

# DMG Chapter 28: Income other than earnings

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# Introduction 28000 - 28049

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28000 This Chapter deals with the calculation of income other than earnings for IS and JSA(IB). With the exception of occupational and personal pension payments<sup>1</sup>, income other than earnings does not affect the calculation of JSA(Cont).

**Note:** For guidance on the treatment of pension payments for JSA(Cont) see DMG Chapter 23.

1 JS Act 95, s 4(1)(b)

## Meaning of claimant

28001 Claimant means<sup>1</sup> either

- 1.** one person who claims JSA or IS **or**
- 2.** in the case of a joint claim for JSA

**2.1** the couple **or**

**2.2** each member of the couple, as the context requires.

1 JS Act 95, 35(1); IS Gen Regs, reg 2(1)

## What is income

28002 Income is not defined in law<sup>1</sup>. It can normally be separated from capital because a payment of income

1. forms part of a series of payments, whether or not they are made regularly **or**
2. is made for a period of time **or**
3. satisfies both the conditions in 1. and 2..

**Note:** Where capital<sup>2</sup> is being paid by instalments each payment will be capital unless DMG 28530 et seq applies.

1 JS Act 95; SS CB Act 92; 2 Lillystone v. Supplementary Benefits Commission (1982) FLR;  
Morrell v. Secretary of State for Work and Pensions [2003] EWCA Civ 526

## How much income should be taken into account

28003 [\[See DMG Memo IS/JSA 64\]](#) The DM should take into account the gross amount of any income<sup>1</sup>. References in this Chapter to income means income other than earnings. When calculating gross income disregard the sums in DMG 28008 - 28010 and DMG 28150 et seq. No disregards should be made for any other expenses or deductions.

1 JSA Regs, reg 103(1); IS (Gen) Regs, reg 40(1)

## Deductions from benefits

28004 Where a payment of

1. SS benefit **or**
2. CHB<sup>1</sup>

has a deduction for benefit recovery, the DM should take into account the gross amount of benefit.

1 JSA Regs, reg 103(3); IS (Gen) Regs, reg 40(3)

## Reduction due to a failure to attend a work focused interview, participate in work-related activity or comply with a work-related requirement

28005 Where IB paid to a claimant's partner has been reduced because the partner has failed to attend a Wfl, the amount of IB to be taken into account as income is the full amount that would have been payable before the reduction (see DMG 05380).

28006 For a JSA(IB) or IS claimant who is a member of a couple where

- 1.** the partner is in receipt of ESA(Cont) **and**
- 2.** the partner's ESA(Cont) is reduced due to a sanction for a failure to take part in

**2.1** a Wfl **or**

**2.2** WRA

the amount of ESA(Cont) to take into account for JSA(IB) and IS purposes is the amount of ESA(Cont) before the reduction under **2.** is made<sup>1</sup>.

1 JSA Regs, reg 103(5B); IS (Gen) Regs, reg 40(6)

28007 For a JSA(IB) or IS claimant who is a member of a couple where

- 1.** the partner is in receipt of new style ESA **and**
- 2.** the partner's ESA is reduced due to a sanction for a failure to comply with a

**2.1** work-related requirement **or**

**2.2** an interview relating to

**2.2.a** the imposition of work-related requirements **or**

**2.2.b** verifying a person's compliance with a work-related requirement **or**

**2.2.c** assisting a person to comply with a work-related requirement

the amount of new style ESA to take into account is the amount before a reduction is made<sup>1</sup>.

**Note:** New style ESA means ESA as amended from 29.4.13 to remove references to ESA(IR)<sup>2</sup>.

1 JSA Regs, reg 103(5B); IS (Gen) Regs, reg 40(6)(c); WR Act 07, s 11J;

2 Part 1; WR Act 12, Sch 3 & Sch 14, Part 1: ESA Regs 08, reg 2(1)

## **Overpayment recovery from other income**

28008 Except where DMG 28004 applies, when income paid to a claimant is reduced because the paying authority is enforcing recovery of an overpayment, the DM should take into account the net amount. This is the amount actually received by the claimant, unless the circumstances in DMG 28009 apply. Where a retrospective change creates an overpayment, please see the guidance at DMG 25047.

### **Example**

Paul is in receipt of JSA(IB). His partner, Lorna, works and is in receipt of WTC. HMRC has awarded WTC at a rate of £50 per week. However, due to the recovery of an overpayment which occurred on a previous award of WTC, the amount Lorna actually receives is £28 per week. When determining the amount of WTC to take into account on Paul's award of JSA(IB), the DM takes into account Lorna's WTC of £28 per week.

28009 If the claimant volunteers to repay an overpayment by offering to have deductions made from his income, the DM should consider whether the claimant has deprived himself of that income (see DMG 28576 et seq).

## Deduction of income tax

28010 Any tax actually paid, or due to be paid<sup>1</sup>, should be deducted when calculating any income that is to be

**1.** taken fully into account **or**

**2.** disregarded in part<sup>2</sup>.

**Note 1:** Where the amount of tax due to be paid has been assessed under the HMRC Tax Self Assessment process then DMs should consider revision action if it is shown that there is a tax liability or the actual tax liability differs from the forecast provided by the claimant. DMG Chapter 03 provides guidance on revision.

1 R(IS) 4/05; 2 JSA Regs, Sch 7, para 1; IS (Gen) Regs, Sch 9, para 1

**Note 2:** From April 2016 the Scottish Government can set its own rate of income tax<sup>1</sup> – DMs should ensure that the correct tax rate is used. See DMG Chapter 27, Appendix 1 for more details.

1 the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016

### Example

Jack makes a claim for IS on 5 June. His partner has been receiving RP of £106.50 a week since April. Jack provides a forecast tax liability which estimates that his partner will be liable for £79.00 tax under the HMRC Tax Self Assessment process on this year's RP paid to her.

The DM calculates the amount of RP to be taken into account as:

£106.50 a week RP being paid less £1.52 a week tax [ $£79 \div 52$ ] = £104.98. The DM takes £104.98 RP a week into account.

## Questions on the treatment of income

28011 The DM should direct further enquiries if there is any doubt whether income fits into any of the

definitions in this Chapter. Enquiries will usually be to the paying authority and should be made before any decision is given.

28012 After deciding whether any disregards apply, the DM should calculate

- 1.** the period over which the income should be taken into account **and**
- 2.** the weekly rate at which the income should be taken into account.

28013 - 28049

## **Income taken fully into account 28050 - 28149**

### **Subpages**

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- Benefits taken fully into account 28052 - 28089
- Pension payments taken fully into account for income support and income based jobseeker's allowance 28090 - 28099
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# Income other than earnings 28050 - 28051

[\[See DMG Memo IS/JSA 64\]](#)

28050 When calculating income other than earnings for IS and JSA(IB)<sup>1</sup> DMs should take

1. Annuity income
2. BA
3. CA
4. CHB
5. cash in lieu of concessionary coal
6. CTC
7. ESA(Cont)
8. Ministry of Justice ex gratia incapacity allowances (previously paid by the Home Office)
9. IB
10. IIDB
11. JSA(Cont)
12. MA
13. personal pensions
14. PB and MDB scheme
15. refund of income tax
16. RP
17. SDA
18. SP
19. War orphan's pension
20. WTC
21. WP



## **22. WC**

fully into account. These are most common types of income that DMs deal with although there are other types too. Detailed guidance is given in DMG 28052 et seq.

1 JSA Regs, reg 103(1); IS (Gen) Regs, reg 40(1)

28051 Payments of

**1.** income from certain disregarded capital

**2.** income from insurance policies

**3.** income from certain sub-lets

**4.** occupational pensions

**5.** income for people attending court

are normally taken into account in full.

## **Benefits taken fully into account 28052 - 28089**

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### **Bereavement allowance**

28052 BA should be taken into account in full. It replaced WP for claimants whose spouse or civil partner has died. It is restricted to payment for not more than 52 weeks.

**Note:** WP may continue to be paid to widows whose husband died before 9.4.01.

### **Carer's allowance**

28053\_CA should be taken fully into account. It is payable to people who are unable to work because they are caring for a person receiving AA or DLA.

28054 When CA is in payment to a young person who is also a dependant on an IS claim, CA should be taken into account up to the amount of the dependant's personal allowance and any DCP payable for that young person. Any remaining CA should be disregarded.

**Note:** The Scottish carer's allowance supplement<sup>1</sup>, paid by the Scottish Government to those recipients of CA living in Scotland, is not the same as CA and is fully disregarded for income purposes.

1 The Scotland Act 2018, s47

## **Child benefit**

**[See DMG Memo IS/JSA 64]**

28055 CHB should be taken into account in full in "Transitional Cases", otherwise it is disregarded (see DMG 28360).

**Note 1:** CHB is the income of the adult responsible for a child. It is not the income of the child.

**Note 2:** "Transitional Cases" are cases where entitlement to Child Personal Allowance has been paid continuously since before 7.4.03<sup>1</sup>.

1 SS (WTC & CTC) (Cons Amdt) Regs, reg 1

28056 - 28058

## **ESA(Cont)**

28059 ESA(Cont) should be taken fully into account. ESA(Cont) is paid to people who

- 1.** have LCW **and**
- 2.** satisfy the contribution conditions.

28060 - 28062

## **Incapacity benefit**

28063 IB should be taken fully into account. IB is paid to people who are incapable of work

- 1.** who are not entitled to SSP **or**
- 2.** whose SSP has ended.

28064

## Industrial injuries disablement benefit

28065 IIDB should be taken fully into account. The additional allowances

### 1. REA and

### 2. US

may also be paid with IIDB. They should be taken fully into account.

**Note:** Unemployability supplement was removed from the scheme on 6.4.87 but may continue in payment to people getting it before that date.

28066 See the guidance on attendance allowances for the treatment of ESDA and CAA paid with IIDB (see DMG 28352).

28067 Disablement gratuity should be treated as capital. But REA paid with it should be taken fully into account as income.

28068 - 28069

## JSA(Cont)

28070 JSA(Cont) received by a partner should be taken fully into account. It is payable to unemployed people who have paid enough SS contributions<sup>1</sup>.

**Note:** Any JSA(Cont) payable to either member of a joint-claim couple forms part of the couple's personal rate<sup>2</sup>.

1 JS Act 95, s 2; 2 s 4A(10)

## Maternity allowance

28071 MA should be taken fully into account. It is payable to women who cannot get SMP.

28072 - 28075

## Retirement pension

28076 RP should be taken fully into account. It is either

1. contributory (Cat A or B) or

2. non-contributory (Cat C or D).

**Note:** SP replaces RP for people reaching pensionable age on or after 6.4.16.

28077 RP may be made up of the following elements

1. a BP
2. an increase of BP for dependant spouses or civil partners, dependant children or women looking after children (but see DMG 28367 if the dependant is not a member of the family for IS or JSA(IB) purposes)
3. an additional pension for people who were in non-contracted out employment
4. graduated retirement benefit earned between 1961 and 1975 under the graduated pension scheme
5. increments (of RP) for deferred retirement
6. invalidity and age additions.

28078 A pensioner who has been in employment that was contracted out of SERPS may be entitled to

1. GMP instead of additional pension through an occupational pension scheme **and**
2. increments to an occupational pension and guaranteed minimum pension if retirement was deferred.

The DM should take these payments fully into account as an occupational pension.

**Note:** The Pension Act 2014 abolishes contracting out for salary related occupational pension schemes from 6.4.16.

## Severe disablement allowance

28079 SDA should be taken fully into account. It is a non contributory benefit payable after six months of illness. SDA was abolished in April 2001 but some claimants may continue to receive it in certain circumstances (see DMG Chapter 57).

## State Pension

28080 SP replaces RP for people reaching pensionable age on or after 6.4.16 and should be taken fully into account.

28081 SP does not consist of individual elements like RP (BP, AP & GRB etc.) and will generally be based only on the claimant's NI record. Exceptions to this will be where:

1. the claimant is widowed and inherits a deceased spouse or civil partner's AP, deferred RP or deferred GRB **and**
2. the claimant receives a transitional rate of SP (for women who paid reduced rate NI) **and**
3. the claimant is awarded a Shared Additional Pension (SAP) upon divorce.

28082 SP entitlement may be at:

1. the full rate **or**
2. the reduced rate **or**
3. the transitional rate.

28083 A pensioner who has been in employment that was contracted out of SERPS may be entitled to GMP through an occupational pension scheme.

The DM should take these payments fully into account as an occupational pension.

Please see DMG Chapter 74 for full details.

**Note:** SP is payable from the date of entitlement to the date entitlement ends, so there could be part week payments at the beginning and end of awards. This does **not** apply where a change of circumstance (inheritance for example) leads to a change of entitlement during an award.

## **War orphan's pension**

28084 War orphan's pension should be taken into account in full.

## **Widow's benefit (widow's payment, widow's pension)**

28085 WPT, which is paid as a lump sum should be treated as capital. In addition WP claimed prior to 9 April 2001 may be paid. The DM should take WP fully into account.

## **Working tax credit**

28086 WTC should be taken fully into account. It is paid to employees or to the S/E earner direct to their bank account. Where appropriate WTC includes an element for childcare paid to the main carer.

**Note:** DMG Chapter 25 gives guidance about the date on which WTC is treated as paid and also on circumstances where WTC is incorrectly paid.

## **Workmen's compensation (supplementation) scheme**

28087 WC (Supp) which replaced WC for old cases should be taken fully into account. It is paid for industrial injuries and diseases which were caused by employment before the start of the Dis B scheme.

28088 Any attendance allowance paid with WC (Supp) should be disregarded. See DMG 28352 et seq for guidance on attendance allowances.

28089

# **Pension payments taken fully into account for income support and income based jobseeker's allowance 28090 - 28099**

[Occupational pensions](#) 28090 - 28091

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## **Occupational pensions**

### **Treatment of occupational pensions in IS and JSA(IB)**

28090 Payments of income from occupational pensions should be taken fully into account.

Occupational pension schemes are set up by employers to provide pensions for employees and their dependants. Payments under the

- 1. British Coal Voluntary Employment Redundancy Scheme or**
- 2. British Coal Industrial Death and Retirement Scheme or**
- 3. British Coal RMPS or**
- 4. Armed Forces Pensions<sup>1</sup>**

are included. Occupational pension payments do not include discretionary payments from a fund set up to relieve hardship<sup>2</sup>. This type of payment is a charitable or voluntary payment.

1 CE/2265/2017; 2JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

### **Treatment of occupational pensions in JSA(Cont)**

28091 Any occupational pension over £50 per week may be taken into account in the calculation of JSA(Cont)<sup>2</sup>. (See DMG Chapter 23).

1 JSA Regs, reg 81

## **Personal pensions**

### **Treatment of personal pensions in IS and JSA(IB)**

28092 Income from personal pension schemes should be fully taken into account. Personal pension schemes provide pensions on retirement for

- 1. S/E people or**
- 2. employees who are not members of occupational pension schemes.**

Personal pension schemes may also make payments to dependants following the death of the scheme member.

### **Treatment of personal pensions in JSA(Cont)**

28093 Any personal pension (except one arising on death) above £50 per week shall be taken into account when calculating JSA(Cont)<sup>1</sup> (see DMG Chapter 23).

1 JSA Regs, reg 81

28094 - 28099



## Other income taken fully into account 28100 - 28149

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28100 An annuity is an annual income. The most common type of annuity involves a person paying a lump sum of money to an insurance company. In return the insurance company will pay an agreed sum of money each year until the death of the investor.

### Annuity income

#### **[See Memo DMG 16/18]**

28101 Annuity income should be taken fully into account with the following exceptions

**1.** Home income plans. These are schemes where an annuity is bought with a loan secured on the home. The income is subject to a partial disregard<sup>1</sup>.

**2.** Gallantry awards. Income payable because of the award of the

**2.1** Victoria Cross **or**

**2.2** George Cross **or**

**2.3** any similar medal (including foreign honours)

should be disregarded in full<sup>2</sup>.

## **Cash in lieu of concessionary coal**

28102 The DM should take into account in full<sup>1</sup> cash paid in lieu of concessionary coal to a

- 1.** former employee of British Coal **or**
- 2.** surviving husband or wife if the employee has died.

Concessionary coal is coal provided free of charge to former employees of British Coal and their dependants by the Department of Energy and Climate Change.

**Note:** The value of any coal provided should be disregarded as income in kind<sup>2</sup>, unless the claimant or a member of the family is involved in a TD.

1 R(IS) 4/94; 2 JSA Regs, Sch 7, para 22; IS (Gen) Regs, Sch 9, para 21

## **Ministry of Justice ex gratia incapacity allowances**

28103 These payments should be taken fully into account. But if they are paid as a lump sum they should be treated as capital. These allowances are paid by the Ministry of Justice in England and Wales to compensate people injured in prison workshops or training courses.

28104

## **Income from an insurance policy**

28105 Insurance policy income should be taken fully into account except for income from a mortgage protection policy.

## **Credit insurance policies**

28106 Claimants may receive payments from credit insurance policies. These are policies designed to cover repayments for debts for

- 1.** credit cards
- 2.** catalogue companies
- 3.** personal loans
- 4.** other types of credit arrangements.

## Disregard for credit insurance policies

28107 A disregard applies to payments received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on<sup>1</sup>

1. a regulated agreement as defined in legislation<sup>2</sup> **or**
2. a hire purchase agreement as defined in legislation<sup>3</sup> **or**
3. a conditional sale agreement as defined in legislation<sup>4</sup>.

**Note:** The disregard does not apply to insurance policies for qualifying housing costs<sup>5</sup>. The disregard for these policies is explained at DMG 28240 - 28242.

1 JSA Regs, Sch 7, para 31A; IS (Gen) Regs, Sch 9, para 30ZA; 2 Consumer Credit Act 1974;

3 Hire Purchase Act 1964, Part III; 4 Hire Purchase Act 1964, Part III

5 JSA Regs, Sch 7, para 31A(1); IS (Gen) Regs, Sch 9, para 30ZA(1)

28108 If an agreement is a regulated agreement under the legislation<sup>1</sup>, the creditor is required by law to state this in the agreement<sup>2</sup>. The DM may conclude that

1. if the agreement states that it is regulated under the legislation, then DMG 28107 **1.** is satisfied **and**
2. if the agreement **does not** state that it is regulated under the legislation, then DMG 28107 **1.** is not satisfied.

**Note:** The DM may depart from these conclusions where the evidence clearly supports another decision.

1 Consumer Credit Act 1974; 2 Consumer Credit (Agreements) Regulations 1983

28109 If an agreement is not regulated by legislation<sup>1</sup>, the DM should decide on the facts whether it falls within DMG 28107 **2.** or **3.**.

1 Consumer Credit Act 1974

28110 A hire purchase agreement is defined in legislation<sup>1</sup> as an agreement, other than a conditional sale agreement, under which

1. goods are bailed or (in Scotland) hired to a person in return for periodical payments **and**
2. ownership of the goods pass to this person **if**
  - 2.1 the terms with the agreement are complied with **and**
  - 2.2 one or more of the following occurs

**2.2.a** the person exercises an option to buy **or**

**2.2.b** an act specified in the agreement is carried out **or**

**2.2.c** an event specified in the agreement happens.

**Note:** “Bailment” is the transfer of possession of goods by the owner to someone else (the bailee). The bailor (owner) retains ownership for the time being.

1 Hire-Purchase Act 1964, s 29(1)

28111 A conditional sale agreement is defined in legislation<sup>1</sup> as an agreement for the sale of goods under which

**1.** all or part of the purchase price is payable by instalment **and**

**2.** the seller remains the owner of the goods until the conditions of the agreement are fulfilled.

1 s 29(1)

### **Amount of disregard - credit insurance payments made direct to the claimant**

28112 Payments may be disregarded to the extent that they do not exceed the amounts, calculated on a weekly basis, used to

**1.** maintain the repayments on the agreements in DMG 28107 **and**

**2.** meet any amount due by way of premiums on the insurance policy itself<sup>1</sup>.

1 JSA Regs, Sch 7, para 31A(2); IS (Gen) Regs, Sch 9, para 30ZA(2)

### **Credit insurance payments made to third parties**

28113 The disregard may be applied to notional income that the claimant is treated as possessing under DMG 28114 - 28115<sup>1</sup>.

1 JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

### **Credit insurance payments made direct to the creditor**

28114 Payments that are

**1.** made direct to the creditor **and**

**2.** available to the claimant upon application

should be treated as income available upon application. (See DMG 28593 et seq).

28115 Payments that are

- 1.** made direct to the creditor **and**
- 2.** not available to the claimant upon application

should be treated as income paid to a third party to the extent that they are used for the items listed in DMG 28669. Payments made for items not listed in DMG 28669 should be fully disregarded.

28116 Payments made directly to the claimant that are immediately transferred to the creditor do not fall under the provisions of DMG 28114 - 28115. They should be treated as payments made directly to the claimant.

### **Income from certain sublets**

28117 Income from subletting parts of the home that are not lived in (for example the garage or garden) should be taken fully into account. See DMG 28190 for sub-letting parts of the home that are lived in.

**Note:** In this guidance home means the dwelling occupied as the home.

### **Payments for attending court**

28118 Payments to jurors and witnesses for loss of

- 1.** earnings **or**
- 2.** benefits

should be taken fully into account<sup>1</sup>.

1 JSA Regs, Sch 7, para 43; IS (Gen) Regs, Sch 9, para 43

28119 - 28120

### **Income tax refunds**

28121 Income tax refunds shall be taken fully into account as income if

- 1.** in JSA cases, a member of the family **or**
- 2.** in IS cases, the claimant or a member of the family

is involved in a TD<sup>1</sup>.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 48(2)

28122 In IS cases only, income tax refunds should be taken fully into account as income during the 15 days following the end of a TD<sup>1</sup>, when IS continues in payment despite the claimant being back at work.

1 IS (Gen) Regs, reg 41(4)

28123 Refunds of Schedule D or E income tax payments should be treated as capital if the claimant or members of the family are not involved in a TD. DMG Chapter 32 gives full guidance on when income tax refunds should be taken into account as income because of a TD.

## **Income from certain disregarded capital**

28124 Generally income from capital is not treated as income but as capital and goes towards increasing the amount of a claimant's capital. DMs should, however, take into account, subject to any appropriate income disregards, income derived from the following types of capital for as long as the value of the capital is disregarded<sup>1</sup>

- 1.** trusts set up from money paid because of a personal injury while disregarded (see DMG 28498, 28513, and DMG Chapter 29)
- 2.** assets of a business partly or wholly owned by the claimant while disregarded (see DMG Chapter 29)
- 3.** the dwelling occupied as the home while disregarded - (see DMG Chapter 29) (but not income from boarders or sub-lets which is partially disregarded).

1 JSA Regs, Sch 7, para 23; IS (Gen) Regs, Sch 9, para 22

28125 - 28149

# Income disregarded in part 28150 - 28349

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## Types of income 28150 - 28169

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## Types of income that have £10 a week disregarded

28150 The following types of income have the first £10 a week disregarded. Any remainder is taken fully into account, after any income tax has been disregarded

1. Pensions paid to victims of National Socialist persecution
2. WDisP
3. WWP, WMA and WPA
4. Certain payments from the Armed Forces and Reserve Forces Compensation Scheme.

**Note:** WWP includes a pension paid to a surviving civil partner.

## Weekly limit to £5, £10 and £20 disregards

28151 The overall weekly disregard should be limited to £20<sup>1</sup> for the family when more than one of the following types of income are taken into account in the same benefit week

1. more than one payment listed in DMG 28150 **or**
2. covenant income **or**
3. a student loan.

Covenant income has the first £5 disregarded. Student loans have the first £10 disregarded.



**Note:** This rule does not apply where two payments of the same kind are taken into account in the same benefit week<sup>2</sup>. In these cases each payment has its own disregard.

1 JSA Regs, Sch 7 para 38; IS (Gen) Regs, Sch 9, para 36;

2 JSA Regs, Sch 7, para 39; IS (Gen) Regs, Sch 9, para 37

28152

## **Pensions paid to victims of National Socialist persecution**

28153 These pensions should have a £10 disregard<sup>1</sup>. They are made under special provision of the laws of the relevant country to victims of Hitler's government.

1 JSA Regs, Sch 7, para 17(c); IS (Gen) Regs, Sch 9, para 16(f)

## **War disablement pensions**

28154 WDisP means<sup>1</sup> any

**1.** retired pay **or**

**2.** pension **or**

**3.** allowance

payable to former members of the armed forces or forces nursing services because of medical unfitness prior to 6.4.05 caused or aggravated by service but not necessarily the result of combat. See Appendix 1 to this Chapter for details of the law under which WDisP is paid.

**Note:** For those who suffer injury, ill health or death due to service in the Armed Forces from 6.4.05 the War Pension Scheme is replaced by the Armed Forces and Reserve Forces Compensation Scheme - see DMG 28158.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

28155 WDisP may be made up of<sup>1</sup>

**1.** wounds pension **and**

**2.** disablement pension **and**

**3.** retired pay for a disabled officer.

28156 The following payments should have a £10 disregard<sup>1</sup>

- 1. WDisP and**
- 2. a payment to compensate for non payment of WDisP and**
- 3. a similar payment made by a foreign government.**

1 JSA Regs, Sch 7, para 17(a) & (b); IS (Gen) Regs, Sch 9, para 16(a) & (b)

## **War widow's or widower's pension**

28157 WWP means<sup>1</sup> any pension or allowance paid to a widow, widower or surviving civil partner following a death caused by service or war injury prior to 6.4.05. The DM should disregard £10 from

- 1. WWP and**
- 2. a payment to compensate for non-payment of WWP and**
- 3. similar payments from a foreign government<sup>2</sup>.**

**Note 1:** DMs should take into account in full pensions paid to war orphans or dependants.

**Note 2:** For deaths occurring on or after 6.4.05 WWP is replaced by the Armed Forces and Reserve Forces Compensation Scheme - see DMG 28158.

**Note 3:** See Appendix 1 to this chapter for a definition of war widow's or widower's pension.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 JSA Regs, Sch 7, para 17(a) & (b);  
IS (Gen) Regs, Sch 9, para 16(a) & (b)

## **Armed forces and reserve forces compensation scheme**

28158 The Armed Forces and Reserve Forces Compensation Scheme replaces the War Pensions Scheme for those who suffer injury, ill health or death due to service in the Armed Forces from 6.4.05.

**Note:** The War Pensions Scheme will continue to run parallel to the new scheme for existing beneficiaries and for those who make a new claim for a War Pensions Scheme payment for injury, ill health or a death due to service in the Armed Forces prior to 6.4.05.

### **Definitions**

28159 The Armed Forces and Reserve Forces Compensation Scheme means<sup>1</sup> the scheme established under specified Armed Forces Legislation<sup>2</sup>.

28160 A guaranteed income payment means<sup>1</sup> a payment made under specified Armed Forces legislation<sup>2</sup>.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, art 12(1)(b) or 18(1)(a)

### **Payments from the armed forces and reserve forces compensation scheme**

28161 The following payments should have a £10 disregard

1. a guaranteed income payment<sup>1</sup>
2. a payment to compensate for the non payment of a guaranteed income payment<sup>2</sup> **and**
3. a similar payment made by a foreign government, which is analogous to a guaranteed income payment<sup>3</sup>.

1 JSA Regs, Sch 7, para 17(aa); IS (Gen) Regs, Sch 9, para 16(cc); 2 JSA Regs, Sch 7, para 17(aa); IS (Gen) Regs, Sch 9, para 16(d); 3 JSA Regs, Sch 7, para 17(b); IS (Gen) Regs, Sch 9, para 16(e)

28162 Where

1. a claimant is in receipt of a guaranteed income payment **and**
  2. that payment has been reduced to less than £10 a week by abatement due to a pension from the Armed Forces Pension Scheme or a payment under the Armed Forces Early Departure Scheme
- the claimant can still have a full £10 disregard on the guaranteed income payment and the pension<sup>1</sup>.

**Note:** The Armed Forces Pension Scheme means either the Armed Forces Pension Scheme of 1975 or of 2005.

1 JSA Regs, Sch 7, para 17(d); IS (Gen) Regs, Sch 9, para 16(cc)

### **Example**

Simon is in receipt of JSA(IB). He also receives a guaranteed income payment of £2.50 per week. This is because the payment has been abated by a pension he receives under the Armed Forces Pension Scheme. The DM disregards the guaranteed income payment of £2.50 and also £7.50 of the pension. This gives a total weekly disregard of £10.

## **Widowed mother's allowance and widowed parent's allowance**

28163 A £10 disregard applies to WMA<sup>1</sup>. For claims from people whose partner died on or after 9.4.01, WMA has been replaced by WPA. It is a new benefit paid to bereaved men and women who care for children. A man with dependant children whose partner has died before 9.4.01 can claim WPA after this date. A £10 disregard is applicable to WPA<sup>2</sup>.

1 JSA Regs, Sch 7, para 17(d); IS (Gen) Regs, Sch 9, para 16(g);

2 JSA Regs, Sch 7, para 17(e); IS (Gen) Regs, Sch 9, para 16(h)

28164 - 28169

# Income with partial disregards 28170 - 28180

[Introduction 28170](#)

[Adoption allowances 28171 - 28174](#)

[Civilian war injury pensions 28175](#)

[Home income plans \[See Memo DMG 16/18\] 28176 - 28180](#)

## Introduction

28170 Payments of

1. adoption allowances
2. civilian war injury pensions
3. home income plans
4. income from boarders
5. income from subletting
6. living away from home allowances
7. income from certain disregarded capital
8. national lottery sports award
9. residence orders
10. dependant's income (see DMG 28565 et seq)

should be disregarded in part.

## Adoption allowances

28171 LAs and other adoption agencies may pay adoption allowance to help people who might otherwise not be able to afford to adopt children. It may be paid where a

1. long-term foster parent wishes to adopt but cannot afford to lose their boarding out allowance **or**
2. child's prospects of adoption are lowered because of disability.

Each LA has its own scheme. There is usually a rule that ends the allowance when the adopted child or

young person stops living with the adopter.

### **Adoption allowance paid for members of the family**

28172 [\[See DMG Memo IS/JSA 64\]](#) If adoption allowance is paid for a child or young person who is a member of the family the DM should

**1.** disregard adoption allowance in full if the child or young person has capital over £3000 **or**

**2.** if the child or young person has capital below £3000

**2.1** take adoption allowance paid into account up to the level of the child or young person's applicable amount, including any DCP **and**

**2.2** disregard any balance<sup>1</sup>.

1 JSA Regs, Sch 7, para 26(1)(a); IS (Gen) Regs, Sch 9, para 25(1)(a)

### **Example**

Lin Ho claims IS. He has adopted a son, Chang.

The LA pays Lin Ho adoption allowance of £80 a week.

The applicable amount in respect of Chang is £79.80 made up of £38.50 for a child aged under eleven and DCP of £41.30.

The DM takes into account £79.80 of the adoption allowance as income. The balance is disregarded.

### **Adoption allowances paid other than for a child who is a member of the family**

28173 Disregard any payment<sup>1</sup> made under specific legislation<sup>2</sup> in respect of

**1.** a child who is not a member of the family **or**

**2.** the claimant or partner.

1 JSA Regs, Sch 7, para 26(1A); IS (Gen) Regs, Sch 9, para 25(1A);

2 Adoption and Children Act 2002, s 2(6)(b), 3 & 4

### **Adoption allowances paid in Scotland or Wales for children who are not members of the family**

28174 [\[See DMG Memo IS/JSA 64\]](#) If adoption allowance is paid in Scotland or Wales for a child or young person who is not treated as a member of the family, for example a child in youth custody, the DM should

1. disregard in full any amount which is spent on the child or young person **and**
2. take into account any amount used by the claimant or a member of the family<sup>1</sup>.

1 JSA Regs, reg 105(10)(b); IS (Gen) Regs, reg 42(4)(b)

## Civilian war injury pensions

28175 Civilian war injury pensions have a disregard that is updated annually<sup>1</sup>.

1 JSA Regs, Sch 7, para 54; IS (Gen) Regs, Sch 9, para 55

## Home income plans

[\[See Memo DMG 16/18\]](#)

### What is a home income plan

28176 Retired people who own their home may take out a loan secured on the home and use the money to buy an annuity which provides an income. The loan may also be for other expenditure such as building an extension. The gross income from the annuity covers the interest on the loan with any balance being used for personal use.

### What is an annuitant

28177 In this guidance an annuitant is a person to whom income from an annuity is payable.

### Payments from home income plans

28178 [\[See Memo DMG 16/18\]](#) The DM should establish if the following conditions are satisfied

1. the loan was taken out under a scheme under which at least 90% of the proceeds of the part of the loan intended to buy an annuity have been used to buy an annuity<sup>1</sup>**and**
2. the annuity ends with
  - 2.1 the life of the person to whom the loan was made **or**
  - 2.2 the life of the survivor of two or more annuitants who include the person to whom the loan was made **and**
3. the interest on the loan is payable by the person to whom the loan was made or by one of the annuitants **and**
4. at the time the loan was made the person to whom it was made and other annuitant was aged at least 65 **and**

**5.** the loan was secured on a dwelling in GB and the person to whom the loan was made or one of the annuitants owns an estate interest in that dwelling **and**

**6.** the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as the home at the time the interest was paid.

1 JSA Regs, Sch 7, para 18; IS (Gen) Regs, Sch 9, para 17

28179 If all the conditions in DMG 28178 are satisfied the DM should disregard the

**1.** net weekly interest where income tax is deductible **or**

**2.** gross amount of interest in other cases.

The balance of the annuity income should be taken fully into account.

