

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

Decision Makers Guide

Volume 4

Amendment 49 – June 2016

1. This letter provides details on Amendment 49; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lg/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 49 affects list of abbreviations, chapters 21 & 23 the changes affect
 - DMG Chapter 21 – clarification that ASE must take place in GB.
 - DMG Chapter 23 – incorporate DMG memo 10/16 concerning uprating and DMG memo 11/16 concerning State Pension consequential and expands the guidance on other housing costs and non-dependant deductions.
4. The last two amendment packages amending Volume 4 were

Amendment 48 [February 2016]

Amendment 47 [October 2015]

5. Using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove**Abbreviations**

LCW – YT (3 pages)

Chapter 21

21571 – 21589 (1 page)

Chapter 23

Conts 23678 – Appendix 11 (2 pages)

23103 – 23120 (2 pages)

23585 – 23591 (1 page)

23612 – 23621 (1 page)

23770 – 23778 (2 pages)

Insert**Abbreviations**

LCW – YT (3 pages)

Chapter 21

21571 – 21589 (1 page)

Chapter 23

Conts 23678 – Appendix 11 (2 pages)

23103 – 23120 (2 pages)

23585 – 23591 (1 page)

23612 – 23621 (1 page)

23770 – 23778 (2 pages)

Appendix 7 (21) 1 Page

LCW	Limited capability for work
LCWA	Limited capability for work assessment
LCWRA	Limited capability for work related activity
LEA	Local Education Authority
LEC	Local Enterprise Council
LEL	Lower Earnings Limit
LETS	Local Exchange Trading System
LPP	Lone Parent Premium
LPRO	Lone Parent run-on
LQPM	Legally Qualified Panel Member
LRP	Liable Relative Payment
LSC	Learning and Skills Council
LT	Linking Term
LTACP	Living Together as Civil Partners
LTAMC	Living Together as Married Couple
LTAHAW	Living Together as Husband And Wife
MA	Maternity Allowance
MAP	Maternity Allowance Period
MB	Maternity Benefit
MDB	Miscellaneous Diseases Benefit
MG	Maternity Grant
MID	Mortgage Interest Direct
MIRO	Mortgage Interest run-on
MP	Member of Parliament
MPP	Maternity Pay Period
MSC	Maximum Savings Credit
MSP	Member of the Scottish Parliament
NASS	National Asylum Support Service
NCET	National Council for Education and Training
NCIP	Non-Contributory Invalidation Pension
ND	New Deal
NDLP	New Deal for Lone Parents
NDP	New Deal for Partners
NDYP	New Deal for Young People
ND18-24	New Deal for 18-24 year olds
ND25+	New Deal for claimants aged 25 years and over
NHS	National Health Service
NI	National Insurance
NINO	National Insurance Number
NMW	National Minimum Wage

NRP	Non-Resident Parent
NVQ	National Vocational Qualification
OOT	Own Occupation Test
OPB	One Parent Benefit
PA	Personal Adviser
PAYE	Pay As You Earn
PB and MDB	Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits scheme
PCA	Personal Capability Assessment
PD	Prescribed Disease
PETA	Personal Expenses Transitional Addition
PFA	Person(s) From Abroad
PIE	Period of Interruption of Employment
PILON	Pay In Lieu Of Notice
PILOR	Pay In Lieu Of Remuneration
PIP	Personal Independence Payment
PIW	Period of Incapacity for Work
PLCW	Period of limited capability for work
PLCWA	Period of limited capability for work assessment
PO	Post Office
POAOB	Payment on Account of Benefit
POA	Power of Attorney
PP	Pensioner Premium
PR	Preserved Right
PSIC	Person Subject to Immigration Control
P/T	Part-Time
PW	Pay-Week
PWC	Person With Care
PWHL	Permitted Work Higher Limit
PWHLs	Permitted Work Higher Limit subsequent period
PWK	Permitted Work
PWLL	Permitted Work Lower Limit
PWP	Permitted Work Period
QB	Qualifying Benefit
QBP	Qualifying Benefit or Pension
QD	Qualifying Days
QEF	Qualifying earnings factor
QI	Qualifying Income
QP	Qualifying Period

