying such other conditions as may be prescribed.
- (4) The element specified in subsection (2) is to be known as the basic element of working tax credit and the element specified in subsection (3) is to be known as the disability element of working tax credit.
- (5) The prescribed manner of determination may involve the inclusion of such other elements as may be prescribed.
- (6) The other elements may (in particular) include—
  - (a) an element in respect of the person, or either of the persons or the two of them taken together, being engaged in qualifying remunerative work to an extent prescribed for the purposes of this paragraph,
  - (b) an element in respect of the persons being the members of a [<sup>F6</sup>couple],
  - (c) an element in respect of the person not being a member of a [<sup>F7</sup>couple] but being responsible for a child or qualifying young person,
  - (d) an element in respect of the person, or either or both of the persons, being severely disabled, and

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- (e) an element in respect of the person, or either or both of the persons, being over a prescribed age, satisfying prescribed conditions and having been engaged in qualifying remunerative work for not longer than a prescribed period.
- (7) A person has a physical or mental disability which puts him at a disadvantage in getting a job, or is severely disabled, for the purposes of this section only if—
  - (a) he satisfies prescribed conditions, or
  - (b) prescribed conditions exist in relation to him.

#### Textual Amendments

- F6** Word in s. 11(6)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 145](#); [S.I. 2005/3175](#), art. 2(1), [Sch. 1](#)
- F7** Words in s. 11(6)(c) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 145](#); [S.I. 2005/3175](#), art. 2(1), [Sch. 1](#)

#### Commencement Information

- I9** S. 11 wholly in force at 6.4.2003; s. 11 not in force at Royal Assent, see s. 61; s. 11 in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 12 Child care element

- (1) The prescribed manner of determination of the maximum rate at which a person or persons may be entitled to working tax credit may involve the inclusion, in prescribed circumstances, of a child care element.
- (2) A child care element is an element in respect of a prescribed proportion of so much of any relevant child care charges as does not exceed a prescribed amount.
- (3) “Child care charges” are charges of a prescribed description incurred in respect of child care by the person, or either or both of the persons, by whom a claim for working tax credit is made.
- (4) “Child care”, in relation to a person or persons, means care provided—
  - (a) for a child of a prescribed description for whom the person is responsible, or for whom either or both of the persons is or are responsible, and
  - (b) by a person of a prescribed description.
- (5) The descriptions of persons prescribed under subsection (4)(b) may include descriptions of persons approved in accordance with a scheme made by the appropriate national authority under this subsection.
- (6) “The appropriate national authority” means—
  - (a) in relation to care provided in England, the Secretary of State,
  - (b) in relation to care provided in Scotland, the Scottish Ministers,
  - (c) in relation to care provided in Wales, the National Assembly for Wales, and
  - (d) in relation to care provided in Northern Ireland, the Department of Health, Social Services and Public Safety.
- (7) The provision made by a scheme under subsection (5) must involve the giving of approvals, in accordance with criteria determined by or under the scheme, by such of the following as the scheme specifies—

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- (a) the appropriate national authority making the scheme,
  - (b) one or more specified persons or bodies or persons or bodies of a specified description, and
  - (c) persons or bodies accredited under the scheme in accordance with criteria determined by or under it.
- (8) A scheme under subsection (5) may authorise—
- (a) the making of grants or loans to, and
  - (b) the charging of reasonable fees by,
- persons and bodies giving approvals.

#### Commencement Information

**I10** S. 12 wholly in force at 6.4.2003; s. 12 not in force at Royal Assent, see s. 61; s. 12(6)-(8) in force at 9.7.2002 and s. 12(1)-(5) in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

### Rate

## 13 Rate

- (1) Where, in the case of a person or persons entitled to a tax credit, the relevant income does not exceed the income threshold (or his or their entitlement arises by virtue of section 7(2)), the rate at which he is or they are entitled to the tax credit is the maximum rate for his or their case.
- (2) Regulations shall make provision as to the manner of determining the rate (if any) at which a person is, or persons are, entitled to a tax credit in any other case.
- (3) The manner of determination prescribed under subsection (2)—
- (a) may involve the making of adjustments so as to avoid fractional amounts, and
  - (b) may include provision for securing that, where the rate at which a person or persons would be entitled to a tax credit would be less than a prescribed rate, there is no rate in his or their case.

#### Commencement Information

**I11** S. 13 wholly in force at 6.4.2003; s. 13 not in force at Royal Assent, see s. 61; s. 13 in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

### Decisions

## 14 Initial decisions

- (1) On a claim for a tax credit the Board must decide—
- (a) whether to make an award of the tax credit, and
  - (b) if so, the rate at which to award it.

*Status: Point in time view as at 06/04/2013.*

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- (2) Before making their decision the Board may by notice—
- (a) require the person, or either or both of the persons, by whom the claim is made to provide any information or evidence which the Board consider they may need for making their decision, or
  - (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for that purpose,
- by the date specified in the notice.
- (3) The Board's power to decide the rate at which to award a tax credit includes power to decide to award it at a nil rate.

#### Commencement Information

**II2** S. 14 wholly in force at 1.1.2003; s. 14 not in force at Royal Assent, see s. 61; s. 14(2) in force for certain purposes at 9.7.2002 and otherwise in force at 1.8.2002 and s. 14(1)(3) in force at 1.1.2003 by [S.I. 2002/1727, art. 2](#)

## 15 Revised decisions after notifications

- (1) Where notification of a change of circumstances increasing the maximum rate at which a person or persons may be entitled to a tax credit is given in accordance with regulations under section 6(1), the Board must decide whether (and, if so, how) to amend the award of the tax credit made to him or them.
- (2) Before making their decision the Board may by notice—
- (a) require the person by whom the notification is given to provide any information or evidence which the Board consider they may need for making their decision, or
  - (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for that purpose,
- by the date specified in the notice.

#### Commencement Information

**II3** S. 15 wholly in force at 1.1.2003; s. 15 not in force at Royal Assent, see s. 61; s. 15(2) in force for certain purposes at 9.7.2002 and otherwise in force at 1.8.2002 and s. 15(1) in force at 1.1.2003 by [S.I. 2002/1727, art. 2](#)

## 16 Other revised decisions

- (1) Where, at any time during the period for which an award of a tax credit is made to a person or persons, the Board have reasonable grounds for believing—
- (a) that the rate at which the tax credit has been awarded to him or them for the period differs from the rate at which he is, or they are, entitled to the tax credit for the period, or
  - (b) that he has, or they have, ceased to be, or never been, entitled to the tax credit for the period,

*Status: Point in time view as at 06/04/2013.*

*Changes to legislation: Tax Credits Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

the Board may decide to amend or terminate the award.

(2) Where, at any time during the period for which an award of a tax credit is made to a person or persons, the Board believe—

- (a) that the rate at which a tax credit has been awarded to him or them for the period may differ from the rate at which he is, or they are, entitled to it for the period, or
- (b) that he or they may have ceased to be, or never been, entitled to the tax credit for the period,

the Board may give a notice under subsection (3).

(3) A notice under this subsection may—

- (a) require the person, or either or both of the persons, to whom the tax credit was awarded to provide any information or evidence which the Board consider they may need for considering whether to amend or terminate the award under subsection (1), or
- (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for that purpose,

by the date specified in the notice.

