

**JOBSEEKER'S ALLOWANCE AND INCOME SUPPORT -
TAX CREDITS - CHANGES FROM APRIL 2004**

[See Memos DMG JSA/IS 96, 106, 01/07 and 47/08]

Contents	Paragraphs
Introduction	1 - 2
Background	3 - 4
When the changes take effect	5 - 6
Provision of National Insurance Number	7
Applicable amounts	8 - 13
Earnings	14
Income - Transitional arrangements	15 - 17
Income	18 - 23
Capital treated as income	24 - 25
Notional income	26 - 37
Liable Relative Payments	38 - 48
Income disregards	49 - 56
Capital	57 - 58
Income treated as capital	59 - 62
Notional Capital	63
Students	64 - 66
Hardship	67-69
Annotations	
Contacts	

INTRODUCTION

1 This memo is the third in a series of memos containing guidance for DMs following the introduction of New Tax Credits (NTCs). This particular memo gives guidance on the changes made to IS and JSA law, which start from 6.4.04, by the

1. Social Security (Working Tax Credit and Child Tax Credit)(Consequential Amendments) Regulations 2003 [SI 2003 No. 455] **and**
2. Social Security (Miscellaneous Amendments) Regulations 2004 [SI No 2004 No. 565].

2 The guidance applies to both JSA and IS unless otherwise stated.

BACKGROUND

3 From April 2003 one of the new tax credits introduced was Child Tax Credit (CTC) and this began to be paid to families with children.

4 From April 2005 all child elements of IS and JSA(IB) will cease to exist. The following guidance explains the changes that will be made to transfer families to CTC by that date.

WHEN THE CHANGES TAKE EFFECT

5 The changes to IS and JSA law explained in the following paragraphs of this memo take effect from the first day of the claimant's first benefit week which starts on or after

1. 6.4.04 where claimant's have
 - 1.1 no children¹ **or**
 - 1.2 a child or young person who is a member of their family **and** have an award of CTC which begins before 6.4.04² **or**
2. the award of CTC begins where claimants
 - 2.1 have a child or young person who is a member of their family **and**
 - 2.2 do not have an award of CTC for a period which begins before 6.4.04³

1 SS (WTC & CTC)(Cpl Amdts) Regs 2003, reg 1(4) & 1(8); 2 reg 1(2) & 1(6), 3 reg 1(3) & 1(7)

6 Where paragraph 5 1. above does **not** apply to claimants, DMs should continue to follow the existing guidance in DMG Volumes 4-7. When CTC is awarded paragraph 5 2. above will then apply.

PROVISION OF NATIONAL INSURANCE NUMBER

- 7 DMG 02153 **3.** gives guidance that the provision of sufficient information or evidence to establish the NINO is not a specific requirement for the dependent children of IS/JSA claimants and young persons (except where the young person is the claimant). The changes mean that, from the appropriate date in paragraph 5 above, the guidance at DMG 02153 **3.** no longer applies¹ because personal allowances for children and young persons will not be included in the claimant's applicable amount.

1 Sch 1, para 1, Sch 2, para 1; IS (Gen) Regs, reg 2A(a); JSA Regs, reg 2A(a)

APPLICABLE AMOUNTS

- 8 From 6.4.04, as paragraph 5 above refers, the applicable amounts and premiums in respect of children and young people will cease¹ where the claimant

1. is entitled to IS or JSA(IB) **and**
2. has a child or young person who is a member of his family **and**
3. has an award of CTC for a period beginning before 6.4.04.

1 SS (WTC & CTC) (Cpl Amdts) Regs, 1 reg 1(2), Sch 1, para 2 & 20, Sch 2, para 2 & 20

- 9 In these cases applicable amounts and premiums in respect of the child or young person will cease for existing claimants or will not apply for new claims made from 6.4.04. This change takes effect from the first day of the claimant's first benefit week to start on or after 6.4.04.

- 10 The premiums associated with this change are the FP, DCP and EDP.

Example 1

Martin receives benefit made up of £85.75 in respect of himself and his partner, £38.50 for his daughter, £15.75 FP and £41.30 DCP.

Martin also receives CTC, awarded for the period from 1.10.03.

From 6.4.04 Martin is entitled to benefit totalling £85.75 in respect of himself and his partner.

Example 2

Kevin makes a claim for benefit from 5.5.04 for himself his partner and child.

He is entitled to CTC from 1.10.03 that is still in payment.

Kevin is only entitled to £85.75 benefit in respect of himself and his partner.

11 Child related applicable amounts and premiums will not apply to a claimant, irrespective of the award of CTC, if

1. the claimant does not have a child or young person as part of their family on 6.4.04 **and**
2. subsequently a child or young person becomes a member of the claimant's family¹.

