2002/2172

Working Tax Credit (Payment by Employers) Regulations 2002

Working Tax Credit (Payment by Employers)

Made by the Commissioners of Inland Revenue under TCA 2002 ss 25(1), (2), 65, 67

Made 20 August 2002

Laid before Parliament 21 August 2002

Coming into force 1 March 2003

#CommentB

**Commentary—**

*Simon's Taxes* **E2.255.**

**HMRC Manuals—**

Tax Credit Technical Manual TCTM8200–8304 (payments via employer).

**Amendment—**

These regulations, so far as not already revoked, are revoked by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 reg 9(2)(*a*) with effect from 6 April 2006.

#CommentE

[MAIN

1 Citation, commencement and effect

(1) These Regulations may be cited as the Working Tax Credit (Payment by Employers) Regulations 2002 and shall come into force on 1st March 2003.

(2) These Regulations have effect in relation to payments of working tax credit for periods beginning on or after 6th April 2003.

2 Interpretation

(1) In these Regulations—

[DEFINITIONB

“amendment notice” shall be construed in accordance with regulation 5(1);

…3

[“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs (see section 1 of the Commissioners for Revenue and Customs Act 2005);]3

“the Contributions Regulations” means the Social Security (Contributions) Regulations 2001;

…1

“employer” and “employee” shall be construed in accordance with section 25(5) of the Tax Credits Act 2002;

“employer's place of business” means—

(a) the place where the trade, profession, vocation or business of the employer is carried on, or

(b) if the trade, profession, vocation or business of the employer is carried on at more than one place, the head office or the place where it is mainly carried on;

…2

“income tax month” means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

“income tax quarter” means the period beginning on the 6th April and ending on the 5th July in any income tax year, or beginning on the 6th July and ending on the 5th October in that year, or beginning on the 6th October and ending on the 5th January in that year, or beginning on the 6th January and ending on the 5th April in that year;

“income tax year” means a year beginning on 6th April in any year and ending on 5th April in the following year;

“the Management Act” means the Taxes Management Act 1970;

“pay period” means the period by reference to which an employee's [PAYE income is]1 paid, whether weekly, monthly or otherwise;

[“PAYE income” has the meaning given by section 683 of the Income Tax (Earnings and Pensions) Act 2003]1;

[“the PAYE Regulations” means the Income Tax (Pay as You Earn) Regulations 2003;]2

“relevant employer” has the meaning given by regulation 3;

“start notice” shall be construed in accordance with regulation 4(1);

“stop notice” shall be construed in accordance with regulation 12(1);

“the Taxes Act” means the Income and Corporation Taxes Act 1988.

[DEFINITIONE

(2) Any notice given under these Regulations to or by the Board must be in writing.

(3) In paragraph (2) “writing” includes writing produced by electronic communications that are approved by the Board.

#CommentB

**Amendments—**

#EndnotesB

1 In para (1), definition of “emoluments” revoked, words in definition of “pay period” substituted and definition of “PAYE income” inserted by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 4 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

2 In para (1), definition of “Employments Regulations” revoked, and definition of “the PAYE Regulations” inserted, by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2004/762 reg 17(1), (2) with effect from 6 April 2004.

3 In para (1), definition of “the Board” revoked, and definition of “the Commissioners” inserted, by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 3 with effect from 29 August 2005.

#EndnotesE

#CommentE

3 Definition of “relevant employer”

(1) In these Regulations “relevant employer” means—

(a) an employer who is required, on making any payment of or on account of any [PAYE income]1 to any person, to deduct tax in accordance with the Employments Regulations or to deduct contributions in accordance with the Contributions Regulations, or

(b) where a person is the employee of more than one such employer, the employer who normally employs the employee for the higher (or highest) number of hours each week.

This is subject to paragraph (2).

(2) “Relevant employer” does not include an employer who is authorised to make deductions in accordance with [regulation 34 of the PAYE Regulations]2 (employee on fixed pay).

#CommentB

**Amendments—**

#EndnotesB

1 Words in sub-para (1)(*a*) substituted by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 5 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

2 Words in para (2) substituted by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2004/762 reg 17(1), (3) with effect from 6 April 2004.