QRW	Qualifying remunerative work
QW	Qualifying Week
QWfl	Quarterly Work-focused interview
RA	Retirement Allowance
RBD	Reduced Benefit Direction
RCH	Residential Care Home
REA	Reduced Earnings Allowance
Reg(s)	Regulation(s)
Res A	Residential Allowance
RISWR	Redundant Iron and Steel Employees re-adaptation scheme
RMPS	Redundant Mineworkers Payment scheme
RP	Retirement Pension
RQC	Relevant Qualifying Condition
RVU	Relationship Validation Unit
S	Section (of an Act)
S2P	State Second Pension
SAP	Shared Additional Pension
SAYE	Save As You Earn
SB	Sickness Benefit
SC	Savings Credit
Sch	Schedule (as in an Act)
SCT	Savings Credit Threshold
SDA	Severe Disablement Allowance
SDM	Sector Decision Maker
SDP	Severe Disability Premium
S/E	Self-Employed
Sec	Section (of an Act)
SED	Scottish Education Department
SERPS	State Earnings Related Pension Scheme
Sev DP	Severely Disabled Person
SF	Social Fund
SFFP	Social Fund Funeral Payment(s)
SFO	Social Fund Officer
SHA	Special Hardship Allowance
SI	Statutory Instrument
SIR	Standard Interest Rate
SJP	Supervised Jobsearch Pilot Scheme
SMG	Standard Minimum Guarantee
SMP	Statutory Maternity Pay
SP	State Pensions

SPC	State Pension Credit
SpTA	Special Transitional Addition
SPW	Supported Permitted Work
SRPS	Shipbuilding Redundancy Payment Scheme
SS	Social Security
SS benefits	Benefits payable under SS(CB) Act 92
SSMG	Sure Start Maternity Grant
SSP	Statutory Sick Pay
STCP	Skills Training Conditionality Pilot
Supp B	Supplementary Benefit
SVQ	Scottish Vocational Qualification
TA	Transitional Addition
TAW	Temporary Allowance for Widow(ers)
TBI	Total Benefit Income
TD	Trade Dispute
TE	Transitional Element
TEC	Training and Enterprise Council
TFEU	Treaty on the Functioning of the European Union
TS	Tribunals Service
TU	Trade Union
UB	Unemployment Benefit
UC	Universal Credit
UCP	Urgent Case Payment
UEL	Upper Earnings Limit
UK	United Kingdom
US	Unemployability Supplement
UT	Upper Tribunal
VAT	Value Added Tax
VSO	Voluntary Sector Option of New Deal for young people
WA	Widow's Allowance
WB	Widow's Benefit
WBLA	Work Based Learning for Adults
WBLfYP	Work Based Learning for Young People
WBTfA	Work Based Training for Adults
WBTfYP	Work Based Training for Young People
WC	Workmen's Compensation
WC(S)	The Workmen's Compensation (Supplementation) Scheme

WC (Supp)	Workmen's Compensation (supplementation) scheme
WCA	Work capability assessment
WDisP	War Disablement Pension
WFHRA	Work focused health related assessment
Wfi	Work-focused Interview
WFP	Winter Fuel Payment
WFTC	Working Families Tax Credit
WMA	Widowed Mother's Allowance
WMA(C)	WMA payable where late husband entitled to Cat C retirement pension
WP	Widow's Pension
Wp	Work programme
WPA	Widowed Parent's Allowance
WP(C)	Widow's Pension payable where late husband entitled to Cat C retirement Pension
WPT	Widow's Payment
WRAC	Work-related activity component
WRAG	Work-related activity group
WTB	Work and training beneficiary(ies)
WTC	Working Tax Credit
WtWB	Welfare to Work Beneficiary
WWP	War Widow's Pension/War Widower's Pension
YT	Youth Training

Actively seeking employment

General

21571 Claimants are not entitled to JSA unless in any week

1. they are or can be treated as ASE¹ **or**
2. they are the member of a joint claim to JSA couple exempt from having to ASE².

