

CHILDCARE PAYMENTS ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Eligibility

Section 3: Eligible persons

35. [Section 3](#) defines the term ‘eligible person for an entitlement period’ for the purposes of the scheme.
36. Subsection (1) provides that, in order to be an eligible person, a person has to meet all of the conditions set out in sections 6 to 13. A person who has a partner will not be an eligible person unless, in addition, their partner meets the conditions in sections 9 to 13. These conditions must be met on the day on which the person makes a declaration of eligibility to HMRC: this is referred to in these sections as the date of the declaration.
37. Regulations can provide further details about the eligibility conditions, and subsection (4) allows them to set out circumstances in which the conditions do not need to be met.
38. Subsection (5) provides that regulations can specify when a person will be treated, or not treated, as another person’s partner for the purposes of the scheme.

Section 4: Declarations of eligibility

39. [Section 4](#) defines the term ‘declaration of eligibility’ for the purposes of the Act as a statement made by a person that they are an eligible person for an entitlement period.
40. Subsection (2) describes the three conditions which need to be met for a declaration of eligibility to be valid. These are that:
- HMRC are satisfied that the person making the declaration meets all of the eligibility conditions (the scheme will operate on a ‘check now, process later’ basis, whereby HMRC will check a person’s eligibility before accepting their declaration and giving them access to top-up payments);
 - on the day that the declaration is made, no other person holds or is in the process of seeking to hold an active childcare account (by having made an application that has not yet been granted or a declaration of eligibility that has not yet been determined as valid, or in respect of which the entitlement period has not yet begun) for the same child. This will ensure that only one childcare account can receive top-up payments in respect of a particular child at any one time; and
 - the declaration is made in accordance with regulations made under this section.
41. Where a person makes a declaration of eligibility which meets these three conditions, that declaration will be treated as valid and the person will be entitled to top-up payments for the full entitlement period, even if they cease to meet one or more of the eligibility conditions before the end of that entitlement period.

42. Subsection (3) provides for a different rule in cases where a person is seeking to open a childcare account. In this situation the rule in subsection (2)(b) is disapplied and the person is allowed to apply to open a childcare account. However the person will be unable to open an account while another person has an active account for the same child. If there is an existing active account and the account-holder declines to give way for the new applicant, HMRC will decide which person has the better case for having the account.
43. Subsection (6) allows regulations to set out more detailed rules about declarations of eligibility including:
- rules requiring a person to provide information to HMRC;
 - rules which specify how declarations of eligibility should be made;
 - rules determining when declarations of eligibility should be made;
 - the treatment of cases where a declaration of eligibility is made late;
 - situations where someone can make a declaration of eligibility on someone else's behalf and how that declaration will be treated; and
 - rules determining who is considered to have made the declaration when the task is undertaken by someone else.
44. Regulations made under subsection (6) will include, for example, a requirement for declarations of eligibility to be made electronically wherever possible and a requirement that, once a childcare account is open, subsequent declarations of eligibility must be made at least 7 days before the start of the next entitlement period.

Section 5: Entitlement periods

45. [Section 5](#) provides for the length of an entitlement period to be 3 months, and enables that to be amended or varied in certain circumstances.
46. Subsections (2) and (3) enable regulations to make a general amendment of the length of an entitlement period or to enable HMRC to vary it in particular cases. Regulations may also make provision about when an entitlement period begins or ends.
47. Regulations will, for example, allow HMRC to determine that a person's entitlement periods will end around the middle of the month, to avoid the beginnings and ends of months when payments into and out of childcare accounts are most likely. They will also allow HMRC to set a person's entitlement periods for a child so that they coincide with the entitlement periods of a childcare account for a child's sibling.