

Chapter 25 - Income (General)

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Chapter 25 - Income (General)

Introduction

General rules

Meaning of claimant

25001 Claimant means¹ either

1. one person who claims JSA or IS **or**
2. in the case of a joint claim for JSA
 - 2.1 the couple **or**
 - 2.2 each member of the couple, as the context requires.

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

The calculation and treatment of income

25002 This Chapter deals with the calculation and treatment of various types of income and explains

1. how to treat the income of other members of the claimant's family - see DMG 25007 et seq
2. how to decide the period over which an income should be taken into account - see DMG 25031 et seq
3. how to calculate the weekly amount of an income - see DMG 25063 et seq
4. the special rules for modifying the amount taken into account - see DMG 25081 et seq.

25003 Other Chapters deal with other aspects of income, including

1. which incomes are fully or partly disregarded - see DMG Chapter 28
2. when to treat capital as income - see DMG Chapter 28 (for income treated as capital see DMG Chapter 29)
3. when to treat claimants as possessing income they do not possess (known as notional income) - see DMG Chapter 28

4. the treatment of various types of income, including
 - 4.1 earnings of employed earners - see DMG Chapter 26
 - 4.2 earnings from self-employment - see DMG Chapter 27
 - 4.3 income other than earnings - see DMG Chapter 28
 - 4.4 liable relative payments - see DMG Chapter 28
 - 4.5 earnings of share fishermen - see DMG Chapter 27
 - 4.6 income of young claimants and young partners - see DMG, Chapter 30
 - 4.7 how to treat income if the claimant or any member of the claimant's family is involved in a TD - see DMG Chapter 32
 - 4.8 student's income - see DMG Chapter 30
 - 4.9 how to treat income when calculating part weeks - see DMG Chapter 33
 - 4.10 income in urgent cases - see DMG Chapter 31.

Income - JSA(Cont)

25004 The DM should follow the guidance in this Chapter when determining the amount of a claimant's own earnings in a claim for JSA(Cont). The guidance on other income, and the treatment of income of the members of the claimant's family does not apply to a claim for JSA(Cont).

Note: For guidance on the treatment of occupational and personal pensions in JSA(Cont) see DMG Chapter 23.

25005 - 25006

Income of the claimant's family - JSA(IB) or IS

25007 **[See DMG Memo JSA/IS 64]** In a claim for JSA(IB) or IS, the DM should calculate the income of

1. the claimant's partner **and**
2. a child or young person who is a member of the claimant's family

in the same way as for the claimant¹. This income should then be treated as the claimant's income². However DMs should consider if the circumstances in DMG 25008 or DMG 25009 applies.

Note: The DM should also consider the special rules on the income of a child or young person (see DMG Chapter 28).

1 JSA Regs, reg 88(1); reg 88ZA; IS (Gen) Regs, reg 23(1); 2 JS Act, s 13(2); SS CB Act 92, s 136(1)

Income of a joint-claim couple - JSA(IB)

25008 To calculate the income of a joint-claim couple, the DM should¹

1. determine the income of each member of the joint-claim couple **and**
2. add together the amount of income calculated for each member.

1 JSA Regs, reg 88ZA(1)

Income of a couple when one member is aged less than 18

25009 Special rules apply¹ when

1. at least one member of a couple is aged less than 18 (for IS or JSA(IB)) **or**
2. one member only of a joint-claim couple is aged less than 18 (JSA(IB) only) **and**
3. certain conditions determine the couple's applicable amount².

These allow some income of a claimant's partner or member of a joint-claim couple to be ignored when calculating income.

1 Reg 88(3) or reg 88ZA(2); IS (Gen) Regs, reg 23(4);

2 JSA Regs, Sch 1, paras 1(3)(b), (c), (g) or (h); IS (Gen) Regs, Sch 2, paras 1(3)(b), (c), (f) or (g)

Note: DMG Chapter 30 gives further guidance about applicable amounts and the treatment of resources in these circumstances.

Polygamous marriage or relationship

25010 **[See DMG Memo JSA/IS 64]** If a claimant or partner is married polygamously to two or more members of the household, the income of

1. each of the members **and**
2. any child or young person who is a member of their family

should be treated as the claimant's income, or in the case of a joint-claim couple the couple's income, and should be calculated in the normal way¹.

Note: In certain circumstances special rules apply² to the income of a member of a polygamous marriage who is a partner aged less than 18.

1 JSA Regs, reg 88(4) & reg 88ZA(3); IS (Gen) Regs, reg 23(3); 2 JSA Regs, reg 88(5); IS (Gen) Regs, reg 23(5)

25011 In a polygamous relationship, that is, where there is no marriage, the claimant cannot be treated as LTAMC with any other member of that relationship. The DM should treat each member of the relationship as a single claimant or, if appropriate, as a lone parent. Their income should be calculated accordingly.

Disregard of fractions

25012 Where the calculation of income results in a fraction of a penny, the amount should be rounded to a penny, either up or down, whichever is to the claimant's advantage¹.

Note: If deciding the amount of an income includes more than one calculation, each fraction should be rounded to the claimant's advantage.

