



# Tax Credits Act 2002

## 2002 CHAPTER 21

### PART 2

#### CHILD BENEFIT AND GUARDIAN'S ALLOWANCE

##### *Transfer of functions etc.*

#### **49 Functions transferred to Treasury**

- (1) The functions of the Secretary of State under—
- (a) section 77 of the Social Security Contributions and Benefits Act 1992 (c. 4) (guardian's allowance: Great Britain),
  - (b) Part 9 of that Act (child benefit: Great Britain), except <sup>F1</sup>... paragraphs 5 and 6(1) of Schedule 10,
  - (c) section 80 of the Social Security Administration Act 1992 (c. 5) (overlap with benefits under legislation of other member States: Great Britain), and
  - (d) section 72 of the Social Security Act 1998 (c. 14) (power to reduce child benefit for lone parents: Great Britain),
- are transferred to the Treasury.
- (2) The functions of the Northern Ireland Department under—
- (a) section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (guardian's allowance: Northern Ireland),
  - (b) Part 9 of that Act (child benefit: Northern Ireland), except <sup>F2</sup>... paragraphs 5 and 6(1) of Schedule 10,
  - (c) section 76 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (overlap with benefits under legislation of other member States: Northern Ireland), and
  - (d) Article 68 of the Social Security (Northern Ireland) Order 1998 (1998/1506 (N.I. 10)) (power to reduce child benefit for lone parents: Northern Ireland),
- are transferred to the Treasury.

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- (3) The functions of the Secretary of State under Part 10 of the Social Security Administration Act 1992 (c. 5) (review and alteration of benefits: Great Britain) so far as relating to child benefit and guardian’s allowance are transferred to the Treasury.
- (4) The functions of the Northern Ireland Department under sections 132 to 134 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (review and alteration of benefits: Northern Ireland) so far as relating to child benefit and guardian’s allowance are transferred to the Treasury.

#### Textual Amendments

- F1** Words in s. 49(1)(b) repealed (E.W.S.) (10.4.2006) by [Child Benefit Act 2005 \(c. 6\), s. 6\(2\), Sch. 2 Pt. 1](#)
- F2** Words in s. 49(2)(b) repealed (N.I.) (10.4.2006) by [Child Benefit Act 2005 \(c. 6\), s. 6\(2\), Sch. 2 Pt. 2](#)

#### Commencement Information

- I1** S. 49 wholly in force at 7.4.2003; s. 49 not in force at Royal Assent, see s. 61; s. 49 in force for certain purposes at 1.4.2003 and otherwise in force at 7.4.2003 by [S.I. 2003/392, art. 2](#)

## 50 Functions transferred to Board

- (1) The functions of the Secretary of State and the Northern Ireland Department under the provisions specified in subsection (2), so far as relating to child benefit and guardian’s allowance, are transferred to the Board.
- (2) The provisions referred to in subsection (1) are—
- (a) the Social Security Contributions and Benefits Act 1992 (c. 4),
  - (b) the Social Security Administration Act 1992, except Part 13 (advisory bodies and consultation: Great Britain),
  - (c) the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7),
  - (d) the Social Security Administration (Northern Ireland) Act 1992, except Part 12 (advisory bodies and consultation: Northern Ireland),
  - (e) Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14) (social security decisions and appeals: Great Britain),
  - (f) Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (1998/1506 (N.I. 10)) (social security decisions and appeals: Northern Ireland), and
  - (g) any subordinate legislation made under any of the provisions specified in section 49 or any of the preceding provisions of this subsection.
- (3) This section has effect subject to section 49.

#### Commencement Information

- I2** [S. 50](#) wholly in force at 7.4.2003; [s. 50](#) not in force at Royal Assent, see [s. 61](#); [s. 50](#) in force for certain purposes at 1.4.2003 and otherwise in force at 7.4.2003 by [S.I. 2003/392, art. 2](#)

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## 51 Consequential amendments

Schedule 4 (amendments consequential on transfer of functions made by sections 49 and 50) has effect.

