

CHILDCARE PAYMENTS ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Penalties

Section 46: Penalties for dishonestly obtaining top-up payments, etc

200. *Section 46* sets out the penalties HMRC can impose on people whose conduct involves dishonesty. It allows HMRC to impose a civil penalty in cases where a criminal prosecution is not pursued.
201. A person is liable to a penalty if, in order to obtain a top-up payment or a payment from a childcare account for themselves or another person, they act or fail to act, and their conduct involves dishonesty.
202. Subsection (3) provides that the maximum penalty is £3,000, or the sum of the ‘relevant amounts’ that have been obtained, whichever is greater. A ‘relevant amount’ is defined in subsection (4) as either the amount of the top-up payments, or an amount equal to the top-up element (as calculated under section 21) of any payments that are dishonestly made from a childcare account.
203. If a company is liable to a penalty under this section as a result of the dishonesty of one of its directors or officers, subsection (6) provides that a penalty can also be issued to that person. Similar provisions are made in subsections (8) and (9) in relation to the partners in a Scottish firm and the managing members of a corporate body.
204. Regulations under subsection (5) may amend the amount of the £3,000 penalty to a different amount.