



# Tax Credits Act 2002

## 2002 CHAPTER 21

### PART 3

#### SUPPLEMENTARY

#### *Information etc.*

#### **58 Administrative arrangements**

- (1) This section applies where regulations under—
- section 4 or 6 of this Act,
  - section 5 of the Social Security Administration Act 1992 (c. 5), or
  - section 5 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8),
- permit or require a claim or notification relating to a tax credit, child benefit or guardian's allowance to be made or given to a relevant authority.
- (2) Where this section applies, regulations may make provision—
- for information or evidence relating to tax credits, child benefit or guardian's allowance to be provided to the relevant authority (whether by persons by whom such claims and notifications are or have been made or given, by the Board or by other persons),
  - for the giving of information or advice by a relevant authority to persons by whom such claims or notifications are or have been made or given, and
  - for the recording, verification and holding, and the forwarding to the Board or a person providing services to the Board, of claims and notifications received by virtue of the regulations referred to in subsection (1) and information or evidence received by virtue of paragraph (a),
- (3) "Relevant authority" means—
- the Secretary of State,
  - the Northern Ireland Department, or

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- (c) a person providing services to the Secretary of State or the Northern Ireland Department.

#### Commencement Information

- I1** S. 58 wholly in force at 26.2.2003; s. 58 not in force at Royal Assent, see s. 61; s. 58 in force for certain purposes at 9.7.2002 by S.I. 2002/1727, art. 2; s. 58 in force in so far as not already in force at 26.2.2003 by S.I. 2003/392, art. 2

## 59 Use and disclosure of information

Schedule 5 (use and disclosure of information) has effect.

#### Commencement Information

- I2** S. 59 wholly in force at 1.4.2003; s. 59 not in force at Royal Assent, see s. 61; s. 59 in force for certain purposes at 1.8.2002 by S.I. 2002/1727, art. 2; s. 59 in force for certain purposes at 26.2.2003 and otherwise in force at 1.4.2003 by S.I. 2003/392, art. 2

### *Other supplementary provisions*

## 60 Repeals

Schedule 6 (repeals) has effect.

#### Commencement Information

- I3** S. 60 partly in force; s. 60 not in force at Royal Assent, see s. 61; s. 60 in force for certain purposes at 27.8.2002 and after the expiry of a period of 26 weeks from the date of commencement of the award for certain further purposes by S.I. 2002/1727, art. 2; s. 60 in force for certain purposes at 26.2.2003, 1.4.2003 and 7.4.2003 by S.I. 2003/392, art. 2; s. 60 in force for certain purposes at 6.4.2003 by S.I. 2003/938, art. 2, Sch. (with art. 3) and by S.I. 2003/962, {art. 2(3)(c)} (with savings in S.R. 2003/212, art. 2); s. 60 in force for certain further purposes at 8.4.2003 by S.I. 2003/962, art. 2(4)(c)

## 61 Commencement

Apart from section 54(1) and (2), the preceding provisions of this Act come into force in accordance with orders made by the Treasury.

#### Subordinate Legislation Made

- P1** S. 61 power partly exercised: different dates appointed for specified provisions by {S.I. 2002/1727}, art. 2, {S.I. 2003/392}, art. 2, {S.I. 2003/938}, art. 2, Sch. and {S.I. 2003/962}, art. 2

## 62 Transitional provisions and savings

- (1) The Secretary of State may by order make as respects England and Wales and Scotland, and the Northern Ireland Department may by order make as respects Northern Ireland,

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any transitional provisions or savings which appear appropriate in connection with the commencement of the abolition of the increases referred to in section 1(3)(e).

- (2) Subject to any provision made by virtue of subsection (1), the Treasury may by order make any transitional provisions or savings which appear appropriate in connection with the commencement of any provision of this Act.

