

# Chapter 36 - Transitional protection from Supp B to IS and Supp B to IS to JSA(IB)

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# Chapter 36 – Transitional protection from Supp B to IS and Supp B to IS to JSA(IB)

## Conversion to Income Support - transitional protection for existing claimants

### What is transitional protection

- 36001 On 11.4.88, IS replaced Supp B. In certain cases transitional additions were made to protect the level of the claimant's benefit income (see DMG 36003). On 30.5.88 other additions - called transitional elements - were introduced for claimants who, due to special circumstances at conversion, had no or lesser entitlement to protection under the existing legislation (see DMG 36004).
- 36002 On 7.10.96 JSA replaces IS and UB for claimants who are required to be available for work. Any transitional protection to which there is entitlement before 7.10.96 is awarded as a transitional supplement to the claimant's JSA(IB)<sup>1</sup>.

*1 JSA Regs, reg 87(1) & (3)*

### Transitional additions

- 36003 A transitional addition is **not** part of a claimant's applicable amount. It is an addition made **after** any deduction has been made for income. There are three different types of TA
1. TA - paid to certain claimants whose TBI reduced on conversion to IS<sup>1</sup>
  2. SpTA - paid to certain claimants who had a Supp B additional requirement for domestic assistance of £10 or more<sup>2</sup>. Claimants in board and lodging accommodation and hostels (as defined under legislation existing until 10.4.89 and 9.10.89 respectively) are not entitled to SpTA<sup>3</sup>
  3. PETA - paid only to claimants who had been in a residential care or nursing home since April 1985 and who had a protected rate of personal expenses under Supp B rules<sup>4</sup>.

Prisoners and claimants without accommodation are not entitled to transitional protection.

*1 IS (Trans) Regs, reg 9 & 10; 2 reg 15; 3 reg 16; 4 reg 13*

## **Transitional element**

36004 A TE is part of a claimant's applicable amount. A claimant could get a TE from 30.5.88<sup>1</sup>, if there was no or lesser entitlement to

1. a TA
2. an SpTA **or**
3. a PETA.

A TE replaced concessionary payments made by the Secretary of State (before 30.5.88) to compensate for the loss of normal protection. DMG 36301 et seq gives further guidance on the award of a TE.

*1 IS (Gen) Regs, reg 17(2)-(6)*

36005 - 36009

## **Meaning of IS**

36010 Although the additions in DMG 36003 are amounts of IS, the term IS in this Chapter refers to the amount by which the applicable amount exceeds the claimant's income.

## **Meaning of income**

36011 Income means the net income of the claimant and any family members taken into account in the IS assessment<sup>1</sup>.

*1 Part V*

## **Meaning of total benefit income**

36012 TBI in any week is the total of the following benefits that the claimant and partner are entitled to in that week<sup>1</sup>

1. Supp B or IS (but see DMG 36013, et seq)
2. Family Income Supplement, FamC or WFTC
3. CHB
4. any benefit under the SS Act, for example SB, IVB, UB, RP
5. W Dis P
6. WWP

7. any payment made under a scheme made under the Industrial Injuries & Diseases (Old Cases) Act 75
8. SMP
9. SSP
10. any concessionary payment made on behalf of the Secretary of State in place of one or more of the benefits or payments at 1. to 7.

*1 IS (Trans) Regs, reg 9(1) & 9(6)*

36013 Except where DMG 36014 or 36015 applies, the claimant's TBI will be the amount of Supp B/IS entitlement **before** any direct payments or recoveries are made.

36014 Where the claimant

1. lives in a residential care or nursing home **and**
2. has been living in such a home (not necessarily the same one) since April 1985 **and**
3. as a result, had personal expenses protection under Supp B rules

the amount of personal expenses included in the Supp B/IS entitlement should be deducted, and only the balance included in the claimant's TBI<sup>1</sup>.

*1 reg 13(1)*

36015 Any reduction in the claimant's benefit because of actual or notional UB disqualification<sup>1</sup> should be disregarded for TBI purposes. This means that the claimant's TBI will include the amount of Supp B/IS the claimant would have if the reduction had not been made<sup>2</sup>.

*1 IS (Gen) Regs, reg 22; 2 IS (Trans) Regs, reg 9(9)*

## Meaning of first benefit week

36016 A claimant's first benefit week is the Supp B benefit week starting on a day in week beginning 4.4.88<sup>1</sup>.

*1 reg 2*

## Meaning of second benefit week

36017 A claimant's second benefit week is the IS benefit week starting on a day in week beginning 11.4.88<sup>1</sup>.

*1 reg 2; SS (C & P) Regs, Sch 7, para 4*

36018 - 36030



## Changes of circumstances and transitional additions

36031 The guidance in DMG 36032 - 36150 applies to IS and, from 7.10.96, to JSA(IB)<sup>1</sup>. It is modified for claimants who live in, or are temporarily absent from, a residential care or nursing home (see DMG 36210 - 36271).

*1 IS (Trans) Regs, reg 2(3); JSA Regs, reg 87(1)*

### Withdrawal of transitional addition

36032 There is no entitlement to a TA if

1. the claimant becomes a person without accommodation<sup>1</sup> **or**
2. the claimant becomes a prisoner (see DMG 24190 - 24240)<sup>2</sup> **or**
3. the conditions of entitlement for IS/JSA(IB) are no longer satisfied, other than on the grounds of excess income<sup>3</sup> **or**
4. the TA is reduced to NIL on a change of circumstances or uprating (see DMG 36050 et seq)<sup>4</sup>.

*1 IS (Trans) Regs, reg 16(1); 2 reg 16(3), 3 reg 14(2); 4 reg 14(2)*

36033 In some cases the claimant may be re-entitled to a TA if there is another change in circumstances (see DMG 36070) or a repeat claim (see DMG 36090 et seq).

36034 - 36049

### Recalculation of transitional addition

36050 A TA may have to be recalculated on benefit uprating or a change of circumstances. The method of recalculation depends on whether the claimant was **previously** entitled to both IS/JSA(IB) and a TA or to a TA only. But see DMG 36053 - 36054 for some exceptions.

36051 Where the claimant was entitled to both IS/JSA(IB) and a TA, reduce the TA where

1. the change leads to an increase in the applicable amount (see DMG 36055) **or**
2. after the change, income exceeds the applicable amount (see DMG 36060).

36052 Where the claimant, was entitled only to a TA, reduce the TA where

1. the change leads to an increase in the applicable amount and there is entitlement to IS/JSA(IB) (see DMG 36068) **or**
2. income increases (see DMG 36080).

