

2002 No. 2172

TAX CREDITS

**The Working Tax Credit (Payment by Employers)
Regulations 2002**

<i>Made</i> - - - - -	<i>20th August 2002</i>
<i>Laid before Parliament</i>	<i>21st August 2002</i>
<i>Coming into force</i> - -	<i>1st March 2003</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 25(1) and (2), 65 and 67 of the Tax Credits Act 2002(a), and with the consent of the Scottish Ministers(b), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Working Tax Credit (Payment by Employers) Regulations 2002 and shall come into force on 1st March 2003.

(2) These Regulations have effect in relation to payments of working tax credit for periods beginning on or after 6th April 2003.

Interpretation

2.—(1) In these Regulations—

“amendment notice” shall be construed in accordance with regulation 5(1);

“the Board” means the Commissioners of Inland Revenue;

“the Contributions Regulations” means the Social Security (Contributions) Regulations 2001(c);

“emoluments” means any income assessable to income tax under Schedule E;

“employer” and “employee” shall be construed in accordance with section 25(5) of the Tax Credits Act 2002;

“employer’s place of business” means—

(a) the place where the trade, profession, vocation or business of the employer is carried on, or

(b) if the trade, profession, vocation or business of the employer is carried on at more than one place, the head office or the place where it is mainly carried on;

“Employments Regulations” means the Income Tax (Employments) Regulations 1993(d);

“income tax month” means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

(a) 2002 c. 21. Section 67 is cited because of the meaning it ascribes to the word “prescribed”.

(b) See section 65(5) of the Tax Credits Act 2002 (regulations under section 25 of that Act relating to appeals in Scotland not to be made without the consent of the Scottish Ministers).

(c) S.I. 2001/1004.

(d) S.I. 1993/744.

“income tax quarter” means the period beginning on the 6th April and ending on the 5th July in any income tax year, or beginning on the 6th July and ending on the 5th October in that year, or beginning on the 6th October and ending on the 5th January in that year, or beginning on the 6th January and ending on the 5th April in that year;

“income tax year” means a year beginning on 6th April in any year and ending on 5th April in the following year;

“the Management Act” means the Taxes Management Act 1970(a);

“pay period” means the period by reference to which an employee’s emoluments are paid, whether weekly, monthly or otherwise;

“relevant employer” has the meaning given by regulation 3;

“start notice” shall be construed in accordance with regulation 4(1);

“stop notice” shall be construed in accordance with regulation 12(1);

“the Taxes Act” means the Income and Corporation Taxes Act 1988(b).

(2) Any notice given under these Regulations to or by the Board must be in writing.

(3) In paragraph (2) “writing” includes writing produced by electronic communications that are approved by the Board.

Definition of “relevant employer”

3.—(1) In these Regulations “relevant employer” means—

(a) an employer who is required, on making any payment of or on account of any income assessable to income tax under Schedule E to any person, to deduct tax in accordance with the Employments Regulations or to deduct contributions in accordance with the Contributions Regulations, or

(b) where a person is the employee of more than one such employer, the employer who normally employs the employee for the higher (or highest) number of hours each week.

This is subject to paragraph (2).

(2) “Relevant employer” does not include an employer who is authorised to make deductions in accordance with regulation 20 of the Employments Regulations (employee on fixed pay).

Notification to relevant employer of employee’s entitlement to working tax credit (start notice)

4.—(1) Where an employee of a relevant employer becomes entitled to an amount of working tax credit equal to or exceeding 75 pence per day, the Board shall give notice to the relevant employer of the employee’s entitlement in accordance with paragraphs (2) and (3) (“start notice”).

(2) A start notice shall contain the following particulars—

(a) the date of issue of the start notice;

(b) the name of the employee;

(c) the employee’s national insurance number and (if known) his payroll number;

(d) the date from which the employer is to be responsible for payment of working tax credit to the employee (“the commencement date”);

(e) the daily rate of working tax credit applicable to each calendar day starting with the commencement date, and a table showing the multiples from 1 to 31 of that daily rate;

(f) instructions to the employer to pay working tax credit to the employee at the same time that the employer makes a payment of emoluments to the employee.

(3) The commencement date contained in the start notice shall not be earlier than the date which is 42 days after the date of issue of the start notice.

(a) 1970 c. 9.

(b) 1988 c. 1.