#EndnotesE

#CommentE

3A [Notification of transfer of payment of working tax credit from the employer to Revenue and Customs

(1) A relevant employer must give a notice in writing to an employee to whom he pays working tax credit before 7th November 2005 informing him of—

(a) the cessation of payment of working tax credit by the employer under these Regulations; and

(b) the commencement of payment of working tax credit by the Commissioners under the Tax Credits (Payments by the Board) Regulations 2002.

(2) The form of the notice shall be such as an officer of Revenue and Customs shall direct.]1

#CommentB

**Amendments—**

#EndnotesB

1 This paragraph inserted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 4 with effect from 29 August 2005.

#EndnotesE

#CommentE

4 Notification to relevant employer of employee's entitlement to working tax credit (start notice)

(1) Where an employee of a relevant employer becomes entitled to an amount of working tax credit equal to or exceedin.g 75 pence per day, [the Commissioners] shall give notice to the relevant employer of the employee's entitlement in accordance with paragraphs (2) and (3) (“start notice”).

(2) A start notice shall contain the following particulars—

(a) the date of issue of the start notice;

(b) the name of the employee;

(c) the employee's national insurance number and (if known) his payroll number;

(d) the date from which the employer is to be responsible for payment of working tax credit to the employee (“the commencement date”);

(e) the daily rate of working tax credit applicable to each calendar day starting with the commencement date, and a table showing the multiples from 1 to 31 of that daily rate;

(f) instructions to the employer to pay working tax credit to the employee at the same time that the employer makes a payment of [PAYE income] to the employee.

(3) The commencement date contained in the start notice shall not be earlier than the date which is 42 days after the date of issue of the start notice.

#CommentB

**Amendment—**

This regulation revoked by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 reg 9(1) with effect from 7 November 2005. However, the commencement date of any start notice issued before 7 November 2005 shall be determined as if paras (2)(*d*), (3) above had not been revoked: SI 2005/2200 reg 8(1).

#CommentE

5 Notification to relevant employer of amendment of amount of employee's entitlement to working tax credit (amendment notice)

(1) Where—

(a) the amount of working tax credit to which an employee is entitled is amended, and

(b) the amended amount differs from the previous amount by an amount equal to or exceeding 30 pence per day,

[the Commissioners] shall give notice to the relevant employer of the amended amount (“amendment notice”).

(2) An amendment notice shall contain the following particulars—

(a) the date of issue of the amendment notice;

(b) the name of the employee;

(c) the employee's national insurance number and (if known) his payroll number;

(d) the date from which the employer is to be responsible for payment of the amended amount of working tax credit to the employee (“the commencement date”);

(e) the daily rate of the amended amount of working tax credit applicable to each calendar day starting with the commencement date, and a table showing the multiples from 1 to 31 of that daily rate;

(f) instructions to the employer to pay the amended amount of working tax credit to the employee at the same time that the employer makes a payment of [PAYE income] to the employee, commencing with the pay period in which the commencement date falls.

(3) The commencement date contained in the amendment notice shall not be earlier than the date which is 42 days after the date of issue of the amendment notice.

#CommentB

**Amendment—**

This regulation revoked by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 reg 9(1) with effect from 7 November 2005. However, the commencement date of any amendment notice issued before 7 November 2005 shall be determined as if paras (2)(*d*), (3) above had not been revoked: SI 2005/2200 reg 8(2).

#CommentE

6 Relevant employer's obligation to pay working tax credit

(1) On receipt of a start notice in respect of an employee the relevant employer must, if he reasonably expects the employee to remain in his employment for three or more consecutive pay periods commencing with the pay period in which the commencement date contained in the start notice falls, take the following steps—

Step One

Calculate the amount of working tax credit which the employee is entitled to be paid for each pay period in respect of which the employer will be responsible for paying working tax credit to the employee in accordance with the start notice.

Step Two

On making any payment of [PAYE income]1 to the employee in respect of any date falling on or after the commencement date contained in the start notice, pay to the employee the amount of working tax credit to which he is entitled for the pay period in respect of which that payment of [PAYE income]1 is made.