1 JSA Regs, reg 92; IS (Gen) Regs, reg 27

Calculating entitlement to JSA(IB) or IS

25013 The amount of JSA(IB) or IS a claimant is entitled to is, if there is

1. no income, the applicable amount **or**
2. income, the difference between the income and the applicable amount¹.

Note: If a JSA claimant satisfies the conditions for JSA(Cont) and JSA(IB) see DMG Chapter 23 to decide the amount payable.

1 JS Act 95, s 3(1)(a) & 4(3); SS CB Act 92, s 124(1)(b) & 124(4)

25014 When calculating whether a claimant is entitled¹, the DM should

1. calculate the weekly amount of income following the guidance in this part **and**
2. then add any tariff income from capital.

1 JSA Regs, reg 93; IS (Gen) Regs, reg 28

25015 If the claimant's income in the benefit week is more than the weekly applicable amount, the claimant is not entitled to JSA(IB) or IS.

Note: If the date of claim is not the first day of the benefit week, the DM does **not** have to consider the special rules for calculating JSA(IB) or IS for a part week. Because the claimant is not entitled, nothing is payable.

25016 - 25030

Period over which income is taken into account

Calculating the period

- 25031 To determine the period over which any income other than income from self-employment is taken into account the DM needs to establish
1. the date of claim
 2. the first day of the claimant's benefit week (see DMG 25052 - 25054)
 3. the date on which the income is due to be paid (see DMG 25034 et seq)
 4. the date on which the income is treated as paid (see DMG 25043 et seq) **and**
 5. **either**¹
 - 5.1 the period for which the payment is made **or**
 - 5.2 the amount of
 - 5.2.a JSA or IS that would be payable without the income **and**
 - 5.2.b any disregard the DM would normally make on the weekly amount of the income.

See DMG Chapter 26 on earnings disregards and DMG Chapter 28 on other income with partial disregards.

Note 1: If the income is a payment of earnings when employment ends see DMG 25062 where different kinds of earnings are received for overlapping periods, and DMG Chapter 26 for the period over which the payment is taken into account.

Note 2: The guidance in DMG 25034 - 25087 does not apply to income from self-employment.

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

25032 - 25033

Date on which income is due to be paid

25034 To determine the period over which income should be taken into account, the DM needs information on the date a payment is due to be paid. This may be different from the date a payment is actually made or received. But income is often paid on the date it is due.

25035 When deciding the date a payment is due the DM should consider that

1. due means legally due, for example under a contract or statutory provision
2. if there is no legal obligation to make the payment on a particular day, the person or body making the payment should be asked when they consider the payment is due
3. the date when the payment is received may be assumed to be the due date where
 - 3.1 the available evidence
 - 3.1.a does not give a due date¹ **or**
 - 3.1.b is not considered credible **and**
 - 3.2 no further evidence can be obtained.

1 R(SB) 33/83

Income other than earnings

25036 The date when a payment of income is due could be a question of fact or a question of law. For example

1. a claimant or a claimant's former employer may be able to say when a payment of occupational pension was due
2. a mortgage protection policy would state when payments are due to be made under the policy.

Earnings

25037 The date on which a payment of earnings is due will be the normal pay day agreed in the contract of employment. The terms of a contract

1. may be
 - 1.1 express (in writing or verbal) **or**
 - 1.2 implied (by the actions of or understanding between the two parties) **and**

2. may be varied
 - 2.1 if both parties agree to it (the variation may be express or implied) **or**
 - 2.2 because of certain action taken by either party (such as dismissal or resignation).

Earnings when employment ends

25038 When employment ends, the date on which a payment of final earnings is due to be made

1. is a mixed question of fact and law **and**
2. depends on the circumstances in which the employment ended and the terms of the contract.

Note: When the due date has been established see DMG 25062 where different kinds of earnings are received for overlapping periods, and DMG Chapter 26 for the treatment and effect of the earnings on JSA or IS.

Notice given and worked

25039 Final earnings are payable on the dates agreed in the contract of employment where employment

1. has run its full course, for example a fixed period engagement has reached its end **or**
2. is terminated by the employer after due notice has been given and worked.

25040 This means that the claimant should receive the following payments on the final pay-day (often the last day of employment)

1. the normal week or month's earnings, including any part week or month's earnings
2. wages held in hand
3. holiday pay.

Employment terminated by employer without notice

25041 Where the employer terminates employment without due notice they are legally obliged to pay on the last day of employment¹

1. wages earned between the end of the employee's previous pay period and the last day of employment

2. wages held in hand
3. holiday pay
4. a payment in lieu of notice.

See DMG Chapter 26 if the claimant is due a payment when employment has ended but this has not been paid.

Note 1: In JSA, pay in lieu of notice is included in the definition of a compensation payment (see DMG Chapter 26).

Note 2: The last day of employment is not necessarily the same as the last day the claimant attended work.

1 R(SB) 23/84

Employment terminated by employee without notice

25042 Where employment is terminated by the employee without due notice, employers can rely on the contract of employment to pay

1. wages earned between the end of the employee's previous pay period and the last day of employment
2. wages held in hand
3. holiday pay

on the day that each payment is due to be paid.