## Applicable amount increases - exceptions to normal rules

36053 Do not reduce the TA where an increase in the applicable amount is due solely to

1. the end<sup>1</sup> of a period of reduction because of
  - 1.1 actual or notional UB disqualification **or**
  - 1.2 an award made on hardship grounds only **or**
  - 1.3 failure to attend a Restart Course **or**
2. a temporary move to residential accommodation or a nursing home or RCH for a period of eight weeks or less, for example for respite care<sup>2</sup> **or**
3. the award during **week beginning 9.10.89** of EPP or an increase in HPP<sup>3</sup>

**Note:** This does not apply to the **initial** award of EPP or HPP from a benefit week beginning on 16.10.89 or later **or**

4. the award during the period of seven days beginning 1.10.91 of an increase in personal allowance or FP because of the special uprating of CHB in October 1991<sup>4</sup> **or**
5. the start or finish of the claimant's or partner's<sup>5</sup>
  - 5.1 taking part in training under relevant legislation<sup>6</sup> **or**
  - 5.2 attending a course at an employment rehabilitation centre **or**
6. requalification for DP or HPP, following a repeat claim which satisfies the conditions of DMG 36105 (repeat claims - break due to remunerative work)<sup>7</sup> **or**
7. the return to the claimant's household of a child or young person who remains in LA care under specified legislation, in which case, no reduction should be made until<sup>8</sup>
  - 7.1 the child or young person is discharged from LA care **or**
  - 7.2 the stay in the household has lasted for a period of more than eight continuous weekswhichever occurs first **or**
8. from 12.3.92<sup>9</sup>, the re-instatement of an applicable amount which was paid in any week after the second benefit week but which was withdrawn because of the temporary absence of a member of the family<sup>10</sup>.

**Note:** See DMG 36056 if another change or an uprating (other than as in **3.** or **4.** above) takes effect in the same benefit week.

*1 IS (Trans) Regs, reg 14(1A); 2 reg 14(1B); 3 reg 14(1D); 4 reg 14(1DA); 5 reg 14(1E); 6 E&T Act 73, s 2; Enterprise and New Towns (Scotland) Act 1990, s 2; 7 reg 14(1F); 8 reg 14(1G); 9 SS A Act 92, s 69; 10 R(IS) 6/93*

## Income increases - training allowance and CHB

36054 An increase in income which is solely because of

1. the receipt of, or an increase in, a training allowance<sup>1</sup> or
2. an increase in CHB due to the special uprating in October 1991<sup>2</sup>

does **not** affect the TA. Any other increase in income in the same benefit week should be taken into account under the normal rules.

*1 IS (Trans) Regs, reg 14(1C); 2 reg 14(1CA)*

## Claimant entitled to IS/JSA(IB) before and after the change

36055 Where a claimant

1. was entitled to IS/JSA(IB) and a TA **before** the change or uprating **and**
2. is entitled to IS/JSA(IB) **after** it

any change in income does **not** affect the amount of the TA. Unless DMG 36053 (exceptional cases) or DMG 36262 et seq (entitlement to TA **and** PETA) apply, the DM should reduce the TA by the amount of any increase in the applicable amount<sup>1</sup>.

*1 reg 14(1)(a)*

### Example

Sydney Charlton has an applicable amount of	£50 (a)
and income of	£40 (b)
giving him IS of	£10 (c)
He also has a TA of	£ 7 (d)
making a total income of	£57 (b+c+d)

On uprating, his applicable amount becomes	£52 (e)
and his income becomes	£42 (f)
leaving his IS at	£10 (g)
His TA is reduced by £2 (e-a) to	£ 5 (h)
leaving his total income at	£57(f+g+h)

36056 The rules in DMG 36053 are modified if

1. there is another change of circumstances or an uprating (other than in DMG 36053 3. or 4.) which takes effect in the same benefit week **and**
2. the other change or uprating also causes an increase in the applicable amount.

In these cases the DM should reduce the TA by the amount that the applicable amount increases because of the other change or uprating.

#### **Example**

Alan Watts is receiving IS and a TA of £15. His applicable amount is reduced because he is disqualified from receiving UB.

The day after his disqualification ends his wife gives birth to their daughter.

His applicable amount increases by £20; £8 because of the end of the UB disqualification and £12 for the birth of the child.

The DM should ignore the £8 (see DMG 36053 1.) and reduce the TA by £12.

36057 - 36059

### **Claimant entitled to IS/JSA(IB) before the change but not entitled after the change**

36060 Where entitlement to IS/JSA(IB) ends because income exceeds the applicable amount, the DM should, unless DMG 36054 (training allowance cases) applies, reduce the TA by the amount that the income exceeds the applicable amount<sup>1</sup>. A TA that is reduced to NIL may in certain circumstances be reinstated on a repeat claim (see DMG 36090 et seq).

*1 IS (Trans) Regs, reg 14(1)(e)*

#### **Example 1**

June Sands has an applicable amount of	£50 (a)
and income of	£40 (b)
giving her IS of	£10 (a-b)
She also has a TA of	£ 7 (c)

After a change in circumstances, her applicable amount	
becomes	£37 (d)
but her income is still	£40 (e)
and exceeds her applicable amount by	£ 3 (e-d=f)
Her TA is reduced by £3 to	£ 4 (c-f)

**Example 2**

Simon Marks has an applicable amount of	£50
and income of	£10
giving him IS of	£40
He also has a TA of	£ 7

He begins a training course and receives a training allowance of £45, none of which can be disregarded

His applicable amount is still	£50
but his income is now	£55
and exceeds his applicable amount by	£ 5
His TA is still (see DMG 36054)	£ 7

When the training course ends, his applicable amount is still	£50
but his income is again	£10
Giving him IS of	£40
His TA is still	£ 7

36061 Where entitlement to IS/JSA(IB) ends for a reason other than income exceeding the applicable amount, for example because of remunerative work, entitlement to the TA<sup>1</sup> also ends. In certain circumstances a TA may be reinstated on a repeat claim (see DMG 36090 et seq).

*1 IS (Trans) Regs, reg 14(2)(a)(i)*

36062 - 36067

## Claimant not entitled to IS/JSA(IB) before the change but entitled after the change

36068 Where a claimant was entitled only to a TA before the change, but becomes entitled to IS/JSA(IB) because the applicable amount increases, the DM should, unless DMG 36053 (exceptional cases) applies, reduce the TA by the amount of that increase **less** the previous excess income figure<sup>1</sup>. But see DMG 36070 if the claimant had previously been entitled to IS/JSA(IB).

*1 IS (Trans) Regs, reg 14(1)(d)*

### Example

Robin James has an applicable amount of	£48 (a)
and income of	£60 (b)
giving an excess income of	£12 (c)
He also has a transitional supplement of	£ 9 (d)

Helen West goes to live with him as his partner.

His applicable amount increases to	£75 (e)
and his income increases to	£73
giving JSA(IB) entitlement of	£ 2
His transitional supplement is reduced by £15 ((e-a)-c) to	NIL

36069 Unless DMG 36070 applies, where there was entitlement only to a TA, but entitlement to IS/JSA(IB) begins because income has reduced or ceased whilst the applicable amount stays the same, the TA also stays the same. This may result in

1. no change in total income, where income was the same as the applicable amount **or**
2. a reduction in total income, where income exceeded the applicable amount.