(2) If the relevant employer receives a start notice in respect of an employee but—

(a) does not reasonably expect that employee to remain in his employment for three or more consecutive pay periods as mentioned in paragraph (1), or

(b) becomes aware before the first date on which a payment of [PAYE income]1 is due in respect of any date falling on or after the commencement date contained in the start notice that the employee has left his employment, or will leave his employment before the end of the third consecutive pay period,

he must return the start notice to [the Commissioners]4, indicating on the notice his reasons for doing so.

(3) On receipt of an amendment notice in respect of an employee the relevant employer must, except where paragraph (4) applies, take the following steps—

Step One

Calculate the amount of working tax credit which the employee is entitled to be paid for each pay period in respect of which the employer will be responsible for paying working tax credit to the employee in accordance with the amendment notice.

Step Two

On making any payment of [PAYE income]1 to the employee in respect of any date falling on or after the commencement date contained in the amendment notice, pay to the employee the amount of working tax credit to which he is entitled for the pay period in respect of which that payment of [PAYE income]1 is made.

(4) If the relevant employer receives an amendment notice in respect of an employee but becomes aware that the employee will leave his employment before the first date on which he is due to make a payment of [PAYE income]1 to the employee following the commencement date contained in the amendment notice, he must return the amendment notice to [the Commissioners]4, indicating on the notice his reasons for doing so.

(5) The relevant employer must record on the employee's payslip for any pay period, as a credit described as “tax credit”, the amount of working tax credit paid with the payment of [PAYE income]1 to which the payslip relates.

(6) On making any payment of working tax credit to an employee the relevant employer must record on the deductions working sheet (P 11) for that employee referred to in [regulation 66 of the PAYE Regulations]3 the amount of the payment (whether or not the employer is required to complete the deductions working sheet for the purposes of that regulation or of the Contributions Regulations).

(7) The relevant employer must record on the certificate (P60) referred to in [regulation 67 of the PAYE Regulations]3 the total amount of working tax credit paid to each employee for the income tax year to which the certificate relates (whether or not the employer is required to complete the certificate for the purposes of that regulation or of the Contributions Regulations).

(8) The relevant employer must record on the return (P35) referred to in [regulation 73 of the PAYE Regulations]3 the total amount of working tax credit paid by him for the income tax year to which the return relates [and the total amount of funding received from [the Commissioners]4 for that year in accordance with regulation 8]2.

(9) The relevant employer must record on the particulars (P14) referred to in [paragraph (4) of regulation 73 of the PAYE Regulations]3 the total amount of working tax credit paid to each employee for the income tax year to which the particulars relate.

(10) Where the relevant employer makes a payment of working tax credit to an employee which exceeds the amount which the employee is entitled to be paid in accordance with the particulars contained in the start notice or the amendment notice, the employer may recover from the employee an amount not exceeding the excess.

(11) Where no payment of [PAYE income]1 is due from the relevant employer to an employee for a complete pay period the employer may choose either—

(a) not to make any payment of working tax credit to the employee for that period, or

(b) to continue to pay working tax credit to the employee for that period as if he had made a payment of [PAYE income]1 in that period.

(12) Where the relevant employer chooses not to make any payment of working tax credit to an employee for a pay period in the circumstances mentioned in paragraph (11), he must, not later than 7 days following the end of that pay period, inform [the Commissioners]4 that he has made no payment of working tax credit for that pay period.

(13) No payment of working tax credit shall be capable of attachment under any enactment, or may be used by way of set-off or otherwise reduced, extinguished or terminated except in accordance with these Regulations.

(14) Where the relevant employer fails to make payments of working tax credit to an employee in accordance with paragraph (1) or (3), [the Commissioners]4 shall make payments of working tax credit to that employee.

#CommentB

**Amendments—**

#EndnotesB

1 Words in paras (1)?(5), (11) substituted for the word “emoluments” by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 6 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

2 Words in para (8) inserted by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 7 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

3 Words in paras (6)–(9) substituted by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2004/762 reg 17(1), (4) with effect from 6 April 2004.