Notification to relevant employer of amendment of amount of employee's entitlement to working tax credit (amendment notice)

5.—(1) Where—

- (a) the amount of working tax credit to which an employee is entitled is amended, and
- (b) the amended amount differs from the previous amount by an amount equal to or exceeding 30 pence per day,

the Board shall give notice to the relevant employer of the amended amount (“amendment notice”).

(2) An amendment notice shall contain the following particulars—

- (a) the date of issue of the amendment notice;
- (b) the name of the employee;
- (c) the employee's national insurance number and (if known) his payroll number;
- (d) the date from which the employer is to be responsible for payment of the amended amount of working tax credit to the employee (“the commencement date”);
- (e) the daily rate of the amended amount of working tax credit applicable to each calendar day starting with the commencement date, and a table showing the multiples from 1 to 31 of that daily rate;
- (f) instructions to the employer to pay the amended amount of working tax credit to the employee at the same time that the employer makes a payment of emoluments to the employee, commencing with the pay period in which the commencement date falls.

(3) The commencement date contained in the amendment notice shall not be earlier than the date which is 42 days after the date of issue of the amendment notice.

Relevant employer's obligation to pay working tax credit

6.—(1) On receipt of a start notice in respect of an employee the relevant employer must, if he reasonably expects the employee to remain in his employment for three or more consecutive pay periods commencing with the pay period in which the commencement date contained in the start notice falls, take the following steps—

Step One

Calculate the amount of working tax credit which the employee is entitled to be paid for each pay period in respect of which the employer will be responsible for paying working tax credit to the employee in accordance with the start notice.

Step Two

On making any payment of emoluments to the employee in respect of any date falling on or after the commencement date contained in the start notice, pay to the employee the amount of working tax credit to which he is entitled for the pay period in respect of which that payment of emoluments is made.

(2) If the relevant employer receives a start notice in respect of an employee but—

- (a) does not reasonably expect that employee to remain in his employment for three or more consecutive pay periods as mentioned in paragraph (1), or
- (b) becomes aware before the first date on which a payment of emoluments is due in respect of any date falling on or after the commencement date contained in the start notice that the employee has left his employment, or will leave his employment before the end of the third consecutive pay period,

he must return the start notice to the Board, indicating on the notice his reasons for doing so.

(3) On receipt of an amendment notice in respect of an employee the relevant employer must, except where paragraph (4) applies, take the following steps—

Step One

Calculate the amount of working tax credit which the employee is entitled to be paid for each pay period in respect of which the employer will be responsible for paying working tax credit to the employee in accordance with the amendment notice.

Step Two

On making any payment of emoluments to the employee in respect of any date falling on or after the commencement date contained in the amendment notice, pay to the employee the amount of working tax credit to which he is entitled for the pay period in respect of which that payment of emoluments is made.

(4) If the relevant employer receives an amendment notice in respect of an employee but becomes aware that the employee will leave his employment before the first date on which he is due to make a payment of emoluments to the employee following the commencement date contained in the amendment notice, he must return the amendment notice to the Board, indicating on the notice his reasons for doing so.

(5) The relevant employer must record on the employee's payslip for any pay period, as a credit described as "tax credit", the amount of working tax credit paid with the payment of emoluments to which the payslip relates.

(6) On making any payment of working tax credit to an employee the relevant employer must record on the deductions working sheet (P 11) for that employee referred to in regulation 38 of the Employments Regulations the amount of the payment (whether or not the employer is required to complete the deductions working sheet for the purposes of that regulation or of the Contributions Regulations).

(7) The relevant employer must record on the certificate (P60) referred to in regulation 39 of the Employments Regulations(a) the total amount of working tax credit paid to each employee for the income tax year to which the certificate relates (whether or not the employer is required to complete the certificate for the purposes of that regulation or of the Contributions Regulations).

(8) The relevant employer must record on the return (P35) referred to in regulation 43 of the Employments Regulations(b) the total amount of working tax credit paid by him for the income tax year to which the return relates.

(9) The relevant employer must record on the particulars (P14) referred to in paragraph (2) of regulation 43 of the Employments Regulations the total amount of working tax credit paid to each employee for the income tax year to which the particulars relate.

