

*This draft replaces that laid on 7th July 2009 and is being issued free of charge to all known recipients of that draft Statutory Instrument.*

*Draft Regulations laid before Parliament under section 28(4) and (7) of the Saving Gateway Accounts Act 2009, for approval by resolution of each House of Parliament.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2009 No.**

**SAVING GATEWAY ACCOUNTS**

**The Saving Gateway Accounts Regulations 2009**

*Made - - - - - October 2009*

*Coming into force - - - in accordance with regulation 1*

A draft of this instrument has been laid before Parliament in accordance with section 28(4) and (7) of the Saving Gateway Accounts Act 2009<sup>(a)</sup> and approved by a resolution of each House of Parliament.

Accordingly, the Treasury make the following Regulations in exercise of the powers conferred by sections 2(2) and (3), 3(1)(b), (5) and (6), 4 to 7, 8(1) and (4), 9 to 12, 16, 17, 24(4) and 28(1) and (2) of the Saving Gateway Accounts Act 2009:

**PART 1**

**Introductory and Eligibility**

**Citation and commencement**

1. These Regulations may be cited as the Saving Gateway Accounts Regulations 2009 and shall come into force on the appointed day.

**Interpretation**

2.—(1) In these Regulations—

(a) the following expressions have the meanings given in the Saving Gateway Accounts Act 2009 (“the Act”)—

“approved account provider” (see section 4(1));

“the Commissioners” (see section 1(2));

a “death payment” (see section 4(2)(b));

“eligible person” (see section 3(1) as supplemented by regulations 3 and 4);

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(a) 2009 c. 8.

the “first month of the account’s operation” (see section 4(5)), and references to the sixth or any other month of the account’s operation, and cognate expressions, have corresponding meanings;

“maturity payment” (see section 4(2)(a));

“maturity period” (see section 4(2)(a));

“month” (see section 4(5)), except in the expression “the first month of the account’s operation”;

“notice of eligibility” (see section 2);

the “qualifying balance” of a Saving Gateway account (see section 8(2));

“the relevant date” (see section 1(3));

“relevant person” (see section 17(2));

“Saving Gateway account” (see section 1(1));

“tax appeal” (see section 24(3));

(b) except where the context otherwise requires—

“accepting deposits”, in regulation 14, has the meaning in section 22 of FISMA 2000, taken with Schedule 2 of that Act and any order made under section 22;

“account”, except in regulations 8, 10(2)(k), 20(1) and (2) and 21, means a Saving Gateway account;

“appointed day” means the day appointed under section 31 of the Act for the purposes of section 8 of the Act;

“credit union” means a society registered as a credit union under the Industrial and Provident Societies Act 1965(a), or the Credit Unions (Northern Ireland) Order 1985(b);

“EEA State” means a State, other than the United Kingdom, which is a Contracting Party to the EEA agreement;

“electronic communications” includes any communications by an electronic communications network (within the meaning in the Communications Act 2003(c));

“electronic signature” has the meaning given by section 7(2) of the Electronic Communications Act 2000(d);

“FISMA 2000” means the Financial Services and Markets Act 2000(e);

“full name” includes shortened details sufficient to identify the individual;

“ITA 2007” means the Income Tax Act 2007(f);

“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005(g);

“insolvency event” means the procedures listed in the definition of “insolvency event” in regulation 19(15) of the Payment Services Regulations 2009(h)

“the Management Act” means the Taxes Management Act 1970(i);

“notice” means notice in writing; and “notify” shall be construed accordingly;

“reference number”, except in regulation 5(1), means an eligible person’s reference number as stated on his or her notice of eligibility;

“tax year” means a period beginning with 6<sup>th</sup> April in one year and ending with 5<sup>th</sup> April in the next, and “the tax year 2009-10” means the tax year beginning with 6<sup>th</sup> April 2009;

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(a) 1965 c. 12.

(b) S.I. 1985/1205 (N.I. 12).

(c) 2003 c. 21.

(d) 2000 c. 7.

(e) 2000 c. 8.

(f) 2007 c. 3.

(g) 2005 c. 5.

(h) S.I. 2009/209.

(i) 1970 c. 9.

“UK institution” means an institution which is incorporated in, or formed under the law of any part of, the United Kingdom.

(2) The table below indexes other definitions in these Regulations:

*Term defined Regulation*

- “account holder” 10(1)(a)
- “agreed terms” 10(1)(h)
- “the disqualifying circumstances” 16
- “the eligibility window” 3(3)
- “qualifying circumstances” 14(1)

**Eligible persons – entitlement to working tax credit or child tax credit**

3.—(1) A person is an eligible person by reason of entitlement (alone or with another person) to working tax credit or child tax credit, within the meaning in section 3(5) of the Act, only if he or she satisfies the following conditions.

(2) Those conditions are—

*Condition 1*

There is a decision under sections 18 to 21 of the 2002 Act, other than on the basis of estimated income (a “final award”), that the person was entitled (alone or with another person) to working tax credit or child tax credit (not being at a nil rate) for the tax year 2009-10, or a subsequent tax year.

