

Chapter 23 - Normal amount payable

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Chapter 23 - Normal amount payable

Amount payable

General

Scope of this Chapter

- 23001 This Chapter explains how to calculate the normal amount payable for JSA and IS. The rules are different for
1. urgent cases (see DMG 31001 et seq)
 2. trade disputes (see DMG 32000 et seq)
 3. transitional protection (see DMG 36001 and 37000 et seq).
 4. joint claim couples that are sanctioned (see DMG 34057 and 34144)
- 23002 Other rules apply where people are
1. in hospital (see DMG 24002 et seq)
 2. without accommodation (see DMG 24156)
 3. members of religious orders (see DMG 24170)
 4. prisoners (see DMG 24185 et seq)
 5. temporarily separated members of a couple or polygamous marriage (see DMG 24241)
 6. absent from GB/UK members of a couple or polygamous marriage (see DMG 24247 et seq)
 7. appealing against a decision because of capability for work (see DMG 24370 et seq)
 8. entitled to a mortgage interest run-on (see DMG 24390 et seq)
 9. from abroad or subject to immigration control (see DMG 24500 et seq).
- 23003 Guidance on how to calculate the amount payable for a part week is in DMG 33100 et seq.

JSA

Meaning of claimant

- 23004 Claimant means¹
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)

Deciding entitlement

23005 The DM cannot decide entitlement to JSA until all of the information for the claim has been received (see DMG Chapter 03). Claimants will indicate on their claim forms whether they wish to receive

1. JSA(Cont) **or**
2. JSA(IB).

Claimants who wish to receive JSA(IB) may also meet the qualifying conditions for JSA(Cont).

Note: If all of the information for the claim is not received, the DM may award a short term benefit advance .

23006 If claimants indicate that they wish to receive JSA(IB) the DM should calculate

1. any entitlement to JSA(Cont), (the personal rate) **and**
2. any entitlement to JSA(IB), (the applicable amount).

The DM must then consider the guidance at DMG 23015 - 23020 to decide the amount of JSA to be paid.

JSA(Cont) - personal rate

23007 JSA(Cont) is paid for the claimant only. There are no increases for any partner or dependants. The personal rate is calculated by¹

1. deciding the age-related amount payable to the claimant **and**
2. deducting, in each benefit week
 - 2.1 any earnings² (see DMG 26001 et seq and 27000 et seq) **and**
 - 2.2 pension payments³ (see DMG 23800 et seq).

Note: Where the calculation results in a fraction of a penny, it should be rounded up to the next whole penny⁴.

1 JS Act 95, s 4(1); 2 JSA Regs, reg 80; 3 reg 81; 4 reg 79(2)

23008 If a claimant receives both earnings and pension payments in the same benefit week it does not matter which deduction is made first. The DM should adopt the most practical order. As pension payments are less likely to vary, these will often be deducted before the earnings.

Example 1

Stephen claims JSA, he is entitled to JSA(Cont). Stephen receives an occupational pension and works for ten hours per week. The amounts received do not vary. As the amounts received do not vary the DM decides to deduct the earnings first and then the occupational pension.

Example 2

Sanjay claims JSA, he is entitled to JSA(Cont). He receives an occupational pension and works P/T on a casual basis. The DM decides to deduct the occupational pension first and deduct the earnings when received.

Example 3

Pam claims JSA, she is entitled to JSA(Cont). Pam receives an occupational pension and works for twelve hours per week. The DM decides to deduct the occupational pension first because after this deduction JSA is not payable to Pam.

23009 JSA(Cont) has two separate age-related amounts. They are for claimants aged

1. 16 to 24
2. 25 and over¹.

1 JS Act 95, s 4(2); JSA Regs, reg 79(1)

JSA(IB) - applicable amount

23010 **[See DMG Memo JSA/IS 64]** [\[See DMG Memo 10/17\]](#) JSA(IB) is paid for the claimant and any family¹. The applicable amount includes²

1. the claimant's personal allowance. This may include an amount for a joint-claim couple, partner or, in the case of a polygamous marriage, partners³ (see DMG 23034) **and**
2. if appropriate
 - 2.1 a personal allowance for any dependants
 - 2.2 a FP
 - 2.3 other premiums
 - 2.4 certain housing costs
 - 2.5 any transitional element (see DMG 36301).

Note: In special circumstances a claimant can have an applicable amount of nil⁴.

*1 JS Act 95, s 35; JSA Regs, regs 76, 77 & 78; 2 JS Act, s 4(5); JSA Regs, regs 83 to 87;
3 regs 84(1) & 86B; 4 JS Act, s 4(12)*

23011 Except in TD cases, when deciding a JSA claim the JSA(IB) applicable amount should be awarded in full. Where appropriate it should include

1. SDP **and**
2. housing costs¹.

1 SS CS (D&A) Regs, reg 15

23012 A claimant may be entitled to housing costs from the start of a claim (see DMG 23661). If so, the DM cannot make an award of JSA until the amount of housing costs is known. Where a claimant

1. makes a claim for JSA **and**
2. is not entitled to housing costs from the start of the claim (see DMG 23650 et seq) **and**
3. will be entitled to housing costs at a later date

the DM may make an award of JSA for a definite period, up to the day before entitlement to housing costs arises.

23013 The law¹ allows a claim to be treated as made for a definite period where a relevant change of circumstances is expected. Where the DM considers that a definite award is not appropriate, an award may be made for an indefinite period. This is so even if at the date of decision the amount of housing costs is not known².

1 SS (C&P) Regs, reg 17(3); 2 reg 17(1)

- 23014 The DM should decide whether a definite or an indefinite award is appropriate in the light of all the circumstances of the case. But the presumption that a JSA claim is for an indefinite period is a strong one¹. A decision awarding JSA for an indefinite period should be superseded when the amount of housing costs is confirmed². See DMG Chapters 01 and 04 for further guidance.

1 R(IS) 8/95; 2 SS Act 98, s 10; SS CS (D&A) Regs, reg 6(2)

Amount of JSA payable

- 23015 Where a claimant satisfies both the JSA(Cont) and JSA(IB) conditions of entitlement and has no income, the amount payable is

1. the applicable amount, if it is greater than the personal rate **or**
2. if 1. does not apply, the personal rate¹.

1 JS Act 95, s 4(6)

Example

Jamila is a single woman aged 27 who lives at home with her parents. She claims JSA. She satisfies the conditions for JSA(Cont) and is entitled to £55.65 per week. She also satisfies the conditions for JSA(IB) and is entitled to £55.65 per week. The DM awards JSA(Cont) of £55.65 per week.

- 23016 If, using the comparison in DMG 23015, the amount of JSA payable is the applicable amount, JSA(IB) is made up of two elements¹

1. an amount equal to the personal rate **and**
2. an amount that is the difference between the
 - 2.1 personal rate **and**
 - 2.2 applicable amount.

1 JS Act 95, s 4(7)

Example

Karl is a married man aged 50. His wife, Greta is also aged 50. Karl claims JSA. He satisfies the conditions for JSA(Cont) and is entitled to £55.65 per week. He also satisfies the conditions for JSA(IB) and is entitled to £87.30 per week. The DM awards JSA(IB) of £87.30 per week. The DM decides that Karl's entitlement to JSA(IB) is made up of two elements.

1. £55.65 which is the amount that is equal to his personal rate **and**
2. £31.65 which is the amount that is the difference between his personal rate and his applicable amount.

Note: where a claimant has been sanctioned (see DMG 34033).

23017 Where a claimant satisfies both the JSA(Cont) and JSA(IB) conditions and has income, the amount payable is

1. the difference between the
 - 1.1 applicable amount **and**
 - 1.2 incomeif that difference is greater than the personal rate **or**
2. if 1. does not apply, the personal rate¹.

1 JS Act 95, s 4(8)

Example 1

Ian is a married man aged 52. His wife, Elizabeth is aged 51. Ian claims JSA. Elizabeth works P/T and earns £35 per week. Ian satisfies the JSA(Cont) conditions and is entitled to £59.15 per week. He also satisfies the JSA(IB) conditions and is entitled to £67.80 per week (£92.80 - £25 Elizabeth's wages after £10 earnings disregard). The DM awards JSA(IB) of £67.80 per week.

Example 2

Ellen is a single woman aged 34. She claims JSA and declares that she has capital of £7,982. She satisfies the JSA(Cont) conditions and is entitled to £59.15 per week. She also satisfies the JSA(IB) conditions and is entitled to £51.15 per week (£59.15 less £8 tariff income). The DM awards JSA(Cont) of £59.15 per week.

23018 If, using the comparison in DMG 23017, the amount payable is the difference between the income and the applicable amount, JSA(IB) is made up¹ of an amount

1. equal to the personal rate² **and**
2. an amount that is the difference between the
 - 2.1 applicable amount less income **and**
 - 2.2 the personal rate³.

1 JS Act 95, s 4(9); 2 s 4(10); 3 s 4(11)

Example

Ian is a married man aged 52. His wife, Elizabeth is aged 51. Ian claims JSA. Elizabeth works P/T and earns £35 per week. Ian satisfies the JSA(Cont) conditions and is entitled to £55.65 per week. He also satisfies the JSA(IB) conditions and is entitled to £62.30 per week (£87.30 - £25 Elizabeth's wages after £10 disregard). The DM awards JSA(IB) of £62.30 per week. The DM decides that Ian's entitlement to JSA(IB) is made up of two elements

1. £55.65 which is the amount that is equal to his personal rate **and**
2. £6.65 which is the amount that is the difference between his personal rate and his applicable amount less income.

23019 If the claimant only satisfies the JSA(Cont) conditions of entitlement the amount payable is the personal rate (see DMG 23007)¹.

1 JS Act 95, s 4(1)

23020 If the claimant only satisfies the JSA(IB) conditions of entitlement the amount payable is, if the claimant has

1. no income, the applicable amount **or**
2. income that does not exceed the applicable amount, the difference between the income and the applicable amount¹.

1 JS Act 95, s 4(3)

Joint claim couples

23021 Where a couple are entitled to a joint claim jobseeker's allowance and one or each of them is also entitled to JSA(Cont) and neither has an income, the amount payable is

1. the applicable amount, if it is greater than the couple's personal rate **or**
2. if 1. does not apply, the couple's personal rate¹.

1 JS Act 95, s 4A(2)

Example

Karl is a married man aged 30 claiming jointly with his wife, Greta, who is aged 30. Karl satisfies the conditions for JSA(Cont) and is entitled to £55.65 per week. The couple also satisfy the conditions for JSA(IB) and are entitled to £87.30 per week. The DM awards JSA(IB) of £87.30 per week.

23022 If using the comparison in DMG 23021, the amount of JSA payable is the applicable amount, JSA(IB) is made up of

1. an amount equal to the couple's personal rate **and**
2. an amount that is the difference between the
 - 2.1 couple's personal rate **and**
 - 2.2 applicable amount¹.

1 JS Act 95, s 4A(3)

Example

Karl is a married man aged 30 claiming jointly with his wife, Greta, who is aged 30. Karl satisfies the conditions for JSA(Cont) and is entitled to £55.65 per week. The couple also satisfy the conditions for JSA(IB) and are entitled to £87.30 per week. The DM decides that the couples entitlement to JSA(IB) is made up of two elements

1. £55.65 which is the amount that is equal to Karl's personal rate **and**

2. £31.65 which is the amount that is the difference between the personal rate and applicable amount.

23023 **[See DMG Memo JSA/IS 64]** Where a couple are entitled to a joint claim jobseeker's allowance and one or each of them is also entitled to JSA(Cont) and either has an income, the amount payable is

1. the difference between the
 - 1.1 couple's applicable amount **and**
 - 1.2 incomeif that difference is greater than the couple's personal rate **or**
2. if 1. does not apply, the couple's personal rate¹.

1 JS Act 95 s 4A(5)

Example

Ian is a married man aged 42 claiming jointly with his wife, Elizabeth, who is aged 40. Elizabeth works P/T and earns £35 per week. Ian satisfies the JSA(Cont) conditions and is entitled to £55.65 per week. The couple also satisfies the JSA(IB) conditions and are entitled to £62.30 per week (£87.30 - £25 Elizabeth's wages after £10 disregard). The DM awards JSA(IB) of £62.30 per week. The DM decides that Ian's entitlement to JSA(IB) is made up of two elements

1. £55.65 which is the amount that is equal to his personal rate **and**
2. £6.65 which is the amount that is the difference between his personal rate and the applicable amount less income.

23024 If, using the comparison in DMG 23023, the amount payable is the difference between the income and the couple's applicable amount, JSA(IB) is made up of

1. an amount equal to the couple's personal rate **and**
2. an amount that is the difference between the
 - 2.1 applicable amount less income **and**
 - 2.2 the couple's personal rate¹.