#### **Commencement Information**

**I14** S. 16 wholly in force at 1.1.2003; s. 16 not in force at Royal Assent, see s. 61; s. 16(3) in force for certain purposes at 9.7.2002 and s. 16 in force in so far as not already in force at 1.1.2003 by [S.I. 2002/1727](#), [art. 2](#)

## **17 Final notice**

(1) Where a tax credit has been awarded for the whole or part of a tax year—

- (a) for awards made on single claims, the Board must give a notice relating to the tax year to the person to whom the tax credit was awarded, and
- (b) for awards made on joint claims, the Board must give such a notice to the persons to whom the tax credit was awarded (with separate copies of the notice for each of them if the Board consider appropriate).

(2) The notice must either—

- (a) require that the person or persons must, by the date specified for the purposes of this subsection, declare that the relevant circumstances were as specified or state any respects in which they were not, or
- (b) inform the person or persons that he or they will be treated as having declared in response to the notice that the relevant circumstances were as specified unless, by that date, he states or they state any respects in which they were not.

(3) “Relevant circumstances” means circumstances (other than income) affecting—

- (a) the entitlement of the person, or joint entitlement of the persons, to the tax credit, or
- (b) the amount of the tax credit to which he was entitled, or they were jointly entitled,

for the tax year.

*Status: Point in time view as at 06/04/2013.*

*Changes to legislation: Tax Credits Act 2002, Part 1 is up to date with all changes known to be in force on or before 02 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) The notice must either—
- (a) require that the person or persons must, by the date specified for the purposes of this subsection, declare that the amount of the current year income or estimated current year income (depending on which is specified) was the amount, or fell within the range, specified or comply with subsection (5), or
  - (b) inform the person or persons that he or they will be treated as having declared in response to the notice that the amount of the current year income or estimated current year income (depending on which is specified) was the amount, or fell within the range, specified unless, by that date, he complies or they comply with subsection (5).
- (5) To comply with this subsection the person or persons must either—
- (a) state the current year income or his or their estimate of the current year income (making clear which), or
  - (b) declare that, throughout the period to which the award related, subsection (1) of section 7 did not apply to him or them by virtue of subsection (2) of that section.
- (6) The notice may—
- (a) require that the person or persons must, by the date specified for the purposes of subsection (4), declare that the amount of the previous year income was the amount, or fell within the range, specified or comply with subsection (7), or
  - (b) inform the person or persons that he or they will be treated as having declared in response to the notice that the amount of the previous year income was the amount, or fell within the range, specified unless, by that date, he complies or they comply with subsection (7).
- (7) To comply with this subsection the person or persons must either—
- (a) state the previous year income, or
  - (b) make the declaration specified in subsection (5)(b).
- (8) The notice must inform the person or persons that if he or they—
- (a) makes or make a declaration under paragraph (a) of subsection (4), or is or are treated as making a declaration under paragraph (b) of that subsection, in relation to estimated current year income (or the range within which estimated current year income fell), or
  - (b) states or state under subsection (5)(a) his or their estimate of the current year income,
- he or they will be treated as having declared in response to the notice that the amount of the (actual) current year income was as estimated unless, by the date specified for the purposes of this subsection, he states or they state the current year income.
- (9) “Specified”, in relation to a notice, means specified in the notice.
- (10) Regulations may—
- (a) provide that, in prescribed circumstances, one person may act for another in response to a notice under this section, and
  - (b) provide that, in prescribed circumstances, anything done by one member of a [<sup>F8</sup>couple] in response to a notice given under this section is to be treated as also done by the other member of [<sup>F9</sup>the couple].

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#### Textual Amendments

- F8** Word in s. 17(10)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 145](#); [S.I. 2005/3175, art. 2\(1\), Sch. 1](#)
- F9** Words in s. 17(10)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 146](#); [S.I. 2005/3175, art. 2\(1\), Sch. 1](#)

#### Commencement Information

- I15** S. 17 wholly in force at 6.4.2003; s. 17 not in force at Royal Assent, see s. 61; s. 17(10) in force at 9.7.2002 and s. 17(1)-(9) in force at 6.4.2003 by [S.I. 2002/1727, art. 2](#)

## 18 Decisions after final notice

- (1) After giving a notice under section 17 the Board must decide—
  - (a) whether the person was entitled, or the persons were jointly entitled, to the tax credit, and
  - (b) if so, the amount of the tax credit to which he was entitled, or they were jointly entitled,  
for the tax year.
- (2) But, subject to subsection (3), that decision must not be made before a declaration or statement has been made in response to the relevant provisions of the notice.
- (3) If a declaration or statement has not been made in response to the relevant provisions of the notice on or before the date specified for the purposes of section 17(4), that decision may be made after that date.
- (4) In subsections (2) and (3) “the relevant provisions of the notice” means—
  - (a) the provision included in the notice by virtue of subsection (2) of section 17,
  - (b) the provision included in the notice by virtue of subsection (4) of that section, and
  - (c) any provision included in the notice by virtue of subsection (6) of that section.
- (5) Where the Board make a decision under subsection (1) on or before the date referred to in subsection (3), they may revise it if a new declaration or statement is made on or before that date.
- (6) If the person or persons to whom a notice under section 17 is given is or are within paragraph (a) or (b) of subsection (8) of that section, the Board must decide again—
  - (a) whether the person was entitled, or the persons were jointly entitled, to the tax credit, and
  - (b) if so, the amount of the tax credit to which he was entitled, or they were jointly entitled,  
for the tax year.
- (7) But, subject to subsection (8), that decision must not be made before a statement has been made in response to the provision included in the notice by virtue of subsection (8) of section 17.
- (8) If a statement has not been made in response to the provision included in the notice by virtue of that subsection on or before the date specified for the purposes of that subsection, that decision may be made after that date.

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- (9) Where the Board make a decision under subsection (6) on or before the date referred to in subsection (8), they may revise it if a new statement is made on or before that date.
- (10) Before exercising a function imposed or conferred on them by subsection (1), (5), (6) or (9), the Board may by notice require the person, or either or both of the persons, to whom the notice under section 17 was given to provide any further information or evidence which the Board consider they may need for exercising the function by the date specified in the notice.
- (11) Subject to sections 19 and 20 and regulations under section 21 (and to any revision under subsection (5) or (9) and any appeal)—
- (a) in a case in which a decision is made under subsection (6) in relation to a person or persons and a tax credit for a tax year, that decision, and
  - (b) in any other case, the decision under subsection (1) in relation to a person or persons and a tax credit for a tax year,
- is conclusive as to the entitlement of the person, or the joint entitlement of the persons, to the tax credit for the tax year and the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year.

