



Childcare Payments Act 2014

2014 CHAPTER 28

Reviews and appeals

56 Appealable decisions

- (1) A person who is affected by an appealable decision (see subsection (3)) may appeal against the decision.
- (2) But a person may not appeal against any decision unless—
 - (a) the person has applied under section 57 for a review of the decision, and
 - (b) either—
 - (i) the person has been notified of the conclusion on the review, or
 - (ii) the person has not been notified of the conclusion on the review and the period for notifying the person of that conclusion has ended.
- (3) The following decisions are “appealable decisions”—
 - (a) a decision not to open a childcare account;
 - (b) a decision that a declaration of eligibility is not valid;
 - (c) a decision as to whether or not to make or revoke an account restriction order under section 24;
 - (d) a decision to give a person a notice under section 26;
 - (e) a decision to give a person a disqualification notice under section 34;
 - (f) a decision to make an assessment, or to make an assessment of a particular amount, under section 41;
 - (g) a decision to assess a penalty, or to assess a penalty of a particular amount, under section 47;
 - (h) a decision to make a disqualification order under section 49;
 - (i) a decision to make a direction under section 50;
 - (j) a decision to give a person a notice under section 51;
 - (k) a decision to give a direction under section 53.

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- (4) Where a person is notified of an appealable decision under this Act, the notification must include details of the person's right to apply for a review of the decision and to appeal against the decision.
- (5) The effect of an appealable decision falling within paragraph (d), (f), (g), (j) or (k) of subsection (3) is suspended by—
 - (a) the making of an application for a review of the decision, or
 - (b) the making of an appeal against the decision.
- (6) The effect of any other appealable decision is not suspended by the making of such an application or appeal.

Commencement Information

- I1** S. 56 in force at 14.11.2016 for the purposes of the trial by S.I. 2016/1083, reg. 2(g)
I2 S. 56 in force at 21.4.2017 in so far as not already in force by S.I. 2017/578, reg. 3(e)

57 Review of decisions

- (1) A person who is affected by an appealable decision (“the applicant”) may apply to the Commissioners for Her Majesty’s Revenue and Customs for a review of the decision.
- (2) The application must be made—
 - (a) within the period of 30 days beginning with the day on which the applicant was notified of the decision, or
 - (b) if the period for making the application has been extended under section 58, within the extended period.
- (3) The application must—
 - (a) be made in writing,
 - (b) contain sufficient information to identify the applicant and the decision, and
 - (c) set out the reasons for seeking a review of the decision.
- [^{F1}(3A) Regulations may make provision specifying, or enabling HMRC to specify, the form and manner in which the application may be made (subject to subsection (3)(a)).]
- (4) If an application for a review of a decision is made to the Commissioners in accordance with this section [^{F2}(and any provision made under subsection (3A))], the Commissioners must review the decision.
- (5) On a review under this section, the Commissioners may—
 - (a) uphold the decision,
 - (b) vary the decision, or
 - (c) cancel the decision.
- (6) If the applicant makes any representations to the Commissioners at a stage which gives the Commissioners a reasonable opportunity to consider them, the Commissioners must take account of them when carrying out the review.
- (7) Where—
 - (a) the Commissioners notify the applicant of further information or evidence which they may need for carrying out the review, and

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- (b) the information or evidence is not provided to them within the period of 15 days beginning with the day on which the notice is given, the review may proceed without that information or evidence.
- (8) The Commissioners must notify the applicant of the matters set out in subsection (9) within—
- (a) the period of 30 days beginning with the day on which the Commissioners received the application for the review,
- (b) if the applicant has been given a notice under subsection (7), the period of 45 days beginning with that day, or
- (c) such other period as the applicant and the Commissioners may agree.
- (9) The matters referred to in subsection (8) are—
- (a) the conclusion on the review,
- (b) if the conclusion is that the decision is varied, details of the variation, and
- (c) the reasons for the conclusion.
- (10) If the Commissioners do not comply with subsection (8), the review is to be treated as having concluded that the decision is upheld.

In such a case, the Commissioners must notify the applicant of that conclusion.

Textual Amendments

- F1** S. 57(3A) inserted (16.3.2017) by [Small Charitable Donations and Childcare Payments Act 2017 \(c. 1\), ss. 5\(3\)\(a\), 7\(3\)](#)
- F2** Words in s. 57(4) inserted (16.3.2017) by [Small Charitable Donations and Childcare Payments Act 2017 \(c. 1\), ss. 5\(3\)\(b\), 7\(3\)](#)

Commencement Information

- I3** S. 57 in force at 14.11.2016 for the purposes of the trial by [S.I. 2016/1083, reg. 2\(g\)](#)
- I4** S. 57 in force at 21.4.2017 in so far as not already in force by [S.I. 2017/578, reg. 3\(e\)](#)

58 Extension of time limit for applications for review

- (1) A person who wishes to make an application for a review under section 57 may apply to the Commissioners for an extension of the period for making the application.
- (2) An application under this section—
- (a) must be made before the end of the period of 6 months beginning with the day after the last day of the period mentioned in section 57(2)(a) (“the standard period”), and
- (b) must set out the reasons for seeking the extension.
- [^{F3}(2A) Regulations may make provision specifying, or enabling HMRC to specify, the form and manner in which an application under this section may be made.]
- (3) The Commissioners may grant an extension under this section if they are satisfied that—
- (a) due to special circumstances, it was not practicable for the person to make the application under section 57 within the standard period, and
- (b) it is reasonable in all the circumstances to grant the extension.