Date on which income is treated as paid

25043 The date on which a payment of income is treated as paid may not be the same as the date on which it is due to be paid under DMG 25034 et seq.

Note: There are no longer any special rules for the date on which WTC or CTC is treated as paid.

Income due before the first benefit week of the claim

25044 A payment of income (including WTC) should be treated as paid on the date it was due, if it was due to be paid before the first benefit week of the claim¹. But see DMG 25076 if the payment is UC, ESA, JSA, IS, MA, IB or SDA.

Note: A payment of income may be due before the date of claim and still be within the first benefit week (see DMG 25051 and 25053 **2.1**).

1 JSA Regs, reg 96(1)(a); IS (Gen) Regs, reg 31(1)(a)

Income due in or after the first benefit week of the claim

25045 If a payment (including WTC) was due to be paid in or after the first benefit week of the claim, it should be treated as paid on¹ the first day of the benefit week in which it is

1. due to be paid **or**
2. practicable to take the payment into account (if this rule is used the DM should record the reasons for using it).

But see DMG 25076 if the payment is UC, ESA, JSA, IS, MA, IB, or SDA, or DMG Chapter 33 if the period involved is a part week.

Note: A payment of income may be due before the date of claim and still be within the first benefit week (see DMG 25053 and 25054 **2.1**).

1 JSA Regs, reg 96(1)(b); IS (Gen) Regs, reg 31(1)(b)

Example 1

Doug receives IS in arrears. His benefit week ending day is Wednesday.

On Friday 16 August he advises the Department that he has received his first payment of income from an insurance policy on that day. The payment is made on the day it is due.

The DM treats the income as paid on Thursday 15 August which is the first day of the benefit week in which it was due to be paid. The DM takes the income into

account in the payment of IS due for the benefit week ending on Wednesday 21 August.

Example 2

Alice is unemployed and receives JSA(IB) fortnightly in arrears. Her benefit week ending day is Thursday. She attends the Jobcentre on Thursday 21 November, and receives two weeks benefit for the period 8 November to 21 November on 23 November.

On 22 November, Alice advises the Department that her partner received his first payment of P/T earnings on the evening of 21 November. The payment is made on the day it is due.

The DM determines that it is not practicable to take the partner's earnings into account for the benefit week 15 November to 21 November, because benefit has already been paid for that week.

The DM treats the earnings as paid on 22 November, which is the first day of the first week in which it is practicable to take the payment into account. (See DMG 25082 for guidance on the special rule which applies when two payments are taken into account for the same week because of the impracticability rule.)

- 25046 The practicability rule cannot apply where notification is received in time for the income to be taken into account in the correct benefit week but it is not actioned until after the payment of IS or JSA has been made.

Treatment of income paid incorrectly to the claimant

- 25047 A claimant may have income (including benefit income) that is being taken into account in an income-related benefit award, which is then retrospectively revised. This can often lead to an overpayment of that income but this does not mean that arrears of the income-related benefit in payment also arise. In such cases, the overpaid income is taken into account until the recipient comes under an immediate obligation to repay it, and only then from the date on which an obligation to repay arises¹. For more information on overpayments, please see DMG Chapter 9.

1 R(IS) 5/99 (Leeves v. CAO)

Example

Ella has been receiving RP since 1.3.10 and SPC since 4.10.10. HMRC provide an updated NI record on 1.6.16 which shows that Ella's RP award has been incorrectly calculated from the outset. On 7.6.16, a DM revises Ella's RP award to a lower amount with effect from 1.3.10. On 27.6.16 a DM decides that the overpaid RP is a non-recoverable overpayment. For SPC purposes, the revised RP award is taken into account from the next payday – 30.6.16, the effect is not retrospective and there are no arrears of SPC to be offset against the overpaid RP.

WTC paid incorrectly by HMRC

25048 If a person who has ceased employment confirms when they claim IS or JSA that they have notified HMRC of the change in their circumstances, DMs should not treat any payments of WTC paid incorrectly by HMRC as the claimant's income. However, any payments of WTC paid to the claimant prior to any notification by the claimant to HMRC of a change in circumstance should be taken into account as income¹.

1 R(IS) 5/99 (Leeves v. CAO)

Example 1

Janet finished work on Thursday 6.8.09 and made a claim for IS on Friday 7.8.09. Her benefit week ending was a Tuesday. She told the DM that she had been receiving WTC but had notified HMRC that her job had now ended.

HMRC did not end the award and continued to pay WTC to Janet. Janet was entitled to a four week WTC run on for the period 7.8.09 to 3.9.09. WTC was taken into account by the DM until BWE 1.9.09.

Although Janet continued to receive WTC for several weeks after the run on period the DM decided that the WTC paid incorrectly by HMRC should not be taken into account as it was not Janet's income.

Example 2

Joel finished work on 1.6.09 and made a claim for JSA on 19.6.09. He is in receipt of WTC which the DM takes into account as an income when calculating Joel's entitlement to JSA(IB).

On 19.10.09 Joel informs HMRC that he finished work in June. HMRC ends Joel's award of WTC and calculate an overpayment based on the fact that he had finished work in June but had continued to receive WTC.

