

2003 No. 962 (C. 51)

TAX CREDITS

The Tax Credits Act 2002 (Commencement No. 4, Transitional Provisions and Savings) Order 2003

Made - - - -

31st March 2003

The Treasury, in exercise of the powers conferred upon them by sections 61 and 62(2) of the Tax Credits Act 2002(a), hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Tax Credits Act 2002 (Commencement No. 4, Transitional Provisions and Savings) Order 2003.

(2) In this Order—

“the Act” means the Tax Credits Act 2002;

“the 1999 Act” means the Tax Credits Act 1999(b); and

“the superseded tax credits” means working families’ tax credit and disabled person’s tax credit(c).

Commencement of provisions of the Act

2.—(1) Subject to the provisions of articles 3 and 4 (savings and transitional provisions), the provisions of the Act specified in this article shall come into force in accordance with the following paragraphs of this article.

(2) Section 47 (consequential amendments), so far as it relates to paragraphs 4 to 7 of Schedule 3, shall come into force on 1st April 2003.

(3) The following provisions of the Act shall come into force on 6th April 2003—

(a) section 1(3)(a) and (f) (abolition of children’s tax credit under section 257AA of the Income and Corporation Taxes Act 1988(d) and employment credit);

(b) section 47, so far as it relates to the provisions of Schedule 3 specified in sub-paragraph (d);

(c) section 60 (repeals), so far as it relates to the provisions of Schedule 6 specified in sub-paragraph (e);

(d) in Schedule 3 (consequential amendments)—

(i) paragraphs 1 to 3,

(a) 2002 c. 21.

(b) 1999 c. 10.

(c) Working families’ tax credit and disabled person’s tax credits were payable under the 1999 Act, which is superseded by the Act.

(d) 1988 c. 1.

- (ii) paragraphs 8 and 9, and
 - (iii) paragraphs 13 to 59; and
 - (e) in Schedule 6, the entries relating to the enactments specified in column 1 of Schedule 1 to this Order to the extent shown in column 2 of that Schedule.
- (4) The following provisions of the Act shall come into force on 8th April 2003—
- (a) section 1(3)(b) and (c) (abolition of working families’ tax credit and disabled person’s tax credit);
 - (b) section 47 so far as concerns the provisions of Schedule 3 mentioned in this paragraph;
 - (c) section 60 so far as concerns the entries in Schedule 6 referred to in sub-paragraph (e);
 - (d) paragraphs 10 to 12 of Schedule 3 to the Act; and
 - (e) in Schedule 6 to the Act, the entries relating to the enactments specified in column 1 of Schedule 2 to this Order to the extent shown in column 2 of that Schedule.
- (5) Section 1(3)(d) of the Act (child premia in respect of income support and income-based jobseeker’s allowance) shall come into force on 6th April 2005.

Savings

- 3.—(1) This article applies to any claim for either of the superseded tax credits made—
- (a) on or before 6th July 2003; and
 - (b) in respect of a period ending on or before 7th April 2003.
- Such a claim is referred to in the following provisions of this article as “a relevant claim”.
- (2) Notwithstanding the commencement of the repeals specified in paragraph (6)—
- (a) a relevant claim may be made, inquired into by an officer of the Board, or decided by an officer of the Board; and
 - (b) a decision of an officer of the Board on a relevant claim may be—
 - (i) revised,
 - (ii) superseded, or
 - (iii) the subject of an appeal,
- in accordance with the provisions specified in paragraph (3) as if the repeals specified in paragraph (6) had not taken place.
- (3) The provisions specified are—
- (a) Chapter 2 of Part 1 of the Social Security Act 1998(a);
 - (b) in Northern Ireland, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998(b); and
 - (c) regulations under the provisions mentioned in sub-paragraphs (a) and (b), as applied for the purposes of the superseded tax credits by section 21 or 23 of the 1999 Act (as the case may be).
- (4) Notwithstanding the commencement of the repeals specified in paragraph (6), payment of a superseded tax credit may be made on or after 8th April 2003 in pursuance of a decision of an officer of the Board on a relevant claim (including such a decision as revised, superseded or varied on appeal).
- (5) Notwithstanding the commencement of the repeals specified in paragraph (6)—
- (a) an officer of the Board may make any decision in respect of an overpayment of a superseded tax credit, the recovery of such an overpayment, or the imposition of any

(a) 1998 c. 14.
 (b) S.I. 1998/1596 (N.I. 10).

penalty in respect of a superseded tax credit which he might have made but for the repeal in question, and

(b) the like consequences shall flow from the decision mentioned in sub-paragraph (a), including any right of appeal, as would have flowed but for the repeal in question.

