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STATUTORY INSTRUMENTS

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**2017 No. 781**

**SOCIAL SECURITY**

**The Tax Credits (Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments) Order 2017**

*Made* - - - - *19th July 2017*  
*Laid before Parliament* *26th July 2017*  
*Coming into force* - - *25th September 2017*

At the Court at Buckingham Palace, the 19th day of July 2017  
Present,  
The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by section 126(3)(b)(i) and (ii), (5)(a) and (9) of the Welfare Reform Act 2012(1).

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 in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments) Order 2017 and comes into force on 25th September 2017.

**Interpretation**

2.—(1) In this Order—

“the 2002 Act” means the Tax Credits Act 2002(2);

“the Administration (Northern Ireland) Act” means the Social Security Administration (Northern Ireland) Act 1992(3);

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(1) 2012 c.5.

(2) 2002 c.21. Part 1 of that Act (which includes sections 29, 31, 32 and 37) is repealed by Schedule 14 to the Welfare Reform Act 2012 from a date to be appointed.

(3) 1992 c.8.

“the 2016 Regulations” means the Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016<sup>(4)</sup>;

“notice” means a notice given under section 29 of the 2002 Act (recovery of overpayments);

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

(2) Any interest carried under section 37 of the 2002 Act (interest) on an amount specified in a notice or on a penalty is to be regarded for the purposes of articles 3 to 5 as if it were specified in the notice or formed part of the penalty respectively.

#### **Application of the Administration (Northern Ireland) Act**

3.—(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 (Northern Ireland) Act, to be treated as if it were an amount recoverable under section 69ZB of that Act<sup>(5)</sup>.

(2) Section 69ZB of the Administration (Northern Ireland) 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 2016 Regulations**

4. For the purposes of the 2016 Regulations—

- (a) the amount specified in a notice is to be treated as if it were an overpayment as defined in regulation 2(1) of those Regulations;
- (b) the amount of a penalty is to be treated as if it were an amount recoverable under a provision of the Administration (Northern Ireland) Act specified in regulation 3(2) of those Regulations.

#### **Amendment of the 2016 Regulations**

5. In regulation 2(1) of the 2016 Regulations (interpretation), in the definition of “overpayment”, omit paragraph (b).

#### **Amendment of the 2002 Act**

6.—(1) The 2002 Act is amended as follows.

(2) In section 28 (overpayments)—

- (a) in subsection (1), for “Board may” substitute “Commissioners may”;
- (b) also in subsection (1), for “repaid to the Board” substitute—

“—

- (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<sup>(6)</sup> or (as the case may be) by the relevant Northern Ireland Department under section 69ZB of the Administration (Northern Ireland) Act”;
- (c) in subsection (3), for the words from “the amount” to the end substitute “to the Commissioners, the Secretary of State or (as the case may be) the relevant Northern Ireland

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<sup>(4)</sup> [S.R. 2016 No. 224](#).

<sup>(5)</sup> Section 69ZB is inserted by article 109(1) of the Welfare Reform (Northern Ireland) Order 2015 (No.2006 (N.I.1)).

<sup>(6)</sup> Section 71ZB is inserted by section 105(1) of the Welfare Reform Act 2012.

- Department, the amount which the Commissioners decide is to be repaid or treated as recoverable under subsection (1)(b)”;
- (d) in subsection (4), for the words from “the amount” to “is to repay” substitute “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”;
- (e) in subsections (5) and (6), for “Board”, in each place it occurs, substitute “Commissioners”;
- (f) after subsection (6) insert—
- “(7) In this section and in section 29—
- “the Administration Act” means the Social Security Administration Act 1992(7);
- “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.”.
- (3) In section 29 (recovery of overpayments)—
- (a) in subsection (1), after “repaid” insert “or paid”;
- (b) for subsection (4), substitute—
- “(4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may be recovered—
- (a) subject to provision made by regulations, by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given;
- (b) by the Secretary of State—
- (i) by deductions under section 71ZC of the Administration Act (deduction from benefit);
- (ii) by deductions under section 71ZD of that Act (deduction from earnings); or
- (iii) as set out in section 71ZE of that Act (court action etc); or
- (c) by the relevant Northern Ireland Department—
- (i) by deductions under section 69ZC of the Administration (Northern Ireland) Act (deduction from benefit);
- (ii) by deductions under section 69ZD of that Act (deduction from earnings); or
- (iii) as set out in section 69ZE of that Act (court action etc).”.

#### **Amendment of the Universal Credit (Transitional Provisions) Regulations 2014**

7.—(1) Regulation 12 of the Universal Credit (Transitional Provisions) Regulations 2014(8) (modification of tax credits legislation: overpayments and penalties) is amended as follows.

- (2) In paragraph (3)—

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(7) 1992 c.5.

(8) S.I. 2014/1230 as amended by S.I. 2016/232.

- (a) in sub-paragraph (a), for paragraph (ii) substitute—
  - “(ii) in paragraph (b), for the words from “as if it were” to the end substitute “as an overpayment of universal credit”;
- (b) omit sub-paragraph (b).
- (3) Omit paragraph (4).

**Amendment of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016**

**8.**—(1) Regulation 10 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016<sup>(9)</sup> (modification of tax credits legislation: overpayments and penalties) is amended as follows.

- (2) In paragraph (3)—
  - (a) in sub-paragraph (a), for head (ii) substitute—
    - “(ii) in paragraph (b), for the words from “as if it were” to the end substitute “as an overpayment of universal credit”;
  - (b) omit sub-paragraph (b).
- (3) Omit paragraph (4).

**Revocation**

**9.** The Universal Credit (Transitional Provisions) (Amendment) Regulations 2016<sup>(10)</sup> are revoked.

*Richard Tilbrook*  
Clerk of the Privy Council

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<sup>(9)</sup> S.R. 2016 No. 226.  
<sup>(10)</sup> S.I. 2016/232.

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## EXPLANATORY NOTE

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

Articles 3 to 5 of this Order apply and amend legislation applying in Northern Ireland to allow for the recovery of the following amounts. They are amounts specified in notices given under section 29 of the Tax Credits Act 2002 (c.21) (“the 2002 Act”) (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, when read with article 2(2), the amounts of interest carried on those amounts.

In particular, articles 3 and 4 apply certain provisions of the Social Security Administration (Northern Ireland) Act 1992 (c.8) and the Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 224) (“the 2016 Regulations”) to enable all of the amounts referred to above to be treated as if they were amounts recoverable by the Department for Communities for Northern Ireland (“the relevant Northern Ireland Department”) under that legislation. Article 5 makes a consequential amendment to the 2016 Regulations.

Article 6 amends the 2002 Act to enable overpayments of tax credits to be recovered by the Secretary of State or, as the case may be, the relevant Northern Ireland Department, where a notice under section 29(4) of that Act so states. Articles 7 and 8 make consequential amendments to existing provisions which modify sections 28 and 29 of the 2002 Act and article 9 makes a revocation consequential on article 6.

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