## **19 Power to enquire**

- (1) The Board may enquire into—
- (a) the entitlement of a person, or the joint entitlement of persons, to a tax credit for a tax year, and
  - (b) the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year,
- if they give notice to the person, or each of the persons, during the period allowed for the initiation of an enquiry.
- (2) As part of the enquiry the Board may by notice—
- (a) require the person, or either or both of the persons, to provide any information or evidence which the Board consider they may need for the purposes of the enquiry, or
  - (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for those purposes,
- by the date specified in the notice.
- (3) On an enquiry the Board must decide—
- (a) whether the person was entitled, or the persons were jointly entitled, to the tax credit, and
  - (b) if so, the amount of the tax credit to which he was entitled, or they were jointly entitled,
- for the tax year.
- (4) The period allowed for the initiation of an enquiry is the period beginning immediately after the relevant section 18 decision and ending—
- (a) if the person, or either of the persons, to whom the enquiry relates is required by section 8 of the Taxes Management Act 1970 (c. 9) to make a return, with the day on which the return becomes final (or, if both of the persons are so



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- required and their returns become final on different days, with the later of those days), or
- (b) in any other case, one year after the beginning of the relevant section 17 date.
- (5) “The relevant section 18 decision” means—
- (a) in a case in which a decision must be made under subsection (6) of section 18 in relation to the person or persons and the tax year to which the enquiry relates, that decision, and
- (b) in any other case, the decision under subsection (1) of that section in relation to the person or persons and that tax year.
- (6) “The relevant section 17 date” means—
- (a) in a case in which a statement may be made by the person or persons in response to provision included by virtue of subsection (8) of section 17 in the notice given to him or them under that section in relation to the tax year, the date specified in the notice for the purposes of that subsection, and
- (b) in any other case, the date specified for the purposes of subsection (4) of that section in the notice given to him or them under that section in relation to the tax year.
- (7) A return becomes final—
- (a) if it is enquired into under section 9A of the Taxes Management Act 1970 (c. 9), when the enquiries are completed (within the meaning of section 28A of that Act), or
- (b) otherwise, at the end of the period specified in subsection (2) of that section in relation to the return.
- (8) An enquiry is completed at the time when the Board give notice to the person or persons of their decision under subsection (3); but if the Board give notice to the persons at different times the enquiry is completed at the later of those times.
- (9) The person, or either of the persons, to whom the enquiry relates may at any time before such notice is given apply for a direction that the Board must give such a notice.
- [<sup>F10</sup>(10) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and the tribunal must give the direction applied for unless satisfied that the Board have reasonable grounds for not making the decision or giving the notice.]
- (11) Where the entitlement of a person, or the joint entitlement of persons, to a tax credit for a tax year has been enquired into under this section, it is not to be the subject of a further notice under subsection (1).
- (12) Subject to section 20 and regulations under section 21 (and to any appeal), a decision under subsection (3) in relation to a person or persons and a tax credit for a tax year is conclusive as to the entitlement of the person, or the joint entitlement of the persons, to the tax credit for the tax year and the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year.

#### Textual Amendments

- F10** S. 19(10) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 313](#)

*Status: Point in time view as at 06/04/2013.*

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### Commencement Information

- I16** S. 19 wholly in force at 6.4.2003; s. 19 not in force at Royal Assent, see s. 61; s. 19(2) in force for certain purposes at 9.7.2002 and s. 19 in force in so far as not already in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 20 Decisions on discovery

- (1) Where in consequence of a person's income tax liability being revised the Board have reasonable grounds for believing that a conclusive decision relating to his entitlement to a tax credit for a tax year (whether or not jointly with another person) is not correct, the Board may decide to revise that decision.
- (2) A person's income tax liability is revised—
  - (a) on the taking effect of an amendment of a return of his under section 9ZA(1) of the Taxes Management Act 1970,
  - (b) on the issue of a notice of correction under section 9ZB of that Act amending a return of his (provided that he does not give a notice of rejection before the end of the period of thirty days beginning with the date of issue of the notice of correction),
  - (c) on the amendment of an assessment of his by notice under section 9C of that Act,
  - (d) on the amendment of a return of his under section 12ABA(3)(a) of that Act,
  - (e) on the amendment of a return of his under subsection (6)(a) of section 12ABB of that Act after the correction of a partnership return under that section (provided that the amendment does not cease to have effect by reason of the rejection of the correction under subsection (4) of that section),
  - (f) on the issue of a closure notice under section 28A of that Act making amendments of a return of his,
  - (g) on the amendment of a return of his under section 28B(4)(a) of that Act,
  - (h) on the making of an assessment as regards him under section 29(1) of that Act,
  - (i) on the vacation of the whole or part of an assessment of his under section 32 of that Act,
  - (j) on giving him relief under section 33 of that Act, or
  - (k) on the determination (or settlement) of an appeal against the making, amendment or vacation of an assessment or return, or a decision on a claim for relief, under any of the provisions mentioned in paragraphs (c), (f) and (h) to (j).
- (3) But no decision may be made under subsection (1)—
  - (a) unless it is too late to enquire into the person's entitlement under section 19, or
  - (b) after the period of one year beginning when the person's income tax liability is revised.
- (4) Where the Board have reasonable grounds for believing that—
  - (a) a conclusive decision relating to the entitlement of a person, or the joint entitlement of persons, to a tax credit for a tax year is not correct, and
  - (b) that is attributable to fraud or neglect on the part of the person, or of either of the persons, or on the part of any person acting for him, or either of them,
 the Board may decide to revise that decision.

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- (5) But no decision may be made under subsection (4)—
- (a) unless it is too late to enquire into the entitlement, or joint entitlement, under section 19, or
  - (b) after the period of five years beginning with the end of the tax year to which the conclusive decision relates.
- (6) “Conclusive decision”, in relation to the entitlement of a person, or joint entitlement of persons, to a tax credit for a tax year, means—
- (a) a decision in relation to it under section 18(1), (5), (6) or (9) or 19(3) or a previous decision under this section, or
  - (b) a decision under regulations under section 21 relating to a decision within paragraph (a),
- including a decision made on an appeal against such a decision.
- (7) Subject to any subsequent decision under this section and to regulations under section 21 (and to any appeal), a decision under subsection (1) or (4) in relation to a person or persons and a tax credit for a tax year is conclusive as to the entitlement of the person, or the joint entitlement of the persons, to the tax credit for the tax year and the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year.

## **21 Decisions subject to official error**

Regulations may make provision for a decision under section 14(1), 15(1), 16(1), 18(1), (5), (6) or (9), 19(3) or 20(1) or (4) to be revised in favour of the person or persons to whom it relates if it is incorrect by reason of official error (as defined by the regulations).

## **22 Information etc. requirements: supplementary**

- (1) Regulations may make provision as to the manner and form in which—
- (a) information or evidence is to be provided in compliance with a requirement imposed by a notice under section 14(2), 15(2), 16(3), 18(10) or 19(2), or
  - (b) a declaration or statement is to be made in response to a notice under section 17.
- (2) Regulations may make provision as to the dates which may be specified in a notice under section 14(2), 15(2), 16(3), 17, 18(10) or 19(2).

## **23 Notice of decisions**

- (1) When a decision is made under section 14(1), 15(1), 16(1), 18(1), (5), (6) or (9), 19(3) or 20(1) or (4) or regulations under section 21, the Board must give notice of the decision to the person, or each of the persons, to whom it relates.
- (2) Notice of a decision must state the date on which it is given and include details of any right to appeal against the decision under section 38.
- (3) Notice need not be given of a decision made under section 14(1) or 18(1) or (6) on the basis of declarations made or treated as made by the person or persons in response to the notice given to him or them under section 17 if—
- (a) that notice, or

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- (b) in the case of a decision under subsection (6) of section 18, that notice or the notice of the decision under subsection (1) of that section, stated what the decision would be and the date on which it would be made.