### Example

Anna Spencer has an applicable amount of	£28
and UB of	£32 (a)
giving an excess income of	£ 4
She also has a TA of	£ 8 (b)
giving her a total income of	£40 (a+b)

Her UB is exhausted.

Her applicable amount is still	£28
but her income is reduced to	NIL
giving IS entitlement of	£28 (c)
Her TA is still	£ 8 (d)
giving her a total income of	£36 (c+d).

36070 Where DMG 36069 applies to a claimant who had been entitled to both IS/JSA(IB) and a TA for a past period **and**

1. during that past period the TA was £10 or more **and**
2. the period when there was no entitlement to IS/JSA(IB) was eight weeks or less

the DM should calculate the new TA as if there had been no break in entitlement to IS/JSA(IB)<sup>1</sup>.

*1 IS (Trans) Regs, reg 14(3)(a)*

**Example**

Jane Walsh has an applicable amount of	£25 (a)
and income of	NIL
giving her entitlement to IS of	£25
She also has a TA of	£12 (b)

From March 15th she has PTE to take into account.

Her applicable amount is still	£25
and PTE (less disregard)	£30
giving an excess income of	£ 5 (c)
Her TA is reduced by the excess income to	£ 7 (b-c)
	(DMG 36060).

From April 19th she has no more PTE.

Her applicable amount had been uprated to	£26 (d)
and her income is again	NIL

giving entitlement to IS of £26

Her original TA is reduced by the increase in her  
applicable amount (d-a) (see DMG 36051 1.) to £11.

36071 - 36079

## **Claimant not entitled to IS/JSA(IB) before or after the change**

36080 Where a claimant

1. was entitled only to a TA before the change **and**
2. has no entitlement to IS/JSA(IB) after the change because income still exceeds the applicable amount

the DM should, unless DMG 36054 (training allowance cases) applies, reduce the TA by the amount of any increase in income<sup>1</sup>.

**Note:** See DMG 36032 where the claimant would not be entitled other than on income grounds, for example because a partner has started remunerative work.

*1 IS (Trans) Regs, reg 14(1)(b)*

### **Example 1**

Joanne Short has an applicable amount of £40  
and income of £50 (a)  
giving an excess income of £10  
She also has a TA of £7  
At uprating her applicable amount increases to £43  
and her income to £52 (b)  
giving an excess income of £9.  
The TA is reduced by £2 (b-a) to £5.

### **Example 2**

Mark Pitts has an applicable amount of £40  
and income of £50  
giving an excess income of £10  
He also has a TA of £7

He is awarded a training allowance.

His applicable amount is still	£40
but his income increases to	£95
giving an excess income of	£55
His TA is still (see DMG 36054)	£ 7

The training allowance ends.

His applicable amount is still	£40
but his income is again	£50
giving an excess income of	£10
His TA is still	£ 7.

36081 Where

1. a claimant is entitled only to a TA **and**
2. on a change of circumstances entitlement to IS/JSA(IB) ends for reasons other than on income grounds

entitlement to the TA will also end<sup>1</sup>. In certain circumstances a TA may be reinstated on a repeat claim (see DMG 36090 et seq).

*1 IS (Trans) Regs, reg 14(2)(b)(i)*

36082 - 36089



## Repeat claims and transitional additions

- 36090 Unless DMG 36105 et seq (break due to remunerative work) applies, a claimant may be entitled to a TA following a repeat claim where
1. at the end of the previous claim there was entitlement to a TA of £10 or more  
**and**
  2. the break in entitlement was for eight weeks or less<sup>1</sup>.

*1 IS (Trans) Regs, reg 14(3) & 14(4)*

- 36091 Where the conditions in DMG 36090 are satisfied, entitlement to a TA, and the amount of any entitlement, will depend on whether
1. at the end of the previous claim, the claimant was entitled to
    - 1.1 IS/JSA(IB) and a TA **or**
    - 1.2 a TA only **and**
  2. at the start of the new claim, the claimant is
    - 2.1 entitled to IS/JSA(IB) **or**
    - 2.2 not entitled to IS/JSA(IB).

36092 - 36095

### Claimant entitled to IS/JSA(IB) on both previous and new claims

- 36096 Unless DMG 36105 et seq (break due to remunerative work) applies, where
1. the claimant was entitled to IS/JSA(IB) and a TA of £10 or more at the end of the previous claim **and**
  2. the claimant is entitled to IS/JSA(IB) on the new claim **and**
  3. the break in entitlement was eight weeks or less

the DM should calculate the amount of the TA as though there had been no break in entitlement, that is, reduce it by any increase in the applicable amount not falling within DMG 36053 (exceptional cases)<sup>1</sup>.

*1 reg 14(3)(b)*

36097

## Claimant entitled to IS/JSA(IB) on previous claim, but not on new claim

36098 Unless DMG 36105 et seq (break due to remunerative work) applies, no TA is payable to a claimant who

1. was entitled to IS/JSA(IB) and a TA at the end of the previous claim **but**
2. is not entitled to IS/JSA(IB) on the new claim.

36099

## Claimant not entitled to IS at end of previous claim

36100 Unless DMG 36105 et seq (break due to remunerative work) applies, there is entitlement to a TA where the claimant

1. was not entitled to IS/JSA(IB) at the end of the previous claim, but was entitled to a TA of £10 or more **and**
2. on the new claim is
  - 2.1 entitled to IS/JSA(IB) **or**
  - 2.2 not entitled only because income exceeds the applicable amount **and**
3. the TA had been withdrawn under DMG 36032 **2.** or **3.** **and**
4. the reason for the withdrawal applied for eight weeks or less.

36101 A claimant who satisfies all the conditions in DMG 36100 is entitled to a TA of whichever is the **lower** of<sup>1</sup>

1. the amount of the TA at the end of the previous claim **or**
2. the amount obtained by taking the TBI in the first benefit week of the new claim from the TBI in the first benefit week (DMG 36016).

*IS (Trans) Regs, reg 14(4)*

### Example

Sam Brown's TBI in the 1st benefit week was £41 (a)

He has an applicable amount of £27

and SB of £31(b)

giving an excess income of £4

He also has a TA of £10 (a-b = c)

On 10 June Ann White goes to live with him as his partner. She has PTE (after disregard) of £35

Sam's applicable amount becomes	£52
his SB is still	£31
and Ann's PTE are	£35 (d)
giving an excess income of	£14
The TA becomes (DMG 36080)	NIL (c-d)

A repeat claim is made on 3 August because Ann's PTE have reduced.

The applicable amount is still	£52
and the SB	£31 (b)
with the PTE (after disregard)	£19
giving entitlement to IS of	£ 2 (e)
The TBI is now	£33 (b+e)

Because the reason for the withdrawal of the TA (excess income) applies for eight weeks or less, the DM

1. takes the TBI in the first benefit week of the new claim (£33) from the TBI in the first benefit week (£41) **and**
2. compares the result (£8) with the TA in payment at the end of the previous claim **and**
3. awards a TA of the lower amount (£8).

