

SAVING GATEWAY ACCOUNTS ACT 2009

EXPLANATORY NOTES

COMMENTARY

Section 23 Rights of appeal

120. This section sets out the circumstances in which appeals may be made against decisions made, or actions taken, by HMRC in relation to the Saving Gateway.
121. *Subsection (1)* provides a right of appeal against a decision made by the Commissioners:
- not to approve a person as an account provider under section 4(1);
 - to withdraw approval to provide Saving Gateway accounts;
 - not to pay an amount claimed by an account provider under regulations made under section 11(3);
 - not to issue a notice of eligibility for a Saving Gateway account under section 2; and
 - that an account is not a Saving Gateway account.
122. Under *Subsection (2)*, a person who is required by the Commissioners under regulations made under section 12 (recovery of payments by HMRC) or section 14 (relief from income tax and capital gains tax) to account:
- for an amount previously paid by the Commissioners in relation to the Saving Gateway; or
 - for tax, or an amount in respect of tax, in relation to an account
- may appeal against this requirement.
123. *Subsection (3)* provides a right of appeal against the imposition by the Commissioners of any penalty under this Act.
124. *Subsection (4)* provides a right of appeal against the amount charged by the Commissioners by way of a penalty under this Act. This right of appeal applies to all penalties under this Act, other than the penalty at section 19(1) on a person who deliberately makes an incorrect declaration when applying to open a Saving Gateway account. For this penalty, the Act fixes the amount to be charged at £300. While a tribunal may set aside or confirm the decision to impose a penalty under section 19(1), it would not be open to a tribunal to reduce or increase the level of this penalty. A tribunal's powers in relation to appeals against the Commissioners' decision to impose a penalty are specified in section 25(3), as described below.