4 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

7 Funding of payment of working tax credit

(1) In this regulation—

[DEFINITIONB

“amount A” is the total amount of tax which the relevant employer is required to pay to the [officer of Revenue and Customs]2 in respect of deductions from the [PAYE income]1 of his employees in accordance with the Employments Regulations for an income tax month or income tax quarter (“the relevant period”);

“amount B” is the total amount of deductions made by the relevant employer from the [PAYE income]1 of his employees for the relevant period in accordance with regulations made under section 22(5) of the Teaching and Higher Education Act 1998 , section 73B(3) of the Education (Scotland) Act 1980, or Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998 (student loan repayments);

“amount C” is the total amount of earnings-related contributions which the relevant employer is required to pay to the collector of taxes in respect of the [PAYE income]1 of his employees for the relevant period (whether by means of deduction or otherwise) in accordance with the Contributions Regulations;

“amount D” is the total amount of deductions which as a contractor the relevant employer is required to make from payments to which section 559 of the Taxes Act applies in accordance with the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993 for the relevant period.

[DEFINITIONE

(2) The relevant employer shall fund payment of working tax credit for the relevant period in accordance with the following rules.

Rule 1

The relevant employer shall fund any payment of working tax credit for the relevant period from amount A for that period. Amount A shall accordingly be reduced by the amount of working tax credit which the employer has paid in respect of that period.

Rule 2

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds amount A for that period, the employer shall fund payment of working tax credit for that period (or so much of the payment as remains outstanding) from the aggregate of amount A and amount B for that period. That aggregate shall accordingly be reduced by the amount used to fund payment of working tax credit for that period.

Rule 3

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds the aggregate of amount A and amount B for that period, the employer shall fund payment of working tax credit for that period (or so much of the payment as remains outstanding) from the aggregate of amount A, amount B and amount C for that period. That aggregate shall accordingly be reduced by the amount used to fund payment of working tax credit for that period.

Rule 4

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds the aggregate of amount A, amount B and amount C for that period, the employer shall fund payment of working tax credit for that period (or so much of the payment as remains outstanding) from the aggregate of amount A, amount B, amount C and amount D for that period. That aggregate shall accordingly be reduced by the amount used to fund payment of working tax credit for that period.

Rule 5

If the total amount of working tax credit which the relevant employer is required to pay for the relevant period exceeds the aggregate of amount A, amount B, amount C and amount D for that period, the employer may apply to [the Commissioners]2 in accordance with regulation 8 to fund payment of working tax credit for that period (or so much of the payment as remains outstanding).

(3) References in paragraph (1) to the total amount in the case of each of amount A, amount B, amount C and amount D are references to that total amount unreduced by any other amount which the relevant employer is entitled by virtue of any enactment to set off against that total amount.

#CommentB

**Amendments—**

#EndnotesB

1 Words in para (1) substituted for the word “emoluments” by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 6 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

2 Words in paras (1), (2) Rule 5 substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

8 Application for funding

(1) Where—

(a) rule 5 stated in regulation 7(2) applies, or

(b) the relevant employer considers that that rule will apply on the date of any subsequent payment of [PAYE income]1 to one or more employees who are entitled to working tax credit,

the employer, or an agent authorised by him for that purpose, may apply to [the Commissioners]3 for funding on a form provided, or in a form in writing that is approved, by [the Commissioners]3.

(2) For the purposes of paragraph (1) “writing” includes writing produced by electronic communications that are approved by [the Commissioners]3.

(3) If the relevant employer's application is accepted [the Commissioners]3 shall pay to the employer such amount as [the Commissioners]3 may determine in the circumstances to be reasonable having regard to all relevant matters including—

(a) the past obligations and the likely future obligations of the employer under the enactments referred to in regulation 7(1) (definitions of “amount A”, “amount B”, “amount C” and “amount D”), and

(b) the obligations of the employer under any start notice or amendment notice issued to him to make payments of working tax credit, and his fulfilment of those obligations.

(4) [The Commissioners]3 may vary the amount payable in accordance with paragraph (3), or may make a determination superseding that amount, if it has become inappropriate for any reason or they have reason to believe that it was incorrect at the time it was determined as payable in accordance with that paragraph.

(5) [The Commissioners]3 shall notify the employer of—

(a) their decision on an application under paragraph (1),

(b) the amount determined under paragraph (3), and

(c) any variation or supersession of that amount under paragraph (4).

