

# Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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## HB/CTB A9/2009

### ADJUDICATION AND OPERATIONS CIRCULAR

<b>WHO SHOULD READ</b>	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
<b>ACTION</b>	For information
<b>SUBJECT</b>	Further amendments to HB/CTB to take account of the introduction of Employment and Support Allowance – SI 2009/583

### Guidance Manual

The information in this circular does affect the content of the HB/CTB Guidance Manual. Please annotate this circular number against paragraph *A5.700, A5.730 – 732 inc, AW5.750, BP2.150, BW3.33, BW3.41, BW3.75, BW3 Annex A.*

### 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](http://www.dwp.gov.uk/housingbenefit/user-communications/circulars)
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## Further amendments to HB/CTB to take account of the introduction of Employment and Support Allowance

### Introduction

- 1 This circular provides guidance on three further changes made to the Housing Benefit (HB) and Council Tax Benefit (CTB) regulations to take account of the introduction of Employment and Support Allowance (ESA). The changes do not introduce any policy changes. They either secure the original policy intention or provide consistency of treatment between ESA customers and other customers.
- 2 The changes will
  - secure the policy intention regarding when a customer, aged less than 25 who is entitled to ESA credits only can get the over 25 rate of the HB/CTB basic rate  
**Note:** Customers getting ESA credits only are those not entitled to contributory ESA because they do not satisfy the National Insurance contribution conditions nor to income-related ESA (ESA(IR)) because they have other income/capital.
  - correct an omission so that a HB/CTB customer aged 60 or over who is an ESA credits only customer is entitled to the HB/CTB £20 weekly earnings disregard, as is the case for a counterpart actually receiving contribution based ESA; and
  - correct an omission so that the provisions for the award of the Lone Parent Family Premium in HB/CTB apply to a lone parent who is an ESA customer in the same way they apply to other customers

### Coming into force

- 3 The changes are in SI 2009/583 and will come into force as follows
  - when rent is payable at intervals of a week or multiples of a week, on 6 April 2009
  - when rent is payable at any other interval and for CTB on 1 April 2009
- 4 The shorter than usual period between laying the regulations and the coming into force date is to remove any risk of customers losing benefit. However, it means that you do not have the usual six months in which to make any necessary changes to administrative processes. The Local Authority Associations (LAAs) were asked whether this would cause you difficulties but they did not say that it would.

### HB/CTB main phase personal allowance, credits only single customer aged less than 25

- 5 The HB and CTB regulations have been amended to reflect the ESA policy that during the assessment phase a single customer aged less than 25 receives the lower basic rate personal allowance. If they satisfy the Work Capability Assessment threshold and become entitled to main phase ESA, they are entitled to the higher HB/CTB personal allowance appropriate to customers aged at least 25.

- 6 However, the HB/CTB regulations could be interpreted to mean that the provision applies only if the customer is **receiving** ESA and, therefore, not if they are entitled to credits only. This is because 'main phase ESA' is defined in terms of components being payable in ESA.
- 7 The amendments to ensure the HB provisions apply to ESA credits only customers as well as customers actually receiving ESA are in **regulation 6(2)(b) and 6(10)(a)**.
- 8 **Regulation 6(2)(b)** amends the definition of 'main phase employment and support allowance' by providing that the definition does not apply in respect of the calculation of the customer's personal allowance, the provisions for which are in Schedule 3, paragraph 1.
- 9 **Regulation 6(10)(a)** amends Schedule 3, paragraph 1. It adds paragraph 1A which provides that the customer is **entitled** to main phase if the customer (not the partner) satisfies the provisions set out in paragraph 21 of Schedule 3. This means that a component does not need to be in payment to the customer to enable the main phase personal allowance to be awarded in HB. The CTB equivalents are in **regulation 8(2)(b) and 8(10)(a)**.

### **Earnings disregard for customers aged 60 or over entitled to ESA credits only**

- 10 The HB/CTB regulations for pensioners (the (SPC) regulations) have been amended so that when the customer/partner is **receiving** main phase ESA they are entitled to the £20 weekly earnings disregard. However, the (SPC) regulations were not amended to include an equivalent provision for ESA credits only customers who are entitled to main phase ESA. The amendments to ensure that the £20 weekly earnings disregard also applies to credits only cases are in **regulation 7(7)(a) (HB(SPC)) and regulation 9(8) (CTB(SPC))**.

### **Lone Parent Family Premium**

- 11 The Family Premium for lone parents was abolished for most customers from 6 April 1998. However, some customers were given transitional protection. When amending the HB/CTB Regulations to take account of the introduction of ESA we did not make any changes to those transitional protection provisions to ensure that they apply to ESA customers claiming HB/CTB in the same way they apply to any other HB/CTB customer. Therefore the following amendments have been made
- a Customers may retain the premium if they were entitled to it on 5 April 1998 and have been continuously receiving Income Support (IS) or income-based Jobseeker's Allowance (JSA(IB)) since then. ESA(IR) has been added so that the premium will continue to apply when lone parent customers move between any of the three benefits without a break. (Please note that customers who move between the three benefits without a break will continue to be entitled to maximum eligible HB/CTB).

continued

- b** Customers may also retain the premium when they were entitled to it on 5 April 1998 and have not become entitled to IS or JSA(IB) since that date. ESA(IR) has been added so that the premium is removed if lone parent customers move from standard HB/CTB on to ESA(IR). (Although as ESA(IR) is in payment they will be entitled to maximum eligible HB/CTB).

If they then go back to standard HB/CTB, the premium would not be payable, as is the case for customers who move from IS or JSA(IB) on to standard HB/CTB.

**Example**

Standard HB/CTB claim, lone parent working and continuously entitled to HB/CTB since 5 April 1998 which includes the Lone Parent Family Premium. On 11 May 2009 she stops working and becomes entitled to ESA(IR) meaning full eligible HB/CTB becomes payable. On 13 July she returns to work and ESA(IR) ends. The standard HB/CTB calculation will not include the Lone Parent Family Premium.

- c** Customers are no longer entitled to the premium if they become entitled to a Disability Premium. As an ESA customer cannot be entitled to a Disability Premium, entitlement to either the work-related activity component or the support component has been added to the provision. Therefore, when either of the components is awarded in HB/CTB the Lone Parent Premium must be removed.

Using entitlement to a component as a substitute for entitlement to the Disability Premium is in line with amendments already made to cater for the fact that the Disability Premium cannot be awarded to HB/CTB customers who are also ESA customers.

- 12 The amendments are in **regulation 6(10)(b) for HB and 8(10)(b) for CTB**.