*Condition 2*

- (a) The relevant income for that tax year (“the relevant tax year”) did not exceed £16,040, or
- (b) the person’s entitlement to working tax credit or child tax credit for the relevant tax year arose by virtue of section 7(2) of the 2002 Act (automatic entitlement where the claimant or one of the claimants is entitled to a prescribed social security benefit).

Where a higher amount is determined for the purposes of section 7(1)(a) of the 2002 Act in relation to child tax credit (income threshold for child tax credit) in relation to the relevant tax year, that higher amount shall be substituted for the figure of £16,040 in paragraph (a).

*Condition 3*

The final award for the relevant tax year (and calculation of the relevant income on which it is based) has not been overturned.

*Condition 4*

If—

- (a) the Commissioners have given the person a final notice under section 17 of the 2002 Act, relating to the relevant tax year, and
- (b) the notice contained a requirement to make a declaration or statement under section 17(2)(a), (4)(a) or (6)(a) of the 2002 Act (annual declaration form),

the person has made the declarations or statements required by the time at which eligibility is being determined.

*Condition 5*

The eligibility window for that final award has not ended.

(3) In this regulation—

the “eligibility window”, in relation to a final award, means the period—

- (a) beginning when that final award was made, and
- (b) ending 12 months after the date of that final award;

“estimated income” means estimated current year income, declared or stated as mentioned in section 17(8)(a) or (b) of the 2002 Act, unless the estimate has been treated as confirmed in the amount estimated, in accordance with section 17(8) of the 2002 Act;

“relevant income”, in relation to a person or persons and a tax year, means the relevant income determined in accordance with section 7 of the 2002 Act, and with regulations made under that section, in relation to a claim by the person or persons for working tax credit or child tax credit for the tax year;

“the 2002 Act” means the Tax Credits Act 2002(a).

#### **Eligible persons – connection with the U.K.**

4.—(1) The connection with the United Kingdom mentioned in section 3(1)(b) of the Act is that the person is ordinarily resident in the United Kingdom.

(2) A Crown servant posted overseas or his or her partner shall be treated as ordinarily resident in the United Kingdom.

(3) A person shall be treated as ordinarily resident in the United Kingdom if he or she is exercising in the United Kingdom his or her rights as a worker pursuant to Council Regulation (EEC) No. 1612/68(b).

(4) A person who is in the United Kingdom as a result of his or her deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom shall be treated as being ordinarily resident in the United Kingdom.

(5) In paragraph (2)—

“Crown servant posted overseas” has the meaning in regulation 5(2) of the Tax Credits (Residence) Regulations 2003(c);

the “partner” of a Crown servant posted overseas means a person falling within the description in regulation 6(1) (read with regulation 2(1)) of those Regulations.

#### **Notices of eligibility**

5.—(1) The notice of eligibility to be issued under section 2(1) of the Act shall contain (in addition to the expiry date) the following particulars—

- (a) the full name of the eligible person; and
- (b) his or her Saving Gateway reference number.

(2) The notice shall be issued by being sent to the eligible person by post, except in a case where there is a person acting under regulation 13(8), in which case it may be sent to that person.

(3) A further notice of eligibility may be issued to an eligible person at the discretion of the Commissioners, where the expiry date of a previous notice has passed, and the person has not opened a Saving Gateway account.

#### **Opening of account by a person who has received a notice of eligibility**

6.—(1) For the purposes of these Regulations, an account is opened with an approved account provider on the date when all the following conditions are satisfied (but no later than the expiry date specified in the notice of eligibility):

##### Condition 1

The applicant produces his or her notice of eligibility to the approved account provider or, where the approved account provider’s business systems provide for the opening of accounts without

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(a) 2002 c. 21.  
(b) [1968] J.O. L257/2; O.J. 1968, 475.  
(c) S.I. 2003/654.

production of the relevant notice of eligibility, the applicant makes a true declaration to the approved account provider of the following information:

- (a) the expiry date of the notice, and
- (b) the applicant's reference number (as stated on the notice).

Condition 2

The applicant enters into agreed terms with the approved account provider (see regulation 10(1)(h)) which include the application and declaration required by regulation 13.

Condition 3

Where that application is not in writing the applicant has agreed, or is treated as having agreed, the contents of the copy of the declaration required by regulation 13(2).

(2) Where—

- (a) an account is opened in accordance with paragraph (1), and
- (b) there is a right to cancel (or automatic cancellation of) the agreed terms, and the period during which it may be exercised or occur has not expired,

the account shall not be treated as open for the purposes of regulation 22 (monthly return and financial claim) and regulation 5(3) until the period during which that right may be exercised or cancellation occur has expired without the right being exercised or cancellation occurring.

**Maturity period (and payment of maturity payments or death payments)**

7.—(1) Subject to paragraph (3), the maturity period for an account is the period—

- (a) beginning simultaneously with the first month of the account's operation (see section 4(5) of the Act), and
- (b) ending with the last day of the twenty fourth month of the account's operation.