The DM supersedes the award of JSA(IB) and no longer takes the WTC into account. The date of the relevant change for the purposes of the supersession is 19.10.09 which was the date that Joel informed HMRC of his change of circumstance. However the DM does not adjust the award of JSA(IB) to take account of that fact that Joel was overpaid WTC for the period prior to the notification to HMRC. This is because at that time, WTC was an income in payment to Joel and there is no disregard for it.

Treatment of arrears of income

25049 If the amount of a regular income increases, or the claimant starts to receive a new income, the first payment may include arrears. The treatment of the arrears will depend on whether they were paid on the date on which they were due to be paid

(see DMG 25034). But see DMG 25076 if the income is UC, ESA, JSA, IS, MA, IB or SDA.

Arrears paid on due date

25050 Arrears which are paid on the due date should be

1. treated as paid on the first day of the benefit week in which
 - 1.1 they are paid **or**
 - 1.2 it is practicable to take them into account¹ **and**
2. taken into account
 - 2.1 for a period calculated in the normal way (see DMG 25055 et seq)² **and**
 - 2.2 from the date on which they are treated as paid.

1 JSA Regs, reg 96(1)(b); IS (Gen) Regs, reg 31(1)(b);

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

Example

The claimant's partner has P/T earnings of £20 weekly due each Thursday. IS is paid in arrears and the claimant's benefit week ends on Tuesday.

The P/T earnings are increased to £25 weekly from 5.7.09, but the agreement says that the increase is not payable until 1.8.09, when payment is made at the new rate with three weeks arrears, a total of £40.

The DM treats the payment as made on 29.7.09.

The new rate of £25 is taken into account in the benefit week beginning 29.7.09, and the £15 arrears are taken into account for the period 29.7.09 to 18.8.09.

The total amount of earnings taken into account in the benefit weeks beginning 29.7.09, 5.8.09 and 12.8.09 is £30 (£25 plus £5 arrears).

From benefit week beginning 19.8.09, the new weekly rate of £25 is taken into account.

Arrears paid after the due date

25051 Arrears paid after the due date should be treated as paid

1. on the first day of the benefit week in which they were due **or**
2. on the due date if they were due before the first benefit week of the claim¹.

The DM should calculate any overpayment and refer the case to the Secretary of State to consider recovery².

1 JSA Regs, reg 96(1); IS (Gen) Regs, reg 31(1); 2 SSA Act 92, s 74

Example

The claimant normally receives an occupational pension monthly in arrears on the last day of each month.

The pension increases from 1 April each year, first payment at the higher rate being due on 30 April.

Due to administrative problems, the increase is not paid until 30 June, when the claimant receives the new amount for the month of June and arrears for April and May.

The DM determines that the arrears for April and May were due to be paid on 30 April and 31 May, and treats them as paid on the first day of the benefit week in which each was due to be paid.

Meaning of benefit week

JSA

25052 In JSA a benefit week¹ is a period of seven days ending with the day determined by the last two digits of the claimant's NINO as shown in the following table unless the Secretary of State arranges otherwise.

NI No.	Day
00 - 19	Monday
20 - 39	Tuesday
40 - 59	Wednesday
60 - 79	Thursday
80 - 99	Friday

1 JSA Regs, reg 1(3)

IS

25053 In IS a benefit week¹

1. is either

- 1.1 the week for which the claimant's relevant SS benefit is or would be paid if the claimant satisfied the contribution conditions or had not exhausted entitlement **or**
 - 1.2 in any other case, a period of seven days beginning or ending with a day which the DM directs² **and**
2. when calculating the amount of income to take into account, is also a period of seven days ending on
 - 2.1 the day before the first day of the benefit week following the date of claim **or**
 - 2.2 the last day on which IS is paid if it is in payment for less than a week³.

1 SS (C&P) Regs, Sch 7, para 4; 2 Sch 7, para 4; 3 IS (Gen) Regs, reg 2(1)

25054 Relevant SS benefit means¹

1. IB
2. BB
3. SDA
4. RP
5. WB.

1 SS (C&P) Regs, Sch 7, para 4

Period for which payment is made

Identifiable period

25055 If the period for which a payment is made can be identified, then the length of time for which it is taken into account will depend on whether the payment is monthly or not. Where the period for which the payment is made is

1. a month¹, it should be taken into account for a period ending with the date immediately before the next monthly payment would have been treated as paid (whether or not the next monthly payment is actually paid) **or**
2. other than a month², it should be taken into account for an equivalent period (for example a payment for a week should be taken into account for a week).

The period begins from the date determined by following the guidance at DMG 25043 et seq.

Note: A capital payment that is treated as income will often not be payable for an identifiable period.

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

Employer's pay arrangements

25056 Where an employer has specific pay arrangements, which mean employees are paid at specific intervals, such as monthly, a payment should be taken into account for a period equal to the pay interval¹. But see DMG Chapter 26 if the payment is made because the employment has ended.

Note: Earnings from holiday pay and compensation payments (see DMG Chapter 26), which are made for part of a day should be taken into account for a day².

