

[<sup>F1</sup>SCHEDULE [<sup>F2</sup>1]

Regulation 12A

MODIFICATION OF TAX CREDITS LEGISLATION (FINALISATION OF TAX CREDITS)

**Textual Amendments**

- F1** Sch. inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), reg. 1(2), **4(2)**
- F2** Sch. renumbered as Sch. 1 (24.7.2019) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(2), **3(8)**

**Modifications to the Tax Credits Act 2002**

1. Paragraphs 2 to 10 prescribe modifications to the application of the 2002 Act where regulation 12A of these Regulations applies.

2. In section 7 (income test)—

(a) in subsection (3), before “current year income” in each place where it occurs, insert “notional”;

(b) in subsection (4)—

(i) for “current year” substitute “current part year”;

(ii) in paragraphs (a) and (b), before “tax year” insert “part”;

(c) after subsection (4), insert—

“(4A) In this section “the notional current year income” means—

(a) in relation to persons by whom a joint claim for a tax credit is made, the aggregate income of the persons for the part tax year to which the claim relates, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence; and

(b) in relation to a person by whom a single claim for a tax credit is made, the income of the person for that part tax year, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence.”.

3. In section 17 (final notice)—

(a) in subsection (1)—

(i) omit “the whole or”; and

(ii) in sub-paragraph (a), before “tax year” insert “part”;

(b) in subsection (3), before “tax year” insert “part”;

(c) in subsections (4)(a) and (4)(b), for “current year” in both places where it occurs, substitute “current part year”;

(d) in subsection (5)(a) for “current year” in both places where it occurs, substitute “current part year”;

(e) omit subsection (8).

4. In section 18 (decisions after final notice)—

(a) in subsection (1), before “tax year” insert “part”;

(b) omit subsections (6) to (9);

**Status:** Point in time view as at 30/01/2023.

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- (c) in subsection (10), for “subsection (1), (5), (6) or (9)” substitute “subsection (1) or (5)”;
  - (d) in subsection (11)—
    - (i) after “subsection (5)” omit “or (9)”;
    - (ii) omit paragraph (a);
    - (iii) in paragraph (b) omit “in any other case,”;
    - (iv) before “tax year” in each place where it occurs, insert “part”.
- 5.** In section 19 (power to enquire)—
- (a) in subsection (1)(a) and (b), before “tax year” insert “part”;
  - (b) in subsection (3), before “tax year” insert “part”;
  - (c) for subsection (5) substitute—

“(5) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the part tax year.”;
  - (d) for subsection (6) substitute—

“(6) “The relevant section 17 date” means the date specified for the purposes of subsection (4) of section 17 in the notice given to a person or persons under that section in relation to the part tax year.”;
  - (e) in subsection (11), before “tax year” insert “part”;
  - (f) in subsection (12), before “tax year” in each place where it occurs, insert “part”.
- 6.** In section 20 (decisions on discovery)—
- (a) in subsection (1), before “tax year” insert “part”;
  - (b) in subsection (4)(a), before “tax year” insert “part”;
  - (c) in subsection (5)(b), before “tax year” insert “part”;
  - (d) in subsection (6)—
    - (i) before “tax year” insert “part”;
    - (ii) in paragraph (a), for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”;
  - (e) in subsection (7), before “tax year” in each place where it occurs, insert “part”.
- 7.** In section 21 (decisions subject to official error), for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”.
- 8.** In section 23 (notice of decisions)—
- (a) in subsection (1), for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”;
  - (b) in subsection (3)—
    - (i) after “18(1)” omit “or (6)”;
    - (ii) for paragraph (b) substitute—

“(b) the notice of the decision under subsection (1) of section 18,”.
- 9.** In section 30(1) (underpayments), before “tax year” in each place where it occurs, insert “part”.
- 10.** In section 38 (appeals)—
- (a) in subsection (1)(b), before “tax year” insert “part”;
  - (b) for subsection (2), substitute—

“(2) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the tax credit for the part tax year.”.

## **Modifications to the Tax Credits (Definition and Calculation of Income) Regulations 2002**

11. Paragraphs 12 to 23 prescribe modifications to the application of the Tax Credits (Definition and Calculation of Income) Regulations 2002 where regulation 12A of these Regulations applies.

12. In regulation 2(2) (interpretation), after the definition of “the Macfarlane Trusts” insert—  
““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated;”.

13. In regulation 3 (calculation of income of claimant)—

(a) in paragraph (1)—

(i) before “tax year” insert “part”;

(ii) in Steps 1 and 2, after “of the claimant, or, in the case of a joint claim, of the claimants” insert “received in or relating to the part tax year”;

(iii) in the second and third sentences of Step 4, before “year” insert “part”;

(b) in paragraph (6A), for the words from “ending on 31st March” to the end, substitute “ending on the last day of the month in which the claimant’s award of a tax credit terminated”;

(c) in paragraph (8)(b), before “year” insert “part”.