(2) The approved account provider must credit the account with the amount of the maturity payment, or otherwise pay the maturity payment to the account holder, within 21 days from the end of the maturity period for the account.

(3) If the account holder of an account dies before the end of the account's maturity period calculated under paragraph (1), paragraph (2) shall not apply and the account provider shall pay to the account holder's personal representatives an amount ( a "death payment") equal to the amount of the maturity payment to which the account holder would have become entitled if the maturity period for the account had ended immediately before the death.

(4) A death payment shall be made within 21 days of the end of the month in which the account provider receives sufficient evidence of the death of the account holder and of the status of the personal representatives.

**Account ceasing to be a Saving Gateway account (and rollover certificates)**

8.—(1) An account ceases to be a Saving Gateway account—

- (a) on the death of the account holder;
- (b) for the purposes of section 8(4) of the Act, when the account provider has credited the account with the amount of the maturity payment, or otherwise paid the maturity payment to the account holder; or
- (c) for all other purposes, at the end of the maturity period for the account.

(2) Where an account ceases to be a Saving Gateway account under paragraph (1)(c) for the purposes there mentioned ("on maturity"), if the account holder so requires by notice to the account provider, given within 6 months of that date, the account provider shall give to the account holder a certificate containing the information mentioned in paragraph (3) and the declaration mentioned in paragraph (4).

(3) The information mentioned in this paragraph is—

- (a) the account holder’s full name;
- (b) his or her permanent address including postcode;
- (c) the name of the account provider with which the account was held on maturity;
- (d) the number allocated to it by that account provider;
- (e) the date on which it matured; and
- (f) the credit balance of the account (if any) on maturity, and the amount of the maturity payment made or to be made.

(4) The declaration mentioned in this paragraph is a declaration by the account provider that the account was a Saving Gateway account throughout its maturity period and that the information given in the certificate is correct.

**Government contribution rate**

9. In the calculation of A x B to determine the maturity payment in relation to a Saving Gateway account in section 8(1) of the Act, the multiplier B is 50 pence.

**PART 2**

**Other requirements to be satisfied in relation to accounts**

**General requirements for accounts**

10.—(1) A Saving Gateway account must satisfy the requirements that—

- (a) it is the account of a single person (“the account holder”) who is “the applicant” in regulations 6(1) and 13;
- (b) the account holder is or has been an eligible person;
- (c) no person may open more than one Saving Gateway account in their lifetime;
- (d) it is a cash deposit account (including a share account held with a building society within the meaning of the Building Societies Act 1986(a), and a deposit by way of subscription for shares in a credit union);
- (e) the account is denominated in sterling;
- (f) the account is covered by the Financial Services Compensation Scheme(b), or another deposit-guarantee scheme introduced and officially recognised in a Member State or EEA State, in accordance with Article 3(1) of Council Directive 94/19/EEC(c);
- (g) the account must be in the beneficial ownership of the account holder, and not be held on behalf of any other person; and
- (h) the account must at all times be managed in accordance with the Act and these Regulations by an approved account provider and under terms agreed and recorded in an agreement (the “agreed terms”) made between the account provider and the account holder.

(2) Apart from other requirements of the Act and these Regulations, the agreed terms shall include (or comply with, as the case may be) the conditions that—

- (a) if the account is held by the account holder until the end of the account’s maturity period, the account provider shall pay the account holder a maturity payment (see section 8 of the Act);

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(a) 1986 c. 33.

(b) Established by the Financial Services Authority pursuant to section 213 of the Financial Services and Markets Act 2000.

(c) O.J. 1994, L135/5.

- (b) if the account holder dies, while still holding the account, before the end of the account's maturity period, the account provider shall pay a death payment in accordance with regulation 7(3) and (4);
- (c) there is no restriction on the maximum or minimum amount or on timing (subject to the account provider's normal business hours) of withdrawals of the credit balance of the account;
- (d) there is no requirement that a minimum credit balance must be maintained in the account (with the result that an account with a nil balance is not automatically closed);
- (e) the account provider shall permit payment of sums into the account by cheque, direct debit, standing order, direct credit (other than standing order) or cash (unless, in the case of cash, the provider offers both internet and non-internet accounts, and the non-internet accounts accept cash);
- (f) no deductions or withdrawals from the account (by way of charges or otherwise) shall be made by the account provider;
- (g) the account provider shall have no right of charge, lien, set-off, mortgage or other security against the money in the account;
- (h) the account provider shall satisfy himself that any person to whom he delegates any of his functions or responsibilities under the agreed terms is competent to carry out those functions or responsibilities;
- (i) where there is a right to transfer the account under regulation 19(1), the whole of the account shall be transferred free of expense to the other approved account provider subject to and in accordance with regulation 19;
- (j) where the account is transferred to the account provider by a transfer under regulation 19, that no charges or expenses are due in respect of that transfer;
- (k) the account provider shall notify the account holder if by reason of any failure to satisfy the provisions of these Regulations an account is or will become no longer exempt from tax by virtue of regulation 3 of the Saving Gateway Accounts (No. 2) Regulations 2009(a).