#### Commencement Information

**I17** S. 23 wholly in force at 6.4.2003; s. 23 not in force at Royal Assent, see s. 61; s. 23 in force for certain purposes at 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

### Payment

## 24 Payments

- (1) Where the Board have made an award of a tax credit, the amount of the tax credit awarded must be paid to the person to whom the award is made, subject to subsections (2) and (3).
- (2) Where an award of a tax credit is made to the members of a [<sup>F11</sup>couple], payments of the tax credit, or of any element of the tax credit, are to be made to whichever of them is prescribed.
- (3) Where an award of a tax credit is made on a claim which was made by one person on behalf of another, payments of the tax credit, or of any element of the tax credit, are to be made to whichever of those persons is prescribed.
- (4) Where an award of a tax credit has been made to a person or persons for the whole or part of a tax year, payments may, in prescribed circumstances, continue to be made for any period, after the tax year, within which he is or they are entitled to make a claim for the tax credit for the next tax year.
- (5) Payments made under subsection (4) are to be treated for the purposes of this section and the following provisions of this Part as if they were payments of the tax credit for the next tax year.
- (6) Subject to section 25, payments of a tax credit must be made by the Board.
- (7) Regulations may make provision about the time when and the manner in which a tax credit, or any element of a tax credit, is to be paid by the Board.
- (8) If the regulations make provision for payments of a tax credit, or any element of a tax credit, to be made by the Board by way of a credit to a bank account or other account notified to the Board, the regulations may provide that entitlement to the tax credit or element is dependent on an account having been notified to the Board in accordance with the regulations.

#### Textual Amendments

**F11** Word in s. 24(2) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), **Sch. 24 para. 145**; [S.I. 2005/3175](#), art. 2(1), Sch. 1

*Status: Point in time view as at 06/04/2013.*

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**Commencement Information**

**I18** S. 24 wholly in force at 6.4.2003; s. 24 not in force at Royal Assent, see s. 61; s. 24 in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

**25 Payments of working tax credit by employers**

- (1) Regulations may require employers, when making [<sup>F12</sup>payments of, or on account of, PAYE income] and in any such other circumstances as may be prescribed, to pay working tax credit, or prescribed elements of working tax credit, to employees.
- (2) The regulations may, in particular, include provision—
  - (a) requiring employers to make payments of working tax credit, or prescribed elements of working tax credit, in accordance with notices given to them by the Board,
  - (b) for the payment by the Board of working tax credit in cases where an employer does not make payments of working tax credit, or prescribed elements of working tax credit, in accordance with the regulations and with any notices given by the Board,
  - (c) prescribing circumstances in which employers are not required to make, or to continue making, payments of working tax credit, or prescribed elements of working tax credit,
  - (d) for the provision of information or evidence for the purpose of enabling the Board to be satisfied whether employers are complying with notices given by the Board and with the regulations,
  - (e) requiring employers to provide information to employees (in their itemised pay statements or otherwise),
  - (f) for the funding by the Board of working tax credit paid or to be paid by employers (whether by way of set off against income tax, national insurance contributions or student loan deductions for which they are accountable to the Board or otherwise),
  - (g) for the recovery by the Board from an employer of funding under paragraph (f) to the extent that it exceeds the amount of working tax credit paid by the employer,
  - (h) for the payment of interest at the prescribed rate on sums due from or to the Board, and for determining the date from which interest is to be calculated, and
  - (i) for appeals with respect to matters arising under the regulations which would otherwise not be the subject of an appeal.

<sup>F13</sup>(3) .....

<sup>F14</sup>(4) .....

(5) In this Part—

“employee” means a person who receives any [<sup>F15</sup>payment of, or on account of, PAYE income], and

“employer”, in relation to an employee, means a person who makes any such payment to the employee.

(6) <sup>F16</sup> .....

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- (7) “Student loan deductions” means deductions in accordance with regulations under section 22(5) of the Teaching and Higher Education Act 1998 (c. 30), section 73B(3) of the Education (Scotland) Act 1980 (c. 44) or Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14)).

#### Textual Amendments

- F12** Words in s. 25(1) substituted (with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 722, **Sch. 6 para. 265(2)** (with Sch. 7)
- F13** S. 25(3) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), **Sch. 36 para. 90** (with Sch. 36 para. 38); [S.I. 2009/404](#), art. 2 (with art. 9)
- F14** S. 25(4) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), **Sch. 36 para. 90** (with Sch. 36 para. 38); [S.I. 2009/404](#), art. 2 (with art. 9)
- F15** Words in s. 25(5) substituted (with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 722, **Sch. 6 para. 265(3)** (with Sch. 7)
- F16** S. 25(6) repealed (with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), ss. 722, 724(1), **Sch. 6 para. 265(4)**, **Sch. 8 Pt. 1** (with Sch. 7)

#### Commencement Information

- I19** S. 25 wholly in force at 6.4.2003; s. 25 not in force at Royal Assent, see s. 61; s. 25(1)(2)(6)(7) in force and s. 25(5) in force for certain purposes at 9.7.2002 and s. 25 in force in so far as not already in force at 6.4.2003 by [S.I. 2002/1727](#), art. 2

## 26 Liability of officers for sums paid to employers

- (1) Regulations may provide that where—
- (a) an employer which is a body corporate has failed to repay any funding to the Board in accordance with regulations made under section 25(2)(g), and
  - (b) the provision of the funding, or the failure by the employer to repay the funding, appears to the Board to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate (“culpable officers”),
- the culpable officers are required to pay to the Board the amount of funding recoverable by the Board from the employer.
- (2) Regulations under this section must include provision—
- (a) for any amount paid to the Board by a culpable officer in accordance with the regulations to be deducted from the amount of funding liable to be repaid by the employer,
  - (b) for the amount which a culpable officer is liable to pay under the regulations to be reduced where the amount of funding recoverable from the employer is reduced by payments made to the Board by the employer, and
  - (c) for the Board to repay to a culpable officer the amount (if any) by which the amount that he has paid to the Board pursuant to the regulations exceeds the reduced amount that he is liable to pay by virtue of paragraph (b).
- (3) Regulations under this section may include provision—
- (a) requiring payments by culpable officers to be made in accordance with notices given to them by the Board,

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- (b) for determining, in cases of an employer in relation to which there is more than one culpable officer, the proportion of the amount of funding recoverable from the employer that is payable by each culpable officer,
  - (c) for the payment of interest at the prescribed rate on sums due to or from the Board, and for determining the date from which interest is to be calculated, and
  - (d) for appeals with respect to matters arising under the regulations.
- (4) “Officer”, in relation to a body corporate, means—
- (a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such, and
  - (b) in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so.

## 27 Rights of employees

Schedule 1 (rights of employees not to suffer unfair dismissal or other detriment) has effect.