1 reg 1(4)

Example

Betty is in receipt of IS, she is single with an expected date of confinement of 30.4.04.

Her child is born on 27.4.04.

Betty is not entitled to an applicable amount or premium in respect of her child.

Special cases

12 The guidance at DMG Chapter 24 concerns the effects of a person being in hospital, a prisoner or subject to immigration control. The guidance in Chapter 24 that involves applicable amounts and premiums in respect of children/young people is appropriate only to those claimants who do not fall within paragraph 5 above and who therefore continue to be paid child applicable amounts and premiums¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 2, 4 & 21, Sch 2, para 2, 4 & 21; IS (Gen) Regs, reg 16(5), 17(1) & Sch 7, para 1, 3, 10C & 16A; JSA Regs, reg 78(4), 83(1) & Sch 5, para 2, 9, 11 & 13A

Urgent case payments

13 The guidance at DMG Chapter 31 concerns the calculation of applicable amounts in urgent case payments. The guidance in Chapter 31 that involves the applicable amounts and premiums in respect of children/young people is appropriate only to those claimants who do not fall within paragraph 5 above and who therefore continue to be paid child applicable amounts and premiums¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 18 & 21, Sch 2, para 19 & 21; IS (Gen) Regs, reg 71(1) & Sch 7, para 1, 3, 10C & 16A; JSA Regs, reg 148(1) & Sch 5, para 2, 9, 11 & 13A

EARNINGS

- 14 DMG 26134 – 26136 gives guidance on the treatment of the earnings of a child or young person. These changes mean that, from the appropriate date in paragraph 5 above, any earnings of a child or young person are disregarded in full¹.

1 SS (WTC & CTC)(Cgl Amdts) Regs 2003, Sch 1, para 22, Sch 2, para 22; IS (Gen) Regs, Sch 8, para 14; JSA Regs, Sch 6, para 17

INCOME – TRANSITIONAL ARRANGEMENTS

CHB

- 15 Paragraphs 21-22 of DMG Memo JSA/IS 34 give guidance on transitional arrangements concerning the treatment of CHB. DMs should be aware that these transitional arrangements continue until whichever of the circumstances described in paragraphs 22.1 to 22.3 of that memo apply first to the claimant.

CHB disregard for a child under the age of one

- 16 Paragraphs 23-24 of DMG Memo JSA/IS 34 and paragraphs 9-10 of DMG Memo JSA/IS 44 give guidance about transitional arrangements concerning a partial disregard where a claimant or their partner is entitled to CHB for a child under the age of one. DMs should be aware that these transitional arrangements continue until whichever of the circumstances described in paragraphs 24.1 to 24.3 of DMG Memo JSA/IS 34, or paragraph 10 of Memo JSA/IS 44, apply first to the claimant.

Uprating of CHB disregard

- 17 Paragraph 23 of DMG Memo JSA/IS 34 gives guidance on the amount of the CHB disregard. From the first day of the claimant's first benefit week to start on or after 12.4.04 the amount to be disregarded increases to £10.50 a week¹.

1 SS (Misc Amdts) Regs 2004, reg 1(e) & 11

INCOME

How much income should be taken into account

- 18 DMG 28003 explains that the DM should take into account the gross amount of a claimant's income. Changes mean that from the appropriate date in paragraph 5

above, the income of a claimant does not include any amount belonging to a child or young person who is a member of the claimant's family¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 8(a), Sch 2, para 8(a); IS (Gen) Regs, reg 40(1); JSA Regs, reg 103(1)

Income of a child or young person who is a member of the claimant's family

19 Guidance about the treatment of income of the claimant's family is given at DMG 25007. The changes mean that, from the appropriate date in paragraph 5 above, any income paid

1. to or
2. in respect of

a child or young person who is a member of the claimant's family should **not** be treated as the income of the claimant¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 6(a) & (b), Sch 2, para 6(a) & (b); IS (Gen) Regs, reg 23(1) & (2); JSA Regs, reg 88(1) & (2)

20 DMG 25008 gives guidance on the treatment of income in a polygamous marriage. From the appropriate date in paragraph 5 above, if a claimant is married polygamously to two or more members of the household, any income paid

1. to or
2. in respect of

a child or young person who is a member of the claimant's family should **not** be treated as the income of the claimant.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1 para 6(c) & (d), Sch 2, para 6(c) & (d); IS (Gen) Regs, reg 23(3); JSA Regs, reg 88(4)

Special rules for income of children and young people

21 Special rules apply when calculating the income of children and young people. From the appropriate date in paragraph 5 above these rules no longer apply¹ because income of a child or young person who is a member of the family is not taken into account. From the appropriate date, the guidance at DMG 28563 – 28565 is obsolete.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 11, Sch 2, para 11; IS (Gen) Regs, reg 44; JSA Regs, reg 106

Income to be taken into account for asylum seekers

22 Guidance on asylum seekers is given in DMG Chapter 31. DMG 31233 explains that any payments made by NASS or LAs for the 28 day grace period after the asylum seeker has received their decision from the HO should be taken into account. DMG 31259 also explains that when retrospective payments of IS are being calculated any payments made by NASS or the LA for the same period are taken into account.