### **Notional annuity income**

28180 If the annuity income **is**

**1.** paid direct to the lender **or**

**2.** not paid to the claimant or the lender

the DM should consider if the claimant is treated as possessing notional income (see DMG 28568 et seq)<sup>1</sup>.

1 JSA Regs, reg 105(1), (2), (6) & (10); IS (Gen) Regs, reg 42(1), (2), (3) & (4)



## Income from people living in the claimant's home 28181 - 28194

28181 The following paragraphs give guidance on the treatment of income from people living in the claimant's home. DMs should not apply the disregard for payments from people who normally live with the claimant to

1. payments for board and lodging **or**
2. payments made by a subtenant under a contract.

### Income from boarders

28182 Where claimants provide BL accommodation within their home the DM should

1. add together all the payments made for BL for the week
2. calculate how much BL income belongs to the claimant (i.e. if the claimant is in partnership only a share of the total payments will be the claimant's income)
3. deduct £20 **and**
4. deduct 50% of any excess over £20

for each person for whom BL is provided<sup>1</sup>.

**Note:** In this paragraph "home" means the dwelling occupied as the home.

1 JSA Regs, Sch 7, para 21; IS (Gen) Regs, Sch 9, para 20

### Example

Anita, who claims IS, had two boarders during the week.

1. Boarder 1 paid £55 for a 4 night stay.
2. Boarder 2 paid £12 a night for a five night stay.

The DM calculated the income to be taken into account as follows

#### Boarder 1

Payments for the week    £55

Deduct £20                      £20

£35

Deduct 50% of remainder   £17.50

Income from boarder 1      £17.50

## **Boarder 2**

Payments for the week      £60

Deduct £20                      £20

£40

Deduct 50% of remainder   £20

Income from boarder 2      £20

## **Total income**

From boarder 1 and boarder   = £37.50

2

## **What is board and lodging accommodation**

28183 BL accommodation means<sup>1</sup>

**1.** accommodation provided for a charge that includes

**1.1** providing the accommodation **and**

**1.2** some cooked or prepared meals **or**

**2.** accommodation provided in a hotel, guest house, lodging house (see DMG 28186) or similar establishment.

<sup>1</sup> JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

28184 Accommodation provided

**1.** by a close relative (see DMG 28187) **or**

**2.** any other member of the family **or**

**3.** not on a commercial basis

should not be treated as BL accommodation<sup>1</sup>.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

28185 Any meals provided

**1.** should not be cooked or prepared by the boarder or member of the boarder's family **and**

**2.** should be eaten in the accommodation or associated premises<sup>1</sup>.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

28186 A lodging house

**1.** is not a private house in which rooms are rented, even if services such as the provision and washing of bed linen are provided **and**

**2.** is a place where accommodation is offered on a long-term basis **and**

**3.** is the kind of establishment that may have a sign outside offering accommodation.

### **What is a close relative**

28187 When considering BL accommodation "close relative" means<sup>1</sup> a

**1.** parent

**2.** parent in law

**3.** son

**4.** son in law

**5.** daughter

**6.** daughter in law

**7.** step parent

**8.** step son

9. step daughter

10. brother or sister (including half-brother and half-sister)

11. husbands and wives of any of the people mentioned above

12. civil partners and those who are LTAMC with any of the people mentioned above.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); R(SB) 22/87

28188 For the purposes of DMG 28187, a child who is adopted becomes

1. a child of the adoptive parents **and**

2. the brother or sister of any other child of those parents.

The child stops being the child of, or the brother or sister of any children of the natural parents. Whether an adopted person is a close relative of another person depends upon the legal relationship and not the blood relationship<sup>1</sup>.

1 R(SB) 22/87

28189

### **Income from subletting**

28190 Where a claimant sublets part of the home to another person the DM should

1. add together all payments made for the week by that subtenant and/or a member of the subtenant's family **and**

2. disregard<sup>1</sup>

2.1 £20 or

2.2 the whole of the amount paid where the total is less than £20.

**Note:** In this guidance "home" means the dwelling occupied as the home.

1 JSA Regs, Sch 7, para 20; IS (Gen) Regs, Sch 9, para 19

### **Example 1**

Sally has a subtenant in her home who is liable under a contract to pay her rent. The weekly rent is £50. The subtenant pays £30 on Tuesday and £20 on Saturday.

The DM

**1.** adds together the payments in the week  $\text{£}30 + \text{£}20 = \text{£}50$

**2.** and deducts  $\text{£}20$ .

The DM takes  $\text{£}30$  a week into account.

### **Example 2**

Robin has two subtenants in his home. Both subtenants pay  $\text{£}65$  a week.

The DM

**1.** adds together the payments in the week  $\text{£}65 + \text{£}65 = \text{£}130$

**2.** and deducts  $\text{£}40$  ( $\text{£}20$  for each subtenant).

The DM takes  $\text{£}90$  a week into account.

28191 - 28194

## Other types of income partially disregarded 28195 - 28210

[Living away from home allowance 28195](#)

[Income from certain disregarded capital 28196 - 28199](#)

[National Lottery Sports Award 28200 - 28201](#)

[Income other than earnings disregard 28202](#)

[Residence orders 28203 - 28210](#)

### Living away from home allowance

28195 Living away from home allowance is paid by or on behalf of DWP to people attending training courses. The DM should disregard the full amount of this allowance except any part of it which is equal to rent met by HB for accommodation the claimant does not normally occupy<sup>1</sup>.

1 JSA Regs, Sch 7, para 14(1)(d); IS (Gen) Regs, Sch 9, para 13(1)(d)

### Income from certain disregarded capital

28196 The DM should

1. take into account as income any payments (including rent) from premises other than the home while the capital value of the premises is disregarded
2. treat as capital any other income received from premises apart from income from the home. This includes rent from a property that has no value because of the liabilities secured on it.

**Note:** The disregards explained in DMG 28197 do not apply to income from the home.

28197 The DM should take income into account in full less

1. any mortgage repayments, including
  - 1.1 both the interest and capital elements of any repayments **and**
  - 1.2 endowment policy premiums where it is a term of the mortgage that there is an endowment policy. The DM should establish the level of endowment required by the lender to cover the mortgage. See DMG 28198 for the calculation of the deduction for the premium **and**
  - 1.3 insurance premiums where it is a term of the mortgage that such insurance be held **and**
2. Council Tax **and**

### 3. water charges

paid for the property producing the income during the period that the income was received for<sup>1</sup>.

1 JSA Regs, Sch 7, para 23(2); IS (Gen) Regs, Sch 9, para 22(2)

28198 Endowments have both an investment and a life insurance element. The endowment may have been chosen to provide

**1.** just the level of investment and life assurance required by the lender to ensure repayment of the mortgage, including in the event of death. If the DM establishes that the endowment is this type of endowment, the DM should deduct the amount of the premium **or**

**2.** a level of investment and life assurance higher than that required by the lender. The premium for this type of endowment is higher than the endowment in **1.** If the DM establishes that the endowment is this type of endowment the DM should

**2.1** establish the level of endowment actually required by the lender to cover the mortgage **and**

**2.2** restrict the amount of the deduction to the amount that would buy the level of endowment actually required by the lender. When deciding this amount, the DM may choose to look at the cost of a policy from the same insurance company or a different company.

28199 The disregard applies to income from properties whose capital value is disregarded because they are

**1.** intended to be the claimant's home but have not yet been occupied (see DMG Chapter 29) **or**

**2.** occupied wholly or partly by a partner or relative of

**2.1** a single claimant **or**

**2.2** any other member of the family

who is aged at least 60 or incapacitated (see DMG Chapter 29) **or**

**3.** occupied wholly or partly by the claimant's former partner (see DMG Chapter 29) **or**

**4.** the former marital home (see DMG Chapter 29) **or**

**5.** premises that the claimant is taking reasonable steps to sell (see DMG Chapter 29) **or**

**6.** premises the claimant intends to live in and certain steps are being taken to take possession (see DMG Chapter 29) **or**

**7.** premises the claimant intends making home but cannot move in until essential repairs and

improvements have been completed (see DMG Chapter 29).

## **National Lottery Sports Award**

### **Meaning of sports award**

28200 “Sports award” means an award

- 1.** made by one of the Sports Councils named in the National Lottery legislation **and**
- 2.** out of sums allocated to it under that legislation<sup>1</sup>.

1 IS (Gen) Regs, reg 2(1); JSA Regs, reg 1(3); National Lottery etc Act 1993, s 23(2)

28201 The Sport Councils named in the National Lottery legislation<sup>1</sup>are the

- 1.** English Sports Council<sup>2</sup>
- 2.** Scottish Sports Council
- 3.** Sports Council for Wales
- 4.** Sports Council for Northern Ireland
- 5.** UK Sports Council<sup>3</sup>.

1 s 23(2); 2 National Lottery etc Act (Amendment of s 23) Order 1996, art 2; 3 art 2

### **Income other than earnings disregard**

28202 Any payments of a sports award should be disregarded except to the extent that the award is made for

- 1.** food **or**
- 2.** ordinary clothing or footwear **or**
- 3.** rent for which HB is payable **or**
- 4.** household fuel **or**
- 5.** housing costs covered by IS or JSA(IB) **or**
- 6.** CT for which the claimant or a family member is liable **or**
- 7.** water rates for which the claimant or a family member is liable<sup>1</sup>.



**Note 1:** “Food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the sport for which the sport award was made<sup>2</sup>.

**Note 2:** “Ordinary clothing and footwear” means clothing or footwear for normal daily use. It does not include school uniforms or clothing used solely for sporting activities<sup>3</sup>.

1 IS (Gen) Regs, Sch 9, para 69(1) & (2); JSA Regs, Sch 7, para 67(1) & (2);

2 IS (Gen) Regs, Sch 9, para 69(3); JSA Regs, Sch 7, para 67(3);

3 IS (Gen) Regs, Sch 9, para 69(3); JSA Regs, Sch 7, para 67(3)

## Residence orders

### Northern Ireland Children Order

28203 [\[See DMG Memo IS/JSA 64\]](#) Payments made by an authority<sup>1</sup> under specified legislation<sup>2</sup> are subject to a disregard<sup>3</sup>. The amount of the disregard should be calculated as in DMG 28205.

1 Children (NI) Order 1995, Article 2; 2 Article 15 and Sch 7, para 17;

3 IS (Gen) Regs, Sch 9, para 25(1)(d); JSA Regs, Sch 7, para 26(1)(d)

### Local authority payments for children subject to a residence order

28204 [\[See DMG Memo IS/JSA 64\]](#) Payments made by a LA under specified legislation<sup>1</sup> are disregarded<sup>2</sup>. The amount of the disregard should be calculated as in DMG 28205.

1 Children Act 1975, s 34(6) & 50; Children Act 1989, s 15 & Sch 1, para 15;

2 IS (Gen) Regs, Sch 9, para 25(1)(b)(ba) & (c); JSA Regs, Sch 7, para 26(1)(b)(ba) & (c)

## Disregard

28205 [\[See DMG Memo IS/JSA 64\]](#) If a payment is made under a residence order for a child or young person who is a member of the family the DM should

**1.** if the child or young person has capital over £3000 - disregard it in full **or**

**2.** if the child or young person has capital below £3000

**2.1** take into account the equivalent of the child or young person's applicable amount including any DCP **and**

**2.2** disregard any balance **or**

**3.** if the payment is made as a lump sum - treat it as capital.

If a payment is made up of more than one element the DM should identify the separate amounts and

treat them as appropriate in **1.** to **3.**<sup>1</sup>.

1 JSA Regs, Sch 7, para 26; IS (Gen) Regs, Sch 9, para 25

28206 Residence orders are paid by LAs in England and Wales as a contribution towards a child's maintenance. LAs do not make payments when the claimant is

**1.** the parent of the child **or**

**2.** the husband, wife or civil partner of the parent of the child.

28207 - 28210

# **Maternity, paternity, adoption, parental and sick pay 28211 - 28229**

[Statutory maternity pay 25211](#)

[Paternity pay and additional paternity pay 28212](#)

[Statutory adoption pay 28213](#)

[Statutory sick pay 28214](#)

[Statutory shared parental pay 28215](#)

[Treatment of SMP, paternity pay, statutory adoption pay, statutory shared parental pay and SSP 28216 - 28229](#)

## **Statutory maternity pay**

28211 Statutory maternity pay is payable by employers to female employees as part of or instead of, normal earnings when they have given up work to have a baby. Women who are not employees are not entitled to statutory maternity pay but may claim MA instead.

## **Paternity pay and additional paternity pay**

28212 Paternity pay is payable to male employees during their paternity leave when they have average weekly earnings of at least the LEL (see DMG Chapter 27, Appendix 2).

## **Statutory adoption pay**

28213 Statutory adoption pay is payable to adopters during their ordinary adoption leave where they have average weekly earnings at least equal to the LEL (see DMG Chapter 27, Appendix 2). It is paid at the same rate as standard statutory maternity pay.

## **Statutory sick pay**

28214 Statutory sick pay is payable by employers to employees as part of or instead of, normal wages for up to 28 weeks in any period of sickness. People who are not employees are not entitled to statutory sick pay but may claim ESA instead.

## **Statutory shared parental pay**

28215 Employees and workers may be entitled to shared parental leave and shared parental pay in respect of babies born or adopted on or after 5.4.15.

## **Treatment of SMP, paternity pay, statutory adoption pay, statutory shared parental pay and SSP**

28216 [\[See DMG Memo 08/20\]](#) The amount the DM should take into account is the gross amount less

- 1.** any income tax paid<sup>1</sup>**and**
- 2.** any employees' SS contributions or Northern Ireland Class 1 contributions<sup>2</sup>**and**
- 3.** one half of any contribution paid by the claimant to an occupational or personal pension scheme<sup>3</sup>.

1 JSA Regs, Sch 7, para 1; IS (Gen) Regs, Sch 9, para 1; 2 JSA Regs, Sch 7, para 4(a) & 5(a);  
IS (Gen) Regs, Sch 9, para 4(a) & 4A; 3 JSA Regs, Sch 7, para 4(b) & 5(b);  
IS (Gen) Regs, Sch 9, para 4(b) & 4A(b)

### **Employer's private maternity, paternity, adoption or sick pay**

28217 Maternity, paternity, adoption or sick pay from an employer's private scheme should be treated in the same way as the statutory payments.

### **Lump sum payments of statutory maternity pay**

28218 Some employers may pay statutory maternity pay as a lump sum at the start of the maternity pay period. The DM should apply the normal rules when deciding the period statutory maternity pay should be taken into account<sup>1</sup>.

1 JSA Regs, reg 94(2); IS (Gen) Regs, reg 29(2)

28219 - 28229

# Payments for housing costs and mortgage protection payments

## 28230 - 28239

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[Meanings of terms used 28231](#)

[Payments made direct to a third party when the claimant could not receive the income direct 28232](#)

[Payments made direct to a third party when the claimant could receive the income direct 28233 - 28234](#)

[Payments made direct to the claimant 28235 - 28239](#)

### Introduction

28230 The following paragraphs explain disregards on payments for housing costs. The type of disregard depends upon the way a payment is made. DMs should make sure that there is sufficient evidence available to decide how to apply the disregards.

### Meanings of terms used

28231 In the following paragraphs references to

**1.** “home” means “dwelling occupied as the home” which includes

**1.1** the dwelling and any

**1.1.a** garage

**1.1.b** garden **or**

**1.1.c** outbuildings

normally occupied by the claimant as the home **and**

**1.2** any buildings or land not occupied as the home which it is not practicable or reasonable to sell separately **and**

**1.3** in Scotland, any croft land on which the dwelling is situated.

**Note:** Rooms that are sub let should be treated as part of the dwelling occupied as the home unless it is practicable or reasonable to sell that part of the house separately.

**2.** “qualifying housing cost” means

**2.1** a loan which qualifies under the Loans for Mortgage Interest Regulations<sup>1</sup> (LMI), see ADM Memo 8/18 **or**

**2.2** any other housing costs (for example service charges) which satisfy the conditions of DMG, Chapter 23.

1 The Loans for Mortgage Interest Regulations 2017 ([SI 2017/725](#))

**Note:** From 6.4.18 the regulations which provide for entitlement to owner occupier payments within UC, IS, JSA(IB), ESA(IR) and SPC are repealed but payment towards certain other housing costs will continue. Support for owner occupier payments will be met by stand-alone loans under new legislation. However transitional arrangements are in place for existing claimants whose housing costs can continue for a prescribed/limited period – see ADM [Memo 8/18](#) for **full** details.

**3.** “mortgage protection policy” means an insurance policy taken out to insure against the risk of not being able to maintain repayments on a loan or mortgage

**4.** “third party” means a person or organisation to whom the claimant is liable to make payments for housing or accommodation. This could include a

**4.1.** landlord

**4.2.** building society

**4.3.** insurance company

**4.4.** care home, an Abbeyfield Home or independent hospital (see DMG 28283 - 28285 for the meaning of care home and independent hospital)

**5.** capital repayments include repayments of capital on a “repayment” mortgage or loan as well as payments into

**5.1.** endowment policies

**5.2.** individual savings accounts (ISAs)

**5.3.** personal pension plans

**5.4.** other investment plans

that have been taken out to repay a mortgage or loan.

## Payments made direct to a third party when the claimant could not receive the income direct

28232 Where a claimant receives housing costs within their award as in DMG 28231 **2.2**, then the DM should take these payments into account but only up to the level of the housing costs included in the applicable amount. Any excess should be ignored<sup>1</sup>. This disregard applies

- 1.** to a payment if the claimant could not successfully apply to receive the income direct **and**
- 2.** for any period before the claimant could expect to get a payment in a case where the claimant could successfully apply to receive the income direct.

### Example

Asif claims JSA(IB). He has an income protection policy that pays £50 a week.

Under the terms of the policy payments must be made direct to his landlord. The money is used to meet Asif's service charges.

Asif's applicable amount includes £25 a week for service charges.

The DM treats Asif as having income of £25 a week. The balance of £25 is ignored.

**Note:** The disregards in DMG 28233 et seq do not apply to these payments<sup>2</sup>.

1 JSA Regs, reg 105(10)(a)(ii); IS (Gen) Regs, reg 42(4)(a)(ii); 2 JSA Regs, Sch 7, para 31(1);  
IS (Gen) Regs, Sch 9, para 30(2)

## Payments made direct to a third party when the claimant could receive the income direct

28233 Where a claimant receives housing costs within their award as in DMG 28231 **2.2**, then the DM should treat any payments made direct to a third party as the claimant's income from the date the claimant could expect to get the income<sup>1</sup>

- 1.** if an application was made **and**
- 2.** if the claimant could successfully apply to receive the income direct.

This notional income should be treated as if it is actually received by the claimant<sup>2</sup>.

1 JSA Regs, reg 105(2); IS (Gen) Regs, reg 42(2); 2 JSA Regs, reg 103(14); IS (Gen) Regs, reg 42(7)

## **How should the DM decide when the claimant could expect to get the income**

28234 The DM should calculate the date the claimant could expect to receive the income by

- 1.** assuming that an application was made on the date the DM first becomes aware of the possible income **and**
- 2.** adding the estimated time it would take for an application to be processed.

## **Payments made direct to the claimant**

28235 If the claimant

- 1.** receives payments **or**
- 2.** is treated as receiving payments

for housing costs direct the DM should decide if the income comes from a mortgage protection policy.

28236 Where a payment is made from a mortgage protection policy the DM should always apply any disregard for a mortgage protection policy payment before considering any other disregards<sup>1</sup>.

**Note:** The DM will not automatically obtain a statement from a claimant's lender about housing costs. The DM should normally accept the claimant's own evidence. Corroboration of the claimant's evidence should only be sought if there are grounds to doubt it.

1 JSA Regs, Sch 7, para 30; IS (Gen) Regs, Sch 9, para 29

28237 - 28239



# Mortgage protection policy payments 28240 - 28249

[How much mortgage protection policy payment should be disregarded 28240 - 28241](#)

[What if the payment from the mortgage protection policy is more than the claimant's housing costs 28242 - 28249](#)

## How much mortgage protection policy payment should be disregarded

28240 The DM should disregard any payments that are **used** to pay the amount of any loan which

1. qualifies under the Loans for Mortgage Interest Regulations<sup>1</sup> (see DMG 28231) **or**
2. would qualify for such a loan if an application was made.

**Note:** the claimant only has to have a loan which qualifies for an LMI loan, they do not have to be in receipt of an amount of LMI loan for this disregard to apply.

1 JSA Regs, Sch 7, para 30; IS (Gen) Regs, Sch 9, para 29

### Example 1

Arsene receives IS and applies for a loan under the new LMI scheme. He also has a mortgage protection policy. Arsene is assessed as requiring a loan of £50/week under LMI but he does not receive a payment as his mortgage protection policy is equal to the amount of that - £50/week. As his loan is a qualifying loan and he uses his mortgage protection policy to meet his mortgage repayments, they are disregarded in the weekly calculation of his IS award.

### Example 2

Thierry receives IS and applies for a loan under the new LMI scheme. He also has a mortgage protection policy of £50/ week. Thierry is assessed as requiring a loan of £75/week under LMI, taking into account the mortgage protection policy of £50/week. As his loan is a qualifying loan and he uses his mortgage protection policy to meet his mortgage repayments, they are disregarded in the weekly calculation of his IS award.

28241

## What if the payment from the mortgage protection policy is more than the claimant's housing costs

28242 If the amount payable from the mortgage protection policy is more than the total the claimant has to pay to the third party, the balance will be ignored. This is because the mortgage protection policy is already taken into account in the calculation of payments under the LMI scheme. See ADM [Memo 8/18](#)

for **full** details.

### **Example**

Meghan receives JSA and applies for a loan under the new LMI scheme. She also has a mortgage protection policy. Meghan is assessed as requiring a loan of £100/week under LMI. She does not receive this loan as her mortgage protection policy is £150/week. As her loan is a qualifying loan and she uses the mortgage protection policy to pay her mortgage repayments, the payment from the mortgage protection policy is completely disregarded for JSA purposes.

28243 - 28249

## Other payments for housing costs 28250 - 28280

[Types of payment disregarded 28250 - 28259](#)

[Suoversessions and payments for housing costs 28260 - 28280](#)

### Types of payment disregarded

28250 Payments of income

**1.** intended by the claimant, or person making the payment as a contribution towards certain housing and accommodation costs **and**

**2.** used as a contribution

towards any of the costs in DMG 28253 should be disregarded<sup>1</sup>. This disregard does not apply to payments under an insurance policy to which DMG 28107 applies.

1 JSA Regs, Sch 7, para 31(1); IS (Gen) Regs, Sch 9, para 30(1)

28251 If the payment is from a mortgage protection policy the DM should consider the disregards explained in DMG 28240 - 28242 before considering this disregard.

28252 If a payment is made from an insurance policy the DM should decide if the policy was taken out to meet housing costs<sup>1</sup>. If the policy was taken out to meet housing costs the DM should consider the disregards at DMG 28240 et seq before any other disregards.

1 R(IS) 13/01

28253 Payments for the following housing and accommodation costs should be disregarded

**1.** any payment on a loan secured on the claimant's home which is not a qualifying housing cost. (If only part of the loan is not a qualifying housing cost this disregard only applies to the amount of the payment for that part<sup>1</sup>)

**2.** interest payments for a loan which is a qualifying housing cost where those payments are not met in the applicable amount or by a loan payment under the new LMI scheme<sup>2</sup>

**3.** capital repayments for a loan which is a qualifying housing cost where those payments are not met by a loan payment under the new LMI scheme<sup>3</sup>

**4.** insurance policy premiums for

**4.1** mortgage protection polices if the other payments disregarded under this paragraph come

from it<sup>4</sup> **and**

**4.2** building insurance policies for the claimant's home<sup>5</sup>

**5.** other housing costs

**5.1** any payment towards

**5.1.a** service charges **and**

**5.1.b** ground rent or rent charge **and**

**5.2** any payment for

**5.2.a** a co-ownership scheme **and**

**5.2.b** a Crown tenancy **and**

**5.2.c** a tent

to the extent that they are not met in the applicable amount or by a loan payment under the new LMI scheme<sup>6</sup>

**6.** rent on the home that is not met by HB<sup>7</sup>

**7.** accommodation charges<sup>8</sup> but only to the extent that the actual charge exceeds the amount payable by LAs under certain legislation.

**Note 1:** The disregards at **2 and 3** only apply to that part of the loan that is a qualifying housing cost.

**Note 2:** A service charge is a qualifying housing cost if it is payable as a condition of the claimant occupying a property. See DMG Chapter 23 for guidance when a service charge can be met as a housing cost.

1 JSA Regs, Sch 7, para 31(1)(a); IS (Gen) Regs, Sch 9, para 30(1)(a); 2 JSA Regs, Sch 7, para 31(1)(b); IS (Gen) Regs, Sch 9, para 30(1)(b); 3 JSA Regs, Sch 7, para 31(1)(c); IS (Gen) Regs, Sch 9, para 30(1)(c); 4 JSA Regs, Sch 7, para 31(1)(d)(i); IS (Gen) Regs, Sch 9, para 30(1)(d)(i); 5 JSA Regs, Sch 7, para 31(1)(d)(ii); IS (Gen) Regs, Sch 9, para 30(1)(d)(ii); 6 JSA Regs, Sch 7, para 31(1)(b); IS (Gen) Regs, Sch 9, para 30(1)(b); 7 JSA Regs, Sch 7, para 31(1)(e); IS (Gen) Regs, Sch 9, para 30(1)(e); 8 NA Act 48, Part III, Care Act 2014 (care and support) Part 1; Social Services and Well-being (Wales) Act 2014, s 50 or 52

### **Example 1**

George receives IS and has a loan secured on his home which does not qualify under the new LMI scheme. George's father meets the loan repayments in full. The payments from George's father are

completely disregarded for the purposes of calculating George's IS award.

### **Example 2**

Charlotte receives JSA and has a loan which is a qualifying loan under the new LMI scheme but she chooses not to take up the loan offer. This is because Charlotte's parents are meeting the loan repayments in full for her. These payments are completely disregarded for the purposes of calculating Charlotte's JSA award.

### **Example 3**

William receives IS and receives a payment for his mortgage under the new LMI scheme. However, William's loan payments are less than the amount he has to pay because the lender's interest rate is higher than the standard interest rate used to calculate the LMI payments. William's brother makes a contribution to him for the shortfall and he uses this to meet his mortgage repayments in full. The amount given to William by his brother is completely disregarded for the purposes of calculating his IS award.

### **Example 4**

Kate receives IS and a payment for her mortgage under the new LMI scheme. Kate's sister also gives her the money needed to meet her mortgage repayments each month. The money given to Kate by her sister is taken fully into account for the purposes of calculating her award of IS as it does not fall to be disregarded under the provisions described in DMG 28253.

28254 The disregards in DMG 28253 do not apply if the DM decides the payment is an LRP<sup>1</sup>.

1 JSA Regs, reg 89; IS (Gen) Regs, reg 25

28255 If a payment for a housing cost or part of a housing cost has already been disregarded under DMG 28240 - 28242 the payment for the same cost should not be disregarded again under DMG 28253.

### **How should the DM treat payments for housing costs that also attract other disregards**

28256 The DM should include any other disregard that applies to a payment made for housing costs. This includes any

- 1.** income tax deducted from the payment **and**
- 2.** disregard that applies to charitable and voluntary payments.

28257 - 28259

## Supersessions and payments for housing costs

28260 Special rules on the supersession of disregards of payments for housing costs apply in JSA<sup>1</sup> and IS<sup>2</sup> cases. The special rules apply to

- 1.** mortgage protection policies **and**
- 2.** other payments for housing costs.

1 SS & CS (D & A) Regs, reg 6(2) & 7(19); 2 regs 6(2) & 7(15)

28261 Some disregards on payments for housing costs are based on the interest payable on a loan. If the interest payable alters, the disregard has to be revised or superseded.

28262 A supersession caused by a change in interest payable on

- 1.** a loan that is a qualifying housing cost **or**
- 2.** a loan that is not a qualifying housing cost but is secured on the home

will not be effective until the next appropriate date is reached<sup>1</sup>.

1 SS & CS (D & A) Regs, reg 7(20) & 7(16)

28263 The appropriate date in DMG 28262 is the later of

- 1.** the date when<sup>1</sup>

**1.1** new or existing housing costs are awarded in full because the claimant or partner is aged at least 60 **or**

**1.2** existing housing costs are awarded at 100% after the claimant has been in continuous receipt of JSA(IB) or IS for 26 weeks **or**

**1.3** new housing costs are awarded at 100% after the claimant has been in continuous receipt of JSA(IB) or IS for 39 weeks **or**

- 2.** the date of the next change in standard interest rate<sup>2</sup>.

1 SS & CS (D & A) Regs, reg 7(20)(a) & 6(16)(a); 2 reg 7(20)(b) & 6(16)(b)

### Example

Frank claims JSA on 1 April. He has a mortgage on his home which was taken out before 2.10.95. Frank has a mortgage protection policy which pays the interest and capital repayments on his mortgage.

The DM calculates the amount of the disregard for Frank's mortgage protection policy payments and decides that no income should be taken into account.

On 1 May the interest payable on Frank's mortgage increases. The DM supersedes the disregard of Frank's mortgage protection policy payments but the supersession is not effective until 1 October when his existing housing costs have been awarded at 100%.

28264 The special supersession rules only apply to changes in interest payments caused by interest rate changes. Normal supersession rules apply to all other changes of circumstances including

**1.** changes in capital repayments on a loan **and**

**2.** changes in premiums for

**2.1** mortgage protection policies **and**

**2.2** policies designed to repay the loan **and**

**2.3** buildings insurance policies.

**Note:** The amount of premiums for some mortgage protection policies depends on the amount of interest actually payable. Normal supersession rules apply where a change in interest payable causes mortgage protection policy premiums to change.

28265 - 28267

28268 When

**1.** a change of interest payable is not effective until the next appropriate date is reached **and**

**2.** a later change occurs that

**2.1** affects the amount of interest disregarded **and**

**2.2** the special supersession rules do not apply

the amount of interest disregarded because of the second change should be based on the actual interest payable.

### **Example**

Liam has a mortgage protection policy. The interest payable on his loan is £15 a week. He receives £10 a week interest in his applicable amount.

On 1 January the DM disregards £5 a week.

On 1 February the interest payable increases to £16 a week. The DM supersedes the interest payable but the supersession is not effective until the next appropriate date is reached. The disregard remains at £5.

On 1 March the standard interest rate changes. The interest in Liam's applicable amount increases to £12. The actual interest payable remains at £16.

The DM supersedes the amount of the disregard. The disregard is reduced to £4 (£16 - £12).

28269 When

**1.** a change in interest payable is not effective until the next appropriate date is reached **and**

**2.** a later change occurs that

**2.1** affects disregarded items other than loan interest **and**

**2.2** special supersession rules do not apply

there will be no grounds to supersede the disregard of interest. The supersession should be restricted to the items directly affected by the change<sup>1</sup>.

1 R(IS) 15/93

### **Example**

Christina receives payments from a mortgage protection policy. The interest payable on her loan is £15 a week. She gets £10 a week in her applicable amount.

From 1 January the DM disregards £5 from the mortgage protection policy payment.

On 1 February the interest on the loan increases to £16 a week. The DM supersedes the interest payable but the supersession is not effective until the next appropriate date is reached. The disregard remains at £5 a week.

On 1 March mortgage protection policy premiums increase. The DM increases the amount of the disregard relating to mortgage protection policy premiums only. The amount of the disregard relating to loan interest is not superseded until the next appropriate date is reached.

28270 - 28280



# Payments for care home, Abbeyfield Home or independent hospital charges 28281 - 28349

[Introduction 28281 - 28285](#)

[Types of payment 28286 - 28302](#)

[Payments to claimants not in Local Authority sponsored accommodation 28303 - 28304](#)

[Other payments towards accommodation costs 28305 - 28349](#)

## Introduction

28281 DMG 28282 - 28305 gives guidance on the treatment of payments of income towards accommodation charges for

1. a care home **or**
2. an Abbeyfield Home **or**
3. an independent hospital.

28282 The treatment of the income depends on

1. the type of payment
2. whether the LA has sponsored the claimant in their accommodation.

## Care homes and independent hospitals

28283 In England and Wales a care home means<sup>1</sup> a home, other than a hospital, an independent clinic or children's home, which provides accommodation along with nursing or personal care for persons who

1. are or have been ill including mental illness **or**
2. are disabled or infirm **or**
3. are or have been dependent on alcohol and drugs.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Care Standards Act 2000, s 3;  
Regulation and Inspection of Social Care (Wales) Act 2016, part 1

28284 In Scotland a care home means<sup>1</sup> a home care service which provides accommodation along with nursing, personal care or personal support but does not include

1. hospitals
2. schools
3. independent health care services.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Public Services Reform (Scotland) Act 2010, Sch 12, para 2

28285 An independent hospital means<sup>1</sup> in

1. England, a hospital that is not a health service hospital as defined in legislation<sup>2</sup>**or**
2. Wales, a hospital which is not a health service hospital as defined in legislation<sup>3</sup>**or**
3. Scotland, an independent healthcare service as defined in legislation<sup>4</sup>.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 National Health Service Act 2006, s 275;  
3 Care Standards Act 2000, s 2; 4 NHS (Scot) Act 78, s 10F(1)(a) & (b)

## Types of payment

28286 The payments for accommodation may be

1. charitable or voluntary (see DMG 28492 et seq) **or**
2. other payments.

