

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB A1/2009

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information
SUBJECT	The Housing Benefit and Council Tax Benefit (Amendment)(No.2) Regulations 2008 SI 2824/2008 – Gypsies and Travellers

Guidance Manual

The information in this circular does affect the content of the HB/CTB Guidance Manual. Please annotate this circular number against A3.663.

Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at www.dwp.gov.uk/housingbenefit/user-communications/circulars
- have any queries about the
 - **technical content of this circular**, contact Lynne Isaacson
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Regulations 2008 SI 2824/2008 – Gypsies and Travellers**

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The Housing Benefit and Council Tax Benefit (Amendment)(No.2) Regulations 2008 SI 2824/2008 - Gypsies and Travellers

- 1 Statutory Instrument 2008 No. 2824 was laid in Parliament on 6 November 2008 and comes into force from 6 April 2009. It introduces a number of amendments including changes in the treatment of those who live in caravans, mobile homes and houseboats which
- provide more consistency in treatment for Gypsy and Traveller site rents and mooring fees on district, unitary and county council sites and moorings when deciding the eligible rent
 - treat a district or unitary authority site rent or mooring fee as a rent allowance when the caravan, mobile home or houseboat is rented privately

Local authority and county council site rents

- 2 At the moment the eligible rent for Gypsy and Traveller sites is subject to different rules depending on the type of organisation that owns the site
- county council and private Gypsy and Traveller site rents attract rent allowances; their licenses are referred to the rent officer (RO) and their eligible rents decided by the maximum rent
 - district and unitary council site rents attract rent rebates and are not referred to the RO and their rents are therefore usually met in full
- 3 Changes to *paragraph 3 of schedule 2 of the Housing Benefit Regulations* mean that the license for a pitch on a county council Gypsy and Traveller site will now be excluded from automatic referral to the RO.
- 4 In the same way as registered housing association tenancies the license will be referred to the RO only when the rent is considered to be unreasonably high or the pitch too large.
- 5 District and unitary owned sites will continue to be dealt with as they are now and will not be referred to the RO, but see below. Private sites will continue to be referred to the rent officer as they are now and have their rents decided by the maximum rent.

Renting a caravan on a local authority site

- 6 At the moment Housing Benefit (HB) is paid in the form of either a rent rebate or a rent allowance but not both. Although it has never been a deliberate policy this has resulted in certain individuals being excluded from benefit for part of their total rent liability.

- 7 This particularly catches out those who rent their pitch or mooring from a district or unitary council and rent their caravan, mobile home or houseboat from a private landlord and find that HB will only be awarded for the rental of one or the other rather than both.
- 8 If the site or mooring is owned privately or by a county council there is not an issue as both liabilities are rent allowance and therefore HB can be awarded on both. This is a peculiar situation which in practice only affects those on district or unitary council sites and potentially a very small number of houseboats (although councils do not tend to own moorings).
- 9 The introduction of HB Regulation 91A(3) means that where a person is liable for rent on a caravan, mobile home or houseboat, HB for which would be rent allowance, and is also liable for the rent on their pitch to a district or unitary council, HB for which would take the form of a rent rebate, then HB for the site rent on that pitch should be treated as a rent allowance.
- 10 The changes to paragraph 3 of schedule 2 of the Housing Benefit Regulations mean that the license for a pitch on a district or unitary council site that is being treated as a rent allowance under regulation 91A(3) will be excluded from automatic referral to the RO.
- 11 In the same way as registered housing association tenancies, including site rents and mooring fees, and now county council Gypsy and Traveller site licenses, those licenses for district or unitary council sites and moorings will be referred to the RO only where the rent is considered to be unreasonably high or the pitch too large.
- 12 The site rents on district or unitary council sites or moorings, where the person does not rent a caravan or mobile home privately, will continue to have HB paid as a rent rebate and not be subject to RO referral.
- 13 The liability on a caravan, mobile home or houseboat on any type of site or mooring that would be rent allowance is normally referred to the RO as now.

Determining the eligible rent in such cases

- 14 This potential for different treatment of two liabilities that a person may have when they live in a caravan, mobile home or houseboat means that their eligible rent could be determined through both
- HB regulation 12B, for county council Gypsy and Traveller site rents and district and unitary site rents and mooring fees, and
 - HB regulation 12C (maximum rent) which would apply to the rent on the caravan, mobile home or houseboat
- 15 We are content that in these circumstances, where an eligible rent is determined through both HB regulation 12B and 12C, that the two elements can be brought together through HB regulation 11 where the 'or' at the end of paragraph (1)(c) can be read as 'and/or' where the context requires.

- 16 The SI makes identical changes to Housing Benefit (State Pension Credit) regulations.
- 17 If your software does not allow for the HB award to be paid to two landlords then you should set these cases up as two overlapping claims allowing you to establish a single case with two claims, one for the pitch rental and one for the caravan rental. The two claims will then be assessed together for combined liabilities and the benefit will be split (according to the rent liability) and paid to each landlord.
- 18 Finally, it should be borne in mind that while the above changes to the Housing Benefit regulations require that a rent rebate is treated as a rent allowance it does not alter the nature of it being a rent rebate case. Therefore, when it comes to paying the HB it can revert to being a rent rebate.

When does the change take effect in a benefit award?

- 19 As there is no provision in the legislation governing the effective date of change for these amendments in individual awards, the new provisions take effect from the next time that you are required to consider a further referral to the rent officer after 6 April 2009.

Queries

- 20 If you have any queries about this subject, contact Lynne Isaacson by email at Lynne.Isaacson@dwp.gsi.gov.uk