



Tax Credits Act 2002

2002 CHAPTER 21

[^{F1}PART 1

TAX CREDITS

[^{F2}Loss of tax credit provisions

[^{F1}[^{F2}36A] **Loss of working tax credit in case of conviction etc for benefit offence**

- (1) Subsection (4) applies where a person (“the offender”)—
- (a) is convicted of one or more benefit offences in any proceedings, or
 - (b) after being given a notice under subsection (2) of the appropriate penalty provision by an appropriate authority, agrees in the manner specified by the appropriate authority to pay a penalty under the appropriate penalty provision to the appropriate authority, in a case where the offence to which the notice relates is a benefit offence, or
 - (c) is cautioned in respect of one or more benefit offences.
- (2) In subsection (1)(b)—
- (a) “the appropriate penalty provision” means section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution) or section 109A of the Social Security Administration (Northern Ireland) Act 1992 (the corresponding provision for Northern Ireland);
 - (b) “appropriate authority” means—
 - (i) in relation to section 115A of the Social Security Administration Act 1992, the Secretary of State or an authority which administers housing benefit or council tax benefit, and
 - (ii) in relation to section 109A of the Social Security Administration (Northern Ireland) Act 1992, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive.
- (3) Subsection (4) does not apply by virtue of subsection (1)(a) if, because the proceedings in which the offender was convicted constitute the current set of proceedings for the

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purposes of section 36C, the restriction in subsection (3) of that section applies in the offender's case.

- (4) If this subsection applies and the offender is a person who would, apart from this section, be entitled (whether pursuant to a single or joint claim) to working tax credit at any time within the disqualification period, then, despite that entitlement, working tax credit shall not be payable for any period comprised in the disqualification period—
- (a) in the case of a single claim, to the offender, or
 - (b) in the case of a joint claim, to the offender or the other member of the couple.
- (5) Regulations may provide in relation to cases to which subsection (4)(b) would otherwise apply that working tax credit shall be payable, for any period comprised in the disqualification period, as if the amount payable were reduced in such manner as may be prescribed.
- (6) For the purposes of this section, the disqualification period, in relation to any disqualifying event, means the relevant period beginning with such date, falling after the date of the disqualifying event, as may be determined by or in accordance with regulations.
- (7) For the purposes of subsection (6) the relevant period is—
- (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,
 - (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above)), the period of 13 weeks, or
 - (c) in a case falling within subsection (1)(b) or (c), the period of 4 weeks.
- (8) The Treasury may by order amend subsection (7)(a), (b) or (c) to substitute a different period for that for the time being specified there.
- (9) This section has effect subject to section 36B.
- (10) In this section and section 36B—
- “benefit offence“ means any of the following offences committed on or after the day specified by order made by the Treasury—
- (a) an offence in connection with a claim for a disqualifying benefit;
 - (b) an offence in connection with the receipt or payment of any amount by way of such a benefit;
 - (c) an offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
 - (d) an offence consisting in an attempt or conspiracy to commit a benefit offence;
- “disqualifying benefit” has the meaning given in section 6A(1) of the Social Security Fraud Act 2001;
- “disqualifying event“ means—
- (a) the conviction falling within subsection (1)(a);
 - (b) the agreement falling within subsection (1)(b);
 - (c) the caution falling within subsection (1)(c);
- “relevant offence” has the meaning given in section 6B of the Social Security Fraud Act 2001.]]

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Textual Amendments

- F1** Pt. 1 repealed (1.2.2019 with savings in relation to specified cases in [art. 3](#) of the commencing S.I.) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2019/167, arts. 2, 3
- F2** Ss. 36A-36D and cross-heading inserted (1.2.2013 for specified purposes, otherwise 6.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 120(2)**, 150(3); S.I. 2013/178, art. 2
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Modifications etc. (not altering text)

- C1** S. 36A(10) power exercised: 6.4.2013 specified for the purposes of ss. 36A-36D by [S.I. 2013/524](#), art. 2

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Changes and effects yet to be applied to :

- s. 36A(1)(c) repealed by [2012 c. 5 s. 121\(2\)](#)
- s. 36A(7)(c) words repealed by [2012 c. 5 Sch. 14 Pt. 12](#)
- specified provision(s) amendment to earlier commencing SI 2003/962 by [S.I. 2008/3151 art. 3\(2\)](#) (art. 3(2) revoked (14. 7.2014) by S.I. 2014/1848)
- specified provision(s) amendment to earlier commencing SI 2003/962 art. 2(5) by [S.I. 2011/2910 art. 2](#) (Order revoked (14. 7.2014) by S.I. 2014/1848)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 35(2)-(12) substituted for s. 35(2) by [2012 c. 5 s. 124](#)
- s. 35(9) words substituted by [2020 c. 17 Sch. 24 para. 443\(1\)](#) (This amendment not applied to legislation.gov.uk. The substitution of s. 35(2)-(12) for s. 35(2) by 2021 c. 5, s. 124 is not yet in force)
- s. 36(10) words repealed by [2012 c. 5 Sch. 14 Pt. 12](#)
- s. 371(3) words inserted by [2024 c. 13 Sch. 13 para. 5](#)