(10) Where the relevant employer makes a payment of working tax credit to an employee which exceeds the amount which the employee is entitled to be paid in accordance with the particulars contained in the start notice or the amendment notice, the employer may recover from the employee an amount not exceeding the excess.

(11) Where no payment of emoluments is due from the relevant employer to an employee for a complete pay period the employer may choose either—

- (a) not to make any payment of working tax credit to the employee for that period, or
- (b) to continue to pay working tax credit to the employee for that period as if he had made a payment of emoluments in that period.

(12) Where the relevant employer chooses not to make any payment of working tax credit to an employee for a pay period in the circumstances mentioned in paragraph (11), he must, not later than 7 days following the end of that pay period, inform the Board that he has made no payment of working tax credit for that pay period.

(13) No payment of working tax credit shall be capable of attachment under any enactment, or may be used by way of set-off or otherwise reduced, extinguished or terminated except in accordance with these Regulations.

(14) Where the relevant employer fails to make payments of working tax credit to an employee in accordance with paragraph (1) or (3), the Board shall make payments of working tax credit to that employee.

Funding of payment of working tax credit

7.—(1) In this regulation—

"amount A" is the total amount of tax which the relevant employer is required to pay to the collector of taxes in respect of deductions from the emoluments of his employees in accordance with the Employments Regulations for an income tax month or income tax quarter ("the relevant period");

(a) Regulation 39 was amended by regulation 3 of S.I. 1995/1284.

(b) Regulation 43 was amended by regulation 14 of S.I. 1998/2484 and regulations 7 and 15 of S.I. 2001/1081.

“amount B” is the total amount of deductions made by the relevant employer from the emoluments of his employees for the relevant period in accordance with regulations made under section 22(5) of the Teaching and Higher Education Act 1998(a), section 73B(3) of the Education (Scotland) Act 1980(b), or Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998(c) (student loan repayments);

“amount C” is the total amount of earnings-related contributions which the relevant employer is required to pay to the collector of taxes in respect of the emoluments of his employees for the relevant period (whether by means of deduction or otherwise) in accordance with the Contributions Regulations;

“amount D” is the total amount of deductions which as a contractor the relevant employer is required to make from payments to which section 559 of the Taxes Act(d) applies in accordance with the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993(e) for the relevant period.

(2) The relevant employer shall fund payment of working tax credit for the relevant period in accordance with the following rules.

Rule 1

The relevant employer shall fund any payment of working tax credit for the relevant period from amount A for that period. Amount A shall accordingly be reduced by the amount of working tax credit which the employer has paid in respect of that period.

Rule 2

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds amount A for that period, the employer shall fund payment of working tax credit for that period (or so much of the payment as remains outstanding) from the aggregate of amount A and amount B for that period. That aggregate shall accordingly be reduced by the amount used to fund payment of working tax credit for that period.

Rule 3

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds the aggregate of amount A and amount B for that period, the employer shall fund payment of working tax credit for that period (or so much of the payment as remains outstanding) from the aggregate of amount A, amount B and amount C for that period. That aggregate shall accordingly be reduced by the amount used to fund payment of working tax credit for that period.

Rule 4

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds the aggregate of amount A, amount B and amount C for that period, the employer shall fund payment of working tax credit for that period (or so much of the payment as remains outstanding) from the aggregate of amount A, amount B, amount C and amount D for that period. That aggregate shall accordingly be reduced by the amount used to fund payment of working tax credit for that period.

Rule 5

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds the aggregate of amount A, amount B, amount C and amount D for that period, the employer may apply to the Board in accordance with regulation 8 to fund payment of working tax credit for that period (or so much of the payment as remains outstanding).

(3) References in paragraph (1) to the total amount in the case of each of amount A, amount B, amount C and amount D are references to that total amount unreduced by any other amount which the relevant employer is entitled by virtue of any enactment to set off against that total amount.