1 R(IS) 10/95; 2 JSA Regs, reg 94(5); IS (Gen) Regs, reg 29(4A)

Example

John claimed IS because he was absent from work due to an illness. His BWE day is Monday.

John's employer pays him on the last day of each month. On 31.3.08 John received three weeks SSP of £217.65 [£72.55 x 3 weeks].

The DM decided that the payment should be taken into account for one month at the weekly rate of £50.22 [£217.65 x 12 ÷ 52].

The weekly amount is taken into account for the following period -

BWE 31.3.08 - £50.22

BWE 7.4.08 - £50.22

BWE 14.4.08 - £50.22

BWE 21.4.08 - £50.22

BWE 28.4.08 - £50.22

John's next monthly payment from his employer would be due to be paid on 30.4.08 (treated as paid on 29.4.08) and the weekly amount would be taken into account for the period BWE 5.5.08 to BWE 26.5.08

Supply teachers

25057 An LA may create a pool or panel of supply teachers. The LA calls on these teachers as and when needed, but the teachers may refuse work if they wish. In these circumstances the DM should note that

1. the supply teachers have a separate contract of employment for each period they work¹ **but**
2. if the LA pays them at regular intervals for the work they have done, each payment should be taken as paid for a period equal to the pay interval².

1 R(U) 2/87; 2 R(IS) 10/95

Example

A supply teacher is paid on the 16th of every month for all the work she has done in the previous month. On 16 October she is paid for the four days she worked during September. The DM takes the payment into account for one month.

Reservists

25058 Earnings which a claimant has derived from being a member of a reserve force

1. in respect of a period of annual continuous training for a maximum of 15 days in any calendar year **or**
2. in respect of their first year of training for a maximum of 43 days in a year which begins with their first day of training¹

are treated in accordance with DMG 25059.

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

25059 The earnings, whether paid to the claimant alone or together with other earnings derived from the same source, have to be taken into account

1. in accordance with the table¹ below where this is applicable **or**
2. in any other case, over a period equal to the number of days of the training period².

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

Period of training in days	Period of time over which earnings are to be taken into account in days
8 to 10	7
15 to 17	14
22 to 24	21
29 to 31	28
36 to 38	35
43	42

Example 1

Dylan is in receipt of JSA and has also recently joined the Army Reserve. He takes part in a training exercise as part of his first year in the Reserve. Dylan receives payment in respect of his participation. The payment is for 16 days training. The DM takes the payment of earnings into account for a period of 14 days from the date that it is treated as paid (see DMG 25043 et seq) as a weekly amount (see DMG 25063 et seq). The payment is subject to a disregard.

Example 2

Helen is in receipt of JSA and has also recently joined the Army Reserve. She takes part in a training exercise as part of her first year in the Reserve. Helen receives payment in respect of her participation. The payment is for 13 days training. The DM takes the payment of earnings into account for a period of 13 days from the date that it is treated as paid (see DMG 25043 et seq) as a weekly amount (see DMG 25063 et seq). The payment is subject to a disregard.

No identifiable period - IS

25060 If the period cannot be identified, the DM should calculate the amount to be taken into account¹. Where the payment is

1. earnings, by dividing the claimant's net earnings (see DMG Chapter 26)² by the total of the
 - 1.1 weekly amount of IS to which the claimant would have been entitled had the payment not been made **and**
 - 1.2 amount of any disregard³ that would have been made on the earnings **or**
2. income other than earnings, by deducting any tax paid on the income⁴, and dividing the result by the total of the

- 2.1 weekly amount of IS the claimant would have been entitled to had the payment not been made **and**
- 2.2 amount of any disregard⁵ (other than on tax) that would have been made on the income.

If the calculation does not result in a whole number of weeks, the balance of the payment should be taken into account for a corresponding fraction of a week⁶.

Note: See DMG Chapter 26 if the payment is made because employment has ended.

1 IS (Gen) Regs, reg 29(2)(b); 2 reg 36(3); 3 Sch 8; 4 Sch 9, para 1; 5 Sch 9; 6 reg 29(2)(b)

Example 1

Sheila is in receipt of IS of £40 per week and works part-time for the local council. She has been offered a payment by her employer to redress historical pay inequalities between female and male employees. Sheila's employer offers her a payment of £7,200. She can agree to accept this sum as a final and full settlement of any unequal treatment claim that she could have brought against her employer. Alternatively, Sheila can have the option of taking a net payment of £720 but this amount would be deducted from any future settlement won through action at an Employment Tribunal or as part of any negotiated settlement between herself and her employer.

Sheila decides to accept the sum of £720 and this is duly paid to her with her salary by the employer. The DM decides that the payment is a payment of earnings but cannot identify a period in respect of which the payment is made. The DM therefore performs the calculation in DMG 25060 1. where:

£720 is divided by £45 (IS of £40 plus £5 disregard) = 16

The DM takes the payment into account for 16 weeks at the weekly rate of £45.

Example 2

Freddie is paid a one-off bonus of £150. The period for which the payment was made is not identifiable. £5 of a weekly payment of the income would be disregarded. Freddie would be entitled to £65 IS a week without the payment. The £150 payment is divided by £70 (£65 IS plus £5 disregard). The DM determines Freddie's income is £70 a week for a period of 2 1/7 weeks (two weeks and one day).