The DM should decide what type of payment is being made.

28287 - 28302

## Payments to claimants not in Local Authority sponsored accommodation

28303 This disregard applies where a claimant is residing in

1. a care home, Abbeyfield Home, or independent hospital **and**
2. accommodation that has not been provided by an LA under certain legislation<sup>1</sup>.

**Note:** This disregard does not apply to charitable or voluntary payments which are fully disregarded - see DMG 28513.

1 NA Act 48, s 26; SW (Scot) Act 68, s 59

28304 The DM should disregard from any payment intended and used for accommodation charges the difference between the

1. claimant's applicable amount **and**

2. actual charge made by the home or hospital<sup>1</sup>.

1 JSA Regs, Sch 7, para 32; IS (Gen) Regs, Sch 9, para 30A

### Example

Andrew receives IS. He lives in an independent hospital which provides treatment for drug and alcohol dependency. The LA are not sponsoring Andrew under National Assistance legislation. The weekly charge for the hospital is £300. Andrew receives a payment of £250 a week from a Trust Fund towards his accommodation charges.

The DM calculated Andrew's applicable amount as follows

personal allowance £54.65

DP £23.30

£77.95

The difference between £77.95 and the charge by the hospital is the amount of the disregard.

actual charge £300.00

less £77.95

The disregard is £222.05

### Other payments towards accommodation costs.

28305 Disregard the amount of the payment intended and used for charges not met by the LA<sup>1</sup> under certain legislation<sup>2</sup>.

**Note:** This would only happen if the charge was greater than the amount allowed by the LA but not if the claimant chose a more expensive home than the LA would allow.

1 JSA Regs, Sch 7, para 31(1)(e); IS (Gen) Regs, Sch 9, para 30(1)(e);  
2 NA Act 48, s 26; the Care Act 2014 (care and support), part 1; Social Services and Well-being (Wales)  
Act 2014,  
part 4 (excluding Direct Payments any under s 50 or 52)

28306 - 28349

# Income fully disregarded 28350 - 28491

## Subpages

- Income disregarded 28350 - 28351
- Attendance allowances, bereavement support payment, disability living allowance, personal independence payment and armed forces independence payment 28352 - 28357
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- Infected Blood Schemes and other specific Trusts 28450 - 28491

## **Income disregarded 28350 - 28351**

28350 [\[See Memo DMG 12/19\]](#), [\[See Memo DMG 15/21\]](#) **[See Memo DMG 07-23]** The following incomes should be fully disregarded when calculating income for IS and JSA(IB)

**1.** any payment from and/or some payments from money that originally came from

**1.1** the Macfarlane Trust

**1.2** the Macfarlane (Special Payments) Trust

**1.3** the Macfarlane (Special Payments) (No. 2) Trust

**1.4** the Independent Living Fund (2006)

**1.5** the Eileen Trust ("The Fund")

**1.6** the Skipton Fund

**1.7** MFET Limited

**1.8** the Caxton Foundation

**1.9** the Scottish Infected Blood Support Scheme (SIBSS)

**1.10** the London Emergencies Trust (LET)

**1.11** the We Love Manchester Emergency Fund (WLMEF)

**1.12** Infected Blood Schemes (IBS) – see **Note** at 28351

**1.13** Thalidomide Trust (TT)

**2.** any payment for a reduction of CT

**3.** AAs

**4.** AFIP

**5.** the Bereavement Support Payment (see DMG 28354)

**6.** certain payments due to be paid before the date of claim

**7.** child maintenance

**8.** Christmas Bonus

- 9.** compensation for loss of HB
- 10.** concessionary payments
- 11.** cost of conversion of foreign money
- 12.** CTB
- 13.** dependant's or non dependant's contributions to accommodation and living costs
- 14.** DLA
- 15.** discretionary housing payments (DHPs)
- 16.** Education maintenance allowance and the 16 - 19 Bursary Fund
- 17.** Employment Retention and Advancement (ERA) Scheme payments
- 18.** EZ, self-employed route
- 19.** GA
- 20.** gallantry awards
- 21.** HB
- 22.** income frozen abroad
- 23.** income in kind
- 24.** income tax refunds
- 25.** income treated as capital
- 26.** increases in SS benefits for absent dependants
- 27.** jurors' or witnesses' court attendance allowance
- 28.** local welfare provision
- 29.** Mobility supplement
- 30.** ND IAP, expenses and top-up payments
- 31.** payments for foster children
- 32.** payment for a person temporarily in the care of the claimant

- 33.** payments from an LA in lieu of Community Care Services
- 34.** payment by an employer of employee's expenses
- 35.** payment of expenses to voluntary workers
- 36.** payment of expenses to service users
- 37.** payments to help disabled people get or keep employment
- 38.** payments from the SF under SS legislation
- 39.** payments from the Supporting People programme
- 40.** certain payments made under employment and training law
- 41.** payments made under the Return to Work Credit Scheme
- 42.** payments made under the Repayment of Teacher's Student loans Scheme
- 43.** PIP
- 44.** resettlement benefit
- 45.** Scottish Carer's Allowance supplement
- 46.** special educational needs payments and budgets
- 47.** special guardianship payments
- 48.** training premium and expenses
- 49.** travel or any other expenses in respect of the MWA Scheme or a prescribed scheme for assisting persons to obtain employment
- 50.** vouchers including child care cheques
- 51.** war widows/widowers, surviving civil partners supplementary pensions
- 52.** welfare foods, NHS supplies, travelling expenses and assisted prison visits.
- 53.** Best Start Grant.
- 54.** any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.

**Note:** See DMG 28450 et seq for further guidance on the payments listed at **1.**



28351 [[See memo IS/JSA 96](#)] For IS only any income paid to a person to whom DMG 20530 (MIRO) applies should be disregarded<sup>1</sup>.

1 IS (Gen) Regs, Sch 9, para 74

**Note:** From 2.10.17 approved IBS for England, Wales and Northern Ireland replaced the five existing UK payment schemes (The Eileen Trust, The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation) which provided financial support to people infected with HIV and/or hepatitis C as a result of contaminated NHS blood or blood products (see DMG 28450).

# **Attendance allowances, bereavement support payment, disability living allowance, personal independence payment and armed forces independence payment 28352 - 28357**

[Attendance allowances 28352](#)

[The meaning of attendance allowance 28353](#)

[Bereavement support payment 28354](#)

[Disability living allowance 28355](#)

[Personal independence payment 28356](#)

[Armed forces independence payment 28357](#)

## **Attendance allowances**

28352 The DM should disregard in full<sup>1</sup> the following payments

- 1.** AA<sup>2</sup>
- 2.** CAA which is paid with a disablement pension because disablement has been assessed at 100%<sup>3</sup>
- 3.** ESDA paid because industrial disablement has been assessed at 100%<sup>4</sup>
- 4.** payments for attendance under the Civilian's Personal Injury Scheme or any similar payment<sup>5</sup>. These payments are made to people who receive a DP because of war injuries suffered as civilians or civil defence volunteers
- 5.** any payment for attendance which is a part of WDisP. This includes severe disablement occupational allowance paid with CAA.

1 JSA Regs, Sch 7, para 10; IS (Gen) Regs, Sch 9, para 9; 2 SS CB Act 92, s 64; 3 s 104 or 105; 4 s 104 or 105;

5 Personal Injuries (Civilians) Scheme 83, art 14 - 16 or 44

## **The meaning of attendance allowance**

28353 DMs should recognize the difference between

- 1.** the term attendance allowance which is commonly used to describe one particular benefit (abbreviation AA) **and**

2. “attendance allowance” which is defined in legislation<sup>1</sup> and includes all the benefits in DMG 28352 (abbreviation “AA”).

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

## **Bereavement support payment**

28354 The BSP replaces BB for people whose spouse or civil partner dies on or after 6.4.17<sup>1</sup>. There are two rates of BSP; the higher rate and the standard rate. The regular monthly BSP payment is treated as income other than earnings<sup>2</sup> and is disregarded for the period in respect of which it is paid. Any unspent BSP remaining at the end of this month will become capital (with no disregard applied). The regular monthly payment does not include any arrears or the higher or standard rate of BSP that may be payable for the first month of the BSP period<sup>3</sup>.

**Note:** See DMG chapter 29 for how BSP affects capital and DMG chapter 59 for more information on BSP.

1 Pensions Act 14 (Commencement No. 10) Order, art 2(1)(b); BSP Regs, reg 1(2);  
2 IS (Gen) Regs, Sch 9, para 80; JSA Regs, Sch 7, para 76; 3 BSP Regs, reg 3(2) & (5)

## **Disability living allowance**

28355 The DM should fully disregard

1. DLA mobility component<sup>1</sup>**and**

2. DLA care component<sup>2</sup>.

1 JSA Regs, Sch 7, para 7; IS (Gen) Regs, Sch 9, para 6;  
2 JSA Regs, Sch 7, para 10; IS (Gen) Regs, Sch 9, para 9

## **Personal independence payment**

28356 [\[See Memo DMG 3/22\]](#) The DM should fully disregard

1. PIP mobility component<sup>1</sup>**and**

2. PIP daily living component<sup>2</sup>.

1 JSA Regs, Sch 7, para 7; IS (Gen) Regs, Sch 9, para 6  
2 JSA Regs, Sch 7, para 10; IS (Gen) Regs, Sch 9, para 9

## **Armed forces independence payment**

28357 Payments of AFIP are fully disregarded<sup>1</sup>.

1 JSA Regs, Sch 7, para 75; IS (Gen) Regs, Sch 9, para 76A

## **Benefits fully disregarded 28358 - 28371**

[Increase for dependants 28358 - 28359](#)

[CHB and CTC 28360](#)

[Christmas bonus 28361](#)

[Compensation for loss of housing benefit 28362](#)

**[Council tax benefit 28363](#)**

**[Discretionary housing payments 28364](#)**

**[Guardians allowance 28365](#)**

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**[Increases in Social Security benefits and Service Pensions for absent dependants 28367 - 28368](#)**

**[Mobility supplement 28369](#)**

**[Resettlement benefit 28370](#)**

**[Payments from the SF under Social Security legislation 28371](#)**

### **Increase for dependants**

28358 Any increase for a dependent child or young person who is a member of the claimant's family paid with

1. CA
2. RP
3. IB
4. SDA
5. WMA
6. WPA

should be fully disregarded for the purposes of calculating the claimant's income<sup>1</sup>.

28359 The disregard only applies where the claimant or claimant's partner has an award of CTC<sup>1</sup>.

1 JSA Regs, Sch 7, para 6B(3)(b); IS (Gen) Regs, Sch 9, para 5B(3)(b)

## **CHB and CTC**

28360 [\[See Memo DMG 22/20\]](#) The DM should disregard any

**1.** CHB<sup>1</sup>

**2.** CTC<sup>2</sup>

**Note:** See DMG 28055 for claims where Child Personal Allowance has been in payment continuously from before 7.3.04.

1 JSA Regs, Sch 7, para 6B(2); IS (Gen) Regs, Sch 9, para 5B(2); 2 JSA Regs, Sch 7, para 6B(1); IS (Gen) Regs, Sch 9, para 5B(1)

## **Christmas bonus**

28361 Christmas bonus should be disregarded in full<sup>1</sup>. It is paid in the week starting with the first Monday in December to people getting the following benefits<sup>2</sup>

**1.** RP

**2.** IB

**3.** WMA, WPA or WP

**4.** SDA

**5.** CA

**6.** IDB

**7.** AA/DLA

**8.** US

**9.** WDisP

**10.** WWP

## **11. ESA(Cont)**

## **12. SPC.**

1 JSA Regs, Sch 7, para 35; IS (Gen) Regs, Sch 9, para 33; 2 SS CB Act 92, s 148

### **Compensation for loss of housing benefit**

28362 The DM should fully disregard any payment made by the Secretary of State to compensate for the total or partial loss of HB<sup>1</sup>.

1 JSA Regs, Sch 7, para 42; IS (Gen) Regs, Sch 9, para 40

### **Council tax benefit**

28363 The DM should fully disregard any payment of CTB<sup>1</sup>. CTB usually reduces the bill sent by LAs but some claimants may receive cash payments.

1 JSA Regs, Sch 7, para 51; IS (Gen) Regs, Sch 9, para 52

### **Discretionary housing payments**

28364 LAs may make discretionary housing payments to HB/CTB recipients requiring further financial assistance with their housing costs<sup>1</sup>. For IS/JSA purposes discretionary housing payments should be disregarded<sup>2</sup>

1 Discretionary Financial Assistance Regulations 2001 (S.I. 2001 No. 1167);  
2 IS (Gen) Regs, Sch 9, para 75; JSA Regs, Sch 7, para 71

### **Guardians allowance**

28365 The DM should fully disregard any GA<sup>1</sup>. It is payable to a person who is entitled to CHB for a child

**1.** whose natural parents are dead **or**

**2.** where one of the natural parents is dead and the other cannot be traced or is serving a long prison sentence.

1 IS (Gen) Regs, Sch 9, para 5A; JSA Regs, Sch 7, para 6A

## Housing benefit

28366 The DM should fully disregard any payments of HB<sup>1</sup> to which the claimant is entitled. HB may be

1. paid direct to the claimant **or**
2. paid direct to the landlord **or**
3. deducted from the rent payable.

HB is paid by LAs to help people on low incomes pay their rent.

**Note:** See DMG 28181 et seq where the claimant is a landlord and receives HB.

1 JSA Regs, Sch 7, para 6; IS (Gen) Regs, Sch 9, para 5

## Increases in Social Security benefits and Service Pensions for absent dependants

28367 The DM should fully disregard any increase in a SS benefit<sup>1</sup> or a service pension<sup>2</sup> for a

1. husband, wife, civil partner or any other adult dependant **or**
2. child

who is not a member of the family for JSA and IS purposes.

**Note:** “Service Pension” in this guidance means a pension or allowance paid in respect of disablement or death due to service in the armed forces.

1 JSA Regs, Sch 7, para 52(1); IS (Gen) Regs, Sch 9, para 53(1); 2 JSA Regs, Sch 7, para 52(2);  
IS (Gen) Regs, Sch 9, para 53(2) & The Naval, Military and Air Forces Etc  
(Disablement and Death) Service Pensions Order 2006, Part 2 or 3

28368 Dependency increases can be paid as part of the following SS benefits

1. MA
2. SDA
3. RP
4. unemployability supplement paid with Dis B (abolished for new claims in 1987).

Claimants must pay over an amount at least equal to the dependency increase to continue to receive it.



**Note:** CHB for a child who is not a member of the family should be taken into account in full as the income of the CHB claimant.

## **Mobility supplement**

28369 The DM should fully disregard

- 1.** Mobility supplement **and**
- 2.** War Pensioner's Mobility Supplement<sup>1</sup>.

Any payment to compensate for the non-payment of these benefits should also be disregarded in full.

1 JSA Regs, Sch 7, para 7 & 9; IS (Gen) Regs, Sch 9, para 6 & 8

## **Resettlement benefit**

28370 The DM should fully disregard any resettlement benefit paid to a claimant who has been discharged from hospital<sup>1</sup>.

1 JSA Regs, Sch 7, para 40; IS (Gen) Regs, Sch 9, para 38

## **Payments from the SF under Social Security legislation**

28371 The DM should fully disregard any payment made from the SF<sup>1</sup>.

**Note:** This disregard does not apply to payments from the European Social Fund.

1 JSA Regs, Sch 7, para 33; IS (Gen) Regs, Sch 9, para 31

## Concessionary payments 28372 - 28373

[Types of concessionary payments that should be disregarded 28372](#)

[What are concessionary payments 28373](#)

### Types of concessionary payments that should be disregarded

28372 The DM should fully disregard concessionary payments<sup>1</sup> of

1. Attendance allowances
2. DLA mobility component
3. DLA care component
4. JSA(IB)
5. IS
6. ESA(IR)
7. UC.

1 JSA Regs, Sch 7, para 8; IS (Gen) Regs, Sch 9, para 7

### What are concessionary payments

28373 Concessionary payments<sup>1</sup> are made by the Secretary of State in place of

1. SS benefits **or**
2. HB **or**
3. tax credits.

They are made when the policy intention to pay benefit cannot be achieved because of a fault in the law. They should be treated in the same way as the benefit they represent.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

## Local welfare provision 28374 - 28375

[Disregard of local welfare provision 28374](#)

[Meaning of local welfare provision 28375](#)

### Disregard of local welfare provision

28374 [[See Memo DMG 18/20](#)] Any payment of local welfare provision falls to be disregarded<sup>1</sup>.

1 JSA Regs, Sch 7, para 33A; IS (Gen) Regs, Sch 9, para 31A

### Meaning of local welfare provision

28375 Local welfare provision means<sup>1</sup> occasional financial or other assistance made by an LA, the Welsh Ministers, the Scottish Ministers or an authorised person for the purpose of

**1.** meeting or helping to meet, an immediate short term need

**1.1** arising out of an exceptional event or exceptional circumstances **and**

**1.2** that requires to be met to avoid a risk to the well-being of an individual **or**

**2.** enabling individuals to establish or maintain a settled home where those individuals have been or without assistance might otherwise be

**2.1** in prison, hospital, a residential care establishment or other institution **or**

**2.2** homeless or living an unsettled way of life.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

# Payments under the Supporting People programme 28376

## Disregard

28376 Payments may be made under the Supporting People programme. The DM should fully disregard<sup>1</sup>

**1.** any payment made by

**1.1** a LA **or**

**1.2** Welsh Ministers

**2.** to or on behalf of the claimant or partner relating to a service which is

**2.1** provided to develop **or**

**2.2** sustain the capacity of the claimant or partner to live independently in his accommodation.

<sup>1</sup> JSA Regs, Sch 7, para 72(1); IS (Gen) Regs, Sch 9, para 76(1)

# Payments for children and people living temporarily with the claimant 28377 - 28384

[Foster children](#) 28377 - 28378

[Payments for the welfare of children and those formerly looked after by the LA](#) 28379 - 28382

[Payments for people temporarily in the claimant's care](#) 28383 - 28384

## Foster children

28377 The DM should fully disregard payments<sup>1</sup> made by or on behalf of

**1.** a LA under its duty to provide

**1.1** accommodation **and**

**1.2** maintenance

for a child it is looking after<sup>2</sup>**or**

**2.** a voluntary organization under certain legislation<sup>3</sup>**or**

**3.** a LA<sup>4</sup>

for children who are living with claimants under fostering arrangements.

**Note:** These allowances should not be treated as earnings.

1 JSA Regs, Sch 7, para 27; IS (Gen) Regs, Sch 9, para 26;

2 Children Act 1989, s 22C(2); Children (Scotland) Act 1995, s 26 or 26A;

Social Services and Well-being (Wales) Act 2014, s 81(2);

3 Children Act 1989, s 59(1)(a); 4 Looked After Children (Scotland) Regulations 2009, regs 33 or 51

## Kinship care

28378 In Scotland an LA may place a child who is at risk of going into care or who has previously been looked after by the LA with another person. This is known as Kinship care<sup>1</sup>. Any payments made by the LA to the person with care are intended to cover any additional costs normally incurred by a child living at

home but do not cover the costs of accommodation and maintenance of the child<sup>1</sup>. Any payment made by the LA to the person providing care should be fully disregarded<sup>2</sup>.

1 Looked After Children (Scotland) Regulations 2009, reg 10; Children and Young People (Scotland) Act 2014, s 73(1)(b); 2 JSA Regs, Sch 7, para 27; IS (Gen) Regs, Sch 9, para 26 & 27A

## **Payments for the welfare of children and those formerly looked after by the LA**

28379 Certain legislation<sup>1</sup> concerning the welfare of children applies in England, Wales and Scotland<sup>2</sup>. This applies to certain children who were being looked after by a LA.

1 CLC Act 2000; Children (Leaving Care) SS Benefit Regs, reg 1(1);  
2 Children (Leaving Care) SS Benefits (Scotland) Regs, reg 1

28380 The DM should fully disregard payments made by LAs under child-care law<sup>1</sup>

**1.** to promote the welfare of children **and**

**2.** to prevent people being taken into care

unless the claimant or a member of the family is involved in a TD<sup>2</sup>.

1 Children (Leaving Care) Act 2000 (Comm No. 2 & Cons Prov) Order, Sch 1, para (c) & Sch 4, para (c); Children Act 1989, s 17, 23B, 23C or 24A; SW (Scot) Act 68, s 12; Children (Scotland) Act 1995, s 22, 26A, 29 or 30; Social Services and Well-being (Wales) Act 2014, s 37 or 38 (excluding any direct payment under s 51) or s 109, 110, 114 & 115; 2 JSA Regs, Sch 7, para 29(1); IS (Gen) Regs, Sch 9, para 28(1)

28381 Where

**1.** a former child (aged over 18 but under 26) who was in the claimant's care still lives with the claimant **and**

**2.** the LA makes payments under certain child care law<sup>1</sup> to the former child in care **and**

**3.** the former child in care passes the payments on to the claimant

those payments received by the claimant are disregarded unless the claimant or a member of the family is involved in a TD<sup>2</sup>.

**Note:** In Scotland this is known as 'Continuing Care'

1 Children Act 89, s 23C; Children (Scotland) Act 95, s 22, 26A or 29;

28382 The DM should take into account the income in full in DMG 28380 or DMG 28381 if

1. the claimant **or**
2. a member of the family

is involved in a TD<sup>1</sup>.

**Note:** These payments may be made to people who were in LA care.

1 JSA Regs, Sch 7, para 29(4); IS (Gen) Regs, Sch 9, para 28(4); JS Act 95, s 14;  
SS CB Act 92, s 124(1), 126 & 127

## Payments for people temporarily in the claimant's care

28383 The DM should fully disregard payments to a claimant or partner for a person who

1. is not normally a member of the claimant's household **and**
2. is temporarily in the claimant's care<sup>1</sup>

when payments are made by a LA, HA, a voluntary organization, a clinical commissioning group, the NHS Commissioning Board, a Local Health Board or the person concerned under specified legislation<sup>2</sup>.

**Note 1:** This could include payments to a claimant under the Adult Placement or Shared Lives Scheme from a LA's own resources.

**Note 2:** Payments made by a LA does not include payments of HB made in respect of the person concerned.

1 JSA Regs, Sch 7, para 28; IS (Gen) Regs, Sch 9, para 27;  
2 NA Act 48, s 26(3A)

28384 This type of payment is often made to people providing "respite care". This is short-term care provided to give a disabled person's usual carer a break from their caring responsibilities. People providing respite care should not be treated as

1. engaged in remunerative work **or**
2. receiving earnings from S/E<sup>1</sup>.

1 JSA Regs, reg 100(2)(b); IS (Gen) Regs, reg 37(2)(b)

## Payments of expenses 28385 -28394

[Payment of expenses in the MWA Scheme and schemes for assisting persons to obtain employment](#)  
28385

[Payment by an employer of employee's expenses](#) 28386 - 28387

[Payment of a voluntary worker's expenses](#) 28388 - 28391

[Service users](#) 28392 - 28394

### Payment of expenses in the MWA Scheme and schemes for assisting persons to obtain employment

28385 [\[See memo DMG 23/14\]](#) [\[See DMG Memo 38/14\]](#) Any payment of income made in respect of any travel or other expenses

**1.** incurred **or**

**2.** to be incurred

in respect of taking part in either the MWA Scheme or a prescribed scheme for assisting persons to obtain employment is disregarded<sup>1</sup>.

**Note:** See DMG Chapter 34 for details of the schemes.

1 JSA Regs, Sch 7, paras A2 & A3; IS (Gen) Regs, Sch 9, para 1A

### Payment by an employer of employee's expenses

28386 The DM should fully disregard payments made by an employer for expenses which are

**1.** wholly **and**

**2.** exclusively **and**

**3.** necessarily

incurred by an employee while performing the duties of the employment<sup>1</sup>.



28387 The DM should treat as earnings any payments of expenses

**1.** above the amount which fits the conditions **or**

**2.** that do not fit the conditions

described in DMG 28386.

## **Payment of a voluntary worker's expenses**

28388 The DM should fully disregard payments towards expenses incurred and advance payments for expenses to be incurred<sup>1</sup> by a person who

**1.** does voluntary work for a

**1.1** charity **or**

**1.2** voluntary organisation **or**

**2.** is a volunteer.

**Note:** Volunteers do not have to be engaged by a charitable or voluntary organisation. An LA or a public body cannot be a voluntary organisation<sup>2</sup>.

1 JSA Regs, Sch 7, para 2; IS (Gen) Regs, Sch 9, para 2;

2 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

28389 The expenses may be

**1.** incurred in, or for the performance of the work, for example special clothing or equipment **or**

**2.** for personal incidental expenses resulting from the person being a voluntary worker, for example travelling expenses or child care costs.

28390 This disregard applies provided that the person is not

**1.** remunerated for their voluntary activity **or**

**2.** treated as having notional earnings.

See DMG Chapter 26 for guidance on notional earnings.

## Time-exchange schemes

28391 Time-exchange schemes are based on the idea that community members donate time to the community. Participants may believe they are volunteers but for IS/JSA(IB) purposes it is not voluntary work (which is done without remuneration or expectation of remuneration). The hours worked by the customer/partner are “banked” with the organisation and accumulate each time he/she carries out additional work under the “time-exchange” scheme. If exceptionally, expenses are reimbursed they should be treated as other income and taken fully into account..

## Service users

28392 People participating in a service user group are often called “service users”. A service user means<sup>1</sup>

**1.** a person who is being consulted by or on behalf of

**1.1** a body which has a statutory duty to provide services in the field of

**1.1.a** health **or**

**1.1.b** social care **or**

**1.1.c** social housing **or**

**1.2** a body which conducts research or undertakes monitoring for the purpose of planning or improving the services in **1.1**

in their capacity as a user, potential user, carer of a user or a person affected by those services **or**

**2.** a person who is being consulted by or on behalf of

**2.1** the Secretary of State on relation to social security or child support functions under relevant legislation<sup>2</sup>**or**

**2.2** a body which conducts research or monitoring in order to plan or improve the functions in **2.1**

in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person

**3.** the carer of a person consulted under **1.** or **2.**

<sup>1</sup> JSA Regs, reg 1(3G); IS (Gen) Regs, reg 2(1B); 2 E & T Act 73, s 2

28393 For the purposes of 28392

**1.** a service user is a person who

**1.1** has used **or**

**1.2** is using **or**

**1.3** may potentially use **or**

**1.4** is otherwise affected by the services referred to in **2. and**

**2.** the services concerned are delivered by a body which has a statutory duty to provide services in the field of

**2.1** health **or**

**2.2** social care **or**

**2.3** social housing **or**

**2.4** social security **or**

**2.5** child support **and**

**3.** a service user is a person who is consulted by the bodies in **2.** or by an alternative body (for example, educational establishments or voluntary and charitable organisations) who conduct

**3.1** research **or**

**3.2** monitoring **or**

**3.3** planning

in order to improve services through user involvement.

### **Example 1**

The General Social Care Council (GSCC) is required under legislation to promote high standards in the training of social care workers. It does this through inspection and regulation. Frank has had the help of a social worker in the past. Frank and

other individuals have been invited to attend a training programme for social workers as visitors to monitor and advise on the training policies of the GSCC from the perspective of people who have used social work services. The DM determines that Frank is a service user.

### **Example 2**

Claire is an unpaid carer and looks after her elderly father. Occasionally the LA ask Claire to take part in consultations to discuss the role of unpaid carers in the community and the services provided by the LA.

The LA as a best value authority has a general duty under legislation to do this. The DM determines that Claire is a service user.

### **Example 3**

The National Institute for Health & Care Excellence (NIHCE) is a statutory body. Its guidance helps support providers and commissioners deliver high quality care in health and care settings. Key to it's work is its ability to engage with stakeholders, such as NHS patients, social care service users, carers, etc. in order to produce relevant and meaningful guidance.

Helen has a diagnosis of chronic obstructive pulmonary disease (COPD). As part of developing a clinical guideline on COPD, NIHCE has asked Helen to join the guideline development group to ensure that the patient's perspective is taken into account during the development of the guideline. The DM determines that Helen is a service user.

28394 Any payment of expenses paid to the claimant as a result of participating as a service user is fully disregarded<sup>1</sup> whether or not they are paid for their time. Service users may sometimes be described as

1. experts-by-opinion
2. patients
3. potential patients
4. clients
5. carers
6. focus groups.

1 JSA Regs, Sch 7, para 2A; IS (Gen) Regs, Sch 9, para 2A

### **Example 1**

Anton is an out-patient at his local hospital and attends there on a regular basis for treatment. He is in receipt of JSA(IB). Anton has volunteered to take part in a Patients' Forum which discusses the services and care provided by the hospital. In order to attend the meetings, Anton needs to get a taxi. The Health Trust pay Anton

£40 for attending the meetings and also reimburse his travel expenses. The expenses for the taxi fare are reimbursed to him by the local Health Trust. The DM decides that the travel expenses can be disregarded as income when calculating Anton's entitlement to JSA(IB).

### **Example 2**

Donna is in receipt of IS. She has volunteered to take part in a service user group at her local hospital. In

order to attend, Donna needs a carer to take her there. The transport expenses that Donna's carer incurs taking her to the service user meeting are reimbursed to Donna by the hospital. The DM disregards these expenses when calculating Donna's entitlement to IS.

## War widow's, widower's or surviving civil partner's supplementary pensions 28395

28395 The DM should fully disregard any

- 1.** supplementary pension paid to a widow, widower or surviving civil partner for the disablement or death of personnel whose service terminated before 31.3.73 or any similar payment made by the Secretary of State for Defence to a person not entitled to a supplementary pension<sup>1</sup>**and**
- 2.** supplementary pension paid to a widow, widower or surviving civil partner under the Personal Injuries (Civilians) Scheme<sup>2</sup>**and**
- 3.** supplementary pension paid to the widow, widower or surviving civil partner of a person
  - 3.1** whose death was caused by service similar to being in the armed forces **and**
  - 3.2** that service ended before 31.3.73 **and**
  - 3.3** the payment is equal to the amount in **1.**<sup>3</sup>.

**Note:** See DMG 28157 for guidance on war widows or widowers pensions. See Appendix 1 to this Chapter for details of the law under which war widows or widowers supplementary pensions are paid.

1 JSA Regs, Sch 7, para 53; IS (Gen) Regs, Sch 9, para 54; 2 JSA Regs, Sch 7, para 54; IS (Gen) Regs, Sch 9, para 55; 3 JSA Regs, Sch 7, para 55; IS (Gen) Regs, Sch 9, para 56

## **Other types of income fully disregarded 28396 - 28449**

**Certain payments due before the date of claim 28396**

**Payments for a reduction in council tax 28397**

**Dependant's or non-dependant's contributions to accommodation and living costs 28398**

**Education maintenance allowance and the 16 - 19 Bursary Fund 28399**

**Other payments to assist with non-advanced education 28400**

**Special guardianship payments 28401 - 23402**

**Repayment of teacher's student loans scheme 28403 - 28409**

**Employment retention and advancement scheme 28410 - 28411**

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**Income tax refunds 28420 - 28421**

**Income treated as capital 28422**

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**Payments in lieu of community care services and payments in lieu of health care 28424**

**Payments made under employment and training law 28425 - 28427**

**Payments to help disabled people get or keep employment 28428**

**Return to work credit scheme 28429**

**Discretionary payments for special needs 28430 28434**

**Special educational needs payments and budgets 28435 - 28439**

**Vouchers (including child care cheques) 28440**

**The child maintenance disregard 28443 - 28449**

**Certain payments due before the date of claim**

28396 The DM should fully disregard any payment of income that

- 1.** is due to be paid before the date of claim for IS or JSA **and**
- 2.** under normal rules would be taken into account in the same benefit week as a payment of the same kind from the same source<sup>1</sup>.

1 JSA Regs, Sch 7, para 37; IS (Gen) Regs, Sch 9, para 35

**Payments for a reduction in council tax**

28397 The DM should disregard in full<sup>1</sup> any payment made because of a reduction of CT because of transitional relief<sup>2</sup> when the tax was introduced.

1 JSA Regs, Sch 7, para 45; IS (Gen) Regs, Sch 9, para 46; 2 LGF Act 92 s 13 or 80

**Dependant's or non-dependant's contributions to accommodation and living costs**

28398 The DM should fully disregard payments for living and accommodation costs from people who normally live with the claimant who are not

- 1.** boarders **or**
- 2.** subtenants<sup>1</sup>.

1 JSA Regs, Sch 7, para 19; IS (Gen) Regs, Sch 9, para 18

**Example**

Michael is an IS claimant. His daughter Katy is a non-dependant in his household. She pays him £25 a week as a contribution towards the household bills.

The DM disregards this payment fully as Katy is not a boarder or subtenant.



## Education maintenance allowance and the 16 - 19 Bursary Fund

28399 The DM should fully disregard<sup>1</sup> any payment paid under prescribed legislation<sup>2</sup> that is

1. education maintenance allowance **or**
2. the same as an education maintenance allowance **or**
3. from the 16 - 19 Bursary Fund

made to support a young person who remains in non-advanced education after the age of 16. It can be paid for up to two years between the ages of 16 and 19. In some cases it may continue to be paid for up to three years until the person reaches the age of 20.

