



Tax Credits Act 2002

2002 CHAPTER 21

[^{F1}PART 1

TAX CREDITS

[^{F2}Loss of tax credit provisions

[^{F1}[^{F2}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,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 - (a) P’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or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

Changes to legislation: Tax Credits Act 2002, Section 36B is up to date with all changes known to be in force on or before 03 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) View outstanding changes

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 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).]]

Textual Amendments

- F1** Pt. 1 repealed (1.2.2019 with savings in relation to specified cases in [art. 3](#) of the commencing S.I.) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2019/167, [arts. 2, 3](#)
- F2** 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](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 36B(4)(a)(ii) and word repealed by [2012 c. 5 Sch. 14 Pt. 12](#)
- specified provision(s) amendment to earlier commencing SI 2003/962 by [S.I. 2008/3151 art. 3\(2\)](#) (art. 3(2) revoked (14. 7.2014) by S.I. 2014/1848)
- specified provision(s) amendment to earlier commencing SI 2003/962 art. 2(5) by [S.I. 2011/2910 art. 2](#) (Order revoked (14. 7.2014) by S.I. 2014/1848)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 35(2)-(12) substituted for s. 35(2) by [2012 c. 5 s. 124](#)
- s. 35(9) words substituted by [2020 c. 17 Sch. 24 para. 443\(1\)](#) (This amendment not applied to legislation.gov.uk. The substitution of s. 35(2)-(12) for s. 35(2) by 2021 c. 5, s. 124 is not yet in force)
- s. 36(10) words repealed by [2012 c. 5 Sch. 14 Pt. 12](#)