(6) The repeals specified in this paragraph are those contained in Schedule 6 to the Act relating to—

- (a) the 1999 Act, other than section 6;
- (b) sections 122(1), 123(1), 128, 129 and 135(5) of the Social Security Contributions and Benefits Act 1992;
- (c) sections 5(2), 11, 71(11), 121DA(1), 124(2), 154(2), 163(2), 179(5), and 191 of the Social Security Administration Act;
- (d) sections 121(1), 122(1), 127, 128 and 131(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (e) sections 5(2), 9, 69(11), 115CA(1), 134(2), 155(5) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992.

4. Notwithstanding the repeal in Schedule 6 of words in section 84 of the Finance Act 2000(a), section 84 of that Act shall apply to a payment of an employment credit made on or after 6th April 2003 as if the repeal had not occurred.

Transitional provisions

5.—(1) If a claim has been made for a tax credit under the Act by two (or more) persons, at least one of whom was in receipt of either or both of the superseded tax credits immediately before the repeal of the 1999 Act, the Board may make any payment of a tax credit, due to them under the Act on or before 5th October 2003, to either or any of them, notwithstanding any provision of the Tax Credits (Payment by Employers) Regulations 2002(b) or the Working Tax Credit (Payment by the Board) Regulations 2002(c).

(2) In respect of a person who claims the higher rate of short-term incapacity benefit, or long term incapacity benefit on or before 6th April 2005 section 30C of the Social Security Contributions and Benefits Act 1992(d) and section 30C of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(e) shall have effect as if, after subsection (5A) there were inserted—

“(5B) A person also satisfies the relevant tax credit conditions on any day before 7th April 2003 if that day falls within a week for which he is entitled to a disabled person’s tax credit.”.

(3) In respect of a person who claims incapacity benefit on or before 6th April 2005 under section 40 or 41 of either the Social Security Contributions and Benefits Act 1992(f) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992(g), section 42 of the respective Act shall have effect as if, after subsection (1A)(h), there were inserted—

(a) 2000 c. 17.

(b) S.I. 2002/2173.

(c) S.I. 2002/2172, amended by S.I. 2003/715.

(d) Section 30C was inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994 (“the 1994 Act”). The relevant amendments are those made by paragraph 2(a) of Schedule 1 to the Tax Credits Act 1999 and paragraph 25 of Schedule 3 to the Act.

(e) Section 30C was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12): “the 1994 Order”). The relevant amendments are those made by paragraph 4(1) of Schedule 1 to the 1999 Act and paragraph 37 of Schedule 3 to the Act.

(f) Sections 40 and 41 were substituted by paragraphs 8 and 9 respectively of Schedule 1 to the 1994 Act. Section 41 was amended by paragraph 21(4) of the Pensions Act 1995 (c. 26).

(g) Section 40 and 41 were substituted by paragraphs 8 and 9 respectively of Schedule 1 to the 1994 Order. Section 41 was amended by paragraph 18(4) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

(h) Subsection (1A) is inserted into section 42 of the Social Security Contributions and Benefits Act 1992 by paragraph 30 of Schedule 3 to the Act, and into section 42 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by paragraph 42 of Schedule 3 to the Act.

“(1B) A person also satisfies the relevant tax credit conditions on any day before 7th April 2003 if that day falls within a week for which he is entitled to a disabled person’s tax credit.”.

(4) Notwithstanding regulation 7 of the Tax Credits (Claims and Notifications) Regulations 2002^(a), a person shall not be entitled to a tax credit in respect of any day prior to the day on which he makes a claim for it (“the earlier day”) if—

- (a) the earlier day falls—
 - (i) before 23rd October 2003 in a case where the claimant, or in the case of a joint claim, either of the claimants is not less than 60, or
 - (ii) before 6th April 2004 in any other case, and
- (b) on the earlier day the claimant is entitled, or in the case of a joint claim, either of the claimants is entitled, to an income-based jobseeker’s allowance or income support other than by virtue of regulation 6(2) of the Income Support (General) Regulations 1987^(b) or regulation 6(2) of the Income Support (General) Regulations (Northern Ireland) 1987^(c).

