



Childcare Payments Act 2014

2014 CHAPTER 28

Recovery of top-up payments

40 Recovery of top-up payments in other cases

- (1) If—
 - (a) a top-up payment is made into a childcare account, and
 - (b) the account-holder is not entitled to the top-up payment,the account-holder is liable to pay HMRC an amount equal to the amount of the top-up payment.
- (2) If—
 - (a) a person who holds a childcare account causes or permits a prohibited payment to be made from the account, and
 - (b) at the time of the payment the person knew, or ought to have known, that the payment was a prohibited payment,the person is liable to pay HMRC an amount not exceeding the top-up element of the prohibited payment.
- (3) If a person fails to make a payment in accordance with a requirement imposed by subsections (1) to (3) of section 23 (refunds of payments made from childcare accounts), the person is liable to pay HMRC the top-up element of the payment.
- (4) If a prohibited payment is made to a person from a childcare account as a result of the dishonesty of that or some other person, each of those persons is liable to pay HMRC the top-up element of the prohibited payment.
- (5) Where—
 - (a) a body corporate is liable under subsection (3) or (4) to pay an amount to HMRC, and
 - (b) the liability is attributable (wholly or partly) to the dishonesty of a person falling within subsection (6),that person (as well as the body corporate) is liable to pay that amount to HMRC.

Changes to legislation: There are currently no known outstanding effects for the Childcare Payments Act 2014, Section 40. (See end of Document for details)

- (6) The persons are—
- (a) a director, manager, secretary or similar officer of the body corporate;
 - (b) any person who was purporting to act in such a capacity.
- (7) Where the affairs of a body corporate are managed by its members, subsection (5) applies in relation to the acts and defaults of a member, in connection with that management, as if the member were a director of the body corporate.
- (8) Where—
- (a) a Scottish firm is liable under subsection (3) or (4) to pay an amount to HMRC, and
 - (b) the liability is attributable (wholly or partly) to the dishonesty of a partner of the firm or a person purporting to act as such a partner,
- that person (as well as the firm) is liable to pay that amount to HMRC.
- (9) For provision about calculating the top-up element of a payment, see section 21.

Commencement Information

- I1** S. 40 in force at 14.11.2016 for the purposes of the trial by S.I. 2016/1083, reg. 2(f)
- I2** S. 40 in force at 21.4.2017 in so far as not already in force by S.I. 2017/578, reg. 3(d)

Changes to legislation:

There are currently no known outstanding effects for the Childcare Payments Act 2014, Section 40.