23 The changes mean that, from the appropriate date in paragraph 5 above, if the circumstances in DMG 31233 and/or DMG 31259 apply, the amount to be taken into account as income¹ should be support provided in respect of the essential living needs of the claimant and their partner (if any). Support in respect of any child or young person who is a member of the claimant's family should no longer be taken into account.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch1, para 5 & 8(b), Sch 2, para 5 & 8(b); IS (Gen) Regs, reg 21ZB(3) & 40(4)(b); JSA Regs, reg 86B(c) & 103(6)(b)

Capital treated as income

Capital Instalments payable to children

24 DMG 28534 – 28535 give guidance about how to treat capital instalments payable to children. From the appropriate date in paragraph 5 above, the guidance at DMG 28534 – 28535 no longer applies¹ and should be deleted.

1 SS (WT & CTC) (Cql Amdts) Regs 2003 Sch 1, para 11, Sch 2, para 11; IS (Gen) Regs, reg 44(1); JSA Regs, reg 106(1)

LA payments

25 DMG 28538-28540 explains when capital payments by a LA to promote the welfare of children, or to people who were in their care, in some circumstances should be treated as income. The changes mean that, from the appropriate date in paragraph 5 above, the guidance at DMG 28538-28540 no longer applies because such payments are not taken into account as income¹.

1 SS (WT & CTC) (Cql Amdts) Regs 2003 Sch 1, para 9, Sch 2, para 9; IS (Gen) Regs, reg 41(3); JSA regs, reg 104(3)

Notional income

Income available on application

26 Certain types of payments should not be taken into account as notional income available on application. DMG 28592 lists these payments. The changes mean that

from the appropriate date in paragraph 5 above, DMG 28592 4. which lists the increase in CHB that lone parents can receive for their only, elder or eldest child no longer applies¹. This is because as paragraph 49 below explains CHB is fully disregarded for IS/JSA(IB) purposes.

1 SS (WT & CTC) (Cql Amdts) Regs 2003 Sch 1, para 10(a) & (d), Sch 2, para 10(a); IS (Gen) Regs, reg 42(2)(d) & (2D); JSA Regs, reg 105(2)(c) & (2A)

Payments of income to third parties

- 27 Special rules apply to income paid to a third party. DMG 28655 – 28658 give guidance about third party income paid to or paid for a member of the claimant’s family. The changes mean that from the appropriate date in paragraph 5 above, the guidance only applies in respect of the claimant and their partner¹. Any references in DMG 28655 – 28658 to “member(s) of the family” should be read as “claimant and partner”.

1 SS (WT & CTC) (Cql Amdts) Regs 2003 Sch 1, para 10, Sch 2, para 10; IS (Gen) Regs, reg 42(4); JSA Regs, reg 105(10)

Income paid to one member for another member of the family

- 28 The treatment of income paid to one member of the family for another member is explained at DMG 28661. The changes mean that from the appropriate date in paragraph 5 above, the guidance at DMG 28661 only applies in respect of payments made to and for the claimant and partner.

Benefit paid to a third party

- 29 Guidance about benefit paid to a third party is given at DMG 28662. The changes mean that from the appropriate date in paragraph 5 above, the guidance only applies in respect of the claimant or partner¹. Where guidance at DMG 28662 refers to “member of the family” this should be read as “claimant or their partner”.

1 SS (WTC & CTC)(Cql Amdts) Regs, Sch 1, para 10(e)(i) &(ii), Sch 2, para 10(c)(i) & (ii); IS (Gen) Regs, reg 42(4)(a) &(a)(i); JSA Regs, reg 105(10)(a) &(a)(i)

The example which follows DMG 28662 showing benefit paid in respect of a child will no longer be appropriate once the changes take effect. It is therefore to be replaced with the following:

“Example

Anna claims IS

Anna is separated from her husband, David. David claims IB including an increase for Anna.

David pays the IB increase to Anna towards her maintenance.

The DM treats the IB addition as Anna's income.”

