



Childcare Payments Act 2014

2014 CHAPTER 28

Other enforcement powers

49 Disqualification orders

- (1) HMRC may make a disqualification order in relation to a person if condition A, B or C is met.
- (2) Condition A is that, on more than one occasion in the period of 4 years ending with the day on which the disqualification order is made, the person—
 - (a) has become liable to a penalty under this Act, and
 - (b) has been notified of the penalty.
- (3) Condition B is that—
 - (a) the person (“P”) has done, or omitted to do, any act for the purpose of obtaining a relevant payment for P or another (see subsection (4)),
 - (b) P’s conduct involved dishonesty, and
 - (c) as a result P has been convicted of an offence or has been notified of a penalty under section 46.
- (4) The following payments are “relevant payments”—
 - (a) a top-up payment;
 - (b) a payment from a childcare account.
- (5) Condition C is that—
 - (a) the person (“P”) has done, or omitted to do, any act for the purpose of obtaining a relevant benefit for P or another (see subsection (6)),
 - (b) P’s conduct involved dishonesty, and
 - (c) as a result P has been convicted of an offence.
- (6) “Relevant benefit” means any benefit or other payment of a description specified in regulations.
- (7) Where a disqualification order has effect in relation to a person—
 - (a) the person may not open a childcare account,

Status: This is the original version (as it was originally enacted).

- (b) no qualifying payments may be made into any childcare account held by the person, and
 - (c) any declaration of eligibility made by the person for an entitlement period for which the order has effect is not valid.
- (8) A disqualification order has effect for the period specified in the order.
- (9) But a disqualification order may not have effect for a period longer than 3 years.
- (10) If HMRC make a disqualification order under this section, HMRC must give a copy of the order to—
- (a) the person in relation to whom the order is made, and
 - (b) any person or body which provides childcare accounts.
- (11) HMRC may revoke a disqualification order made under this section.

50 Power to exclude childcare from being qualifying childcare

- (1) This section applies if—
- (a) a person has done, or omitted to do, any act for the purpose of obtaining a payment from a childcare account,
 - (b) the person's conduct involved dishonesty, and
 - (c) as a result the person has been convicted of an offence or has been notified of a penalty under section 46.
- (2) HMRC may direct that any childcare provided by the person is not qualifying childcare for the purposes of this Act.
- (3) A direction under this section has effect for 12 months beginning with the day on which it is made.
- (4) Regulations may amend subsection (3) so as to substitute a different period for the period for the time being specified there.
- (5) Where a direction under this section is made in relation to a person, the direction also applies in relation to—
- (a) any body corporate of which the person is a director or other officer,
 - (b) any body corporate of which the person is a member, if the affairs of the body corporate are managed by its members, and
 - (c) any Scottish firm of which the person is a partner.
- (6) HMRC must—
- (a) give a copy of a direction under this section to—
 - (i) the person or persons in relation to whom it applies, and
 - (ii) any person or body which provides childcare accounts, and
 - (b) publish the direction in the way appearing to HMRC to be best calculated to bring it to the attention of those who may be affected by it.
- (7) HMRC may revoke a direction made under this section.

51 Power to charge interest

- (1) Where—

- (a) an amount has been assessed under section 41 or 47 as payable to HMRC by a person under this Act, and
- (b) some or all of the amount has not been paid to HMRC by the time specified in section 41(5) or 47(4) (as the case may be),

HMRC may give the person a notice in writing requiring the person to pay interest on the amount that has not been paid (“the relevant debt”).

- (2) If a notice is given to a person under this section, the relevant debt carries interest for a period which—
 - (a) begins with the late payment interest start date (which may be earlier than the day on which the notice is given), and
 - (b) ends with the specified day or, if earlier, the day on which the relevant debt is paid.
- (3) “The late payment interest start date” means—
 - (a) in the case of an amount assessed under section 41, the day on which the person became liable to pay it;
 - (b) in the case of a penalty, the day after the last day of the period within which the penalty is required to be paid in accordance with section 47(4).
- (4) “The specified day”, in relation to a notice given to a person under this section, means—
 - (a) the day specified in the notice, or
 - (b) where on that day the relevant debt has not been paid, the day specified in a further notice given to the person by HMRC.
- (5) The specified day must fall within the period of 6 months beginning with the day on which the notice is given.
- (6) Interest under this section is payable at the late payment interest rate.
- (7) The “late payment interest rate” is—
 - (a) the rate provided for in regulations made by the Treasury under section 103(1) of the Finance Act 2009, or
 - (b) if there is more than one such rate, the lowest such rate.
- (8) Where two or more persons—
 - (a) have been notified of an assessment under section 41 in respect of the same amount, and
 - (b) have been given a notice under this section,each of those persons is jointly and severally liable to pay interest on the relevant debt.

52 Deduction of recoverable amounts from tax credit awards

- (1) This section applies where, as a result of a review of, or an appeal against, a tax credits decision—
 - (a) a person is required to pay an amount (“the relevant debt”) to HMRC under section 35 or 36, and
 - (b) an amount of tax credit (“the award”) is payable to the person or to the person and the person’s partner jointly.
- (2) The relevant debt may be deducted from the award before it is paid.

- (3) The requirement to pay the relevant debt is discharged to the extent that it is deducted from the award under this section.
- (4) In this section “tax credits decision” means a decision not to make an award of a tax credit or to terminate such an award.
- (5) This section ceases to have effect when the repeal of Part 1 of the Tax Credits Act 2002 made by Schedule 14 to the Welfare Reform Act 2012 has fully come into force.