No identifiable period – JSA

- 25061 If the period for which a payment is made cannot be identified (i.e. it's not in respect of a week, month etc) then the DM should determine the number of weeks over which a payment has to be taken into account by applying the formula¹

$$\frac{E}{J + D}$$

where-

E is the amount of net earnings (see DMG Chapter 26) or income other than earnings less any disregarded tax and

J is the amount of JSA which would be payable had the payment not been made and

D is an amount equal to the total of the sums disregarded from the payment other than the tax.

After applying the formula, any fraction is to be treated as a corresponding fraction of a week².

1 JSA Regs, reg 94(2)(b); 2 reg 94(11)

Different kinds of earnings received for overlapping periods

25062 If different kinds of earnings are received from the same source, and the periods over which the earnings would be taken into account overlap, the earnings should be taken into account

1. for the total of the periods which apply to each of the different kinds of earnings **and**
2. from the earliest date on which any of those earnings would be treated as paid under DMG 25043 et seq¹ **and**
3. in the following order²
 - 3.1 in the case of JSA(Cont) or JSA(IB)
 - 3.1.a normal earnings
 - 3.1.b compensation payments
 - 3.1.c holiday pay **or**
 - 3.2 in the case of IS
 - 3.2.a normal earnings including wages held in hand
 - 3.2.b pay-in-lieu of notice or remuneration
 - 3.2.c compensation payment
 - 3.2.d holiday pay received within four weeks of the date employment ended.

Note 1: Pay in lieu of remuneration is paid in place of a person's normal wages or salary.

Note 2: For JSA, pay in lieu of notice or remuneration is included in the definition of a compensation payment (see DMG Chapter 26).

1 JSA Regs, reg 94(3); IS (Gen) Regs, reg 29(3); 2 JSA Regs, reg 94(4); IS (Gen) Regs, reg 29(4)

Example

The claimant is paid IS in arrears and her benefit week ends on a Wednesday.

Her husband's P/T employment is terminated without notice on 23 August, which is after the date of claim. He receives his normal week's earnings, one week in hand, four days holiday pay and two weeks in lieu of notice on 23 August.

The DM determines that the periods over which the earnings would be taken into account overlap.

The earnings are treated as paid on Thursday 22.8.96, and taken into account as follows for a total of four weeks and four days

1. the normal week's earnings and the week in hand payment for the period 22.8.96 - 4.9.96
2. two weeks in lieu of notice for the period 5.9.96 - 18.9.96
3. four days holiday pay for the period 19.9.96 - 22.9.96.

Calculation of weekly amount

Period of a week or less

25063 Where the period for which a payment is made is a week or less, the weekly amount will be the amount of the payment¹. But see 25071 et seq and 25086.

1 JSA Regs, reg 97(1)(a); IS (Gen) Regs, reg 32(1)(a)

Period of a month

25064 Where the payment is for a month the weekly amount should be worked out by

1. multiplying the amount of the payment by twelve **and**
2. dividing the result by 52¹.

1 JSA Regs, reg 97(1)(b)(i); IS (Gen) Regs, reg 32(1)(b)(i)

Example

A payment of £100 is made for a period of a month. The DM calculates that the weekly amount is £23.07 (£100 x 12/52).

Period of three months

25065 Where the payment is for a period of three months the weekly amount should be worked out by

1. multiplying the amount of the payment by four **and**
2. dividing the result by 52¹.

1 JSA Regs, reg 97(1)(b)(ii); IS (Gen) Regs, reg 32(1)(b)(ii)

Example

A payment of £100 is made for a period of three months. The DM calculates that the weekly amount is £7.69 (£100 x 4/52).

Period of a year

Income which is not working tax credit

25066 Where the payment of income is for a period of a year the weekly amount should be worked out by dividing the amount of the payment by 52¹.

1 JSA Regs, reg 97(1)(b)(iia); IS (Gen) Regs, reg 32(1)(b)(iia)

Working tax credit

- 25067 Where a payment of WTC is made in respect of a year then the DM should divide the award of WTC by the number of days in the year and multiply the result by 7¹. This means that the divisor will be either 365 days or, in a leap year, 366 days.

1 JSA Regs, reg 97(1)(b)(iii); IS (Gen) Regs, reg 32(1)(b)(iii)

Period of more than a week

- 25068 Where the payment is for more than a week, and DMG 25063 - 25067 does not apply, the weekly amount should be worked out by
1. multiplying the amount of the payment by seven **and**
 2. dividing the result by the number of days in the period for which the payment is made¹.

1 JSA Regs, reg 97(1)(b)(iv); IS (Gen) Regs, reg 32(1)(b)(iv)

Example

A payment of £100 is made for a period of four weeks. The DM calculates that the weekly amount is £25 (£100 x 7/28).