14. In regulation 4 (employment income)—

(a) in paragraph (1)(a), before “tax year” insert “part”;

(b) in paragraph (1)(b), (c), (d), (e), (g) and (k), before “year” insert “part”;

(c) in paragraph (1)(f), after “ITEPA” insert “which is treated as received in the part tax year and in respect of which the charge arises in the part tax year”;

(d) in paragraph (1)(h), after “week” insert “in the part tax year”;

(e) in paragraph (1)(i), for “that year” substitute “the tax year” and after “ITEPA” insert “which is treated as received in the part tax year”;

(f) in paragraph (1)(j), after “applies” insert “which is received in the part tax year”;

(g) in paragraph (1)(l), for “that year” substitute “the tax year” and after “ITEPA” insert “in respect of which the charge arises in the part tax year”;

(h) in paragraph (1)(m), after “paid” insert “in the part tax year”;

(i) in paragraph (4), in the first sentence and in the title of Table 1, after “employment income” insert “received in the part tax year”;

(j) in paragraph (5), after “calculating earnings” insert “received in the part tax year”.

15. In regulation 5 (pension income)—

(a) in paragraph (1), after ““pension income” means” insert “any of the following received in or relating to the part tax year”;

(b) in paragraph (2), in the first sentence and in the title of Table 2, after “pension income” insert “received in or relating to the part tax year”;

(c) in paragraph (3), after “income tax purposes”, insert “in relation to the part tax year”.

16. In regulation 6 (trading income)—

(a) re-number the existing regulation as paragraph (1);

(b) in paragraph (1) (as so re-numbered)—

(i) in sub-paragraph (a), for “taxable profits for the tax year” substitute “actual or estimated taxable profits attributable to the part tax year”;

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- (ii) in sub-paragraph (b), for “taxable profit for the” substitute “actual or estimated taxable profit attributable to the part tax”;
- (c) after paragraph (1) insert—
  - “(2) Actual or estimated taxable profits attributable to the part tax year (“the relevant trading income”) is to be calculated by reference to the basis period (determined by reference to the rules in Chapter 15 of Part 2 of ITTOIA) ending during the tax year in which the claimant made, or was treated as making, a claim for universal credit.
  - (3) The relevant trading income is to be calculated by—
    - (a) taking the figure for the actual or estimated taxable income earned in the basis period;
    - (b) dividing that figure by the number of days in the basis period to give the daily figure; and
    - (c) multiplying the daily figure by the number of days in the part tax year on which the trade, profession or vocation was carried on.”.
- 17. In regulation 7 (social security income)—
  - (a) in paragraph (1), after “social security income” insert “received in the part tax year”;
  - (b) in paragraph (3), in the opening words and in the title of Table 3, after “social security income” insert “received in the part tax year”.
- 18. In regulation 8 (student income), after “in relation to a student” insert “, any of the following which is received in the part tax year”.
- 19. In regulation 10 (investment income)—
  - (a) in paragraph (1), after “gross amount” insert “received in the part tax year”;
  - (b) in paragraph (1)(e), before “year” insert “part tax”;
  - (c) in paragraph (2), in the opening words and in the title of Table 4, after “investment income” insert “received in the part tax year”.
- 20. In regulation 11(1) (property income)—
  - (a) omit “annual”;
  - (b) after “taxable profits” insert “for the part tax year”.
- 21. In regulation 12(1) (foreign income), before “year” insert “part tax”.
- 22. In regulation 13 (notional income), after “means income” insert “received in the part tax year”.
- 23. In regulation 18 (miscellaneous income), after “means income” insert “received in the part tax year”.

## **Modifications to the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002**

24. Paragraphs 25 to 27 prescribe modifications to the application of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 where regulation 12A of these Regulations applies.

- 25. In regulation 2 (interpretation)—
  - (a) after the definition of “the income threshold” insert—

““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated;”;

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- (b) in the definition of “the relevant income” insert “as modified by the Universal Credit (Transitional Provisions) Regulations 2014” at the end.
- 26. In regulation 7(3) (determination of rate of working tax credit)—
  - (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;
  - (b) in Step 3—
    - (i) in the definition of “I”, before “tax year” insert “part”;
    - (ii) in the definition of “N1”, before “tax year” insert “part”.
- 27. In regulation 8(3) (determination of rate of child tax credit)—
  - (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;
  - (b) in Step 3—
    - (i) in the definition of “I”, before “tax year” insert “part”;
    - (ii) in the definition of “N1”, before “tax year” insert “part”.

