

**2003 No. 1382**

**TAX CREDITS**

**The Tax Credits (Employer Penalty Appeals) Regulations 2003**

*Made* - - - - *23rd May 2003*

*Laid before Parliament* *28th May 2003*

*Coming into force* - - *18th June 2003*

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 39(6), 65(2) and (6) and 67(a) of the Tax Credits Act 2002(b), with the consent of the Lord Chancellor and the Scottish Ministers, hereby make the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Tax Credits (Employer Penalty Appeals) Regulations 2003 and shall come into force on 18th June 2003.

**Interpretation**

2. In these Regulations—

“the Act” means the Taxes Management Act 1970(c); and

“employer penalty” has the meaning given in section 63(11) of the Tax Credits Act 2002.

**Part 5 of the Taxes Management Act**

3. Part 5 of the Act (appeals to Commissioners) applies to an appeal under section 38 of the Tax Credits Act 2002(d) against an employer penalty subject to the modifications set out in these Regulations.

4. In section 44 of the Act (General Commissioners) —

(a) for subsection (1) substitute —

“(1) Proceedings before the General Commissioners in relation to an appeal against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002) shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the employer’s place of business is situated.

(1A) In this section “employer’s place of business” means—

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(a) Section 67 is cited because of the definition of “prescribed”.

(b) 2002 c. 21.

(c) 1970 c. 9.

(d) Section 63 of the Tax Credits Act 2002 (c.21) provides that until such day as the Treasury by order appoints, except in the case of an appeal against an employer penalty, an appeal under section 38 of that Act is to an appeal tribunal (as defined in section 63(10) of that Act) rather than to the General Commissioners or Special Commissioners.

- (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.”;
  - (b) for the words “under the Taxes Acts” in each place where they occur, substitute “in relation to an appeal against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002)”;
  - (c) in subsection (4) omit “, whether by a case stated under section 56 of this Act or otherwise,”; and
  - (d) in subsection (5) omit “by the Taxes Acts or”.
- 5.** In section 46 of the Act (General and Special Commissioners)—
- (a) in subsection (1) for “or other proceedings under the Taxes Act or Part II of the Social Security Contributions (Transfer of Functions, etc) Act 1999 or by Part III of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999” substitute “against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002)”;
  - (b) in subsection (2) —
    - (i) omit “in the Taxes Acts or”; and
    - (ii) for the words “under the Taxes Acts” substitute “in relation to an appeal against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002)”.
- 6.** In section 46A of the Act (regulations about jurisdiction)—
- (a) in subsection (1) for the words “or other proceedings under the Taxes Acts”, in each place where they occur, substitute “against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002)”;
  - (b) omit subsection (1A).
- 7.** In section 48 of the Act—
- (a) in subsection (1) for the definition of appeal substitute—
 

““appeal” means an appeal against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002) to the General Commissioners or to the Special Commissioners;”;
  - (b) omit subsection (2).
- 8.** In section 49(1) of the Act, for the words “an inspector or the Board”, in each place where they occur, substitute “an officer of the Board”.
- 9.** In section 54 of the Act—
- (a) in subsection (1) for the words “discharged or cancelled” substitute “set aside” and for the words “had discharged or cancelled it” substitute “had set it aside”;
  - (b) for the words “the inspector or other proper officer of the Crown” and the words “the inspector or other proper officer”, in each place where they occur, substitute “the officer of the Board”; and
  - (c) omit the words “assessment or” in each place where they occur.
- 10.** Omit sections 53, 56, 56A and 58 of the Act.

23rd May 2003

*Nick Montagu*  
*Michael Johns*  
Two of the Commissioners of Inland Revenue

The Lord Chancellor consents to the making of these Regulations  
Signed by the authority of the Lord Chancellor

10th May 2003

*Rosie Winterton*  
Parliamentary Secretary  
Lord Chancellor's Department

The Scottish Ministers consent to the making of these Regulations

21st May 2003

*Cathy Jamieson*  
Minister for Justice  
A member of the Scottish Executive

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make modifications to Part 5 of the Taxes Management Act 1970 (c.9) in respect of appeals against employer penalties as defined in section 65(11) of the Tax Credits Act 2002 (c.21) (“the Act”). Section 39(6) of the Act provides that Part 5 of the Taxes Management Act 1970 (appeals to Commissioners) applies in relation to appeals under section 38 subject to such modifications as are prescribed.

The General Commissioners and Special Commissioners only have jurisdiction to hear appeals under section 38 of the Act against employer penalties. Section 63 of the Act provides that until such day as the Treasury by order appoints, except in the case of an appeal against an employer penalty, an appeal under section 38 of the Act is to an appeal tribunal (as defined in section 63(10) of that Act) rather than to the General Commissioners or Special Commissioners.

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