(3) In applying paragraph (1)(c), any account opened and cancelled as mentioned in regulation 6(2) shall be ignored.

#### **Limit on sums paid into the account**

**11.—**(1) The total of the sums paid into an account in a month (excluding any interest or other sums paid by the approved account provider under the agreed terms) shall not exceed £25.

(2) In calculating the limit in paragraph (1) for the purpose of any payment into the account, previous withdrawals from the account shall be ignored.

#### **Statements for an account**

**12.—**(1) Except where a passbook is provided in accordance with paragraph (5), the account provider must issue a statement for the account—

- (a) at least six monthly, and
- (b) where an account is transferred to another account provider under regulation 19, as at the transfer date.

(2) The statement date in the case of a six monthly statement must be the end of the sixth, twelfth, eighteenth or twenty fourth month of the account's operation, as the case may be.

(3) The statement shall be sent to the account holder within 30 days of the statement date.

(4) Statements shall include the following information—

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(a) S.I. 2009/xxxx.

- (a) the full name of the account holder;
- (b) his or her address, including postcode;
- (c) the statement date;
- (d) the balance of the account at the previous statement date (if any), and otherwise at the opening of the account;
- (e) all payments into and withdrawals from the account during the statement period ending on the statement date;
- (f) a provisional calculation of the maturity payment (based on the qualifying balance achieved between the opening of the account and the statement date); and
- (g) the closing balance of the account at the statement date.

(5) An account provider may comply with its obligations under this regulation (other than under paragraph (4)(f), if paragraph (6) applies) by issuing the account holder with a passbook for the account which, on presentation at a branch of the account provider, is up-dated to include the same information as a statement, omitting references in paragraph (4) to a statement date or statement period.

(6) The information in paragraph (4)(f) may, at the option of the account provider, be provided in a notice to the account holder which is separate from the statement or passbook.

### **Conditions for application to open an account**

**13.—**(1) An application by a person who has received a notice of eligibility (“the applicant”) to open an account with an approved account provider must be made to the approved account provider, and satisfy the conditions in paragraphs (2) to (4).

(2) An application must incorporate a true declaration by the applicant that he or she—

- (a) has not previously opened a Saving Gateway account (excepting any account opened and closed as mentioned in regulation 6(2)); and
- (b) is ordinarily resident in the United Kingdom, or is so treated as ordinarily resident under regulation 4(2) to (5);

and where the application is not in writing, must authorise the approved account provider to record the terms of the declaration in a written declaration made on behalf of the applicant.

(3) An application must contain—

- (a) the applicant’s full name and date of birth,
- (b) his or her address, including postcode,
- (c) the reference number, as stated on his or her notice of eligibility; and
- (d) an authorisation to the approved account provider to make on the account holder’s behalf any claims to relief from tax in respect of the account.

(4) Where the application is not in writing, the approved account provider shall make the written declaration mentioned in paragraph (2), and notify the applicant of its contents, and such declaration shall take effect from the date on which the applicant agrees the contents (subject to any corrections), and if he or she neither agrees or disagrees with the contents within 14 days, he or she shall be treated as having agreed them.

(5) An account provider shall decline to accept an application if he has reason to believe that—

- (a) the notice of eligibility has expired, or is not or might not be genuine,
- (b) the applicant’s declaration (see Condition 1 in regulation 6(1) if applicable, and paragraph (2) of this regulation) or application is or might be untrue, or contains matters which are or might be untrue, or

- (c) opening an account would be a breach of, or failure to comply with, any requirement in or a direction made under the Money Laundering Regulations 2007(a).
- (6) An application made under this regulation shall be regarded as in writing if it is made—
- (a) by telephonic facsimile transmission containing the signature of the individual, or
  - (b) by electronic communication containing an electronic signature of the individual.
- (7) Declarations made by the account provider under paragraph (4) shall be regarded as made in writing if they are produced by electronic means, and the copy of the declaration to be sent to the applicant in accordance with paragraph (4) may be sent by telephonic facsimile transmission or by electronic communication.
- (8) Where a person is or may be entitled to a benefit or tax credit specified in section 3(2) of the Act but is unable for the time being to act, the following persons may act for that person—
- (a) a deputy or receiver appointed by the Court of Protection with power to make a claim for a benefit or tax credit on behalf of that person;
  - (b) in Scotland, a tutor, curator or guardian acting or appointed in terms of law who is administering the estate of that person;
  - (c) in Northern Ireland, a controller appointed by the High Court, with power to make a claim for a benefit or tax credit on behalf of that person;
  - (d) where there is no person mentioned in sub-paragraphs (a) to (c), a person appointed on behalf of the person under—
    - (i) regulation 33(1) of the Social Security (Claims and Payments) Regulations 1987(b),
    - (ii) regulation 33(1) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(c), or
    - (iii) regulation 18(3) of the Tax Credits (Claims and Notifications) Regulations 2002(d).

#### **Account provider – qualifications and Commissioners’ approval**

**14.—**(1) This regulation specifies the circumstances (“qualifying circumstances”) in which a person may be approved by the Commissioners as an account provider.