36102 - 36104

## Repeat claims - break due to remunerative work

36105 Entitlement to IS/JSA(IB) and/or a TA may have ended because of a short period of remunerative work by the claimant or partner. There may be further entitlement to a TA if the remunerative work finishes within the **permitted period**<sup>1</sup>.

*1 IS (Trans) Regs, reg 14(3A)*

### IS remunerative work permitted period - before 7.10.96

36106 Before 7.10.96 the permitted period

1. starts on the first day that there is no entitlement **and**
2. ends on the last day of remunerative work **and**

3. except where DMG 36107 applies, is up to eight weeks<sup>1</sup>.

*1 IS (Trans) Regs, reg 2A(2)*

36107 The permitted period may be up to twelve weeks where<sup>1</sup>

1. the claimant's applicable amount is **not** subject to a reduction for actual or notional UB disqualification as a result of the remunerative work ending **and**
2. the person who was working
  - 2.1 was exempted from UB disqualification only because<sup>2</sup> that work was for a trial period<sup>3</sup> **or**
  - 2.2 was working for at least six weeks, and was not at any time during the 26 weeks immediately before that work
    - 2.2.a engaged in remunerative work **or**
    - 2.2.b in relevant education **or**
    - 2.2.c a student.

*1 reg 2A(1)(a) & (3); 2 SS CB Act 92, s 29(2); 3 SS (U, S & IVB) Regs, reg 12G*

### **IS remunerative work permitted period - from 7.10.96**

36108 Where entitlement to JSA(IB)/IS ends because of remunerative work and the next claim is for IS the permitted period<sup>1</sup>

1. starts on the first day that there is no entitlement **and**
2. ends on the last day of remunerative work **and**
3. is twelve weeks.

*1 IS (Trans) Regs, reg 14(3A) & (2A)*

### **JSA(IB) remunerative work permitted period**

36109 Unless DMG 36110 applies, where entitlement to JSA(IB)/IS ends because of remunerative work and the next claim is for JSA(IB) the permitted period<sup>1</sup>

1. starts on the first day that there is no entitlement **and**
2. ends on the last day of remunerative work **and**
3. is twelve weeks.

*1 reg 14(3A); JSA Regs, reg 87(7)(a)*

36110 The permitted period for a break in entitlement as in DMG 36109 is eight weeks<sup>1</sup> if

1. JSA is not payable because the claimant
  - 1.1 lost the job through misconduct **or**
  - 1.2 left the job voluntarily without just cause **or**
2. unless the person working is exempt from non-payment of JSA for leaving voluntarily because the work was for a trial period
  - 2.1 the remunerative work ended within four weeks of its starting **or**
  - 2.2 the person working was, at any time during the 13 weeks immediately before the remunerative work began
    - 2.2.a in remunerative work **or**
    - 2.2.b in relevant education **or**
    - 2.2.c a student.

*1 JSA Regs, reg 87(7)(b)*

36111 Where a repeat claim is made by a claimant who falls within DMG 36106 - 36110, there is entitlement to a TA. The previous TA need **not** have been £10 or more, and there does not need to be entitlement to IS/JSA(IB) as well as a TA at the time of the repeat claim<sup>1</sup>. DMG 36112 explains the method of calculation in such cases.

*1 IS (Trans) Regs, reg 14(3A) & (4A)*

36112 For the purposes of DMG 36111 the TA will be, in the case of a claimant formerly entitled to

1. IS/JSA(IB) and a TA, the amount of the previous TA less any increase in the applicable amount not falling within DMG 36053 (exceptional cases)<sup>1</sup> **or**
2. a TA only, whichever is the lower of<sup>2</sup>
  - 2.1 the amount of the TA at the end of the previous claim **or**
  - 2.2 the amount obtained by taking the TBI in the first benefit week of the new claim from the TBI in the first benefit week (see DMG 36016).

*1 reg 14(3A); 2 reg 14(4A)*

### Example 1

Andrew Wright has been unemployed for two years.

His TBI in the 1st benefit week was £35 (a)

His applicable amount is £27

and his income NIL

giving an entitlement to IS of £27 (b)

He also has a TA of £ 8 (a-b = c)

He starts remunerative work on 8.1.89 and finishes because

of illness on 16.3.89

He makes a repeat claim on 1.4.89

His applicable amount is still £27

and he has SB of £33

giving an excess income of £ 6

In this case

1. the permitted period is twelve weeks because the conditions in DMG 36107 are satisfied **and**
2. the period starting on the first day that there was no entitlement and ending on the last day of remunerative work was less than twelve weeks **and**
3. the DM awards a TA of £8 (c) because there is no increase in the applicable amount on the repeat claim.

**Note:** The DM should consider only the **permitted period**, not the length of time between the two periods of entitlement.

#### Example 2

Mona Booth's TBI in the first benefit week was £54 (a)

She has an applicable amount of £46

RP of £48 (b)

an excess income of £ 2

and a TA of £ 6 (a-b = c)

She starts remunerative work for four weeks on 11.12.89 and becomes 75 on 28.12.89, then makes a repeat claim on 8.1.90.

Her applicable amount increases to £48.50

but her RP is still £48 (d)

giving an entitlement to IS of £00.50 (e)

and a TBI (d+e) of £48.50 (f)

In this case

1. the permitted period is eight weeks because DMG 36107 **2.2** is not satisfied **and**
2. the period starting on the first day that there was no entitlement and ending on the last day of remunerative work is less than eight weeks **and**
3. the DM awards a TA of £5.50 because the difference between the two TBI figures (a-f) is lower than the previous TA (c).

**Note:** The initial award of EPP from a benefit week beginning after 15.10.89 does not prevent the reduction of the TA under DMG 36053 **3**.

### Example 3

Steven Wood has been receiving JSA(IB) since  
7.10.96

His applicable amount is £53.05

and his income NIL

giving an entitlement to JSA(IB) of £53.05

He also has a transitional supplement of £ 4

He starts remunerative work on 3.12.01 and is  
dismissed on 8.1.02.

He makes a repeat claim for JSA(IB) on 9.1.02.

He is sanctioned for misconduct and JSA is not  
payable.

His applicable amount is still £0

and his income still NIL

giving an entitlement to JSA(IB) of £53.05

In this case

1. the permitted period is eight weeks because the claimant is sanctioned for losing his job through misconduct **and**
2. the period starting on the first day that there was no entitlement and ending on the last day of remunerative work is less than eight weeks **and**
3. the DM awards a transitional supplement of £4 because there is no increase in the applicable amount on the repeat claim.

36113 - 36119



## Special transitional additions

36120 SpTAs are paid to claimants who had a Supp B additional requirement for domestic assistance of £10 or more. Unlike other TAs, SpTAs are uprated annually. They should not be increased for any other reason. For guidance on the uprating of SpTAs see DMG 36150.