1 JS Act 95, s 4A(6)

Note: See DMG 34951 and 34956 for the amount of benefit payable if one or both members of a joint claim couple are sanctioned.

23025 Where a couple's entitlement consists only of their personal rate¹, as in DMG 23021 2. or 23023 2. then the amount payable will be each members personal rate and not a joint claim jobseekers allowance.

1 JS Act 95, s 4A(4) and (7)

Example

Dan is a married man aged 43 claiming jointly with his wife, Sara, who is aged 40. Sara works P/T and earns £43 per week. Dan satisfies the JSA(Cont) conditions and is entitled to £56.20 per week. The couple also satisfies the JSA(IB) conditions and are entitled to £50.15 per week (£83.15 - £33. Sara's wage after £10 disregard). Although still a joint claim couple the DM awards JSA(Cont) of £56.20 per week.

IS

Amount of IS payable

23026 One of the conditions of entitlement for IS is that the claimant should have

1. no income **or**
2. income that does not exceed the applicable amount¹.

1 SS CB Act 92, s 124(1)(b)

23027 The amount of IS payable is, if the claimant has

1. no income, the applicable amount **or**
2. income that does not exceed the applicable amount, the difference between the income and the applicable amount¹.

1 SS CB Act 92, s 124(4)

Applicable amount [See DMG Memo JSA/IS 64]

23028 **[See DMG Memo JSA/IS 106]** IS is paid for the claimant and any family¹. The applicable amount includes²

1. the claimant's personal allowance. This may include an amount for any partner or, in the case of a polygamous marriage, partners³ (see DMG 23034) **and**
2. if appropriate
 - 2.1 a personal allowance for any dependants
 - 2.2 a FP

- 2.3 other premiums
- 2.4 certain housing costs
- 2.5 any TE (see DMG Chapter 36).

Note: In special circumstances a claimant may have an applicable amount of nil⁴. An applicable amount may also be reduced in certain circumstances or may be limited to allowable housing costs only (see DMG Chapter 24).

1 SS CB Act 92, s 137; IS (Gen) Regs, regs 14, 15 & 16; 2 reg 17; 3 reg 18(1); 4 SS CB Act 92, s 135(2)

23029 When deciding an IS claim the applicable amount may be awarded without

- 1. housing costs¹ **or**
- 2. SDP²

if there is not enough evidence to include these elements.

1 SS CS (D&A) Regs, reg 13(1); 2 reg 13(2)

23030 The applicable amount may be revised or superseded if further information about SDP or housing costs is received after the IS claim or question has been decided¹.

1 SS CS (D&A) Regs, reg 3 & 6

Personal allowances for JSA(IB) and IS

Personal allowances

Claimant's personal allowances

23031 [\[See DMG Memo 10/17\]](#) The normal applicable amount will always include

1. a personal allowance for the claimant **and**
2. an amount for the claimant's partner, if the claimant is a member of a couple¹ (and, if appropriate, an amount for any children)

1 JSA Regs, reg 83(a) & 86A(a); IS (Gen) Regs, reg 17(1)(a)

23032 The personal allowance may be different if

1. one or both members of a couple are aged 16 or 17 (see DMG 30500 et seq)
or
2. the claimant is a member of a polygamous marriage (see DMG 23034).

Structure of allowances

23033 There are separate rates of personal allowance¹ for

1. a single claimant aged
 - 1.1 16 or 17
 - 1.2 18 to 24
 - 1.3 25 or over
2. a lone parent aged
 - 2.1 16 or 17
 - 2.2 18 or over
3. a couple
 - 3.1 one or both aged 16 or 17
 - 3.2 both aged 18 or over.

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

Personal allowances for polygamous marriages

- 23034 In polygamous marriage cases the claimant's applicable amount should include personal allowances for
1. the claimant and the eldest partner at the correct couple rate (see DMG 23033 **3.**)¹ **and**
 2. each other partner **the difference** between the
 - 2.1 higher rate for a couple (see DMG 23033 **3.2**) **and**
 - 2.2 rate for a single claimant aged 25 or over (see DMG 23033 **1.3**)².

The amount may be different where one or more partners are aged 16 or 17.

*1 JSA Regs, reg 84(1)(a) & 86B(a); IS (Gen) Regs, reg 18(1)(a);
2 JSA Regs, reg 84(1)(b) & 86B(b); IS (Gen) Regs, reg 18(1)(b)*

Other multiple relationships

- 23035 DMG 23034 only applies if the claimant is married to all the other members of the relationship. There is no special rule to cover relationships where a person is not married to all, or any of, the other members of the relationship.
- 23036 If the claimant is not married to all of the other members of the relationship, the DM should treat any unmarried member as a single claimant or, if appropriate, lone parent.
- 23037 If the claimant is not married to any of the members, the DM should treat each member of the relationship as a single claimant or, if appropriate, lone parent.

Example 1

Alan, Bronwyn and Carol live in the same household but are not married to each other. Alan, who is aged 31, claims JSA and states that he is in a multiple relationship with both Bronwyn and Carol. He is treated as a single claimant and is awarded the personal allowance for a person aged 25 or over. Bronwyn and Carol are also treated as single.

Example 2

Alan, Bronwyn and Carol live in the same household. Alan is married to Bronwyn but in his JSA claim states that he is also in a relationship with Carol. Alan is treated as a member of a married couple with his wife Bronwyn and is awarded the personal allowance for a couple. Carol is treated as single.

23038

Dependant's personal allowances

[See DMG Memo JSA/IS 64]

23039 **[See DMG Memo JSA/IS 106]** [\[See DMG Memo 10/17\]](#) The claimant's applicable amount should include an amount for any

1. child **or**
2. young person

who is a member of the claimant's family (see DMG Chapter 22) and who does not have capital over £3000¹ (see DMG Chapter 29).

1 JSA Regs, reg 76, 77, 78, 83(b) & 84(1)(c); IS (Gen) Regs, reg 14, 15, 16, 17(1)(b) & 18(1)(c)

Structure of allowances

23040 **[See DMG Memo JSA/IS 106]** The dependant's personal allowances are age-related and before 10.4.00 there were three rates. But from 10.4.00 onwards there are only two rates of personal allowances for children and young persons¹. These are from

1. birth to the day before the first Monday in the September after the 16th birthday **and**
2. the first Monday in the September after the 16th birthday to the day before the 20th birthday.

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

23041 When a dependant reaches age 16 the personal allowance does not increase until the first Monday in the September which follows the sixteenth birthday. Although because both categories are paid at the same rate there will be no material change.

23042 - 23045

Premiums for income based jobseeker's allowance and income support

General rules

Categories

23046 There are nine categories of premium¹ which are

1. family premium (FP)
2. pensioner premium (PP)
3. enhanced pensioner premium (EPP)
4. higher pensioner premium (HPP)
5. disability premium (DP)
6. enhanced disability premium (EDP)
7. severe disability premium (SDP)
8. disabled child premium (DCP)
9. carer premium (CP).

1 JSA Regs, Sch 1, Parts II, III & IVA; IS (Gen) Regs, Sch 2, Parts II & III

Rates of premium

23047 DMs should note that

1. PP(IS), EPP, DCP and CP are paid at one rate.
2. FP is payable at two rates. The higher rate (FP(LP)) is payable if the claimant is a lone parent and has transitional protection (see DMG 23078).
3. PP(JSA), HPP and DP are payable at two rates. The
 - 3.1 lower rates apply if the claimant is single.
 - 3.2 higher rates apply to couples or members of polygamous marriages.
4. EDP is payable at two rates. The rate depends on whether the claimant, or a member of the claimant's family, satisfies the qualifying conditions.
5. SDP is payable at two rates. The rate depends on whether one or both members of a couple satisfies the qualifying conditions.

23048 - 23050

Qualifying conditions

23051 Each premium has its own qualifying conditions. See the guidance on individual premiums. To be entitled to a premium the qualifying conditions may apply to

1. the claimant **or**
2. one or more members of the claimant's family.

Multiple premiums

23052 If the claimant, or a member of a joint-claim couple, is entitled to more than one of the following premiums the DM should award only the highest¹ of

1. PP **or**
2. EPP **or**
3. HPP **or**
4. DP (see DMG 23053).

1 JSA Regs, Sch 1, para 6 & 20B; IS (Gen) Regs, Sch 2, para 5

23053 The claimant may be entitled to one or more premiums in addition¹ to any premium awarded in DMG 23052. Those premiums are

1. FP at the standard rate (not FP(LP))
2. SDP
3. DP at the enhanced rate (EDP) but not in addition to PP, EPP or HPP
4. DCP
5. CP

1 JSA Regs, Sch 1, para 7 & 20C; IS (Gen) Regs, Sch 2, para 6

Qualifying benefits

In receipt of or entitled to a qualifying benefit

23054 A premium may be awarded because

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

is in receipt of or entitled to a qualifying benefit. Entitlement to the premium may end if receipt of or entitlement to the qualifying benefit ceases.

Meaning of in receipt of

23055 Except for CA, a person is in receipt of a qualifying benefit only

1. if it is paid because of that person's own incapacity or disability **and**
2. for the period for which the benefit is paid¹.

1 JSA Regs, Sch 1, para 19 & 20L; IS (Gen) Regs, Sch 2, para 12(1)(a)(i) & 14B; R(IS) 10/94

Example 1

Alistair is a married man. He and his wife, Morag, are under 60. Alistair claims JSA. Morag is in receipt of IBLT because of her incapacity. The DP should be awarded.

Example 2

Julia is a lone parent in receipt of IS. She receives DLA because of the incapacity of a child who is a family member. She is not in receipt of a qualifying benefit for the purposes of entitlement to DP, HPP or SDP. The child is in receipt of a qualifying benefit for the purposes of entitlement to DCP.

Example 3

Anthony is in receipt of IBLT for himself and his wife, Maria. Anthony has been in hospital for more than 52 weeks. Maria claims IS. The dependant's element of IBLT which is paid to Maria is not a qualifying benefit for premiums when deciding her IS claim.

Withdrawal of qualifying benefit

23056 There is a change of circumstances if

1. a qualifying benefit is withdrawn **and**
2. the claimant no longer satisfies that or any other of the qualifying conditions for the receipt of the premium.

The DM should supersede the decision and calculate the effective date of the change of circumstances.

Concessionary payments of a qualifying benefit

23057 Concessionary payments are **extra-statutory** payments made by the Secretary of State¹ in place of

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

They are made when the policy intention to pay benefit cannot be achieved because of a fault in the law. Any concessionary payments for non-payment of a qualifying benefit should be treated as a payment of that benefit².

*1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 JSA Regs, Sch 1, para 18 & 20K;
IS (Gen) Regs, Sch 2, para 14A*

23058 - 23059

Delayed awards of qualifying benefits

23060 When considering the award of premiums following the delayed award of a qualifying benefit, special rules on revision or supersession apply. Detailed guidance on those rules is given in DMG Chapter 04.

Treated as in receipt of a qualifying benefit

23061 The rules for treating a person as in receipt of a qualifying benefit are the same for both JSA(IB) and IS.

23062 People can be treated as in receipt of a qualifying benefit for any period

1. that they would be in receipt of a qualifying benefit but that benefit is withdrawn because another overlapping¹ non-qualifying benefit is awarded at a higher rate **or**
2. where CP is being considered and a person is treated as in receipt of CA, for as long as the person being cared for is receiving AFIP² **or**
3. spent on a course of training or instruction provided or approved by
 - 3.1 the Secretary of State **or**
 - 3.2 Scottish Enterprise **or**
 - 3.3 Highlands and Islands Enterprise³ **or**
- 4 that they are in receipt of a training allowance⁴ **or**

*1 JSA Regs, Sch 1, para 8(1)(a) & 20D(1)(a); IS (Gen) Regs, Sch 2, para 7(1)(a);
2 JSA Regs, Sch 1, para 8(2) & 20D(2); 3 E & T Act 73, s 2; Enterprise and New Towns (Scotland) Act 90, s 2;
IS (Gen) Regs, Sch 2, para 7(1)(b) IS (Gen) Regs, Sch 2, para 7(2); 4 JSA Regs, Sch 1, para 8(1)(b) & 20D(1)(b);*

23063

Breaks in entitlement to JSA(IB) or IS

23064 Breaks in entitlement to JSA(IB) or IS may affect the qualifying conditions for some premiums. For the purpose of FP(LP) and HPP, claimants can be treated as entitled to JSA(IB) or IS for any period during which they

1. participate in an EZ programme **and**
2. were not entitled to JSA or IS because
 - 2.1 they were in remunerative work **or**
 - 2.2 their income exceeded the applicable amount¹.