Hardship payments may be made in certain circumstances.

1 JS Act 95, s 1(2)(c) & 1(2B)(b); 2 JSA Regs, reg 3D(1)(c) & Sch A1

21572 To be ASE claimants must, in that week, take those steps that they can reasonably be expected to take to give them the best chance of getting employment¹ (see DMG 21616 - 21628).

Note: Whilst it is open to a claimant to seek employment abroad, to satisfy the ASE requirements the claimant **must** take steps to ASE in Great Britain².

1 JS Act 95, s 7(1); 2 GP v SSWP (JSA) [2015] UKUT 0476 (AAC)

21573 Details of what the claimant has agreed to do to satisfy the ASE test will be in the claimant's JSAg. But claimants must in each week take the steps that give them their best chance of getting employment and this might not always be the same as the steps agreed in the JSAg.

21574 DMs should decide

1. what steps it is reasonable for claimants to be expected to take that offer them their best chance of getting employment **and**
2. whether the claimant took those steps **and**
3. whether the claimant is to be treated as ASE.

Period from the date of claim

21575 Where the date of claim is not the first day of a week, claimants are ASE for the period from the date of claim to the end of the first week if they take, in that period, those steps that they can reasonably be expected to take to give them the best chance of getting employment (see DMG 21616 - 21628)¹. This does not apply where claimants were previously incapable of work and are treated as ASE in accordance with DMG 21714, or are persons recently discharged from detention and treated as ASE in accordance with DMG 21722.

1 JSA Regs, reg 18A(1) & (2)

21576 The steps it is reasonable for a claimant to take include those listed at DMG 21606¹. The DM should follow the guidance at DMG 21607 - 21611. The DM should consider all the circumstances of the case, including the points at DMG 21634², and follow the guidance at DMG 21638 - 21666.

1 JSA Regs, reg 18A(2)(a); 2 reg 18A(2)(b)

21577

Extent of DM's determination where other issues arise

21578 A DM may be asked to determine

1. whether a claimant is ASE **and**
2. another question, normally availability.

The DM should determine both issues.

21579 - 21583

Relationship to availability and capability

21584 ASE depends on claimants' activity in looking for work. Availability for employment depends largely on claimants' intentions and attitude towards taking work.

Claimants may be able to satisfy one of these but not the other. For example

1. there may be no doubt that claimants are able and willing to take employment at once if they

1.1 are offered work **and**

1.2 have taken some steps to draw their availability to the attention of those who may be able to help them find employment

but the extent of their efforts to find work may not satisfy the ASE test

2. although claimants are taking the steps that are reasonable for a person to be expected to take and satisfy the ASE test it may be clear that they are not available to start work

2.1 at once **or**

2.2 with 24 hours' notice if DMG 21276 applies **or**

2.3 with 48 hours' notice if DMG 21273 applies

for example due to some short-term commitment they are unable or unwilling to leave.

21585 Claimants may be treated, for a particular set of circumstances, as

1. ASE but not available for employment **or**
2. available for employment but not ASE.

21586 Exceptionally when considering ASE a doubt may arise as to whether the claimant is capable of work. Any other doubt to entitlement should also be resolved.