## 28 Overpayments

- (1) Where the amount of a tax credit paid for a tax year to a person or persons exceeds the amount of the tax credit to which he is entitled, or they are jointly entitled, for the tax year (as determined in accordance with the provision made by and by virtue of sections 18 to 21), the Board may decide that the excess, or any part of it, is to be repaid to the Board.
- (2) In this Part such an excess is referred to as an overpayment.
- (3) For overpayments made under awards on single claims, the person to whom the tax credit was awarded is liable to repay the amount which the Board decide is to be repaid.
- (4) For overpayments made under awards on joint claims, the persons to whom the tax credit was awarded are jointly and severally liable to repay the amount which the Board decide is to be repaid unless the Board decide that each is to repay a specified part of that amount.
- (5) Where it appears to the Board that there is likely to be an overpayment of a tax credit for a tax year under an award made to a person or persons, the Board may, with a view to reducing or eliminating the overpayment, amend the award or any other award of any tax credit made to the person or persons; but this subsection does not apply once a decision is taken in relation to the person or persons for the tax year under section 18(1).
- (6) Where the Board decide under section 16 to terminate an award of a tax credit made to a person or persons on the ground that at no time during the period to which the award related did the person or persons satisfy—
  - (a) section 8(1) (if the award related to child tax credit), or
  - (b) section 10(1) (if it related to working tax credit),the Board may decide that the amount paid under the award, or any part of it, is to be treated for the purposes of this Part (apart from subsection (5)) as an overpayment.

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## 29 Recovery of overpayments

- (1) Where an amount is liable to be repaid by a person or persons under section 28, the Board must give him, or each of them, a notice specifying the amount.
- (2) The notice must state which of subsections (3) to (5) is to apply in relation to the amount or any specified part of the amount; and a notice may at any time be replaced by another notice containing a different statement.
- (3) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it is to be treated for the purposes of Part 6 of the Taxes Management Act 1970 (c. 9) (collection and recovery) as if it were tax charged in an assessment and due and payable by the person or persons to whom the notice was given at the end of the period of thirty days beginning with the day on which the notice is given.
- (4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may, subject to provision made by regulations, be recovered by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given.
- (5) Where a notice states that this subsection applies in relation to an amount (or part of an amount), [<sup>F17</sup>PAYE regulations] apply to it as if it were an underpayment of [<sup>F18</sup>income tax] for a previous year of assessment by the person or persons to whom the notice was given [<sup>F19</sup>that is not a relevant debt (within the meaning of section 684 of the Income Tax (Earnings and Pensions) Act 2003)].

### Textual Amendments

- F17** Words in s. 29(5) substituted (with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 722, [Sch. 6 para. 266](#) (with [Sch. 7](#))
- F18** Words in s. 29(5) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 8\(a\)](#)
- F19** Words in s. 29(5) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 8\(b\)](#)

## 30 Underpayments

- (1) Where it has been determined in accordance with the provision made by and by virtue of sections 18 to 21 that a person was entitled, or persons were jointly entitled, to a tax credit for a tax year and either—
  - (a) the amount of the tax credit paid to him or them for that tax year was less than the amount of the tax credit to which it was so determined that he is entitled or they are jointly entitled, or
  - (b) no payment of the tax credit was made to him or them for that tax year, the amount of the difference, or of his entitlement or their joint entitlement, must be paid to him or to whichever of them is prescribed.
- (2) Where the claim for the tax credit was made by one person on behalf of another, the payment is to be made to whichever of those persons is prescribed.

### Commencement Information

- I20** S. 30 wholly in force at 6.4.2003; s. 30 not in force at Royal Assent, see s. 61; s. 30 in force for certain purposes at 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)



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## Penalties

### 31 Incorrect statements etc.

- (1) Where a person fraudulently or negligently—
  - (a) makes an incorrect statement or declaration in or in connection with a claim for a tax credit or a notification of a change of circumstances given in accordance with regulations under section 6 or in response to a notice under section 17, or
  - (b) gives incorrect information or evidence in response to a requirement imposed on him by virtue of section 14(2), 15(2), 16(3), 18(10) or 19(2) or regulations under section 25,a penalty not exceeding £3,000 may be imposed on him.
- (2) Where a person liable to a penalty under subsection (1) is a person making, or who has made, a claim for a tax credit for a period jointly with another and the penalty is imposed—
  - (a) under paragraph (a) of that subsection in respect of the claim, a notification relating to the tax credit claimed or a notice relating to the tax credit awarded on the claim, or
  - (b) under paragraph (b) of that subsection in respect of a requirement imposed on him with respect to the tax credit for the period,a penalty of an amount not exceeding £3,000 may be imposed on the other person unless subsection (3) applies.
- (3) This subsection applies if the other person was not, and could not reasonably have been expected to have been, aware that the person liable to the penalty under subsection (1) had fraudulently or negligently made the incorrect statement or declaration or given the incorrect information or evidence.
- (4) Where penalties are imposed under subsections (1) and (2) in respect of the same statement, declaration, information or evidence, their aggregate amount must not exceed £3,000.
- (5) Where a person acts for another—
  - (a) in or in connection with a claim or notification referred to in subsection (1), or
  - (b) in response to a notice so referred to,subsection (1) applies to him (as well as to any person to whom it applies apart from this subsection).

#### Commencement Information

**I21** S. 31 wholly in force at 6.4.2003; s. 31 not in force at Royal Assent, see s. 61; s. 31 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

### 32 Failure to comply with requirements

- (1) Where a person fails—
  - (a) to provide any information or evidence which he is required to provide by virtue of section 14(2), 15(2), 16(3), 18(10) or 19(2) or regulations under section 25, or

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- (b) to comply with a requirement imposed on him by a notice under section 17 by virtue of subsection (2)(a), (4)(a) or (6)(a) of that section, the penalties specified in subsection (2) may be imposed on him.
- (2) The penalties are—
- (a) a penalty not exceeding £300, and
  - (b) if the failure continues after a penalty is imposed under paragraph (a), a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (3) Where a person fails to give a notification required by regulations under section 6(3), a penalty not exceeding £300 may be imposed on him.
- (4) No penalty under subsection (2) may be imposed on a person in respect of a failure after the failure has been remedied.
- (5) For the purposes of this section a person is to be taken not to have failed to provide information or evidence, comply with a requirement or give a notification which must be provided, complied with or given by a particular time—
- (a) if he provided, complied with or gave it within such further time (if any) as the Board may have allowed,
  - (b) if he had a reasonable excuse for not providing, complying with or giving it by that time, or
  - (c) if, after having had such an excuse, he provided, complied with or gave it without unreasonable delay.
- (6) Where the members of a [<sup>F20</sup>couple] both fail as mentioned in subsection (1)(b), the aggregate amount of any penalties under subsection (2) imposed on them in relation to their failures must not exceed the amounts specified in that subsection; and where the members of a [<sup>F20</sup>couple] both fail as mentioned in subsection (3), the aggregate amount of any penalties imposed on them in relation to their failures must not exceed £300.

#### Textual Amendments

**F20** Word in s. 32(6) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 145](#); [S.I. 2005/3175](#), art. 2(1), [Sch. 1](#)

#### Commencement Information

**I22** S. 32 wholly in force at 6.4.2003; s. 32 not in force at Royal Assent, see s. 61; s. 32 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

### 33 Failure by employers to make correct payments

- (1) Where an employer refuses or repeatedly fails to make to an employee payments of tax credits which he is required to make to him by regulations under section 25 and, as a result, the Board make payments to the employee in accordance with regulations under subsection (2)(b) of that section, a penalty not exceeding £3,000 may be imposed on the employer.

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- (2) Where an employer has, by reason of his fraud or neglect, not paid to an employee for a tax year the correct amount of any tax credit which he is required by regulations under section 25 to pay to him for that tax year, a penalty not exceeding £3,000 may be imposed on the employer.
- (3) But no penalty may be imposed on an employer under subsection (2) in respect of payments which are incorrect only because of a refusal or failure in respect of which a penalty is imposed on him under subsection (1).