1 JSA Regs, Sch 7, para 12(1)(a), (b) & (c); IS (Gen) Regs, Sch 9, para 11(1)(a), (b) & (c);

2 Education Act 1996, s 518; Ed (Scot) Act 80, s 49, 73ZA & 73(f);

F & HE (Scot) Act 92, s 12(2)(c); Education Act 2002, s 14 & 181

## Other payments to assist with non-advanced education

28400 The DM should fully disregard<sup>1</sup> any payment paid under prescribed legislation<sup>2</sup> in respect of a course of study attended by a

1. child or young person **or**
2. person who is in receipt of an allowance or other payment as described at DMG 28399 above.

**Note:** Such payments may include, for example, payments to cover scholarships or school expenses.

1 JSA Regs, Sch 7, para 12(2); IS (Gen) Regs, Sch 9, para 11(2)

2 Education Act 1996, s 518; Ed (Scot) Act 80, s 49 & 73ZA;

F & HE (Scot) Act 92, s 12(2)(c)

## Special guardianship payments

28401 The special guardianship scheme is intended to provide more security for a child than long term fostering but without the complete severance from a child's birth family that would happen with an adoption order. Financial support by the LA may be paid to special guardians in certain circumstances. It is expected the support will normally be made as a single payment to meet a one-off cost. However the LA may make payments in instalments or periodically to meet needs that are likely to be ongoing.

28402 Any special guardianship payment made under specific legislation<sup>1</sup> in respect of a child or young person who is a member of the family should be fully disregarded<sup>2</sup>.

1 Children Act 1989, s 14F; 2 JSA Regs, Sch 7, para 26(1)(e); IS (Gen) Regs, Sch 9, para 25(1)(e)

## Repayment of teacher's student loans scheme

28403 The pilot of the repayment of teacher's student loans ran for three years until July 2005 although eligible teachers may continue to receive payments under this scheme. It provided financial incentives to newly qualified teachers working in shortage subject areas. In England and Wales student loan debts were waived by gradually reducing the amount of loan outstanding. However, for those who took out student loans while living in Scotland, Northern Ireland or another EEA country and who took up a post teaching shortage subjects in England and Wales - annual payments were made to the teacher to repay their student loan. There is no time restriction on payments, so as long as the teacher remains eligible, repayments will continue to be made until the loan is repaid.

28404 Any payment made to a claimant under specific legislation<sup>1</sup> for the repayment of a teacher's student loan should be fully disregarded<sup>2</sup>.

1 The Education (Teacher Student Loans) (Repayment etc.) Regs, reg 11(2);

2 JSA Regs, Sch 7, para. 12A; IS (Gen) Regs, Sch 9, para. 11A

28405 - 28409

## Employment retention and advancement scheme

28410 The employment retention and advancement (ERA) scheme<sup>1</sup> involved a study of different methods to help people stay in work and improve their career prospects including financial incentives known as ERA payments. People eligible for ND25+, NDLP and people receiving WTC could volunteer to participate in the scheme.

1 E & T Act 73, s 2

### Disregard

28411 The DM should fully disregard<sup>1</sup> any ERA payment.

**Note:** The disregard for payments made under employment and training law is fully explained at DMG 28425 - 28427.

1 JSA Regs, Sch 7, para 14; IS (Gen) Regs, Sch 9, para 13

## Employment Zones and self-employed route

28412 Participants in the second stage of EZ programmes will receive a subsistence allowance from the EZ contractor, calculated so as to leave 50p JSA in payment. A subsistence allowance is defined as an allowance which an EZ contractor has agreed to pay to an EZ programme participant<sup>1</sup>.

28413 If the amount of subsistence allowance paid in a benefit week exceeds the correct amount, the excess is fully disregarded<sup>1</sup>. Any discretionary payment by way of a fee, grant, loan or otherwise made by an EZ contractor to a participant is fully disregarded<sup>2</sup>.

1 JSA Regs, Sch 7, para 68; IS (Gen) Regs, Sch 9, para 71;

2 JSA Regs, Sch 7, para 69; IS (Gen) Regs, Sch 9, para 72

28414 Disregards are available for S/E participants in the ND, EZ and Work Based Learning for Adults. Any payment made to a person who is receiving or who has received assistance under the self-employment route shall be disregarded if it is

1. to meet expenses wholly and necessarily incurred whilst carrying on that activity **or**
2. used or is intended to be used to maintain repayments on a loan taken out by that person to establish or carry on that activity<sup>1</sup>.

1 JSA Regs, Sch 7, para 62(1); IS (Gen) Regs, Sch 9, para 64(1)

## **Cost of conversion of foreign money**

28415 The DM should fully disregard any

1. bank charges **or**

2. commission

paid when income paid in foreign currency is converted to sterling<sup>1</sup>.

1 JSA Regs, Sch 7, para 25; IS (Gen) Regs, Sch 9, para 24

### **Example**

Klaus claims IS.

He is retired and receives a pension of 500 euros a month from his former employer in Austria.

When Klaus's bank convert the payment into sterling they charge a commission of £2.

The DM disregards the £2 commission from the amount that Klaus receives in sterling.

## **Gallantry awards**

28416 The DM should fully disregard any gallantry awards<sup>1</sup>. These are

**1.** Victoria Cross annuity **and**

**2.** George Cross annuity **and**

**3.** any similar award, including

**3.1** equivalent awards from foreign countries **or**

**3.2** British awards of a lower status than the Victoria Cross or George Cross.

DMs should include awards for gallantry below the highest level when considering awards from foreign countries.

1 JSA Regs, Sch 7, para 11; IS (Gen) Regs, Sch 9, para 10

## **Income frozen abroad**

28417 The DM should fully disregard income which is

**1.** payable in a foreign country **and**

**2.** cannot be transferred to the UK

for as long as it is frozen abroad<sup>1</sup>. Income will usually be frozen when the foreign country does not allow its currency to be transferred to the UK.

1 JSA Regs, Sch 7, para 24; IS (Gen) Regs, Sch 9, para 23

## **Income in kind**

28418 The DM should fully disregard any income in kind except

**1.** support provided to a claimant under specific immigration and asylum law **and**

**2.** notional income **and**

**3.** income paid to a claimant or member of the family because of involvement in a TD<sup>1</sup>**and**

**4.** payments made to a third party in respect of the claimant which are used by the third party to provide benefits in kind to the claimant<sup>2</sup>.

**Note 1:** Credits received from participating in a LETS scheme (see DMG Chapter 27) are not income in kind. Credits should be taken into account in the appropriate way.

**Note 2:** See DMG 28670 **2.** for the treatment of concessionary coal.

### **Example 1**

The claimant recently separated from her partner and claimed JSA.

The claimant's mother works in a shop and the shop owner gives the mother £10 of groceries each week for the claimant.

The DM decides the £10 a week is income in kind and should be fully disregarded.

### **Example 2**

The shop owner (in example 1 above) then changes the arrangement and gives the claimant's mother £10 a week to buy groceries for the claimant.

The claimant's mother uses the £10 to buy food each week for the claimant.

The DM decides the £10 a week cannot be disregarded as income in kind and it should be taken fully into account as notional income.

28419 [[See Memo DMG 15/21](#)] The exceptions at DMG 28418 do not apply<sup>1</sup> when the income in kind comes from

- 1.** the Macfarlane Trust
- 2.** the Macfarlane (Special Payments) Trust
- 3.** the Macfarlane (Special Payments) (No. 2) Trust
- 4.** the Eileen Trust ("The Fund")
- 5.** the Independent Living Fund (2006) see note at DMG 28351
- 6.** the Skipton Fund
- 7.** the Caxton Foundation
- 8.** MFET Limited
- 9.** the Scottish Infected Blood Support Scheme
- 10.** the London Emergencies Trust (LET)
- 11.** the We Love Manchester Emergency Fund (WLMEF)

## **12** Infected Blood Schemes (IBS) **or**

**13.** the partner who is subject to immigration control and is receiving support under specific immigration and asylum law and the income in kind is support provided in respect of the essential living needs of the partner of the claimant and his dependants (if any).

1 JSA Regs, Sch 7, para 22(2) & (3); IS (Gen) Regs, Sch 9, para 21(2) & (3)

## **Income tax refunds**

### **When should tax refunds be treated as capital**

28420 The DM should treat the following types of income tax refund as capital<sup>1</sup>

- 1.** PAYE refunds
- 2.** refunds of tax deducted from a student's income
- 3.** refunds of tax on business profits
- 4.** refunds on tax on interest received on capital or an annuity.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 48(2)

### **When should tax refunds be treated as income**

28421 Income tax refunds may be taken into account in full as income<sup>1</sup> if the claimant or a member of the family

- 1.** is involved in a TD **or**
- 2.** in IS cases only has

**2.1** been involved in a TD **and**

**2.2** is entitled to IS after returning to work.

(See DMG Chapter 32 for guidance on TDs).

**Note:** The rule in IS that allows people who are working to receive IS for the first 15 days after a TD does not exist in JSA.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 41(4)

## Income treated as capital

28422 The DM should fully disregard as income any income that is treated as capital<sup>1</sup>.

1 JSA Regs, Sch 7, para 34; IS (Gen) Regs, Sch 9, para 32

## Jurors or witnesses court attendance allowance

28423 The DM should fully disregard any payment to a

**1. juror or**

**2. witness**

for attending court. But payments for loss of earnings or benefits<sup>1</sup> should not be disregarded.

1 JSA Regs, Sch 7, para 43; IS (Gen) Regs, Sch 9, para 43

## Payments in lieu of community care services and payments in lieu of health care

28424 The DM should disregard any payments which are made

**1. under relevant legislation<sup>1</sup>and**

**2. in lieu of<sup>2</sup>**

**2.2 community care services or**

**2.2 health care.**

**Note:** These types of payments are sometimes known as “Direct Payments for Health Care”, “Direct Payments for Community Care” or “Personal health budget”.

1 SW (Scot) Act 68, s 12B; Health and Social Care Act 2001, s 57; National Health Service Act 2006, s 12A  
- 12D;

Care Act 2014 (direct payments), s 31-33; Social Services and Well-being (Wales) Act 2014 (direct  
payments),

s 50 or 52; 2 JSA Regs, Sch 7, para 56; IS (Gen) Regs, Sch 9, para 58

## Example

Agnes is in receipt of IS. She receives money from her LA so that she can pay someone to be her home help. The DM

**1. finds out that the money received from the LA is paid under the correct legislationand**

2. decides that the money received from the LA should be disregarded.

## **Payments made under employment and training law**

28425 DMs should disregard<sup>1</sup> any payment made under employment and training law<sup>2</sup> except any payment<sup>3</sup>

1. made as a substitute for

**1.1 IS or**

**1.2 JSA or**

**1.3 IB or**

**1.4 SDA or**

**1.5 ESA**

2. of a bridging allowance paid under specific legislation<sup>4</sup>

3. intended to meet the cost of living expenses while a person is participating in

**3.1 an education or**

**3.2 training or**

**3.3 other**

scheme to enhance employment prospects unless the payment is a Career Development Loan paid under employment and training law and the period of education, training or the scheme, which is supported by the loan, has been completed.

4. made in respect of the cost of living away from home to the extent that the payment relates to rent for which HB is payable in respect of accommodation which is not normally occupied as the home.

1 JSA Regs, Sch 7, para 14; IS (Gen) Regs, Sch 9, para 13;

2 E & T Act 73, s 2; Enterprise and New Towns (Scotland) Act 1990, s 2;

3 JSA Regs, Sch 7, para 14(1); IS (Gen) Regs, Sch 9, para 13(1);

4 E & T Act 73, s 2(3); Enterprise and New Towns (Scotland) Act 1990, s 2(5)

28426 Payments made under employment and training law<sup>1</sup> include

1. training allowances paid to young people in non-waged work based training (see DMG Chapter 26)

2. bridging allowance (see DMG Chapter 30)



3. ND allowances (see Jobcentre Plus operational guidance)
4. allowances for people on WBLA (Training For Work in Scotland) (see Jobcentre Plus operational guidance)
5. Career Development Loans (see DMG 28542 - 28549)
6. ERA payments (see DMG 28410)
7. return to work credit scheme (see DMG 28429).

This list is not exhaustive and DMs should obtain evidence that a payment is made under employment and training law.

1 E & T Act 73, s 2; Enterprise and New Towns (Scotland) Act 1990, s 2

### **Living expenses**

28427 Living expenses to be taken into account as income are any amount for

1. food
2. ordinary clothing or footwear<sup>1</sup> (see DMG 28671 - 28672)
3. fuel for the claimant's household
4. rent for which HB is payable
5. housing costs included in the applicable amount
6. CT or water charges for which the claimant or member of the family is liable<sup>2</sup>.

1 JSA Regs Sch 7, para 14(3); IS (Gen) Regs, Sch 9, para 13(3);

2 JSA Regs Sch 7, para 14(2); IS (Gen) Regs, Sch 9, para 13(2)

### **Payments to help disabled people get or keep employment**

28428 The DM should fully disregard payments made under certain legislation<sup>1</sup> to help disabled people get or keep employment<sup>2</sup>. The payments that qualify for this disregard include

1. the fares to work scheme operated by DWP
2. the business on their own account scheme operated by DWP
3. the personal reader service operated by the Royal National Institute for the Blind on behalf of DWP.

**Note:** Payments to assist disabled persons under employment and training law are included within the disregard explained at DMG 28425 - 28427.

1 Disabled Persons (Employment) Act 44; 2 JSA Regs, Sch 7, para 50; IS (Gen) Regs, Sch 9, para 51

## Return to work credit scheme

28429 Any payment made under the return to work credit scheme is fully disregarded<sup>1</sup>. The scheme has been set up under employment and training law<sup>2</sup> for people who stop claiming a specified benefit<sup>3</sup> because they have

**1.** found work of at least 16 hours a week **and**

**2.** earnings which do not exceed £15,000 a year.

A return to work credit is a non-taxable payment of £40 a week payable for a maximum of 52 weeks following the end of a person's entitlement to a specified benefit.

**Note:** The disregard for payments made under employment and training law is fully explained at DMG 28425 - 28427.

1 JSA Regs, Sch 7, para 14; IS (Gen) Regs, Sch 9, para 13; 2 E & T Act 73, s 2;  
3 SS (Incapacity Benefit Work-focused Interviews) Regulations 2003, reg 2

## Discretionary payments for special needs

28430 A payment should be disregarded<sup>1</sup> if it is

**1.** discretionary **and**

**2.** made

**2.1** under employment and training law<sup>2</sup> **and**

**2.2** to meet, or help meet, the special needs of a person who is undertaking a qualifying course.

**Note:** Travelling expenses incurred as a result of the claimant's attendance on the course should not be disregarded under this paragraph if the same expenses have already been disregarded under DMG 30326 (student income).

1 IS (Gen) Regs, Sch 9, para 13; JSA Regs, Sch 7, para 14; 2 E & T Act 73, s 2

28431 – 28434

## Special educational needs payments and budgets

28435 The parents of children with special educational needs and young people with special educational needs have an option of a personal budget. This is so they control how some of the provision in their Education, Health and Care plans can be delivered<sup>1</sup>. The DM should fully disregard any of these payments<sup>2</sup>

1 Children and Families Act 2014, s 49; 2 JSA Regs, Sch 7, para 75; IS (Gen) Regs, Sch 9, para 79

28436 - 28439

## Vouchers (including child care cheques)

28440 The DM should fully disregard, in accordance with DMG 28418, any vouchers received by the claimant as income in kind. But DMs should consider whether

1. claimants should be treated as having notional income **or**
2. there has been deprivation of income

**before** applying the disregard<sup>1</sup> (See DMG 26093 for vouchers treated as earnings).

1 JSA Regs, Sch 7, para 22; IS (Gen) Regs, Sch 9, para 21

28441 The types of vouchers that claimants might receive are

1. education vouchers for four year old children
2. luncheon vouchers
3. child care vouchers
4. child care cheques
5. gift vouchers from shops.

## Welfare foods, NHS supplies, travelling expenses and assisted prison visits

28442 The DM should fully disregard

1. payments made under specific legislation<sup>1</sup> in place of welfare foods including healthy start vouchers, free milk and vitamins<sup>2</sup>**and**
2. refunds for

**2.1** NHS glasses **and**

**2.2** dental treatment **and**

**2.3** patients' travelling expenses made under specific legislation<sup>3</sup> or any similar payments made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers<sup>4</sup>**and**

**3.** payments made by the Secretary of State for Justice or the Scottish Ministers for travel, accommodation and BL costs for assisted prison visits<sup>5</sup>.

1 SS Act 88, s 13; 2 JSA Regs, Sch 7, para 48; IS (Gen) Regs, Sch 9, para 49;

3 National Health Service (Travel Expenses and Remission of Charges) Regulations 2003, regs 5, 6 or 12;

National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007, regs 5, 6 or 11; National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2)

Regulations 2003, regs 3, 5 or 11; 4 JSA Regs, Sch 7, para 47; IS (Gen) Regs, Sch 9, para 48;

5 JSA Regs, Sch 7, para 49; IS (Gen) Regs, Sch 9, para 50

## **The child maintenance disregard**

28443 Any income payment of child maintenance paid by or derived from an LR - but not by the claimant or claimant's partner - falls to be fully disregarded as income<sup>1</sup>. The payment has to be in respect of a child or young person who is a member of the claimant's family. LRPs which do not also fall within the meaning of child maintenance should be taken into account as LRPs<sup>2</sup>. DMG 28710 et seq provides guidance on LRPs.

1 JSA Regs, Sch 7, para 70; IS (Gen) Regs, Sch 9, para 73; 2 JSA Regs, reg 117; IS (Gen) Regs, reg 54

## **Meaning of child maintenance**

28444 A payment of child maintenance is<sup>1</sup> any payment

**1.** towards the maintenance of

**1.1** a child **or**

**1.2** a young person **and**

**2.** which is under

**2.1** a voluntary agreement **or**

**2.2** child support law<sup>2</sup>**or**

**2.3** a court order **or**

**2.4** a consent order **or**

**2.5** a maintenance agreement registered with the Scottish courts<sup>3</sup>.

1 JSA Regs, Sch 7, para 70(2); IS (Gen) Regs, Sch 9, para 73(2);

2 Child Support Act 1991; Child Support (Northern Ireland) Order 1991;

3 Books of Council and Session; Sheriff Court Books

## **Applying the disregard**

28445 In order for the disregard to apply the payment of child maintenance must be a payment of income

**1.** made by **or**

**2.** derived from

an LR<sup>1</sup>. DMG 28741 provides guidance on who is defined as an LR.

**Note:** For the purposes of the disregard the meaning of an LR does not include a person who has sponsored the claimant or the child if the child has also been sponsored as a condition of their immigration<sup>2</sup>.

1 JSA Regs, Sch 7, para 70(1); IS (Gen) Regs, Sch 9, para 73(1);

2 JSA Regs, Sch 7, para 70(2); IS (Gen) Regs, Sch 9, para 73(2)

## **Example**

Betty is in receipt of IS and has two children who live with her. Dai is Betty's ex-husband and he has agreed to pay £150 a week towards the maintenance of the children. He pays this money on the last day of each month. The DM decides that none of this money paid by Dai will be taken into account when calculating Betty's entitlement to IS. This is because the payment falls within the meaning of child maintenance and so has to be fully disregarded.

28446 - 28449

# Infected Blood Schemes and other specific Trusts 28450 - 28491

## [Payments from Infected Blood Schemes and other specific Trusts 28450 - 28471](#)

## [Payments from money which came from the Trusts 28472 - 28482](#)

## [For how long should the payment be disregarded 28483 - 28490](#)

## [Social fund funeral payments 28491](#)

## Payments from Infected Blood Schemes and other specific Trusts

### Infected Blood Schemes

[\[See Memo DMG 15/20\]](#), [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#)

28450 Infected Blood Schemes (IBS), approved for such purposes by the Secretary of State, replaced the five existing payment schemes (The Eileen Trust (“The Fund”), The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation – see DMG 28469-73) for England, Northern Ireland and Wales from 2.10.17. These schemes provide financial support to people infected with HIV and/or hepatitis C as a result of contaminated NHS blood or blood products.

### Income from Infected Blood Schemes

28451 Fully disregard<sup>1</sup>

1. any income from approved Infected Blood Schemes **and**
2. any income from capital that was received from approved Infected Blood Schemes.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1) & 39(7)

### The Scottish Infected Blood Support Scheme

28452 The Scottish Infected Blood Support Scheme (SIBSS)<sup>1</sup> became operational from 1.4.17. It is administered by NHS National Services Scotland (NSS), legally known as the Common Services Agency. NSS is an NHS Board accountable to Scottish Ministers. SIBSS combined the five existing blood support schemes (The Eileen Trust (“The Fund”), The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation – see DMG 28469 - 28473) into one scheme in Scotland.

1 JSA Regs, reg 1(3), IS (Gen) Regs, reg 2(1)

### Income from the Scottish Infected Blood Support Scheme

28453 Fully disregard<sup>1</sup>

**1.** any income from the Scottish Infected Blood Support Scheme **and**

**2.** any income from capital that was received from the Scottish Infected Blood Support Scheme.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1) & 39(7)

## **Previous Infected Blood Schemes**

28454 Prior to the introduction of the Infected Blood Schemes at DMG 28450 and the Scottish Infected Blood Support Scheme at DMG 28454, five separate schemes provided financial support to people affected by contaminated NHS blood or blood products.

### **The Eileen Trust (“The Fund”)**

28455 The Eileen Trust (“The Fund”) was a charitable trust set up on 29.3.93 to give further help to people who are not haemophiliacs but who contracted HIV when receiving NHS

**1.** blood **or**

**2.** tissue or organ transfers **or**

**3.** blood products.

### **The Macfarlane Trusts**

28456 The Macfarlane Trusts were set up to provide compensation to haemophiliacs who contracted HIV when receiving NHS

**1.** blood **or**

**2.** tissue or organ transfers **or**

**3.** blood products.

28457 The Macfarlane Trusts are

**1.** The Macfarlane Trust

**2.** The Macfarlane (Special Payments) Trust

**3.** The Macfarlane (Special Payments) (No 2) Trust.

## **MFET**

28458 MFET Limited<sup>1</sup> is an organisation funded by DH. The purpose of MFET Limited is to make payments to people who have acquired HIV as a result of treatment by the NHS with blood or blood products.

### **The Caxton Foundation**

28459 The Caxton Foundation was established on 28.3.11. It administers funds provided by DH for the benefit of certain persons suffering from hepatitis C and other persons eligible for payments<sup>1</sup>.

### **Income from the Eileen Trust (“The Fund”), Macfarlane Trusts, MFET and the Caxton Foundation**

28460 Fully disregard<sup>1</sup>

**1.** any income **and**

**2.** any income from capital that was received from schemes in DMG 28469-73.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1)

### **The Skipton Fund**

28461 The Skipton Fund administers an ex-gratia payment scheme for the benefit of people suffering from Hepatitis C. It includes people infected as a result of NHS blood products and other people eligible for payment in accordance with the scheme’s provisions<sup>1</sup>.

**Note:** Payments from the Skipton Fund will be payments of capital (see DMG Chapter 29).

### **The London Emergencies Trust**

28462 The London Emergencies Trust (LET)<sup>1</sup> was set up to alleviate hardship for those who have been bereaved or injured as a result of the terror attacks in London on 22.3.17 and 3.6.17. Beneficiaries of the LET may receive lump sum and/or regular payments.

### **Income from the London Emergencies Trust**

28463 Fully disregard<sup>1</sup>

**1.** any income from the London Emergencies Trust **and**

**2.** any income from capital that was received from the London Emergencies Trust.



## **The We Love Manchester Emergency Fund**

28464 The We Love Manchester Emergency Fund (WLMEF)<sup>1</sup> was set up to alleviate hardship for those have been bereaved or injured as a result of the terror attack in Manchester on 22.5.17. Beneficiaries of the WLMEF may receive lump sum and/or regular payments.

1 JSA Regs, reg 1(3), IS (Gen) Regs, reg 2(1)

## **Income from the We Love Manchester Emergency Fund**

28465 Fully disregard<sup>1</sup>

- 1.** any income from the We Love Manchester Emergency Fund **and**
- 2.** any income from capital that was received from the We Love Manchester Emergency Fund.

1 JSA Regs, Sch 7, para 41(1) & 41(7); IS (Gen) Regs, Sch 9, para 39(1) & 39(7)

## **The London Bombings Relief Charitable Fund**

28466 The London Bombings Relief Charitable Fund<sup>1</sup> was set up to relieve the needs of victims, including families or dependants of victims, of the terrorist attacks in London on 7.7.05. Interim payments were made to relieve the immediate needs of victims followed by further lump sum payments. Recipients may receive more than one lump sum payment.

**Note:** Payments made from the London Bombings Relief Charitable Fund will be payments of capital (See DMG Chapter 29).

1 JSA Regs, reg 1(3); IS (Gen) Regs, Reg 2(1)

## **The Independent Living Fund (2006)**

28467 The original Independent Living Fund ran from 1988 to 1993. It was replaced by the Independent Living (1993) Fund and the Independent Living (Extension) Fund. With effect from 1.10.07 these funds were replaced by the Independent Living Fund (2006). The fund closed permanently on 30.6.15. Any payments made under any of the replacement schemes are disregarded as local welfare provision<sup>1</sup>.

1 JSA Regs, Sch 7, para 33A; IS (Gen) Regs, Sch 9, para 31A

## **Income from the Independent Living Fund (2006)**

28468 [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#) Fully disregard<sup>1</sup> any income from the Independent Living Fund (2006).

**Note:** Income which remains unspent and becomes capital at the end of the period it was paid for is not

disregarded.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1)

28469 - 28471

## **Payments from money which came from the Trusts**

### **Meaning of the Trusts**

28472 [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#) "The Trusts"<sup>1</sup> is the term that describes

- 1.** the Macfarlane Trusts **and**
- 2.** the Eileen Trust ("The Fund") **and**
- 3.** the Skipton Fund **and**
- 4.** the London Bombings Relief Charitable Fund **and**
- 5.** MFET Limited **and**
- 6.** the Caxton Foundation **and**
- 7.** the Scottish Infected Blood Support Scheme **and**
- 8.** the London Emergencies Trust **and**
- 9.** the We Love Manchester Emergency Fund **and**
- 10.** Infected Blood Schemes.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(7)

### **What payments should be disregarded**

28473 Income passed to another person from money from a Trust payment should be disregarded in the cases described in DMG 28474 - 28487. In these cases, the person receiving the income is not the person who qualified for the Trust payment. In any other circumstances, payments of income from a Trust payment should be treated under normal rules.

### **Person with HIV**

28474 In this guidance the term "person with HIV" is used to describe

- 1.** people with haemophilia **or**

## 2. other people

who qualify for Trust payments.

### **Qualifying person**

28475 In this guidance a qualifying person means<sup>1</sup> a person in respect of whom a payment has been made from

1. the Eileen Trust (“The Fund”) **or**
2. the Skipton Fund **or**
3. the London Bombings Relief Charitable Fund **or**
4. MFET Limited **or**
5. the Caxton Foundation **or**
6. the Scottish Infected Blood Support Scheme **or**
7. the London Emergencies Trust **or**
8. the We Love Manchester Emergency Fund **or**
9. Infected Blood Schemes.

**Note:** A person in respect of whom a payment has been made from the Macfarlane Trust is not included above but is included in the definition at DMG 28474.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

### **Payments by a qualifying person or person with HIV to partners, children and young people**

28476 Disregard any payment made by or on behalf of a qualifying person or person with HIV from money from a Trust payment made to or for the benefit of

1. their partner or their former partner if they are **not**
  - 1.1 estranged **or**
  - 1.2 divorced **or**
  - 1.3 former civil partners **or**
  - 1.4 estranged, divorced or had their civil partnership dissolved at the date of death if the qualifying

person or person with HIV has died<sup>1</sup> **or**

**2.** any child or young person who

**2.1** is a member of the family of the qualifying person or person with HIV **or**

**2.2** was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family<sup>2</sup>.

**Note:** DMG 28483 - 28484 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(2)(a); IS (Gen) Regs, Sch 9, para 39(2)(a);

2 JSA Regs, Sch 7, para 41(2)(b); IS (Gen) Regs, Sch 9, para 39(2)(b) & (c)

### **Payments by the partner or former partner of the qualifying person or person with HIV**

28477 [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#) Fully disregard any payment from a Trust payment made by or on behalf of a partner or former partner of a qualifying person or person with HIV, providing the qualifying person or person with HIV and partner or former partner are **not**

**1.** estranged **or**

**2.** divorced **or**

**3.** former civil partners **or**

**4.** estranged, divorced or had their civil partnership dissolved at the date of death of either

**4.1** the qualifying person or person with HIV **or**

**4.2** the partner or former partner.

28478 This disregard applies if the payment is made to or for the benefit of

**1.** the qualifying person or person with HIV<sup>1</sup> **or**

**2.** any child or young person<sup>2</sup> who

**2.1** is a member of the family of the qualifying person or person with HIV **or**

**2.2** was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family.

**Note:** DMG 28483 - 28484 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(3)(a); IS (Gen) Regs, Sch 9, para 39(3)(a);

## **Payments by a qualifying person or person with HIV to parents, step parents or guardians**

28479 [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#) Fully disregard any payment from a Trust payment by a qualifying person or person with HIV to their

**1. parent or**

**2. step parent<sup>1</sup> or**

**3. guardian<sup>2</sup> if the qualifying person or person with HIV has no parent or step parent and is a**

**3.1 child or**

**3.2 young person or**

**3.3 student in FTE.**

1 JSA Regs, Sch 7, para 41(4)(b)(i); IS (Gen) Regs, Sch 9, para 39(4)(b)(i);

2 JSA Regs, Sch 7, para 41(4)(b)(ii); IS (Gen) Regs, Sch 9, para 39(4)(b)(ii)

28480 This disregard applies if the qualifying person or person with HIV

**1. has no partner or former partner from whom that person is **not****

**1.1 estranged or**

**1.2 divorced or**

**1.3 former civil partners **and****

**2. has no child or young person in the family **and****

**3. has never had a child or young person in their family<sup>1</sup>.**

**Note:** DMG 28485 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(4)(a); IS (Gen) Regs, Sch 9, para 39(4)(a)

## **Payments from the estate of a qualifying person or person with HIV to a parent, step parent or guardian**

28481 Fully disregard any payment from the estate of a qualifying person or person with HIV to

**1. a parent or**

**2.** a step parent<sup>1</sup> **or**

**3.** a guardian<sup>2</sup> if at the date of death/the qualifying person or person with HIV had no parent or step parent and was a

**3.1** child **or**

**3.2** young person **or**

**3.3** student in FTE.

1 JSA Regs, Sch 7, para 41(5)(b)(i); IS (Gen) Regs, Sch 9, para 39(5)(b)(i);

2 JSA Regs, Sch 7, para 41(5)(b)(ii); IS (Gen) Regs, Sch 9, para 39(5)(b)(ii)

28482 This disregard applies if at the date of death the qualifying person or person with HIV had

**1.** no partner or former partner from whom that person is **not**

**1.1** estranged **or**

**1.2** divorced **or**

**1.3** former civil partners **or**

**2.** no child or young person in the family **and**

**3.** at no time had a child or young person in the family<sup>1</sup>.

**Note:** DMG 28486 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(5)(a); IS (Gen) Regs, Sch 9, para 39(5)(a)

## **For how long should the payment be disregarded**

### **Payments to a qualifying person or person with HIV and partners**

28483 Disregard payments made to or for the benefit of

**1.** a qualifying person or person with HIV<sup>1</sup> **or**

**2.** the partner or former partner of a qualifying person or person with HIV<sup>2</sup>

for the lifetime of the person who received the payment. Breaks in entitlement to IS or JSA(IB) do not alter this disregard.

1 JSA Regs, Sch 7, 41(3)(a); IS (Gen) Regs, Sch 9, para 39(3)(a)

## **Payments to children and young people**

28484 Disregard payments made to or for the benefit of a child or young person as long as they remain

**1.** a child or young person **and**

**2.** in (or they were in) the family of<sup>1</sup>

**2.1** the qualifying person or person with HIV **or**

**2.2** the partner or former partner of the qualifying person or person with HIV **and**

**3.** a member of the IS or JSA(IB) claimant's family.

<sup>1</sup> JSA Regs, Sch 7, para 41(2)(b) and 41(3)(b); IS (Gen) Regs, Sch 9, para 39(2)(b) & (c) & 39(3)(b) & (c)

## **Payments to parents and guardians from a qualifying person or person with HIV**

28485 Disregard payments to a

**1.** parent **or**

**2.** step parent **or**

**3.** guardian

from the date the payment is made until the end of two years after the qualifying person or person with HIV dies<sup>1</sup>.

**Note:** In some cases this disregard may last for the length of the JSA(IB)/IS claim, because the person with HIV may not die whilst the claimant is on JSA(IB)/IS.

<sup>1</sup> JSA Regs, Sch 7, para 41(4); IS (Gen) Regs, Sch 9, para 39(4)

## **Payments to parents and guardians from the estate of a qualifying person or person with HIV**

28486 Disregard<sup>1</sup> payments to a

**1.** parent **or**

**2.** step parent **or**

**3.** guardian

for a period of two years from the date the qualifying person or person with HIV died.

**Note:** This disregard applies from the date of death not the date the estate makes a payment.

1 JSA Regs, Sch 7, para 41(5); IS (Gen) Regs, Sch 9, para 39(5)

### **Deciding if a disregard applies**

28487 Once the claimant has declared any payments made from one of the Trusts the DM should decide

- 1.** if the payment qualifies for a disregard **and**
- 2.** the length of any disregard.