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Mobility component of DLA not payable

- 23103 Mobility component of DLA or PIP is not payable for any period that the person
1. is provided with an invalid carriage or other vehicle by the NHS in GB¹, unless
 - 1.1 the person²
 - 1.1.a has notified the DM that the invalid carriage or other vehicle is no longer required **and**
 - 1.1.b has signed a statement saying that the invalid carriage or other vehicle will not be used before it is collected **or**
 - 1.2 the DM has issued a certificate because the person³
 - 1.2.a has, or intends to, take out a hire purchase agreement or buy a car **and**
 - 1.2.b intends to keep the car for at least six months **and**
 - 1.2.c intends to learn to drive the car **and**
 - 1.2.d will use, in whole or in part, the mobility component of DLA towards meeting the expense of acquiring the car **or**
 2. is in receipt of⁴
 - 2.1 a grant towards the costs of running a private car **or**
 - 2.2 Mobility Supplement **or**
 - 2.3 a payment paid out of public funds similar to **2.1** or **2.2**.

Note: If any payment in DMG 23103 **2.** is less than the amount of the mobility component of DLA, the mobility component will be paid less the amount of the payment received⁵.

1 SS (C&P) Regs, reg 42(1)(a); 2 reg 42(2); 3 reg 42(4); 4 reg 42(1)(b); 5 reg 42(3)

Pension age

- 23104 Pension age is
1. 65 years for a man **or**
 2. 60 years for a woman born before 6.4.50 **or**
 3. the date in Chapter 20, Appendix 1, for a woman born between 6.4.50 and 5.4.55 **or**
 4. 65 years for a woman born on or after 6.4.55¹.

1 JSA Regs, reg 3(1); SS CB Act 92, s 122(1); Pensions Act 95, Sch 4

23105 - 23108

IS

Lower rate

23109 The lower rate HPP is not applicable under IS.

Higher rate

23110 Higher rate HPP is paid to a claimant who is a member of a couple or polygamous marriage where

1. a partner is aged 80 or over¹ **or**
2. one or more of the partners is not less than the qualifying age for SPC but less than 80 and any partner
 - 2.1 is in receipt of any of the following benefits
 - 2.1.a "AA" (see DMG 23071) **or**
 - 2.1.b DLA **or**
 - 2.1.c the disability element, or the severe disability element, of WTC **or**
 - 2.1.d Mobility supplement (see DMG 23074) **or**
 - 2.1.e IBLT (including IBST treated as IBLT, see DMG 23129) **or**
 - 2.1.f SDA **or**
 - 2.1.g PIP **or**
 - 2.1.h AFIP **or**
 - 2.2 is provided with, or a grant towards, an invalid carriage by the NHS² **or**
 - 2.3 is certified as severely sight impaired or blind by a consultant ophthalmologist³ (see DMG 23072) **or**
3. any partner was in receipt of IBLT which ceased because RP⁴ became payable if
 - 3.1 that partner is still alive **and**
 - 3.2 HPP or DP was applicable to the claimant or partner before IBLT ceased⁵ (but see DMG 23111).

Note: In DMG 23110 2., any IBLT or SDA paid to a partner must be paid because of the partner's own incapacity or disability (see DMG 23055).

1 IS (Gen) Regs, Sch 2, para 10(1)(a); 2 IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; Sch 2, para 12(1)(a)(ii); 3 IS (Gen) Regs, Sch 2, para 12(1)(a)(iii); 4 Pension Act 2014, Pt 1; 5 Sch 2, para 12(1)(c)

Example

Jon is aged 57 and married to Maggie. Maggie is aged 59 and in receipt of IBLT. Jon claims JSA on 23.10.03. He is entitled to JSA(IB) which includes DP. Maggie is aged

60 on 12.12.03 and she is entitled to RP. From that date Jon is entitled to HPP.
Maggie dies on 25.3.04. From that date Jon is not entitled to HPP.

IVP ceased because RP became payable

- 23111 HPP continues to be paid to a claimant who was getting HPP for any period from 16.2.95 - 12.4.95 if
1. the partner was in receipt of IVP which ceased because RP¹ became payable **and**
 2. since then the claimant has remained continuously entitled to IS or JSA(IB)² **and**
 3. HPP or DP was applicable to the claimant or partner before IVP ceased **and**
 4. the IVP was payable to the partner and that partner is still alive³.