(6) An employer may appeal to the General Commissioners against—

(a) [the Commissioners']3 refusal of an application under paragraph (1),

(b) the amount determined under paragraph (3), or

(c) any variation or supersession of that amount under paragraph (4).

(7) An appeal under paragraph (6) shall be made by giving notice to [the Commissioners]3 within thirty days of the issue of [the Commissioners' notification]3 under paragraph (5).

(8) An appeal under paragraph (6) shall be heard by the General Commissioners for the division in which the employer's place of business is situated.

(9) The provisions of Part V of the Management Act and of the General Commissioners (Jurisdiction and Procedure) Regulations 1994 shall apply with any necessary modifications to an appeal under paragraph (6) as they apply to appeals against assessments.

(10) On appeal the General Commissioners, having regard to the matters referred to in paragraph (3), may—

(a) confirm [the Commissioners' refusal]3 of an application under paragraph (1), or allow the appeal against that refusal,

(b) confirm, increase or reduce the amount determined under paragraph (3), or

(c) confirm, increase or reduce any variation or supersession of that amount under paragraph (4).

(11) Subject to paragraph (9), the determination of the General Commissioners shall be final.

(12) Where—

(a) an employer appeals to the General Commissioners under paragraph (6), and

(b) the General Commissioners determine the appropriate amount of funding in a sum which exceeds the amount determined as payable under paragraph (3), or that amount as varied or superseded under paragraph (4),

[the Commissioners]3 shall pay to the employer the amount of the excess.

(13) An amount which is paid to an employer by [the Commissioners]3 under paragraph (12) shall carry interest at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 …2 of the Taxes Act from the date on which the condition in Rule 5 of regulation 7(2) is satisfied until payment.

(14) Funds provided to an employer by [the Commissioners]3 in accordance with this regulation shall be for the purpose only of payment by that employer of working tax credit under Step Two of regulation 6(1) or (3) to one or more employees.

#CommentB

**Amendments—**

#EndnotesB

1 Words in sub-para (1)(*b*) substituted for the word “emoluments” by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 6 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

2 Words in para (13) revoked by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2004/762 reg 17(1), (5) with effect from 6 April 2004.

3 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

9 Renewal of funding

(1) Where—

(a) [the Commissioners]1 have provided a relevant employer with funds in accordance with regulation 8 in an income tax year, and

(b) the employer's entitlement to receive funding from [the Commissioners]1 has not terminated in accordance with regulation 11,

[the Commissioners]1 shall, following the end of that year, send to the relevant employer a form for renewal of funding (“renewal form”) containing details relating to the funding of payments of working tax credit made by him.

(2) Not later than 30 days following the date of issue of the renewal form, the relevant employer must return the form to [the Commissioners]1 signed by him and either confirming that the details recorded on the form are correct as at the date of issue or amending the details if they are not so correct.

#CommentB

**Amendments—**

#EndnotesB

1 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

10 Notification of change of circumstances by relevant employer in receipt of funding

If, in the course of an income tax year, as a result of a change of circumstances, whether in relation to the amount of funding requested or otherwise, any of the details recorded on an application for funding under regulation 8, or on a renewal form under regulation 9, cease to be correct, the relevant employer may give notice to [the Commissioners]1, on a form provided by [the Commissioners]1 for that purpose, amending those details.

#CommentB

**Amendments—**

#EndnotesB

1 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

11 Termination of funding

(1) [The Commissioners]1 shall continue to provide a relevant employer with funds in accordance with regulation 8 until the occurrence of any of the events specified in paragraph (2).

(2) The events are—

(a) a request by the relevant employer that [the Commissioners]1 should discontinue providing him with funds;

(b) the failure by the relevant employer to return to [the Commissioners]1 within the time stated in regulation 9 (2) a renewal form duly signed and completed;

(c) the failure by the relevant employer to respond to attempts by [the Commissioners]1 on more than one occasion to contact him in relation to the provision of funds to him.