#### **Modifications to the Tax Credits (Claims and Notifications) Regulations 2002**

- 28. Paragraphs 29 to 34 prescribe modifications to the application of the Tax Credits (Claims and Notifications) Regulations 2002 where regulation 12A of these Regulations applies.
- 29. In regulation 4 (interpretation), omit paragraph (b).
- 30. Omit regulation 11 (circumstances in which claims to be treated as made).
- 31. Omit regulation 12 (further circumstances in which claims to be treated as made).
- 32. In regulation 13 (circumstances in which claims made by one member of a couple to be treated as also made by the other)—
  - (a) in paragraph (1), after “prescribed by paragraph” omit “(2) or”;
  - (b) omit paragraph (2).
- 33. In regulation 15(1)(c) (persons who die after making a claim)—
  - (a) omit “the whole or” and “after the end of that tax year but”; and
  - (b) for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”.
- 34. In regulation 33 (dates to be specified in notices)—
  - (a) in paragraph (a), for the words from “not later than 31st July” to “if later”, substitute “not less than 30 days after the date on which the notice is given”;
  - (b) omit paragraph (b) and the “and” which precedes it.

#### **Modification to the Tax Credits (Payment by the Commissioners) Regulations 2002**

- 35. Paragraph 36 prescribes a modification to the application of the Tax Credits (Payment by the Commissioners) Regulations 2002 where regulation 12A of these Regulations applies.
- 36. Omit regulation 7 (prescribed circumstances for certain purposes).

#### **Modification to the Tax Credits (Residence) Regulations 2003**

- 37. Paragraph 38 prescribes a modification to the application of the Tax Credits (Residence) Regulations 2003 where regulation 12A of these Regulations applies.

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**38.** In regulation 3(5)(a) (circumstances in which a person is treated as not being in the United Kingdom), omit “under regulation 11 or 12 of the Tax Credits (Claims and Notifications) Regulations 2002 or otherwise”.]

## [<sup>F3</sup>SCHEDULE 2

Regulation 63

### Claimants previously entitled to a severe disability premium

#### Textual Amendments

**F3** Sch. 2 substituted (27.1.2021) by [The Universal Credit \(Transitional Provisions\) \(Claimants previously entitled to a severe disability premium\) Amendment Regulations 2021 \(S.I. 2021/4\)](#), regs. 1, 2 (with reg. 3)

1. This Schedule applies to an award of universal credit where the following conditions are met in respect of the claimant, or each of joint claimants.
2. The first condition is that the award was not made as a consequence of the claimant becoming a member of a couple where the other member was already entitled to an award of universal credit.
3. The second condition is that the claimant—
  - (a) was entitled (or was a member of a couple the other member of which was entitled) to an award of income support, income-based jobseeker’s allowance or income-related employment and support allowance that included a severe disability premium within the month immediately preceding the first day of the award of universal credit; and
  - (b) continued to satisfy the conditions for eligibility for a severe disability premium up to and including the first day of that award.
4. Where this Schedule applies (subject to paragraphs 6 and 7), a transitional SDP element is to be included in the calculation of the award and the amount of that element is to be treated, for the purposes of section 8 of the Act, as if it were an additional amount to be included in the maximum amount under section 8(2) before the deduction of income under section 8(3).
5. The amount of the transitional SDP element in the first assessment period is—
  - (a) in the case of a single claimant—
    - (i) £120, if the LCWRA element is included in the award, or
    - (ii) £285, if the LCWRA element is not included in the award;
  - (b) in the case of joint claimants—
    - (i) £405, if the higher SDP rate was payable,
    - (ii) £120, if paragraph (i) does not apply and the LCWRA element is included in the award in respect of either of them, or
    - (iii) £285, if paragraph (i) does not apply and the LCWRA element is not included in the award in respect of either of them.
6. In respect of the second and each subsequent assessment period, regulation 55(2) (adjustment where other elements increase), regulation 56 (circumstances in which transitional protection ceases) and regulation 57 (application of transitional protection to a subsequent award) are to apply in relation to the transitional SDP element as if it were a transitional element in respect of which the amount calculated in accordance with paragraph 5 was the initial amount.

**Status:** Point in time view as at 30/01/2023.

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7. The award is not to include a transitional SDP element where the claim was a qualifying claim and the award is to include a transitional element.

8. In this Schedule—

“LCWRA element” has the meaning in the Universal Credit Regulations;

“the higher SDP rate” is the rate specified in sub-paragraph (ii) of paragraph 11(2)(b) of Schedule 4 to the Employment and Support Allowance Regulations 2008 or, as the case may be, the corresponding rate of a severe disability premium in relation to income support or income-based jobseeker’s allowance.]

**Status:**

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**Changes to legislation:**

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