(a) 1998 c. 30. Regulations made under section 22(5) of the Teaching and Higher Education Act 1998 and section 73B(3) of the Education (Scotland) Act 1980 are the Education (Student Loans) (Repayment) Regulations 2000 (S.I. 2000/944).
(b) 1980 c. 44. Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998.
(c) S.I. 1988/1760 (N.I. 14). Relevant instruments made under S.I. 1988/1760 (N.I. 14) are S.R. 1999 Nos. 192 and 370.
(d) Section 559 was amended by S.I. 1989/2405 Schedule 9 paragraph 61 and Schedule 10, section 139(1) and (2) of, and paragraph 1(2) and (3) of Schedule 27 and Part VIII(21) of Schedule 29 to, the Finance Act 1995 (c. 4), and sections 55(2) and 57 of, and paragraph 1 of Schedule 7 and paragraph 2(1) of Schedule 8 to, the Finance Act 1998 (c. 36).
(e) S.I. 1993/743. Relevant amending instruments are S.I. 1995/448, 1996/981, 1998/2622 and 2000/1151.

Application for funding

8.—(1) Where—

- (a) rule 5 stated in regulation 7(2) applies, or
- (b) the relevant employer considers that that rule will apply on the date of any subsequent payment of emoluments to one or more employees who are entitled to working tax credit,

the employer, or an agent authorised by him for that purpose, may apply to the Board for funding on a form provided, or in a form in writing that is approved, by the Board.

(2) For the purposes of paragraph (1) “writing” includes writing produced by electronic communications that are approved by the Board.

(3) If the relevant employer’s application is accepted the Board shall pay to the employer such amount as the Board may determine in the circumstances to be reasonable having regard to all relevant matters including —

- (a) the past obligations and the likely future obligations of the employer under the enactments referred to in regulation 7(1) (definitions of “amount A”, “amount B”, “amount C and “amount D”), and
- (b) the obligations of the employer under any start notice or amendment notice issued to him to make payments of working tax credit, and his fulfilment of those obligations.

(4) The Board may vary the amount payable in accordance with paragraph (3), or may make a determination superseding that amount, if it has become inappropriate for any reason or they have reason to believe that it was incorrect at the time it was determined as payable in accordance with that paragraph.

(5) The Board shall notify the employer of—

- (a) their decision on an application under paragraph (1),
- (b) the amount determined under paragraph (3), and
- (c) any variation or supersession of that amount under paragraph (4).

(6) An employer may appeal to the General Commissioners against—

- (a) the Board’s refusal of an application under paragraph (1),
- (b) the amount determined under paragraph (3), or
- (c) any variation or supersession of that amount under paragraph (4).

(7) An appeal under paragraph (6) shall be made by giving notice to the Board within thirty days of the issue of the Board’s notification under paragraph (5).

(8) An appeal under paragraph (6) shall be heard by the General Commissioners for the division in which the employer’s place of business is situated.

(9) The provisions of Part V of the Management Act and of the General Commissioners (Jurisdiction and Procedure) Regulations 1994(a) shall apply with any necessary modifications to an appeal under paragraph (6) as they apply to appeals against assessments.

(10) On appeal the General Commissioners, having regard to the matters referred to in paragraph (3), may—

- (a) confirm the Board’s refusal of an application under paragraph (1), or allow the appeal against that refusal,
- (b) confirm, increase or reduce the amount determined under paragraph (3), or
- (c) confirm, increase or reduce any variation or supersession of that amount under paragraph (4).

(11) Subject to paragraph (9), the determination of the General Commissioners shall be final.

(12) Where—

- (a) an employer appeals to the General Commissioners under paragraph (6), and

(a) S.I. 1994/1812, amended by S.I. 1999/3293.

- (b) the General Commissioners determine the appropriate amount of funding in a sum which exceeds the amount determined as payable under paragraph (3), or that amount as varied or superseded under paragraph (4),
the Board shall pay to the employer the amount of the excess.

(13) An amount which is paid to an employer by the Board under paragraph (12) shall carry interest at the rate applicable under section 178 of the Finance Act 1989^(a) for the purposes of section 824 or, as the case may be, section 826 of the Taxes Act^(b) from the date on which the condition in Rule 5 of regulation 7(2) is satisfied until payment.

(14) Funds provided to an employer by the Board in accordance with this regulation shall be for the purpose only of payment by that employer of working tax credit under Step Two of regulation 6(1) or (3) to one or more employees.

Renewal of funding

9.—(1) Where—

- (a) the Board have provided a relevant employer with funds in accordance with regulation 8 in an income tax year, and
(b) the employer's entitlement to receive funding from the Board has not terminated in accordance with regulation 11,

the Board shall, following the end of that year, send to the relevant employer a form for renewal of funding ("renewal form") containing details relating to the funding of payments of working tax credit made by him.