25069 - 25070

Calculation of amount where only part of payment overlaps benefit week

- 25071 Where a payment for one week or less is treated as paid before the first benefit week of the claim, it may fall to be taken into account for only some days in the first benefit week. The DM should determine the amount to be taken into account by
1. multiplying the amount of the payment by the number of days in the period of the overlap **and**
 2. dividing the result by the number of days in the period for which payment is made¹.

Note: If the period the payment overlaps is a part week see DMG Chapter 33.

1 JSA Regs, reg 97(2); IS (Gen) Regs, reg 32(2)

25072 Where a payment is for one week or more, and is to be taken into account for some days only in a benefit week, the DM should determine the amount to be taken into account by

1. multiplying the amount of the payment by the number of days in the period of the overlap **and**
2. dividing the result by the number of days in the period for which the payment is made¹.

Note: If the period the payment overlaps is a part week see DMG Chapter 33.

1 JSA Regs, reg 97(3); IS (Gen) Regs, reg 32(3)

Example 1

The claimant receives £400 from a general unemployment insurance policy for a period of four weeks on 8 May.

She claims JSA on 28 May because the payments from the general unemployment insurance policy have stopped. She will be paid weekly in arrears on a Thursday.

The payment is treated as paid on 8 May for the period 8 May to 4 June.

The DM determines that for benefit week ending 6 June 5/28ths of the payment should be taken into account and deducts £71.42 ($£400 \times 5 = 2000/28 = 71.42$).

Example 2

The claimant is unemployed. His benefit week ending day is Wednesday and he is paid JSA(IB) fortnightly in arrears on a Friday.

His partner is sick and had been receiving employer's sick pay.

On Monday 7 December the claimant notifies the DM that his partner's final payment of sick pay has been made on Friday 4 December. This payment is £45 and is for a period of one week and three days.

The DM treats the payment as made on Thursday 3.12.09 (the first day of the claimant's benefit week) for the period 3.12.09 to 12.12.09.

The amount of sick pay taken into account for the period 10.12.09 to 12.12.09 is £13.50 ($£45 \times 3/10$).

25073 Different rules apply if the payment is one of the following benefits

1. IS
2. JSA
3. MA
4. IB
5. SDA
6. ESA
7. UC.

25074 - 25075

Calculating the amount of UC, ESA, JSA, IS, MA, IBST, IBLT or SDA to be taken into account as income in any benefit week

25076 Special rules apply to payments of UC, ESA, JSA, IS, MA, IBST, IBLT or SDA. If the claimant receives one of these benefits the DM should

1. treat each day's benefit as a separate payment **and**
2. treat each day's benefit as paid on any day in respect of which it is payable¹ **and**
3. take each day's benefit into account for the day it is paid for² **and**
4. where part of a payment of one of these benefits is to be taken into account as income for some days only in a specific benefit week (relevant days) and the benefit involved is
 - 4.1 MA, IBST, IBLT or SDA - take into account for the relevant days the amount of benefit payable for those days³ **or**
 - 4.2 ESA, IS or JSA - take into account for the relevant days an amount calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by seven⁴.

Note: Because payments of UC, ESA, JSA, IS, MA, IBST, IBLT or SDA are made for specific days in each benefit week and payment is attributed to those days, the rules on modifying the amount taken into account at DMG 25081 will not apply to these benefits⁵.

1 JSA Regs, reg 96(2); IS (Gen) Regs, reg 31(2); 2 JSA Regs, reg 94(2)(a); IS (Gen) Regs, reg 29(2)(a); 3 JSA Regs, reg 97(4)(a); IS (Gen) Regs, reg 32(4)(a); 4 JSA Regs, reg 97(4)(b); IS (Gen) Regs, reg 32(4)(b); 5 JSA Regs, reg 97(5); IS (Gen) Regs, reg 32(5)

Example 1

Amy receives IBLT of £70 for Tuesday 3 December to Monday 9 December. Her benefit week ends on a Monday. The DM takes a payment of £10 into account for each of the seven days in the benefit week. £70 is taken into account altogether in the benefit week.

Example 2

Mark receives IBLT of £20 for Tuesday 3 December to Wednesday 4 December. His benefit week ends on a Monday. The DM takes £10 into account for 3 December and £10 for 4 December. £20 is taken into account altogether in the benefit week ending Monday 9 December.

25077 - 25080

Modifying the amount taken into account

Two payments from same source and of same kind in same benefit week

25081 The weekly amount of income taken into account in a benefit week should be restricted where an income

1. is or has been paid regularly **and**
2. two payments
 - 2.1 from the same source **and**
 - 2.2 of the same kind

would be taken into account in the same benefit week following the rules in DMG 25043 et seq¹. The amount of income should be restricted to the weekly amount which is treated as paid first.

1 JSA Regs, reg 97(5); IS (Gen) Regs, reg 32(5)

Example 1

Lenny is sick and receiving IS weekly in arrears on a Thursday.

He is receiving employer's sick pay fortnightly on a Friday.

He receives two weeks sick pay on 15.5.09 and the DM treats the payment as made on 15.5.09 for the period 15.5.09 to 28.5.09.

As Lenny is due to return to work on 1.6.09 his employer pays his final two weeks sick pay on 26.5.09.