53 Recovery of debts from childcare accounts

- (1) This section applies where—
 - (a) an amount has been assessed under section 41 or 47 as payable to HMRC under this Act by a person who holds a childcare account in respect of a child,
 - (b) the assessment was made as a result of something done, or omitted to be done, in connection with that account or any other childcare account which the person has held in respect of the child, and
 - (c) some or all of the amount assessed (“the relevant debt”) has not been paid to HMRC by the time specified in section 41(5) or 47(4) (as the case may be).
- (2) HMRC may direct the account provider to pay a specified amount from the account to HMRC in order to discharge the whole or part of the relevant debt.

“Specified” means specified in the direction.

- (3) The account provider must comply with a direction given under this section.
- (4) Subsections (5) to (8) apply in a case where the relevant debt consists of an amount of recoverable top-up payments.

In this section an “amount of recoverable top-up payments” means an amount which a person is liable to pay HMRC under any of sections 35 to 39 or section 40(1) (recovery of top-up payments).

- (5) HMRC may make a direction under this section only if the childcare account is not active at the time of the direction (see section 17(3)).
- (6) Where the account provider makes a payment to HMRC in accordance with the direction, the account provider must make a payment from the childcare account to the account-holder of the appropriate qualifying amount.
- (7) “The appropriate qualifying amount”, in relation to a direction under this section, is the amount which, if paid into a childcare account, would entitle the account-holder to a top-up payment equal to—
 - (a) the amount specified in the direction, or
 - (b) if that amount is greater than the top-up element of the funds held in the account, the top-up element of those funds.

(For provision about calculating the top-up element of funds held in an account, see section 21.)

- (8) If the amount specified in the direction is greater than the top-up element of the funds, the difference is to be deducted from the appropriate qualifying amount by the account provider and paid to HMRC in accordance with the direction.

- (9) Subsections (10) to (13) apply in a case where the relevant debt consists of any amount other than an amount of recoverable top-up payments.
- (10) HMRC may not specify in the direction an amount which is greater than the relevant percentage of the funds held in the account.
- (11) The “relevant percentage” is the percentage given by—
- $$\frac{100}{100 + R} \times 100$$
- where R is the percentage for the time being specified in section 1(4).
- (12) Where the account provider makes a payment to HMRC in accordance with the direction, the account provider must make a payment from the childcare account to HMRC of the corresponding top-up amount.
- (13) “The corresponding top-up amount”, in relation to a payment made in accordance with a direction under this section, is R% of the amount of the payment, where R is the percentage for the time being specified in section 1(4).
- (14) If a direction is made under this section both in respect of an amount of recoverable top-up payments and in respect of any other amount—
- any amount payable to HMRC in accordance with the direction made in respect of that other amount is to be set off against the amount payable to the account-holder by virtue of subsection (6), and
 - any amount payable to HMRC by virtue of subsection (12) is to be set off against the amount payable to HMRC in accordance with the direction made in respect of the amount of recoverable top-up payments.
- (15) If the Commissioners provide childcare accounts, a direction under this section may not be made in respect of any fees charged in connection with a childcare account in accordance with section 15(8).
- (16) This section does not affect any other power of HMRC to recover amounts that are due and payable to HMRC.

54 Set-off

- (1) This section applies where—
- an amount (“the relevant debt”) is due and payable to HMRC under this Act by a person who holds a childcare account in respect of a child,
 - the childcare account is not active (see section 17(3)), and
 - the relevant debt consists of an amount which the person is liable to pay HMRC under any of sections 35 to 39 or section 40(1) (recovery of top-up payments) as a result of something done, or omitted to be done, in connection with that account or any other childcare account which the person has held in respect of the child.
- (2) If the account-holder makes a withdrawal from the childcare account, the amount payable to HMRC under section 22 (the “corresponding top-up amount” of the withdrawal) is to be set off against the relevant debt.

- (3) In a case where the whole or part of the corresponding top-up amount of a withdrawal (“the set-off amount”) is set off against the relevant debt, so much of the withdrawal as generated the set-off amount is to be ignored for the purposes of section 19(8).

55 Order in which payments are taken to discharge debts

- (1) This section applies where an amount (a “relevant debt”) is due and payable to HMRC under this Act by a person.
- (2) For the purposes of this section—
- (a) a relevant debt is within this paragraph if it consists of a penalty or other amount not falling within paragraph (b) or (c),
 - (b) a relevant debt is within this paragraph if it consists of an amount of recoverable top-up payments, and
 - (c) a relevant debt is within this paragraph if it consists of an amount of interest payable under section 51.
- (3) In determining whether a relevant debt is an amount of recoverable top-up payments for the purposes of section 53 or 54, any amount paid to HMRC by the person in the discharge of a relevant debt is to be taken to have discharged a relevant debt within paragraph (b) of subsection (2) only if any relevant debt within paragraph (a) of that subsection has been discharged.
- (4) Any amount paid to HMRC by the person in the discharge of a relevant debt is to be taken to have discharged any relevant debt within paragraph (c) of subsection (2) only if any relevant debt within paragraph (a) or (b) of that subsection has been discharged.
- (5) Any amount paid to HMRC in accordance with a direction under section 53 made in respect of a relevant debt within paragraph (b) or (c) of subsection (2) is to be taken to have discharged any relevant debt within paragraph (c) only if any relevant debt within paragraph (b) has been discharged.
- (6) In this section an “amount of recoverable top-up payments” means an amount which a person is liable to pay HMRC under any of sections 35 to 39 or section 40(1) (recovery of top-up payments).