### Withdrawal of special transitional addition

36121 There is no longer entitlement to an SpTA where

1. apart from on income grounds, the conditions of entitlement for IS/JSA(IB) are no longer satisfied<sup>1</sup> **or**
2. the applicable amount is revised because the claimant
  - 2.1 enters a residential care or nursing home<sup>2</sup> **or**
  - 2.2 enters residential accommodation<sup>3</sup> **or**
  - 2.3 in IS cases, has been a hospital in-patient for more than 6 weeks<sup>4</sup> **or**
  - 2.4 is without accommodation<sup>5</sup> **or**
  - 2.5 enters board and lodging accommodation or a hostel<sup>6</sup> **or**
  - 2.6 in IS cases, is a prisoner<sup>7</sup> (see DMG 24190 - 24240) **or**
3. the SpTA is reduced to nil on a change of circumstances<sup>8</sup>.

*1 IS (Trans) Regs, reg 15(3)(a), (c), (d) & (e); 2 reg 15(3)(b); 3 reg 15(3)(b);  
4 reg 15(3)(b); 5 reg 16(1); 6 reg 16(2); 7 reg 16(3); 8 reg 15(3)(f)*

36122 In certain circumstances an SpTA withdrawn under DMG 36121 (other than under DMG 36121 **2.4**, **2.5** or **2.6**) may be reinstated on a repeat claim or further change of circumstances.

36123 - 36127

### Recalculation of special transitional addition

36128 The DM should reduce an SpTA on a change of circumstances **only** where

1. both before and after the change, the claimant's only entitlement is to an SpTA (that is neither IS/JSA(IB) nor a TA is in payment) **and**
2. the claimant's income has increased **and**
3. the increase is not because of
  - 3.1 the receipt of, or an increase in, a training allowance **or**
  - 3.2 an increase in CHB due to the special uprating in October 1991.

36129 If all three conditions in DMG 36128 are satisfied the DM should reduce the SpTA by the amount of the increase in the claimant's income<sup>1</sup>.

*1 IS (Trans) Regs, reg 15(2)*

### **Example**

Denise Shaw has an applicable amount of £60 and income of £62. She is not entitled to IS/JSA(IB) or a transitional addition, but has an SpTA of £7.

Her income increases to £63, but there is no other change in her circumstances.

The DM should reduce the SpTA by the amount of the increase in her income (£1) and make a revised award of £6.

36130 - 36136

## **Reinstatement of special transitional addition on a change of circumstances**

36137 Where the claimant was previously entitled to an SpTA which was withdrawn because the claimant was in a RCH, nursing home, residential accommodation or hospital for more than 6 weeks **and**

1. entitlement to IS/JSA(IB) and/or a TA continues **and**
2. on a further change of circumstances DMG 36121 **2.1, 2.2** or **2.3** no longer apply **and**
3. the revision in the applicable amount applied for eight weeks or less **and**
4. the claimant is
  - 4.1 entitled to IS/JSA(IB) **or**
  - 4.2 not entitled only because income exceeds the applicable amount

the DM should award an SpTA at the same rate as before the first change<sup>1</sup>.

**Note:** An SpTA withdrawn under 36121 **2.4, 2.5** or **2.6** cannot be restored under any circumstances.

*1 reg 15(4)(b)*

36138 - 36143

## **Award of special transitional addition on a repeat claim**

36144 Entitlement to a SpTA on a repeat claim depends on the length of the break in entitlement. The maximum break allowed is called the **permitted period**.

## Permitted period

36145 The permitted period<sup>1</sup> starts on the first day that there is no entitlement and is

1. eight weeks **or**
2. twelve weeks if entitlement ended because of remunerative work **and**
  - 2.1 DMG 36107 applied before 7.10.96 **or**
  - 2.2 DMG 36108 applies from 7.10.96 **or**
  - 2.3 DMG 36110 does not apply from 7.10.96.

*1 IS (Trans) Regs, reg 2A & 15*

36146 If a repeat claim is made where

1. previous entitlement ended because the SpTA was withdrawn because the claimant failed to satisfy conditions of entitlement for IS/JSA(IB), other than on income grounds **and**
2. at the time of the repeat claim, the claimant is entitled to IS/JSA(IB) and/or a TA **and**
3. the break in entitlement does not exceed the permitted period

the DM should award an SpTA at the previous rate<sup>1</sup>.

*1 reg 15(4)(a)*

36147 If a repeat claim is made where

1. previous entitlement ended because the SpTA was withdrawn because the claimant was in a RCH, nursing home, residential accommodation or hospital for more than six weeks **and**
2. the conditions in 1. cease to apply within the permitted period

the DM should award an SpTA at the previous rate<sup>1</sup>. An SpTA withdrawn under 36121 **2.4**, **2.5** or **2.6** cannot be restored under any circumstances.

*1 reg 15(4)(b)*

36148 If a repeat claim is made where

1. previous entitlement ended because the SpTA was withdrawn because the SpTA reduced to nil on a change of circumstances **and**
2. income has reduced within the permitted period **and**
3. the reduction in income is sufficient to give entitlement to an SpTA

the DM should award an SpTA at the previous rate<sup>1</sup>.

*1 IS (Trans) Regs, reg 15(4)(c)*

36149

## Uprating of special transitional addition

36150 SpTAs are uprated annually by a percentage, decided as part of the uprating package<sup>1</sup>. To calculate the uprated figure, the DM should apply a percentage increase to the claimant's SpTA in the benefit week before uprating.

*1 SS A Act 92, s 150(7) & 151(6)*

36151 - 36209

## Persons in residential care homes and nursing homes

36210 The following paragraphs give guidance on PETAs and the modifications to the normal TA rules for claimants who live in, or are temporarily absent from, RCHs and nursing homes.

36211 The normal TA rules are modified where the claimant

1. leaves the accommodation (see DMG 36230 et seq)<sup>1</sup> **or**
2. returns to the accommodation following a temporary absence which started after the second benefit week (see DMG 36234 et seq)<sup>2</sup> **or**
3. dies and a surviving partner claims IS (see DMG 36245 et seq)<sup>3</sup>.

*1 IS (Trans) Regs, Sch 3A, reg 13(4); 2 reg 13(8); 3 reg 13(11)*

36212 As well as the modifications described in DMG 36211 which apply to all claimants in RCHs and nursing homes, the normal rules are also modified for such claimants who, before 11.4.88, were entitled to protection under Supp B rules (or would have been but for a temporary absence). These further modifications apply to

1. PETA (which may be awarded only to these claimants) (see DMG 36255 et seq)
2. the reduction of TA when the claimant is also entitled to PETA (see DMG 36262 et seq)
3. the award of TA and PETA following a break in entitlement (see DMG 36270).

36213 - 36229

### Claimant absent from accommodation after the second benefit week

36230 Where after the second benefit week a claimant leaves residential care or nursing home accommodation, whether permanently or temporarily, withdraw any TA and PETA unless<sup>1</sup>

1. a member of the family stays in that accommodation **or**
2. the claimant is expected to return to that accommodation **and**
  - 2.1 is a patient<sup>2</sup> **or**
  - 2.2 a retaining fee is allowed<sup>3</sup>.