30 DMG 28662.4 lists CHB as one of the benefits that could be paid to a third party. As a result of the changes, from the appropriate date in paragraph 5 above, DMG 28662.4 no longer applies. As paragraph 49 below explains, CHB is fully disregarded.

Income payments to a third party in respect of IAP 50+ or IAP

31 DMG 28664 explains that a claimant should not be treated as possessing notional income where a payment is paid to a third party in certain circumstances. From the appropriate date in paragraph 5 above, the changes mean that

1. DMG 28664 **1.2** applies to payments paid only in respect of the claimant or partner **and**
2. DMG 28664 **2.6** and **2.7** apply in respect of those items only the claimant or partner is liable for¹.

Where guidance refers to “member of the claimant's family” at DMG 28664.1 and “family member” at DMG 28664.2 this should be read as “claimant or partner”.

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 10(g), Sch 2, para 10(e); IS (Gen) Regs, reg 42(4ZA)(d)(iii); JSA Regs, reg 105 (10A)(d)(iii)

Other payments to a third party

32 The treatment of certain other payments to third parties is explained at DMG 28665 – 28672. The changes mean that from the appropriate date in paragraph 5 above, the guidance applies in respect of the claimant or partner¹ only. References to “member of the family” at DMG 28665, 28667 and 28668 and to “person” at DMG 28669 should be read as “claimant or partner”.

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 10(e)(iii) & (iv) & (g), Sch 2, para 10(c)(iii) & (iv) & (e); IS (Gen) Regs, reg 42(4)(a)(ia) & (ii) & (4ZA)(d); JSA Regs, reg 105(10)(a)(ia) & (ii) & (10A)(d)

Payments by a third party for RCH and NH charges

33 DMG 28676 explains how to treat payments made by a third party who is not a member of the family for RCH and NH charges. The changes mean that from the

appropriate date in paragraph 5 above, the guidance applies to payments made towards the cost of charges in respect of the claimant or partner only¹.

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 10(h), Sch 2, para 10(f); IS (Gen) Regs, reg 42(4A); JSA Regs, reg 105(11)

Income paid to a member of the family for a third party

- 34 Guidance at DMG 28680 - 28684 explains how to treat income that is paid to a member of the family for a third party. From the appropriate date in paragraph 5 above the guidance applies only in respect of income for a third party that is paid to or kept by the claimant or partner¹. Guidance which refers to “member of the family” at DMG 28680 – 28682 and “family member” at DMG 28683 should be read as “claimant or partner”.

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 10(f), Sch 2, para 10(d); IS (Gen) Regs, reg 42(4)(b); JSA Regs, reg 105(10)(b)

- 35 DMG 28680 includes a note which explains CHB is the personal income of the CHB claimant. As a result of the changes, from the appropriate date in paragraph 5 above, this guidance no longer applies. As paragraph 49 below explains, CHB is fully disregarded.

Child or young person attending boarding school

- 36 DMG 28685 - 28709 gives guidance about considering notional income when a child or young person attends boarding school. The changes mean that the income of a child or young person is no longer taken into account for IS/JSA(IB) purposes. From the appropriate date in paragraph 5 above the guidance at DMG 28573 and 28685 - 28688 and 28691 - 28709 no longer applies¹. Paragraph 54 below explains that payments made by a third party for a child or young person attending boarding school are fully disregarded.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 11, Sch 2, para 11; IS (Gen) Regs, reg 44; JSA Regs, reg 106

Boarding school fees paid by members of the family from their own money

- 37 Guidance at DMG 28689 - 28690 explains that notional income should not be calculated if school fees are paid entirely from the money of a member of the family. It also explains that the DM can consider if deprivation of capital has occurred where tariff income is taken into account. This guidance remains current and continues to apply.

Liable relative payments

General

38 The changes to the rules relating to the treatment of LRPs that are explained below, are as a consequence of the removal of child allowances and premiums. LRP payments, including any amounts for a child or young person who is a member of the family, will continue to be taken into account against any IS or JSA(IB) in payment to the claimant.

Note: When an LRP for a child or young person is received DMs should consider whether the claimant is entitled to a CMP. Guidance about who qualifies for a CMP is at DMG 28163-28166 and DMG Memo JSA/IS 56.

Payments for boarding school fees

39 The guidance at DMG 28774 - 28775 explains how to treat payments from third parties for the maintenance of a child or young person at boarding school. The changes mean that from the appropriate date in paragraph 5 above, the income of a child or young person should no longer be taken into account. The guidance at DMG 28775 is replaced with

“If it is decided that a payment is not an LRP it should not be taken into account as income for IS/JSA(IB) purposes¹.”

