

HB Alerts

Circular Reference:		A13 2010	
Subject:	Further Guidance on the application of NINO condition of entitlement	Effective Date:	For Information

Summary

As a result of a number of recent decisions by the Upper Tribunal, A13/2010 gives further guidance relating to Sections 1(1A) and 1(1B) of the Social Security (Administration) Act 1992.

Sections 1(1A) and 1(1B) sets out HB/CTB conditions of entitlement with regards to NINO for both claimant and any other relevant person. This includes a partner who is a Person From Abroad (PFA), even if no additional benefit is paid for this person.

CH/2366/2008 states that this also applies to Changes of Circumstances. For example, should a person, who is not exempt from the NINO requirement become a partner of an existing benefit claimant, ongoing benefit entitlement will also depend on the partner satisfying the conditions of the NINO requirement.

The following do not have to satisfy the NINO conditions

- a person without a NINO who is subject to immigration control and is a person from abroad for HB/CTB purposes
- a claim in which the claimant or any person being claimed for is liable to make payments for a hostel
- a child or young person

The NINO condition of entitlement is set out in three tests

- **First test.** The claimant must provide a statement of the person's NINO **and** information or evidence that establishes that this number has been allocated to this person. LA's should carry out cross-checks to ensure that the information provided is correct.
- **Second test.** If the first test is not met, the claimant must provide information or evidence that enables a NINO already allocated to the person to be ascertained. LA's should attempt to verify this information against records held by other agencies such as DWP via CIS. Again, LA's should carry out the relevant cross-checks
- **Third test.** If the first and second test are not met the person must make an application for a NINO **and** provide sufficient information or evidence to allow a NINO to be allocated. If no NINO can be found, the LA must complete a DC1 form and send it to the DWP. The DC1 counts as an application for a NINO, but it is not sufficient to satisfy this test. The Application must be backed up with sufficient evidence for the NINO to be allocated, such as proof of identity.

It is the LA's decision as to whether or not an application for a NINO has been made, but it is the decision of the Secretary of State as to whether or not, sufficient evidence has been provided to award a NINO. The decision of the Secretary of State is not a stand alone decision, but part of the overall decision of the LA relating to entitlement of HB/CTB. As a result, it can be reconsidered by revision or supersession.

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