*1 IS (Trans) Regs, reg 13(4); 2 IS (Gen) Regs, Sch 7, para 16; 3 Sch 7, para 16*

36231 Any TA which is not withdrawn under DMG 36230 is subject to the normal TA rules (see DMG 36031 - 36150) during the claimant's absence from the accommodation.

This means, for example, that even though a TA is **not** withdrawn under DMG 36230 it could be withdrawn under DMG 36032. Similarly, any PETA which is not withdrawn under DMG 36230 is subject to the normal PETA rules (see DMG 36255 et seq).

36232 - 36233

## **Return to accommodation following such an absence**

36234 When a claimant returns to residential care or nursing home accommodation, and the absence from that accommodation

1. started after the second benefit week **and**
2. did not exceed<sup>1</sup>
  - 2.1 52 weeks, if the claimant is pension age **or**
  - 2.2 13 weeks, if the claimant is under pension age

the DM should award a TA and a PETA, if appropriate. This applies even if the claimant was not entitled to IS/JSA(IB) during the absence<sup>2</sup>.

*1 IS (Trans) Regs, reg 13(9); 2 reg 13(8)*

36235 Where there was entitlement to a TA immediately before the absence, the DM should reinstate the TA at the same amount. But where

1. the claimant returns to the accommodation **and**
2. the applicable amount is more than it was immediately before the absence

the DM should reduce the TA by the difference between the two applicable amounts<sup>1</sup>. See DMG 36239 if the claimant was also entitled to a PETA.

*1 reg 13(8)(a)*

36236 Where there was entitlement to a PETA immediately before the absence, the DM should reinstate the PETA at the same amount. But where

1. the claimant returns to the accommodation **and**
2. the amount allowed for personal expenses is more than the amount allowed immediately before the absence

the DM should reduce the PETA by the difference between these two amounts<sup>1</sup>.

*1 reg 13(8)(b)*

36237 - 36238

36239 If

1. a PETA is reinstated under DMG 36236 **and**
2. before the absence the claimant was also entitled to a TA **and**

3. the claimant's applicable amount is higher on returning to the accommodation than it was before the absence

the TA in payment immediately before the absence should be reduced by the amount of the increase in the claimant's applicable amount **less** any increase in the amount for personal expenses<sup>1</sup>.

*1 IS (Trans) Regs, reg 13(8)(a)*

### **Example**

Mary Walker is living in a nursing home and entitled to a TA of £12 and a PETA of £1.

Her applicable amount, which includes £10 for personal expenses, is £150.

She is temporarily absent from the nursing home for ten weeks and is not entitled to IS, a TA, or a PETA during that period.

When she returns to the nursing home her applicable amount has increased to £155.50, including personal expenses of £10.50.

The DM decides that

1. the claimant's absence has been temporary **and**
2. the amount for personal expenses has increased from £10 immediately before her absence, to £10.50 following her return, an increase of £0.50 **and**
3. the claimant's applicable amount has increased from £150 immediately before her absence, to £155.50 following her return, an increase of £5.50.

The DM awards a PETA of £0.50 (£1 - £0.50) and a TA of £7 (£12 - (£5.50 - £0.50)).

36240 - 36244

## **Death of one member of a couple**

36245 Where both members of a couple are in a RCH or nursing home **and**

1. the claimant
  - 1.1 dies and
  - 1.2 immediately before was entitled to a TA and/or a PETA and
2. the surviving member of the couple
  - 2.1 claims IS/JSA(IB) **and**
  - 2.2 is entitled to IS/JSA(IB), or is not entitled solely on income grounds **and**

- 2.3** continues to live in the same accommodation the couple occupied immediately before the other member's death

the DM should award to the surviving member a TA and/or a PETA of one half the amount payable immediately before the death of the other member<sup>1</sup>.

*1 IS (Trans) Regs, reg 13(11)*

- 36246 There are no special provisions when the partner of a person receiving IS/JSA(IB) dies. In the majority of cases the TA and/or PETA will be unchanged, but the DM should consider whether the guidance at DMG 36050 et seq is relevant.

36247 - 36254

## **Withdrawal of personal expenses transitional addition**

- 36255 Entitlement to a PETA will end if

1. the claimant leaves residential care or nursing home accommodation (except in specified circumstances (see DMG 36230))<sup>1</sup> **or**
2. the claimant no longer satisfies the conditions of entitlement for IS/JSA(IB), other than on income grounds<sup>2</sup> **or**
3. the PETA is reduced to NIL on a change of circumstances or an uprating (see DMG 36259)<sup>3</sup>.

*1 reg 13(4); 2 reg 14(6)(a)(i) & (b)(i); 3 reg 14(6)(a)(ii) & (b)(ii)*

- 36256 In some cases a PETA which has been withdrawn under DMG 36255 may be reinstated if there is a further change of circumstances or a repeat claim.

36257 - 36258

## **Recalculation of personal expenses transitional addition**

- 36259 When benefit is uprated, or there is a change of circumstances, a PETA should be reduced by

1. any increase in the amount of P/Es included in the claimant's applicable amount<sup>1</sup> **or**
2. any increase in the claimant's income where<sup>2</sup>
  - 2.1 before the change or uprating the claimant was entitled only to a PETA **and**

- 2.2** the increase is not attributable to the receipt of, or an increase in, a training allowance.

*1 IS (Gen) Regs, Sch 4, para 13; IS (Trans) Regs, reg 13(3); 2 reg 14(5)*

36260 - 36261

## **Recalculation of transitional addition where claimant also entitled to personal expenses transitional addition**

36262 The normal rules for recalculation of a TA on a change of circumstances or on uprating are modified where

1. before the change or uprating the claimant was entitled to
  - 1.1 IS/JSA(IB) **and**
  - 1.2 a TA **and**
  - 1.3 a PETA **and**
2. the applicable amount increases **and**
3. there is still entitlement to IS/JSA(IB) following the change or uprating.

36263 If DMG 36262 applies, the DM should reduce the TA by

1. the increase in the claimant's applicable amount **less**
2. any increase in the amount included for P/Es<sup>1</sup>.

*1 IS (Trans) Regs, reg 14(1)(a)*

### **Example 1**

Jack Burrow is living in a nursing home and is entitled to a TA of £6 and a PETA of £1 as well as IS.

At an uprating his applicable amount increases by £5.50, which includes £0.50 increase in P/Es.

The DM decides that the TA should be reduced by £5 (the increase in the applicable amount less the increase in P/Es) and awards a revised TA of £1.

The DM also recalculated the PETA as in DMG 36259.

### **Example 2**

Edward Lees is living in a nursing home and is entitled to IS, a TA of £12 and a PETA of £1.

On a change of circumstances his applicable amount increases by £10, but his P/Es are unchanged. The DM decides that the TA should be reduced by the full increase in the applicable amount and awards a revised TA of £2.