1 JSA Regs, Sch 1, para 12(4) & 20F(4); IS (Gen) Regs, Sch 2, para 10(5)

23065 - 23070

JSA(IB) and IS - definitions

“AA”

23071 Attendance allowance (“AA”) means¹

1. AA²
2. CAA which is paid with a disablement pension because disablement has been assessed at 100%³
3. ESDA paid because industrial disablement has been assessed at 100%⁴
4. any
 - 4.1 CAA **or**
 - 4.2 ESDApaid because the claimant is entitled to WC⁵
5. an attendance allowance paid under the PB and MDB scheme
6. any
 - 6.1 payments for attendance under the Civilians Personal Injury Scheme⁶
 - or**
 - 6.2 similar payment to 6.1.
7. any payment for attendance which is part of WDisP. This includes severe disablement occupational allowance paid with CAA.

Note: Payments at 6. are made to people who receive a disability pension because of war injuries suffered as civilians or civil defence volunteers.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 SS CB Act 92, s 64; 3 s 104 & 105; 4 s 104 & 105; 5 Workmen's Compensation Acts 1925-1945; 6 Personal Injuries (Civilians) Scheme 83, Art 14-16 & 44

Blind - treated as

23072 People should be treated as blind¹ or severely sight impaired where they have regained their sight having previously being

1. certified by a consultant ophthalmologist as

1.1 severely sight impaired **or**

1.2 blind

for a period of 28 weeks following the date they ceased to be so certified.

1 JSA Regs, Sch 1, para 14(1)(h) & 20H(1)(i); IS (Gen) Regs, Sch 2, para 12(1)(a)(iii);

23073

Mobility Supplement

23074 Mobility supplement means¹

1. supplements under the Armed Forces Disablement and Death Service Pensions Order and any similar order² **or**

2. a supplement under the Personal Injuries (Civilians) Scheme³.

These supplements are known collectively as war pensioner's mobility supplement.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 Naval, Military & Air Forces etc. (Disablement & Death Service Pensions Order 83), art. 26A; 3 Personal Injuries (Civilians) Scheme 83, art. 25A

23075

Family premium

JSA(IB) and IS

23076 FP is payable if

1. the claimant is a member of a family **and**
2. the family includes at least one child or young person¹.

1 JSA Regs, reg 83(d) & 84(1)(e); Sch 1, para 4; IS (Gen) Regs, reg 17(1)(c) & 18(1)(d); Sch 2, para 3

23077 FP is payable at two rates¹. These are

1. Family Premium standard rate (FP)
2. Family Premium lone parent rate (FP(LP)).

The claimant cannot be awarded **both** FP and FP(LP). One FP or FP(LP) is awarded even if the claimant has more than one dependant.

1 JSA Regs, Sch 1, para 4; IS (Gen) Regs, Sch 2, para 3

Family premium - standard rate

23078 FP at the standard rate is payable if ¹ the claimant is

1. a member of a family (other than a lone parent) that includes at least one child or young person **or**
2. a lone parent who does not get FP(LP) because they are entitled to one of the premiums mentioned in DMG 23079 **2**.

1 JSA Regs, reg 83(d) & 84(1)(e); Sch 1, para 4; IS (Gen) Regs, reg 17(1)(c) & 18(1)(d); Sch 2, para 3

Family premium - lone parent

23079 FP(LP) is payable if¹ the claimant

1. is a lone parent **and**
2. has transitional protection **and**
3. is not entitled to
 - 3.1 PP **or**
 - 3.2 EPP **or**

3.3 HPP or

3.4 DP.

1 JSA Regs, Sch 1, para 4(a); IS (Gen) Regs, Sch 2, para 3(a)

Underlying entitlement

23080 Where a lone parent has transitional protection but is entitled to one of the preferential premiums mentioned in DMG 23079 **3.**, the lone parent has underlying entitlement to FP(LP). While the preferential premium continues, FP at the standard rate should be awarded. If the preferential premium ceases FP(LP) can be awarded.

Transitional protection

23081 The law on entitlement to FP(LP) changed on 6.4.98¹. Claimants who had been entitled, or who had underlying entitlement, to FP(LP) on an IS or JSA(IB) award for a period that spanned the change were transitionally protected. Transitional protection continues until there is a break of more than twelve weeks in entitlement to IS or JSA(IB) as a lone parent. Once transitional protection is lost the claimant can never again qualify for the FP(LP).

1 JSA Regs, Sch 1, para 4(2) to (5); IS (Gen) Regs, Sch 2, para 3(2) to (5)

Example

Shula is a lone parent whose IS award, which includes FP(LP), ends because she starts remunerative work. Her last day of entitlement is Wednesday 22.4.98. She makes another claim and is awarded IS from Thursday 16.7.98. She retains transitional protection because the gap between the periods of entitlement as a lone parent is exactly twelve weeks.

23082 Transitional protection also applies to a lone parent who had a break in claim, or in lone parent status, which spanned the change in the law on 6.4.98. Transitional protection continues if the lone parent

1. was entitled to FP(LP) (including underlying entitlement), on an IS or JSA(IB) award on any day during the twelve weeks ending on 5.4.98 **and**
2. became entitled again no more than twelve weeks later than the last day for which 1. applied **and**
3. since becoming entitled again has not had a break of more than twelve weeks in entitlement to IS or JSA(IB) as a lone parent.

23083 If a period of loss of lone parent status is followed by a period of loss of entitlement to IS or JSA(IB), or vice versa, the total period must not exceed twelve weeks or transitional protection is lost.

Example

Kate, a lone parent getting FP(LP), moves in with a new partner and gives up IS from 27.5.98. Ten weeks later she splits up with her partner but does not re-claim immediately because she has started a F/T job. She gives up the job and re-claims four weeks later. The claims do not link and transitional protection is lost because the total period without FP(LP) entitlement exceeds twelve weeks.

23084 IS and JSA(IB) claims are interchangeable for this purpose. A person can move from IS to JSA(IB) or vice versa and still benefit from the linking rules¹.

1 JSA Regs, Sch 1, para 4(6); IS (Gen) Regs, Sch 2, para 3(6)

23085 FP(LP) is also payable if¹

1. the claimant is a member of a couple **and**
2. the claimant has transitional protection **and**
3. the family includes at least one child or young person **and**
4. the partner has been absent from the UK for more than
 - 4.1 four weeks **or**
 - 4.2 eight weeks, if taking a child abroad for treatment and
5. the claimant is treated as a lone parent.

See DMG 071940 and 072132 et seq.

1 JSA Regs, reg 85(1), Sch 5, para 10 & 11; IS (Gen) Regs, reg 21(1), Sch 7, para 11 & 11A

23086 - 23090

Pensioner premium

General

- 23091 Before awarding PP the DM should consider whether HPP conditions are satisfied. If appropriate HPP should be awarded instead of PP.
- 23092 Age is the only qualifying condition for PP. This condition is different for JSA(IB) and IS. The multiple premium rules apply to PP (see DMG 23052).

JSA(IB)

- 23093 PP is payable if the claimant or partner has attained the qualifying age for SPC
There are two rates of PP
1. lower rate - for a single claimant or lone parent who has attained the qualifying age for SPC¹
 2. higher rate - for a claimant who is a member of a couple or polygamous marriage where
 - 2.1 the claimant has attained the qualifying age for SPC² **or**
 - 2.2 the claimant's partner has attained the qualifying age for SPC but not the age of 75³ **or**
 - 2.3 a member of a joint-claim couple has attained the qualifying age for SPC but not the age of 75⁴.

1 JSA Regs, Sch 1, para 20(2)(a); 2 para 20(2)(b); 3 para 10 & 20(2)(c); 4 para 20E & 20(M)(1)

IS

- 23094 PP is payable where the claimant is less than the qualifying age for SPC and the claimant's partner is not less than the qualifying age for SPC but less than 75¹.

1 IS (Gen) Regs, Sch 2, para 9

Enhanced pensioner premium

General

- 23095 Before awarding EPP the DM should consider whether HPP conditions are satisfied. If appropriate HPP should be awarded instead of EPP.
- 23096 Age is the only qualifying condition for EPP. The multiple premium rules apply to EPP (see DMG 23052).

JSA(IB)

- 23097 EPP is payable if the claimant has a partner who has attained the age of 75 but not the age of 80¹. There is only one rate of EPP.

1 JSA Regs, Sch 1, para 11

IS

- 23098 EPP is payable if the claimant has a partner who has attained the age of 75 but not the age of 80¹. There is only one rate of EPP.

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

23099

Higher pensioner premium

General

23100 HPP is paid at two rates. The qualifying conditions for the HPP are different for JSA(IB) and IS, but the linking rules are the same. The multiple premium rules apply to HPP (see DMG 23052).

JSA(IB)

Lower rate

23101 The lower rate HPP is paid to a single claimant or lone parent who is not less than the qualifying age for SPC and¹

1. is in receipt of
 - 1.1 the disability element, or the severe disability element, of WTC² **or**
 - 1.2 Mobility Supplement² (see DMG 23074) **or**
 - 1.3 “AA” (see DMG 23071) **or**
 - 1.4 DLA (including any DLA paid direct to Motability Finance)³ **or**
 - 1.5 PIP **or**
 - 1.6 AFIP⁴ **or**
2. is provided with, or a grant towards, an invalid carriage by
 - 2.1 the NHS in GB **or**
 - 2.2 the Department of Health and Social Services in Northern Ireland⁵ **or**
3. is entitled to the mobility component of DLA or PIP but that component is not payable because of DMG 23103⁶ **or**
4. is certified as severely sight impaired or blind by a consultant ophthalmologist⁷ (see DMG 23072) **or**
5. was entitled to either JSA(IB) or IS **and**
 - 5.1 the DP was payable for a benefit week within eight weeks of reaching the qualifying age for SPC **and**
 - 5.2 has remained continuously entitled to JSA(IB) or IS, or a combination of both since reaching that age, but see DMG 23113⁸ and 23114.

*1 JSA Regs, Sch 1, para 12(1)(a); 2 Sch 1, para 14(1)(a); 3 Sch 1, para 14(1)(c);
4 Sch 1, para 14(1)(cb) & 20H(1)(cb); 5 Sch 1, para 14(1)(e); 6 Sch 1, para 14(1)(f);
7 Sch 1, para 14(1)(h); 8 Sch 1, para 12(a)(ii)*

Higher rate

- 23102 The higher rate HPP is paid to a claimant who is a member of a couple or polygamous marriage if the
1. partner is aged 80 or over¹ **or**
 2. partner or one member of a joint-claim couple² is not less than the qualifying age for SPC but less than 80 **and**
 - 2.1 satisfies DMG 23101 1. to 4.³ **or**
 - 2.2 is in receipt of
 - 2.2.a SDA⁴ **or**
 - 2.2.b IBLT (including IBST paid at an equal rate to IBLT because the partner is terminally ill)⁵ **or**
 - 2.3 was in receipt of IBLT immediately before attaining pensionable age **and**
 - 2.3.a that partner is still alive **and**
 - 2.3.b HPP or DP had been payable to the claimant or partner before IBLT ceased⁶ **or**
 - 2.4 was entitled to
 - 2.4.a "AA", DLA or PIP which has ceased or is abated because the partner has been in hospital for more than 28 days **and**
 - 2.4.b HPP or DP was awarded to the claimant or partner immediately before "AA", DLA or PIP ceased or was abated⁷ **or**
 3. member of a joint-claim couple is not less than the qualifying age for SPC but less than 80 **and**
 - 3.1 is entitled to SSP (see DMG 23133) **or**
 - 3.2 is incapable or treated as incapable of work (see DMG 23135) **or**
 - 3.3 has limited capability for work **or** is treated as having limited capability for work

for a continuous period of not less than 196 days if the claimant is terminally ill, or 364 days in any other case⁸. DP is applicable from the 197th or 365th day respectively (see DMG 23143 to 23145 for linking rules) **or**
 4. claimant satisfies the conditions in DMG 23101⁹.

Note: See DMG Chapter 75 for guidance on pensionable age.

1 JSA Regs, Sch 1, para 12(1)(b)(i); 2 Sch 1, para 20F(1)(a); 3 Sch 1, para 14(1)(a), (c), (e), (f), (h) & (cb) & 20H(1)(a), (c), (f), (g), (i) & (cb); 4 Sch 1, para 14(1)(b) & 20H(1)(b); 5 Sch 1, para 14(1)(d), 20H(1)(d) & 20H(1)(e); 6 Sch 1, para 14(1)(g)(i) & 20H(1)(h)(i); 7 Sch 1, para 14(1)(g)(ii) & 20H(1)(h)(ii); 8 Sch 1, para 20F(1)(a) & para 20H(1)(e) & (ee); 9 Sch 1, para 12(1)(c) & 20F(1)(b)

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

Disability premium

General

23121 DP is paid at two rates. If a person is not less than the qualifying age for SPC and satisfies the DP conditions, consider HPP instead. The qualifying conditions for JSA(IB) and IS are different. The multiple premiums rule applies to DP (see DMG 23052).