Jim Fitzpatrick
John Heppell

31st March 2003

Two of the Lords Commissioners of Her Majesty’s Treasury

^(a) S.I. 2002/2014.

^(b) S.I. 1987/1967: the relevant amendment to regulation 6 was made by regulation 2(3) of S.I. 1999/2556.

^(c) S.R. 1987 No. 459: paragraph (2) was added by regulation 2(3) of S.R. 1999 No. 381.

SCHEDULE 1

Article 2(3)(e)

Provisions of Schedule 6 to the Act coming into force on 6th April 2003

<i>Enactment</i>	<i>Extent of repeal or revocation commenced</i>
Taxes Management Act 1970 (a)	The whole entry in Schedule 6.
Income and Corporation Taxes Act 1988 (b)	The whole entry in Schedule 6.
Children Act 1989 (c)	The whole entry in Schedule 6.
Education Reform (Northern Ireland) Order 1989 (d)	The whole entry in Schedule 6.
Disability Living Allowance and Disability Working Allowance Act 1991 (e)	The whole entry in Schedule 6.
Child Support Act 1991 (f)	The whole entry in Schedule 6.
Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 (g)	The whole entry in Schedule 6.
Child Support (Northern Ireland) Order 1991 (h)	The whole entry in Schedule 6.
Social Security Contributions and Benefits Act 1992 (i)	So much of the entry in Schedule 6 as concerns sections 21(5A)(b) and 45A (j) .
Social Security Administration Act 1992 (k)	So much of the entry in Schedule 6 as concerns sections 3(3) and 189(1).
Social Security Contributions and Benefits (Northern Ireland) Act 1992 (l)	So much of the entry in Schedule 6 as concerns sections 20(1), 21(5A)(b) (m) , 30B(3) (n) , 45A (o) , 56(1), 60(6), 61(1) and (2), 63(c) and (f)(i), 77(1), 78(4)(d), 80, 81, 89(1), 90, 91(1)(b) and Schedules 4 and 5.
Social Security Administration (Northern Ireland) Act 1992 (p)	So much of the entry in Schedule 6 as concerns section 3(3).
Local Government Finance Act 1992 (q)	The whole entry in Schedule 6.
Finance Act 1994 (r)	The whole entry in Schedule 6.
Social Security (Incapacity for Work) Act 1994 (s)	The whole entry in Schedule 6.
Social Security (Incapacity for Work)	The whole entry in Schedule 6.

(a) 1970 c. 9.

(b) 1988 c.1.

(c) 1989 c. 41.

(d) S.I. 1989/2406 (N.I. 20).

(e) 1991 c. 21.

(f) 1991 c. 48.

(g) S.I. 1991/1712 (N.I. 17).

(h) S.I. 1991/2628 (N.I. 23).

(i) 1992 c. 4.

(j) Section 45A was inserted by section 127 of the Pensions Act 1995 (c.26), as to the repeal of which see below.

(k) 1992. c. 5.

(l) 1992 c. 7.

(m) Section 21(5A) was inserted by paragraph 42 f Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and amended by section 33(2)(a) if the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I)).

(n) Section 30B was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)).

(o) Section 45A was inserted by Article 124(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22), as to the repeal of which see below.

(p) 1992 c.8.

(q) 1992 c. 14.

(r) 1994 c. 9.

(s) 1994 c. 18.

<i>Enactment</i>	<i>Extent of repeal or revocation commenced</i>
(Northern Ireland) Order 1994 (a)	
Pensions Act 1995	The whole entry in Schedule 6.
Pensions (Northern Ireland) Order 1995	The whole entry in Schedule 6.
Employment Tribunals Act 1996 (b)	The whole entry in Schedule 6.
Employment Rights (Northern Ireland) Order 1996 (c)	The whole entry in Schedule 6.
Finance Act 1999 (d)	The whole entry in Schedule 6.
Access to Justice Act 1999 (e)	The whole entry in Schedule 6.
Welfare Reform and Pensions Act 1999 (f)	The whole entry in Schedule 6.
Welfare Reform and Pensions (Northern Ireland) Order 1999 (g)	The whole entry in Schedule 6.
Finance Act 2000 (h)	The whole entry in Schedule 6.
Finance Act 2001 (i)	The whole entry in Schedule 6.