### **63 Tax credits appeals etc.: temporary modifications**

- (1) Until such day as the Treasury may by order appoint, Part 1 of this Act has effect subject to the modifications specified in this section; and an order under this subsection may include any transitional provisions or savings which appear appropriate.
- (2) Except in the case of an appeal against an employer penalty, an appeal under section 38 is to an appeal tribunal (rather than to the General Commissioners or Special Commissioners).
- (3) The function of giving a direction under section 19(10) is a function of an appeal tribunal (rather than of the General Commissioners or Special Commissioners).
- (4) Except in the case of an employer information penalty, proceedings under paragraph 3 of Schedule 2 are by way of information made to an appeal tribunal (rather than to the General Commissioners or Special Commissioners).
- (5) So far as is appropriate in consequence of subsections (2) to (4)—
  - (a) the references to the General Commissioners or Special Commissioners in sections 19(10) and 39(5) and paragraphs 2 and 3(2) of Schedule 2 are to the appeal tribunal, and
  - (b) subsections (3) and (4) of section 39 do not apply.
- (6) An appeal under paragraph 2(2) or 4(1) of Schedule 2 from a decision of, or against the determination of a penalty by, an appeal tribunal lies to a Social Security Commissioner (rather than to the High Court or Court of Session).
- (7) So far as is appropriate in consequence of subsection (6), the references in paragraphs 2(2) and 4 of Schedule 2 to the High Court and the Court of Session are to the Social Security Commissioner.
- (8) Regulations may apply any provision contained in—
  - (a) Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14) (social security appeals: Great Britain),
  - (b) Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) (social security appeals: Northern Ireland), or
  - (c) section 54 of the Taxes Management Act 1970 (c. 9) (settling of appeals by agreement),in relation to appeals which, by virtue of this section, are to an appeal tribunal or lie to a Social Security Commissioner, but subject to such modifications as are prescribed.
- (9) Except in the case of appeals against employer penalties, subsections (6) and (7) of section 39 do not apply.
- (10) “Appeal tribunal” means an appeal tribunal constituted—
  - (a) in Great Britain, under Chapter 1 of Part 1 of the Social Security Act 1998, or
  - (b) in Northern Ireland, under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998.

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- (11) “Employer penalty” means—
- (a) a penalty under section 31 or 32 relating to a requirement imposed by virtue of regulations under section 25, or
  - (b) a penalty under section 33.
- (12) “Employer information penalty” means a penalty under section 32(2)(a) relating to a requirement imposed by virtue of regulations under section 25.
- (13) “Social Security Commissioner” means—
- (a) in Great Britain, the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Act 1998 (c. 14) or a tribunal of three or more Commissioners constituted under section 16(7) of that Act, and
  - (b) in Northern Ireland, the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Administration (Northern Ireland) Act 1992 (c. 8) or a tribunal of two or more Commissioners constituted under Article 16(7) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)).

## 64 Northern Ireland

- (1) The Northern Ireland Act 1998 (c. 47) has effect subject to the amendments in subsections (2) and (3).
- (2) In Schedule 2 (excepted matters), after paragraph 10 insert—
- “10A Tax credits under Part 1 of the Tax Credits Act 2002.
- 10B Child benefit and guardian’s allowance.”
- (3) In section 87 (consultation and co-ordination on social security matters), after subsection (6) insert—
- “(6A) But this section does not apply to the legislation referred to in subsection (6) to the extent that it relates to child benefit or guardian’s allowance.”
- (4) For the purposes of that Act, a provision of—
- (a) an Act of the Northern Ireland Assembly, or
  - (b) a Bill for such an Act,
- which amends or repeals any of the provisions of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) dealt with in Schedule 1 shall not be treated as dealing with tax credits if the Act or Bill deals with employment rights conferred otherwise than by that Schedule in the same way.

## 65 Regulations, orders and schemes

- (1) Any power to make regulations under sections 3, 7 to 13, 42 and 43, and any power to make regulations under this Act prescribing a rate of interest, is exercisable by the Treasury.
- (2) Any other power to make regulations under this Act is exercisable by the Board.