(2) Not later than 30 days following the date of issue of the renewal form, the relevant employer must return the form to the Board signed by him and either confirming that the details recorded on the form are correct as at the date of issue or amending the details if they are not so correct.

Notification of change of circumstances by relevant employer in receipt of funding

10. If, in the course of an income tax year, as a result of a change of circumstances, whether in relation to the amount of funding requested or otherwise, any of the details recorded on an application for funding under regulation 8, or on a renewal form under regulation 9, cease to be correct, the relevant employer may give notice to the Board, on a form provided by the Board for that purpose, amending those details.

Termination of funding

11.—(1) The Board shall continue to provide a relevant employer with funds in accordance with regulation 8 until the occurrence of any of the events specified in paragraph (2).

(2) The events are—

- (a) a request by the relevant employer that the Board should discontinue providing him with funds;
(b) the failure by the relevant employer to return to the Board within the time stated in regulation 9 (2) a renewal form duly signed and completed;
(c) the failure by the relevant employer to respond to attempts by the Board on more than one occasion to contact him in relation to the provision of funds to him.

Termination of relevant employer's obligation to pay working tax credit (stop notice)

12.—(1) The relevant employer must continue to make payments of working tax credit to an employee in accordance with a start notice or an amendment notice issued to him until—

- (a) the death of the employee,
(b) the employee ceases to be employed by the employer otherwise than by reason of the employee's death, or

(a) 1989 c. 26; relevant amendments were made by paragraph 1(3) of Schedule 4 to the Finance Act 1998 (c. 36).

(b) Relevant amendments to section 824 were made by sections 196 and 199(2)(a) of, and paragraph 41 of Schedule 19 and Part V of Schedule 26 to, the Finance Act 1994 (c. 9). Relevant amendments to section 826 were made by section 180(6) and (7) of the Finance Act 1989, sections 196 and 199 of, and paragraph 42 of Schedule 19 to, the Finance Act 1994, paragraphs 1 and 2 of Schedule 4 to the Finance Act 1998 and S.I. 1998/3173.

- (c) a stop notice is issued by the Board to the employer notifying the employer to cease payment of working tax credit to the employee.
- (2) A stop notice under paragraph (1)(c) shall contain the following particulars—
 - (a) the date of issue of the stop notice;
 - (b) the name of the employee concerned;
 - (c) the employee’s national insurance number and (if known) his payroll number;
 - (d) the latest date for which working tax credit is payable to the employee (“the latest payable date”).
- (3) Except where an earlier date has been agreed between the Board and the relevant employer, the latest payable date for the purposes of paragraph (2)(d) shall not be earlier than 42 days after the date of issue of the stop notice.
- (4) The relevant employer shall not pay working tax credit to the employee after the latest payable date.
This is subject to paragraph (5).
- (5) The relevant employer may, after the latest payable date, make a payment of working tax credit that is outstanding at that date in respect of the pay period in which the latest payable date falls.
- (6) A stop notice shall be effective in respect of an employee unless and until a new start notice is issued by the Board to the relevant employer in respect of that employee.
- (7) Where the relevant employer—
 - (a) makes a payment of working tax credit in respect of any day after the date of death of the employee, and
 - (b) subsequently becomes aware that the employee has died,
 he must inform the Board, not later than 7 days after becoming aware of the employee’s death, of the latest day for which he has paid working tax credit in respect of the employee.
- (8) Where the relevant employer—
 - (a) makes a payment of working tax credit in respect of any day after the employee ceases to be employed by the employer otherwise than by reason of the employee’s death, and
 - (b) subsequently becomes aware that the employee has left his employment,
 he must inform the Board, not later than 7 days after becoming aware that the employee has left his employment, of the latest day for which he has paid working tax credit in respect of the employee.
- (9) Where the employee dies and the relevant employer has not made payments of working tax credit up to the date of death in accordance with paragraph (1), the Board shall pay to the employee’s personal representatives the amount of working tax credit outstanding at the date of death.