1 Pensions Act 2014, Pt 1; 2 IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; 3 DWA & IS (Gen) Amdt Regs 95, reg 24 & 1

23112

Breaks in entitlement to JSA(IB)

JSA(IB) not in payment immediately before 60th birthday

- 23113 For the purpose of DMG 23101 **5.2**, any break in entitlement to JSA(IB), for a period which
1. does not exceed eight weeks **and**
 2. includes the claimant's 60th birthday
- should be ignored¹.

1 JSA Regs, Sch 1, para 12(2)(b) and 20F(2)(b); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Welfare to work beneficiaries

- 23114 Entitlement to IS or JSA(IB) may end when a claimant or their partner moves into work following a period of incapacity. This is because
1. their income may exceed the applicable amount **or**
 2. the person may be in remunerative work **or**
 3. the claimant may no longer be in a prescribed category of person (IS only).
- 23115 But there are special linking rules to ensure that the benefit position of such a person is protected if they return to benefit as incapacitated. To qualify for the special linking rules a person has to be a WtWB¹ and again become incapable of work² (see DMG Chapter 13).

1 IS (Gen) Regs, reg 2(1); JSA Regs, reg 1(3); SS (IW) Regs, reg 13A(1); 2 SS CB Act 92, Part XIII

23116 From 5.10.98, HPP can be awarded at the appropriate rate (see DMG 23101 5.,) if¹

1. the claimant (for IS) or partner (for IS or JSA(IB)) is a WtWB **and**
2. the claimant was entitled, or was treated as being entitled, to either IS or JSA(IB) **and**
3. DP was payable for a benefit week within 52 weeks of reaching age 60 **and**
4. the claimant has remained continuously entitled to JSA(IB) since reaching that age.

1 JSA Regs, Sch 1, para 12(1)(a)(ii) & (3); para 20F(1)(b) & 20H(2)

23117 Where the claimant or partner for JSA(IB) is a WtWB, any break in entitlement to JSA(IB), for a period which

1. does not exceed 104 weeks **and**
2. includes the claimant's 60th birthday

should be ignored¹.

1 JSA Regs, para 12(2)(b) & (3); para 20F(2)(b) & (3)

Reclaim within eight weeks

23118 Where a claimant

1. has qualified for HPP **and**
2. stops being entitled to JSA(IB) or IS for a period of eight weeks or less

HPP should be reinstated when JSA(IB) or IS becomes payable¹.

*1 JSA Regs, para 12(2)(a) and 20F(2)(a); IS (Gen) Regs, para 10(3)(a) & 12(4);
IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32*

Example

Ian is single and is entitled to JSA(IB) which includes a HPP. He goes to Cyprus for a holiday on 19 October and JSA(IB) is paid to 18 October. Ian reclaims JSA(IB) on 11 November. He is entitled to HPP because the break in entitlement was for a period of eight weeks or less.

23119 - 23120

Loans for repairs and improvements

23585 The rules for allowing interest on loans for repairs and improvements have changed in the past. Previous rules may still apply to a claimant if the date of claim is before 2.10.95. This will depend on

1. when the current claim was made **and**
2. when the loan was taken out **and**
3. when the DM made the decision **and**
4. if the claimant has remained continuously in receipt of IS or JSA(IB) since the start of the claim.

Guidance on the rules that applied before 2.5.94 and from 2.5.94 to 2.10.95 is at Appendix 4 to this Chapter.

23586 Any loan, or any part of a secured or unsecured loan, taken out and used within six months of the date of receipt, or such further period as is reasonable in the circumstances, to pay

1. for repairs or improvements to the home **or**
2. service charges for repairs and improvements to the home **or**
3. off a loan to the amount which would have been allowable under **1.** or **2.**

will be allowable, provided that the repairs and improvements are allowable¹.