### 34 Supplementary

Schedule 2 (penalties: supplementary) has effect.

#### Commencement Information

**I23** S. 34 wholly in force at 6.4.2003; s. 34 not in force at Royal Assent, see s. 61; s. 34 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

### *Fraud*

### 35 Offence of fraud

- (1) A person commits an offence if he is knowingly concerned in any fraudulent activity undertaken with a view to obtaining payments of a tax credit by him or any other person.
- (2) A person who commits an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years, or a fine, or both.

### 36 Powers in relation to documents

- (1) Section 20BA of the Taxes Management Act 1970 (c. 9) (orders for delivery of documents) applies (with Schedule 1AA and section 20BB) in relation to offences involving fraud in connection with, or in relation to, tax credits as in relation to offences involving serious fraud in connection with, or in relation to, tax.

<sup>F21</sup>(2) .....

<sup>F21</sup>(3) .....

- (4) Any regulations under Schedule 1AA to the Taxes Management Act 1970 which are in force immediately before the commencement of subsection (1) apply, subject to any necessary modifications, for the purposes of that Schedule as they apply by virtue of that subsection (until amended or revoked).

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#### Textual Amendments

**F21** S. 36(2)(3) repealed (1.12.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(4)(5), Sch. 22 para. 14, [Sch. 27 Pt. 5\(1\)](#); [S.I. 2007/3166](#), art. 3(a)

#### *[F22] Loss of tax credit provisions*

#### Textual Amendments

**F22** Ss. 36A-36D and cross-heading inserted (1.2.2013 for specified purposes, otherwise 6.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 120\(2\)](#), 150(3); [S.I. 2013/178](#), art. 2

### **36A Loss of working tax credit in case of conviction etc for benefit offence**

- (1) Subsection (4) applies where a person (“the offender”)—
- (a) is convicted of one or more benefit offences in any proceedings, or
  - (b) after being given a notice under subsection (2) of the appropriate penalty provision by an appropriate authority, agrees in the manner specified by the appropriate authority to pay a penalty under the appropriate penalty provision to the appropriate authority, in a case where the offence to which the notice relates is a benefit offence, or
  - (c) is cautioned in respect of one or more benefit offences.
- (2) In subsection (1)(b)—
- (a) “the appropriate penalty provision” means section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution) or section 109A of the Social Security Administration (Northern Ireland) Act 1992 (the corresponding provision for Northern Ireland);
  - (b) “appropriate authority” means—
    - (i) in relation to section 115A of the Social Security Administration Act 1992, the Secretary of State or an authority which administers housing benefit or council tax benefit, and
    - (ii) in relation to section 109A of the Social Security Administration (Northern Ireland) Act 1992, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive.
- (3) Subsection (4) does not apply by virtue of subsection (1)(a) if, because the proceedings in which the offender was convicted constitute the current set of proceedings for the purposes of section 36C, the restriction in subsection (3) of that section applies in the offender's case.
- (4) If this subsection applies and the offender is a person who would, apart from this section, be entitled (whether pursuant to a single or joint claim) to working tax credit at any time within the disqualification period, then, despite that entitlement, working tax credit shall not be payable for any period comprised in the disqualification period—
- (a) in the case of a single claim, to the offender, or
  - (b) in the case of a joint claim, to the offender or the other member of the couple.
- (5) Regulations may provide in relation to cases to which subsection (4)(b) would otherwise apply that working tax credit shall be payable, for any period comprised in

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the disqualification period, as if the amount payable were reduced in such manner as may be prescribed.

- (6) For the purposes of this section, the disqualification period, in relation to any disqualifying event, means the relevant period beginning with such date, falling after the date of the disqualifying event, as may be determined by or in accordance with regulations.
- (7) For the purposes of subsection (6) the relevant period is—
- (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,
  - (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above)), the period of 13 weeks, or
  - (c) in a case falling within subsection (1)(b) or (c), the period of 4 weeks.
- (8) The Treasury may by order amend subsection (7)(a), (b) or (c) to substitute a different period for that for the time being specified there.
- (9) This section has effect subject to section 36B.
- (10) In this section and section 36B—
- “benefit offence“ means any of the following offences committed on or after the day specified by order made by the Treasury—
- (a) an offence in connection with a claim for a disqualifying benefit;
  - (b) an offence in connection with the receipt or payment of any amount by way of such a benefit;
  - (c) an offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
  - (d) an offence consisting in an attempt or conspiracy to commit a benefit offence;
- “disqualifying benefit” has the meaning given in section 6A(1) of the Social Security Fraud Act 2001;
- “disqualifying event“ means—
- (a) the conviction falling within subsection (1)(a);
  - (b) the agreement falling within subsection (1)(b);
  - (c) the caution falling within subsection (1)(c);
- “relevant offence” has the meaning given in section 6B of the Social Security Fraud Act 2001.

**Modifications etc. (not altering text)**

C6 S. 36A(10) power exercised: 6.4.2013 specified for the purposes of ss. 36A-36D by [S.I. 2013/524](#), art. 2

**36B Section 36A: supplementary**

- (1) Where—
- (a) the conviction of any person of any offence is taken in account for the purposes of the application of section 36A in relation to that person, and
  - (b) that conviction is subsequently quashed,

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all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if the conviction had not taken place.

- (2) Where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36A in relation to that person—

- (a) P's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1992 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that the overpayment to which the agreement relates is not recoverable or due,

all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if P had not agreed to pay the penalty.

- (3) Where, after the agreement (“the old agreement”) of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36A in relation to P, the amount of any overpayment made to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—

- (a) section 36A shall cease to apply by virtue of the old agreement, and
- (b) subsection (4) shall apply.

- (4) Where this subsection applies—

- (a) if there is a new disqualifying event consisting of—
  - (i) P's agreement to pay a penalty under the appropriate penalty regime in relation to the revised overpayment, or
  - (ii) P being cautioned in relation to the offence to which the old agreement relates,

the disqualification period relating to the new disqualifying event shall be reduced by the number of days in so much of the disqualification period relating to the old agreement as had expired when subsection 36A ceased to apply by virtue of the old agreement, and

- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if P had not agreed to pay the penalty.

- (5) For the purposes of section 36A—

- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge, and
- (b) references to a conviction include references to—
  - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge,
  - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal

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Procedure (Scotland) Act 1995 without proceeding to a conviction,  
and

(iii) a conviction in Northern Ireland.

(6) In this section “the appropriate penalty provision” has the meaning given by section 36A(2)(a).

### **36C Loss of working tax credit for repeated benefit fraud**

(1) If—

- (a) a person (“the offender”) is convicted of one or more benefit offences in a set of proceedings (“the current set of proceedings”),
- (b) within the period of five years ending on the date on which the benefit offence was, or any of them were, committed, one or more disqualifying events occurred in relation to the offender (the event, or the most recent of them, being referred to in this section as “the earlier disqualifying event”),
- (c) the current set of proceedings has not been taken into account for the purposes of any previous application of this section in relation to the offender,
- (d) the earlier disqualifying event has not been taken into account as an earlier disqualifying event for the purposes of any previous application of this section in relation to the offender, and
- (e) the offender is a person who would, apart from this section, be entitled (whether pursuant to a single or joint claim) to working tax credit at any time within the disqualification period,

then, despite that entitlement, the restriction in subsection (3) shall apply in relation to the payment of that benefit in the offender's case.