28488 Seek further evidence if there is doubt about the

- 1.** source of the payment **or**
- 2.** relationship of the person receiving the payment with the qualifying person or person with HIV **or**
- 3.** extent that money from the Trust has been kept separately.

### **Trust payments invested with other money**

28489 If a Trust payment is invested with other money to produce an income, disregard only the proportion that came from the trust payment<sup>1</sup>.

1 JSA Regs, Sch 7, para 41(6); IS (Gen) Regs, Sch 9, para 39(6)

### **Example**

Michael bought an annuity for £5,000. £4,000 came from the Eileen Trust. The balance came from his own savings.

The annuity produces an income of £50 a month.

The DM decides to disregard £40 a month. £10 a month is taken into account as income.

### **Qualifying person or person with HIV's relationship with former partners**

28490 The DM should be satisfied that a former partner or civil partner is not estranged or divorced or had the civil partnership dissolved. Accept the claimant's statement unless it is considered to be improbable or self-contradictory.

### **Example**

Joanne receives a payment of money from the Macfarlane Trust. She is divorced from her former partner Harold, who is a person with HIV.



The DM decides that the payment should not be disregarded.

## **Social fund funeral payments**

28491 Trust payments will become part of a person's estate upon death. Any assets of a dead person including

- 1.** payments of income from the Trusts including Variant Creutzfeldt-Jakob disease payments **and**
- 2.** payments of income from money that originally came from the Trusts or from Variant Creutzfeldt-Jakob disease payments

are not taken into account as assets of the estate if a claim for a SFFP is made (see DMG Chapter 39).

## **Payments with special rules 28492 - 28566**

### **Subpages**

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- Capital treated as income 28530 - 28541
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## Payment types 28492 - 28529

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[Meaning of relevant payment](#) 28498

[Certain types of payments](#) 28499 - 28509

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### What are charitable payments

28492 A charitable payment is a payment made under a charitable trust<sup>1</sup>. A charitable trust must

1. be wholly and exclusively charitable **and**
2. promote a public benefit (that is, it must benefit a sufficient section of the public except where the purpose is the relief of poverty).

Payments from charitable trusts are made at the discretion of the trustees.

1 R(IS) 4/94; R v. Doncaster Borough Council, Ex Parte Boulton

28493 Charitable trusts do not have to be

1. registered **or**
2. administered by a registered charity.

The DM should treat payments from registered charities as charitable payments.

28494 Charitable trusts usually provide for

1. the relief of poverty
2. advancement of education
3. advancement of religion

4. other purposes which benefit the community.

## What are voluntary payments

28495 A voluntary payment is a payment that

1. has a benevolent purpose **and**
2. is given without anything being given in return<sup>1</sup>.

**Note:** Voluntary payments should not be confused with payments to volunteers. Guidance on payments to volunteers is given at DMG 26195 - 26196.

1 R(IS) 4/94

28496 A voluntary payment is similar to a charitable payment but it will not usually be made from a charitable trust. Voluntary payments are usually paid for the benefit of an individual. But DMs should recognize that charitable payments may also be made to individuals

1. for the relief of poverty **or**
2. because a wider purpose is involved.

28497 The DM should consider

1. the background to **and**
2. reasons for

the payment when deciding if it is voluntary.

### Example 1

Jim claims JSA. He declares that he gets a payment of £20 a week from his uncle, Peter, towards the cost of running his car.

Peter makes the payment because Jim has been receiving JSA for some time and needs a car to get around.

Peter makes the payment because of family ties and affection for Jim. Peter does not expect or receive anything in return.

The DM decides that the £20 is a voluntary payment.

### Example 2

Frances claims IS. She is retired and receives a payment of £4.50 a week from her former employer in addition to her occupational pension.

The payment of £4.50 is paid to all former employees who worked for the company for over 20 years.

The payments were awarded by the board of directors following criticism by shareholders of the treatment of former employees with long service.

The DM decides the payment is not voluntary. This is because

- 1.** the directors of the company are receiving in return for the payment greater satisfaction from the shareholders
- 2.** the company's image is improved
- 3.** the payments are not made to help needy employees. Many of the people receiving payments are quite well off.

## Meaning of relevant payment

28498 A relevant payment<sup>1</sup> for the purposes of the disregard at DMG 28513 means

- 1.** a charitable payment
- 2.** a voluntary payment
- 3.** a payment (other than in **1.** or **2.**) from a trust whose funds derive from a personal injury award to the claimant (this includes a trust whose funds derive from the Children's Memorial Trust - see DMG 28505)
- 4.** a payment under an annuity purchased as a result of
  - 4.1** any agreement or court order to make payments to the claimant **or**
  - 4.2** funds that derive from a payment made as a consequence of a personal injury award to the claimant **or**
- 5.** a payment (other than a payment covered by **1.** - **4.**) received as a result of any agreement or court order to make payments to the claimant as a consequence of a personal injury award.

**Note:** The agreement referred to in **5.** must be reached **after** the date that the injury occurred<sup>2</sup>.

1 IS (Gen) Reg, Sch 9, para 15(5A), JSA Regs, Sch 7, Para 15(5A);

2 Malekout v. Secretary of State for Work & Pensions [2010] EWCA Civ 162

## Certain types of payments

### Cash in lieu of concessionary coal

28499 Payments originally made by British Coal to

1. retired miners **and**
2. widows of retired miners

in lieu of concessionary coal are not voluntary<sup>1</sup>. The payments were made because of a national agreement between British Coal and the trade unions. The purpose of the agreement was to ensure good labour relations and the willing services of the workforce. Treat these payments as other income with no disregard.

1 R(IS) 4/94

### Civil list pensions

28500 Treat civil list pensions as voluntary payments. They are

1. paid at the discretion of the Queen **and**
2. voted annually by Parliament.

28501 They are awarded for distinguished service to the nation in

1. the arts
2. science
3. literature.

### Payments from trust funds

28502 Claimants may receive payments from trust funds. If income from a trust fund is paid at the discretion of the trustees it should be treated as a voluntary payment. Treat a payment from a charitable trust as a charitable payment.

28503 Income from any trust fund set up with money from a personal injury award is treated in the same way. DMG 28513 gives guidance on the disregard appropriate to relevant personal injury trust payments.

### Structured settlements

28504 A structured settlement may include a contingency fund that would be treated in the same way as any other personal injury lump sum award. However most of the award is used to provide an annuity making periodical payments to the claimant. Payments from these annuities are capital treated as

income<sup>1</sup> which fall within the definition of relevant payment at DMG 28498.

1 IS (Gen) Regs, reg 41(7), JSA Regs, reg 104(6)

## **Children’s Memorial Trust**

28505 The Children’s Memorial Trust was set up as a result of Court action by the parents of deceased children whose organs had been retained by the Alder Hey hospital without parental consent.

28506 Where people can show that they have received a payment from the Children’s Memorial Trust under the “Heads of Agreement” in relation to the Court action, that payment will be made in consequence of a personal injury to **them**. Income from a trust set up with money that derived from the Children’s Memorial Trust is a relevant payment. DMG 28513 - 28515 gives guidance on the disregard appropriate to relevant personal injury trust payments.

28507 - 28509

## **Regular charitable or voluntary payments**

### **What are regular payments**

28510 Regular charitable or voluntary payments are those that are

- 1.** made regularly **or**
- 2.** due to be made regularly, even if they are not actually made.

**Note:** Voluntary payments should not be confused with payments to volunteers. Guidance on payments to volunteers is given at DMG 26195 - 26196.

28511 Regular payments include those paid or due to be paid at recurring intervals such as

- 1.** weekly
- 2.** monthly
- 3.** annually (for example every Christmas)
- 4.** any other pattern.

### **When is a payment due to be made**

28512 A payment is due to be paid where there is a promise or agreement to make a payment.

## **Disregard for relevant payments**

28513 Fully disregard<sup>1</sup> any relevant payment unless one of the exceptions at DMG 28514 - 28515 apply.

## Relevant payments that should be taken fully into account

28514 The disregard in DMG 28513 does not apply to

**1.** a person affected by a TD<sup>1</sup>**or**

**2.** LRPs<sup>2</sup>**or**

**3.** maintenance, that is not an LRP for

**3.1** a member of the family **or**

**3.2** a former partner **or**

**3.3** the children

of the person making the payment<sup>3</sup>**or**

**4.** a student's covenant or grant income<sup>4</sup>**or**

**5.** in JSA cases only, any payment made to a member of the family because another member of the family is involved in a TD<sup>5</sup>**or**

**6.** in IS cases only, to a person entitled to IS during

**6.1** a TD **or**

**6.2** the first 15 days after returning to work after a TD<sup>6</sup>.

**Note:** JSA can not be paid to claimants involved in a TD. Special rules apply if a member of the family of a JSA claimant is involved in a TD.

1 JSA Regs, Sch 7, para 15(3)(b)(i); IS (Gen) Regs, Sch 9, para 15(3)(b); 2 JSA Regs, reg 89 & 90; IS (Gen) Regs, reg 25 & 25A; 3 JSA Regs, Sch 7, para 15(3)(a); IS (Gen) Regs, Sch 9, para 15(3)(a);

4 JSA Regs, reg 134; IS (Gen) Regs, reg 65; 5 JSA Regs, Sch 7, para 15(3)(b)(ii);

6 IS (Gen) Regs, Sch 9, para 15(3)(b)

## Relevant payments paid in kind

28515 [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#) Fully disregard relevant payments that are paid in kind<sup>1</sup> unless one of the exceptions at DMG 28418 applies. The exceptions at DMG 28418 do not apply when the income in kind comes from

**1.** the Macfarlane Trust



- 2.** the Macfarlane (Special Payments) Trust
- 3.** the Macfarlane (Special Payments) (No. 2) Trust
- 4.** the Eileen Trust (“The Fund”)
- 5.** the Independent Living Fund (2006) but see DMG 28351
- 6.** MFET Limited
- 7.** the Caxton Foundation **or**
- 8.** the Skipton Fund
- 9.** the Scottish Infected Blood Support Scheme
- 10.** the London Emergencies Trust
- 11.** the We Love Manchester Emergency Fund
- 12.** Infected Blood Schemes

as explained at DMG 28419.

1 JSA Regs, Sch 7, para 22; IS (Gen) Regs, Sch 9, para 21

28516 - 28529

# Capital treated as income 28530 - 28541

[Capital payable by instalments](#) 28530 - 28533

[Capital instalments payable to children - IS cases](#) 28534

[Capital instalments payable to children - JSA\(IB\) cases](#) 28535 -

[When is an instalment treated as capital](#) 28536

[Annuity payments](#) 28537

[Local authority payments](#) 28538

## Capital payable by instalments

28530 [[See DMG Memo 11/20](#)] Where capital is payable by instalments the DM should decide if the payments should be treated as capital or income. Capital can be payable by instalments in situations where

1. a person lends another person a lump sum of money and the borrower repays that money in regular or irregular payments
2. a person receives payments from an investment bond with a life assurance company.

The above is not exhaustive.

### Example

Susan has an investment bond with a friendly society. The bond is worth £20,000 but is disregarded by the DM because it has a policy of life assurance attached to it (see DMG Chapter 29). The terms of the bond allow Susan to withdraw money on a monthly basis which reduces the surrender value of the bond. The DM decides that the money Susan receives is capital payable by instalments.

28531

### IS cases

28532 In IS cases add<sup>1</sup>

1. the amount of instalments outstanding

**1.1** in the case of a claim - at the earlier of

**1.1.a** the first day for which IS is payable **or**

**1.1.b** the date the claim is decided **or**

**1.2** in the case of a supersession - at the date the supersession of the outcome decision is made  
**and**

**2.** the amount of any other capital held by the claimant or partner.

If the total is more than £16,000 treat each instalment received as income. If the total is less than £16,000 each instalment is capital.

1 IS (Gen) Regs, reg 41(1); 2 IS (Gen) Regs, reg 41 & 45(aa)

### **JSA(IB) cases**

28533 In JSA(IB) cases add<sup>1</sup>

**1.** the amount of instalments outstanding

**1.1** in the case of a claim - on the first day for which JSA(IB) is payable **or**

**1.2** in the case of a supersession - the date the supersession of the outcome decision is made **and**

**2.** the amount of any other capital held by the claimant or partner.

If the total is more than £16,000 treat each instalment received as income. If the total is less than £16,000 each instalment is capital.

1 JSA Regs, reg 104(1); 2 IS (Gen) Regs, reg 41 & 45(aa)

### **Capital instalments payable to children - IS cases**

[\[See DMG Memo IS/JSA 64\]](#)

28534 If capital is payable by instalments to a child or young person add<sup>1</sup>

**1.** the amount of outstanding instalments

**1.1** in the case of a claim - at the earlier of

**1.1.a** the first day for which IS is payable **or**

**1.1.b** the date the claim is decided **or**

**1.2** in the case of a supersession - the date the supersession of the outcome decision is made **and**

**2.** the amount of any other capital held by the child or young person.

If the total is more than £3,000 treat each instalment received as income. If the total is less than £3,000 each instalment is capital.

1 reg 44(1)

## **Capital instalments payable to children - JSA(IB) cases**

[\[See DMG Memo JSA/IS 64\]](#)

28535 If capital is payable by instalments to a child or young person add<sup>1</sup>

**1.** the amount of outstanding instalments

**1.1** in the case of a claim - on the first day for which JSA(IB) is payable **or**

**1.2** in the case of a revision - the date the revision is made **and**

**2.** the amount of any other capital held by the child or young person.

If the total is more than £3,000 treat each instalment received as income. If the total is less than £3,000 each instalment is capital.

1 JSA Regs, reg 106(1)

## **When is an instalment treated as capital**

28536 DMs should make the calculations in DMG 28532 - 28535 every time an instalment of capital is paid. Only the outstanding instalments should be treated as income. Any instalments paid before the date of claim or supersession should be taken into account as capital.

## **Annuity payments**

28537 Treat any payment from an annuity as income<sup>1</sup>. An annuity is an investment which produces an annual sum of money<sup>2</sup>. Payments may be made monthly or quarterly as well as yearly.

1 reg 104(2); IS (Gen) Regs, reg 41(2); 2 R(IS) 10/01

## **Local authority payments**

28538 In certain circumstances capital payments by a LA

**1.** to promote the welfare of children and prevent children being taken into care **or**

**2.** to people who were in their care<sup>1</sup>

should be treated as income.

1 Children Act 89, s 17 & 24; SW (Scot) Act 68, s 12;  
Children (Scotland) Act 95, s 29 or s 30

**[See DMG Memo JSA/IS 64]**

28539 The circumstances in DMG 28538 apply where

**1.** in IS cases<sup>1</sup> - the claimant or member of the family is

**1.1** involved in a TD **or**

**1.2** has returned to work following TD **or**

**2.** in JSA(IB) cases<sup>2</sup> - a member of the claimant's family is involved in a TD.

1 IS (Gen) Regs, reg 41(3); 2 JSA Regs, reg 104(3)

28540 Payments of income from LAs should be treated as income in the normal way.

28541

# Career development loans 28542 - 28564

[What is a career development loan](#) 28542 - 28546

[Period over which a career development loan should be taken into account](#) 28547 - 28564

## What is a career development loan

28542 A career development loan is a deferred repayment bank loan which provides a person with initial help to pay for periods of study or training. The amount borrowed can vary between £200 and £8,000. Career development loans are usually paid to cover

1. 80% or 100% of course fees (payment of 100% of course fees depends on the person's circumstances) **and**
2. expenses incurred in connection with the course of study or training course **and**
3. day to day living expenses arising during the course of study or training course.

The DM should regard career development loans as income other than grant income.

## Amount to be disregarded

28543 A career development loan should be treated as income<sup>1</sup>. The DM should disregard any income from a career development loan<sup>2</sup> that is not intended to cover living expenses. The disregard applies for the period of education or training supported by the loan<sup>3</sup>. The DM should take into account as income any amount of the loan that has been applied for, and paid for living expenses (see DMG 28544).

1 JSA Regs, reg 104(5); IS (Gen) Regs, reg 41(6); 2 E & T Act 73, s 2; 3 JSA Regs, Sch 7, para 14;  
IS (Gen) Regs, Sch 9, para 13

**Note:** The main disregard for payments made under employment and training law is explained at DMG 28425 - 28427.

## Living expenses

28544 The living expenses to be taken into account as income are any amount loaned to the claimant or family member for

1. food

2. ordinary clothing and footwear (see DMG 28546)
3. fuel for the claimant's household
4. rent for which HB is payable
5. housing costs included in the applicable amount<sup>1</sup>
6. CT or water charges for which the claimant or member of the family is liable<sup>2</sup>.

1 JSA Regs, reg 83(f) & 84(1)(g); IS (Gen) Regs, reg 17(1)(e) & 18(1)(f);

2 JSA Regs, Sch 7, para 14(2); IS (Gen) Regs, Sch 9, para 13(2)

28545 A budget planner is included in the career development loan pack. If this has been completed it may help the DM decide how much of the loan is intended for living expenses. If a budget planner has not been completed the claimant should be asked how much of the loan had been applied for and paid for living expenses.

### **Ordinary clothing and footwear**

28546 Ordinary clothing and footwear means clothing or footwear for normal daily use. It does not include school uniforms or clothing and footwear used solely for sport, for example football boots<sup>1</sup>.

**Note:** The DM should consider the wide needs of all claimants when applying the test of “for normal daily use”.

1 JSA Regs, Sch 7, para 14(3); IS (Gen) Regs, Sch 9, para 13(3)

### **Example**

Ross is in receipt of JSA(IB). His partner, Sue, is a F/T student on an art and design course. Sue has received a career development loan of £4,000 to pay for all of her books and course materials and 80% of the course fees. The rest is a contribution towards her living expenses.

The DM

1. disregards the amount of the loan intended for books, course materials and course fees **and**
2. asks the claimant what amount was intended for living expenses. The DM then decides how much of the career development loan should be taken into account as income and the period over which the income should be taken into account.

### **Period over which a career development loan should be taken into account**

28547 The DM should take income from a career development loan into account for the period of

education or training intended to be supported by the loan<sup>1</sup>. The income from the loan should be taken into account even if the person does not complete the period of education or training.

1 JSA Regs, reg 94(2A); IS (Gen) Regs, reg 29(2A)

28548 The DM should consider guidance on the calculation of the weekly amount of the income because

**1.** the period the income is to be taken into account will be more than one week (see DMG Chapter 25)  
**and**

**2.** in some cases, only part of the income will overlap a benefit week (see DMG Chapter 25).

28549 The DM should not take income from a career development loan into account after the period of education or training supported by that loan has been completed<sup>1</sup>.

1 JSA Regs, Sch 7, para 14(1)(c); IS (Gen) Regs, Sch 9, para 13(1)(c)

### **Example 1**

Alice is a lone parent in receipt of IS. Her benefit week ends on a Monday. On 29.9.97 she starts a one year course for which she has received a career development loan of £3,000. The course ends on 26.6.98. The DM decides that £1,200 of the loan is intended for living expenses and is to be taken into account for the period 29.9.97 to 26.6.98, a total of 271 days. The loan is taken into account as follows

BWE 29.9.97 £4.43 is taken into account (see DMG Chapter 25). This is because the first day of the course overlaps with this benefit week

$$\frac{£1,200}{271} \times 1 \text{ day} = £4.43$$

BWE 6.10.97 to 22.6.98 £31.00 is taken into account (Chapter 25)

$$\frac{£1,200}{271} \times 7 \text{ days} = £31.00$$

BWE 29.6.98 £17.72 is taken into account (Chapter 25). This is because the last four days of the course overlap with this benefit week



$$\frac{\pounds 1,200}{271} \times 4 \text{ days} = \pounds 17.72$$

## **Example 2**

Annie is in receipt of JSA(IB). Her partner, Alistair starts a one year F/T course for which he receives a career development loan. The course starts on 29.9.97 and ends on 26.6.98. The DM decides that the amount of the career development loan intended to cover living expenses should be taken into account as income for the period 29.9.97 to 26.6.98.

On 10.12.97 Alistair decides that he no longer wishes to attend his course. The DM decides that income from the career development loan should still be taken into account until 26.6.98 as this is the period intended to be supported by the loan.

28550 - 28564

# Special rules for income of children and young people 28565 - 28566

[Providing the most favourable result for the claimant](#) 28566

28565 DMs should follow special rules when calculating the income of children and young people

**1.** do not treat the income of a

**1.1** child or

**1.2** young person

who has capital over £3,000 as the income of the claimant<sup>1</sup>

**2.** do not treat income of a child or young person that is more than the amount of the child's or young person's

**2.1** personal allowance **and**

**2.2** any DCP **and**

**2.3** any enhanced disability premium

as the income of the claimant<sup>2</sup>

**3.** disregard any income of a

**3.1** child or

**3.2** young person

in the way most favourable for the claimant<sup>3</sup>

**4.** some children and young people who attend boarding schools should be treated as having notional income (see DMG 28685 et seq).

1 JSA Regs, reg 106(5); IS (Gen) Regs, reg 44(5); 2 JSA Regs, reg 106(4); IS (Gen) Regs, reg 44(4);

3 JSA Regs, reg 106(7); IS (Gen) Regs, reg 44(7)

## Providing the most favourable result for the claimant

28566 DMs should apply the appropriate disregard to the income of the claimant or partner rather than to a child's or young person's income if a

**1.** child or young person **and**

**2.** the claimant or partner

both have income subject to a disregard.

28567 Apply any appropriate disregard in the most favourable way if more than one

**1.** child **or**

**2.** young person

in the family have incomes subject to a disregard.

### **Example**

Alice is an IS claimant. She has two children, Sam aged 7 and Sarah aged 13. Sam has income of £45.00 and Sarah has income of £40.00. Both of these incomes qualify for a £20.00 disregard.

<b>Child</b>	<b>Personal allowance</b>	<b>Income</b>
Sam aged 7	£38.50	£45.00
Sarah aged 13	£38.50	£40.00

### **Calculation 1**

- 1.** £20 disregard applied to Sam's income leaves £25 to be taken into account.
- 2.** Alice receives £33.50 for Sam ( $£38.50 - £25 = £13.50 + £20$  disregard).
- 3.** Sarah's income is £1.50 more than her personal allowance. £1.50 is disregarded.
- 4.** The total advantage to Alice is  $£33.50 + £1.50 = £35.00$ .

### **Calculation 2**

- 1.** Sam's income is £6.50 more than his personal allowance. £6.50 is disregarded.
- 2.** A £20 disregard applied to Sarah's income leaves £20 to be taken into account.
- 3.** Alice receives £38.50 for Sarah ( $£38.50 - £20 = £18.50 + £20$  disregard = £38.50).
- 4.** The total advantage to Alice is  $£38.50 + £6.50 = £45.00$ .

The DM uses calculation 2 because it is the most favourable for Alice.



## **Notional income 28568 - 25759**

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# What is notional income 28568 - 28575

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## What is notional income

28568 A person may be treated as having an income that is not actually received. This type of income is known as notional income and may take a number of different forms.

## Types of notional income

28569 Notional income may be calculated because of

1. deprivation of income
2. income available if applied for (including special rules for personal pensions)
3. income due but not yet paid
4. income for a member of the family paid to a third party
5. income for a third party made to a member of the family
6. a child or young person attending a boarding school.

## Actual and notional income

28570 A person may have actual and notional income. DMs need not consider notional income if a person's actual income on its own is greater than the applicable amount. If income is less than the

applicable amount the DM should consider if there is any notional income.

## Treatment of notional income

28571 Calculate notional income in the same way as actual income<sup>1</sup>. Any notional income of a child or young person should be added to their actual income. The total should then be taken into account using normal rules, including applying any appropriate disregard.

1 JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

## Notional income - tasters

28572 If a claimant does a taster of a NDYP option for three days or more in a benefit week notional income is not taken into account<sup>1</sup>. This is because a taster is an employment or training programme for which no training allowance is payable<sup>2</sup>.

**Note:** The notional income rules must be considered if the person is participating in a taster for less than three days in any benefit week.

1 JSA Regs, reg 105(13) & 19(1)(q); IS (Gen) Regs, reg 42(6); 2 JSA Regs, reg 19(3)

28573 [\[See memo DMG JSA/IS 64\]](#) Notional income is no longer taken in to account for those claimants or claimant's partners on an employment or training programme, regardless of its duration, providing a training allowance is not payable, or where such an allowance is payable, it is for the sole purpose of reimbursement of travelling or meal expenses to the person participating in the programme.

## Liable relative payments

28574 The guidance in DMG 28576 - 28709 does not apply to liable relative payments<sup>1</sup>.

1 JSA Regs, reg 89; IS (Gen) Regs, reg 25

## Service users

28575 The rules on notional income do not apply to payments of expenses or earnings paid as a result of a claimant's participation as a service user<sup>1</sup>. Where a DM might normally consider treating a claimant as possessing income which he doesn't actually have, such as in cases of

1. deprivation of income for the purposes of securing entitlement to benefit or increasing the amount of benefit payable
2. income upon application
3. income due but not paid

**4.** income paid to or in respect of a third party

**5.** notional earnings

then this will not apply where the possible income in question is payment arising from participation as a service user.

1 JSA Regs, reg 105(15A); IS (Gen) Regs, reg 42(8ZA)



# Deprivation of income 28576 - 28592

[Meaning of deprive](#) 28579 - 28582

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28576 DMs should treat<sup>1</sup> claimants as receiving income that they have deprived themselves of for the purpose of

**1.** securing entitlement to **or**

**2.** increasing the amount of

**2.1** IS **or**

**2.2** JSA **or**

**2.3** ESA.

1 JSA Regs, reg 105(1); IS (Gen) Regs, reg 42(1)

28577 DMs should bear in mind that a decision that a person has deprived themselves of an income to get or increase IS, JSA or ESA will usually apply to a subsequent IS, JSA or ESA claim. A fresh decision should be made each time there is a new claim<sup>1</sup>.

1 SS Act 98, s 17

28578

## Example

George has taken early retirement from work. He claims IS but the DM refuses the claim on income grounds because George has an occupational pension.

George claims IS again. The DM finds out that George has arranged for the occupational pension payments to be transferred to another person.

The DM decides that the transfer of the pension was done for the purpose of getting IS and to take into account a notional income equal to the amount of the occupational pension.

## Meaning of deprive

28579 The word deprive is an ordinary English word. Its meaning is not a question of law. It should be given a normal everyday meaning<sup>1</sup>.

1 R(SB) 38/85

28580 Claimants will have deprived themselves of income, if, because of their own actions, they no longer have that income. Claimants will still have deprived themselves of income whether or not another income has replaced the original income<sup>1</sup>.

1 R(SB) 40/85

28581 Claimants cannot deprive themselves of income that they have already received. If a payment of income is received it is actual income and should be taken into account in the normal way.

28582 A deprivation of income may occur where a claimant's income is reduced to repay an overpaid income. The DM should decide if a significant reason for the reduction is to get or increase the amount of JSA(IB), ESA(IR) or IS. DMs should bear in mind that the repayment of a

**1. legally enforceable and**

**2. immediately repayable**

debt cannot be for the purpose of increasing or getting JSA(IB), ESA(IR) or IS<sup>1</sup>.

1 R(SB) 12/91

## Questions for consideration

28583 The DM should consider the questions in DMG 28584 - 28592 where claimants seem to have deprived themselves of income.

### Was it the claimant's income

28584 The DM must decide if an income belongs to the claimant. If there is evidence that a person has been receiving an income (possibly on a previous claim), the DM should presume the income belongs to the claimant.

28585 There may be supporting evidence, such as a letter or document, that shows an income belongs to the claimant. If it is alleged that an income is not the claimant's the claimant must prove the income belongs to someone else.

### Has a deprivation of income happened

28586 Deprivation will have happened if a person

**1.** gives up or

**2.** transfers to another person

an income due to be received.

### **Example**

Suzanne receives JSA(IB). She arranges by a deed of gift to transfer income from an occupational pension to her adult daughter. The DM decides that Suzanne has deprived herself of the income from the occupational pension.

28587 The claimant has to prove that an income is no longer received. Once the DM has shown that a claimant was receiving an income it is up to the claimant to prove it is no longer paid. If the claimant cannot do this the DM should decide that the income is still being received. The income should be taken into account as actual income<sup>1</sup>.

1 R(SB) 38/85

### **Was the purpose of the deprivation to get or increase the amount of IS, JSA(IB) or ESA(IR)**

28588 There may be more than one reason for a person disposing of an income. Only one of those reasons might be getting or increasing IS, JSA(IB) or ESA(IR)<sup>1</sup>.

1 R(SB) 38/85

28589 Getting or increasing IS, JSA(IB) or ESA(IR) need not be the most important reason for disposing of an income but it must be a significant reason<sup>1</sup>.

1 R(SB) 40/85

28590 It is unlikely that there will be direct evidence that a deprivation was for the purpose of getting benefit. Decide on a person's reasons for disposing of an income after considering all the facts of the case. These may include

**1.** the person's explanations

**2.** the timing of the disposal

**3.** the claimant's knowledge of the benefit system

**4.** the likelihood of a benefit claim at the time of the deprivation.

28591 When considering claimants' intentions in depriving themselves of income the DM should consider what account of the claimant's intentions best explains the facts of the case. If the best

explanation of the deprivation is that a significant reason for the disposal was getting or increasing JSA(IB), IS or ESA(IR) the DM should calculate a notional income.

### **Timing of the disposal of income**

28592 DMs should carefully consider the timing of a disposal of income as

- 1.** a claim for IS, JSA(IB) or ESA(IR) made shortly after the disposal of an income may indicate that getting or increasing IS, JSA(IB) or ESA(IR) was a significant reason for the disposal
- 2.** a claim for IS, JSA(IB) or ESA(IR) made a long time after the disposal of an income is less likely to indicate that getting or increasing IS, JSA(IB) or ESA(IR) was a significant reason for the disposal. But if there is evidence that a claimant was considering claiming JSA, IS or ESA at a later date, deprivation may still have been for getting or increasing benefit.

### **Example**

Rosemary is retired and in poor health.

She transfers a payment from an annuity to her daughter by deed of gift. She goes to live in a care home nine months later and claims IS.

The DM decides that

- 1.** Rosemary deprived herself of the income **and**
- 2.** that the need to claim IS at a later date was an important factor in the deprivation.

# Income available on application 28593 - 28607

[General](#) 28593 - 28596

[What types of income should be taken into account](#) 28597

[Date from which income should be taken into account](#) 28598

[Income from an unadministered estate](#) 28600 - 28607

## General

28593 DMs should treat an income that

1. would be paid to a member of the family if applied for **and**
2. has not been applied for<sup>1</sup>

as notional income.

1 JSA Regs, reg 105(2); IS (Gen) Regs, reg 42(2)

## What types of income should not be treated as notional income available on application

[See Memo DMG JSA/IS 64]

28594 The following payments should not be taken into account as notional income available on application

1. income payable under a discretionary trust fund<sup>1</sup>
2. income from a trust set up using money paid because of a personal injury<sup>2</sup>
3. JSA<sup>3</sup>
4. the increase in CHB that lone parents can receive for their only, elder or eldest child<sup>4</sup>
5. WTC<sup>5</sup>
6. CTC<sup>6</sup>

7. payments from a personal pension, occupational pension, or the Pension Protection Fund when the person is under the qualifying age for SPC (see DMG 77032)<sup>7</sup>

8. an award of damages for personal injury which is administered by the court<sup>8</sup>

9. a rehabilitation allowance made under specified legislation<sup>9</sup>.

1 JSA Regs, reg 105(2)(a); IS (Gen) Regs, reg 42(2)(a); 2 JSA Regs, reg 105(2)(b);  
IS (Gen) Regs, reg 42(2)(b); 3 JSA Regs, reg 105(2)(e); IS (Gen) Regs, reg 42(2)(c);  
4 JSA Regs, reg 105(2)(c) & (2A); IS (Gen) Regs, reg 42(2)(d) & (2D);  
CHB & SS (Fixing & Adjustment of Rates) Regs 76, reg 2(1)(a) ; 5 JSA Regs, reg 105(2)(d);  
IS (Gen) Regs, reg 42(2)(e); 6 JSA Regs, reg 105(2)(d); IS (Gen) Regs, reg 42(2)(f);  
7 JSA Regs, reg 105(2)(g); IS (Gen) Regs, reg 42(2)(g); 8 JSA Regs, reg 105(2)(h) & Sch 8, para 42(1)(a)  
or 43(a); IS (Gen) Regs, reg 42(2)(i) & Sch 10, para 44(1)(a) or 45(a);  
9 Employment and Training Act 1973, s 2; IS (Gen) Regs, reg 42(2)(j); JSA Regs, reg 105(2)(i).

28595 Apply any appropriate disregards to notional income<sup>1</sup>. Do not take into account any income that would be fully disregarded but has not been applied for.

1 JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

28596 Only take an income into account if it can be shown beyond doubt that an application or claim for it would succeed. The DM should

**1. gather evidence and**

**2. consider all the qualifying conditions for the income.**

It should not be assumed that one or more qualifying conditions are satisfied.

### **Example**

Claudette claims IS. She is sick but has not claimed SDA. The DM decides that there are doubts about whether Claudette satisfies the medical conditions for claiming SDA. SDA is not taken into account as income available upon application.

## **What types of income should be taken into account**

28597 All types of income, except those mentioned in DMG 28594, may be taken into account.

Examples of incomes that might be available upon application are

**1. SS benefits**

**2. councillors' attendance allowance**

**3.** personal and occupational pensions for people who are of the qualifying age for SPC.

## **Date from which income should be taken into account**

28598 Take into account income available on application from the date it could be expected to be received if an application was made<sup>1</sup>.