- (2) The qualifying circumstances are the following—
- (a) the person must make an application to the Commissioners for approval in a form specified by the Commissioners;
  - (b) the person must undertake with the Commissioners (subject to regulation 13(5))—
    - (i) to accept properly completed applications from any person who has received a notice of eligibility and, where there is a right to transfer the account under regulation 19(1)(a), to accept transfers of an account in accordance with that regulation; or
    - (ii) in the case of a credit union, to accept properly completed applications from any person who has received a notice of eligibility and, where there is a right to transfer the account under regulation 19(1)(a), to accept transfers of an account in accordance with that regulation, if the applicant or account holder is a member, or fulfils or is treated as fulfilling a qualification for admission to membership, of the credit union;
  - (c) the person must demonstrate to the satisfaction of the Commissioners that the person can correctly operate the procedures in regulation 22, and receive electronic communications for the purposes of these Regulations from H.M. Revenue and Customs;
  - (d) an approved account provider must be—
    - (i) a UK institution which has permission under Part 4 of FISMA 2000(a) to carry on the regulated activity of accepting deposits;

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(a) S.I. 2007/2157.  
 (b) S.I. 1987/1968; regulation 33(1) was amended by S.I. 1999/2572, 2005/337 and 2007/2470.  
 (c) S.R. 1987 465; regulation 33(1) was amended by S.I. 1999/2574.  
 (d) S.I. 2002/2014.

- (ii) an EEA firm mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 (credit institution) which has permission under paragraph 15 of that Schedule to carry on the activity of accepting deposits, as a result of qualifying for authorisation under paragraph 12(1) or (2) of that Schedule (exercise of passport rights by EEA firms); or
  - (iii) a credit institution (within the same meaning) incorporated outside the EEA which has permission under Part 4 of FISMA 2000 to carry on the regulated activity of accepting deposits through a branch in the United Kingdom;
  - (e) an approved account provider must not be prevented from acting as such by any limitation or requirement imposed under section 42 or 43 of FISMA 2000, or by any prohibition or prohibition order in or made under that Act;
  - (f) an account provider which is a credit institution within sub-paragraph (d)(ii) or (iii), and which does not intend to carry out all its functions as an account provider in the United Kingdom, must fulfil one of the requirements mentioned in regulation 15.
- (3) The terms of the Commissioners' approval may include conditions designed to ensure that the provisions of these Regulations are satisfied.

#### **Approved account provider – appointment of tax representative**

**15.**—(1) This regulation specifies the requirements mentioned in regulation 14(2)(f).

(2) The first requirement is that—

- (a) a person who falls within section 698(2) of ITTOIA 2005<sup>(b)</sup> is for the time being appointed by the account provider to be responsible for securing the discharge of the duties mentioned in paragraph (5) which fall to be discharged by the account provider, and
- (b) his or her identity and the fact of the appointment have been notified to the Commissioners by the account provider.

(3) The second requirement is that there are for the time being other arrangements with the Commissioners for a person other than the account provider to secure the discharge of such duties.

(4) The third requirement is that there are for the time being other arrangements with the Commissioners designed to secure the discharge of such duties.

(5) The duties mentioned in this paragraph are those that fall to be discharged by an account provider under the Act and these Regulations.

(6) The appointment of a person in pursuance of the first requirement shall be treated as terminated in circumstances where—

- (a) the Commissioners have reason to believe that the person concerned—
  - (i) has failed to secure the discharge of any of the duties mentioned in paragraph (5), or
  - (ii) does not have adequate resources to discharge those duties, and
- (b) the Commissioners have notified the account provider and that person that they propose to treat his or her appointment as having terminated from the date specified in the notice.

(7) Where, in accordance with the first requirement, a person is at any time responsible for securing the discharge of duties, the person concerned—

- (a) shall be entitled to act on the account provider's behalf for any of the purposes of the provisions relating to the duties;
- (b) shall secure (where appropriate by acting on the account provider's behalf) the account provider's compliance with and discharge of the duties; and
- (c) shall be personally liable in respect of any failure of the account provider to comply with or discharge any such duty as if the duties imposed on the account provider were imposed jointly and severally on the account provider and the person concerned.

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(a) 2000 c. 8.  
 (b) 2005 c. 5.

### **Account provider – withdrawal by Commissioners of approval**

**16.**—(1) This regulation specifies the circumstances (“the disqualifying circumstances”) in which the Commissioners may by notice withdraw their approval of a person as an account provider.

- (2) The disqualifying circumstances are that the Commissioners have reason to believe—
- (a) that any provision of the Act or these Regulations, or any term of an undertaking given in accordance with regulation 14(2)(b) or condition under regulation 14(3), is not or at any time has not been satisfied, either in respect of an account managed by the account provider or otherwise; or
  - (b) that a person to whom they have given approval to act as an account provider is not qualified so to act.
- (3) The notice to which paragraph (1) refers shall specify—
- (a) the date from which the Commissioners’ approval is withdrawn; and
  - (b) the disqualifying circumstances.