Note 1: The loan will only become eligible after the work has been paid for or completed.

Note 2: Each of the 3 measures listed above can be treated as having the same purpose².

1 JSA Regs, Sch 2, para 15(1); IS (Gen) Regs, Sch 3, para 16(1); 2 R(IS) 5/06

23587 Where only part of a loan has been used for a purpose as in DMG 23586, only that portion of the loan that is applied for that purpose can qualify¹.

1 JSA Regs, Sch 2, para 15(3); IS (Gen) Regs, Sch 3, para 16(3)

23588 For interest to be payable on loans as in DMG 23586, the

1. purpose for which the loan is

1.1 taken out **and**

1.2 used

must be the same. A loan taken out for some other purpose which is used instead for the improvement of the home, will not qualify. Make enquiries of the lender if the circumstances are unclear **and**

2. loan must be in respect of the dwelling occupied as the home¹. That is the dwelling currently occupied. Interest is no longer payable if the claimant changes address to another property.

1 R(IS) 5/96

Example 1

Harriet takes out a loan for repairs and improvements to her home, but does not use it for that purpose. The money is paid into a business account held by Harriet's son and his partner. The business account is heavily overdrawn and three days later again becomes overdrawn. The business then goes into liquidation and there is no prospect of the money being repaid to Harriet. The DM determines that interest on the loan cannot be allowed. The loan was taken out for repairs and improvements but it cannot be used for that purpose within a reasonable period of time.

Example 2

Wilford wants to buy his home with the help of a mortgage from a finance company. The property needs a lot of attention and a mortgage is given on the understanding that Wilford will do all the necessary work. But he fails to do so and the property gets worse. It is in such a bad state of repair that the LA threatens to condemn it. Without asking Wilford the finance company carries out building work on the property to remedy the serious defects. The cost of the repairs are then added to the balance outstanding on Wilford's mortgage account. The DM determines that the cost of the repairs are not allowable. Wilford did not take out a loan, did not receive any loan money and did not use such money for repairs and improvements.

Example 3

Vincenzo takes out a loan for repairs and improvements to his home. Interest on the loan is included as a housing cost in his IS award. Vincenzo then sells that home and moves to a new one. The DM determines that interest on the loan can no longer be allowed as from the date that Vincenzo changes address. This is because Vincenzo no longer occupies the house to which the improvements were made.

23589 - 23590

Meaning of repairs and improvements

23591 Repairs and improvements are any of a list of measures done to **maintain the fitness of the home for human habitation**, or where the home is part of a building, the fitness of any part of that building¹. Those measures are

1. provision of a bath, shower, wash basin, sink or lavatory and necessary associated plumbing, including hot water not connected to a central heating system

5. tenancies or licences of Crown tenants (see DMG 23619)
6. tents and their sites (see DMG 23621).

1 JSA Regs, Sch 2, para 16(1); IS (Gen) Regs, Sch 3, para 17(1)

Long tenancies

- 23612 Rents and ground rents, should be allowed where payments are connected to long tenancies¹.

1 JSA Regs, Sch 2, para 16(1)(a); IS (Gen) Regs, Sch 3, para 17(1)(a)

Service charges

- 23613 Charges should be allowed where they are¹

1. not eligible to be met by HB² **and**
2. payable as a condition of occupancy **and**
3. for
 - 3.1 the home **or**
 - 3.2 the building in which the home is situated **or**
 - 3.3 common areas for a group of homes **and**
4. for services provided by a landlord, or the agent of a landlord.

Note 1: Guidance on the amount of benefit allowed as a housing cost service charge for leasehold residents where their accommodation is modernised under the Decent Homes initiative is at appendix 11

Note 2: In shared ownership schemes (other than co-ownership) all service charges are eligible to be met by HB and are therefore not eligible under this provision.