1 SS (WTC & CTC)(CqI Amdts) Regs 2003, Sch 1, para 7 & 14, Sch 2, para 7 & 14; IS (Gen) Regs, regs 25 & 54; JSA Regs, regs 89 & 11

Weekly amount of non-periodical LRP for claimants and children or young people when periodical LRPs are also being made

40 DMG 28855 gives guidance about calculating the weekly amount of a non-periodical LRP for claimants, children and young people when periodical LRPs are also being made. The changes mean that from the appropriate date in paragraph 5 above the guidance applies whenever

1. a non-periodical LRP is made **and**
2. periodical LRPs are also being made which are less than the current weekly amount of IS or JSA(IB)

DMG 28855 should be replaced with the following

“Treat a non-periodical LRP as income if periodical LRPs are also being made that are less than the current weekly rate of IS or JSA(IB). The amount of the non-periodical payment to be taken into account each week is the current weekly rate of IS or JSA(IB) plus £2 less the weekly amount of the periodical payment¹.”

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 15(b), Sch 2, para 15(b); IS (Gen) Regs, reg 57(2)(a); JSA Regs, reg 121(2)(a)

Weekly amount of non-periodical LRP for children and young people when periodical LRPs are also being made

41 Guidance at DMG 28857 - 28858 explains how to calculate the

1. weekly amount **and**
2. the period over which a non-periodical LRP is taken into account

if periodical LRPs are being made for a child or young person who is a member of the family. As a result of the changes, from the appropriate date in paragraph 5 above, this guidance no longer applies¹ because no child allowances or premiums will be in payment. From the appropriate date DMG 28857 - 28858 should be deleted.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 15(c), Sch 2, para 15(c); IS (Gen) Regs, reg 57(2)(b); JSA Regs, reg 121(2)(b)

Periodical LRPs change while a non-periodical payment is being taken into account

42 DMG 28860 - 28862 explains that the DM must recalculate the period over which the balance of a non-periodical LRP is treated as income, if periodical LRPs change during the period that a non-periodical LRP is being taken into account. As a result of the changes, from the appropriate date in paragraph 5 above DMG 28862 should be replaced with the following

“Calculate the further period during which the balance should be taken into account as in DMG 28856¹.”

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 15(d), Sch 2, para 15(d); IS (Gen) Regs, reg 57(3)(b); JSA Regs, reg 121(3)(b)

Example

Elaine receives JSA(IB) for herself of £55.65 a week. She receives periodical LRPs of £25 a week. She received a non-periodical LRP for herself and her daughter Katy of £600. The DM decided the non-periodical payment should be taken into account at £32.65 a week for 18 weeks and £12.30 for one week.

Calculation 1:

$$£55.65 + £2 = £57.65$$

$$£57.65 - £25 = £32.65$$

After five weeks periodical LRPs change to £15 a week. The DM re-calculates the non-periodical LRP

Calculation 2:

$$£55.65 + £2 = £57.65$$

$$£57.65 - £15 = £42.65$$

$$£600 - £163.25 (5wks \times £32.65) \text{ leaves a balance of } £436.75$$

$$£436.75 \div £42.65 = 10.24 \text{ weeks}$$

The balance of the non-periodical payment is taken into account for ten weeks at £42.65 and one week at £10.25

Periodical LRPs cease while a non-periodical LRP is being taken into account

- 43 Guidance at DMG 28865 explains DMs may have to recalculate the period over which the balance of a non-periodical LRP is taken into account, if periodical LRPs stop. As a result of the changes, from the appropriate date in paragraph 5 above, DMG 28865 should be amended as follows

“.....The further period should be calculated as in DMG 28868¹.”

1 SS (WTC & CTC)(Cgl Amdts) Regs 2003, Sch 1, reg 57(3)(a); JSA Regs, reg 121(3)(a)

Example

Jan receives JSA(IB) of £57.65 a week. He receives periodical LRPs for his two children of £25 a week. He has also received a non-periodical LRP of £150.