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- (a)** S.I. 1994/1898 (S. I. 12).
(b) 1996 c. 17.
(c) S.I. 1996/1919 (N.I. 16).
(d) 1999 c. 16.
(e) 1999 c. 22.
(f) 1999 c. 30.
(g) S.I. 1999/3147 (N.I.11).
(h) 2000 c. 17.
(i) 2001 c. 9.

SCHEDULE 2

Article 2(4)(e)

Provisions of Schedule 6 to the Act coming into force on 8th April 2003

<i>Enactment</i>	<i>Extent of repeal or revocation commenced</i>
Social Security Contributions and Benefits Act 1992	So much of the entry in Schedule 6 as relates to sections 122(1), 123(1), 128, 129 and 135(5).
Social Security Administration Act 1992	So much of the entry in Schedule 6 as relates to sections 5(2), 11, 71(11), 121DA(1)(a), 124(2), 163(2), 179(5) and 191.
Social Security Contributions and Benefits (Northern Ireland) Act 1992(b)	So much of the entry in Schedule 6 as relates to sections 121(1), 122(1), 127, 128 and 131(5).
Social Security Administration (Northern Ireland) Act 1992(c)	So much of the entry in Schedule 6 as relates to sections 5(2), 9, 69(11), 115CA(1)(d), 134(2), 155(5) and 167(1).
Jobseekers Act 1995(e)	The whole entry in Schedule 6.
Jobseekers (Northern Ireland) Order 1995(f)	The whole entry in Schedule 6.
Finance Act 1997(g)	The whole entry in Schedule 6.
Social Security Act 1998(h)	The whole entry in Schedule 6.
Tax Credits (Initial Expenditure) Act 1998(i)	The whole entry in Schedule 6.
Social Security (Northern Ireland) Order 1998(j)	The whole entry in Schedule 6.
Tax Credits Act 1999	The whole entry in Schedule 6, insofar as it has not already been commenced(k).
Employment Relations Act 1999(l)	The whole entry in Schedule 6.
Immigration and Asylum Act 1999(m)	The whole entry in Schedule 6.
Employment Relations (Northern Ireland) Order 1999(n)	The whole entry in Schedule 6.
Government Resources and Accounts Act 2000(o)	The whole entry in Schedule 6.

(a) Section 121DA was inserted by paragraphs 1 and 8 of Schedule 6 to the Child Support, Pensions and Social Security Act 2000: there are amendments not relevant for present purposes.

(b) 1992 c. 7.

(c) 1992 c. 8.

(d) Section 115CA was inserted by paragraph 8 of Schedule 6 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)).

(e) 1995 c. 18.

(f) S.I. 1995/2705 (N.I. 15).

(g) 1997 c. 16.

(h) 1998 c. 14.

(i) 1998 c. 16.

(j) S.I. 1998/1506 (N.I. 10).

(k) See the relevant entry in the Table in Article 2 of S.I. 2002/1727 (C. 52).

(l) 1999 c. 26.

(m) 1999 c. 33.

(n) S.I. 1999/2790 (N.I. 9).

(o) 2000 c. 20.

<i>Enactment</i>	<i>Extent of repeal or revocation commenced</i>
Social Security Fraud Act 2001(a)	The whole entry in Schedule 6.
Social Security Fraud Act (Northern Ireland) 2001(b)	The whole entry in Schedule 6.
Employment Act 2002(c)	The whole entry in Schedule 6.
Criminal Injuries Compensation (Northern Ireland) Order 2002(d)	The whole entry in Schedule 6.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the remaining provisions of the Tax Credits Act 2002 (c. 21), subject to transitional provisions and savings which mainly relate to existing recipients of the benefits and other payments mentioned in section 1(3) of the Act.

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- (a) 2001 c. 11.
(b) 2001 c. 17 (N.I.).
(c) 2002 c. 22.
(d) S.I. 2002/796(N.I. 1).

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