

**2014 No. 3280**

**SOCAL SECURITY**

**The Tax Credits (Exercise of Functions) Order 2014**

*Made* - - - - *10th December 2014*

*Laid before Parliament* *17th December 2014*

*Coming into force* - - *1st April 2015*

At the Court at Buckingham Palace, the 10th day of December 2014

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by section 126(1), (2), (3)(a) and (b)(i) and (9) of the Welfare Reform Act 2012<sup>(a)</sup>.

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council to order as follows:

**Citation and commencement**

1. This Order may be cited as the Tax Credits (Exercise of Functions) Order 2014 and comes into force on 1st April 2015.

**Interpretation**

2.—(1) In this Order—

“the 2002 Act” means the Tax Credits Act 2002<sup>(b)</sup>;

“the Administration Act” means the Social Security Administration Act 1992<sup>(c)</sup>;

“the 2013 Regulations” means the Social Security (Overpayments and Recovery) Regulations 2013<sup>(d)</sup>;

“notice” means a notice given under section 29 of the 2002 Act<sup>(e)</sup> (recovery of overpayments of tax credits);

“penalty” means a penalty imposed under section 31 (incorrect statements etc.) or 32 (failure to comply with requirements) of the 2002 Act.

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(a) 2012 c.5.  
(b) 2002 c.21.  
(c) 1992 c.5.  
(d) S.I.2013/384.  
(e) Section 29 is modified by S.I.2013/386.

(2) Any interest carried under section 37 of the 2002 Act on an amount specified in a notice or on a penalty is to be regarded for the purpose of this Order as if it were specified in the notice or formed part of the penalty respectively.

### **Functions exercisable by the Secretary of State**

**3.**—(1) The functions of the Commissioners under section 2 of the 2002 Act specified in paragraph (2) are to be exercisable concurrently with the Secretary of State.

(2) The functions are those that relate to—

- (a) the recovery from a person to whom a notice has been given of the amount specified in a notice;
- (b) the recovery from a person on whom a penalty has been imposed of the amount of the penalty.

### **Application of the Administration Act**

**4.**—(1) Subject to paragraph (2), the amount specified in a notice or, as the case may be, the amount of a penalty is, for the purposes of the Administration Act, to be treated as if it were an amount recoverable under section 71ZB of that Act<sup>(a)</sup>.

(2) Section 71ZB of the Administration Act has effect in relation to the amount specified in a notice or, as the case may be, the amount of a penalty, as if subsection (3) were omitted.

### **Application of the 2013 Regulations**

**5.**—(1) The amount specified in a notice is, for the purposes of the 2013 Regulations, to be treated as if it were an overpayment as defined in regulation 2 of those Regulations.

(2) The amount of a penalty is, for the purposes of the 2013 Regulations, to be treated as if it were an amount recoverable under a provision of the Administration Act specified in regulation 3(2) of those Regulations.

### **Amendment of the 2013 Regulations**

**6.** In the definition of “overpayment” in regulation 2 of the 2013 Regulations (interpretation) omit paragraph (b).

*Richard Tilbrook*  
Clerk of the Privy Council

## **EXPLANATORY NOTE**

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

Article 3 of this Order allows the Secretary of State to recover, concurrently with the Commissioners for Her Majesty’s Revenue and Customs, amounts specified in notices given under section 29 of the Tax Credits Act 2002 (c.21)(which specify amounts of overpayments of tax credits), the amounts of penalties imposed under section 31 or 32 of that Act (which are imposed respectively in connection with the making of incorrect statements and failing to comply with requirements in connection with claims for, and awards of, tax credits) and interest carried on those amounts.

Articles 4 and 5 provide that those amounts are to be treated as if they were amounts recoverable by the Secretary of State under certain provisions of the Social Security Administration Act 1992

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(a) Section 71ZB is inserted by section 105(1) of the Welfare Reform Act 2012. Subsection (1) is in force to the extent specified in article 3(5)(a) and (5A) of S.I.2013/358.

(c.5) and the Social Security (Overpayments and Recovery) Regulations 2013 (S.I.2013/384). Article 6 makes a consequential amendment to those Regulations.

A full impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

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