

2013 No. 715

TAX CREDITS

The Loss of Tax Credits Regulations 2013

Made - - - - *26th March 2013*

Coming into force - - *6th April 2013*

The Commissioners for Her Majesty's Revenue and Customs^(a) make these Regulations in the exercise of the powers conferred by sections 36A(5) and (6), 36C(4) and (5), 65(2) and 67 of the Tax Credits Act 2002^(b).

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 66(1) and (2)(zb) of the Tax Credits Act 2002.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Loss of Tax Credits Regulations 2013 and come into force on 6th April 2013.

(2) In these Regulations, references to sections of the Act are to sections of the Tax Credits Act 2002.

Loss of working tax credit for benefit offence and repeated benefit fraud: beginning of disqualification periods

2.—(1) For the purposes of section 36A(6) of the Act, the date on which the relevant period begins is the thirtieth day after the day on which the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") are notified of the disqualifying event^(c) mentioned in section 36A(1)—

- (a) in relation to England and Wales and Scotland, by the Secretary of State or by an authority which administers housing benefit or council tax benefit,
- (b) in relation to Northern Ireland, by the Department for Social Development, the Department of Finance and Personnel or the Northern Ireland Housing Executive.

(2) For the purposes of section 36C(5) of the Act, the prescribed date is the thirtieth day after the day on which the Commissioners are notified of the offender's conviction mentioned in that section, by the prosecuting authority responsible for bringing the current set of proceedings in which the offender was convicted.

(a) The functions relating to working tax credit were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11) and section 50(1) of that Act provides that references to "the Board" and "the Commissioners of Inland Revenue" are to be taken accordingly.

(b) 2002 c. 21. Sections 66(2)(zb) and 36A and 36C were inserted by section 120 of the Welfare Reform Act 2012 (c. 5).

(c) Section 36A(10) of the Tax Credits Act 2002 defines "disqualifying event".

Loss of working tax credit for benefit offence and repeated benefit fraud

3. For the duration of any period—

- (a) comprised in the offender's disqualification period for the purposes of section 36A(4)(b) or 36C(3)(b) of the Act, and
- (b) not comprising any such disqualification period of the other member of the couple mentioned in either section,

the working tax credit in question shall be payable, but as if the amount payable were reduced by 50%.

*Ruth Owen
Nick Lodge*

Two of the Commissioners for Her Majesty's Revenue and Customs

26th March 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 36A to 36D of the Tax Credits Act 2002 ("the 2002 Act") provide that where a person is cautioned, accepts an administrative penalty (in exchange for not being prosecuted) for, or is convicted of, a benefit offence their award of working tax credits will cease for a specified period (the "disqualification period"). These Regulations specify the "prescribed date", which is the date on which the disqualification period begins (the disqualification period itself is stipulated in ss.36A and 36C of the 2002 Act).

Regulation 1 provides for citation and commencement and makes interpretative provision.

Regulation 2 prescribes the date on which the relevant period begins in order to determine the disqualification period for the purposes of sections 36A and 36C of the 2002 Act, which is thirty days after the day on which the Commissioners for Her Majesty's Revenue and Customs are notified of the disqualifying event (section 36A) or the offender's conviction (section 36C).

Regulation 3 provides that working tax credit is payable at the rate of 50% for any period which comprises the disqualification period mentioned in section 36A(4) or 36C(3) of only one member of a couple. Without this provision, no working tax credit would be payable in such cases.

A full impact assessment has not been produced for these Regulations as a sanction and penalty impact assessment was published for the Welfare Reform Act 2012 (<http://services.parliament.uk/bills/2010-11/welfarereform.html>). The new loss of benefit regime will be monitored to ensure both the effectiveness of the measure and equality of treatment.

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£4.00

E6185 03/2013 136185T 19585

ISBN 978-0-11-153772-5



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