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- (4) If an application under this section is refused, it may not be renewed.

Textual Amendments

- F3** S. 58(2A) inserted (16.3.2017) by [Small Charitable Donations and Childcare Payments Act 2017](#) (c. 1), [ss. 5\(4\)](#), [7\(3\)](#)

Commencement Information

- I5** S. 58 in force at 14.11.2016 for the purposes of the trial by [S.I. 2016/1083](#), [reg. 2\(g\)](#)
I6 S. 58 in force at 21.4.2017 in so far as not already in force by [S.I. 2017/578](#), [reg. 3\(e\)](#)

59 Exercise of right of appeal

- (1) An appeal under section 56 is to the appropriate tribunal.
- (2) “The appropriate tribunal” means—
- (a) the First-tier Tribunal, or
 - (b) in Northern Ireland, the appeal tribunal.
- (3) “Appeal tribunal” means an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)).
- (4) Regulations may provide for any provision contained in or made under the following legislation to apply in relation to appeals under section 56, with such modifications as may be specified in regulations—
- (a) Chapter 2 of Part 1 of the Social Security Act 1998 (social security appeals: Great Britain);
 - (b) Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (social security appeals: Northern Ireland);
 - (c) section 54 of the Taxes Management Act 1970 (settling of appeals by agreement).

Commencement Information

- I7** S. 59 in force at 14.11.2016 for the purposes of the trial by [S.I. 2016/1083](#), [reg. 2\(g\)](#)
I8 S. 59 in force at 21.4.2017 in so far as not already in force by [S.I. 2017/578](#), [reg. 3\(e\)](#)

60 Powers of tribunal

- (1) This section applies where a person is appealing to the Tribunal under section 56 against an appealable decision.
- (2) In a case where the appealable decision is a decision under section 47 to assess a penalty, or to assess a penalty of a particular amount, the Tribunal may do any of the following—
- (a) uphold the penalty;
 - (b) set aside the penalty;
 - (c) substitute for the penalty a penalty of an amount decided by the Tribunal.
- (3) In any other case, the Tribunal must either—

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- (a) dismiss the appeal, or
 - (b) quash the whole or part of the decision to which the appeal relates.
- (4) The Tribunal may act as mentioned in subsection (3)(b) only to the extent that it is satisfied that the decision was wrong on one or more of the following grounds—
- (a) that the decision was based, wholly or partly, on an error of fact;
 - (b) that the decision was wrong in law.
- (5) If the Tribunal quashes the whole or part of a decision, it may either—
- (a) refer the matter back to HMRC with a direction to reconsider and make a new decision in accordance with its ruling, or
 - (b) substitute its own decision for that of HMRC.
- This is subject to section 61(8).
- (6) The Tribunal may not direct HMRC to take any action which they would not otherwise have the power to take in relation to the decision.
- (7) A decision of the Tribunal made by virtue of this section has the same effect as, and may be enforced in the same manner as, a decision of HMRC.
- (8) In this section “the Tribunal” means—
- (a) the First-tier Tribunal, or
 - (b) in Northern Ireland, the appeal tribunal (within the meaning of section 59(3)).

Commencement Information

I9 S. 60 in force at 14.11.2016 for the purposes of the trial by S.I. 2016/1083, reg. 2(g)

I10 S. 60 in force at 21.4.2017 in so far as not already in force by S.I. 2017/578, reg. 3(e)

61 Cases where there is more than one eligible person

- (1) This section applies in the following cases.
- (2) The first case is where—
- (a) two or more persons (“the applicants”) have applied to open a childcare account in respect of the same child, and
 - (b) any of the applicants is appealing against a decision not to allow the applicant to open a childcare account in respect of the child.
- (3) The second case is where—
- (a) one or more persons (“the applicants”) have applied to open a childcare account in respect of a child,
 - (b) another person (“the existing account-holder”) holds a childcare account in respect of the child, and
 - (c) any of the applicants is appealing against a decision not to allow the applicant to open a childcare account in respect of the child.
- (4) The third case is where—
- (a) a person is appealing against a decision not to make an account restriction order in relation to another person, or

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- (b) a person is appealing against a decision to make an account restriction order in relation to the person so as to enable another person to open a childcare account or make a declaration of eligibility in relation to such an account.
- (5) In this section “the affected parties” means—
- (a) in the case described in subsection (2), the applicants;
 - (b) in the case described in subsection (3), the applicants and the existing account-holder;
 - (c) in the case described in subsection (4), each of the persons mentioned in paragraph (a) or (b) of that subsection (as the case may be).
- (6) Notice of the appeal must be given to each of the affected parties (other than the person bringing the appeal).
- (7) Each of the affected parties is to be treated as a party to the appeal.
- (8) If the Tribunal quashes the whole or part of the decision, it must substitute its own decision for that of HMRC.
- (9) A decision of the Tribunal made by virtue of this section has the same effect as, and may be enforced in the same manner as, a decision of HMRC.
- (10) In this section “the Tribunal” has the same meaning as in section 60.

Commencement Information

- I11** S. 61 in force at 14.11.2016 for the purposes of the trial by S.I. 2016/1083, reg. 2(g)
I12 S. 61 in force at 21.4.2017 in so far as not already in force by S.I. 2017/578, reg. 3(e)

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