36264 - 36269

## **Award of transitional addition and personal expenses transitional addition on repeat claim**

36270 A claimant in a RCH or nursing home may be entitled to a TA or a PETA (or both) following a repeat claim where<sup>1</sup>

1. there was entitlement to protection under Supp B rules in the first benefit week or would have been but for a temporary absence **and**
2. at the end of the previous claim, there was entitlement to IS/JSA(IB) **and**
  - 2.1 a TA (of any amount) **or**
  - 2.2 a PETA (of any amount) **or**
  - 2.3 both **and**
3. there is entitlement to IS/JSA(IB) on the repeat claim (whatever the period between claims) **and**
4. the claimant is still living in a RCH or nursing home (not necessarily the same one).

*1 IS (Trans) Regs, reg 13(10)*

36271 If all the conditions in DMG 36270 are satisfied the DM should award

1. a TA equal to
  - 1.1 the amount, if any, to which the claimant was entitled at the end of the previous claim **less**
  - 1.2 any increase in the applicable amount which would have reduced the TA if the claim had been continuous<sup>1</sup> **and**
2. a PETA equal to
  - 2.1 the amount, if any, to which the claimant was entitled at the end of the previous claim **less**
  - 2.2 any increase in the amount for P/Es which would have reduced the PETA if the claim had been continuous<sup>2</sup>.

*1 reg 13(10) & 14(1)(a); 2 reg 13(3) & (10)*

36272 - 36300

## Applicable amounts - transitional elements in special circumstances

36301 On conversion to IS, certain claimants had no entitlement (or a lesser entitlement) to a TA, SpTA or PETA because

1. they were not entitled to IS from the second benefit week because they had capital over £6,000 due to a beneficial interest in premises they did not occupy **or**
2. their entitlement was revised for a total period of eight weeks or less including the first or second benefit week (or both), because they or a member of their family were temporarily absent from the home and as a result did not receive any TA, SpTA or PETA which would have been payable if no one in their family had been absent at the relevant time.

36302 From 30.5.88, a TE could be included in the applicable amount of claimants falling within DMG 36301<sup>1</sup>. The rules are explained in DMG 36305 et seq (capital cases) and DMG 36315 et seq (temporary absence cases).

*1 IS (Gen) Regs, reg 17(1)(f)*

36303 - 36304

### Capital cases not entitled to IS from 11.4.88

36305 Under Supp B rules, certain claimants with a capital asset represented by a beneficial interest in premises they did not occupy could have that asset disregarded on a temporary or permanent basis. From 11.4.88 some of those claimants were not entitled to IS because that capital asset could no longer be disregarded (even on a temporary basis). As a result their capital exceeded £6000.

36306 From 30.5.88<sup>1</sup> it was possible in certain circumstances to allow the disregard in DMG 36305 cases. Pending the change, the Secretary of State authorized concessionary payments instead of normal IS and, where appropriate, TAs. Also from 30.5.88 a TE could be included in the applicable amount of any claimant who

1. was entitled to Supp B in the first benefit week (see DMG 36016) **and**
2. then received concessionary payments between 11.4.88 and 30.5.88 pending the amendment of the capital rule.

*1 IS (Gen) Regs, Sch 10*

36307 Claimants who fell within DMG 36306 were awarded a TE as part of their applicable amount<sup>1</sup> if they

1. were not entitled to IS in the second benefit week solely because they did not satisfy the capital rule amended from 30.5.88 **and**

2. were not as a result entitled to transitional protection **and**
3. would have been entitled to such protection from 11.4.88 but for their failure to satisfy the capital rule.

*1 IS (Gen) Regs, reg 17(2)*

36308 The TE was the amount of any TA, SpTA or PETA to which the claimant would have been entitled had the capital rule been satisfied. When calculating the TBI in the second benefit week, any concessionary payments made instead of normal IS were taken into account, but **not** payments instead of any TA, SpTA or PETA<sup>1</sup>.

*1 reg 17(3)*

### **Example**

David Hall's former home was up for sale, and its value was for the time being disregarded.

TBI in the first benefit week was £60.

Had David been entitled to IS from 11.4.88 he would have received £42, this being his only benefit income, together with a TA of £18.

Concessionary payments of £42 instead of IS and £18 instead of TA were granted.

On 30.5.88 IS of £60 was awarded, including a TE of £18.

36309

## **Capital cases - revised or superseded and repeat claims**

36310 A TE is subject to revision or supersession where appropriate<sup>1</sup>.

*1 reg 17(2)*

### **Example**

Andrew Russell's home is being repaired, and its value is for the time being disregarded.

His only income is IS of £70, including a TE of £15.

On 13.6.88 the normal element of his applicable amount increases by £6.

The DM should reduce the TE to £9, keeping IS at £70.

36311 Where a repeat claim is made, a TE should be revised or superseded.

### Example

Jessica Hey is taking legal proceedings to obtain possession of her home, and its value is for the time being disregarded.

Her only income is IS of £65, including a TE of £12.

Her entitlement to IS ceases for six weeks from June 20th, and she reclaims IS from August 1st.

The normal element of her applicable amount has increased by £8 by the date of the repeat claim, but her other circumstances are unchanged, and a TE of £4 is awarded.

IS entitlement is £65.

36312 - 36314

## Claimant or member of the family absent around 11.4.88

36315 A claimant (or member of the family) might have been temporarily absent from the home during the first or second benefit week (or both), and as a result might not have received an amount which would have been applicable under the Transitional Regulations if no one had been absent at the relevant time. The Transitional Regulations provide only for people temporarily absent from

1. board and lodging accommodation
2. hostels (as defined by legislation existing at the time)
3. RCHs
4. nursing homes<sup>1</sup>.

From 30.5.88 provisions were made to allow for protection in certain other cases. Pending the change, the Secretary of State authorized concessionary payments instead of TAs. The amendments allow for the inclusion of a TE in the applicable amount of such claimants.

*1 IS (Trans) Regs, reg 12 & 13*

36316 A TE was awarded to a claimant as in DMG 36315 where<sup>1</sup>

1. the absent person was
  - 1.1 a patient **or**
  - 1.2 outside GB to receive medical treatment or to accompany a child or young person receiving medical treatment **or**

- 1.3 in a RCH or nursing home or in residential accommodation **or**
  - 1.4 in the care of an LA under specified legislation **or**
  - 1.5 staying with a person contributing to the maintenance of the absent person **and**
- 2. the accommodation normally occupied was not ordinary board and lodging accommodation, a hostel, a RCH or a nursing home **and**
  - 3. because of the absence the claimant was not entitled to benefit, or had an increase or reduction in Supp B requirements or the IS applicable amount in the first or second benefit week (or both) **and**
  - 4. the total period of revised entitlement did not exceed eight weeks.

*1 IS (Gen) Regs, reg 17(4)*

36317 Where the conditions in DMG 36316 were satisfied a TE was awarded equal to the difference between<sup>1</sup>

- 1. the amount that the first benefit week TBI would have been if Supp B entitlement had been calculated on the basis that no one was absent from the home in that week **and**
- 2. if less, the amount of TBI in the first complete benefit week following the end of the temporary absence, ignoring any concessionary payments already made instead of transitional protection

*1 reg 17(5)*

36318 - 36319

## **Effect on existing transitional amounts**

36320 A TE awarded as in DMG 36316 - 36317 might result in the erosion of an amount previously awarded as a TA or SpTA, because the TE might increase the claimant's applicable amount<sup>1</sup>.

