

EXPLANATORY MEMORANDUM TO

THE CHILDCARE PAYMENTS (APPEALS) REGULATIONS 2016

2016 No. 1078

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The instrument makes provision in relation to childcare payments appeals.

3. Matters of special interest to Parliament

Matters of special Interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of Interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The Childcare Payments Act 2014 ('the Act') enacted a new scheme designed to provide financial support to help working families with the costs of childcare.
- 4.2 The Act provides for the overall structure of the scheme and the way in which it will operate. The detailed rules relating to the scheme are set out in secondary legislation, the Childcare Payments (Eligibility) Regulations 2015 (as amended by S.I. 2016/793 and S.I. 2016/1021) and the Childcare Payments Regulations 2015 (as amended by S.I. 2016/796 and S.I. 2016/1017).
- 4.3 This instrument covers rules on appeals for Great Britain and Northern Ireland. Section 56 of the Act provides a right of appeal against the decisions specified in that section and section 59 provides that regulations may make provision for existing appeals legislation to apply to such appeals with such modifications as may be specified in regulations. This instrument makes provision in relation to childcare payments appeals by making appropriate modifications to the relevant legislation applying in Great Britain and Northern Ireland.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 At Budget 2013, the Government announced the introduction of a new scheme, Tax-Free Childcare, designed to provide financial support to help working families with the costs of childcare. In particular the new scheme aims to support parents to take up paid work, or increase their existing working hours, should they wish to do so.
- 7.2 The scheme will be based on a system of childcare accounts. Eligible parents will open an online account into which they will pay money and the Government will automatically top up amounts in the account at a rate of 20p for every 80p paid in by the parent. The amounts held in the childcare accounts will have to be used to pay for qualifying childcare.
- 7.3 Government support will be up to £2000 per child per year. Parents will be able to have one account per qualifying child. A child will qualify for the scheme until the first week in September following their eleventh birthday or, for disabled children, until the first week in September following their sixteenth birthday.
- 7.4 A person will be eligible to receive top-up payments under the scheme if they have a qualifying child, meet the eligibility conditions, provide information to demonstrate that they are eligible, open a childcare account and pay money into that account.
- 7.5 The Act sets out what appealable decisions are and provides that a person may only appeal against a decision if they have first applied for a mandatory review. They can also apply to HMRC for a review of that decision.
- 7.6 This instrument sets out further detail about how appeals should operate in Great Britain and Northern Ireland. These rules supplement the tribunal rules that already exist in Great Britain and Northern Ireland to enable the tribunals to hear cases in relation to Tax-Free Childcare as intended.

Consolidation

- 7.7 This instrument constitutes the first regulations made under the Act relating to childcare payments appeals. There are no plans for consolidation.

8. Consultation outcome

- 8.1 The Government published a formal consultation on 5th August 2013. The response to this was published on 18th March 2014. A further consultation ran on how childcare accounts will be provided under the new scheme and the response to this was published on 29th July 2014.
- 8.2 Formal consultation on the draft versions of the Childcare Payments Regulations 2015 and the Childcare (Eligibility) Regulations 2015 took place between 4th July and 3rd October 2014 in line with Government guidance on public consultation. That consultation related to the main childcare payments scheme and not the appeals provisions in these regulations as they are technical modifications to existing appeals legislation and regulations to ensure they apply to childcare payments appeals.

9. Guidance

- 9.1 HM Revenue and Customs will be publishing further guidance in due course on the operation of the scheme. Draft guidance was published on 16th October 2014.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 A full Impact Assessment of the effect that the childcare payments scheme will have on the costs of business and the voluntary sector was published on 20th November 2014 alongside The Childcare Payments Act 2014 and is available from the gov.uk website at <https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment>. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The policy will be reviewed two years after full implementation of the scheme to assess whether Tax-Free Childcare is delivered effectively and supports working families as intended.

13. Contact

- 13.1 Phil Mattacks at HM Revenue and Customs. Telephone: 03000 585 501 or email: phil.mattacks@hmrc.gsi.gov.uk can answer any queries regarding the instrument.