JSA(IB)

Lower rate

23122 The lower rate DP is paid to a single claimant or lone parent who is aged less than the qualifying age for SPC¹ and is

1. in receipt of
 - 1.1 the disability element, or the severe disability element, of WTC² **or**
 - 1.2 Mobility Supplement³ (see DMG 23074) **or**
 - 1.3 "AA" (see DMG 23071) **or**
 - 1.4 DLA (including any DLA paid direct to Motability Finance)⁴ **or**
 - 1.5 PIP **or**
 - 1.6 AFIP⁵ **or**
2. provided with, or a grant towards, an invalid carriage by the
 - 2.1 NHS in GB **or**
 - 2.2 Department of Health and Social Services in Northern Ireland⁶ **or**
3. entitled to the mobility component of DLA or PIP but that component is not payable because of DMG 23103⁷ **or**
4. certified as severely sight impaired or blind by a consultant ophthalmologist or treated as severely sight impaired or blind⁸ (see DMG 23072).

1 JSA Regs, Sch 1, para 13(a); 2 Sch 1, para 14(1)(a); Working Tax Credits (Ent & Max rate) Regs 2002, reg 20(1)(b) & (f); 3 JSA Regs, Sch 1, para 14(1)(a); 4 Sch 1, para 14(1)(c); 5 Sch 1, para 14(1)(cd); 6 Sch 1, para 14(1)(e); 7 Sch 1 para 14(1)(f); 8 Sch 1, para 14(1)(h) & (2)

Higher rate

23123 The higher rate DP is paid to a claimant who is a member of a couple or polygamous marriage where

1. the claimant
 - 1.1 is aged less than the qualifying age for SPC **and**
 - 1.2 satisfies any of the conditions at DMG 23122¹ **or**

2. the partner, or a member of a joint-claim couple, is aged less than the qualifying age for SPC **and**
 - 2.1 satisfies any of the conditions in DMG 23122² **or**
 - 2.2 is in receipt of
 - 2.2.a SDA³ **or**
 - 2.2.b IBLT (including IBST paid at an equal rate to IBLT because the claimant or partner is terminally ill)⁴ **or**
 - 2.3 is in receipt of
 - 2.3.a “AA”, DLA or PIP which has ceased or is abated solely because the partner, or either member of the joint-claim couple, has been in hospital for more than 28 days **and**
 - 2.3.b DP was awarded to the claimant or partner immediately before “AA”, DLA or PIP ceased or was abated⁵ **or**
3. the member of a joint-claim couple is aged less than the qualifying age for SPC **and**
 - 3.1 is entitled to SSP (see DMG 23133) **or**
 - 3.2 is incapable or treated as incapable of work (see DMG 23135) **or**
 - 3.3 has limited capability for work or is treated as having limited capability for work

for a continuous period of not less than 196 days if the claimant is terminally ill, or 364 days in any other case⁶. DP is applicable from the 197th or 365th day respectively (see DMG 23143 to 23145 for linking rules).

1 JSA Regs, Sch 1, para 13(b) & 20G; 2 Sch 1, para 13(c) & 20G; 3 Sch 1, para 14(1)(b) & 20H(1)(b);

4 Sch 1, para 14(1)(d) & 20H(1)(d); 5 Sch 1, para 14(1)(g)(ii) & 20H(1)(h)(ii);

6 Sch 1, para 20G(1) & para 20H(1)(e) & (ee)

23124 - 23126

IS

Lower rate

- 23127 The lower rate DP is paid to a single claimant or lone parent¹ who is aged less than the qualifying age for SPC² **and**
1. in receipt of any of the following benefits
 - 1.1 “AA” (see DMG 23071)
 - 1.2 DLA
 - 1.3 the disability element, or the severe disability element, of WTC
 - 1.4 Mobility Supplement (see DMG 23074)
 - 1.5 IBLT including IBST treated as IBLT (see DMG 23129)

- 1.6 SDA
- 1.7 PIP
- 1.8 **AFIP³ or**
- 2. is provided with, or a grant towards, an invalid carriage by the NHS⁴ **or**
- 3. is certified as severely sight impaired or blind by a consultant ophthalmologist or treated as severely sight impaired or blind⁵ (see DMG 23072) **or**
- 4. he or she is or is treated as incapable of work and is
 - 4.1 entitled to SSP (see DMG 23133) **or**
 - 4.2 incapable of work **or**
 - 4.3 treated as incapable of work (see DMG 23135)

for a continuous period of not less than 196 days if the claimant is terminally ill, or 364 days in any other case⁶. DP is applicable from the 197th or 365th day respectively (see DMG 23143 to 23145 for linking rules) **or**
- 5. is
 - 5.1 entitled to SSP (see DMG 23133) for a continuous period of not less than 196 days **and**
 - 5.2 terminally ill⁷ **or**
- 6. was in receipt of "AA", DLA or PIP which has been suspended or is abated solely because the person for whom that benefit was payable has been in hospital for more than 28 days if DP was payable to the claimant before "AA", DLA or PIP was suspended or abated⁸.

1 IS (Gen) Regs, Sch 2, para 11(1)(a); 2 SS CB Act 92, s 124(1)(aa); 3 para 12(1)(a)(i); 4 para 12(1)(a)(ii); 5 para 12(1)(a)(iii) & (2); 6 ESA (TP, HB & CTB (EA) (No. 2) Regs reg 23A(4); 7 IS (Gen) Regs, Sch 2, para 12(1)(b); 8 para 12(1)(d);

Higher rate

- 23128 The higher rate DP is payable to a claimant who is a member of a couple or polygamous marriage if the
- 1. claimant
 - 1.1 is aged less than the qualifying age for SPC¹ **and**
 - 1.2 satisfies any of the conditions at DMG 23127² **or**
 - 2. partner
 - 2.1 is aged less than the qualifying age for SPC **and**
 - 2.2 satisfies any of the conditions in DMG 23127 1. to 3. or 6.³ **or**
 - 3. partner was in receipt of IBLT which ceased because of the award of RP⁴ **and**
 - 3.1 the claimant has since remained continuously entitled to IS **and**

3.2 the DP has been applicable **and**

3.3 the partner is still alive⁵.

Note: In **2.2**, any IBLT or SDA paid to a partner must be paid because of the partner's own incapacity or disability⁴ (see DMG 23055).

*1 SS CB Act 92, s 124(1)(aa); 2 IS (Gen) Regs, Sch 2, para 11(1)(b)(i); 3 para 11(1)(b)(ii);
4 para 12(1)(a)(i); 5 para 12(1)(c)*

IBST treated as IBLT - IS

23129 IBST is treated as IBLT if it is paid at

1. the rate equal to IBLT because the claimant or partner is terminally ill **or**
2. a rate equal to or more than IBLT¹.

1 IS (Gen) Regs, Sch 2, para 12(6)

IB to ESA conversion

23130 See DMG 45531 for details on when the DP is lost where a person moves from IB to ESA on conversion

23131 - 23132

Meaning of entitled to SSP

23133 Entitlement to SSP starts from the first day of incapacity even though SSP is not paid for waiting days and non-working days. For DP purposes the

1. period of entitlement to SSP **and**
2. days which count towards payment of IBLT

are not the same. Do not assume that DP will be payable from the same date as IBLT. DP may be payable before IBLT is awarded.

23134 For DP the DM should determine the first and last day of incapacity. The period of entitlement to SSP is

1. from and including the first day of IfW **and**
2. up to and including the last day
 - 2.1 of IfW **or**
 - 2.2 entitlement to SSP.

Example

Tony is entitled to SSP from 9 September. The normal working week is five days, Monday to Friday. The three waiting days are 9 September to 11 September. SSP is payable from 12 September. Tony returns to work on 12 November. For DP purposes the days of entitlement to SSP are from 9 September to 11 November, that is 64 days.

Meaning of incapable of work

23135 Only days that a claimant is, or is treated as, incapable of work count for DP¹. A DM may determine that a claimant is

1. not incapable of work **or**
2. treated as incapable of work.

In cases of doubt consult the relevant DM.

1 SS CB Act 92, Part XIA; IS (Gen) Regs, Sch 2, para 12(1)(b)(i)

23136 Any days that a claimant is not incapable of work do not normally count for DP. This applies even if the claimant continues to be entitled to IS because an appeal is outstanding.

23137

23138 DP should continue if a claimant

1. is found not incapable of work **and**
2. satisfies any other of the conditions for the award of DP, such as receipt of a qualifying benefit.

23139 Where a claimant is found not incapable of work but entitlement is extended to the end of a benefit week¹ the claimant will lose entitlement to their DP for this final week. This is because the change of circumstances actually leads to two superseding decisions, one to remove the DP² and one to end entitlement³.

1 IS (Gen) Regs, reg 4ZA(4); 2 SS CS (D&A) Regs, Sch 3A, para 1; 3 para 3

Example 1

Jason is incapable of work. He is in receipt of IS, his benefit week runs from a Tuesday to Monday and includes DP. On Wednesday 29 October 2008 the DM decides that he is not incapable of work. Entitlement to IS is superseded and DP removed from Tuesday 28 October 2008 and entitlement is superseded again this time to end entitlement. However, as a result of regulation 4ZA(4) Jason is paid for the whole of the benefit week to 3 November 2008. The following week Jason appeals against the disallowance and refuses to claim JSA. Pending the outcome of the appeal IS is reinstated. DP is not payable because Jason is not incapable of work.

Example 2

Kevin is incapable of work. He is in receipt of IS which includes DP. The DM decides that he is not incapable of work. This change of circumstances results in two superseding decisions, one decision relates to entitlement and one decision relates to whether the DP is included in the claimants applicable amount. Entitlement to IS is superseded and DP removed from the first day of the final benefit week and entitlement is superseded again this time to end entitlement. Kevin claims JSA. DP is not payable because Kevin is not incapable of work.

Example 3

Brett is incapable of work, he is in receipt of IS and DLA and is awarded the DP. The DM decides that he is not incapable of work. Entitlement to IS is superseded and disallowed. Brett claims JSA. DP is payable as he is in receipt of DLA.

23140

23141 DP is not payable for any days that a claimant is not incapable of work and these days do not count for the DP qualifying period. DMs should note that this applies even if the OOT or the AWT is satisfied.

23142 The DM may determine that claimants are not incapable of work¹ if they

1. fail without good cause to attend or agree to medical examination
2. fail without good cause to return a questionnaire within a prescribed time limit
3. do work of a prescribed description or more than a prescribed amount of work
4. are incapable through their own misconduct
5. fail without good cause to submit for medical or other treatment
6. fail without good cause to observe any prescribed rules of behaviour.

Note: 1., 2. and 3. are for an indefinite period. 4., 5. and 6. are for a maximum of six weeks.

1 SS CB Act 92, s 171A, 171D & 171E; SS (IW) (Gen) Regs, regs 16, 17 & 18

Example 1

Peta is a lone parent entitled to IS because she is incapable of work. She is entitled to the DP. She fails to attend a medical examination. The DM determines that she is treated as capable of work from 21 October onwards. DP is withdrawn from the benefit week in which the change occurs. Entitlement to IS continues as she is a lone parent.

Example 2

Cliff is entitled to IS from 10 October due to incapacity for work. The 364 days qualifying period has not yet been served. He fails without good cause to go for a medical examination. The DM determines that he is treated as capable of work from 17 December to 15 January (30 days). This period does not count towards the DP qualifying period, even though the claimant is entitled to IS for this period.

Linking

23143 Separate periods of entitlement to SSP, IfW or LCW may link for

1. the qualifying period **and**
2. continuing entitlement to DP¹.

1 IS (Gen) Regs, Sch 2, para 12(1)(b)

23144 There are special rules for WtWBs (see DMG 23145). Two or more distinct periods of

1. entitlement to SSP **or**
2. IfW

are treated as one continuous period if they are separated by one or more intervals each not exceeding 56 days. For LCW the intervals must not exceed 12 weeks.

Note: Only the periods of incapacity link. The gaps between periods of incapacity do not count towards the DP qualifying period.