*1 IS (Trans) Regs, reg 14*

### **Example**

In week beginning 28.3.88 Karen Johnson's TBI was £88.

In the first benefit week her son, Daniel, had been in hospital for 13 weeks. Her TBI was £80.

Daniel stays in hospital during the second benefit week, and TBI in that week is £70. The DM awards a TA of £10 to bring total income to £80.

Daniel is discharged home on 9.5.88, and TBI (excluding TA) increases to £78 from that day. The DM reduces the TA to £2, but makes a concessionary payment of £8

to bring the claimant's total income to £88 (the amount that TBI would have been if her son had been at home in the first benefit week).

From 30.5.88 the DM includes a TE of £10 in the applicable amount. This increase in the applicable amount exceeds the TA of £2, which is therefore withdrawn. TBI is now £88.

36321 - 36322

## Temporary absence cases - revised and repeat claims

36323 A TE awarded as in DMG 36316 - 36317 is **not** itself subject to erosion in the normal way. It will remain unchanged for the duration of the claim.

### Example

Janet Rooks is receiving IS of £60, including a TE of £10 awarded from 30.5.88 because she was absent from her normal home around 11.4.88 and does not qualify for any award under the Transitional Regulations.

The normal element of her applicable amount increases by £6 from 27.6.88, but the DM leaves the TE at £10.

IS payable is now £66.

36324 Unless DMG 36330 applies, where a repeat claim is made, a TE awarded as in DMG 36316 - 36317 should be restored at the same level if entitlement to IS/JSA(IB) resumes after a break not exceeding the permitted period<sup>1</sup>. If the break in entitlement is not because of remunerative work, the permitted period is eight weeks<sup>2</sup>.

*1 IS (Gen) Regs, reg 17(6); 2 reg 3A(1)(b)*

### Example

Brian Foster is receiving IS of £55, including a TE of £5 awarded from 30.5.88 because he was absent from his normal home around 11.4.88.

Entitlement ceases for 4 weeks from 4.7.88, and IS is reclaimed from 1.8.88.

The normal element of the claimant's applicable amount has increased by £8, but the DM leaves the TE at £5.

IS payable is now £63.

## IS remunerative work permitted period - before 7.10.96

36325 If the break in entitlement to IS is

1. before 7.10.96 **and**
2. because of remunerative work

the permitted period is twelve weeks<sup>1</sup>, unless DMG 36326 applies

*1 reg 3A(1)(a)*

36326 The permitted period for a break in entitlement to IS as in DMG 36325 is eight weeks<sup>1</sup> if

1. the claimant's applicable amount is reduced because of an actual or notional UB disqualification as a result of the remunerative work ending<sup>2</sup> **or**
2. unless the person working is exempt from UB disqualification because the work was for a trial period<sup>3</sup>
  - 2.1 the remunerative work ended within six weeks of its starting<sup>4</sup> **or**
  - 2.2 the person working was, at any time during the 26 weeks immediately before the remunerative work began<sup>5</sup>
    - 2.2.a in remunerative work **or**
    - 2.2.b in relevant education **or**
    - 2.2.c a student.

*1 IS (Gen) Regs, reg 3A(2); 2 reg 3A(2)(a); 3 reg 3A(3);  
4 reg 3A(2)(b); 5 reg 3A(2)(c)*

### **Example 1**

Sally Cope is entitled to IS including a TE of £3 until 31.3.96.

She starts remunerative work on 1.4.96, but is dismissed from the job on 31.5.96.

She reclaims IS on 3.6.96 and her applicable amount is reduced while the DM's decision on UB disqualification is awaited.

The permitted period is 8 weeks because of the notional UB disqualification.

The break in entitlement to IS is nine weeks.

The TE is not restored.

### **Example 2**

Gordon Milner is entitled to IS including a TE of £7 until 11.8.96.

His wife starts remunerative work on a casual basis on 12.8.96, but the job ends on 6.9.96.

He reclaims IS on 16.9.96.

The permitted period is eight weeks because the job lasted less than 6 weeks and was not for a trial period.

The break in entitlement to IS is five weeks.

The TE of £7 is included in the applicable amount on the repeat claim.

### **Example 3**

Olu Ehiogu is entitled to IS, including a TE of £8, for himself and his wife, who was a student from October 1992 until June 1995.

Entitlement to IS ends on 3.9.95 because his wife starts remunerative work on 4.9.95.

The job finishes on 21.10.95 and Olu reclaims IS on 23.10.95.

The permitted period is eight weeks because his wife was a student during part of the 26 weeks immediately before she started work.

The break in entitlement to IS is seven weeks.

The TE of £8 is included in the applicable amount on the repeat claim.

## **IS remunerative work permitted period - from 7.10.96**

36327 Where

1. entitlement to JSA(IB)/IS ends because of remunerative work **and**
2. the next claim is for IS

the permitted period for the break in entitlement is twelve weeks in all cases<sup>1</sup>.

*1 IS (Gen) Regs, reg 3A*

## **JSA(IB) remunerative work permitted period**

36328 Unless DMG 36329 applies, where

1. entitlement to JSA(IB)/IS ends because of remunerative work **and**
2. the next claim is for JSA(IB)

the permitted period for a break in entitlement is twelve weeks<sup>1</sup>.

*1 JSA Regs, reg 87(7)(a)*

36329 The permitted period for a break in entitlement as in DMG 36328 is eight weeks<sup>1</sup> if

1. JSA is not payable because the claimant
  - 1.1 lost the job through misconduct **or**
  - 1.2 left the job voluntarily without just cause **or**
2. unless the person working is exempt from non-payment of JSA for leaving voluntarily because the work was for a trial period,
  - 2.1 the remunerative work ended within four weeks of its starting **or**

**2.2** the person working was, at any time during the 13 weeks immediately before the remunerative work began

**2.2.a** in remunerative work **or**

**2.2.b** in relevant education **or**

**2.2.c** a student.

*1 JSA Regs, reg 87(7)(b)*

36330 Where a repeat claim is made after a period of employment training or rehabilitation, the claimant should be treated for TE purposes as if entitlement to IS/JSA(IB) had continued throughout the period of training or rehabilitation<sup>1</sup>

*1 reg 17(6A)*

### **Example**

Ian Thomas is receiving IS of £32, including a TE of £5 awarded from 30.5.88 because he was absent from his normal home around 11.4.88.

Entitlement ceases while he attends a government training course for 26 weeks.

A repeat claim is made at the end of the course.

The normal element of the claimant's applicable amount increases by £1 due to an uprating, but the DM leaves the TE at £5.

The period between claims is not relevant.

36331 – 36999

***The content of the examples in this document (including use of imagery) is for illustrative purposes only***