1 JSA Regs, reg 105(2); IS (Gen) Regs, reg 42(2)

28599 Calculate the date on which income could be expected to be received by

- 1.** assuming an application was made on the date the DM first became aware of the notional income **and**
- 2.** adding the estimated time it would take for an application to be processed once made.

### **Example 1**

Mushtaq receives JSA(IB) and has a Mortgage Protection Policy. The DM discovers on 1 November that he has a voluntary arrangement to have payments made direct to the building society.

The insurance company tell the DM that it would take about a month for the payment to be redirected from the building society to Mushtaq.

The DM decides to take into account notional income from the Mortgage Protection Policy from 1 December.

### **Example 2**

Alastair is aged 61 and receives JSA(IB). On 1 November the DM discovers that Alastair could apply for his occupational pension from a former employer. He has not yet applied because he would get a bigger pension at the age of 65.

Alastair's former employer tells the DM that payment of a pension of £230 a calendar month would have started on 1 December if an application had been made on 1 November.

The DM decides to take into account a weekly notional income of £53.07 from 1 December.

## **Income from an unadministered estate**

28600 The DM may decide that a person should be treated as receiving notional income from the estate of a dead person.

28601 A person who is entitled to income from an unadministered estate can

- 1.** enforce their right to the income through the courts if there is a will **or**

**2.** take out letters of administration if there is no will.

28602 Delays in paying income from an estate are often caused by legal action over debts or problems with the will. The DM must consider this when deciding if

**1.** an income will become available **and**

**2.** when it would be paid if an application was made.

28603 If the DM knows that the claimant or a member of the family might receive income from a dead person's estate the case should be referred to DMA Leeds for advice if there is a long delay.

28604 Usually the DM should wait for a year after the

**1.** granting of probate or letters of administration **or**

**2.** the deceased person's death if a grant of probate or administration has not been made

before referring the case to DMA Leeds.

28605 If the only reason for the delay in receiving income is a failure of the person to apply for it promptly the DM should calculate notional income.

28606 - 28607



## Notional income - carer's allowance 28608 - 28616

[Deprivation of income](#) 28609

[Income available on application](#) 28613

[Income due but not paid](#) 28615

[Notional income and changes in circumstances](#) 28616

28608 DMG 28609 - 28616 gives guidance on how to apply the notional income provisions in cases

**1.** where

**1.1** SDP has been withdrawn or reduced because CA is in payment to the carer **and**

**1.2** the carer then chooses to give up CA **and**

**2.** where it appears that a carer may be entitled to CA but CA is not in payment.

**Note:** The Scottish carer's allowance supplement<sup>1</sup>, paid by the Scottish Government to those recipients of CA living in Scotland, is not the same as CA and is fully disregarded for income purposes.

1 The Scotland Act 2018, s47

### Deprivation of income

28609 If carers do something that means CA stops being paid, this is deprivation of income<sup>1</sup>. This may include

**1.** telling the DM they no longer wish CA to be paid to them **or**

**2.** changing their circumstances so they no longer qualify for CA.

Where there has been a deprivation of CA, the purpose of the deprivation should then be considered<sup>2</sup>.

1 R(SB) 40/85, para 8; 2 JSA Regs, reg 105(1); IS (Gen) Regs, reg 42(1)

28610 A carer should be treated as possessing income where CA has been given up for the purpose of

**1.** in JSA cases, gaining entitlement to, or increasing the amount of JSA(IB)<sup>1</sup>**or**

**2.** in IS cases, gaining entitlement to, or increasing the amount of IS<sup>2</sup>

for the carer, the carer's partner or any other member of the carer's JSA(IB) or IS family (see DMG Chapter 22).

**Note:** The carer does not have to be the JSA or IS claimant.

1 JSA Regs, reg 105(1); 2 IS (Gen) Regs, reg 42(1)

28611 Carers should not be treated as possessing CA which they have given up solely to secure or increase JSA(IB) or IS for someone who is **not** a member of the JSA(IB) or IS family. In these circumstances DMs should consider whether DMG 28613 applies.

28612 Guidance on establishing the purpose of a deprivation is at DMG 28586 et seq. DMs should note that it is not enough that securing or increasing JSA(IB) or IS is a natural consequence of giving up CA. A positive intention to secure or increase JSA(IB) or IS has to be shown<sup>1</sup>.

1 R(SB) 9/91, para 8

## **Income available on application**

28613 If CA is not to be taken into account under the deprivation rule, the DM should also consider the available on application rule (see DMG 28593 et seq)<sup>1</sup>.

1 JSA Regs, reg 105(2); IS (Gen) Regs, reg 42(2)

28614 CA may be taken into account using this rule where there is no doubt that

**1.** a fresh claim **or**

**2.** an application to the DM for payments to resume

will lead to payments being made to the carer. Guidance on the date from which notional income is assumed under this rule is at DMG 28598 et seq.

## **Income due but not paid**

28615 CA should not be assumed under this rule<sup>1</sup>. CA is an exception (see DMG 28641 **4.1**)<sup>2</sup>.

1 JSA Regs, reg 105(6); IS (Gen) Regs, reg 42(3)

2 JSA Regs, reg 105(7)(b); IS (Gen) Regs, reg 42(3)(b)

## **Notional income and changes in circumstances**

28616 After notional CA is taken into account, the carer's circumstances may change. Notional income is calculated as if the income in question is really in payment<sup>1</sup>. This means that notional CA should only stop where the change

**1.** would have caused CA to stop, had it really been in payment **and**

**2.** has not been contrived by the carer to secure or increase benefit as in DMG 28610.

**Note:** This applies to notional income under either DMG 28610 or 28614.

<sup>1</sup> JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

# Personal and occupational pensions 28617 - 28639

[General](#) 28617 - 28628

[Information and evidence](#) 28629

[Notional income - schemes where income withdrawal is allowed](#) 28631

[Notional income - schemes where income withdrawal is not allowed](#) 28634

## General

28617 There are rules for calculating income that is

1. available on application from a personal or occupational pension **or**
2. is treated as being available from a personal or occupational pension.

28618 These rules apply to people who have reached the qualifying age for SPC. The DM should ignore potential income from

1. personal pension schemes **or**
2. occupational pension schemes **or**
3. the Board of the Pension Protection Fund

for people under the qualifying age for SPC<sup>1</sup>. The weekly amount of any notional income to be taken into account should be calculated as if it is actual income<sup>2</sup>.

1 JSA Regs, reg 105(2)(g); IS (Gen) Regs, reg 42(2)(g); 2 JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

## What is a personal pension

28619 Personal pension scheme means<sup>1</sup>

1. a personal pension scheme as stated in pensions law<sup>2</sup>
2. an annuity contract or trust scheme approved under tax law<sup>3</sup> **and**
3. a personal pension scheme approved under tax law<sup>4</sup>.

1 JS Act 95, s 35(1); IS (Gen) Regs, reg 2(1); 2 PS Act 93, s 1;

3 Income and Corporation Taxes Act 1988, s 620, s 621 & s 622(3); Finance Act 2004, Sch 36;

4 Income and Corporation Taxes Act 1988, Part XIV, Chapter IV; Finance Act 2004, Sch 36

## **What is an occupational pension**

28620 An occupational pension<sup>1</sup> is any pension or other periodical payment under an occupational pension scheme, but does not include any discretionary payment out of a fund established for relieving hardship in particular cases.

1 JSA Regs, reg 1(2); IS (Gen) Regs, reg 2(1)

## **Pension Protection Fund**

28621 The Pension Protection Fund Board was set up to compensate members of defined benefit (final salary) occupational pension schemes where the employer goes out of business and the scheme is left with insufficient funds. Compensation may be made as regular payments of income and lump sum payments (just as the former pension scheme would have paid). Payments from the Pension Protection Fund are treated in the same way as payments from occupational pensions schemes.

## **What is a pension fund holder**

28622 Where reference is made to a pension fund holder, this means the

- 1. trustee or**
- 2. manager or**
- 3. administrator**

of a personal or occupational pension scheme<sup>1</sup>.

1 JSA Regs, reg 105(16); IS (Gen) Regs, reg 2(1)

## **Who is a person who derives entitlement**

28623 The term “person who derives entitlement” is used to describe people who may be paid a pension at the discretion of the pension fund holder. When the original pensioner dies the pension fund holder has discretion to decide what to do with the fund.

People, such as widows, widowers or surviving civil partners of the person who bought the pension, will only have entitlement to payments at the discretion of the pension fund holder.

## **Lump sums on retirement**

28624 At the point that

**1.** an annuity is bought **or**

**2.** an income is taken

from the personal pension fund a lump sum of up to 25% of the fund may be taken. Treat this payment as capital. Do not take it into account as notional capital available on application<sup>1</sup>.

1 JSA Regs, reg 113(2)(d); IS (Gen) Regs, reg 51(2)(d)

## **Pension Flexibilities**

28625 Since April 2015 people have had greater flexibility in how they access their pension savings, generally known as “pension flexibilities”. These flexibilities allow an individual to be able to choose what they want to do with their defined contribution fund or money purchase benefits scheme (sometimes referred to as a “pension pot”). If they want to, they could

**1.** draw out all of the funds in the pension pot

**2.** purchase an annuity (see DMG 28101)

**3.** opt for a drawdown arrangement (where lump sums or regular amounts can be drawn down from the pension pot) without any restriction either in the form of a cap or a minimum income amount

**4.** do nothing and leave the fund untouched.

## **Income and Capital Drawdowns**

28626 Whilst a claimant’s pension pot is held by the pension provider then that sum falls to be disregarded as capital. If the claimant has withdrawn money from their pension pot (known as a “drawdown”) then a determination has to be made as to how this is to be treated. Where a claimant chooses to withdraw amounts on a regular basis then those amounts fall to be treated as income and taken into account as such.

28627 Where a claimant chooses to

**1.** take ad-hoc withdrawals **or**

**2.** take the whole sum

then the amount withdrawn falls to be treated as capital (see DMG Chapter 29).

28628 For the purposes of notional income for claimants, or their partners as appropriate, who have reached the qualifying age for SPC (see DMG 28631), the claimant’s pension pot is required to be re-valued

**1.** after every drawdown of capital

**2.** after every drawdown of income which exceeds the applicable notional income amount (see DMG 28632) **or**

**3.** upon the claimant's request.

### **Example**

John is in receipt of SPC. He has a pension pot of £40,000 which he doesn't wish to access at the moment but might do at a later stage. The DM calculates that as an annuity income, this would produce £2,000 per annum or £38.46 per week. This is based on 100% of the rate of annuity that the fund would generate (see DMG 28631). The figure of £38.46 is taken into account as notional income. John then decides to draw down £8,000 as capital, leaving £32,000 in his pension pot. The decision maker reassesses the notional income figure based on 100% of the rate of annuity that the remaining amount in the fund would generate.

## **Information and evidence**

28629 Pension fund holders must provide the DM with information about

**1.** the rate of annuity available from the pension fund **and**

**2.** the amount of income that would be available if the funds were held in a scheme that produces an income.

This information is usually provided by the provider on form PPR1 and is based on tables prepared by the Government Actuary's Department (GAD)<sup>1</sup>. The rate of annuity is 100% of the rate of the annuity that could be generated by the fund. DMs must consider evidence from pension fund holders when deciding the amount of

notional income<sup>2</sup>. Do not make a decision until the pension fund holder has been given sufficient time to provide evidence.

1 SS (C&P) Regs, reg 7(6); 2 JSA Regs, reg 105(4) & 105(5); IS (Gen) Regs, regs 42(2B) & 42(2C)

28630 DMs must consider the evidence of the pension fund holder but are not bound to accept it. Consider all the evidence on the amount of notional income before making a decision. The decision should be based on the most convincing evidence available.

## **Notional income - schemes where income withdrawal is allowed**

### **When should a person be treated as having notional income**

28631 Treat a claimant who has reached the qualifying age for SPC as having<sup>1</sup>

**1.** any income from an occupational pension scheme, a personal pension scheme, or the Board of the

Pension Protection Fund which

**1.1** has not been claimed **and**

**1.2** he might expect to be entitled to if a claim for it was made

**2.** income from an occupational pension scheme which the claimant has elected to defer.

1 JSA Regs, reg 105(2B); IS (Gen) Regs, reg 42(2ZA)

### **Amount of notional income**

28632 The amount of the notional income is

**1.** where no income is drawn, 100% of the rate of annuity that may be withdrawn from the fund **or**

**2.** where some income is drawn, the difference between the rate of annuity and the income actually withdrawn.

### **Example**

Jason and Sarah are a couple in receipt of SPC. Jason has a pension pot of £50,000 which he doesn't wish to access at the moment but might do at a later stage. The DM determines that as an annuity income, this would produce £2,500 per annum or £48.07 per week. This is based on 100% of the rate of annuity that the fund would generate. This amount is taken into account as a notional income and is deducted from the award of SPC. Jason and Sarah then later decide to put the £50,000 into a flexi draw down fund and take an actual income of £50 per week. The DM now decides that the amount of income to take into account each week is £50. There is no notional amount to take into account.

### **From what date should the DM take notional income into account**

28633 Take notional income into account from the date that the person could expect to get the income if an application was made<sup>1</sup>. To calculate this date

**1.** assume that an application was made on the date that there is sufficient evidence to show that a notional income should be calculated **and**

**2.** add the estimated time it would take the pension fund holder to process an application for 100% of the rate of annuity that the fund would generate.

1 JSA Regs, reg 105(2B); IS (Gen) Regs, reg 42(2ZA)

### **Example**

Bernard receives JSA(IB). He is of qualifying age for SPC.

On 1 November the DM receives evidence that Bernard is entitled to a personal pension but has not



bought an annuity or drawn an income.

The pension fund holder states that Bernard's scheme can provide an income. In Bernard's case 100% of the rate of annuity that the fund would generate, based on the Government tables, is £23 a week.

Once an application is made it would take the pension fund holder six weeks to arrange for the maximum income to be paid.

The DM decides that Bernard should be treated as having a notional income of £23 a week from 13 December.

## **Notional income - schemes where income withdrawal is not allowed**

### **When should a person be treated as having notional income**

28634 Treat a claimant who has reached the qualifying age for SPC as having income when<sup>1</sup> entitled to money purchase benefits under an occupational or personal pension scheme and he fails to purchase an annuity with the funds available in that scheme where

- 1.** he defers, in whole or part, the payment of any income which would have been payable to him by his pension fund holder **or**
- 2.** he fails to take any necessary action to secure the whole of the income which would be payable to him by his pension fund holder, if he applied for it **or**
- 3.** income withdrawal is not available to him under that scheme.

**Note:** Money purchase benefits has the same meaning as in specific pensions law<sup>2</sup>. This type of scheme does not pay benefits related to a person's final salary. Contributions paid in are invested and the benefits paid depend on how well the investments perform.

1 JSA Regs, reg 105(3); IS (Gen) Regs, reg 42(2A); 2 PS Act 1993

### **Amount of notional income**

28635 The amount of notional income is the amount that a person could have received, without buying an annuity, if the pension funds were held in a scheme that did allow income withdrawal<sup>1</sup>.

1 JSA Regs, reg 105(5); IS (Gen) Regs, reg 42(2C)

### **From what date should the DM take notional income into account**

28636 Take notional income into account from the date that the person could expect to get the income if an application was possible<sup>1</sup>. To calculate this date

- 1.** assume that an application could be made on the date that there is sufficient evidence to show that a

notional income should be calculated **and**

**2.** add the estimated time it would take a typical pension fund holder who did provide an income from a fund, to process an application for 100% of the rate of annuity that the fund would generate.

1 JSA Regs, reg 105(3); IS (Gen) Regs, reg 42(2A)

### **Example**

Mark is an IS claimant. His partner Fiona is 61. On 1 November the DM receives evidence that Fiona has a personal pension scheme which does not provide an income.

The pension fund holder provides evidence, based on the Government tables, that Fiona would receive £30 a week if the fund was invested in a pension fund that paid an income.

The DM estimates that it would take six weeks for a typical pension fund holder to arrange for the maximum income to be paid from a fund.

The DM decides that Fiona should be treated as having a notional income of £30 a week from 13 December.

### **Actual income**

28637 Take into account in full in the normal way any income that is

- 1.** paid under an annuity bought with funds from a personal or occupational pension **or**
- 2.** withdrawn from a personal or occupational pension scheme.

28638 - 28639

## Income due but not yet paid 28640 - 28650

[Income that should not be taken into account if due but not paid](#) 28641 - 28644

[Types of income that may be due but not paid](#) 28646 - 28650

28640 Treat income

- 1.** that is due to a member of the family **and**
- 2.** has not been paid

as belonging to that person<sup>1</sup>. This does not apply to the income listed in DMG 28641.

1 JSA Regs, reg 105(6); IS (Gen) Regs, reg 42(3)

## Income that should not be taken into account if due but not paid

28641 Do not take

- 1.** earnings which are due on termination of employment by reason of redundancy<sup>1</sup>
- 2.** income payable under a discretionary trust fund **or**
- 3.** income payable under a trust set up from a payment made because of a personal injury<sup>2</sup> **or**
- 4.** the payments and benefits listed below, including increases for dependants<sup>3</sup>. These are normally recovered from or reduced by the amount of IS or JSA(IB) that has been paid because they have not been paid when they were due

**4.1** ESA(Cont)

**4.2** IB

**4.3** MA

**4.4** WB

**4.5** BA and WPA

**4.6** RP

**4.7** AA

**4.8** SDA

**4.9** CA

**4.10** DLA

**4.11** IIDB

**4.12** REA

**4.13** WDisP and WWP that is not paid as a gratuity and any payment that the DM accepts is similar

**4.14** Training allowance

**4.15** EU benefits **or**

**5.** income from an occupational pension scheme that has not been paid because the trustees or managers of the scheme

**5.1** have suspended or stopped payments because of insufficient resources<sup>4</sup> **or**

**5.2** have insufficient resources to meet in full the scheme's liabilities to its beneficiaries<sup>5</sup>

into account as income if these are not paid even if they may be due to be paid.

**Note:** Any benefit in the form of a grant, gratuity or widows payment should not be taken into account if due but not paid<sup>6</sup>. These payments should normally be treated as capital.

1 JSA Regs, reg 105(7)(d); IS (Gen) Regs, reg 42(3C);

2 JSA Regs, reg 105(7)(c); IS (Gen) Regs, reg 42(3); 3 JSA Regs, reg 105(7)(b); IS (Gen) Regs, reg 42(3)(b);

4 JSA Regs, reg 105(8); IS (Gen) Regs, reg 42(3A);

5 JSA Regs, reg 105(9); IS (Gen) Regs, reg 42(3B); 6 SS (POR) Regs, reg 8(1)

28642 - 28644

28645 "Resources" in DMG 28641 means the funds out of which the benefits of the occupational pension scheme are paid. This includes

**1.** money from an insurance policy **and**

**2.** an annuity contract

taken out for the purposes of the scheme.

## **Types of income that may be due but not paid**

28646 Examples of income that may be due but not paid include

- 1.** pension payments which have stopped because of a strike by a company's pension section **or**
- 2.** payments of income that have been interrupted because of a postal strike.

## **Evidence required**

28647 The DM should decide if an income is due but not paid. Ask to see written evidence that income has not been paid even though it may be due. Disallow a new claim if the claimant refuses to

- 1.** provide written evidence **or**
- 2.** give permission to the DM to obtain written evidence.

This is because the claimant will have failed to establish entitlement<sup>1</sup>.

1 R(IS) 4/93

28648 - 28650

## Employment zones and notional income 28651 - 28654

### Subsistence allowance

28651 Participants in the second stage of EZ programmes receive a subsistence allowance from the EZ contractor so as to leave 50p JSA in payment. A subsistence allowance is defined as an allowance which an EZ contractor has agreed to pay to an EZ programme participant<sup>1</sup>.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

28652 Where the amount of subsistence allowance paid in any benefit week is less than the amount of JSA(IB) that the person would have received in that benefit week less 50p, the DM should treat the claimant as possessing the difference between the actual amount of subsistence allowance paid and the correct amount of subsistence allowance payable<sup>1</sup>. This notional income is in addition to the actual amount of subsistence allowance in payment. DMG 28651 provides guidance on the correct amount of subsistence allowance which should be payable.

1 JSA Regs, reg 105(11A); IS (Gen) Regs, reg 42(5A)

28653 - 28654

## Payments of income to third parties 28655 - 28684

[What is a third party](#) 28657 - 28658

[Meaning of payment in respect of a person](#) 28659

[Income paid to one member for another member of the family](#) 28661

[Income paid to a third party for a member of the family](#) 28662

[Payments by a third party for care home, Abbeyfield Home or independent hospital charges](#) 28676

[Third party payments for care homes, Abbeyfield Homes or independent hospitals and National Health maintenance](#) 28678

[Income paid to a member of the family for a third party](#) 28680

28655 **[See Memo DMG JSA/IS 64]** The DM should apply special rules to income paid to a third party<sup>1</sup>. The treatment of third party income<sup>2</sup> depends on whether it is

1. paid to or paid for a member of the family **and**
2. how it is used.

1 JSA Regs, reg 105(10); IS (Gen) Regs, reg 42(4); 2 R(IS) 4/01

28656 **[See Memo DMG JSA/IS 64]** The special rules in DMG 28659 - 28682 apply

1. when a third party receives a payment for the claimant or a member of the family **or**
2. when a claimant receives a payment for a third party.

**Note:** DMG Chapter 26 gives guidance about Fine Payment Work. The rules in DMG 28655 et seq do not apply to such work. The reduction in the fine which results from such work is purely administrative and there is no payment of income to a third party.

### What is a third party

28657 **[See Memo DMG JSA/IS 64]** The term “third party” can include organizations such as LAs’ care homes, Abbeyfield Homes and independent hospitals as well as people. Third parties can be

1. people who are not members of the family

2. claimants and members of the family.

28658 DWP may make payments direct to provide for a person's participation in schemes assisting them to find employment or other programmes. These payments are not taken into account as notional resources under third party rules. This applies to both income and capital payments<sup>1</sup>. DMG Chapter 34 provides guidance on these schemes and programmes.

1 IS (Gen) Regs, reg 42(4ZA)(c) & 51(3A)(b); JSA Regs, reg 105(10A)(c) & 113(3A)(b)

## Meaning of payment in respect of a person

28659 Payment includes a part of a payment<sup>1</sup>. A payment can be made “in respect” of a person even if it is not made specifically or solely for that person.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

### Example

A company decides to sponsor all the children at a local boarding school by paying £5,000 towards their fees.

Half way through the year Simon, whose father receives JSA(IB), starts attending the school.

Even though the payment was not specifically for Simon he is now a member of the group for which it was made.

The payment, therefore, is made for Simon.

28660 If pension payments are made to a third party such as a trustee in bankruptcy, the payment is made in respect of<sup>1</sup> the claimant if it is used to assist in maintaining the claimant and reduce the need for him to be supported by income-related benefits.

1 R(IS) 2/03

### Example

James is an IS claimant. His partner Kathy is 62 and retired. She previously was self employed but was made bankrupt three years ago.

Kathy's pension annuity is being paid to her trustee in bankruptcy under the provisions of the insolvency Act, to reduce her indebtedness.

The pension payments are not made in respect of the claimant's partner because they cannot be used towards her maintenance and do not contribute towards reducing her need for income support.



## Income paid to one member for another member of the family

28661 [\[See Memo DMG JSA/IS 64\]](#) An income paid to one member of the family for another member of the family should be treated as the income of the person it is paid for.

### Example

Graham receives JSA(IB). His partner Margaret receives a payment from a trust fund for their daughter Abigail.

The DM treats the payment as being Abigail's income. This is because it is paid to Margaret for Abigail.

## Income paid to a third party for a member of the family

### Benefit paid to a third party

28662 [\[See Memo DMG JSA/IS 64\]](#) Benefit for a member of the family may be paid to a third party who is not a member of the family. Treat

1. SS benefits
2. SSP
3. SMP
4. CHB
5. a benefit under the WC(Supp) Scheme
6. a benefit under the PB and MDB Scheme
7. WDisP
8. WWP, War Widower's Pension or Surviving Civil Partner's War Pension
9. a pension paid to a forces widow or surviving civil partner under specific provisions<sup>1</sup>or
10. another pension for persons who have been disabled or died as members of the armed forces made under a prerogative of the Queen

as income of the member of the family if the third party pays it to or uses it on behalf of any member of the claimant's family<sup>2</sup>.

1 Armed Forces (Pensions and Compensation) Act 2004;

2 JSA Regs, reg 105(10)(a)(i); IS (Gen) Regs, reg 42(4)(a)(i)

## Example

Anna claims IS for herself and her daughter Janet.

Anna is separated from her husband, David. David claims RP, including an increase for Janet.

David pays the RP increase for Janet to Anna.

The DM treats the RP addition as Janet's income.

## Training and Flexible New Deal payments to third parties

28663 A payment should not be treated as notional income under the third party payment rule where it is made

**1.** under certain legislation<sup>1</sup>**and**

**2.** for a person's participation in

**2.1** an employment programme<sup>2</sup>**or**

**2.2** a training scheme<sup>3</sup>**or**

**2.3** the IAP<sup>4</sup>**or**

**2.4** a qualifying course<sup>5</sup> (see DMG 21152)

For JSA(IB) only this also includes FND<sup>6</sup>. DMG Chapter 34 provides guidance on training schemes and employment programmes including the IAP.

1 E & T Act 73, s 2; 2 JSA Regs, reg 105(10A)(c)(i); IS (Gen) Regs, reg 42(4ZA)(c)(i);

3 JSA Regs, reg 105(10A)(c)(ii); IS (Gen) Regs, reg 42(4ZA)(c)(ii);

4 JSA Regs, reg 105(10A)(c)(ia); IS (Gen) Regs, reg 42(4ZA)(c)(ia);

5 JSA Regs, reg 105(10A)(c)(iii); IS (Gen) Regs, reg 42(4ZA)(c)(iii); 6 JSA Regs, reg 105(10A)(c)(iv)

## Payments to a third party for participants in the MWA Scheme and schemes for assisting persons to obtain employment

28664 [\[See Memo DMG JSA/IS 64\]](#) A payment should not be treated as notional income under the third party payment rule where it is made in respect of a claimant's participation in

**1.** the MWA Scheme<sup>1</sup>**or**

**2.** a prescribed scheme for assisting persons to obtain employment<sup>2</sup>.

1 JSA Regs, reg 105(10A)(cb); IS (Gen) Regs, reg 42(4ZA)(ca);

## Other payments to a third party

28665 [\[See Memo DMG JSA/IS 64\]](#) Except where DMG 28666 - 28668 apply, a claimant is treated as possessing certain payments paid to a third party in respect of<sup>1</sup> (see DMG 28660) a claimant or a member of the claimant's family. These payments are

1. occupational pensions and payments from the Pension Protection Fund
2. pensions or any other periodical payments under a personal pension scheme<sup>2</sup>.

1 R(IS) 2/03; 2 IS (Gen) Regs, reg 42(4)(a)(ia); JSA Regs, reg 105(10)(a)(ia)

28666 A claimant is not treated as possessing a payment under DMG 28665 where<sup>1</sup>

1. they have been made bankrupt before 29.5.00 **and**
2. pension payments are paid to the claimant's trustee in bankruptcy and not the claimant.

This is because before 29.5.00 pension payments were included in a bankrupt person's estate that was assigned to the trustee in bankruptcy.

**Note:** From 29.5.00 the law changed to exclude from their estate any rights of a person made bankrupt under approved pension arrangements. This means that such pension payments can be treated as income of a person made bankrupt on or after 29.5.00.

1 R(IS) 4/02

28667 [\[See Memo DMG JSA/IS 64\]](#) A claimant is not treated as possessing a payment under DMG 28665 where

1. the payment is made
  - 1.1 for a person in respect of whom a bankruptcy order has been made **and**
  - 1.2 to the trustee in bankruptcy or any other person acting on behalf of the creditors **and**
2. neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment<sup>1</sup>.

1 IS (Gen) Regs, reg 42(4ZA)(d); JSA Regs, reg 105(10A)(d)

28668 [\[See Memo DMG JSA/IS 64\]](#) A claimant is also not treated as possessing a payment under DMG 28665 where

**1.** the estate of the person for whom the payment is made

**1.1** is subject to a sequestration order **or**

**1.2** has a judicial factor on it **and**

**2.** the payment is made to a person acting on behalf of the creditors **and**

**3.** neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment<sup>1</sup>.

1 IS (Gen) Regs, reg 42(4ZA)(d); JSA Regs, reg 105(10A)(d)

28669 [\[See Memo DMG JSA/IS 64\]](#) Income other than a benefit may be paid to a third party. The DM should treat this type of income as the notional income of the person for whom it is payable, to the extent it is used for that person's<sup>1</sup>

**1.** food

**2.** ordinary clothing or footwear

**3.** fuel, for the household that the claimant normally occupies

**4.** housing costs covered by IS or JSA(IB)

**5.** rent for which HB is payable

**6.** water charges

**7.** CT.

Ignore any part of the income not used on these items.

**Note:** If the income paid to the third party in the first instance is a payment in kind it would be excluded from this notional income rule.

1 JSA Regs, reg 105(10)(a)(ii); IS (Gen) Regs, reg 42(4)(a)(ii)

28670 [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#) Disregard the payment to the third party<sup>1</sup>

**1.** whatever it is used for, if it is made from

**1.1** the Macfarlane Trusts **or**

**1.2** the Eileen Trust ("The Fund") **or**

**1.3** MFET Limited **or**

**1.4** the Independent Living Fund (2006) see DMG 28351 **or**

**1.5** the Skipton Fund **or**

**1.6** the Caxton Foundation **or**

**1.7** the Scottish Infected Blood Support Scheme **or**

**1.8** the London Emergencies Trust **or**

**1.9** the We Love Manchester Emergency Fund **or**

**1.10** Infected Blood Schemes

**2.** if it is for the purchase and supply of concessionary coal under specified legislation<sup>2</sup>. The Department of Energy and Climate Change is now responsible for the purchase and supply of concessionary coal. Coal is purchased through contracts and supplied to ex-coal workers and their families. The payment from the Department of Energy and Climate Change to the contractor is a payment to a third party and is disregarded.

1 JSA Regs, reg 105(10A)(a); IS (Gen) Regs, reg 42(4ZA)(a);

2 The Coal Industry Act 94, s 19(1)(a); JSA Regs, reg 105(10A)(b); IS (Gen) regs, reg 42(4ZA)(b)

### **Meaning of ordinary clothing or footwear**

28671 The expression “ordinary clothing or footwear” means<sup>1</sup> clothing or footwear for normal daily use. It does not include

**1.** school uniforms **or**

**2.** clothing or footwear used solely for sport, for example football boots.

1 JSA Regs, reg 105(16); IS (Gen) Regs, reg 42(9)

28672 The DM should consider the wide needs of all claimants when applying the test of “for normal daily use”.

### **Example**

Emma receives IS. She has a disabled son, Ben, who needs to wear orthopaedic shoes.

The DM decides that orthopaedic shoes may be normal for Ben but are not normal for children in general. The DM decides that the orthopaedic shoes are not for normal daily use.

## **Payments by a third party for care home, Abbeyfield Home or independent hospital charges**

28676 [\[See Memo DMG JSA/IS 64\]](#) Treat payments made by a third party, who is not a member of the family, towards the cost of charges for a

- 1.** care home **or**
- 2.** Abbeyfield Home **or**
- 3.** independent hospital

as the income of the claimant<sup>1</sup>.

1 JSA Regs, reg 105(11); IS (Gen) Regs, reg 42(4A)

28677 This rule applies when the

- 1.** claimant lives in or is temporarily absent from a care home, Abbeyfield Home or independent hospital **and**
- 2.** payment is made to the care home, Abbeyfield Home or independent hospital.

The DM should calculate the amount of income and treat it as if it was actual income<sup>1</sup>.

1 JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

## **Third party payments for care homes, Abbeyfield Homes or independent hospitals and National Health maintenance**

28678 A payment is disregarded<sup>1</sup> if it is

- 1.** made for
  - 1.1** after-care under specified legislation<sup>2</sup> **or**
  - 1.2** accommodation or welfare services referred to in specified legislation<sup>3</sup> **and**
- 2.** treated as possessed under the notional income rule at DMG 28676<sup>4</sup>.

1 IS (Gen) Regs, Sch 9, para 66; JSA Regs, Sch 7, para 64; 2 MH Act 83, s 117; MH (C & T) (Scot) Act 03, s 25;

3 NA Act 48, Part III; SW (Scot) Act 68; the Care Act 2014 (care and support), Part 1; Social Services and Well-being (Wales) Act 2014, Part 4; 4 IS (Gen) Regs, reg 42(4A)

28679 Payments that satisfy DMG 28678 include payments or reimbursements by a LA for

1. persons who because of age, illness, disability or other circumstances are in need of care and attention which is not otherwise available to them **or**
2. expectant and nursing mothers<sup>1</sup>.

1 NHS and Community Care Act 1990, s 42; NA Act 1948, s 21(4)

## **Income paid to a member of the family for a third party**

28680 [\[See Memo DMG JSA/IS 64\]](#) Take into account in full any income paid to a member of the family for a third party who is not a member of the family if

1. the income is kept by **or**
2. is not paid over to the third party by

the person who received it. Ignore any income that is paid over to the third party<sup>1</sup>.