### Commencement Information

**I3** S. 51 wholly in force at 7.4.2003; s. 51 not in force at Royal Assent, see s. 61; s. 51 in force for certain purposes at 26.2.2003 and 1.4.2003 and otherwise in force at 7.4.2003 by S.I. 2003/392, art. 2

## 52 Transfer of property, rights and liabilities

- (1) This subsection transfers to and vests in the Treasury the property, rights and liabilities to which the Secretary of State or the Northern Ireland Department is entitled or subject in connection with functions transferred to the Treasury by section 49 immediately before they are transferred.
- (2) This subsection transfers to and vests in the Board the property, rights and liabilities to which the Secretary of State or the Northern Ireland Department is entitled or subject in connection with functions transferred to the Board by section 50 immediately before they are transferred.
- (3) A certificate given by the Treasury that any property has been transferred by subsection (1) is conclusive evidence of the transfer; and a certificate given by the Board that any property has been transferred by subsection (2) is conclusive evidence of the transfer.
- (4) Subsections (1) and (2) have effect in relation to property, rights and liabilities in spite of any provision (of whatever nature) which would prevent or restrict transfer otherwise than by this section.
- (5) Subsections (1) and (2) do not apply to contracts within subsection (6); but any term of such a contract about the provision of goods or services to the Secretary of State (or a government department) or the Northern Ireland Department is to be taken to refer also to the Board in connection with any function transferred by section 49 or 50.
- (6) The contracts within this subsection are contracts for the supply of goods or services to the Secretary of State or the Northern Ireland Department—
  - (a) which relate partly to functions transferred by section 49 or 50 and partly to other functions, or
  - (b) the terms of which are wholly or partly determined by a contract within paragraph (a).
- (7) Her Majesty may by Order in Council make such provision for the transfer to [<sup>F3</sup>the statutory home civil service] of persons employed in the Northern Ireland Civil Service as appears to Her Majesty to be appropriate in consequence of the transfer of functions made by sections 49 and 50.
- [<sup>F4</sup>(8) In subsection (7) “the statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).]

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#### Textual Amendments

- F3** Words in s. 52(7) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), s. 52, [Sch. 2 para. 13\(2\)](#); S.I. 2010/2703, art. 2(a)
- F4** S. 52(8) inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), s. 52, [Sch. 2 para. 13\(3\)](#); S.I. 2010/2703, art. 2(a)

#### Commencement Information

- I4** S. 52 wholly in force at 7.4.2003; s. 52 not in force at Royal Assent, see s. 61; s. 52 in force for certain purposes at 26.2.2003 and 1.4.2003 and otherwise in force at 7.4.2003 by [S.I. 2003/392](#), [art. 2](#)

### [<sup>F5</sup>53] **General functions of Commissioners for Revenue and Customs**

The Commissioners for Her Majesty’s Revenue and Customs shall be responsible for the payment and management of child benefit and guardian’s allowance.]

#### Textual Amendments

- F5** S. 53 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 90](#); S.I. 2005/1126, art. 2(2)(h)

### 54 **Transitional provisions**

- (1) Any function covered by section 49 which is a function of making subordinate legislation may be exercised by the Treasury at any time after the passing of this Act if the subordinate legislation made in the exercise of the function comes into force after the commencement of that section.
- (2) Any function covered by section 50 which is a function of making subordinate legislation may be exercised by the Board at any time after the passing of this Act if the subordinate legislation made in the exercise of the function comes into force after the commencement of that section.
- (3) Nothing in section 49 or 50 affects the validity of anything done by or in relation to the Secretary of State or the Northern Ireland Department before its commencement.
- (4) Anything (including legal proceedings) relating to any functions transferred by section 49, or any property, rights or liabilities transferred by section 52(1), which is in the course of being done or carried on by or in relation to the Secretary of State or the Northern Ireland Department immediately before the transfer may be continued by or in relation to the Treasury.
- (5) Anything (including legal proceedings) relating to any functions transferred by section 50, or any property, rights or liabilities transferred by section 52(2), which is in the course of being done or carried on by or in relation to the Secretary of State or the Northern Ireland Department immediately before the transfer may be continued by or in relation to the Board.
- (6) Anything done by the Secretary of State or the Northern Ireland Department for the purposes of or in connection with any functions transferred by section 49, or any property, rights or liabilities transferred by section 52(1), which is in effect immediately before the transfer has effect afterwards as if done by the Treasury.

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- (7) Anything done by the Secretary of State or the Northern Ireland Department for the purposes of or in connection with any functions transferred by section 50, or any property, rights or liabilities transferred by section 52(2), which is in effect immediately before the transfer has effect afterwards as if done by the Board.
- (8) The Treasury is substituted for the Secretary of State or the Northern Ireland Department in any subordinate legislation, any contracts or other documents and any legal proceedings relating to any functions transferred by section 49, or any property, rights or liabilities transferred by section 52(1), made or commenced before the transfer.
- (9) The Board are substituted for the Secretary of State or the Northern Ireland Department in any subordinate legislation, any contracts or other documents and any legal proceedings relating to any functions transferred by section 50, or any property, rights or liabilities transferred by section 52(2), made or commenced before the transfer.
- (10) Any order made under section 8 of the Electronic Communications Act 2000 (c. 7) which—
  - (a) modifies provisions relating to child benefit or guardian’s allowance, and
  - (b) is in force immediately before the commencement of this subsection,is to continue to have effect for the purposes of child benefit and guardian’s allowance, despite subsection (7) of that section, until regulations made by the Board under section 132 of the Finance Act 1999 (c. 16) which are expressed to supersede that order come into force.