The DM determines that the payment is due to be paid on the date it is actually paid, and treats it as paid on 22.5.09 for the period 22.5.09 to 4.6.09.

As there would be two payments of income of the same kind from the same source to be taken into account for the benefit week 22.5.09 to 28.5.09, the DM restricts the amount of income taken into account to the weekly amount of the first payment.

Example 2

On 12.8.08, Sonya claims IS. She is a Monday BWE and is in receipt of CA which is paid every four weeks by ACT. She receives a payment on 4.8.08, her next payment is due on 1.9.08. The DM calculates the weekly amount of CA to take into account on the IS award.

On claiming IS the CA Unit changes the way that Sonya's CA is paid. On 1.9.08 Sonya receives four weeks CA and on 8.9.08 she receives one week's CA. Further weekly payments of CA are due each Monday after that date.

The DM determines that as there would be two payments of income of the same kind and from the same source to be taken into account for BWEs 8.9.08 - 22.9.08, the total amount of income to be taken into account for each week is restricted to the weekly amount of CA paid on 1.9.08.

Two payments taken into account for same week because of impracticability rule

25082 The special rules in DMG 25081 do not apply if

1. it is not practicable to take an income into account in the benefit week in which it was due **and**
2. in the next benefit week in which it is practicable to take it into account the claimant receives another payment
 - 2.1. of the same kind **and**
 - 2.2. from the same sourcewhich is to be taken into account in the same week¹.

In these circumstances both payments should be taken into account in that week, with a separate disregard on each of the payments, if a disregard is appropriate².

1 JSA Regs, reg 97(5); IS (Gen) Regs, reg 32(5); 2 JSA Regs, Sch 6, para 13 & Sch 7, para 39; IS (Gen) Regs, Sch 8, para 10 & Sch 9, para 37

Example

Colin is sick and receives IS and IBST weekly in arrears on Mondays.

His payment for 31.8.09 is posted early because that day is a bank holiday.

On 1.9.09 Colin advises the local office that his partner has started P/T work and has received her first weeks P/T earnings on 27.8.09. She is also due to receive another weeks wages on 3.9.09.

The DM determines that it is not practicable to treat the first payment of earnings as paid on the first day of the benefit week in which they were due to be paid, because benefit has already been paid for that week.

They are treated as paid on 1.9.09, the first day of the next benefit week in which it is practicable to take them into account.

The DM then considers the earnings due to be paid on 3.9.09, and treats them as paid on 1.9.09 because it is practicable to do so.

Both payments are taken into account in the same benefit week, with a separate disregard on each payment.

First of two payments due before date of claim

25083 Where the first of the two payments referred to in DMG 25081 or 25082 was due to be paid before the date of claim the payment should be disregarded¹.

1 JSA Regs, Sch 6, para 16 & Sch 7, para 37; IS (Gen) Regs, Sch 8, para 13 & Sch 9, para 35

Example

Donnie claimed IS on 5.4.04 and is a Tuesday benefit week ending.

He received four weeks occupational pension from his former employer on 9.3.04, and the next payment is due to be paid on 6.4.04.

The DM determines that the payment due on 9.3.04 should be treated as paid on 9.3.04 and should be taken into account for the period 9.3.04 - 5.4.04.

The DM determines that the payment due on 6.4.04 should be treated as paid on 31.3.04 which is the first day of the benefit week in which it is due.

The payment due on 9.3.04 is disregarded because it is a payment of the same kind and from the same source as another payment which is to be taken into account in the same benefit week, and the payment of 9.3.04 was due to be paid before the first benefit week of the claim.

25084 - 25085

Averaging of amounts

25086 The weekly amount of a claimant's income may be averaged¹ if the income varies or the regular pattern of work means that the claimant does not work every week. The DM should average over

1. a complete cycle if there is a recognizable cycle of work (see DMG Chapter 20 on establishing a recognizable cycle) **or**
2. five weeks **or**
3. another period if this means a more accurate weekly amount can be calculated.

1 JSA Regs, reg 97(6); IS (Gen) Regs, reg 32(6); NS v SSWP (IS) [2015] UKUT 0423 (AAC)

25087 The averaging of the weekly amount of income does not change the other rules on the treatment of income such as the date that it is treated as paid. This means that income can only be averaged where the claimant is actually in receipt of a payment.

Example 1

Robert works two weeks on and one week off.

In the two weeks he actually works he works 12 hours a week and receives earnings of £80 a week.

In the third week, he receives a retainer of £20.

The DM determines that the earnings should be averaged over a period of three weeks because that is the period of the recognizable cycle of work.

The DM calculates that the average weekly amount of earnings is £60, that is

$$\frac{80 + 80 + 20}{3}$$

and takes that amount into account against Robert's entitlement. This average amount is taken into account from the fourth week. For the first three weeks, the DM used the actual amounts of earnings paid to Robert before an average figure could be calculated.

Example 2

Maggie works at a school term-time only as a classroom assistant. During the school holidays she doesn't work and receives no earnings.

The DM can only average Maggie's earnings during term-time when she is actually in receipt of an income. During the school holidays Maggie receives no earnings so there is no income to take into account.

25088 – 25999

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