Example

David becomes incapable of work on 8 January 2008. The last day of IfW is 9 March 2008. He claims JSA and then becomes incapable of work again from 30 April 2008. The gap between the periods of IfW is less than 56 days - 10 March to 29 April (51 days). The periods of IfW link and are treated as one continuous period. The DP would normally have been due, on the repeat claim, from 29 April 2009, but the periods of IfW link, so entitlement to the DP is brought forward by the 62 days already served and is now due from 26 February 2009.

23145 Where DMG 23127.4. applies and the claimant or their partner is a WtWB (see DMG Chapters 13 and 14), two or more distinct periods of

1. entitlement to SSP **or**
2. IfW

are treated as one continuous period if they are separated by one or more intervals each not exceeding 104 weeks¹.

1 ESA (TP, HB & CTB (EA) (No. 2) Regs reg 23A(4)

Example

Neil is incapable of work and receives IS with DP. He starts a F/T job on 2 November 2005 and payment of IS is withdrawn. On 7 March 2007 he has to stop work due to ill health and on 8 March reclaims IS as he is again incapable of work. The DM confirms that Neil is a WtWB. The gap between his periods of IfW is less than 104 weeks. The periods link and are treated as one continuous period. DP is awarded from 8 March.

23146 - 23149

People abroad and prisoners

23150 For IS the claimant may be incapable of work if the

1. OOT **or**
2. PCA

is satisfied, or treated as satisfied¹.

1 SS CB Act 92, Pt XIII A

23151 Enquiries should be made of the relevant DM to find out if the claimant is incapable of work, if the claimant has been

1. abroad **or**
2. a prisoner.

If so, these days count for the DP qualifying period and linking purposes.

Example 1

Paul is incapable of work and in receipt of IS and IBST from 13 August. From 18 September to 17 October (30 days) the claimant is a prisoner. The DM decides IBST is disqualified and the days are days of IfW. The period as a prisoner counts towards the qualifying period for DP.

Example 2

Richard is in receipt of IS as he is incapable of work. He satisfies the AWT and is awarded DP. From 6 September Richard is a prisoner. As a prisoner his IS applicable amount is nil. He is incapable of work during the period as a prisoner. He is discharged on 29 January and claims JSA on 30 January. On 5 March the claimant is incapable of work and is treated as satisfying the PCA. DP is awarded from 5 March because

1. Richard was incapable of work during the period as a prisoner (6 September to 29 January) **and**

2. the period that Richard was in receipt of JSA and not incapable was for 56 days or less (linking rules) (30 January to 4 March) **and**
3. the periods that Richard was incapable of work link (29 January to 5 March).

Example 3

Jan is incapable of work but is not entitled to IB. She is in receipt of IS with DP. Jan provides a medical certificate of her incapacity for six months from 1 May. From 26 May, Jan is a prisoner and her applicable amount is nil. She is discharged on 22 September and reclaims IS on 27 September. Jan has provided suitable medical evidence that she was incapable of work for the time she spent in prison. DP is therefore awarded from 27 September.

Late claim

- 23152 A claimant who makes a late claim for benefit without good cause is disentitled. For DP purposes, days that a claimant is incapable of work during a period of disentitlement for a late claim are days of IfW.

Example

On 4 November Nicola claims IBST and requests backdating to 12 September. The DM decides that Nicola was incapable of work from 12 September. But good cause has not been shown and Nicola is disentitled to IBST. The days of disentitlement count for DP.

Terminally ill

- 23153 For IS purposes the DM determines if, and the date from which, a claimant is terminally ill¹.

1 SS CB Act, s 30B(4); SS (IW) (Gen) Regs, reg 20

- 23154 If a claimant is terminally ill after the start of the qualifying period any days already served will count towards the 196 days (see DMG 23127 **4.**).
- 23155 If the claimant becomes terminally ill after the start of the IfW or entitlement to SSP, but before the 365th day, DP will begin on the later of the
1. 197th day **or**
 2. date from which the DM determines the claimant is terminally ill.

Example 1

Michael is incapable of work and in receipt of IS. The 364 days qualifying period for DP begins 24 October. On 19 December a DM determines Michael has been terminally ill since 27 November. The 196 days qualifying period begins 24 October even though Michael was not terminally ill on that date.

Example 2

Edward is incapable of work and in receipt of IS. The 364 days qualifying period for DP begins 15 January. On 17 August a DM determines that Edward has been terminally ill since 5 August. More than 196 days in the qualifying period have been served. DP is applicable from 5 August, the date from which the DM decides that Edward is terminally ill.

Starting a training course

23156 If DMG 23127.4 applies and a claimant who has qualified for DP due to IfW

1. starts a training course provided or approved by the Secretary of State **or**
2. is in receipt of a training allowance

the qualifying conditions should be treated as satisfied during the period of training. The claimant continues to be entitled to the DP¹.

1 ESA (TP, HB & CTB (EA) (No. 2) Regs, reg 23A(4)

23157 - 23171

Change of claimant for DP

23172 The DM should advise the partner of a claimant to become the claimant if the

1. partner satisfies the incapacity conditions for DP **and**
2. claimant is not entitled to DP.

23173 If there is a change of claimant because DMG 23172 is satisfied, arrears of DP can be paid for a past period if¹ the

1. time for claiming has been extended and the new claim is treated as made on an earlier date² (see DMG Chapter 02 for guidance on second claims for IS) **and**
2. partner (the old claimant) was entitled to IS or JSA(IB) or both³ for the period
 - 2.1 beginning with the date on which the new IS or JSA claim has been treated as made⁴ **and**
 - 2.2 ending on the day before the actual date of claim **and**
3. new claimant satisfies the conditions for the award of DP as in DMG 23127 4. throughout the period at 2.

Note: The weekly amount of the arrears is the higher rate of DP⁵.

1 IS (Gen) Regs, Sch 7, para 19; 2 SS (C&P) Regs, reg 19(4); 3 IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32(a); 4 reg 6(3); 5 IS (Gen) Regs, Sch 7, para 19

Example

On 30 January Haydn becomes incapable of work and on 2 February claims IS for himself and his partner Pamela. He is not entitled to DP and is awarded IS without DP. On 27 March, Pamela claims IS for the couple on the basis of her own incapacity. She provides evidence that she has been incapable of work for the past two years and asks for her claim to be treated as made on 2 February. Pamela's claim is treated as made on 2 February. She satisfies the conditions for the award of DP throughout the period 2 February to 26 March and Haydn was entitled to IS for that period. Arrears of DP can therefore be considered for the period 2 February to 26 March.

DP transitional arrangements because of the introduction of IB

23174 Guidance on the transitional arrangements for the introduction of IB for

1. claimants already in receipt of DP on 12.4.95 **and**
2. the qualifying period - days before 13.4.95

is in Appendix 1 to this Chapter.

23175 - 23179

Enhanced disability premium

General

23180 The qualifying conditions to be satisfied for enhanced disability premium (EDP) are the same for IS and JSA(IB). See DMG 23052 for how the multiple premiums rule applies to EDP.

IS and JSA(IB)

23181 **[See DMG Memo JSA/IS 64]** EDP is payable if

1. AFIP¹ is in payment
2. DLA highest rate care component is payable, or would be payable but for a suspension or abatement as a consequence of hospitalisation, in respect of
 - 2.1 the claimant **or**
 - 2.2 the claimant's partner where that partner is aged less than the qualifying age for SPC²
3. the daily living component of PIP at the enhanced rate is payable in respect of
 - 3.1 the claimant **or**
 - 3.2 the claimant's partner where that partner is aged less than the qualifying age for SPC **or**would be payable to the claimant or claimant's partner if they were not a hospital in-patient³
4. they are not entitled to PP, EPP or HPP⁴

1 IS (Gen) Regs, Sch 2, para 13A(1); JSA Regs, Sch 1, para 15A(1) & 20IA(1);

2 IS (Gen) Regs, Sch 2, para 6(2); JSA Regs, Sch 1, para 7(2) & 20C(2);

3 para 15A(1ZA)(b) & 20IA(1)(b), IS (Gen) Regs, Sch 2, para 13A(1) & 13A(1ZA)(c);

4 JSA Regs, Sch 1, para 15A(1ZA)(c), IS (Gen) Regs, Sch 2, para 13A(1) & 13A(1ZA)(a)

Admission to care home or independent hospital

23182 EDP continues in payment for the period DLA highest rate care component continues to be paid, usually 28 days.

23183 Where the claimant is self funding DLA highest rate care component may continue to be payable beyond 28 days when a person is admitted to a care home or independent hospital. In such a case EDP will continue to be payable until entitlement to the DLA highest rate care component ceases¹ or the person who satisfies the premium condition becomes a long term patient².

1 IS (Gen) Regs, Sch 2, para 13A(1); JSA Regs, Sch 1, para 15A(1) & 20IA(1)

2 IS (Gen) Regs, Sch 2, para 13A(2); JSA Regs, Sch 1, para 15A(2) & 20IA(2)

Children and young persons

23184 An EDP is not applicable in respect of a child or young person who

1. has capital over £3,000¹ or
2. is a long term patient as described at DMG 23256¹.

1 IS (Gen) Regs, Sch 2, para 13A(2)(a); JSA Regs, Sch 1, para 15A(2)(a)

23185 The DM may need to work out the child or young person's income to be taken into account¹. Any such calculation should include the EDP for that child or young person if they satisfy the conditions for EDP. This is in addition to the personal allowance and DCP.

1 IS (Gen) Regs, reg 44; JSA Regs, reg 106

Liabe relative payments

23186 When working out the period over which non-periodical liabe relative payments are taken into account, the calculation should include the EDP¹.

1 IS (Gen) Regs, reg 57(1)(b)(iia); JSA Regs, reg 121(1)(b)(iia)

EDP following the death of a child

23187 Where

1. an EDP has been awarded **and**
2. the child in respect of whom it was awarded has died **and**
3. CHB is awarded for an additional eight weeks following the death

an alternative qualifying condition is satisfied for the additional period of eight weeks, alongside the run on of CHB¹. The award of CHB can be either in the name of the claimant or partner².

1 JSA Regs, Sch 1, paras 15A & 16; IS (Gen) Regs, Sch 2, paras 13A & 14;

2 JSA Regs, Sch 1, para 15A(1A); IS (Gen) Regs, Sch 2, para 13A(1A)

23188 - 23199

Severe disability premium

JSA(IB) and IS

General

23200 SDP is payable to a severely disabled person¹. There are two rates of SDP.

1 IS (Gen) Regs, Sch 2, para 13(1)

Combination of SDP with DP or HPP

23201 If the conditions for SDP are met, the appropriate SDP rate should be included in the claimant's applicable amount in addition to any other premium.

Lower rate

23202 Single claimants, lone parents and claimants who are deemed to have no partner (see DMG 23205) are entitled to the lower rate SDP if

1. they are in receipt of
 - 1.1 "AA" (see DMG 23071) **or**
 - 1.2 the middle or highest rate of the care component of DLA **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. there are no non-dependants aged 18 or over
 - 2.1 normally residing (see DMG 23209) with the claimant **or**
 - 2.2 who the claimant normally resides with **and**
3. CA or UC that includes the CE, is not in payment to anyone for caring for them (see DMG 23236)¹.

1 JSA Regs, Sch 1, para 15(1); IS (Gen) Regs, Sch 2, para 13(2)(a)

23203 Members of a couple or polygamous marriage are entitled to the lower rate SDP if

1. each member of the couple or polygamous marriage is in receipt of
 - 1.1 "AA" **or**
 - 1.2 the middle or highest rate of the care component of DLA **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. there are no non-dependants aged 18 or over
 - 2.1 normally residing (see DMG 23209) with the claimant **or**
 - 2.2 who the claimant normally resides with **and**

3. CA or UC that includes the CE, is in payment (see DMG 23236) to someone for caring for one
 - 3.1 of a couple **or**
 - 3.2 or more, but not all, of the members of a polygamous marriage¹.

*1 JSA Regs, Sch 1, para 15(2)(a)-(c) & (d)(ii) and 20I(1)(a)-(c) & (d)(ii);
IS (Gen) Regs, Sch 2, para 13(2)(b)*

Higher rate

23204 Members of a couple or polygamous marriage are entitled to the higher rate SDP if

1. the conditions in DMG 23203 **1.** and **2.** are satisfied **and**
2. CA or UC that includes the CE, is not in payment (see DMG 23236) to someone for caring for any member of a
 - 2.1 couple **or**
 - 2.2 polygamous marriage¹.

*1 JSA Regs, Sch 1, para 15(2)(a)-(c) & (d)(i) and 20I(1)(a)-(c) & (d)(i);
IS (Gen) Regs, Sch 2, para 13(2)(b)*

Claimant who is deemed not to have a partner

23205 When deciding entitlement to SDP, a claimant is treated as not having a partner if the partner is

1. not in receipt of
 - 1.1 “AA” **or**
 - 1.2 the middle or highest rate of the care component of DLA **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. certified as severely sight impaired or blind by a consultant ophthalmologist or treated as severely sight impaired or blind (see DMG 23072)¹.