1 JSA Regs, Sch 2, para 16(1)(b); IS (Gen) Regs, Sch 3, para 17(1)(b);

2 JSA Regs, Sch 2, para 4; IS (Gen) Regs, Sch 3, para 4, R(IS) 4/92

23614 - 23616

Rent charges

- 23617 Rent charges, including chief rents, should be allowed as other eligible housing costs¹.

1 JSA Regs, Sch 2, para 16(1)(c); IS (Gen) Regs, Sch 3, para 17(1)(c)

Co-ownership schemes

- 23618 Payments under co-ownership schemes should be treated as other eligible housing costs¹, payable from the start of the claim (see DMG 23662). Payments made under any other type of shared ownership scheme should be considered in the normal way but only in respect of the portion of the property owned.

1 JSA Regs, Sch 2, para 16(1)(d); IS (Gen) Regs, Sch 3, para 17(1)(d)

Example

Haydn rents his home through a housing association who are letting the property to Haydn under a co-ownership scheme. If he leaves the scheme, Haydn will receive a percentage of the value of the property. He has to make payments under the co-ownership scheme, for rent, ground rent and service charges. The payments under the co-ownership scheme are allowed as other eligible housing costs and are paid from the start of his claim (see DMG 23662).

Crown tenants

- 23619 Payments under or relating to the tenancy or licence of a Crown tenant should be allowed as eligible housing costs¹.

1 JSA Regs, Sch 2, para 16(1)(e); IS (Gen) Regs, Sch 3, para 17(1)(e)

Reduction for water charges

- 23620 In England and Wales, payments made by Crown tenants may include an amount for water charges. In such a case, the amount to be allowed as eligible housing costs should be reduced¹

1. where the amount payable for water charges is known, by that amount² **or**
2. in any other case, by the amount which would be the likely weekly water charge had the property not been occupied by a Crown tenant³.

1 JSA Regs, Sch 2, para 16(5); IS (Gen) Regs, Sch 3, para 16(5); 2 JSA Regs, Sch 2, para 16(5)(a); IS (Gen) Regs, Sch 3, para 17(5)(a); 3 JSA Regs, Sch 2, para 16(5)(b); IS (Gen) Regs, Sch 3, para 17(5)(b)

Tents

- 23621 Where tents¹ are considered to be accommodation (see DMG 24158) housing costs should be allowed for the

1. tents **and**
2. sites on which the tents stand.

1 JSA Regs, Sch 2, para 16(1)(f); IS (Gen) Regs, Sch 3, para 17(1)(f)

1. number of joint occupiers **and**
2. part of the housing costs for which they are each responsible¹.

Note 1: All members of a couple or polygamous marriage should be regarded as one joint occupier.

Note 2: If a joint owner does not actually occupy the dwelling, then the remaining owner would be liable for the full non-dependant deduction.

1 JSA Regs, Sch 2, para 17(5); IS (Gen) Regs, Sch 3, para 18(5)

Non-dependant deduction not appropriate

23770 Deductions should not be made if

1. the claimant or any partner is¹
 - 1.1 blind or treated as blind for the purpose of entitlement to HPP and DP **or**
 - 1.2 receiving for themselves
 - 1.2.a "AA" **or**
 - 1.2.b the care component of DLA **or**
 - 1.2.c the daily living component of PIP **or**
 - 1.2.d AFIP
2. non-dependants are²
 - 2.1 living with the claimant but the dwelling normally occupied as the home is elsewhere **or**
 - 2.2 in receipt of a training allowance in connection with a youth training scheme³ **or**
 - 2.3 F/T students
 - 2.3.a in a period of study **or**
 - 2.3.b not in remunerative work during the recognized summer vacation relevant to their course **or**
 - 2.4 under 25 and in receipt of JSA(IB) or IS⁴ **or**
 - 2.5 under 25 and in receipt of an award of ESA(IR) which does not include a component⁵.
 - 2.5 people for whom claimants have a deduction made in the calculation of any rent rebates or allowances **or**
 - 2.6 people who jointly occupy the claimant's home and are
 - 2.6.a co-owners with the claimant or the claimant's partner **or**

