

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT TAX CREDITS REVIEWS AND APPEALS
(AMENDMENT) ORDER 2020

Monday 11 January 2021

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Friday 15 January 2021

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The Committee consisted of the following Members:

Chair: SIR GRAHAM BRADY

Afolami, Bim (*Hitchin and Harpenden*) (Con)
 Barker, Paula (*Liverpool, Wavertree*) (Lab)
 Coutinho, Claire (*East Surrey*) (Con)
 Davies, Dr James (*Vale of Clwyd*) (Con)
 Hendrick, Sir Mark (*Preston*) (Lab/Co-op)
 † Hughes, Eddie (*Walsall North*) (Con)
 Lopresti, Jack (*Filton and Bradley Stoke*) (Con)
 McCabe, Steve (*Birmingham, Selly Oak*) (Lab)
 Mullan, Dr Kieran (*Crewe and Nantwich*) (Con)
 † Norman, Jesse (*Financial Secretary to the Treasury*)
 † Oppong-Asare, Abena (*Erith and Thamesmead*)
 (Lab)

Ribeiro-Addy, Bell (*Streatham*) (Lab)
 Rutley, David (*Lord Commissioner of Her Majesty's
 Treasury*)
 Thompson, Owen (*Midlothian*) (SNP)
 † Twist, Liz (*Blaydon*) (Lab)
 Wood, Mike (*Dudley South*) (Con)
 Young, Jacob (*Redcar*) (Con)

Yohanna Sallberg, *Committee Clerk*

† **attended the Committee**

Third Delegated Legislation Committee

Monday 11 January 2021

[SIR GRAHAM BRADY *in the Chair*]

Draft Tax Credits Reviews and Appeals (Amendment) Order 2020

4.30 pm

The Chair: Before we begin, I thank Members for observing social distancing and sitting only in the places that are marked. *Hansard* colleagues would be most grateful if Members sent their speaking notes to hansardnotes@parliament.uk.

The Financial Secretary to the Treasury (Jesse Norman): I beg to move,

That the Committee has considered the draft Tax Credits Review and Appeals (Amendment) Order 2020.

The order was laid before the House on 15 October. The Government are committed to a welfare system that ensures that work pays and is fair to the taxpayer, and to a system that protects the most vulnerable people in our society. This legislation allows the Government to review tax credit awards and, where appropriate, apply disability elements in retrospect. The legislative change that we are making allows tax credit disability elements to be fully backdated, and provides equal outcomes for former and existing claimants with a disability, or who have a child with a disability.

I will first outline the background to this issue. Tax credit claimants with a disability, or who have a child with a disability, and who receive qualifying disability benefits, such as disability living allowance or the personal independence payment, are entitled to corresponding tax credit disability elements in their award. For 2020-21, the disabled worker element is set at £3,220 per year, with a severe disability element of £1,390 paid to qualifying claimants in addition to this. The disabled child element is set at £3,415 for each child with a disability, with an additional £1,385 available for each child with a severe disability.

Under existing legislation, Her Majesty's Revenue and Customs does not in all cases have the power to review these elements if it has made a final decision on a claimant's tax credit entitlement for the tax year. A final decision is typically made when a claimant ends their tax credit claim and moves to universal credit, or when someone renews their claim at the end of the tax year. This legislation will allow HMRC to review tax credit awards after it has made a final decision, and to determine if disability elements are due.

As for how the legislation will be applied, as long as a claimant reports the award of a qualifying disability benefit within one month of the award decision date, HMRC will determine whether the claimant would have been entitled to tax credit disability elements. Claimants will then be paid tax credit disability elements, irrespective of the length of time it takes for the qualifying disability benefit claim to be determined, and of whether they

have a continuing tax credit award. This legislative change extends to current and former tax credit claimants, and it applies to claimants who report the award of a qualifying disability benefit once the legislation is in force.

