

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT
(EXTENDED PAYMENTS) AMENDMENT REGULATIONS 2008

2008 No. 959

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. The Regulations reform the operation of the Extended Payment schemes in Housing Benefit (HB) and Council Tax Benefit (CTB). HB/CTB Extended Payments schemes are work incentive measures designed to provide an additional 4 weeks assistance for customers moving into work.

2.2. There are two parallel Extended Payment schemes in HB/CTB: one for customers moving into work from Income Support (IS) or income-based Jobseeker's Allowance (JSA(IB)), the other for customers moving into work from Incapacity Benefit (IB) or Severe Disablement Allowance (SDA).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative background

4.1. Since 2004, a move into work has been treated as a change of circumstance on the existing HB/CTB claim: thus there is no need for the customer to make a new HB/CTB claim if they start work. The only exception to this is where there is entitlement to an Extended Payment. In order to make an Extended Payment, the current HB/CTB claim has to be ended. Therefore to get in-work HB/CTB after an Extended Payment, the customer has to make a new claim. The changes to primary legislation in the Welfare Reform Act 2007 recast the underpinning powers for Extended Payments to address this issue.

4.2. The purpose of these regulations is to:

- provide for a simpler method of making Extended Payments;
- remove the need for those who receive Extended Payments to submit a fresh claim for any in-work HB or CTB benefit;
- in contrast to the current schemes, if a customer getting an Extended Payment moves from one Local Authority to another, the original Authority will be responsible for paying the whole of the Extended

Payment, and can do so either directly to the new Authority or to the directly to the customer.

5. Extent

5.1. This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1. As the instrument is subject to negative resolution and does not amend primary legislation, no statement is required.

7. Policy background

7.1. Under the existing HB/CTB Extended Payment schemes, in order to make a payment, the current HB/CTB claim has to be ended. The changes to primary legislation in the Welfare Reform Act 2007 recast the underpinning powers for Extended Payments to address this issue.

7.2. The detailed rules are the same or similar to the current schemes. For example, the existing rules that IS/JSA(IB) or IB/SDA must have ceased for work-related reasons and the existing qualifying periods relating to time on those benefits are retained.

7.3. Where a customer meets the qualifying conditions for an Extended Payment, there will be no need to make a claim for it – this is provided for by section 32(4) of the Welfare Reform Act 2007. Rather it will be for the Local Authority to determine entitlement to an Extended Payment as part of processing the change of circumstance relating to the customer entering work/changing their pattern of work.

7.4. In contrast the current schemes, the Local Authority that was administering HB or CTB immediately before the customer or his partner took up work shall fund and administer the Extended Payment, even if the recipient moves out of that Authority's area.

7.5. As now, the duration of the Extended Payment will be 4 weeks.

7.6. The amount of the extended payment would be the higher of the out-of-work entitlement or the in-work entitlement. The intended effect of this is to ensure that the customer is entitled to *at least* the amount of Housing Benefit/Council Tax Benefit they were receiving before they started work or increased their income from work, during the Extended Payment period. However, in the small number of cases where a customer moves local authority during the 4 week Extended Payment period and become entitled to a higher rate in that area of in-work

benefit, then they would receive the surplus in-work amount from the new Authority.

- 7.7. Where a customer moves between Authority areas during the period when they are getting an Extended Payment, and that person normally has their benefit paid in the form of a rent or council tax rebate, it might be appropriate for their former Local Authority to make the Extended Payment either directly payable to the new Authority or directly to the customer.

Benefit Simplification

- 7.8. The changes will provide a simpler method of making Extended Payments.

Consultation

- 7.9. The Department has consulted the Local Authority Associations, who expressed their support for these changes.

Guidance

- 7.10. Guidance will be available to Local Authorities concerning the amendments made by the Regulations.

Consolidation

- 7.11. There are no plans for consolidation of the legislation. We are not intending to consolidate the existing Regulations once this S.I. has been laid. Our reasons being that the blue volumes provide this function and will eventually incorporate this S.I. into the existing Regulations. They are held on line and are available to the public free of charge.

8. Impact

8.1. An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or the voluntary sector.

8.2. The impact on the public sector is negligible.

9. Contact

Phillipa Fallowfield at The Department for Work and Pensions: telephone 020 7962 8305; or email Phillipa.Fallowfield@dwp.gsi.gov.uk can answer any queries regarding this instrument.