The non-periodical LRP is calculated as follows:

Calculation 1:

$$£55.65 + £2 = £57.65$$

$$£57.65 - £25 = £32.65$$

$$£150 \div £32.65 = 4.59 \text{ weeks } (£32.65 \times 4 \text{ weeks and } £19.40 \times 1 \text{ week})$$

In the third week the periodical payments stop. The DM re-calculates the balance to be taken into account as follows

Calculation 2:

Balance of non-periodical payment is £84.70 (£150 - £65.30 (which is £32.65 x 2))

£55.65 + £2 = £57.65

£84.70 ÷ £57.65 = 1.46 weeks

The balance will be taken into account over one week at £57.65 and one week at £27.05

Weekly amount of non-periodical LRP for claimants and children or young people when periodical LRPs are not being made

- 44 DMG 28866 explains how to calculate the weekly amount of a non-periodical LRP made for the claimant or the claimant and a child or young person who is a member of the family, when no periodical LRPs are being made. Changes mean that from the appropriate date in paragraph 5 above, the guidance applies whenever a non-periodical LRP is made and periodical LRPs are not being made. As a result DMG 28866 should be replaced with the following

“If a non-periodical LRP is made and periodical LRPs are not being made, the amount that should be taken into account each week is the current weekly amount of IS or JSA(IB) plus £2¹.”

1 SS (WTC & CTC) (Cgl Amdts) Regs 2003, Sch 1, para 15(a), Sch 2, para 15(a); IS (Gen) Regs, reg 57(1)(a); JSA regs, reg 121(1)(a)

Weekly amount of non-periodical LRP for children and young people when periodical LRPs are not being made

- 45 Guidance at DMG 28867 explains how to calculate the weekly amount of a non-periodical LRP made for a child or young person. As a result of the changes, from the appropriate date in paragraph 5 above, this guidance no longer applies¹ because no child allowances or premiums will be in payment. As a result DMG 28867 should be deleted.

1 SS (WTC & CTC) (Cgl Amdts) Regs 2003, Sch 1, para 15(c), Sch 2, para 15(c); IS (Gen) Regs, reg 57(1)(b); JSA Regs, reg 121(1)(b)

Period over which a non-periodical LRP made for the claimant and children or young people is taken into account when periodical LRPs are not being made

46 DMG 28868 explains how to calculate the period over which a non-periodical LRP is taken into account. The changes mean that from the appropriate date in paragraph 5 above, the guidance applies whenever a non-periodical payment is made and periodical LRPs are not being made. DMG 28868 should be replaced with the following

“Calculate the number of weeks (including part weeks) over which the non-periodical LRP in DMG 28866 is to be taken into account by dividing the amount of the payment by the current weekly rate of IS or JSA(IB) plus £2¹.”

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 15(a), Sch 2, para 15(a); IS (Gen) Regs, reg 57(1); JSA Regs, reg 121(1)

Period over which a non-periodical LRP made for children and young people is taken into account when periodical LRPs are not being made

47 The guidance at DMG 28869 explains how to calculate the period over which non-periodical LRPs made for children or young people should be taken into account. As a result of the changes, from the appropriate date in paragraph 5 above, this guidance no longer applies¹ because no child allowances or premiums will be in payment. DMG 28869 should be deleted.

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 15(c), Sch 2, para 15(c); IS (Gen) Regs, reg 57(1)(b); JSA regs, reg 121(1)(b)

Non-periodical LRPs made by more than one LR for children or young people

48 DMG 28871 - 28872 explains how to apply the appropriate calculations when non-periodical LRPs are made by more than one LR for children or young people who are members of the family. As a result of the changes, from the appropriate date in paragraph 5 above, the guidance no longer applies and DMG 28871 - 28872 should be deleted.

Income disregards

CHB

49 DMG 28055 explains that CHB should be taken into account in full. The changes mean that from the appropriate date in paragraph 5 above, CHB is fully disregarded¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 23(b), Sch 2, para 23(b); IS (Gen) Regs, Sch 9, para 5B(2); JSA regs, Sch 7, para 6B(2)

CTC

- 50 The guidance at DMG 28057 explains that CTC should be taken fully into account. The changes mean that from the appropriate date in paragraph 5 above, CTC is fully disregarded¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 5B(1); JSA Regs, Sch 7, para 6B(1)

Adoption allowances

- 51 DMG 28171 - 28174 gives guidance on the treatment of adoption allowances. DMG 28172 explains the partial disregards that apply to adoption allowances paid for a child or young person who is a member of the family. As a result of the changes, from the appropriate date in paragraph 5 above, adoption allowances paid for a child or young person who is a member of the family are fully disregarded. DMG 28172 should be replaced with the following

“Any adoption allowance paid for a child or young person who is a member of the family is fully disregarded¹.”