1 JSA Regs, Sch 1, para 15(3) and 20I(2); IS (Gen) Regs, Sch 2, para 13(2A)

23206 This means that if the claimant is a member of a

1. couple, the claimant must satisfy DMG 23202 to be entitled to SDP **or**
2. polygamous marriage, all remaining partners must satisfy DMG 23203 **1.** for the claimant to be entitled to SDP.

“AA”, DLA and CA on admission to hospital

23207 Special rules apply to the treatment of “AA”, DLA and CA when a disabled person is admitted to hospital (see DMG 23292).

Non-dependants

23208 Non-dependants are¹ people who are aged 18 or over who

1. normally reside with the claimant **or**
2. the claimant normally resides with (see DMG 23209).

That is, share the accommodation (see DMG 23212). Certain people who normally reside with the claimant are not regarded as non-dependants (see DMG 23220).

1 JSA Regs, reg 2(1); IS (Gen) Regs, reg 3(1); R(IS) 12/96

Meaning of normally resides

23209 Normally resides means usually resides and should be tested over a period to which usually can relate. A person who is temporarily absent from their normal home, continues to normally reside where they usually live and with the people they usually live with.

Example 1

Jack normally lives in his mother's house and is not entitled to SDP because his mother is a non-dependant. He goes into respite care for one week every other month. While he is in respite care Jack still normally resides in his mother's house. He does not qualify for SDP.

Example 2

Mary normally lives alone in her own flat. She is entitled to SDP. Her brother Steven comes to stay with her for a week at a time every three months. He is not a non-dependant because he does not normally live with Mary. She keeps her entitlement to SDP whilst Steven is staying with her.

23210 When considering where a person normally resides the DM should have regard to

1. the total amount of time spent in a place
2. how often time is spent in a place
3. how permanent the stay is thought to be
4. the person's intentions
5. individual circumstances
6. what degree the accommodation is shared
7. the services provided
8. whether the person owns or rents any other accommodation
9. whether the person has any liabilities for services/utilities/tv licence.

Example

Agnes who is aged 59 claims IS. She has been awarded DLA and no one gets CA for caring for her. Agnes owns her own home but for the past two years has slept every night at her son's house. She keeps her clothes and some of her things at her son's house. She goes home for the day two or three days a week, to clean up and do the garden. But she always returns to her son's to sleep. Agnes is responsible for the bills for her home and she and her son still regard Agnes's house as her home. Agnes's house has never been put up for sale.

The DM decides that Agnes normally lives at her son's house because

1. she sleeps at her son's house every night
2. her clothes and some of her things are kept at her son's
3. she only goes back to her own house occasionally and in daylight hours
4. she spends the majority of her time at her son's house.

Agnes is not entitled to SDP.

Students

23211 In a case where a student lives at a university address during term time and lives at their parents' home for some weekends and during the holidays, the DM should have regard to the considerations at DMG 23210 before deciding which address is where they normally reside. Whichever address is chosen will remain the student's normal residence even when they spend time at the other home.

Example

A student still retains a bedroom, furniture and some clothing at their parents' home, they still get some mail there, are registered with the local dentist and are actually resident for 18 full weeks and most weekends. On this evidence the DM decides that the student normally resides at their parents' home and are only temporarily absent from it whilst at university.

Alternatively the DM may decide that because the student has a tenancy agreement for a university address, they have some furniture and clothes there, they live there for 32 weeks of the year and are liable for gas, electricity and a tv licence that they normally reside at the university address and are only temporarily absent from it whilst back living with their parents.

Sharing the accommodation

23212 People should not be regarded as sharing the accommodation if¹

1. the only shared area is a

- 1.1 bathroom **or**
 - 1.2 lavatory **or**
 - 1.3 communal area (see DMG 23213) **or**
2. they are separately liable to make payments (see DMG 23214) to the landlord for that accommodation.

1 JSA Regs, reg 2(6); IS (Gen) Regs, reg 3(4); R(IS) 12/96

Note: A person should still be regarded as sharing the kitchen even if they do not enter or use it where items for the persons use are stored there or their meals are prepared there. A kitchen is not shared if a person needs to pass through it to gain access to their self contained flat.

23213 A communal area is an area of common access (not a room) including

- 1. halls
- 2. stairways **and**
- 3. rooms of common access in sheltered accommodation¹.

1 JSA Regs, reg 2(7); IS (Gen) Regs, reg 3(5)

Meaning of “liable to make payments”

23214 “Liable to make payments” refers to legal liability. When considering the question of liability, the DM must consider whether

- 1. the claimant has the contractual capacity to enter into an enforceable contract **and**
- 2. there was an intention to create legal relations.

23215 If the conditions in DMG 23214 are met, the DM must then establish that¹

- 1. there is an obligation to make payments derived from a recognized source of law (for example contract law) **and**
- 2. the obligation to make the payments is for the occupation of the premises and not, for example, for food or clothing **and**
- 3. the power to bring the licence or lease to an end is referable to a breach of the condition to make the payment under the contractual licence or lease and not to some other matter.

1 R(IS) 11/98

23216 Whether a person has separate liability to a landlord (see DMG 23212 2.) should be determined by reference to the arrangements within the group. But DMs should note that the liability has to be to the same landlord. Reference to some other liability of the person to a third party is not relevant.

Example

Tom claims JSA. He gets DLA and no one gets CA for caring for him. He lives in a privately rented house which he shares with three other people. They all have their own bedroom but share the kitchen and bathroom. Each are liable to pay the landlord rent for their room.

The DM decides that Tom does not normally reside with the other residents of the house. They are all separately liable to make payments to the landlord for their accommodation. Tom has no non-dependants and is awarded SDP.

23217 Where a claimant lives in the parent's home, the DM should establish

1. the terms on which the claimant lives there **and**
2. what payments are made **and**
3. the purpose of those payments.

The DM must then consider whether there is a contractual liability.

Contractual capacity

23218 In England and Wales, only an infant, or a person of unsound mind, may not have the capacity to incur legal liability. DMs should accept that a claimant has sufficient capacity unless there is very strong evidence to the contrary.

Carer stays overnight

23219 A carer may stay overnight with the person they are looking after. In such a case the DM should consider whether the carer normally resides with that person and should find out

1. whether the carer has a separate address
2. if the carer has a separate address, whether they use it and if so, how often
3. what address the carer uses as a postal address
4. what address the carer is registered at for CT purposes.

People who are not non-dependants

23220 People who normally reside with the claimant but who are not non-dependants¹ are

1. any person aged under 18
2. any member of the claimant's family (see DMG Chapter 22)
3. any child or young person who is not treated as a member of the claimant's household (see DMG Chapter 22)
4. a person and their partner who

- 4.1 lives in, to care for the claimant or partner **and**
- 4.2 is engaged by a
 - 4.2.a charitable **or**
 - 4.2.b voluntary organization
 which makes a charge to the claimant or partner for the person's services. A voluntary organization is a non-profit making organization that is not a public authority or LA²
- 5. any person who is not a close relative (see DMG 23222) of the claimant or partner who
 - 5.1 is liable to make payments on a commercial basis to the claimant or partner for occupation of the dwelling **or**
 - 5.2 the claimant or partner is liable to make payments to on a commercial basis for the occupation of the dwelling **or**
 - 5.3 is separately liable to make payments to the landlord for occupation of the dwelling
- 6. any person who is not a close relative (see DMG 23222) and who is a member of the household of a person to whom 5. applies
- 7. a person or their partner who is not a close relative, except where 8. applies, who jointly occupies the claimant's dwelling and who is
 - 7.1 a co-owner of the dwelling with the claimant or partner **or**
 - 7.2 jointly liable with the claimant or partner to make payments to the same landlord for the occupation of the dwelling
- 8. a close relative who satisfies 7. and the
 - 8.1 claimant or partners co-ownership or joint liability arose
 - 8.1.a before 11.4.88 **or**
 - 8.1.b if later, on or before the date on which the claimant **or** partner first occupied the dwelling **or**
 - 8.2 the saving provision applies³ (see Appendix 2 to this Chapter)
- 9. a person in receipt of
 - 9.1 "AA" **or**
 - 9.2 the middle or highest rate of the care component of DLA⁴ **or**
 - 9.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 9.4 AFIP
- 10. a person, including a close relative who

10.1 joins the claimant's household for the first time to care for the claimant or partner **and**

10.2 immediately before joining either the claimant or partner satisfied the conditions for SDP⁵

11. a person who is blind or treated as blind (see DMG 23072)⁶.

Note 1: When considering **7.1** it does not matter if there are other co-owners.

Note 2: For the purpose of **9.** receipt of the allowance will stop where the person has been a hospital inpatient for a prescribed period, at this point the person will be considered a non dependant.

Note 3: The provision in **10.** only applies for the first twelve weeks from the date that person first joined the claimant's household⁷.

1 JSA Regs, reg 2 & Sch 1, para 15(1)(b), 15(2)(c) & 20I(1)(c); IS (Gen) Regs, reg 3; Sch 2, para 13(2)(a)(ii) & 13(2)(b)(iii); 2 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 3 JSA Regs, Sch 1, para 15(8); IS (Gen) Amdt No 6 Regs; 4 JSA Regs, Sch 1, para 15(4)(a) and 20I(3)(a); IS (Gen) Regs, Sch 2, para 13(3)(a); 5 JSA Regs, Sch 1, para 15(4)(b) and 20I(3)(b); IS (Gen) Regs, Sch 2, para 13(3)(c); 6 JSA Regs, Sch 1, para 15(4)(c) and 20I(3)(c); IS (Gen) Regs, Sch 2, para 13(3)(d); 7 JSA Regs, Sch 1, para 15(6) & 20I(5); IS (Gen) Regs, Sch 2, para 13(4)

Commercial basis

23221 For a liability to be on a commercial basis¹ (see DMG 23220 **5.**)

1. there should be a legal liability to make the payment **and**
2. the payment should be broadly in line with what a lodger might pay for similar accommodation and facilities.

Payments for gas, electricity, laundry, food and the provision of care are not payments for facilities. Payments for such items do not confer liability and should be ignored in any comparison.

1 R(IS) 11/98

Meaning of close relative

23222 A close relative is¹

1. a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, **or**
2. if any of the preceding persons is one member of a couple, the other member of that couple **and**
3. similar relationships arising through civil partnerships².

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 CP Act 04, s 246

23223 “Brother” and “sister” includes half-brother and half-sister. A child who is adopted becomes a child of the adoptive parents and the brother or sister of any other child of those parents. The adopted child stops being the child of, or the brother or sister of any children of, the natural parents. Whether an adopted person is a close relative of another person depends on the **legal relationship** not the blood relationship¹.

1 R(SB) 22/87

Changes to people who are not non-dependants

23224 Since IS started there have been some changes to the groups of people who are not non-dependants. The group has mainly stayed as outlined in DMG 23220. But the major changes are highlighted in Appendix 3 to this Chapter.

Shared lives

23225 A registered shared lives carer provides support and accommodation, in their own home, for a disabled claimant. The claimant is able to keep their disability benefits (DLA/PIP) and pays the carer a weekly contribution, the LA also pay the carer a fixed amount. The claimant will have a lodger/licence agreement and as such be eligible to obtain HB. In these circumstances the carers will ignored as non dependants (because they are a person who the claimant is liable to make payments on a commercial basis to) and the claimant will be entitled to the SDP.

Note: The claimant will not be entitled to SDP if there are people other than the carer, carer’s family or other shared lives residents in the dwelling who cannot be ignored, for example where the carer’s 23 year old son still lives in the same dwelling.

Admittance to residential care

23226 The following guidance on admittance to temporary or permanent residential care applies only to the award of SDP. See DMG Chapter 61 for guidance on the treatment of “AA” when a disabled person is admitted to residential care.

Definitions for DMG 23229 - 23236

23227 Temporary residential care means any temporary stay in a care home or independent hospital. For example, respite care in a care home.

23228 Permanent residential care means permanent residence in a care home or independent hospital.

Single claimant or lone parent

23229 A single claimant or lone parent who does not satisfy the SDP conditions because there is a non-dependant, will not satisfy the SDP conditions while in temporary residential care. As the stay is temporary the claimant continues to normally reside at home¹.

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

Example

Nasreen is a single claimant living with her parents. The conditions for SDP are not satisfied. She goes into temporary residential care. SDP is not payable because she continues to normally reside at home with her parents.