(4) On receiving the notice referred to in paragraph (1), subject to any appeal under section 23(1)(b) of the Act, the account provider shall notify the account holder of the right to transfer the account under regulation 19(1)(a), and the notice shall inform the account holder of the rights under regulation 18(3).

### **Approved account provider ceasing to act**

**17.**—(1) A person shall give notice to the Commissioners and to the account holder of an account which it manages of its intention to cease to act as the approved account provider not less than 30 days before it so ceases so that its obligations to the Commissioners under the account can be conveniently discharged at or about the time it ceases so to act.

(2) The notice to the account holder shall inform him or her of the right to transfer the account under regulation 19(1)(a), and of the rights under regulation 18(3).

### **Account provider ceasing to qualify**

**18.**—(1) A person shall cease to qualify as an approved account provider and shall notify the Commissioners within 30 days of the relevant event in sub-paragraphs (a) to (d), of that relevant event, where—

- (a) the person no longer fulfils the conditions of regulation 14;
- (b) there is an insolvency event in relation to the account provider;
- (c) an application has been made for a bank insolvency order or a bank administration order; or
- (d) in the case of a credit institution within regulation 14(2)(d)(ii) or (iii), action corresponding to that described in sub-paragraph (b) or (c) has been taken by or in relation to the institution under the law of an EEA State or other State.

(2) On giving the notice referred to in paragraph (1), the person shall also notify the account holder of the right to transfer the account under regulation 19(1)(a), and the notice shall inform the account holder of the rights under paragraph (3).

- (3) Where an account holder—
- (a) receives a notice under paragraph (2), or regulation 16(4) or 17, and
  - (b) gives instructions to the account provider in accordance with regulation 19(1)(a), with the consequence that the account is transferred pursuant to regulation 19 to another approved account provider (“the transferee”) within 30 days of the sending of the notice,

the period between the account provider ceasing to be approved, or act or qualify as an approved account provider, and the transfer to the transferee, shall be ignored in determining whether the account has at all times been managed by an approved account provider.

## **Transfer of accounts to other account providers**

### **19.—(1) Where—**

- (a) in a case falling within regulation 16, 17 or 18, the account holder, within 14 days of the sending to him or her of the notice under regulation 16(4), 17(2) or 18(2), instructs the account provider to transfer the account to another named approved account provider,
- (b) in a case where both account providers have agreed to the transfer of the account, the account holder instructs the account provider to transfer the account to another named approved account provider, or
- (c) arrangements are made by an account provider (subject to complying with regulation 16, 17 or 18, as the case may be) to transfer all its accounts to another approved account provider,

the transfer shall have effect and be treated as a transfer of the account.

(2) Any transfer relating to an account shall be made directly between one account provider (“the transferor”) and another approved account provider (“the transferee”), and the account shall not be affected for the purposes of these Regulations by reason of the transfer

(3) The account holder shall make a fresh application under regulation 13 (with any necessary modifications to reflect the fact that it is made on a transfer) to the transferee.

(4) The transferor shall on the date of the transfer give the transferee a notice containing the information mentioned in paragraph (5) and the declaration mentioned in paragraph (6).

### **(5) The information mentioned in this paragraph is—**

- (a) the date of the transfer,
- (b) the account holder’s full name and reference number,
- (c) the date of the opening of the account, and the expected end of the maturity period under regulation 7(1)(b),
- (d) the qualifying balance of the account achieved up to the date of the transfer, and
- (e) the total of the sums paid into the account (calculated in accordance with regulation 11(1) and (2)) in the month in which the transfer is made.

### **(6) The declaration mentioned in this paragraph is a declaration by the transferor that—**

- (a) it has fulfilled all its obligations to the account holder, the Commissioners or otherwise, which are imposed by these Regulations;
- (b) it has transferred to the transferee or its nominee all the funds in the account;
- (c) it will forward any further payment received in respect of the account to the transferee, on receipt of the payment; and
- (d) the information contained in the notice is correct.

## **Recoupment of maturity payments and death payments etc.**

### **20.—(1) Where—**

- (a) the account holder was not an eligible person at the relevant date;
- (b) there is a breach of section 6(2)(a) or (b) of the Act in relation to an account;
- (c) there is a breach of Condition 1 in regulation 6(1) in relation to an account; or
- (d) there is a breach of regulation 10(1)(c) or 13(2) in relation to an account;

the account is void and the persons mentioned in paragraph (3) shall account to the Commissioners for any maturity payment or death payment wrongly made in respect of the account.

### **(2) Where—**

- (a) a person was entitled to a benefit under the terms of section 3(1)(a) of the Act, or was an eligible person by reason of entitlement to working tax credit or child tax credit under the

terms of regulation 3, but such entitlement has been overturned, or it has subsequently been determined that payment of the relevant benefit or tax credit should not have been made, or should have been made at a different rate; or

- (b) an amount is paid by the Commissioners to an account provider in pursuance of the Act, due to a mis-statement in a monthly return or financial claim, or a mistake by an officer of Revenue and Customs;

the persons mentioned in paragraph (3) shall account to the Commissioners for any maturity payment, death payment or overpayment wrongly made in respect of the account.

