



# Tax Credits Act 2002

## 2002 CHAPTER 21

### [<sup>F1</sup>PART 1

#### TAX CREDITS

##### *Payment*

### [<sup>F1</sup>28 Overpayments

- (1) Where the amount of a tax credit paid for a tax year to a person or persons exceeds the amount of the tax credit to which he is entitled, or they are jointly entitled, for the tax year (as determined in accordance with the provision made by and by virtue of sections 18 to [<sup>F2</sup>21C]), the [<sup>F3</sup>Commissioners may] decide that the excess, or any part of it, is to be [<sup>F4</sup>—
  - (a) repaid to the Commissioners; or
  - (b) treated as if it were an amount recoverable by the Secretary of State under section 71ZB of the Administration Act or (as the case may be) by the relevant Northern Ireland Department under section 69ZB of the Administration (Northern Ireland) Act].
- (2) In this Part such an excess is referred to as an overpayment.
- (3) For overpayments made under awards on single claims, the person to whom the tax credit was awarded is liable to repay [<sup>F5</sup>to the Commissioners, the Secretary of State or (as the case may be) the relevant Northern Ireland Department, the amount which the Commissioners decide is to be repaid or treated as recoverable under subsection (1) (b)].
- (4) For overpayments made under awards on joint claims, the persons to whom the tax credit was awarded are jointly and severally liable to repay [<sup>F6</sup>to the Commissioners, the Secretary of State or (as the case may be) the relevant Northern Ireland Department, the amount mentioned in subsection (3) unless the Commissioners decide that each is liable for] a specified part of that amount.

*Changes to legislation: Tax Credits Act 2002, Section 28 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) Where it appears to the [<sup>F7</sup>Commissioners] that there is likely to be an overpayment of a tax credit for a tax year under an award made to a person or persons, the [<sup>F7</sup>Commissioners] may, with a view to reducing or eliminating the overpayment, amend the award or any other award of any tax credit made to the person or persons; but this subsection does not apply once a decision is taken in relation to the person or persons for the tax year under section 18(1).
- (6) Where the [<sup>F8</sup>Commissioners] decide under section 16 to terminate an award of a tax credit made to a person or persons on the ground that at no time during the period to which the award related did the person or persons satisfy—
- (a) section 8(1) (if the award related to child tax credit), or
  - (b) section 10(1) (if it related to working tax credit),
- the [<sup>F8</sup>Commissioners] may decide that the amount paid under the award, or any part of it, is to be treated for the purposes of this Part (apart from subsection (5)) as an overpayment.
- [<sup>F9</sup>(7) In this section and in section 29—
- “the Administration Act” means the Social Security Administration Act 1992;
- “the Administration (Northern Ireland) Act” means the Social Security Administration (Northern Ireland) Act 1992;
- “the relevant Northern Ireland Department” means the Department for Communities.
- (8) In this section, “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.]]

#### 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** Word in s. 28(1) substituted (15.1.2021) by [The Tax Credits Reviews and Appeals \(Amendment\) Order 2021 \(S.I. 2021/44\)](#), arts. 1, [2\(6\)](#)
- F3** Words in s. 28(1) substituted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, [6\(2\)\(a\)](#)
- F4** Words in s. 28(1) substituted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, [6\(2\)\(b\)](#)
- F5** Words in s. 28(3) substituted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, [6\(2\)\(c\)](#)
- F6** Words in s. 28(4) substituted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, [6\(2\)\(d\)](#)
- F7** Word in s. 28(5) substituted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, [6\(2\)\(e\)](#)
- F8** Word in s. 28(6) substituted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, [6\(2\)\(e\)](#)

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- F9** S. 28(7)(8) inserted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, **6(2)(f)**

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

- C1** S. 28 modified (E.W.S.) (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), reg. 1(2), **Sch. para. 9**
- C2** S. 28 applied (with modifications) (E.W.) (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Tax Credits Act 2002 \(Additional Payments Modification and Disapplication\) Regulations 2022 \(S.I. 2022/1208\)](#), regs. 1(1), **5**

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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](#)