



# Welfare Reform Act 2012

## 2012 CHAPTER 5

### PART 5

#### SOCIAL SECURITY: GENERAL

#### *Administration of tax credits*

#### **122 Tax credit fraud: investigation**

In section 109A of the Social Security Administration Act 1992 (authorisations for investigators), at the end there is inserted—

“(9) This section and sections 109B to 109C below apply as if—

- (a) the Tax Credits Act 2002 were relevant social security legislation, and
- (b) accordingly, child tax credit and working tax credit were relevant social security benefits for the purposes of the definition of “benefit offence”.

#### **Commencement Information**

- II** S. 122 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

#### **123 Information-sharing for prevention etc of tax credit fraud**

- (1) Section 122B of the Social Security Administration Act 1992 (supply of government information for fraud prevention etc) is amended as follows.
- (2) In subsection (2)(a), after “social security” there is inserted “ or tax credits ”.
- (3) In subsection (3)—
  - (a) in paragraph (b), after “1995” there is inserted “, the Tax Credits Act 2002 ”,
  - (b) in that paragraph, the final “or” is repealed, and

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- (c) after paragraph (c) there is inserted “or  
(d) it is supplied under section 127 of the Welfare Reform Act 2012.”

#### Commencement Information

**I2** S. 123 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

PROSPECTIVE

### 124 Tax credit fraud: prosecution and penalties

In section 35 of the Tax Credits Act 2002 (offence of fraud), for subsection (2) there is substituted—

- “(2) Where a person is alleged to have committed an offence under this section in relation to payments of a tax credit not exceeding £20,000, the offence is triable summarily only.
- (3) A person who commits an offence under this section is liable on summary conviction pursuant to subsection (2) to imprisonment for a term not exceeding the applicable term, or a fine not exceeding level 5 on the standard scale, or both.
- (4) In subsection (3) the applicable term is—
- (a) for conviction in England and Wales, 51 weeks;
  - (b) for conviction in Scotland or Northern Ireland, 6 months.
- (5) Where a person is alleged to have committed an offence under this section in any other case, the offence is triable either on indictment or summarily.
- (6) A person who commits an offence under this section is liable—
- (a) on summary conviction pursuant to subsection (5), to imprisonment for a term not exceeding the applicable term, or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment pursuant to subsection (5) to imprisonment for a term not exceeding 7 years, or a fine, or both.
- (7) In subsection (6)(a) the applicable term is—
- (a) for conviction in England and Wales or Scotland, 12 months;
  - (b) for conviction in Northern Ireland, 6 months.
- (8) In relation to an offence under this section committed in England and Wales before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 6 months.
- (9) In relation to an offence under this section committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (7)(a) to 12 months is to be read as a reference to 6 months.

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(10) In England and Wales—

- (a) subsection (1) of section 116 of the Social Security Administration Act 1992 (legal proceedings) applies in relation to proceedings for an offence under this section;
- (b) subsections (2)(a) and (3)(a) of that section apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.

(11) In Scotland, subsection (7)(a) and (b) of section 116 of the Social Security Administration Act 1992 (legal proceedings) apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.

(12) In Northern Ireland—

- (a) subsection (1) of section 110 of the Social Security Administration (Northern Ireland) Act 1992 (legal proceedings) applies in relation to proceedings for an offence under this section;
- (b) subsections (2)(a) and (3)(a) of that section apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.”

## 125 Unauthorised disclosure of information relating to tax credit offences

In Schedule 4 to the Social Security Administration Act 1992 (persons employed in social security administration or adjudication), in paragraph 1 of Part 2, after “security,” there is inserted “ to the investigation or prosecution of offences relating to tax credits, ”.

### Commencement Information

- I3** S. 125 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

## 126 Tax credits: transfer of functions etc

(1) Her Majesty may by Order in Council—

- (a) transfer to the Secretary of State any tax credit function of the Treasury or the Commissioners;
- (b) direct that any tax credit function of the Treasury or the Commissioners is to be exercisable concurrently with the Secretary of State or is to cease to be so exercisable.

(2) Provision within subsection (1) may be limited so as to apply only in relation to cases within a specified description.

(3) Her Majesty may by Order in Council, as Her Majesty considers appropriate—

- (a) make provision in connection with a transfer or direction under subsection (1);
- (b) make other provision within one or more of the following sub-paragraphs—

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- (i) provision applying (with or without modifications) in relation to tax credits any provision of primary or secondary legislation relating to social security;
  - (ii) provision combining or linking any aspect of the payment and management of tax credits with any aspect of the administration of social security;
  - (iii) provision about the use or supply of information held for purposes connected with tax credits, including (in particular) provision authorising or requiring its use or supply for other purposes;
  - (iv) in relation to information held for purposes not connected with tax credits, provision authorising or requiring its use or supply for purposes connected with tax credits.
- (4) An Order may make provision under subsection (3)(b) only if—
- (a) the Order also makes provision under subsection (1), or
  - (b) a previous Order has made provision under subsection (1).
- (5) Provision within subsection (3)—
- (a) may confer functions on, or remove functions from, the Secretary of State, the Treasury, the Commissioners, a Northern Ireland department or any other person;
  - (b) may (in particular) authorise the Secretary of State and the Commissioners to enter into arrangements from time to time under which the Commissioners are to provide services to the Secretary of State in connection with tax credits.
- (6) Provision within subsection (3)—
- (a) may expand the scope of the conduct which constitutes an offence under any primary or secondary legislation, but may not increase the scope of any punishment for which a person may be liable on conviction for the offence;
  - (b) may expand the scope of the conduct in respect of which a civil penalty may be imposed under any primary or secondary legislation, but may not increase the maximum amount of the penalty.
- (7) An Order under this section may include such consequential, supplementary, incidental or transitional provision as Her Majesty considers appropriate including (for example)—
- (a) provision for transferring or apportioning property, rights or liabilities (whether or not they would otherwise be capable of being transferred or apportioned);
  - (b) provision for substituting any person for any other person in any instrument or other document or in any legal proceedings;
  - (c) provision with respect to the application in relation to the Crown of provision made by the Order.
- (8) A certificate issued by the Secretary of State that any property, rights or liabilities set out in the certificate have been transferred or apportioned by an Order under this section as set out in the certificate is conclusive evidence of the matters so set out.
- (9) An Order under this section may amend, repeal or revoke any primary or secondary legislation.
- (10) A statutory instrument containing an Order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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- (11) In this section references to tax credits are to child tax credit or working tax credit or both.
- (12) In this section references to primary or secondary legislation are to such legislation whenever passed or made.
- (13) In this section—
- “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
  - “primary legislation” means an Act (including this Act) or Northern Ireland legislation;
  - “secondary legislation” means an instrument made under primary legislation (including an Order under this section);
  - “tax credit functions” means functions so far as relating to tax credits conferred by or under any primary or secondary legislation.
- (14) In section 5A(3) of the Ministers of the Crown Act 1975, for “section 5(1)” there is substituted “section 5(1)(a) or (b)”.

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