#### Commencement Information

- I5** S. 54 wholly in force at 7.4.2003; s. 54(1)(2) in force at Royal Assent, see s. 61; s. 54(3)-(10) in force for certain purposes at 26.2.2003 and 1.4.2003 and otherwise in force at 7.4.2003 by S.I. 2003/392, art. 2

### *Minor amendments*

## **55 Continuing entitlement after death of child**

- (1) Insert the section set out in subsection (2)—
  - (a) in the Social Security Contributions and Benefits Act 1992 (c. 4) after section 145 (as section 145A), and
  - (b) in the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) after section 141 (as section 141A).

- (2) The section is—

#### **Entitlement after death of child**

- (1) If a child dies and a person is entitled to child benefit in respect of him for the week in which his death occurs, that person shall be entitled to child benefit in respect of the child for a prescribed period following that week.
- (2) If the person entitled to child benefit under subsection (1) dies before the end of that prescribed period and, at the time of his death, was—

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(a) a member of a married couple and living with the person to whom he was married, or

(b) a member of an unmarried couple,

that other member of the married couple or unmarried couple shall be entitled to child benefit for the period for which the dead person would have been entitled to child benefit under subsection (1) above but for his death.

(3) If a child dies before the end of the week in which he is born, subsections (1) and (2) apply in his case as if references to the person entitled to child benefit in respect of a child for the week in which his death occurs were to the person who would have been so entitled if the child had been alive at the beginning of that week (and if any conditions which were satisfied, and any facts which existed, at the time of his death were satisfied or existed then).

(4) Where a person is entitled to child benefit in respect of a child under this section, section 77 applies with the omission of subsections (4) to (6).

(5) In this section—

“married couple” means a man and a woman who are married to each other and are neither—

(a) separated under a court order, nor

(b) separated in circumstances in which the separation is likely to be permanent, and

“unmarried couple” means a man and a woman who are not a married couple but are living together as husband and wife.”

**Modifications etc. (not altering text)**

**C1** [S. 55](#) wholly in force at 7.4.2003; [s. 55](#) not in force at Royal Assent, see [s. 61](#); [s. 55](#) in force for certain purposes at 26.2.2003 and 1.4.2003 and otherwise in force at 7.4.2003 by [S.I. 2003/392](#), [art. 2](#)

**56 Presence in United Kingdom**

(1) For section 146 of the Social Security Contributions and Benefits Act 1992 (c. 4) (persons outside Great Britain) substitute—

**“146 Presence in Great Britain**

(1) No child benefit shall be payable in respect of a child for a week unless he is in Great Britain in that week.

(2) No person shall be entitled to child benefit for a week unless he is in Great Britain in that week.

(3) Circumstances may be prescribed in which a child or other person is to be treated for the purposes of this section as being, or as not being, in Great Britain.”

(2) For section 142 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (persons outside Northern Ireland) substitute—

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## “142 Presence in Northern Ireland

- (1) No child benefit shall be payable in respect of a child for a week unless he is in Northern Ireland in that week.
- (2) No person shall be entitled to child benefit for a week unless he is in Northern Ireland in that week.
- (3) Circumstances may be prescribed in which a child or other person is to be treated for the purposes of this section as being, or as not being, in Northern Ireland.”

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### Commencement Information

- I6** [S. 56](#) wholly in force at 7.4.2003; [s. 56](#) not in force at Royal Assent, see [s. 61](#); [s. 56](#) in force for certain purposes at 26.2.2003 and 1.4.2003 and otherwise in force at 7.4.2003 by [S.I. 2003/392](#), [art. 2](#) (with [art. 3](#))

## 57 Abolition of exclusion of tax exempt persons

In Schedule 9 to—

- (a) the Social Security Contributions and Benefits Act 1992, and
- (b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992, omit paragraph 4 (person not entitled to child benefit if he or other prescribed person is exempt from tax under prescribed provisions).

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### Commencement Information

- I7** [S. 57](#) wholly in force at 7.4.2003; [s. 57](#) not in force at Royal Assent, see [s. 61](#); [s. 57](#) in force for certain purposes at 26.2.2003 and 1.4.2003 and otherwise in force at 7.4.2003 by [S.I. 2003/392](#), [art. 2](#)

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**Changes and effects yet to be applied to :**

- 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](#)