(3) The persons mentioned in paragraphs (1) and (2) are—

- (a) the account provider (to the extent that it has assets relating to the account, or directly or indirectly representing any of the payments, in its possession or control);
- (b) the account holder, or former account holder (to the extent that the payments have been made or credited to the account holder);
- (c) any person in whom the maturity payments, death payments or overpayments, or any property directly or indirectly representing any of them, is vested (whether beneficially or otherwise);

and they shall be jointly and severally liable.

(4) Sections 49 (late notice of appeal) and 54 (settling of appeals by agreement) of the Management Act<sup>(a)</sup> apply in relation to appeals under section 23 of the Act, other than tax appeals.

(5) Where a person accountable under this regulation is notified by the Commissioners that an amount is due from him or her under it, that amount shall be treated for the purposes of Part 6 of the Management Act (collection and recovery) as if it were tax charged in an assessment and due and payable.

(6) The time limits in sections 34 to 36 of the Management Act shall apply to amounts payable under this regulation as they apply to assessments.

### **“Repair” of invalid accounts**

**21.**—(1) Except in the case of a breach of regulation 10(1)(b) or (c) or 13(2), or the case mentioned in regulation 20(2)(a), (where no repair of an account is possible), it is an overriding requirement to be satisfied in relation to an account that the account provider and account holder, as the case may be, take any steps necessary to remedy any breach of these Regulations.

(2) Where a breach is remedied as mentioned in paragraph (1), the account shall, to the extent of that breach, be treated as having been a valid account at all times, except for the purposes of sections 19 to 21 of the Act (penalties).

## **PART 3**

### **Requirements relating to administration of accounts**

#### **Monthly return and financial claim**

**22.**—(1) In this regulation—

“initial return period”, in relation to an account provider, means the period—

- (a) beginning on the date on which the approval of the provider takes effect, or the appointed day (whichever is the later), and
- (b) ending simultaneously with the end of the then current month.

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(a) 1970 c. 9; section 49 was substituted, and section 54 amended, by paragraphs 29 and 33 of Schedule 1 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56).

- (2) The following provisions of this regulation apply to an account provider in relation to—
- (a) that provider's initial return period, and
  - (b) each succeeding month,

during which, or any part of which, it acted as an account provider.

- (3) Within 14 days of the end of—
- (a) a provider's initial return period, and
  - (b) any succeeding period mentioned in paragraph (2),

the account provider shall deliver by means of electronic communications to the Commissioners, a return for that period, in a form specified by the Commissioners.

(4) The return shall include a declaration of the information in paragraph (5), and a claim as mentioned in paragraph (6).

(5) The information (to be given in relation to the return period) is—

- (a) for each account opened by the account provider in accordance with regulation 6, or transferred to the account provider in accordance with regulation 19—
  - (i) the account holder's full name and date of birth,
  - (ii) the account holder's reference number, and
  - (iii) the date of opening or transfer of the account;
- (b) for each account whose twelfth month of operation ends simultaneously with the end of the return period—
  - (i) the account holder's full name and date of birth,
  - (ii) the account holder's reference number,
  - (iii) a provisional calculation of the maturity payment, based on the qualifying balance achieved between the account's opening and the end of the return period, and
  - (iv) the balance of the account at the end of the return period (disregarding any interest or sums mentioned in section 8(3)(a) or (b) of the Act);
- (c) for each account closed before the end of the account's maturity period other than due to the death of the account holder, the account holder's full name, date of birth and reference number, and the date of closure of the account;
- (d) for each account so closed due to the death of the account holder—
  - (i) the account holder's full name and date of birth,
  - (ii) the account holder's reference number,
  - (iii) the date of death, and
  - (iv) the amount of the death payment made or due to be made;
- (e) for each account whose maturity period ended at the end of the return period—
  - (i) the account holder's full name and date of birth,
  - (ii) the account holder's reference number,
  - (iii) the amount of the maturity payment credited or due to be credited to the account, and
  - (iv) the balance of the account at the end of the maturity period (disregarding any interest or sums mentioned in section 8(3)(a) or (b) of the Act);

or a statement, in each relevant case, that there were no items falling within the relevant category.

(6) The claim (where there is an item falling with paragraph (5)(d) or (e)) is a claim for payment of an amount equal to the aggregate of those maturity payments and death payments, as the case may be.

(7) Paragraph (5)(a) shall apply notwithstanding any transfer of the account to another provider under regulation 19, before the end of the return period in question.

(8) The Commissioners (subject to checking and if necessary correcting the amount of the claim) shall pay the account provider—

- (a) where the return is made by the due date in paragraph (3), within 7 days of the due date, and
- (b) where the return is made later than the due date, within 7 days of receipt of the return.

(9) Where the Commissioners require further information to verify a claim, the 7 days shall be calculated from the date on which the information is received.