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 23(c), Sch 2, para 23(c); IS (Gen) Regs, Sch 9, para 25; JSA regs, Sch 7, para 26

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

- 52 DMG 28174 explains how to treat adoption allowances paid in Scotland or Wales for a child or young person who is not treated as a member of the family. As a result of the changes, from the appropriate date in paragraph 5 above, DMG 28174 should be replaced with the following

“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 partner¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 10(f), Sch 2, para 10(d); IS (Gen) Regs, reg 42(4)(b); JSA regs, reg 105(10)(b)

Residence orders

- 53 DMG 28203 - 28206 give guidance about residence orders and how to treat payments made under specified legislation. As a result of the changes, from the appropriate date

in para 5 above, the guidance explaining a partial disregard at DMG 28203 - 28205 no longer applies because such payments are fully disregarded¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 23(c), Sch 2, para 23(c); IS (Gen) Regs, Sch 9, para 25; JSA regs, Sch 7, para 26

Payments for a child or young person attending boarding school

54 A new disregard is introduced, from the appropriate date in paragraph 5 above, for payments made to a boarding school for the maintenance of a child or young person who is a member of the claimant's family. Any payment made to the school for the child or young person's maintenance by

1. or on behalf of a third party **or**
2. a member of the family out of funds contributed for that purpose by a third party is fully disregarded¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 23(d), Sch 2, para 23(d); IS (Gen) Regs, Sch 9, para 25A; JSA regs, Sch 7, para 26A

55 For those claimants who do not fall within paragraph 5 above, the existing guidance at DMG 28685 et seq. about a child or young person attending boarding school continues to apply.

WTC paid during LPRO period

56 DMG 28351 explains that for IS only any WFTC or DPTC which is paid to a person to whom LPRO applies should be disregarded. As a result of the changes the disregard applies to any WTC paid in the LPRO period. References at DMG 28351 to "WFTC and DPTC" are replaced with "WTC"¹.

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 23(e); IS (Gen) Regs, Sch 9, para 70

CAPITAL

Capital of child or young person

57 DMG 29016 and 29785 - 29786 give guidance on the effect of a child's or young person's capital on benefit. The changes mean that, from the appropriate date in paragraph 5 above, the guidance at 29016 and 29785 - 29786 no longer applies¹. In addition, DMG 29015 **7.2** gives guidance that capital of a child or young person is not treated as the capital of the claimant if the claimant is a member of a family. This guidance still applies. However, DMs should note the amended legislation².

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 11, Sch 2, para 11; IS (Gen) Regs, reg 44(5) and 47; JSA regs, reg 106(5) and 109; 2 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 6(b), Sch 2, para 6(b); IS (Gen) Regs, reg 23(2); JSA Regs, reg 88(2)

Disregarded capital

- 58 DMG 29379 gives guidance that capital treated as income is disregarded as capital indefinitely. The changes mean that, from the appropriate date in paragraph 5 above, the disregard will no longer apply to capital of a child or young person that is paid by instalments¹. Although this disregard will no longer apply, capital of a child or young person that is paid by instalments will not be treated as the capital of the claimant so it will not be taken into account (see paragraph 57 above).

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 24(b), Sch 2, para 24(b); IS (Gen) Regs, Sch 10, para 20; JSA Regs, Sch 8, para 25

Income treated as capital

Charitable or voluntary payments

- 59 A charitable or voluntary payment, which is not made, or due to be made regularly is income which is treated as capital. However, DMG 29729 **2**. gives guidance that there is an exception if a charitable or voluntary payment is made to an educational establishment for the maintenance of a child or young person who is living, and receiving relevant education, at the establishment. The changes mean that, from the appropriate date in paragraph 5 above, this exception no longer applies¹ and these payments will be income, which is treated as capital. However, they will not be taken into account as capital because they will not be treated as capital of the claimant (see paragraph 57 above).

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch.1, para 12(a), Sch 2, para 12; IS (Gen) Regs, reg 48(10)(b); JSA Regs, reg 110(10)(b)

- 60 DMG 29729 **1.3** gives guidance on when a charitable or voluntary payment which is not made or due to be made regularly to a member of an IS claimant's or partner's family is not income which is treated as capital. The changes mean that, from the appropriate date in paragraph 5 above, the guidance at DMG 29729 **1.3** no longer applies¹ as these payments will be income which is treated as capital. However, they will not be taken into account as capital because they will not be treated as capital of the claimant (see paragraph 57 of this memo).

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 12(b); IS (Gen) Regs, reg 48(10)(a)

LA payments for children

- 61 DMG 29739 - 29740 gives guidance that arrears of payments made by an LA under specified legislation¹ are capital. The changes mean that, from the appropriate date in paragraph 5 above, these payments will no longer be income which is treated as capital². However, DMs should not take these payments into account as income (see paragraphs 19 and 20 above).

