

Housing Benefit Circular

Department for Work and Pensions
Caxton House, Tothill Street, London SW1H 9NA

HB A4/2017

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit staff
ACTION	For information
SUBJECT	The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017. The Employment and Support Allowance and Universal Credit (Exempt Work & Hardship Amounts)(Amendment) Regulations 2017.

Guidance Manual

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

ESA Components BW3 *paragraphs W3.300 – W3.309*

Permitted work, 52 week limit: BW2 *paragraphs W2.145*

Queries

extra copies of this circular/copies of previous circulars can be found at <https://www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars>

- about the
 - **technical content of this circular**,
housing.benefitenquiries@dwp.gsi.gov.uk
 - **distribution of this circular**, contact
housing.correspondenceandpgs@dwp.gsi.gov.uk

Crown Copyright 2017

Recipients may freely reproduce this circular.

Contents

para

The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017

Introduction 1
Background..... 4
Outline of changes 8
Employment and Support Allowance cases post April 11

The Employment and Support Allowance and Universal Credit (Exempt Work & Hardship Amounts)(Amendment) Regulations 2017

Permitted work 52 week limit 15

The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017

Introduction

1. This circular provides information about the Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (SI 2017/204).
2. These regulations make amendments to:
 - Housing Benefit Regulations 2006
 - Housing Benefit (Persons who have reached the qualifying age for State Pension Credit (SPC)) Regulations 2006
 - Housing Benefit (Decisions and Appeals) Regulations 2001.
3. The changes remove the Employment and Support Allowance work-related activity component (ESA WRAC). The changes come into force on 3 April 2017.

Background

4. ESA is the main benefit for those people of working age who cannot work because of a health condition or disability.
5. Additional components may be paid to people on ESA in addition to the basic allowance. Following the decision maker's determination based on the Work Capability Assessment (WCA), claimants are paid an additional component if they are found to have either of the following:
 - Limited Capability for Work (LCW)
 - Limited Capability for Work and work-related activity (LCWRA).
6. Those found to have LCW are placed in the Work-related Activity Group (WRAG) and receive an extra payment; the work-related activity component (WRAC). Those found to have LCWRA are placed in the Support Group and are awarded a support component.
7. If a person who is on ESA is also on Housing Benefit (HB), an equivalent component is awarded in HB to complement the award of the component in ESA. This ensures that HB recipients are not worse off due to the award of the ESA component.

Outline of changes

8. From 3 April 2017, the ESA WRAC will not be available to new ESA claims. Affected claimants found to have limited capability for work following the WCA will not receive an additional component.
9. Where no WRAC is awarded in ESA, no equivalent component will be awarded in HB. This maintains the policy that the HB applicable amount should reflect the structure of ESA.
10. These amending Statutory Instruments (S.I.s) remove provisions relating to the work-related activity component in the HB Regulations, the HB (SPC) Regulations and the Decisions and Appeals Regulations. They also make amendments to certain provisions to ensure continuity of treatment for people who are in the WRAG post April 2017 but who do not receive a WRAC. These relate to:
 - childcare charges provisions (HB Reg 28(11)/HB(SPC) Reg 31(11)), where references to being in receipt of the WRAC are replaced with references of being in the WRAG
 - earnings disregard provisions (HB Schedule 4 paragraphs 3(2) and 17(2) and HB(SPC) Schedule 4 paragraph 5, where similarly references to being in receipt of the WRAC are replaced with references of being in the WRAG
 - non-dependant deductions (HB Reg 74(8) and HB (SPC) Reg 55(8)). These ensure that no non-dependant deductions should be taken in respect of non-dependants aged under 25 who are not in the WRAG. Once such a non-dependant does enter the WRAG, they will attract a deduction.

ESA cases post April

11. For ESA cases in the Support Group, a support component will be awarded, so treatment of such cases in HB will be the same as it is now.
12. For cases entering the WRAG, no component will be awarded in ESA, so none should be in HB.
13. As far as ATLAS and CIS are concerned for cases entering with no component awarded when they enter the WRAG, the component field will:
 - be blank during the assessment phase; then
 - show 0.00 when the ESA claimant enters the WRAG.
14. There will be some ESA cases post April which continue to have access to the WRAC. These are covered in Schedule 2 of S.I. 2017/204. For example, they would include ESA claims made or treated as made before 3 April 2017. For those cases, the savings provisions in Schedule 2 paragraph 1(1) of S.I. 2017/204 apply. This enables you to continue to treat such cases as if the amendments in the SI had not been made; including awarding the work-related activity component in HB where one has been awarded in ESA.

The Employment and Support Allowance and Universal Credit (Exempt Work & Hardship Amounts)(Amendment) Regulations 2017

Permitted work 52 week limit

15. There are higher or lower HB earnings disregards in respect of permitted work for certain ESA claimants. The level of the disregard is the same level as the amount of money they would be allowed to earn from permitted work whilst receiving income-related ESA. The two disregards are:

- up to the higher limit a week for
 - an unlimited period
 - up to 52 weeks and then the lower limit each week thereafter for an unlimited period
- up to the lower limit a week for an unlimited period

16. It has been decided to abolish the rule which limits such work to a maximum of 52 weeks. The Employment and Support Allowance (Exempt Work & Hardship Amounts)(Amendment) Regulations 2017 S.I. 2017/205 remove the 52 week limit from 3 April 2017 to improve work incentives. As HB follows the decision made in ESA, no changes to HB regulations are needed to achieve this.

17. You do not need to make decisions on whether work falls into the permitted work category. Those decisions are made by the Secretary of State for Work and Pensions and the information made available to you enables you to apply the correct disregard. Circular [HB A3/2010](#) gave more details about obtaining information from The Department for Work and Pensions.