#### **Records to be kept by account provider**

**23.**—(1) An account provider shall during the period mentioned in paragraph (2) keep sufficient records to enable it to show that the requirements of the Act and of these Regulations have been satisfied.

(2) In particular, an account provider shall produce (when required to do so by an officer of Revenue and Customs)—

- (a) any application made under regulation 13 (where an account has been opened);
- (b) copies of account statements for an account, or notices given under regulation 12(6);
- (c) working papers supporting the calculation of each amount returned under regulation 22(5)(d)(iv) or (e)(iii); and
- (d) evidence of the date on which a maturity payment or death payment was made;

or electronic copies, within the period of 3 years from when the record was made, issued or given, or the account ceased to be a Saving Gateway account (whichever is later), notwithstanding any transfer of the account pursuant to regulation 19.

#### **Information to be provided to the Commissioners**

**24.** The Commissioners may by notice require any relevant person to furnish them, within such time (not being less than 14 days) as may be provided in the notice, such information about any account (including copies of or extracts from any books or other records) as they may reasonably require for the purposes of the Act or these Regulations.

#### **Inspection of records by officer of Revenue and Customs**

**25.** The Commissioners may by notice require any relevant person, within such time (not being less than 14 days) as may be provided in the notice, to make available for inspection at a place within the United Kingdom by an officer of Revenue and Customs authorised for that purpose all documents (including books and other records) in his possession or under his control relating to Saving Gateway accounts.

Date *Name*  
*Name*  
Two of the Lords Commissioners of Her Majesty's Treasury

## EXPLANATORY NOTE

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

These Regulations make detailed provision for Saving Gateway Accounts (“SG accounts”), under the Saving Gateway Accounts Act 2009 (c. 8: “the Act”).

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 sets out the conditions which a person has to satisfy (in addition to the residence requirement: see commentary on regulation 4) in order to be eligible for a SG account via Working Tax Credit or Child Tax Credit. The main conditions are that the person has a final Tax Credit award, for a year in which either (a) their “relevant income” for Tax Credit purposes did not exceed the Child Tax Credit threshold (currently £16,040) or (b) they were automatically passported into one of those Tax Credits under section 7(2) of the Tax Credits Act 2002.

Regulation 4 sets out the residence requirement for eligibility, which is that the person is (or in certain cases, is deemed to be) ordinarily resident in the United Kingdom.

Regulation 5 sets out the information to be included in notices of eligibility, and the way in which notices are to be issued.

Regulation 6 sets out the requirements for opening an SG account.

Regulation 7 specifies the maturity period for an SG account (usually the remainder of the calendar month in which it is opened plus 23 complete calendar months).

Regulation 8 specifies when an account ceases to be an SG account (although it may be rolled over into another financial product).

Regulation 9 specifies the rate of government contribution to an SG account, which is 50 pence for every whole pound in the highest balance of the account during the maturity period (excluding any amounts paid in excess of the monthly limit in regulation 11, and any interest or other sums paid by the account provider).

Regulation 10 states the most important legislative requirements (in addition to those in the Act) which an account has to satisfy in order to be an SG account.

Regulation 11 limits the total amount which may be paid into an SG account by the account holder in any month to £25.

Regulation 12 makes provision for statements (or passbooks) for an SG account.

Regulation 13 sets out the conditions for applications to open an SG account.

Regulation 14 specifies the conditions a financial institution has to satisfy to be an approved account provider.

Regulation 15 states additional requirements an account provider established abroad has to satisfy if it does not intend to carry out all its functions as an account provider in the U.K.

Regulation 16 states the circumstances in which HMRC can withdraw approval of an account provider.

Regulation 17 provides for an account provider who intends to cease to act as approved provider of an SG account, or accounts.

Regulation 18 makes provision for cases where an approved account provider has ceased to qualify as such.

Regulation 19 makes provision for transfers of SG accounts. These are allowed in cases (a) where regulation 16,17 or 18 applies (b) where both transferring and transferee account providers have agreed to the transfer, or (c) of agreed bulk transfers.

Regulation 20 makes provision for recoupment by HMRC of maturity payments, death payments or overpayments wrongly made.

Regulation 21 provides for less important breaches of statutory requirements for SG accounts to be rectified (“repaired”) by administrative action.

Regulation 22 provides for a monthly return and financial claim to be delivered by account providers to HMRC (which inter alia is the means by which providers will claim maturity payments and death payments from the government).

Regulations 23 to 25 deal with record keeping by providers, HMRC information notices and inspection of SG records.

A full Regulatory Impact Assessment for the Saving Gateway was published on 4 December 2008, the date of the introduction of the Saving Gateway Accounts Bill.

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*Corrected reprint*

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

*This draft replaces that laid on 7th July 2009 and is being issued free of charge to all known recipients of that draft Statutory Instrument.*

*Draft Regulations laid before Parliament under section 28(4) and (7) of the Saving Gateway Accounts Act 2009, for approval by resolution of each House of Parliament.*

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**2009 No.**

**SAVING GATEWAY ACCOUNTS**

**The Saving Gateway Accounts Regulations 2009**

£5.50