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STATUTORY INSTRUMENTS

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**2016 No. 1078**

**CHILDCARE**

**PAYMENT SCHEME**

The Childcare Payments (Appeals) Regulations 2016

*Made* - - - - *8th November 2016*

*Laid before Parliament* *9th November 2016*

*Coming into force* - - *30th November 2016*

The Commissioners for Her Majesty’s Revenue and Customs, in exercise of the powers conferred on them by section 59(4)(a), (b) and (c) of the Childcare Payments Act 2014<sup>(1)</sup>, make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Childcare Payments (Appeals) Regulations 2016 and come into force on 30th November 2016.

**Interpretation**

2. In these Regulations “childcare payments appeal” means an appeal under section 56 of the Childcare Payments Act 2014.

**Application of Chapter 2 of Part 1 of the Social Security Act 1998**

3.—(1) Section 17 of the Social Security Act 1998<sup>(2)</sup> (finality of decisions) shall apply to a decision of an appropriate tribunal<sup>(3)</sup> on a childcare payments appeal with the modifications specified in paragraphs (2) and (3).

(2) For paragraph (1) of that section substitute the following paragraph—

“(1) Subject to the provisions of the Childcare Payments Act 2014 any decision made in accordance with those provisions in respect of an appeal which, by virtue of section 59 of

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(1) 2014 c. 28.

(2) 1998 c. 14. Section 17 was amended by the Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833).

(3) Section 59(2) of the Childcare Payments Act 2014 defines the appropriate tribunal as meaning the First-tier Tribunal or, in Northern Ireland, the appeal tribunal. Section 59(3) defines the appeal tribunal as meaning 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)).

the Childcare Payments Act 2014 (or of provisions of this Act applied by regulations made under that section), is to the First-tier Tribunal, shall be final.”.

- (3) Omit paragraphs (2)(b) and (c).

#### **Application of Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998**

4.—(1) Article 13 of the Social Security (Northern Ireland) Order 1998(4) (“the 1998 Order”) (appeal to appeal tribunal) shall apply to a childcare payments appeal with the modifications specified in paragraphs (2) to (4).

- (2) Omit paragraphs (1) to (6).  
 (3) In paragraph (8) for “an appeal under this article” substitute “a childcare payments appeal”.  
 (4) Omit paragraphs (8)(a) and (9).

5.—(1) Article 17 of the 1998 Order (finality of decisions) shall apply to a decision of an appeal tribunal on a childcare payments appeal with the modifications specified in paragraphs (2) and (3).

- (2) For paragraph 1 of that Article substitute the following paragraph—

“(1) Subject to the provisions of—

- (a) Article 13 of this Order, and  
 (b) the Childcare Payments Act 2014,

any decision made in accordance with those provisions in respect of an appeal which, by virtue of section 59 of the Childcare Payments Act 2014 (or of provisions of this Order applied by regulations made under that section), is to an appeal tribunal, shall be final.”.

- (3) Omit paragraphs (2)(b) and (c).

6.—(1) Article 28 of the 1998 Order (correction of errors and setting aside of decisions) shall apply to a childcare payments appeal with the modifications specified in paragraphs (2) and (3).

- (2) Omit paragraph (1A).  
 (3) After paragraph (3)(j) insert—  
 “(k) the Childcare Payments Act 2014.”.

#### **Application of section 54 of the Taxes Management Act 1970**

7.—(1) Section 54 of the Taxes Management Act 1970(5) (settling of appeals by agreement) shall apply to a childcare payments appeal to an appropriate tribunal with the modifications specified by paragraphs (2) to (6).

(2) In subsection (1) insert “appropriate” immediately before “tribunal” in both places where it occurs.

(3) In subsections (1), (2) and (4)(a) for “inspector or other proper officer of the Crown” substitute “HMRC”.

- (4) For subsection (3) substitute—

“(3) Where an agreement is not in writing—

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(4) *S.I. 1998/1506 (N.I. 10)*; relevant amending instrument is *S.I. 2015/2006 (N.I.)*. Article 28(3)(j) was amended by the Pensions Act (Northern Ireland) 2015 (c.5) Schedule 9, paragraph 32 and Schedule 16 paragraph 40.  
 (5) *1970 c. 9*. Section 54 was amended by the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (*S.I. 2009/56*), Schedule 1, paragraph 33.

- (a) the preceding provisions of this section shall not apply unless HMRC give notice, in such form and manner as they consider appropriate, to the appellant of the terms agreed between HMRC and the appellant; and
- (b) the references in those preceding provisions to the time when the agreement was come to shall be construed as references to the date of that notice.”.

(5) In subsection (4)(b) and the fall out words after subsection (4)(b) for “inspector or other proper officer” substitute “HMRC”.

8th November 2016

*Jim Harra*  
*Edward Troup*  
Two of the Commissioners for Her Majesty’s  
Revenue and Customs

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations provide for certain provisions contained in Chapter 2 of Part 1 of the Social Security Act 1998, Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (“the 1998 Order”) and section 54 of the Taxes Management Act 1970 to apply in relation to childcare payments appeals, with some modifications.

Regulation 3 applies section 17 of the Social Security Act 1998 to childcare payments appeals in Great Britain. This provides for finality of a decision.

Regulation 4 applies article 13 of the 1998 Order to childcare payment appeals in Northern Ireland. This provides that an appeal tribunal shall not take any matters into account that were not before the tribunal at the time when the decision appealed against was made.

Regulation 5 applies article 17 of the 1998 Order to childcare payment appeals in Northern Ireland. This provides for finality of decisions made by an appeal tribunal.

Regulation 6 applies article 28 of the 1998 Order to childcare payment appeals in Northern Ireland. This provides for the correction of errors and the setting aside of decisions.

Regulation 7 applies section 54 of the Taxes Management Act 1970 to childcare payment appeals in Great Britain and Northern Ireland. This provides for the settling of appeals by agreement.

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 10th June 2014 alongside the draft Childcare Payments Bill and was updated on 20th November 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.