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- (3) Subject to subsection (4), any power to make regulations, orders or schemes under this Act is exercisable by statutory instrument.
- (4) The power—
  - (a) of the Department of Health, Social Services and Public Safety to make schemes under section 12(5), and
  - (b) of the Northern Ireland Department to make orders under section 62(1),is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (5) Regulations may not be made under section 25 or 26 in relation to appeals in Scotland without the consent of the Scottish Ministers.
- (6) Regulations may not be made under section 39(6) or 63(8) without the consent of the Lord Chancellor and the Scottish Ministers.
- (7) Any power to make regulations under this Act may be exercised—
  - (a) in relation to all cases to which it extends, to all those cases with prescribed exceptions or to prescribed cases or classes of case,
  - (b) so as to make as respects the cases in relation to which it is exercised the full provision to which it extends or any less provision (whether by way of exception or otherwise),
  - (c) so as to make the same provision for all cases in relation to which it is exercised or different provision for different cases or classes of case or different provision as respects the same case or class of case for different purposes,
  - (d) so as to make provision unconditionally or subject to any prescribed condition,
  - (e) so as to provide for a person to exercise a discretion in dealing with any matter.
- (8) Any regulations made under a power under this Act to prescribe a rate of interest may—
  - (a) either themselves specify a rate of interest or make provision for any such rate to be determined by reference to such rate or the average of such rates as may be referred to in the regulations,
  - (b) provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,
  - (c) provide for rates arrived at by reference to averages to be rounded up or down,
  - (d) provide for circumstances in which alteration of a rate of interest is or is not to take place, and
  - (e) provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day as well as from or from after that day.
- (9) Any power to make regulations or a scheme under this Act includes power to make any incidental, supplementary, consequential or transitional provision which appears appropriate for the purposes of, or in connection with, the regulations or scheme.

## **66 Parliamentary etc. control of instruments**

- (1) No regulations to which this subsection applies may be made unless a draft of the instrument containing them (whether or not together with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.

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- (2) Subsection (1) applies to—
- (a) regulations prescribing monetary amounts that are required to be reviewed under section 41,
  - (b) regulations made by virtue of subsection (2) of section 12 prescribing the amount in excess of which charges are not taken into account for the purposes of that subsection, and
  - (c) the first regulations made under sections 7(8) and (9), 9, 11, 12 and 13(2).
- (3) A statutory instrument containing—
- (a) regulations under this Act,
  - (b) a scheme made by the Secretary of State under section 12(5), or
  - (c) an Order in Council under section 52(7),
- is (unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing a scheme made by the Scottish Ministers under section 12(5) is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (5) A statutory rule containing a scheme made by the Department of Health, Social Services and Public Safety under section 12(5) is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).

## 67 Interpretation

In this Act—

- “the Board” means the Commissioners of Inland Revenue,  
“modifications” includes alterations, additions and omissions, and  
“modifies” is to be construed accordingly,  
“the Northern Ireland Department” means the Department for Social Development in Northern Ireland,  
“prescribed” means prescribed by regulations, and  
“tax credit” and “tax credits” have the meanings given by section 1(2).

## 68 Financial provision

- (1) There is to be paid out of money provided by Parliament—
- (a) any expenditure of a Minister of the Crown or government department under this Act, and
  - (b) any increase attributable to this Act in sums payable out of money provided by Parliament under any other Act.
- (2) There is to be paid into the Consolidated Fund any sums received by a government department by virtue of this Act (apart from any required by any other enactment to be paid into the National Insurance Fund).

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## **69 Extent**

- (1) The amendments, repeals and revocations made by this Act have the same extent as the enactments or instruments to which they relate.
- (2) Subject to that, this Act extends to Northern Ireland (as well as to England and Wales and Scotland).

## **70 Short title**

This Act may be cited as the Tax Credits Act 2002.

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