Temporary break in relevant employer’s payment of working tax credit (emergency stop notice and restart notice)

- 13.—**(1) Where the relevant employer—
- (a) having commenced to make payments of working tax credit in accordance with regulation 6(1) or (3), subsequently fails to pay an amount of working tax credit to an employee in accordance with that regulation, or
 - (b) chooses in the circumstances referred to in regulation 6(11) not to make a payment of working tax credit to an employee, and
 - (c) in either case reaches agreement with the Board as to the date from which he is to resume making payments of working tax credit to the employee,
- the Board shall take the action specified in paragraphs (2) to (4).
- (2) The Board shall give notice to the relevant employer confirming that the employer has ceased to make payments of working tax credit to the employee concerned (“emergency stop notice”).

(3) The Board shall in addition give notice to the relevant employer confirming the date from which the employer is to resume making payments of working tax credit to that employee (“restart notice”).

(4) The Board shall pay to the employee the amount of working tax credit to which he is entitled until the relevant employer resumes making payments of working tax credit to the employee.

(5) An emergency stop notice under paragraph (2) shall contain the following particulars—

- (a) the date of issue of the notice;
- (b) the name of the employee;
- (c) the employee’s national insurance number and (if known) his payroll number;
- (d) the commencement date referred to in regulation 4(2)(d) or (as the case may be) regulation 5(2)(d);
- (e) the latest date for which working tax credit is payable to the employee.

(6) A restart notice under paragraph (3) shall contain the following particulars—

- (a) the date of issue of the notice;
- (b) the name of the employee;
- (c) the employee’s national insurance number and (if known) his payroll number;
- (d) the date from which the employer is to resume making payments of working tax credit to the employee (“restart date”);
- (e) the daily rate of working tax credit applicable to each calendar day starting with the restart date, and a table showing the multiples from 1 to 31 of that daily rate.

(7) Regulation 6(1) and (5) to (10) applies in relation to the receipt by the relevant employer of a restart notice under this regulation as it applies to the receipt by him of a start notice.

(8) Where the relevant employer fails to resume making payments of working tax credit to the employee in accordance with paragraph (3), the Board shall continue to make payments of working tax credit to the employee.

Determination of working tax credit funding to be repaid

14.—(1) This regulation applies where funds have been provided to the employer under regulation 8 in respect of one or more employees and it appears to an officer of the Board that the employer has not used the whole or part of those funds to pay working tax credit.

(2) The officer of the Board shall determine to the best of his judgment the amount of funds provided under regulation 8 and not used to pay working tax credit and shall serve notice of his determination on the employer.

(3) A determination under this regulation may cover funds provided under regulation 8—

- (a) for any one pay period, or more than one pay period, in an income tax year, and
- (b) in respect of a class or classes of employees specified in the notice of determination (without naming the individual employees), or in respect of one or more employees named in the notice of determination.

(4) Subject to the following provisions of this regulation, the following enactments shall apply with any necessary modifications to a determination under this regulation as if it were an assessment and as if the amount of funds determined were income tax charged on the employer—

- Part IV of the Management Act (assessment and claims),
- Part V of the Management Act (appeals and other proceedings), except section 55,
- Part VI of the Management Act (collection and recovery),
- the General Commissioners (Jurisdiction and Procedure) Regulations 1994(a),
- the Special Commissioners (Jurisdiction and Procedure) Regulations 1994(b).

(5) An appeal against a determination under this regulation that is to be brought before the General Commissioners pursuant to paragraph (4) shall be brought before the General Commissioners for the division in which the employer’s place of business is situated.

(a) S.I. 1994/1812, amended by S.I. 1999/3293.

(b) S.I. 1994/1811, amended by S.I. 1999/3292 and 2000/288.

(6) Where an amount of funds determined under this regulation relates to more than one employee, proceedings may be brought for the recovery of that amount without distinguishing the amounts making up that sum which the employer is liable to repay in respect of each employee and without specifying the employees in question, and the amount determined under this regulation shall be one cause of action or one matter of complaint for the purposes of proceedings under section 65, 66 or 67 of the Management Act(a).

(7) Nothing in paragraph (6) prevents the bringing of separate proceedings for the recovery of any amount which the employer is liable to repay in respect of each employee.

Inspection of employer's records

15.—(1) For the purpose of enabling the Board to be satisfied whether a relevant employer is complying with the provisions of these Regulations, he must, whenever called upon to do so by an authorised officer of the Board, produce the records specified in paragraph (2) to that officer for inspection, at such time as that officer may reasonably require and at the prescribed place.

