
STATUTORY INSTRUMENTS

2002 No. 2172

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

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(1) 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
- (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(2) for the purposes of section 824 or, as the case may be, section 826 of the Taxes Act(3) 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.

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

(2) 1989 c. 26; relevant amendments were made by paragraph 1(3) of Schedule 4 to the Finance 1998 (c. 36).

(3) 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.