**Note:** CHB is the personal income of the CHB claimant. Even if the child for whom the CHB is paid is not part of the claimant's family for IS or JSA it should be taken into account as the claimant's actual income.

1 JSA Regs, reg 105(10)(b); IS (Gen) Regs, reg 42(4)(b)

28681 [\[See DMG Memo IS/JSA 64\]](#), [\[See Memo DMG 15/21\]](#) [\[See Memo DMG 07-23\]](#) Fully disregard any payment from

1. the Macfarlane Trusts
2. the Eileen Trust ("The Fund")
3. MFET Limited
4. the Independent Living Fund (2006) but see DMG 28351
5. the Skipton Fund
6. the Caxton Foundation
7. the Scottish Infected Blood Support Scheme (SIBBS)
8. the London Emergencies Trust (LET)

9. the We Love Manchester Emergency Fund (WLMEF)

10. Infected Blood Schemes

regardless of who keeps it or how it is used.

28682 [\[See Memo DMG JSA/IS 64\]](#) The DM should decide using, available evidence

1. whether **and**

2. how much

income has been kept by a member of the family.

28683 [\[See Memo DMG JSA/IS 64\]](#) Treat income as having been kept when

1. there is no intention of

1.1 paying it over to **or**

1.2 using it for

the third party **or**

2. if after having the income for a reasonable period of time the family member has

2.1 not started paying it over **or**

2.2 not started using it for the third party **or**

2.3 has no plans for paying it over or using it for the third party.

28684 The DM should consider

1. the type of income **and**

2. how often the income is paid **and**

3. why the income is paid

when deciding if a reasonable period of time has passed.

### **Example 1**

Rodney is a JSA(IB) claimant.

Rodney receives income for his cousin Roland who is a long-term patient in a local hospital.



The income is paid weekly and Rodney has been receiving it for four weeks.

Rodney has no good reason for not having passed the money to Roland.

The DM decides that in the circumstances four weeks was a reasonable period in which to expect that the money would have been handed over to Roland.

Rodney is treated as having the full amount of income.

### **Example 2**

Peter receives IS. His partner, Rowena receives an income for her aunt.

She has received three monthly payments but has not passed any money to her aunt because she has been busy looking after an elderly person.

The DM decides that in the circumstances of the case that a reasonable time had passed for Rowena to have handed over the payments.

Rowena is treated as having the full amount of the income.

### **Example 3**

Denis claims IS. He receives a weekly income on behalf of his sister Daphne.

Denis and Daphne live 30 km (20 miles) apart. Denis has not paid any money over to Daphne for ten weeks.

Denis has no private transport. He says he has not been well enough to travel by bus or post the money.

The DM decides in the circumstances of the case a reasonable period of time had not passed for Denis to have handed over the money.

He is treated as not having any of the income.

## Child or young person attending boarding school 28685 - 28709

[When should notional income be considered](#) 28685 - 28687

[What if the child or young person is maintained in a boarding school by more than one method](#) 28688

[Fees paid by members of the family from their own money](#) 28689 - 28690

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[When is a child or young person not present at a boarding school](#) 28709

### When should notional income be considered

**[See Memo DMG JSA/IS 64]**

28685 A child or young person who is

- 1.** a member of the claimant's family **and**
- 2.** attending boarding school

must, in certain circumstances, be treated as having a notional income<sup>1</sup>. Add any notional income to any actual income of the child or young person<sup>2</sup>.

**Note:** A person under the age of 18 who is entitled to IS or JSA(IB) in their own right is not a young person.

1 JSA Regs, reg 106(2) & (3); IS (Gen) Regs, reg 44(2) & (3); 2 JSA Regs, reg 106(8);  
IS (Gen) Regs, reg 44(8)

28686 If a person who attends a boarding school claims IS or JSA any payments made to the school

should be considered under normal rules for income paid to a third party.

28687 [\[See Memo DMG JSA/IS 64\]](#) The DM needs to know the arrangements for maintaining the child or young person in the boarding school to decide if a notional income should be calculated.

## **What if the child or young person is maintained in a boarding school by more than one method**

28688 [\[See Memo DMG JSA/IS 64\]](#) Guidance on the most common types of arrangements is in DMG 28689 - 28700. If a child or young person is maintained in a boarding school by more than one of the methods described, follow the appropriate guidance for each element.

## **Fees paid by members of the family from their own money**

28689 [\[See Memo DMG JSA/IS 64\]](#) Do not calculate a notional income if school fees are paid entirely from the money of a member of the family (for example, from capital).

28690 [\[See Memo DMG JSA/IS 64\]](#) The DM should consider if deprivation of capital has occurred in cases where tariff income is taken into account.

## **Fees paid by a member of the family with money from a third party who is not a Local Education Authority**

### **Payments made to the claimant to be used for school fees**

28691 [\[See Memo DMG JSA/IS 64\]](#) The DM must decide if a payment made to

1. the claimant **or**
2. a member of the family

by a third party, who is not a member of the family, is intended for school fees<sup>1</sup>.

<sup>1</sup> JSA Regs, reg 106(2)(a); IS (Gen) Regs, reg 44(2)(a)

28692 [\[See Memo DMG JSA/IS 64\]](#) If a payment from a third party is

1. not intended to be used on school fees but the claimant chooses to use it on fees, it should be treated in the normal way **or**
2. intended to be used and is used on school fees, a notional income should be calculated.

28693 [\[See Memo DMG JSA/IS 64\]](#) Payments may be made by liable relatives. The DM should decide if the payment is an LRP. If the payment

**1.** is not an LRP **and**

**2.** is intended and used for school fees a notional income should be calculated.

## **Calculation of notional income when the person meeting school fees is not the Local Education Authority**

### **Payments made direct to the school other than by a Local Education Authority**

28694 [\[See Memo DMG JSA/IS 64\]](#) If a third party makes payments of fees direct to the school a notional income should be calculated. The amount of weekly notional income is

**1.** the cost of maintenance charged by the school **or**

**2.** the amount of the payment, if the payment is less than the cost of maintenance.

**Note:** This guidance applies to full-time boarders when they are present at the school. It does not apply to LRPs.

### **Full-time boarders**

28695 [\[See Memo DMG JSA/IS 64\]](#) If the third party is not a LEA the DM should decide the

**1.** amount included in the fees for the pupil's maintenance **and**

**2.** periods during which the pupil is present at the school.

### **What is maintenance**

28696 [\[See Memo DMG JSA/IS 64\]](#) Maintenance is the cost of accommodation and food. It does not include

**1.** tuition fees **or**

**2.** extras, such as fees for riding lessons.

### **Calculating the maintenance element of fees**

28697 [\[See Memo DMG JSA/IS 64\]](#) Some independent schools produce itemised bills that show tuition fees, boarding fees and extras separately.

28698 [\[See Memo DMG JSA/IS 64\]](#) If a detailed breakdown of fees is not available the DM should estimate the maintenance element of the fees by subtracting from the total fees

**1.** the amount of any extras **and**

**2.** the amount the school would charge a day pupil of the same age.

## Scholarship awarded by the school

28699 [\[See Memo DMG JSA/IS 64\]](#) Some boarding schools award scholarships towards the cost of fees. The DM should not calculate a notional income if the child or young person's school fees are met in full by a scholarship.

28700 [\[See Memo DMG JSA/IS 64\]](#) If a scholarship only covers part of the fees the DM must identify what elements it covers. In particular the DM must decide if the balance to be paid includes tuition fees. If a third party is meeting the balance the DM needs to know if any maintenance is included. If maintenance is included in the element met by the third party a notional income should be calculated.

### Example 1

Colin attends a boarding school. His mother receives IS.

Colin's grandmother is paying school fees of £1,350 a term.

A bill from the school shows that the fees include extras of £150. No further breakdown was given on the bill.

The school have stated that a day pupil of the same age would be charged £900 a term for tuition only. The term is twelve weeks long.

The DM decides that the fees, not including extras, are £1,200.

£300 is for Colin's maintenance (£1,200 - £900).

£300 is divided by twelve to give a notional income of £25 a week during term time.

### Example 2

Angela goes to the same school as Colin. Her mother receives JSA(IB). Angela's fees are also £1,350 a term.

Angela has been awarded a scholarship of £500 a term. The balance of £850 is paid from a local educational charity.

The school has stated that the scholarship covers some of the cost of tuition fees.

The payment from the charity covers the balance of the tuition fees and extras of £150.

The DM decides that the scholarship does not contribute to Angela's maintenance. £300 of the payment from the charity is for her maintenance.

She is also treated as having a notional income of £25 a week.

### Example 3

Neal goes to the same school as Colin and Angela. His father receives IS. His fees are also £1,350 a term.

Neal has been awarded a scholarship of £720 a term. This is for 60% of the cost of tuition and maintenance.

The balance of £630 a term, including extras, is paid by a liable relative.

The DM decides that the payment by the liable relative is not an LRP.

The DM decides the payment includes £360 for tuition fees (that is 40% of the fees for a day pupil) and £150 for extras. The remainder of £120 is for Neal's maintenance.

The DM decides that Neal has a notional income of £10 a week during term time.

### **Weekly boarders and children returning home during term-time**

28701 [\[See Memo DMG JSA/IS 64\]](#) Special rules apply when a boarder returns home for any part of a benefit week during term-time. This could happen at half term. These special rules also apply to weekly boarders, for example, boarders who return home every weekend<sup>1</sup>.

1 JSA Regs, reg 106(2)(b); IS (Gen) Regs, reg 44(2)(b)

28702 [\[See Memo DMG JSA/IS 64\]](#) In these circumstances calculate the child or young person's notional income by

**1.** multiplying the child's personal allowance any DCP and any EDP by the number of days that the child is present at the school (excluding any nights the child spends with the claimant) **and**

**2.** dividing the result by seven<sup>1</sup>.

1 JSA Regs, reg 106(2)(b); IS (Gen) Regs, reg 44(2)(b)

### **Calculation of notional income when the Local Education Authority is meeting school fees or provides a school**

28703 [\[See Memo DMG JSA/IS 64\]](#) The DM should disregard any sums payable by the LEA under certain legislation<sup>1</sup> for a child or young person attending a course of study<sup>2</sup>.

1 Education Act 44, s 81; Education Act 62, s 2(1); Education (Scotland) Act 80, s 49;

2 JSA Regs, Sch 7, para 12; IS (Gen) Regs, Sch 9, para 11

28704 [\[See Memo DMG JSA/IS 64\]](#) The DM should treat a child or young person<sup>1</sup> as possessing a notional income where<sup>2</sup> the child or young person is

**1.** resident (see DMG 28705) at a boarding school **and**

2. wholly or partly maintained at the boarding school by the LEA under certain legislation (see DMG 28706)<sup>3</sup>.

1 CA Barton v CAO 96, R(IS) 11/96 SSRTF 95/1658/B; 2 JSA Regs, reg 106(3)(b); IS (Gen) Regs, reg 44(3)  
(b);

3 Education Act 44, s 8; Education (Scotland) Act 80, s 49 or 50

28705 [\[See Memo DMG JSA/IS 64\]](#) A child or young person need not be resident at a boarding school for 52 weeks a year for this rule to apply. A child or young person may be both resident at home and at a boarding school<sup>1</sup>.

1 CA Barton v CAO 96, SSRTF 95/1658/B

28706 [\[See Memo DMG JSA/IS 64\]](#) LAs have a duty<sup>1</sup> to provide primary and secondary education for children in their area. The LEA may arrange for a child or young person to attend a boarding school in another county. In these cases the child or young person is still maintained under section 8. It does not matter that the LA uses a power other than section 8 to finance its decision<sup>2</sup>.

1 Education Act 44, s 8; 2 CA Barton v CAO 96, SSRTF 95/1658/B

28707 [\[See Memo DMG JSA/IS 64\]](#) For each day that the child or young person is resident at a school provided or paid for by an LEA, take into account a notional income equivalent to one seventh of

1. the personal allowance **and**

2. any DCP<sup>1</sup>**and**

3. any EDP.

1 JSA Regs, reg 106(3); IS (Gen) Regs, reg 44(3)

28708 [\[See Memo DMG JSA/IS 64\]](#) The guidance in DMG 28707 also applies to cases where the LEA makes a payment to the claimant that is intended for school fees.

## **When is a child or young person not present at a boarding school**

28709 [\[See Memo DMG JSA/IS 64\]](#) Do not treat a child or young person as present at a boarding school on any day when the night is spent with the

1. claimant **or**

2. a member of the claimant's household<sup>1</sup>.

1 JSA Regs, reg 106(9); IS (Gen) Regs, reg 44(9)

**Example**

Alan is a boarder. His mother, Betty, claims IS.

Alan stays at Betty's home on a Tuesday and Wednesday night. He goes to Betty's home on Tuesday afternoon. He returns to school on Thursday morning.

The DM decides that Alan should not be treated as present at school on Tuesday and Wednesday.



# Liabe relative payments 28710 - 28723

## Liability to maintain

28710 Certain people are liable to maintain claimants or members of the family under

1. IS<sup>1</sup>and

2. JSA<sup>2</sup>

legislation.

1 SS A Act 92, s 78 (6)-(9) & 105(3); 2 JS Act 95, s 23

## Husbands, wives and civil partners

28711 Under IS and JSA legislation

1. a man is liable to maintain his wife or civil partner **and**

2. a woman is liable to maintain her husband or civil partner.

These liabilities end on divorce or dissolution of a civil partnership.

## Children

28712 Under IS legislation parents are liable to maintain their children. It does not matter if the parents have never been married. This liability lasts until the child is

1. 16 or

2. 20 if the child is in education.

**Note:** under child support legislation the upper child age limit for child support maintenance liability purposes is until the child is 19 if they are in education.

## Sponsored immigrants

28713 A person who on or after 23.5.80, either

1. alone or

2. with some other person

has undertaken to be responsible for the maintenance and accommodation of another person under immigration law<sup>1</sup> is liable to maintain that person.

1 Immigration Act 1971

28714 - 28719

### **Action by the DM in the courts**

28720 If people who are liable to maintain are not maintaining

**1.** IS claimants and members of the family **or**

**2.** JSA(IB) claimants

the DM may apply to a court for a maintenance order<sup>1</sup>. If liabilities are not met the DM has the power to start criminal proceedings against the person who is not paying<sup>2</sup>.

1 JS Act 95, s 23(1); JSA Regs, reg 169(1); SSA Act, s 106(1);

2 JSA Regs, reg 169(3); SSA Act, s 105(1)

28721 - 28723

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## Treatment as income

28724 LRPs are payments of income<sup>1</sup> which have to be taken into account (but see DMG 28740).

1 JSA Regs, reg 118; IS (Gen) Regs, reg 55

28725 There are special rules for the treatment of LRPs<sup>1</sup>. The normal rules for the treatment of

1. income **and**
2. notional income (including deprivation of income) **and**
3. capital (except for the calculation of the capital limit) **and**
4. student's income

do not apply to LRPs. Follow the guidance in this section when dealing with LRPs.

**Note:** If a payment is not an LRP it should still be considered under the normal income/capital rules.

1 JSA Regs, reg 89; IS (Gen) Regs, reg 25

## Meaning of liable relative payment

28726 An LRP<sup>1</sup> is a payment that is

1. a periodical payment made by an LR
2. any other payment made by or derived from an LR.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

## Identification of liable relative payments

28727 An LRP is not restricted to a payment from a person who is liable to maintain under the Acts. In particular a payment to a divorced husband, wife or to a person who has had a civil partnership dissolved is an LRP even though there is no liability to maintain under the Acts. If the DM has doubts whether a payment is an LRP details should be requested from

1. the claimant's solicitor **or**
2. the claimant.

28728 Both income and capital payments can be taken into account as LRPs. If it is decided that a capital payment is an LRP it is treated as income<sup>1</sup>. LRPs may be

1. periodical payments **or**
2. non-periodical payments.

1 JSA Regs, reg 118(a); IS (Gen) Regs, reg 55(a)

28729 - 28730

## Liable relative payments from discretionary trusts

28731 Payments from discretionary trusts should be taken into account only if they are actually paid.

## Payments made before the date of claim

28732 DMs should consider if payments received before the date that IS or JSA(IB) is payable are LRPs.

For example, LRPs may have been made to

1. young claimants before they left the parental home **or**
2. people who have separated from their partners.

28733 If a person has recently left their partner or a young claimant has recently left the parental home, decide

1. if any payments have been made **and**
2. if they are LRPs.

28734 If LRPs have been made, decide

1. the period over which they should be taken into account **and**
2. the effect on JSA(IB) or IS.

28735 - 28739

## **When the DM should not take payments into account as income**

28740 The DM may

1. arrange to collect payments if

**1.1** IS **or**

**1.2** JSA(IB)

is in payment **and**

2. decide not to treat the payment as the claimant's income.

DMs should disregard these payments when calculating the claimant's income<sup>1</sup>.

1 JSA Regs, reg 119; IS (Gen) Regs, reg 55A

## **Meaning of liable relative**

28741 Liable relative is defined as<sup>1</sup>

1. a husband, wife or civil partner of the

**1.1** claimant **or**

**1.2** member of the family

**2.** a former husband, wife or civil partner of the

**2.1** claimant **or**

**2.2** member of the family

**3.** a parent of

**3.1** a child or young person who is a member of the claimant's family **or**

**3.2** a young claimant

**4.** a person who it is reasonable to treat as the father of a

**4.1** child who is a member of the claimant's family **or**

**4.2** young person who is a member of the claimant's family **or**

**4.3** young claimant

because of contributions towards their maintenance. This applies even though a court has not found the person to be the father

**5.** a person who has, on or after 23.5.80, agreed to maintain

**5.1** the claimant **or**

**5.2** a member of the claimant's family

as a condition of their immigration.

**Note:** Not all Liable relatives are people who are liable to maintain under SS or JSA law.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

28742 - 28744

## **Meaning of parent**

28745 In DMG 28741 references to parents include people who are not the

**1.** natural **or**

**2.** adoptive

parents of a child, young person or young claimant.

## **People who can be treated as parents**

28746 People who have accepted a

- 1. child or**
- 2. young person or**
- 3. young claimant**

as a member of their family can be treated as parents. An example of this would be a stepfather or stepmother.

28747 A person who is treated as a parent is not liable to maintain a

- 1. child or**
- 2. young person or**
- 3. young claimant.**

If a person in this position is making payments treat them as a liable relative. Treat any payments made as LRPs. If payments cease the DM will not be able to seek their reinstatement.

## **Meaning of young claimant**

28748 A young claimant is a person who is aged 16 - 19 years who is an

- 1. IS or**
  - 2. JSA(IB)**
- claimant<sup>1</sup>.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

28749

## **Liable relative payments and income tax**

### **Liable relative payments subject to income tax**

28750 The DM should take into account the amount of an LRP after any tax has been deducted by HMRC.

## **What should the DM do if the claimant receives a tax refund**

28751 If the claimant receives a tax refund for a

**1.** periodical LRP **or**

**2.** non-periodical LRP

it should be treated as a periodical or non-periodical LRP as appropriate.

28752 Use the date that the claimant received the tax refund when deciding the date the LRP was made.

The DM should

**1.** decide the date the refund was received **and**

**2.** then apply the normal rules for deciding the date on which a

**2.1** non-periodical LRP **or**

**2.2** periodical LRP

is paid.

28753 - 28759



## **JSA(Cont) and pension payments 28760 - 28999**

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## **Which payments should not be treated as liable relative payments**

28760 When calculating income DMs should not treat

1. certain payments made because of separation, divorce or the dissolution of a civil partnership
2. payments made after the death of a liable relative
3. certain gifts

4. certain payments to or for third parties
5. payments in kind
6. payments for children and young people who are not members of the family
7. certain payments that have already been taken into account
8. certain payments that have been recovered under prevention of duplication of payments rules
9. certain payments that have already been used
10. payments of disregarded child maintenance

as LRPs<sup>1</sup>. Further guidance is given in DMG 28761 et seq.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

## **Payments made because of divorce or separation**

28761 Do not treat as an LRP any payment made because of the rearrangement of the family's property to give each partner a share of assets. For this rule to apply the payment must be made because of

1. an agreement to separate **or**
2. proceedings for judicial separation, divorce, nullity of marriage or dissolution of a civil partnership.

28762 It does not matter if the payment was made before or after the agreement to separate or the court proceedings to end a marriage or civil partnership.

28763 The payment must be part of a chain of events leading from the rearrangement of property<sup>1</sup>. The payment itself must not be the property rearrangement.

1 R(SB) 1/89

28764 It is not necessary for an asset to have been sold before the payment is made. Examples of this include

1. the setting up of a trust **or**
2. transfer of property, such as a house<sup>1</sup>.

1 R(SB) 1/89

28765 If it is decided a payment made because of the rearrangement of property is not an LRP it should be treated as capital or income as appropriate.

## **Payments made after the death of a liable relative**

28770 Do not treat as an LRP any payment made after the death of the liable relative. These payments should be treated as

- 1.** other income **or**
- 2.** capital

as appropriate.

## **Gifts made by liable relatives**

28771 Do not treat as an LRP the first £250 of a payment made as a gift. These payments should be treated as

- 1.** other income **or**
- 2.** capital

as appropriate.

### **Example**

Rachel is separated from her husband and is in receipt of IS. Her son David receives a gift of money from his father. The gift is less than £250 and is to celebrate David's birthday.

The DM decides that the payment is not an LRP and goes on to consider how to treat the payment under the normal income and capital rules.

## **More than one gift made during a 52 week period**

28772 If two or more gifts are received during a 52 week period starting on the date that the first payment was made

- 1.** do not treat the first £250 of the total gifts as an LRP **and**
- 2.** treat the excess over £250 as an LRP.

28773 The start of the 52 week period can be before the start of entitlement to IS or JSA(IB). When a 52

week period ends a further 52 week period will begin on the first day of the benefit week in which the next gift payment is made.

28774 - 28775

## Payments made to or for third parties

28776 A payment made

1. to a third party in respect of the claimant or the claimant's partner or made or derived from a person falling within. (agreement to maintain as a condition of immigration) or
2. to the claimant or claimant's partner in respect of a third party or made or derived from a person falling within [DMG 28741 5 \(link is external\)](#). (agreement to maintain as a condition of immigration)

is not to be treated as an LRP unless [DMG 28777 \(link is external\)](#) applies<sup>1</sup>.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

28777 If the payment is in respect of

1. food
2. ordinary clothing or footwear
3. fuel
4. rent for which HB is payable
5. housing costs
6. CT
7. water charges

then the payment made to, or in respect of, a third party should be treated as being an LRP.

**Note:** Ordinary clothing and footwear means that worn for normal daily use but does not include school uniform. Housing costs means those costs which may be included as part of the claimant's applicable amount (see DMG Chapter 23)<sup>1</sup>.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

### Example 1

Anna is in receipt of IS. Her ex-partner has agreed to pay £85 a month to the electricity supplier in

respect of Anna's fuel bills. This monthly payment is paid direct to the company. The DM decides that the payment is an LRP and takes it into account against Anna's IS entitlement.

## **Example 2**

Gill is in receipt of JSA(IB). Her young son attends a stage school every Saturday. Gill's ex-husband pays the stage school fees directly to the stage school. The DM decides that the payment is not an LRP.

## **Types of payments made to third parties**

28778 Liable relatives may make payments direct to a third party rather than to the claimant. The most common types of these payments are

- 1.** payments made direct to a fuel company for the claimant's fuel bills **and**
- 2.** payments for housing costs made direct to
  - 2.1** a building society **or**
  - 2.2** a landlord **and**
- 3.** payments of school fees direct to a school that is not a boarding school **and**
- 4.** payments towards
  - 4.1** hire purchase commitments **or**
  - 4.2** loans.

## **What is a third party**

28779 A third party is

- 1.** a person **or**
- 2.** a group of people such as a company or some other organization.

Any third party payment must be made to a person or organization.

## **Example**

Colin is separated from his wife. He receives JSA(IB).

His wife makes payments to Colin of £5 a week. She states the payment is to buy food for Colin's dog.

The DM decides that the payment is made to Colin and is not a payment to a third party as the dog is not a person or organization.

### **What should the DM do if a payment to a third party is treated as a liable relative payment**

28786 If the DM decides that a third party payment is an LRP it should be taken into account as a

1. periodical payment **or**
2. non-periodical payment

as appropriate.

### **What should the DM do if a payment to a third party is not treated as a liable relative payment**

28787 If the DM decides that a third party payment is not an LRP the normal rules for payments of income and capital to third parties should be considered.

28788 - 28789

## **Payments made for a third party**

### **Types of payments made for third parties**

28790 Payments may be made to

1. the claimant **or**
2. a member of the family

for a third party. This may happen when a person continues to pay maintenance to a parent for a child or young person who is no longer a member of the family.

### **Should the DM treat a payment for a third party as a liable relative payment**

28791 The DM must decide if a payment received by the claimant or member of the family for someone else should be treated as

1. a payment for the claimant **or**
2. a payment for the third party.

**Note:** Payments for children or young people who are treated as not being members of the claimant's household should not be treated as LRPs<sup>1</sup>.

28792

### **What should the DM do if the payment is not treated as a liable relative payment**

28793 If the DM decides that the payment should not be treated as an LRP the payment should be considered under normal income and capital rules for payments for third parties.

28794 If the person for whom the claimant receives a payment claims

**1. IS or**

**2. JSA(IB)**

the DM should not take the payment into account in both assessments.

28795 - 28797

### **Payments in kind**

28798 Do not treat any payment in kind as an LRP. Consider any payment in kind under the normal rules for income and capital.

### **Payments for people who are not members of the household**

28799 Do not treat as an LRP any payment to or for a

**1. child or**

**2. young person**

who is treated as not being a member of the claimant's household. Consider the guidance for payments of income or capital for third parties (see DMG 28680).

### **Payments already taken into account**

28800 Do not treat as an LRP non-periodical payments that have already been taken into account as income under a previous award or decision for the benefit now being considered.

28801 Non-periodical payments that have been taken into account under a previous



**1.** IS decision can be treated as LRPs if JSA is being considered **and**

**2.** JSA decision can be treated as LRPs if IS is being considered.

## **Payments being recovered**

28802 Do not treat as LRPs non-periodical payments that

**1.** have been **or**

**2.** are being

recovered under prevention of duplication of payment rules<sup>1</sup>.

1 SS A Act 92, s 74(1)

## **Payments that have been used**

28803 Do not treat as LRPs non-periodical payments that have been used by the claimant at the time that the DM's decision on the payment is made. This rule does not apply to claimants who have deprived themselves of money from payments to get or increase the amount of the benefit now being considered.

28804 Deprivation for the purposes of getting or increasing

**1.** IS should not be considered if JSA is the benefit under consideration **or**

**2.** JSA should not be considered if IS is the benefit under consideration<sup>1</sup>.

1 JSA Regs, reg 117(h)(iii); IS (Gen) Regs, reg 54(h)(iii)

## **Child maintenance**

28805 Do not treat as LRPs payments of child maintenance that have been disregarded<sup>1</sup> (see DMG 28443).

1 JSA Regs, reg 117(i); IS (Gen) Regs, reg 54(i)

28806 - 28809

# Liabile relative payments - periodical payments 28810 - 28839

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## Introduction

28810 The way in which an LRP is taken into account depends upon whether it is a periodical payment or a non-periodical payment.

## What is a periodical payment

28811 A periodical payment is

- 1.** a payment made or due to be made at regular intervals **or**
- 2.** a payment that forms part of an established pattern **or**
- 3.** a payment that substitutes or replaces a payment in **1.** and **2.** whether or not it is
  - 3.1** a complete multiple of those payments **or**
  - 3.2** made in advance or arrears **or**
- 4.** any payment that is less than the rate of IS or JSA that would have been payable if it had not been made<sup>1</sup>.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

**Note:** DMs must consider entitlement to JSA(Cont) when considering the amount of JSA that would have been payable if the payment had not been made.

28812 A payment that was due to be paid before the first benefit week of the claim but was paid after

that benefit week is not a periodical payment.

28813 Periodical payments are usually made at weekly or monthly intervals under

1. a court order **or**
2. an agreement between the claimant and the person making the payment.

## Calculation of weekly amount

### Periodical payment made at weekly intervals

28814 If a periodical payment is

1. made **or**
2. due to be made

at weekly intervals the weekly amount to be taken into account is the amount of each of the payments<sup>1</sup>.

1 JSA Regs, reg 122(1); IS (Gen) Regs, reg 58(1)

### Periodical payment made at monthly intervals

28815 If a periodical payment is made or due to be made at monthly intervals the weekly amount is calculated by

1. multiplying the amount of the payment by twelve **and**
2. dividing the result by 52<sup>1</sup>.

1 JSA Regs, reg 122(2); IS (Gen) Regs, reg 58(2)

### Example

Donna receives IS. She receives LRPs of £120 a month.

The DM calculates the weekly amount by multiplying £120 by 12 and dividing the result by 52.

Calculation

$$\frac{\pounds 120 \times \pounds 12}{52} = \pounds 27.69$$

## Periodical payments made other than weekly or monthly

28820 If a periodical payment is made or is due to be made at intervals other than

**1. weekly or**

**2. monthly**

the weekly amount to be taken into account is calculated by dividing the amount of the payment by the number of weeks (including part weeks) in the interval between the payments<sup>1</sup>.

1 JSA Regs, reg 122(3); IS (Gen) Regs, reg 58(3)

### Example

Nigel claims JSA(IB). He receives LRPs of £500 on the first day of every third month.

He receives £500 on 1.9.09 and a further £500 on 1.12.09.

The DM decides that the payment for 1.9.09 - 30.11.09 is for 13 weeks.

The weekly amount is calculated as follows

$$\frac{£500}{13} = £38.46$$

The DM decides that the payment for 1.12.09 - 28.2.10 is for twelve weeks and six days.

The weekly amount is calculated as follows

$$\frac{£500}{12 \frac{6}{7}} = £38.88$$

(twelve weeks and six days)

## Payment made up of more than one periodical payment

28821 If a lump sum is received instead of all or part of a series of periodical payments calculate the weekly amount in the same way as the weekly amount of the payments it represents would be calculated<sup>1</sup>. This applies whether or not

**1. the payment is a complete multiple of the payments it represents or**

**2. the payments are made in advance or arrears.**

### Example

Marie is an IS claimant. She is due to receive LRPs of £10 a week.

Over a 13 week period she receives two payments of £40 and one payment of £50.

The DM decides that the payments made represent a series of periodical payments.

The weekly amount taken into account is £10.

## Period over which a periodical payment should be taken into account

### Periodical payments made at regular intervals

28822 If periodical payments are made at regular intervals take each payment into account for a period equal to the length of time between payments<sup>1</sup>.

1 JSA Regs, reg 120(1)(a); IS (Gen) Regs, reg 56(1)(a)

### Periodical payments due to be made regularly but made irregularly

28823 If periodical payments are due to be made at regular intervals but are not being made regularly calculate the number of weeks (including part weeks) by dividing the amount of the payment by the weekly amount of the payment<sup>1</sup>.

1 JSA Regs, reg 120(1)(b); IS (Gen) Regs, reg 56(1)(b)

### Example

Mario receives JSA(IB).

He is due to receive payments of £15 a week under a court order.

The payments are not made regularly.

He receives a payment for £100.

$$\frac{£100}{£15} = 6\frac{2}{3}$$

It is taken into account over  $6\frac{2}{3}$  weeks.

## **Periodical payments not due to be made regularly**

28830 If a periodical payment is not

**1.** made or

**2.** due to be made

at regular intervals take it into account for one week<sup>1</sup>. This applies to cases where an LR who is not usually making payments makes an occasional payment.

1 JSA Regs, reg 120(1)(c); IS (Gen) Regs, reg 56(1)(c)

28831 If an occasional payment is more than the amount of IS or JSA in payment, treat it as a non-periodical payment<sup>1</sup>.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

## **When should the period start over which a periodical payment is taken into account**

28832 The period over which a periodical payment should be taken into account begins on the date the payment is treated as paid<sup>1</sup>.

1 JSA Regs, reg 120(2); IS (Gen) Regs, reg 56(2)

## **On what date should a periodical payment be treated as paid**

### **Periodical payments made before the first benefit week of entitlement to IS or JSA(IB)**

28833 Treat periodical payments due to be made before the first benefit week of the claim as paid on the same weekday as the first day of the benefit week<sup>1</sup>. The DM should decide the claimant's benefit week before deciding the date from which the payment should be taken into account.

1 JSA Regs, reg 123(1)(a); IS (Gen) Regs, reg 59(1)(a)

### **Example**

Catriona claims JSA(IB) on 10.12.08. Her BWE day is a Thursday.

She received a periodical payment of £200 for a period of a month on 1.12.08.

The DM decides that Catriona's benefit week starts on a Friday.

The payment is taken into account for a month from 5.12.08, which is the Friday in the week that the periodical payment was received.

### **Periodical payments made during the course of an award of IS or JSA(IB)**

28834 Treat a periodical payment made during the course of an award as paid on the first day of the benefit week in which it is due to be paid. If it is not practicable to do this it should be taken into account in the next benefit week<sup>1</sup>. It is not practicable to take a payment into account during the benefit week in which it was received when benefit has already been paid for that week.

1 JSA Regs, reg 123(1)(b); IS (Gen) Regs, reg 59(1)(b)

### **Payments under agreements or court orders**

28835 Where an agreement or court order is in force decide the date that payments are due to be paid by reference to the agreement or order currently in force. This includes cases where the amount due to be paid under the agreement or court order is varied.