23230 Claimants who live in permanent residential care are normally resident in the home providing that care. Other residents of the home are not non-dependants because they do not normally reside with the claimant as they are separately liable to make payments to a landlord¹ (see DMG 23211 2.). SDP is payable to a person in permanent residential care if all of the conditions are satisfied.

Note: DLA may cease when the person has been in permanent residential care for four weeks

1 JSA Regs, reg 2(6); IS (Gen) Regs, reg 3(4)

Example

Ivor is a single claimant who lives at home with his parents. He is in receipt of DLA and no one receives CA, or UC that includes the CE, for caring for him. His parents are non-dependants. The SDP conditions are not satisfied.

Ivor goes into permanent residential care. The DM decides that Ivor is entitled to SDP at the lower rate from the date that he moves into permanent residential care. This is because

1. he is in receipt of DLA **and**
2. the other residents of the home are not non-dependants because they do not normally reside with him **and**
3. no one is in receipt of CA, or UC that includes the CE, for caring for him.

Entitlement to SDP continues as long as all of the above are satisfied.

Couples

23231 When a member of a couple is in temporary residential care the separation from the partner is also temporary. This means that the couple remain members of the same household¹.

1 JSA Regs, reg 78(1); IS (Gen) Regs, reg 16(1)

23232 A special assessment is necessary where one member is in temporary residential care. The claimant's applicable amount should be¹ whichever is the greater of the

1. normal amount for the couple **or**
2. total of the applicable amounts assessed as if the claimant and partner were each a single claimant or lone parent living in their present accommodation.

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

23233 For the purposes of the calculation at DMG 23232 **2.**

1. while in temporary residential care the person is still treated as normally residing at home¹ **and**
2. neither partner is regarded as a non-dependant of the other².

1 JSA Regs, reg 2(1); IS (Gen) Regs, reg 3(1); 2 R(IS) 9/02

Example 1

Peter and Louise live in the same household. They are both named as owners of the property. There are no non-dependants. Both get DLA and someone gets CA for Peter. SDP at the lower rate is payable. Louise goes into temporary residential care.

If they are assessed as a couple, SDP at the lower rate is payable because Louise normally resides at home and CA is in payment for Peter.

If they are assessed as if they are single, SDP is not payable for Peter because CA is in payment. SDP is payable to Louise as she gets DLA, CA is not in payment and there are no non-dependants.

Example 2

Malcolm and Wendy are married and live together in the same household. Malcolm is the tenant of the property. Both Malcolm and Wendy get DLA and CA is not in payment (nor is UC that includes the CE). There are no non-dependants. Higher rate SDP is in payment. Malcolm goes into temporary residential care.

If they are assessed as a couple, the higher rate SDP is payable. Malcolm normally resides at home and Wendy continues to reside at home.

If they are assessed as if they are single, lower rate SDP is payable for Malcolm who normally resides at home and satisfies the SDP conditions for a single claimant. Wendy is not a non-dependant of Malcolm as she is in receipt of DLA. Lower rate SDP is payable to Wendy who continues to normally reside at home and satisfies the SDP conditions for a single claimant.

Example 3

Alan and Geraldine are married and live together in the same household with a non-dependant daughter. Alan gets DLA and CA, or UC that includes the CE, is not in payment. SDP is not in

payment because there is a non-dependant daughter and Geraldine is not in receipt of DLA. Alan goes into temporary residential care.

If they are assessed as a couple, SDP is not payable because Alan normally resides at home and there are non-dependants.

If they are assessed as if they are single, SDP is not payable to Alan because he normally resides at home and there are non-dependants. SDP is not payable to Geraldine because she continues to reside at home and does not satisfy the SDP conditions.

Example 4

Kenneth and Susan live together in the same household with a non-dependant son. Both get DLA and CA, or UC that includes the CE, is not in payment. SDP is not in payment because there is a non-dependant son. Susan goes into temporary residential care.

If they are assessed as a couple, SDP is not payable because Susan normally resides at home and there are non-dependants at home.

If they are assessed as if they are single. SDP is not payable to Susan because she normally resides at home and there are non-dependants at home. SDP is not payable to Kenneth because he continues to normally reside at home and there are non-dependants.

- 23234 A member of a couple admitted to permanent residential care is no longer a member of the same household as the partner¹. Each person may claim JSA or IS as a single claimant or lone parent.

1 JSA Regs, reg 78(1) & (3)(d); IS (Gen) Regs, reg 16(1) & (3)(e)

- 23235 If a claimant is admitted to permanent residential care the other residents of the home are not non-dependants. This is because they do not normally reside with the claimant, as they are separately liable to make payments to a landlord (see DMG 23212 2.)¹. SDP is payable to a claimant in permanent residential care if all of the conditions are satisfied.

Note: DLA may cease when the person has been in permanent residential care for four weeks.

1 JSA Regs, reg 2(6); IS (Gen) Regs, reg 3(4)

Example

Irene and Michael are married and live together in the same household. Irene is in receipt of DLA and no one is in receipt of CA for caring for her. SDP is not payable because Michael does not get "AA" or DLA. Irene is admitted to permanent residential care.

Irene claims benefit for herself as she is no longer a member of Michael's household. The DM decides that Irene is entitled to SDP at the lower rate because

1. she is in receipt of DLA **and**
2. the other residents of the home are not non-dependants because they do not normally reside with her **and**
3. no one is in receipt of CA for caring for her.

Entitlement to SDP continues as long as all of the above are satisfied.

SDP and CA or UC's carer element

23236 SDP is not payable if someone is receiving CA, or UC that includes the CE, for caring for

1. the claimant in a single person claim **or**
2. in couple cases, both the claimant and their partner¹(or all of their partners in the case of polygamous marriage)

CA or CE has to actually be in payment before it affects entitlement to SDP unless DMG 23239 applies. Underlying entitlement to CA does not affect SDP.

Note: A claimant can be awarded SDP and CP at the same time, including where CP is awarded to the claimant because of underlying entitlement to CA (see DMG 23245 et seq).

1 JSA Regs, Sch 1, para 15(1)(c), (2)(d) & 20I(1)(d); IS (Gen) Regs, Sch 2, para 13(2)(a)(iii) & (2)(b)

23237 DMs should normally treat an award of CA as a proper award until the CA decision is revised, superseded or otherwise changed on appeal. If the claimant says that

1. they are not being cared for by the person getting CA **or**
2. the award of CA is in error **or**
3. they know nothing about the CA award **or**
4. the CA claim is fraudulent

the DM should ask the CA unit to investigate whether the CA award is correctly made.

23238 Where the disabled person makes an allegation about the carer's integrity, as described at DMG 23237, the IS/JSA DM can make a decision on the claim or application before the CA DM has decided whether the award of CA should be revised or superseded. However, the IS/JSA decision should include a determination which

1. makes an assumption that the carer is properly in receipt of CA **and**
2. refuses to award SDP.

23239 An award of CA may be backdated for a period before the date on which the CA award is made. Arrears of CA due in such circumstances do not affect entitlement to SDP¹. SDP is only affected from the date the CA award is paid.

1 JSA Regs, Sch 1, para 15(7) and 20I(6); IS (Gen) Regs, Sch 2, para 13(3ZA)

Example

Karim is a single claimant in receipt of SDP. On 20 November a relative claims CA. CA is awarded on 23 January. It is first paid on 6 March. Arrears are included in the first payment from the date of claim. SDP is affected from 6 March.

23240 If a person stops getting CA because a restriction is applied under the loss of benefit provisions¹ they continue to be treated as being in receipt of CA for the purposes of entitlement to SDP².

1 SS Fraud Act 2001, s 7; 2 IS (Gen) Regs, Sch 2, para 13(2)(a)(iii), (2)(b) & (5); JSA Regs, Sch 1, para 15(1)(c), (2)(d), & (9) and 20I(1)(d) & (7)

Disabled child premium

JSA(IB) and IS

23241 [See **DMG Memo JSA/IS 64**] DCP is paid at one rate. If the conditions for DCP are met, DCP should be included in the claimant's applicable amount in addition to any other premium.

Qualifying conditions

23242 A DCP should be paid for each child or young person who

1. the claimant or the claimant's partner is responsible for **and**
2. is a member of the claimant's household **and**
3. is disabled **and**
4. does not have capital over £3000¹
5. is not a long term patient².

1 JSA Regs, Sch 1, para 16(2)(a); IS (Gen) Regs, Sch 2, para 14(2)(a);

2 JSA Regs, Sch 1, para 16(2)(b); IS (Gen) Regs, Sch 2, para 14(2)(b)

Meaning of disabled

23243 For DCP purposes children or young persons should be treated as disabled if they are

1. in receipt of DLA **or**
2. in receipt of PIP **or**
3. in receipt of AFIP **or**
4. not receiving DLA or PIP because they are a hospital in-patient but they continue to be a member of the claimant's family **or**
5. certified as severely sight impaired or blind by a consultant ophthalmologist or treated as severely sight impaired or blind¹ (see DMG 23072).

1 JSA Regs, Sch 1, para 16(1)(a) & (aa) & (ab) & (b); IS (Gen) Regs, Sch 2, para 14(1)(a) & (b) & (d) & (e)

DCP following the death of a child

23244 Where

1. a DCP has been awarded **and**
2. the child in respect of whom it was awarded has died **and**
3. CHB is awarded for an additional eight weeks following the death

an alternative qualifying condition is satisfied for the additional period of eight weeks, alongside the run on of CHB¹.

1 JSA Regs, Sch 1, paras 15A & 16; IS (Gen) Regs, Sch 2, paras 13A & 14

Carer premium

JSA(IB) and IS

23245 CP is paid at one rate. If the conditions for CP are met, CP should be included in the claimant's applicable amount in addition to any other premium.

23246 If the conditions for CP are met by both members of a couple, CP should be included in the claimant's applicable amount for them both¹.

1 JSA Regs, Sch 1, para 20(8), 20 M(5); IS (Gen) Regs, Sch 2, para 15(7)

23247 The condition for the award of CP being that the claimant or his partner or both of them are entitled to CA¹.

Note: CP should **not** be awarded where CA is taken into account as notional income (see DMG Chapter 28). This is because there would be no entitlement to CA.

1 JSA Regs, Sch 1, para 17, 20J; IS (Gen) Regs, Sch 2, para 14ZA

Example 1

Maurice lives with his wife Louise and they are both entitled to CA. They each satisfy the conditions for the award of CP. At the time of Maurice's claim the applicable amount is £140.10 and the rate of CP is £29.50. Their applicable amount is now £199.10 (£140.10 + £29.50 + £29.50).

Example 2

The DM decides that Annette deprived herself of CA in order to increase her entitlement to IS. Therefore CA is taken into account as notional income. CP is not included in Annette's applicable amount.

Carer premium extension period

23248 Where a CP has been awarded but the person in respect of

1. whose care the CA has been awarded dies **or**
2. whom the CP was awarded ceases to be entitled to CA

the qualifying condition shall be satisfied or treated as satisfied for a period of eight weeks¹ from the relevant date. (See DMG 23249).

1 JSA Regs, Sch 1, paras 17(3) & (3A) & 20J(3) & (3A); IS (Gen) Regs, Sch 2, paras 14ZA(3) & (3A)

The relevant date

23249 The relevant date is¹

1. where the person in respect of whose care the CA has been awarded has died, the

1.1 Sunday following the death of the person **or**

1.2 date of the death, if the death occurred on a Sunday

2. in any other case, the date on which the person ceased to be entitled to CA.

1 JSA Regs, Sch 1, paras 17(3A) & 20J(3A); IS (Gen) Regs, Sch 2, para 14ZA(3A)

Example 1

Daphne is entitled to IS which includes the CP and is paid on Wednesday in arrears.

The person she is caring for dies on Friday 22.8.03. The relevant date is 24.8.03.

The condition for the award of the CP is satisfied for the period 24.8.03 to 18.10.03.

The CP is withdrawn from week commencing 16.10.03.

Example 2

Sheila is entitled to IS which includes the CP and is paid on Thursday in advance.

The DLA award for the person she provides care is not renewed and ends in August 2004. CA is paid to Sunday 29.8.04. The relevant date is 29.8.04. The condition for

the award of the CP is treated as satisfied for the period 29.8.04 to 23.10.04. The

CP is withdrawn from week commencing 28.10.04.

Claim to IS/JSA after CA ceases

23250 Where a person ceases to be entitled to CA and subsequently makes a claim for IS or JSA, the CP qualifying condition is treated as satisfied for eight weeks from¹

1. where the person in respect of whose care the CA has been awarded has died, the date of death

2. in any other case, the date on which CA ceased.