#CommentB

**Amendments—**

#EndnotesB

1 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

12 Termination of relevant employer's obligation to pay working tax credit (stop notice)

(1) The relevant employer must continue to make payments of working tax credit to an employee in accordance with a start notice or an amendment notice issued to him until—

(a) the death of the employee,

(b) the employee ceases to be employed by the employer otherwise than by reason of the employee's death, or

(c) a stop notice is issued by [the Commissioners]2 to the employer notifying the employer to cease payment of working tax credit to the employee.

(2) A stop notice under paragraph (1)(c) shall contain the following particulars—

(a) the date of issue of the stop notice;

(b) the name of the employee concerned;

(c) the employee's national insurance number and (if known) his payroll number;

(d) the latest date for which working tax credit is payable to the employee (“the latest payable date”).

[(e) the commencement date referred to in regulation 4(2)(d)].1

(3) Except where an earlier date has been agreed between [the Commissioners]2 and the relevant employer, the latest payable date for the purposes of paragraph (2)(d) shall not be earlier than 42 days after the date of issue of the stop notice.

(4) The relevant employer shall not pay working tax credit to the employee after the latest payable date.

This is subject to paragraph (5).

(5) The relevant employer may, after the latest payable date, make a payment of working tax credit that is outstanding at that date in respect of the pay period in which the latest payable date falls.

(6) A stop notice shall be effective in respect of an employee unless and until a new start notice is issued by [the Commissioners]2 to the relevant employer in respect of that employee.

(7) Where the relevant employer—

(a) makes a payment of working tax credit in respect of any day after the date of death of the employee, and

(b) subsequently becomes aware that the employee has died,

he must inform [the Commissioners]2, not later than 7 days after becoming aware of the employee's death, of the latest day for which he has paid working tax credit in respect of the employee.

(8) Where the relevant employer—

(a) makes a payment of working tax credit in respect of any day after the employee ceases to be employed by the employer otherwise than by reason of the employee's death, and

(b) subsequently becomes aware that the employee has left his employment,

he must inform [the Commissioners]2, not later than 7 days after becoming aware that the employee has left his employment, of the latest day for which he has paid working tax credit in respect of the employee.

(9) Where the employee dies and the relevant employer has not made payments of working tax credit up to the date of death in accordance with paragraph (1), [the Commissioners]2 shall pay to the employee's personal representatives the amount of working tax credit outstanding at the date of death.

#CommentB

**Amendments—**

#EndnotesB

1 Sub-para (2)(*e*) inserted by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 8 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

2 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

13 Temporary break in relevant employer's payment of working tax credit (emergency stop notice and restart notice)

(1) Where the relevant employer—

(a) having commenced to make payments of working tax credit in accordance with regulation 6(1) or (3), subsequently fails to pay an amount of working tax credit to an employee in accordance with that regulation, or

(b) chooses in the circumstances referred to in regulation 6(11) not to make a payment of working tax credit to an employee, and

(c) …4

[the Commissioners]2 shall take the action specified in [paragraphs (2) and (4)]3.

(2) [The Commissioners]2 shall give notice to the relevant employer confirming that the employer has ceased to make payments of working tax credit to the employee concerned (“emergency stop notice”).

(3) …4

(4) [The Commissioners]2 shall pay to the employee the amount of working tax credit to which he is entitled …3.

(5) An emergency stop notice under paragraph (2) shall contain the following particulars—

(a) the date of issue of the notice;

(b) the name of the employee;

(c) the employee's national insurance number and (if known) his payroll number;

(d) the commencement date referred to in regulation 4(2)(d) …1;

(e) the latest date for which working tax credit is payable to the employee.

(6)–(8) …4

#CommentB

**Amendments—**

#EndnotesB

1 Words in sub-para (5)(*d*) revoked by the Working Tax Credit (Payment by Employers) (Amendment) Regulations, SI 2003/715 regs 3, 9 with effect from 6 April 2003 in relation to payments of working tax credit for periods beginning after 5 April 2003.

2 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

3 In para (1), words substituted, and in para (4), words revoked, by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 5 with effect from 7 November 2005.

4 Paras (1)(*c*), (3), (6)–(8) revoked by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 reg 9(1) with effect from 7 November 2005.