(2) The restriction in subsection (3) does not apply if the benefit offence referred to in subsection (1)(a), or any of them, is a relevant offence.

(3) Working tax credit shall not be payable for any period comprised in the disqualification period—

- (a) in the case of a single claim, to the offender, or
- (b) in the case of a joint claim, to the offender or the other member of the couple.

(4) Regulations may provide in relation to cases to which subsection (3)(b) would otherwise apply that working tax credit shall be payable, for any period comprised in the disqualification period, as if the amount payable were reduced in such manner as may be prescribed.

(5) For the purposes of this section the disqualification period, in an offender's case, means the relevant period beginning with a prescribed date falling after the date of the conviction in the current set of proceedings.

(6) For the purposes of subsection (5) the relevant period is—

- (a) in a case where, within the period of five years ending on the date on which the earlier disqualifying event occurred, a previous disqualifying event occurred in relation to the offender, the period of three years;
- (b) in any other case, 26 weeks.

(7) In this section and section 36D—

“appropriate penalty provision” has the meaning given in section 36A(2)  
(a);

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“benefit offence“ means any of the following offences committed on or after the day specified by order made by the Treasury—

- (a) an offence in connection with a claim for a disqualifying benefit;
- (b) an offence in connection with the receipt or payment of any amount by way of such a benefit;
- (c) an offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
- (d) an offence consisting in an attempt or conspiracy to commit a benefit offence;

“disqualifying benefit” has the meaning given in section 6A(1) of the Social Security Fraud Act 2001;

“disqualifying event“ has the meaning given in section 36A(10);

“relevant offence” has the meaning given in section 6B of the Social Security Fraud Act 2001.

- (8) Where a person is convicted of more than one benefit offence in the same set of proceedings, there is to be only one disqualifying event in respect of that set of proceedings for the purposes of this section and—
  - (a) subsection (1)(b) is satisfied if any of the convictions take place in the five year period there;
  - (b) the event is taken into account for the purposes of subsection (1)(d) if any of the convictions have been taken into account as mentioned there;
  - (c) in the case of the earlier disqualifying event mentioned in subsection (6) (a), the reference there to the date on which the earlier disqualifying event occurred is a reference to the date on which any of the convictions take place;
  - (d) in the case of the previous disqualifying event mentioned in subsection (6)(a), that provision is satisfied if any of the convictions take place in the five year period mentioned there.
- (9) The Treasury may by order amend subsection (6) to substitute different periods for those for the time being specified there.
- (10) An order under subsection (9) may provide for different periods to apply according to the type of earlier disqualifying event or events occurring in any case.
- (11) This section has effect subject to section 36D.

**Modifications etc. (not altering text)**

C7 S. 36C(7) power exercised: 6.4.2013 specified for the purposes of ss. 36A-36D by [S.I. 2013/524](#), art. 2

**36D Section 36C: supplementary**

- (1) Where—
  - (a) the conviction of any person of any offence is taken into account for the purposes of the application of section 36C in relation to that person, and
  - (b) that conviction is subsequently quashed,
 all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36C that could not have been imposed if the conviction had not taken place.



*Status: Point in time view as at 06/04/2013.*

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- (2) Subsection (3) applies where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36C in relation to that person—
- (a) P's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision,
  - (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that any overpayment made to which the agreement relates is not recoverable or due, or
  - (c) the amount of any over payment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 and there is no new agreement by P to pay a penalty under the appropriate penalty provision in relation to the revised overpayment.
- (3) In those circumstances, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36C that could not have been imposed if P had not agreed to pay the penalty.
- (4) For the purposes of section 36C—
- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge, and
  - (b) references to a conviction include references to—
    - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge,
    - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
    - (iii) a conviction in Northern Ireland.
- (5) In section 36C references to any previous application of that section—
- (a) include references to any previous application of a provision having an effect in Northern Ireland corresponding to provision made by that section, but
  - (b) do not include references to any previous application of that section the effect of which was to impose a restriction for a period comprised in the same disqualification period.]

### *Interest*

## **37 Interest**

- (1) If an overpayment of a tax credit for a period is attributable to fraud or neglect on the part of the person, or either or both of the persons, to whom the award of the tax credit was made (or a person acting for him, or for either or both of them, in making the claim for the tax credit), the Board may decide that the whole or any part of the overpayment is to carry interest.

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- (2) Where the Board so decide the overpayment (or part of the overpayment) carries interest at a prescribed rate from the date thirty days after the appropriate date.
- (3) “The appropriate date” is—
  - (a) in the case of an amount treated as an overpayment by virtue of section 28(6), the date of the decision under section 16 to terminate the award, and
  - (b) in any other case, the date specified for the purposes of subsection (4) of section 17 in the notice given to the person or persons under that section in relation to the tax credit.
- (4) The Board must give notice of a decision under subsection (1) to the person, or each of the persons, to whom it relates; and the notice must state the date on which it is given and include details of the right to appeal against the decision under section 38.
- (5) A penalty under any of sections 31 to 33 carries interest at the prescribed rate from the date on which it becomes due and payable; but the Board may in their discretion mitigate any interest or entirely remit any interest which would otherwise be carried by a penalty.
- (6) Any interest carried under this section by an overpayment or penalty is to be regarded for the purposes of section 29(3) to (5) or paragraph 7 of Schedule 2 as if it were part of the overpayment or penalty.

#### Commencement Information

**I24** S. 37 wholly in force at 6.4.2003; s. 37 not in force at Royal Assent, see s. 61; s. 37(2)(5) in force for certain purposes at 9.7.2002, s. 37(5)(6) in force for certain purposes at 1.8.2002 and 1.1.2003 and s. 37 in force in so far as not already in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

### *Appeals*

## 38 Appeals

- (1) An appeal may be brought against—
  - (a) a decision under section 14(1), 15(1), 16(1), 19(3) or 20(1) or (4) or regulations under section 21,
  - (b) the relevant section 18 decision in relation to a person or persons and a tax credit for a tax year and any revision of that decision under that section,
  - (c) a determination of a penalty under paragraph 1 of Schedule 2, <sup>F23</sup>...
  - <sup>F24</sup>(ca) a decision under section 36A or 36C that working tax credit is not payable (or is not payable for a particular period), and]
  - (d) a decision under section 37(1).
- (2) “The relevant section 18 decision” means—
  - (a) in a case in which a decision must be made under subsection (6) of section 18 in relation to the person or persons and the tax credit for the tax year, that decision, and
  - (b) in any other case, the decision under subsection (1) of that section in relation to the person or persons and the tax credit for the tax year.

*Status: Point in time view as at 06/04/2013.*

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#### Textual Amendments

- F23** Word in s. 38(1) repealed (6.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 120(3)(a)**, 150(3); S.I. 2013/178, art. 2
- F24** S. 38(1)(ca) inserted (6.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 120(3)(b)**, 150(3); S.I. 2013/178, art. 2

#### Commencement Information

- I25** S. 38 wholly in force at 6.4.2003; s. 38 not in force at Royal Assent, see s. 61; s. 38 in force for certain purposes at 1.9.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I.2002/1727](#), **art. 2**

### 39 Exercise of right of appeal

(1) Notice of an appeal under section 38 against a decision must be given to the Board in the prescribed manner within the period of thirty days after the date on which notice of the decision was given (or, in the case of a decision to which section 23(3) applies, the date of the decision).