- 2.6.b** jointly liable with the claimant or partner to make payments to a landlord
- regardless of when the co-ownership or joint liability started **or**
- 2.7** not living with the claimant because they
 - 2.7.a** have been patients for more than 52 weeks (see DMG Chapter 24) **or**
 - 2.7.b** are prisoners (see DMG Chapter 24).
- 2.8** in receipt of SPC.
- 2.9** is entitled to UC **and**
 - 2.9.a** is aged less than 25 **and**
 - 2.9.b** does not have any earned income⁶

1 JSA Regs, Sch 2, para 17(6); IS (Gen) Regs, Sch 3, para 18(6); 2 JSA Regs, Sch 2, para 17(7); IS (Gen) Regs, Sch 3, para 18(7); 3 E & T Act 73, s 2; Enterprise & New Towns (Scotland) Act 1990, s 2; 4 JSA Regs, Sch 2, para 18(1)(c); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; 5 IS (Gen) Regs, Sch 3, para 18(7)(1) :6 JSA Regs, Sch 2 para 17(j); IS Regs, Sch 3 para 18(j);

Note 1: For non-dependant purposes in calculating a period of 52 weeks as a patient, any two or more distinct periods separated by one or more intervals each not exceeding 28 days shall be treated as a single period.

Note 2: Where a person under **1.2** has been an inpatient for a sufficient period of time they will no longer be receiving AA or DLA and as such the non-dependant will no longer be exempt from attracting a non-dependant deduction.

Deduction appropriate – UC non-dependants

23771 Where a non-dependant is entitled to UC and is

1. aged 25 or over **or**
2. aged less than 25 and has earned income

a deduction at the rate described in Appendix 7 will be appropriate.

Participation in new deal for young people

23772 If a non-dependant goes on to NDYP a deduction from allowable housing costs should be considered as normal.

23773 - 23774

Calculation of a non-dependant's gross weekly income

23775 When calculating the gross weekly income of a non-dependant disregard¹ any

1. AA
2. DLA
3. payments, including payments in kind (see DMG Chapter 28), made under, or derived from
 - 3.1 the Macfarlane Trust
 - 3.2 the Macfarlane (Special Payments) Trust
 - 3.3 the Macfarlane (Special Payments) (No. 2) Trust
 - 3.4 the Fund
 - 3.5 the Eileen Trust
 - 3.6 the Independent Living Fund (2006) (but see **note**)
 - 3.7 MFET Limited
 - 3.8 the Skipton Fund
 - 3.9 the Caxton Foundation.
4. PIP
5. AFIP

Note 1: The Independent Living Fund (2006) closed on 30.6.15 with some funding responsibilities transferring to LA's in England, the Welsh Independent Living Grant in Wales and the Independent Living Fund Scotland for Northern Ireland and Scotland. Please contact DMA Leeds for advice if a claimant receives funding from any of these replacement schemes.

1 JSA Regs, Sch 2, para 17(8); IS (Gen) Regs, Sch 3, para 18(8)

23776 - 23778

2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1 Less than £129.00 £14.55

2.2 £129.00 to £188.99 £33.40

2.3 £189.00 to £245.99 £45.85

2.4 £246.00 to £327.99 £75.05

2.5 £328.00 to £407.99 £85.45

2.6 £408.00 or more £93.80

3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.55.

Rates from 11.4.16

- 21 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £94.50
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1 Less than £133.00 £14.65

2.2 £133.00 to £194.99 £33.65

2.3 £195.00 to £252.99 £46.20

2.4 £253.00 to £337.99 £75.60

2.5 £338.00 to £419.99 £86.10

2.6 £420.00 or more £94.50

3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.65.