HMRC commissioners have agreed to use their discretionary payment and management powers to review final decisions and pay claimants who provide notification, within the statutory time limit, of the award of a qualifying disability benefit on or after 6 April 2020, and in anticipation of the order coming into force. HMRC estimates that as a result of this legislation, up to 300 claimants a year are likely to gain tax credit disability elements on which they would otherwise have missed out.

It is particularly important that the Government make this change as tax credits come to a close, and as increasing numbers of people move on to universal credit. Some may subsequently receive a decision on a disability benefit claim made before they moved to universal credit, so in order to ensure that claimants receive their entitlement, this measure will be in place until the closure of the tax credits regime. The instrument also increases the time allowed for reviews of tax credit entitlement decisions where these circumstances apply.

The changes I have outlined will support people with disabilities, and will further improve the efficiency of the welfare system. I hope Members will join me in supporting this legislation.

4.34 pm

Abena Oppong-Asare (Erith and Thamesmead) (Lab): I will not speak for long; given the brevity of the draft order, I hope we can address our concerns briskly. The order not only fixes an error in a 2014 statutory instrument, as the Minister pointed out, but seems to improve the legal framework for people whose claim for a relevant disability benefit is determined in their favour, so we will not push for a vote today, but the Minister will understand that the Opposition like to be thorough, so I will ask him to explain two points to the Committee, and to provide assurance on a third.

First, we fully accept that everyone is human, and that minor errors in drafting legislation will occur, especially in things such as cross-references. It is testimony to the immense skill of the amazing staff in the office of the parliamentary counsel that mistakes in our legislation are not more common. Will the Minister outline how and when exactly the error referred to in article 2(4)(a) of the order was identified? For six years, during which the provisions were administered, it was not spotted and rectified; that seems a very long time.

Secondly, can the Minister outline something of the history of why it proved necessary to have article 2(5), which inserts proposed new section 21C of the Tax Credits Act 2002? It would be helpful to be clear about the circumstances that the section addresses; how often the issue arose before this order was drafted; how many people were materially affected by the section's absence; and what the financial benefit to them would have been if the new section had always been there.

Thirdly, and most substantively, does the Minister propose using the power in proposed new section 21C(7)? The Opposition fully appreciate the need for proper information to be supplied in good time. HMRC can only take decisions on the basis of such information as

it has. However, the Minister will understand that we are always cautious about people being asked to supply information in an unreasonable timeframe, especially if failure to do so costs them money, but saves money for the administrative authorities.

Finally, will the Minister reassure us that the power in proposed new section 21C(7) will not be used unreasonably in the light of the timeframe that citizens are given for responding to HMRC? What sort of timeframe does he expect HMRC to give for the supply of such information, and what timeframe would he regard as unreasonable? Will he give us an understanding of the minimum timeframe that might be given?

4.38 pm

Jesse Norman: I thank the hon. Lady for her questions. She is right to focus on the point about minor errors; they do occur in drafting legislation. One of the tasks of a Minister in my position is to take through the House, from time to time, legislative corrections to the drafting errors that occur despite very careful scrutiny by officials, tax experts, the legislative drafting experts—parliamentary counsel—and the rest. It is certainly an ambition of the Government to keep these to an absolute minimum—or, in a perfect world, to eliminate them altogether.

The hon. Lady's questions on proposed new section 21C are sufficiently detailed for me to think that the correct approach will be to write to her separately with the detailed responses that she is seeking. From an HMRC and Government standpoint, we are extremely careful about the issue of the application of powers in general. She will be aware that we have done considerable work on safeguards to ensure that the application and creation of powers is measured, and is done in a way that properly respects the concerns of this House. We are regularly chastised by parliamentary Committees, notably the Lords Economic Affairs Committee, when they judge that the Government are pushing too far on the creation of powers, or that HMRC is pushing too far on their application, so it is right to raise that question. There are established procedures for properly assessing and calibrating those powers; there is internal sign-off and potential review by the commissioners, and ultimately, of course, parliamentary procedures by which these issues can be referred to Ministers. With that in mind, I ask Members to support the legislation.

Question put and agreed to.

4.40 pm

Committee rose.

