

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Social security: General

Section 120: Loss of tax credits

36A: Loss of working tax credit in case of conviction or penalty for benefit offence

616. The combined effect of *subsections (1) and (4)* is for payment of working tax credit to be withdrawn for the disqualification period where the offender has been convicted of one or more benefit offences in any proceedings, or accepted a penalty under section 115A SSAA 1992 (“an administrative penalty”) or a caution as an alternative to prosecution. In the case of a single claim, *subsection (4)* provides that the withdrawal will apply to the offender. In the case of a joint claim the withdrawal will apply to either member of the couple. *Subsection (3)* of new *section 36A* provides that where a person is convicted of one or more benefit offences, a sanction will not apply here if they are being sanctioned under new *section 36C* for repeated benefit fraud.
617. *Subsection (5)* allows HMRC to make regulations which prescribe how working tax payments to a couple may be reduced rather than withdrawn.
618. *Subsection (6)* of new *section 36A* defines the disqualification period for the purpose of this section. The disqualification period is the amount of time the benefit can be disqualified for and the length depends on the reason why the person was disqualified. The disqualification period begins at a prescribed time after conviction or the agreement of an administrative penalty or caution. The disqualification periods are set out in *subsection (7)*. *Subsection (7)(a)* sets out the loss of benefit sanction for relevant offences defined in *subsection (5)* of section 118. This will result in a three year loss of benefit sanction, irrespective of whether it is a first, second or third offence. *Subsection (7)(b)* introduces a 13 week loss of benefit sanction for claimants who are convicted of a first benefit offence. *Subsection (7)(c)* introduces a four week loss of benefit sanction for claimants who accept the offer of an alternative penalty rather than prosecution.
619. *Subsection (8)* gives the Treasury the power to amend by order the periods of sanction that are in *subsection (7)(a) to (c)*.