#EndnotesE

#CommentE

14 Determination of working tax credit funding to be repaid

(1) This regulation applies where funds have been provided to the employer under regulation 8 in respect of one or more employees and it appears to an officer of [the Commissioners]1 that the employer has not used the whole or part of those funds to pay working tax credit.

(2) The officer of [the Commissioners]1 shall determine to the best of his judgment the amount of funds provided under regulation 8 and not used to pay working tax credit and shall serve notice of his determination on the employer.

(3) A determination under this regulation may cover funds provided under regulation 8—

(a) for any one pay period, or more than one pay period, in an income tax year, and

(b) in respect of a class or classes of employees specified in the notice of determination (without naming the individual employees), or in respect of one or more employees named in the notice of determination.

(4) Subject to the following provisions of this regulation, the following enactments shall apply with any necessary modifications to a determination under this regulation as if it were an assessment and as if the amount of funds determined were income tax charged on the employer—

Part IV of the Management Act (assessment and claims),

Part V of the Management Act (appeals and other proceedings), except section 55,

Part VI of the Management Act (collection and recovery),

the General Commissioners (Jurisdiction and Procedure) Regulations 1994,

the Special Commissioners (Jurisdiction and Procedure) Regulations 1994.

(5) An appeal against a determination under this regulation that is to be brought before the General Commissioners pursuant to paragraph (4) shall be brought before the General Commissioners for the division in which the employer's place of business is situated.

(6) Where an amount of funds determined under this regulation relates to more than one employee, proceedings may be brought for the recovery of that amount without distinguishing the amounts making up that sum which the employer is liable to repay in respect of each employee and without specifying the employees in question, and the amount determined under this regulation shall be one cause of action or one matter of complaint for the purposes of proceedings under section 65, 66 or 67 of the Management Act.

(7) Nothing in paragraph (6) prevents the bringing of separate proceedings for the recovery of any amount which the employer is liable to repay in respect of each employee.

#CommentB

**Amendments—**

#EndnotesB

1 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE

15 Inspection of employer's records

(1) For the purpose of enabling [the Commissioners]1 to be satisfied whether a relevant employer is complying with the provisions of these Regulations, he must, whenever called upon to do so by an authorised [officer of Revenue and Customs]1, produce the records specified in paragraph (2) to that officer for inspection, at such time as that officer may reasonably require and at the prescribed place.

(2) The records are—

(a) all wages sheets, deductions working sheets and other documents and records of any kind or description relating to the calculation or payment of the tax credits of his employees in respect of the tax years or income tax months specified by the authorised officer, or

(b) such of those wages sheets, deductions working sheets or other documents and records as may be specified by the authorised officer.

(3) The prescribed place for the purposes of paragraph (1) means—

(a) such place in the United Kingdom as the employer and the authorised officer may agree upon, or

(b) in default of such agreement, the place in the United Kingdom at which the documents and records referred to in paragraph (2)(a) are normally kept, or

(c) in default of such agreement and if there is no such place as is referred to in subparagraph (b), the employer's principal place of business in the United Kingdom.

(4) The authorised officer may—

(a) take copies of, or make extracts from, any document produced to him for inspection in accordance with paragraphs (1) and (2), and

(b) remove any document so produced if it appears to him to be necessary to do so, at a reasonable time and for a reasonable period.

(5) Where any document is removed in accordance with paragraph (4)(b), the authorised officer shall provide a receipt for that document.

(6) Where any document is removed in accordance with paragraph (4)(b) that is reasonably required for the proper conduct of a business, the authorised officer shall, not later than seven days following the date on which the document was removed, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(7) Where a lien is claimed on a document produced in accordance with paragraphs (1) and (2), the removal of the document in accordance with paragraph (4)(b) shall not be regarded as breaking the lien.

(8) Where records are maintained by computer, the person required to produce them for inspection must provide the authorised officer with all facilities necessary for obtaining information from them.

(9) For the purposes of paragraphs (1) and (2), the employer must retain the wages sheets, deductions working sheets and other documents and records referred to in those paragraphs for not less than three years after the end of the income tax year to which they relate.

#CommentB

**Amendments—**

#EndnotesB

1 Words substituted by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations, SI 2005/2200 regs 2, 6 with effect from 29 August 2005.

#EndnotesE

#CommentE