#### **Example 1**

John is due to make payments under a court order of £50 a week to Sue. Sue is in receipt of IS.

During 2009 John has fallen into arrears with his court order.

The court has made a new order requiring the arrears to be paid on 1.1.10.

The DM decides that the due date for the arrears is now 1.1.10 and not the date the arrears were originally due to be paid.

#### **Example 2**

Corinne is in receipt of IS. Her ex-partner Adam has agreed to pay her £30 a week.

Over the last 2 weeks Adam has not made any payments to Corinne.

After a discussion Corinne and Adam come to a new agreement whereby Adam will pay the £60 arrears by increasing his regular payment of £30 a week to £40 a week starting from 1st June.

The DM decides that the due date for the arrears is now 1st June and not the date the arrears were originally due to be paid.

28836 - 28839

## Liabe relative payments - non-periodical payments 28840 - 28879

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### What is a non-periodical payment

28840 Treat any LRP that is not a periodical payment as a non-periodical payment or "other payment"<sup>1</sup>.

1 JSA Regs, reg 117; IS (Gen) Regs, reg 54

28841 Examples of non-periodical payments include one-off payments for specific items. But if the payment is for less than the amount of the JSA or IS that would otherwise be payable it should be treated as a periodical payment.

#### Example 1

Clayton is the father of Amina's child.

He makes a payment of £120 for a baby buggy.

Amina claims IS. The amount of IS that is payable without the payment for the baby buggy is £74.

The DM decides that the payment is a non-periodical payment.

#### Example 2

Roger is the father of Linda's child.

He makes a one off payment of £35 for Linda and her child.

Linda claims IS. The amount of IS that is payable without the payment is £40.



The DM decides the payment is a periodical payment.

## **Should all of a payment be taken into account as a non-periodical payment**

28842 DMs should not always take the full amount of a payment into account as a non-periodical payment. In

**1.** IS cases take into account the amount of the payment less

**1.1** any amount that has been taken into account under any previous IS decision **or**

**1.2** any amount that has been or is currently being recovered by the DM under prevention of duplication of payment rules<sup>1</sup>**or**

**1.3** any amount that the claimant has spent unless that amount was spent for the purpose of getting or increasing IS.

**2.** JSA cases take into account the amount of the payment less

**2.1** any amount that has been taken into account under any previous JSA decision **or**

**2.2** any amount that has been or is currently being recovered by the DM under prevention of duplication of payment rules<sup>2</sup>**or**

**2.3** any amount that the claimant has spent unless that amount was spent for the purpose of getting or increasing JSA.

1 SS A Act 92, s 74(1); 2 s 74(1)

28843 Consider all the circumstances surrounding the payment when calculating the amount of a non-periodical payment. DMs should not take into account as an LRP any part of a payment spent

**1.** clearing outstanding debts that occurred during the marriage or relationship **or**

**2.** paying an amount owed to a solicitor.

28844 - 28855

## **Periodical payments and any other payment made by a liable relative**

### **Period over which the non-periodical payment should be taken into account**

28856 Where a liable relative makes a periodical payment and at the same time an additional payment then the DM has to determine whether the weekly periodical payment as calculated in accordance with DMG 28814 - 28821 is less than the total of<sup>1</sup>

**1. £2 and**

**2.** the amount of IS or JSA(IB) which would have been paid had the periodical payment not been made.

1 JSA Regs, reg 121(4) & (10); IS (Gen) Regs, reg 57(4) & (10)

28857 [See memo JSA/IS 64] If the periodical payment is less than the total in DMG 28856 then the DM should take the additional payment into account for a period determined by applying the formula<sup>1</sup>

$$\frac{A}{B - C}$$

Where<sup>2</sup>

A = the amount of the non-periodical payment

B = the total of £2 and the amount of IS or JSA(IB) which would have been paid had the periodical payment not been made

C = the weekly amount of the periodical payment

Any fraction has to be treated as a fraction of a week<sup>3</sup>.

1 JSA Regs, reg 121(5); IS (Gen) Regs, reg 57(5); 2 JSA Regs, reg 121(10); IS (Gen) Regs, reg 57(10);

3 JSA Regs 121(9); IS (Gen) Regs, reg 57(9)

**Example**

Mary has an applicable amount of £65.45 but receives IS of £40.45 a week because she is in receipt of a periodical LRP of £25 a week. She receives a non-periodical LRP of £500 in addition to the periodical LRP of £25 a week.

The DM determines that the periodical payment of £25 is less than £67.45 (the total of £2 + £65.45).

The DM then has to determine the period for which the additional payment of £500 is to be taken into account. The DM applies the formula in DMG 28857 where:

A = £500

B = £67.45 (£2 + £65.45)

C = £25

This gives an answer of 11.77 (£500 ÷ (£67.45 - £25)). The DM takes the payment into account for 11 weeks at £42.45 and 1 week at £33.05. The weekly amount of the payment in addition to the periodical LRP ends Mary's entitlement to IS.

## The weekly amount of the non-periodical payment

28858 [See memo JSA/IS 64] The weekly amount of the non-periodical payment is equal to the divisor used to calculate the period for which it is taken into account<sup>1</sup>. This will be the total of

1. £2 and the amount of IS or JSA(IB) which would have been paid had the periodical payment not been made **less**
2. the weekly amount of the periodical payment in payment.

1 JSA Regs, reg 122(5); IS (Gen) Regs, reg 58(5)

### Example

Mary has received a non-periodical payment of £500 as described in the example to DMG 28857 in addition to a periodical payment of £25.

When attributing the non-periodical payment the DM takes a weekly amount of £42.45 into account. This is because £42.45 is the total of

£2 **plus**

£65.45 (the amount of IS which would have been paid had the periodical payment not been paid) **less**

£25 (the periodical payment)

## When should the DM start taking a non-periodical payment into account

28859 The period during which the non-periodical payment should be taken into account should begin on the date the payment is treated as paid<sup>1</sup>.

1 JSA Regs, reg 121(8); IS (Gen) Regs, reg 57(8)

## Periodical payments change while a non-periodical payment is being taken into account

28860 [See memo JSA/IS 64] If subsequent periodical payments change, the balance (if there is any) of the non-periodical payment has to be taken into account. The number of weeks for which it is taken into account is determined by the formula<sup>1</sup>

$$\frac{D}{B - E}$$

Where<sup>2</sup>

B = the total of £2 and the amount of IS or JSA(IB) which would have been paid had the periodical payment not been made

D = the balance (if any) of the non-periodical payment

E = the weekly amount of any subsequent periodical payment.

1 JSA Regs, reg 121(7); IS (Gen) Regs, reg 57(2); 2 JSA Regs, reg 121(10); IS (Gen) Regs, reg 57(10)

### Example

Mary has had her award of IS ended in the circumstances explained in the example to DMG 28857. Two weeks later she contacts the DWP to reclaim IS and says that her regular periodical payment of £25 has now changed to just £5.

The DM has to re-determine the period for which the non-periodical payment is to be taken into account. The DM performs the calculation in DMG 28860 where:

$$B = £67.45 (£2 + £65.45)$$

$$D = £415.10 (£500 - (2 \times £42.45))$$

$$E = £5$$

This gives a period of 6.64 weeks ( $£415.10 \div (£67.45 - £5)$ ). The DM therefore continues to take the non-periodical payment into account but for a period running into 7 weeks not 12 as originally determined.

28861 [See memo JSA/IS 64] The period for which a change is said to occur begins on the first day of the benefit week in which the change took place<sup>1</sup>. However, the day on which the non-periodical payment is treated as paid is still the first day of the benefit week in which it was received (see DMG 28859).

1 JSA Regs, reg 121(8); IS (Gen) Regs, reg 57(8)

### Periodical payments cease while a non-periodical payment is being taken into account

28862 [See memo JSA/IS 64] Where the liable relative stops making periodical payments, the remaining balance (if there is one) of any non-periodical payment has to be taken into account. In order to determine the number of weeks for which the non-periodical payment is taken into account, the DM should divide that remaining balance (if there is one) by<sup>1</sup>

#### 1. £2 and

2. the amount of IS or JSA(IB) which would have been paid had the LRP not been made.

1 JSA Regs, reg 121(6) & (3); IS (Gen) Regs, reg 57(6) & (3)

28863 The calculation to re-determine the period over which the non-periodical payment is taken into account begins on the first day of the benefit week in which the payment ceased<sup>1</sup>.

## Example

Mary has had her IS award ended in the circumstances described in DMG 28857. 2 weeks after her award has ended, Mary informs the DWP that she is no longer in receipt of the periodical payment of £25 and reclaims IS.

The DM has to determine the period for which the non-periodical payment is to be taken into account. The balance of the payment is £415.10. This figure is divided by the aggregate of:

$$£2 + £65.45 = £67.45$$

then

$$£415.10 \div £67.45 = 6.15$$

The DM determines that the non-periodical payment should be taken into account at a rate of £67.45 for a further 6 weeks and the balance of £10.40 (£415.10 - (6 x £67.45)) would be treated as income if Mary reclaims IS in week 7.

28864 - 28865

## Periodical payments not being made when a non-periodical payment is received

### Weekly amount of non-periodical payment

28866 [See memo JSA/IS 64] If a non-periodical payment is made and periodical payments are not being made, the amount that should be taken into account each week is<sup>1</sup> the total of

**1. £2 and**

**2. the amount of IS or JSA(IB) which would have been paid had the LRP not been made.**

1 JSA Regs, reg 122(5) & 121(3); IS (Gen) Regs, reg 58(5) & 57(3)

28867

### Period over which a non-periodical payment is taken into account

28868 [See memo JSA/IS 64] If a non-periodical payment is made<sup>1</sup> then it is taken into account for the number of weeks obtained by dividing the payment by the total of<sup>2</sup>

**1. £2 and**

2. the amount of IS or JSA(IB) which would have been paid had the LRP not been made.

Any fraction is to be treated as a fraction of a week<sup>3</sup>.

1 JSA Regs, reg 121(1); IS (Gen) Regs, reg 57(1); 2 JSA Regs, reg 121(2) & (3); IS (Gen) Regs, reg 57(2) & (3);

3 JSA Regs, reg 121(9); IS (Gen) Regs, reg 57(9)

### **Example**

Jess is currently in receipt of IS of £35 a week. She receives a payment from her ex-partner of £120. The DM determines that this is a non-periodical payment and to decide the period over which it is taken into account the DM divides £120 by

1. £2 plus

2. £35.

The payment of £120 is therefore divided by £37 (£2 + £35).

This gives 3.24 (£120 ÷ £37). The DM takes the payment for the first 3 weeks at a weekly rate of £37.00. The balance of £9 is taken into account in the fourth week. If Jess becomes re-entitled to IS in week 4, the DM will have to take into account the balance of £9.

28869

### **When should the DM start to take the non-periodical payment into account**

28870 The period over which the non-periodical payment should be taken into account begins on the date the payment is treated as paid<sup>1</sup>.

1 JSA Regs, reg 121(8); IS (Gen) Regs, reg 57(48)

28871 - 28874

### **Date a non-periodical payment is treated as paid**

#### **Non-periodical payment made before the first benefit week of the claim**

28875 If a non-periodical payment is made before the first benefit week of the claim treat it as paid on the day in the week in which it is paid that corresponds to the first day of the benefit week<sup>1</sup>. This rule does not apply if the payment is made during a period in which a previous non-periodical payment is being taken into account.

1 JSA Regs, reg 123(2)(a); IS (Gen) Regs, reg 59(2)(a)

## **Non-periodical payment made during the course of an award of IS or JSA(IB)**

28876 If a non-periodical payment is made during the period of an award it should be treated as paid on the first day of

- 1.** the benefit week in which it was paid **or**
- 2.** a subsequent benefit week if it is not practicable to take the payment into account straight away<sup>1</sup>.

Consider the method of payment of JSA or IS when deciding if it is not practicable to take a payment into account straight away. See DMG 28834 for an example.

These rules do not apply if the payment is made during a period in which a previous non-periodical payment is being taken into account.

1 JSA Regs, reg 123(2)(b); IS (Gen) Regs, reg 59(2)(b)

## **Non-periodical payment made during a period where a previous non-periodical payment is already being taken into account**

28877 If a non-periodical payment is made during the period in which a previous non-periodical payment is being taken into account treat it as paid on the first day following that period<sup>1</sup>.

1 JSA Regs, reg 123(3); IS (Gen) Regs, reg 59(3)

28878 - 28879

# Deductions from JSA(Cont) for pension payments 28880 - 28882

## Introduction

28880 The guidance in DMG 28881 to 28981 refers only to deductions from JSA(Cont).

## General

28881 Pension payments, Pension Protection Fund periodic payments and Financial Assistance Scheme payments that are

**1.** made to a claimant for any week **and**

**2.** more than £50 each week

are deducted from the claimant's age related amount, when calculating the amount of JSA(Cont) payable to the claimant for each benefit week. The amount deducted is the excess over £50<sup>1</sup>.

1 JS Act 95, s 4(1); JSA Regs, reg 81(1)

## Example

A woman receives pension payments totalling £83.50 each week. The pension payments exceed the £50 maximum by £33.50. So £33.50 is deducted each benefit week from the amount of JSA(Cont) that she is entitled to.

28882 The law provides for

**1.** when pension payments, Pension Protection Fund payments and Financial Assistance Scheme payments are to be taken into account<sup>1</sup> (see DMG 28835 - 28837) **and**

**2.** certain payments to be disregarded<sup>2</sup> (see DMG 28955) **and**

**3.** the calculation of a weekly amount where pensions are paid for periods other than a week<sup>3</sup> (see DMG 28980 - 28981).

1 JSA Regs, reg 81(1A) & (1B); 2 reg 81(2)(c); 3 reg 81(3)



# Meaning of pension payments, protection fund and financial assistance scheme payments 28883 - 28934

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## Protection fund periodic payments

28883 “Protection fund periodic payments” are defined as<sup>1</sup>

**1.** any periodic compensation payments made in relation to a person, payable under the pension compensation provisions set out in specified legislation<sup>2</sup>

**2.** any periodic payments made in relation to a person, payable under specific legislation<sup>3</sup>

other than payments made to a surviving dependant of a person entitled to such payments.

1 JS Act 95, s 35; 2 Pensions Act 04, s 162(2); Pensions (Northern Ireland Order) 05, art 146(2);

3 Pensions Act 04, s 166; Pensions (Northern Ireland) Order 05, art 150

## Financial assistance scheme payments

28884 Financial assistance scheme payments provide financial help to some people who have lost out on their occupational pension because

- 1.** the scheme they were a member of was under-funded when it started to wind-up **and**
- 2.** they are within three years of their normal retirement age (as laid down in their pension scheme rules) or older on 14.5.04.

28885 The Financial Assistance Scheme can pay an award of up to 90% of what a person would have received if the pension scheme had not been wound up. The award is paid on top of any pension the individual receives from the scheme up to an annual limit. A Financial Assistance Scheme award is paid for life at a fixed rate so it will not increase. The award is paid by DWP net of tax.

### Example

The claimant would have received a pension of £18,750 if the scheme had not been wound up. 90% of the amount he would have received is £16,875. In the event the claimant receives a pension of £10,000 a year so this amount is topped up through a Financial Assistance Scheme award by an amount needed to reach the annual ceiling.

## Pension payments

28886 Pension payments are<sup>1</sup> periodical payments (see DMG 28906) paid to or for a person

- 1.** under a personal pension scheme (see DMG 28903) **or**
- 2.** in connection with the ending of the person's employment as an earner (see DMG 28916) under
  - 2.1** an occupational pension scheme (see DMG 28888) **or**
  - 2.2** a public service pension scheme (see DMG 28889).

1 JS Act 95, s 35

28887 Payments as in DMG 28886 **2.** may be, but are not confined to, pensions that the employer has contributed to. The following types of payment are included

- 1.** payments made under a scheme arranged by the employer where the money is provided exclusively by the claimant
- 2.** payments made by the UK or other governments where provision is made for them in law, for example pensions to former Crown employees
- 3.** pensions from employment overseas (see DMG 28973)

4. the compensation element of a retired local government officer's pension<sup>1</sup>
5. payments under the Civil Service Compensation Scheme (see DMG 28894)
6. payments under the Civil Service Pension Scheme.

1 Local Government (Compensation for Premature Retirement) Regs

## Occupational pension scheme

28888 An occupational pension scheme is<sup>1</sup> any scheme or arrangement that

**1.** is comprised in one or more instruments (for example trust deeds) or agreements (for example informal arrangements) **and**

**2.** has, or is capable of having, effect on one or more types of employment **and**

**3.** provides benefits, for example pensions, payable on

**3.1** termination of service **or**

**3.2** death **or**

**3.3** retirement

for earners with qualifying service.

1 JS Act 95, s 35; Pension Schemes Act 93, s 1; R(JSA) 1/01; R(JSA) 6/02

## Public service pension scheme

28889 A public service pension scheme is<sup>1</sup> an occupational pension scheme that is

**1.** established under legislation, by royal prerogative or under a royal charter **and**

**1.1** all its particulars are set out in the legislation, royal warrant or charter **or**

**1.2** it cannot come into force or be amended without the government's approval **or**

**2.** established with the government's approval **or**

**3.** prescribed by legislation<sup>2</sup>.

1 JS Act 95, s 35; Pension Schemes Act 93, s 1; 2 Occupational Pension Schemes (Public Service Pension Schemes) Regs 1978

28890 Pension schemes that are also public service pension schemes include pension schemes for

1. civil servants **or**
2. local government employees **or**
3. teachers **or**
4. the Armed Forces **or**
5. police officers.

28891 If DMs have difficulty in determining whether a pension scheme is a public service pension scheme they should arrange to get

1. the claimant's consent to contact the manager of the scheme **and**
2. a statement from the manager of the scheme as to whether the pension scheme is a public service pension scheme within the meaning of the relevant law<sup>1</sup>.

1 Pension Schemes Act 93, s 1

28892 If a pension scheme is not a public service pension scheme it may still fall within the definition of an occupational pension scheme (see DMG 28888).

28893 Most public service schemes include provision for injury or contracting a disease (for example Police and Fire Service schemes). Such pensions may be paid on a minimum income guarantee basis. This means that the pension tops up existing income to a certain level. The pension rate may therefore be affected by the amount of JSA(Cont) entitlement. In such cases the DM should take into account the gross amount of pension i.e. before any adjustment has been made for JSA(Cont). This ensures that the gross amount of the pension is offset against any JSA(Cont), and the pension provider takes the subsequent balance of any JSA(Cont) payable into account. There is no disadvantage to the claimant, and means that in cases where the amount of pension paid to the claimant is equal to the level of guarantee, the claimant's total income remains unchanged. The pension provider needs to be informed of the correct amount of JSA(Cont) payable.

### **Example**

The amount of pension is £120.00 per week, and the amount of guarantee is £120.00 per week. JSA(Cont) entitlement is £71.70 which is reduced by £35.00 (half the excess over £50) to £36.70. The pension is then paid at £83.30 to bring the guaranteed income back to £120.00.

### **Civil Service Compensation Scheme**

28894 Civil servants may be entitled to annual payments as compensation<sup>1</sup> if their employment ends

because of

- 1.** compulsory redundancy **or**
- 2.** voluntary early retirement or severance

in a redundancy situation.

1 R(JSA) 1/01; R(JSA) 2/01

28895 Until 1995, payments made to civil servants taking early retirement or redundancy were made as part of the Principal Civil Service Pension Scheme. The Principal Civil Service Pension Scheme also provided benefits to those who retired at the normal retirement age. But on 1.1.95, a separate scheme, called the Civil Service Compensation Scheme was introduced.

28896 The Civil Service Compensation Scheme provides benefits to civil servants whose employment ends before the normal retirement age. The Principal Civil Service Pension Scheme continues to provide benefits to those who retire at the normal retirement age.

28897 Under the Civil Service Compensation Scheme, annual compensation payments may be made to civil servants. The Civil Service Compensation Scheme also allows civil servants to change the mix of their

- 1.** lump sum **and**
- 2.** annual compensation payments **and**
- 3.** preserved pension.

28898 The Civil Service Compensation Scheme is a public service pension scheme<sup>1</sup> and annual compensation payments from it are payments from a public service pension scheme. This means that annual compensation payments in excess of the £50 limit (see DMG 28801) are taken into account in JSA(Cont).

1 R(JSA) 2/01

### **Local government premature retirement scheme**

28899 Some pensionable local government employees who

- 1.** are made redundant **or**
- 2.** volunteer for redundancy **or**
- 3.** cease work in the interests of the efficient exercise of the employers' functions

receive payments under the local government premature retirement scheme<sup>1</sup>.

1 Local Government (Compensation for Premature Retirement) Regs

28900 The scheme entitles employees<sup>1</sup> to annual payments as compensation for their employment ending as in DMG 28899. These are calculated on the same basis as their annual retirement pension under the superannuation legislation<sup>2</sup>. The compensation payment is a payment from a public service pension scheme.

1 Local Government (Compensation for Premature Retirement) Regs, reg 6;

2 Local Government (Superannuation) Regs

### **Armed Forces redundancy arrangements**

28901 Pensions payable to service personnel who retire from the Armed Forces are paid under a public service pension scheme.

28902 Pensions paid to service personnel who have been made redundant

**1.** are calculated on the length of qualifying service completed, plus an additional number of years **and**

**2.** fall within the definition of public service pension schemes<sup>1</sup>.

1 Queen's Regulations

### **Personal pension scheme**

28903 Personal pension scheme<sup>1</sup> means a pension scheme that

**1.** is not an occupational pension scheme **and**

**2.** is established by a person within any of the paragraphs of specified legislation<sup>2</sup>.

1 PS Act 93, s 1; 2 Finance Act 04, s 154(1)

28904 If the member of the scheme used the personal pension to contract-out of SERPS, the part of the pension that

**1.** comes from DWP rebates **and**

**2.** is used to replace the state earnings related pension scheme

can only be drawn from age 60.

28905 The DM should refer the case to DMA, Leeds, if the

**1.** DM is unable to decide whether a pension is paid under a personal pension scheme **and**

**2.** pension payment does not satisfy any other part of DMG 28886.

## **Periodical payments and lump sums**

28906 Periodical payments are those that are paid at regular intervals.

28907 A lump sum payment is not a periodical payment. This applies even where the claimant has chosen to receive a lump sum instead of a periodical payment<sup>1</sup>. But where

**1.** a person is entitled to a lump sum payment **and**

**2.** the rules of the scheme allow the lump sum to be paid in instalments **and**

**3.** the person chooses to receive it in this way

the instalments are periodical payments.

1 R(U) 5/85

28908 - 28915

## **In connection with the coming to an end of the employment**

28916 A pension must be paid in connection with the end of employment of the person who it is paid for, to fall within DMG 28886 **2.** Occupational or public service pensions that are paid where the employment has not ended do not fall within DMG 28886 **2.** For example, war pensions paid

**1.** because of disablement **and**

**2.** regardless of whether the employment is continuing.

28917 In this context “employment” includes any trade, business, profession, office or vocation<sup>1</sup>. Employment in the Armed Services falls within this definition.

1 JSA Regs, reg 3(1)

28918 Retired officers who are entitled to a war pension receive it as a disablement addition to their service pension. This disablement addition is

**1.** awarded by DWP **and**

**2.** paid by the Paymaster General in the same cheque as the person’s service pension.

28919 If the claimant is a retired officer with a service pension, the DM should

**1.** find out the amount of any disablement addition **and**

**2.** deduct it from the total payment received.

**Note:** Other ranks have their war pension paid direct by DWP so there is no difficulty in separating their war pension from their service pension.

28920 Gallantry awards are sometimes paid to former members of the Forces in addition to their service pensions. Payment is

**1.** made from the date of the award **and**

**2.** a reward for conduct rather than a period of service.

These awards are not paid in connection with the coming to an end of an employment and are **not** pension payments.

28921 Pension payments may be payable to the claimant from the former employer of a deceased partner or other relative. Such payments should be disregarded (see DMG 28955).

28922 The amount of a service pension may be increased if the claimant has been invalided out of the Forces. The full amount should be taken into account.

28923 Police officers who retire because of permanent disability may be entitled to an ill health award<sup>1</sup> in addition to a pension under a public service pension scheme. If they are permanently disabled through an injury received while carrying out their duties, they are also entitled to an injury pension. It is a condition for the receipt of both payments that the officer ceases to be a member of a police force. The payments are therefore made in connection with the coming to an end of a police officer's employment and are payments as in DMG 28886 **2.2**.

1 Police Pension Regs

28924 - 28934



# When to take pension payments into account 28935

## First payment of a pension

28935 Where

1. a claimant is entitled to a pension payment **and**
2. the first payment is **paid** to the claimant

the pension payment should be taken into account from the first day of the benefit week that includes the day for which payment is first made<sup>1</sup>.

1 JSA Regs, reg 81(1A)

### Example

Roger claims JSA and is entitled to JSA(Cont) from Thursday 7 November. His benefit week ends on a Thursday. He receives a pension payment of £78 a week, starting on Monday 11 November. Only the amount above £50 can be deducted from JSA(Cont). In the benefit week 8 November to 14 November £28 is deducted from his JSA(Cont).

## Payment in arrears 28936 - 28954

[When the pension is uprated](#) 28950 -

28936 Pension payments are often made in arrears, and can be

1. weekly **or**
2. monthly **or**
3. quarterly **or**
4. any other period.

Any pension payments deducted from JSA(Cont) should start from the **first** day of the benefit week that entitlement to the pension, by way of the first payment, has been made to the claimant<sup>1</sup>.

1 JSA Regs, reg 81

28937 The pension payment **must actually be made** before the DM deducts an amount from JSA(Cont) because of a pension payment.

### Example

William claims JSA and is entitled to JSA(Cont) from Thursday 6 November. His benefit week ends on a Thursday. He is entitled to a pension payment of £78 a week from Monday 3 November of which he receives his first payment (£312) on Monday 1 December. Only the weekly pension amount above £50 can be deducted from JSA(Cont). JSA(Cont) is awarded at the full rate from 7 November but from the benefit week 28 November to 4 December and thereafter £28 (£78 - £50) is deducted from his JSA(Cont).

28938 - 28949

## When the pension is uprated

28950 A claimant's rate of pension may change. Any change should be taken into account from the first day of the benefit week that includes the first day for which the increase or decrease is paid<sup>1</sup>.

1 JSA Regs, reg 81(1B)

### Example

Amrit claims JSA, her benefit week ends on a Thursday and she is entitled to JSA(Cont). She receives a pension payment of £78 a week. Her JSA(Cont) is reduced by £28 each benefit week. She receives an increase of £7 a week in her pension starting on Monday 11 November. The increase in the pension payment is taken into account for the benefit week 8 November to 14 November.

So in the benefit week

**1.** 1 November to 7 November, £28 is deducted from her JSA(Cont)

**2.** 8 November to 14 November, £35 is deducted from her JSA(Cont).

28951 - 28954

## Disregarded payments 28955 - 28959

28955 Payments may be payable to the claimant

**1.** under

**1.1** a personal pension scheme **or**

**1.2** an occupational pension scheme **or**

**1.3** a public service pension scheme **and**

**2.** because a person who was a member of the scheme has died.

28956 Any payments in DMG 28955 are known as survivors' benefits and should be disregarded in full<sup>1</sup>.

1 JSA Regs, reg 81(2)(c)

### Example 1

Geoff's wife Mildred is a member of an occupational pension scheme. Following Mildred's death a reduced pension payment is paid by the scheme to Geoff. This pension is not taken into account when working out the amount of JSA(Cont) payable to Geoff.

### Example 2

Emma's husband Neil is a member of a public service scheme receiving an army pension. Following Neil's death a family forces pension is paid by the scheme to Emma. This survivor pension is not taken into account when working out the amount of JSA(Cont) payable to Emma

28957 - 28959

## **Delay in payment 28960 - 28969**

28960 Sometimes a pension payment is not made on the date it is due, for example because of industrial action by the employees of the paying authority. If the date that the payment will be made cannot be predicted with reasonable certainty, it is not reasonable to wait for as long as six months before giving a decision.

28961 If the DM considers it unreasonable to defer the decision until payment is made, a decision should be given on the basis that payment has not been made. If a payment is made later, the decision to award JSA(Cont) without any deductions may be revised or superseded. Where a delay in payment occurs the DM should obtain evidence of the reason for the delay and its likely duration.

28962 - 28969

# Calculating the amount of the pension 28970 - 28999

[General](#) 28970 - 28979

[Calculating the weekly pension rate](#) 28980 - 28999

## General

28970 Except for DMG 28972, the amount of the pension payment is the gross amount payable. Where income tax is deducted at source, the amount to be taken into account is the amount before tax is deducted<sup>1</sup>.

1 R(U) 8/83

28971 Some claimants

**1.** have to make **or**

**2.** choose to make

certain payments from their pensions. The payments may be to the employer or a third party. With the exception of compulsory payments to buy or repay an element of their current pension, any payments deducted before the pension is paid should be ignored. The claimant's liability to make the payments is separate from the liability to pay the pension. The deductions at source are simply a convenient method of ensuring that the claimant's obligations or wishes are met. The amount of pension to be taken into account is the amount after deduction of any compulsory payments towards the current pension and before other deductions are made. Examples of these payments include

- repaying a debt to a former employer
- payments to someone because of a court order
- subscriptions to a trade union or other association
- payments into a further pension scheme.

28972 Where the rules of the claimant's pension scheme provide for compulsory deductions, for example to buy or repay an element of their current pension, the amount deducted should be disregarded in calculating the amount of pension. This is because "payments" refers to the amount the

claimant is actually entitled to receive. So a payment made under a binding obligation, for example to acquire additional pension rights, should be disregarded in calculating the amount of the pension.

### **Example**

Jason is employed by an electricity company for 29 years and two months. He retires voluntarily. For superannuation purposes he is treated as having completed 30 years service. Under the rules of the superannuation scheme, a monthly deduction of £32.23 is made from his gross occupational pension of £232.83 for the

purchase of the ten additional months. He is also paying £20.00 a month to a debt collecting agency under a court order.

Jason cannot avoid the reduction to his pension payments. While he must buy additional pension rights under the rules of the scheme he would normally repay his other debts from any net income he receives. The payments made under the court order are not to be disregarded. The DM takes into account a pension payment of £200.60 a month<sup>1</sup>.

1 R(U) 4/83

28973 Sometimes pension payments are received by the claimant in a currency other than sterling. To work out the sterling equivalent, DMs should use the selling rate that applies

- 1.** on the date on which payment is due **and**
- 2.** not the date on which it is actually converted.

No allowance should be made for commission or other expenses incurred in converting currency<sup>1</sup>.

1 R(SB) 28/85

28974 Because exchange rates fluctuate, the DM will need to give a fresh decision each time a pension payment is made, for the period it covers (subject to DMG 28935 -28937). For the purposes of working out a sterling equivalent only, it does not matter that the pension is not available in sterling until some time after the pension is due.

28975 - 28979

### **Calculating the weekly pension rate**

28980 If pension payments are not paid weekly, they should be converted into a weekly amount as follows<sup>1</sup>

- 1.** annual payments should be divided by 52

**2.** quarterly payments (three monthly) should be divided by 13

**3.** monthly payments should be multiplied by twelve and the result divided by 52. A month means a calendar month<sup>2</sup>

**4.** payments of two or more calendar months (other than **1.** or **2.**) should be

**4.1** Divided by the number of months the payment covers **and**

**4.2** the result multiplied by twelve then divided by 52

**5.** payments for any other period should be divided by the number of days covered by the payment and the result multiplied by seven.

1 JSA Regs, reg 81(3); 2 CG 66/49 (KL)

### **More than one pension**

28981 Where a claimant is receiving more than one pension the DM should

**1.** calculate the weekly rate of each pension separately **and**

**2.** add the weekly rates together

before working out the excess over the maximum sum<sup>1</sup>.

1 JSA Regs, reg 81(3)

28982 - 28999



# Appendix 1 - Definitions of war pensions for IS & JSA

## War widow's, war widower's or surviving civil partner's supplementary pensions

### 1 Any

**1.** supplementary pension paid under article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to widows, widowers or surviving civil partners) **or**

**2.** similar payment made by the Secretary of State for Defence to a person not entitled to a pension under the Order in **1.**

**2** A pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983.

**3** Any payment made to a widow, widower or surviving civil partner of a person

**1.** whose death was connected to service similar to service as a member of the armed forces **and**

**2.** which is equal to a payment made under article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to widows, widowers or surviving civil partners) **and**

**3.** whose service ended before 31.3.73

under the following Dispensing Instruments

**3.1** The Order in Council of 19th December 1881

**3.2** The Royal Warrant of 27 October 1884

**3.3** The Order by His Majesty of 14th January 1922.

## War disablement pension, war widow's pension and war widower's pension

The following instruments are specified<sup>1</sup> for the meaning of war disablement pension, war widow's pension and war widower's pension.

**1** Defence (Local Defence Volunteers) Regulations 1940.

**2** War Pensions (Coastguards) Scheme 1944.

**3** War Pensions (Naval Auxiliary Personnel) Scheme 1964.

**4** Pensions (Polish Forces) Scheme 1964.

**5** War Pensions (Mercantile Marine) Scheme 1964.

**6** Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard.

**7** Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard after 27.4.52.

**8** Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Ulster Defence Regiment.

**9** Personal Injuries (Civilians) Scheme 1983.

**10** Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Income Tax (Earnings and Pensions) Act 2003, s 639(2)

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