(2) Notice of such an appeal must specify the grounds of appeal.

<sup>F25</sup>(3) .....

<sup>F25</sup>(4) .....

<sup>F25</sup>(5) .....

(6) Part 5 of the Taxes Management Act 1970 [<sup>F26</sup>(appeals and other proceedings)] applies in relation to appeals under section 38 (as in relation to appeals under the Taxes Acts, within the meaning of that Act), but subject to such modifications as are prescribed.

<sup>F27</sup>(7) .....

#### Textual Amendments

- F25** S. 39(3)(4)(5) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 314(2)**
- F26** Words in s. 39(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 314(3)**
- F27** S. 39(7) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 314(4)**

#### Modifications etc. (not altering text)

- C8** S. 39(1) modified (temp. from 1.1.2003) by [The Tax Credits \(Appeals\) \(No. 2\) Regulations 2002 \(S.I. 2002/3196\)](#), regs. 1(2), 4, 5
- C9** S. 39(1) modified (temp. from 1.1.2003) by [The Tax Credits \(Appeals\) Regulations \(Northern Ireland\) 2002 \(S.R. 2002/403\)](#), regs. 1(2), 4, 5

#### Commencement Information

- I26** S. 39 wholly in force at 6.4.2003; s. 39 not in force at Royal Assent, see s. 61; s. 39 in force for certain purposes at 1.9.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I.2002/1727](#), **art. 2**

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## *Supplementary*

### 40 Annual reports

- (1) The Board must make to the Treasury an annual report about—
  - <sup>F28</sup>(a) . . . . .
  - (b) the number of awards of child tax credit and of working tax credit,
  - (c) the number of enquiries conducted under section 19,
  - (d) the number of penalties imposed under this Part, and
  - (e) the number of prosecutions and convictions for offences connected with tax credits.
- (2) The Treasury must publish each annual report made to it under subsection (1) and lay a copy before each House of Parliament.

#### Textual Amendments

**F28** S. 40(1)(a) repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), Sch. 4 para. 89, [Sch. 5](#); S.I. 2005/1126, art. 2(2)(h)(i)

### 41 Annual review

- (1) The Treasury must, in each tax year, review the amounts specified in subsection (2) in order to determine whether they have retained their value in relation to the general level of prices in the United Kingdom as estimated by the Treasury in such manner as it considers appropriate.
- (2) The amounts are monetary amounts prescribed—
  - (a) under subsection (1)(a) of section 7,
  - (b) for the purposes of any of paragraphs (a) to (d) of subsection (3) of that section,
  - (c) under section 9,
  - (d) under section 11, otherwise than by virtue of section 12, or
  - (e) under subsection (2) of section 13, otherwise than by virtue of subsection (3) of that section.
- (3) The Treasury must prepare a report of each review.
- (4) The report must include a statement of what each amount would be if it had fully retained its value.
- (5) The Treasury must publish the report and lay a copy of it before each House of Parliament.

### 42 Persons subject to immigration control

- (1) Regulations may make provision in relation to persons subject to immigration control or in relation to prescribed descriptions of such persons—
  - (a) for excluding entitlement to, or to a prescribed element of, child tax credit or working tax credit (or both), or
  - (b) for this Part to apply subject to other prescribed modifications.

*Status: Point in time view as at 06/04/2013.*

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- (2) “Person subject to immigration control” has the same meaning as in section 115 of the Immigration and Asylum Act 1999 (c. 33).

#### **43 Polygamous marriages**

- (1) Regulations may make provision for this Part to apply in relation to persons who are parties to polygamous marriages subject to prescribed modifications.
- (2) A person is a party to a polygamous marriage if—
- (a) he is a party to a marriage entered into under a law which permits polygamy, and
  - (b) either party to the marriage has a spouse additional to the other party.

#### **44 Crown employment**

This Part applies in relation to persons employed by or under the Crown (as in relation to other employees).

#### **45 Inalienability**

- (1) Every assignment of or charge on a tax credit, and every agreement to assign or charge a tax credit, is void; and, on the bankruptcy of a person entitled to a tax credit, the entitlement to the tax credit does not pass to any trustee or other person acting on behalf of his creditors.
- (2) In the application of subsection (1) to Scotland—
- (a) the reference to assignment is to assignation (“assign” being construed accordingly), and
  - (b) the reference to the bankruptcy of a person is to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980 (c. 46).

#### **46 Giving of notices by Board**

The Board may give any notice which they are required or permitted to give under this Part in any manner and form which the Board consider appropriate in the circumstances.

#### **47 Consequential amendments**

Schedule 3 (consequential amendments) has effect.

##### **Commencement Information**

**I27** S. 47 wholly in force at 8.4.2003; s. 47 not in force at Royal Assent, see s. 61; s. 47 in force for certain purposes at 1.4.2003 and 6.4.2003 and otherwise in force at 8.4.2003 by [S.I. 2003/962](#), [art. 2\(2\)\(3\)\(b\)\(4\)\(b\)](#)

*Status: Point in time view as at 06/04/2013.*

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## 48 Interpretation

[<sup>F29</sup>(1)] In this Part—

“child” has the meaning given by section 8(3),

[<sup>F30</sup> “couple” has the meaning given by section 3(5A), ]

“the current year income” has the meaning given by section 7(4),

“employee” and “employer” have the meaning given by section 25(5),

<sup>F31</sup> ...

“the income threshold” has the meaning given by section 7(1)(a),

“joint claim” has the meaning given by section 3(8),

<sup>F32</sup> ...

“overpayment” has the meaning given by section 28(2) and (6),

“the previous year income” has the meaning given by section 7(5),

“qualifying remunerative work”, and being engaged in it, have the meaning given by regulations under section 10(2),

“qualifying young person” has the meaning given by section 8(4),

“the relevant income” has the meaning given by section 7(3),

“responsible”, in relation to a child or qualifying young person, has the meaning given by regulations under section 8(2) (for the purposes of child tax credit) or by regulations under section 10(4) (for the purposes of working tax credit),

“single claim” has the meaning given by section 3(8),

<sup>F31</sup> ...

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next, <sup>F32</sup> ...

<sup>F32</sup> ...

[<sup>F33</sup>(2)] For the purposes of this Part, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

### Textual Amendments

**F29** S. 48(1): s. 48 renumbered as s. 48(1) (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 147\(1\)](#); S.I. 2005/3175, art. 2(1), Sch. 1

**F30** Words in s. 48(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 147\(2\)](#); S.I. 2005/3175, art. 2(1), Sch. 1

**F31** Words in s. 48(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 315](#)

**F32** Words in s. 48(1) (definitions of "married couple", "unmarried couple" and the "and" at the end of the definition of “tax year”) repealed (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 147\(2\)](#), [Sch. 30](#); S.I. 2005/3175, art. 2(1)(6), Sch. 1

**F33** S. 48(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 147\(3\)](#); S.I. 2005/3175, art. 2(1), Sch. 1

**Status:**

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