(2) The records are—

- (a) all wages sheets, deductions working sheets and other documents and records of any kind or description relating to the calculation or payment of the tax credits of his employees in respect of the tax years or income tax months specified by the authorised officer, or
- (b) such of those wages sheets, deductions working sheets or other documents and records as may be specified by the authorised officer.

(3) The prescribed place for the purposes of paragraph (1) means—

- (a) such place in the United Kingdom as the employer and the authorised officer may agree upon, or
- (b) in default of such agreement, the place in the United Kingdom at which the documents and records referred to in paragraph (2)(a) are normally kept, or
- (c) in default of such agreement and if there is no such place as is referred to in subparagraph (b), the employer's principal place of business in the United Kingdom.

(4) The authorised officer may—

- (a) take copies of, or make extracts from, any document produced to him for inspection in accordance with paragraphs (1) and (2), and
- (b) remove any document so produced if it appears to him to be necessary to do so, at a reasonable time and for a reasonable period.

(5) Where any document is removed in accordance with paragraph (4)(b), the authorised officer shall provide a receipt for that document.

(6) Where any document is removed in accordance with paragraph (4)(b) that is reasonably required for the proper conduct of a business, the authorised officer shall, not later than seven days following the date on which the document was removed, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(7) Where a lien is claimed on a document produced in accordance with paragraphs (1) and (2), the removal of the document in accordance with paragraph (4)(b) shall not be regarded as breaking the lien.

(8) Where records are maintained by computer, the person required to produce them for inspection must provide the authorised officer with all facilities necessary for obtaining information from them.

(a) Section 65 was amended by section 57(1)(a), (b) and (c) of the Finance Act 1984 (c. 43) and paragraph 30 of Schedule 19 to the Finance Act 1998 (c. 36). Section 66 was amended by section 57(2) of the Finance Act 1984, Part II of Schedule 1 to the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397), the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991/724) and section 89(1) of, and Part 2(14) of Schedule 33 to, the Finance Act 2001 (c. 9). Section 67 was amended by section 58 of, and Part III of Schedule 15 to, the Finance Act 1976 (c. 40), section 156 of the Finance Act 1995 (c. 4) and section 89(1) of, and Part 2(14) of Schedule 33 to, the Finance Act 2001.

(9) For the purposes of paragraphs (1) and (2), the employer must retain the wages sheets, deductions working sheets and other documents and records referred to in those paragraphs for not less than three years after the end of the income tax year to which they relate.

Dave Hartnett
Ann Chant

20th August 2002

Two of the Commissioners of Inland Revenue

The Scottish Ministers consent to the making of these Regulations

James Wallace
Deputy First Minister and Minister for Justice
A member of the Scottish Executive

19th August 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the payment of working tax credit under the Tax Credits Act 2002 (c. 21) by employers to their employees from 6th April 2003 onwards.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 defines “relevant employer” for the purposes of the Regulations.

Regulation 4 provides for the issue of start notices to employers by the Board of Inland Revenue (“the Board”) notifying them to commence paying working tax credit.

Regulation 5 provides for the issue of amendment notices by the Board to an employer where the amount of working tax credit to which his employee is entitled changes.

Regulation 6 specifies the obligation of employers to whom start notices or amendment notices are issued to calculate and pay working tax credit to employees in accordance with the notices.

Regulation 7 sets out how payment of working tax credit is to be funded by the employer.

Regulation 8 enables the employer to apply to the Board for funding in order to pay working tax credit.

Regulation 9 provides for renewal of funding by the Board for each income tax year.

Regulation 10 enables the employer to notify the Board in the course of an income tax year if, as a result of a change of circumstances, any of the details recorded on an application form for funding under regulation 8, or on a renewal form under regulation 9, cease to be correct.

Regulation 11 provides for termination of funding by the Board in certain circumstances.

Regulation 12 provides for circumstances in which the obligation of an employer to pay working tax credit is terminated, including the issue of a stop notice by the Board.

Regulation 13 provides for the issue of an emergency stop notice and restart notice by the Board when there is a temporary break in the payment of working tax credit by an employer to an employee.

Regulation 14 provides for the determination of an amount of funding to be repaid to the Board where it transpires that that amount has not been used by the employer to fund payment of working tax credit.

Regulation 15 provides for the inspection of an employer’s records by an authorised officer of the Board so as to determine whether the employer is complying with the provisions of these Regulations.

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