1 Children Act 1975, s 34(6) and 50; Children Act 1989, Sch 1, para 15; 2 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 12(a), Sch 2, para 12; IS (Gen) Regs, reg 48(8); JSA Regs, reg 110(8)

Northern Ireland Children Order

- 62 DMG 29741 gives guidance that arrears of payments made by an authority¹ under specified legislation² are treated as capital. The changes mean that, from the appropriate date in paragraph 5 above, these payments will no longer be income which is treated as capital³. However, DMs should not take these payments into account as income (see paragraphs 19 and 20 of this memo).

1 Children (NI) Order 1995, Article 2; 2 Children (NI) Order 1995, Article 15 and Sch 1, para 17; 3 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 12(a), Sch 2, para 12; IS (Gen) Regs, reg 48(8A); JSA Regs, reg 110(8)

Notional capital

- 63 Special rules apply to capital paid to or for a third party. DMG 29860 - 29869 gives guidance on capital paid to or for the claimant or a member of the claimant's family. The changes¹ mean that the rules only apply in respect of the claimant and their partner. Any references in DMG 29860 - 29869 to "member of the claimant's family" should be replaced with "claimant's partner".

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 13, Sch 2, para 13; IS (Gen) Regs, reg 51(3) and (3A); JSA Regs, reg 113(3) and (3A)

STUDENTS

- 64 DMG 30192 gives guidance on the disregards from student grant income. As a result of these changes, from the appropriate date at paragraph 5 above, an extra amount shall be disregarded. DMs should also disregard any payment intended for the maintenance or child care costs of a child dependant¹.

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 16(a), Sch 2, para 16(a); IS (Gen) Regs, reg 62(2)(i); JSA Regs, reg 131(2)(h)

65 Guidance at DMG 30194 shall be substituted with the following paragraph, from the appropriate date at paragraph 5 above, and from the same date guidance at DMG 30195 - 30196 should be deleted.

“The DM should also exclude from a student’s grant income any grant in respect of expenditure on travel, books and equipment¹ which is payable under specific law ².”

1 SS (WTC & CTC)(Cql Amdts) Regs 2003, Sch 1, para 16(b), Sch 2, para 16(b); IS (Gen) Regs, reg 62(2B); JSA Regs, reg 131(3A); 2 Education(Student Support) Regs 2002, reg 15(8).

66 Guidance at DMG 30199 - 30200 shall be amended from the appropriate date at paragraph 5 above, to relate to adult dependants only¹.

1 SS (WTC & CTC) (Cql Amdts) Regs 2003, Sch 1, para 16(c) to (e), Sch 2, para 16 (c) to (e); IS(Gen) Regs, reg 62(3),(3A) & (3B); JSA Regs, reg 131(4), (5) & (5A)

HARDSHIP

67 DMG 35157, 35170 and 35172 tell DMs to take the following into account when determining whether hardship will occur:

“the presence in the family of someone who qualifies for ... DCP1 ...”

1 JSA Regs, reg 140(5)(a)

68 For claimants who fall within paragraph 5 above, DMs should take the following into account instead of the circumstances in paragraph 67 above:

“the presence in the family of someone who satisfies the requirements for an element of child tax credit for a child or young person who is¹

1. disabled, **or**
2. severely disabled

under certain legislation².”

Note: This paragraph applies to a claimant from the appropriate date in paragraph 5 above.

1 JSA Regs reg 140(5)(a) 2 Child Tax Credit Regulations, reg 8; SS(WTC & CTC)(Cql Amdts) Regs 2003, Sch 2, para 18

69 For claimants who do not fall within paragraph 5 above, the DMG remains as described in paragraph 67 above.

ANNOTATIONS

Please annotate the number of this memo (DMG JSA/IS 64) against the following DMG paragraphs 02153, 23010, 23023, 23038, 23076, 23182, 23240, 24001, 24301, 24500, 24800, 25007, 25008, 26134(heading), 28003, 28050 (heading), 28055, 28057, 28172, 28174, 28203, 28204, 28205, 28350 (heading), 28351, 28534, 28535, 28539, 28573, 28592, 28655, 28656, 28657, 28661, 28662, 28664, 28665, 28667, 28668, 28669, 28676, 28680, 28681, 28682, 28683, 28685, 28687, 28688, 28691-28709, 28689, 28690, 28775, 28855, 28857, 28858, 28860, 28862, 28865, 28866, 28867, 28868, 28869, 28871, 28872, 29015, 29016, 29379 (main heading), 29729, 29739, 29740, 29741, 29785 (main heading), 29860 (main heading), 30192, 30194(heading),30199, 30200, 30211(heading), 31001, 31233, 31259, 35157, 35170, 35172, DMG Memo IS/JSA 34, para 23.

CONTACTS

If you have any queries about this memo, please write to ACI Division, Room GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in DMG Letter 15/03.

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