1 JSA Regs, Sch 1, paras 17(4) & 20J(4); IS (Gen) Regs, Sch 2, para 14ZA(4)

Transitional protection

23251 Carers who were aged 65 and over on or before 28.10.02 can continue to be entitled to CA even though they are no longer providing care¹, for example after the disabled person has died. Where this protection applies and CA is retained the carer can continue to receive CP.

1 The Regulatory Reform (Carer's Allowance) Order 2002, S.I. 2002/1457, art. 4

Example 1

Ralph, aged 58, is entitled to IS for himself and his partner Kath. Kath is aged 68 and has been entitled to CA in respect of the care she provides her mother since May 1998. Ralph's IS includes CP. Kath's mother dies on 22.8.03 but Kath retains her entitlement to CA (see DMG 60061). Ralph continues to be entitled to the CP in the calculation of his applicable amount.

23252 - 23253

Admission to hospital - effect on premiums

General

- 23254 The following paragraphs give guidance on the effects on premiums of admission to hospital. For guidance on the effects of hospital admission on the normal amount payable see DMG Chapter 24.
- 23255 The effects on premiums are different for JSA(IB) and IS. The normal change of circumstances rules apply.

Long-term patient

- 23256 A long-term patient means a person who
1. is a patient within the meaning of regulations¹ **and**
 2. has been a patient within that meaning for a continuous period of more than 52 weeks.

1 JSA Regs, reg 85(4); IS(Gen) Regs, reg 21(3)

JSA(IB) - short periods of sickness

- 23257 A JSA claimant who is admitted to hospital will not normally be able to satisfy the conditions of being available for employment, ASE and being capable of work. But there are special provisions (see DMG Chapters 20 and 21) for treating a claimant as satisfying the conditions for up to two weeks continuous sickness
1. twice in any JSP **or**
 2. if the JSP lasts for more than one year, twice in any year.

Claimants may continue to receive JSA for this period.

Family premium

JSA(IB) and IS - lone parent

- 23258 FP or FP(LP) continues throughout the stay in hospital, or duration of the JSA claim, if the claimant satisfies the conditions for that premium¹.

1 JSA Regs, Sch 1, Part II; IS (Gen) Regs, Sch 2, Part II

JSA(IB) and IS - couple or polygamous marriage

- 23259 FP or FP(LP) continues throughout a stay in hospital, or until the end of the JSA claim, if

1. either member of the couple **or**
2. any member of the polygamous marriage

is responsible for a child or young person who is a member of the family¹.

1 JSA Regs, Sch 1, Part II; IS (Gen) Regs, Sch 2, Part II

Pensioner premium

Single or lone parent

23260 PP continues until the claim ends¹.

1 JSA Regs, Sch 1, para 10(a)

Couple or polygamous marriage

23261 PP continues until the claim ends. It is not affected by any period as a patient¹.

1 JSA Regs, Sch 1, para 10(b) & (c), para 20E; IS (Gen) Regs, Sch 2, para 9

23262

Enhanced pensioner premium

Couple or polygamous marriage

23263 EPP continues until the claim ends¹.

1 JSA Regs, Sch 1, para 11

23264 - 23279

Higher pensioner premium

Single claimant or lone parent

23280 HPP stops when the claimant becomes a long term patient¹.

1 JSA Regs, Sch 1, para 12(5), para 20F(5); IS (Gen) Regs, Sch 2, para 10(6)

Couples or polygamous marriages

23281 HPP stops after

1. one or both members of the couple are a long term patient **or**
2. at least one member of a polygamous marriage is a long term patient¹ **and**

the person who is the long term patient is the one who satisfied the premium condition.

1 JSA Regs, Sch 1, para 12(5), para 20F(5); IS (Gen) Regs, Sch 2, para 10(6)

Disability premium

Single claimant or lone parent

23282 DP stops when the claimant becomes a long term patient¹

1 JSA Regs, Sch 1, para 13(2); para 20G(2); IS (Gen) Regs, Sch 2, para 11(2)

Example

Bert suffered a stroke in 2006 and was admitted to hospital on 1.8.06. Bert went on home leave for a few days over Christmas returning to hospital on 27.12.06. On 1.8.07 a DM decides Bert is now entitled to a Disability premium, as he has been incapable of work for a period of 364 days. The removal of the disability premium is not considered until after 52 continuous weeks as an in-patient and therefore will not be appropriate until December 2007.

Couples or polygamous marriages

23283 DP stops after

1. one or both members of the couple are a long term patient **or**
2. at least one member of a polygamous marriage is a long term patient¹ **and**

the person who is the long term patient is the only one who satisfied the premium condition.

1 JSA Regs, Sch 1, para 13(2) & 20G(2); IS (Gen) Regs, Sch 2, para 11(2)

23284

Enhanced disability premium

Single claimant, lone parent or child

23285 EDP stops when the person who satisfies the premium condition becomes a long term patient¹.

1 JSA Regs, Sch 1, para 15A(2); IS (Gen) Regs, Sch 2, para 13A(2)

Couples or polygamous marriages

23286 EDP stops after

1. one or both members of the couple are a long term patient **or**
2. at least one member of a polygamous marriage is a long term patient¹ **and**

the person who is the long term patient is the one who satisfied the premium condition.

1 JSA Regs, Sch 1, para 15A(2) & 20IA(2); IS (Gen) Regs, Sch 2, para 13A(2)

Severe disability premium

JSA(IB) - claimant in hospital

23287 SDP continues until the JSA claim ends if the conditions for the award of SDP are still satisfied.

JSA(IB) - partner or member of a joint-claim couple in hospital

23288 The lower rate SDP is payable if¹

1. the conditions for the higher rate SDP were satisfied before
 - 1.1 the partner became a patient **or**
 - 1.2 one member of a joint-claim couple became a patient **or**
 - 1.3 any partner in the polygamous marriage became a patient **and**
2. "AA", DLA or PIP stops because the partner has been in hospital more than 28 days.

The lower rate of SDP is payable from the date "AA", DLA or PIP stops. Normal change of circumstances rules apply.

1 JSA Regs, Sch 1, para 20(6)(b)(i) and 20M(4)(i)

Example

Nigel is a married man in receipt of JSA. Nigel and his wife, Margaret satisfy the SDP conditions and the higher rate is payable. Margaret goes into hospital on 6 November and the higher rate SDP continues. DLA stops from 4 December because Margaret has been a patient for more than 28 days. SDP is also reduced to the lower rate from 4 December subject to the normal change of circumstances rules.

IS - single claimant or lone parent

23289 SDP stop when the qualifying benefit ends (usually after four weeks)¹.

1 IS (Gen) Regs, Sch 2, para 13(2)(a)(i)

IS - couples and polygamous marriages

23290 The lower rate SDP is payable if¹

1. the conditions for either rate of SDP were satisfied before
 - 1.1 one member of a couple became a patient **or**
 - 1.2 at least one member of a polygamous marriage was not a patient **and**
2. where the conditions for the
 - 2.1 higher rate SDP were satisfied, "AA", DLA or PIP stops because the patient has been in hospital more than 28 days **or**
 - 2.2 lower rate SDP were satisfied, the patient is treated as still being in receipt of "AA", DLA or PIP (see DMG 23292).

The lower rate of SDP is payable from the date "AA", DLA or PIP stops. Normal change of circumstances rules apply.

1 IS (Gen) Regs, Sch 2, para 15(5)(b)(i)

Example 1

Brendan is a married man in receipt of IS. Brendan and his wife Sharon both satisfy the SDP conditions and the higher rate SDP is payable. Brendan goes into hospital on 14 May and the higher rate SDP continues in payment. DLA stops from 12 June because Brendan has been a patient for more than 28 days. SDP is also reduced to the lower rate from 12 June subject to the normal change of circumstances rules.

Example 2

Rhona is married and in receipt of IS. Both Rhona and her husband Finlay are in receipt of AA. Their daughter Janet, who lives nearby, receives CA for caring for Finlay. SDP is awarded to the couple at the lower rate (see DMG 23203). Rhona is admitted to hospital on 22 October and her AA is withdrawn from 19 November. Rhona is still treated as being in receipt of AA (see DMG 23292). SDP at the lower rate continues in payment.

23291 SDP is not affected by a continuous period as a patient.

1 IS (Gen) Regs, Sch 2, para 13

Example

Roy and Denise are married. Roy is in receipt of IS. They both satisfy the SDP conditions and the higher rate SDP is payable. Denise goes into hospital on 7 January and the higher rate SDP remains in payment. DLA stops from 5 February because Denise has been a patient for more than 28 days. SDP is also reduced to the lower rate from 5 February subject to the normal change of circumstances rules.

JSA(IB) and IS - “AA”, DLA and CA on admission to hospital

- 23292 The claimant or partner is treated as being in receipt of “AA”, DLA or PIP where either benefit has been withdrawn only because of the stay in hospital¹. This does not apply to a single claimant or a lone parent.

1 JSA Regs, para 15(5)(a) and 20I(4)(a); IS (Gen) Regs, Sch 2, para 13(3A)(a)

- 23293 A CA recipient is still treated as being in receipt of CA when it is withdrawn only because of the disabled person's stay in hospital¹. SDP does not become payable on the withdrawal of CA in these circumstances. But SDP entitlement should be considered where CA is withdrawn for any other reason.

1 JSA Regs, Sch 1, para 15(5)(b) and 20I(4)(b); IS (Gen) Regs, Sch 2, para 13(3A)(b)

Example

Riley is a married man in receipt of IS. Both Riley and his wife Kathleen are in receipt of DLA. Eileen is in receipt of CA for caring for Kathleen. SDP has been awarded at the lower rate. Kathleen is admitted to hospital on 22 October. DLA and CA are withdrawn from 19 November. Kathleen is still treated as in receipt of DLA. Eileen is still treated as in receipt of CA. SDP at the lower rate continues.

23294

Disabled child premium

JSA(IB) and IS

- 23295 DCP continues throughout the stay in hospital when the
1. disabled child or young person remains a member of the claimant's family **and**
 2. qualifying benefit
 - 2.1 is in payment **or**
 - 2.2 has been withdrawn only because the child or young person is a patient¹.

Note: This applies even if the claimant may also be a patient.

1 JSA Regs, Sch 1, para 16(b); IS (Gen) Regs, Sch 2, para 14(b)

23296 **[See DMG Memo JSA/IS 106]** DCP is withdrawn when the child becomes a long term patient¹.

1 JSA Regs, Sch 1, para 16(2)(b); IS (Gen) Regs, Sch 2, para 14(2)(b)

Carer premium

JSA(IB) and IS - general

23297 CP is payable if the carer is entitled to CA (see DMG 23245 et seq). CA can be affected if the

1. carer **or**
2. person being cared for

is a patient.

23298 Breaks in caring can be allowed. Make enquiries of the CA unit to find out the date that entitlement to CA ends.

JSA(IB) - claimant in hospital

23299 CP continues until the JSA claim ends if the conditions for the award of CP are still satisfied.

JSA(IB) - partner or member of a joint-claim couple in hospital

23300 CP stops eight weeks after the partner or the member of a joint-claim couple is no longer entitled to CA¹.

1 JSA Regs, Sch 1, para 17(3) & 20J(3)

23301 - 23309

IS - single claimant or lone parent

23310 CP stops eight weeks after the carer has ceased to be entitled to CA or where it is as a result of the death of the person for whom they were providing care, eight weeks after the death of that person.

Breaks in caring

23311 Breaks in caring as a result of hospitalisation can be allowed, normally this will be twelve weeks, but confirmation should be sought from the CA unit of the date that entitlement to CA ends.

IS - couples or polygamous marriages

23312 CP stops eight weeks after the carer has ceased to be entitled to CA¹.

1 IS (Gen) Regs, Sch 2, para 14ZA(3)

Example 1

Eddie is in receipt of IS. His wife, Doris, is Eddie's carer. CA is in payment and CP awarded. Eddie's benefit week ends on a Monday. Doris is admitted to hospital on 18 September. The CA DM decides to stop CA from 16 December. CP is withdrawn eight weeks later.

Example 2

Paul is in receipt of JSA. His wife Maureen is caring for their non-dependant son, Patrick. CA is in payment and CP awarded. Paul claims IS as he is no longer entitled to JSA because he is not capable of work. Maureen continues to care for Patrick. CA and CP continue in payment.

23313 - 23399

Housing costs for JSA(IB) and IS

Introduction

23400 The rules for housing costs are usually the same for JSA(IB) and IS. The guidance will show where the rules are different.

Basic conditions of entitlement

23401 Claimants are entitled to housing costs if they or members of their family are¹

1. liable for those costs **and**
2. responsible for those costs **and**
3. treated as living in the home those costs are for **and**
4. those costs are allowable.

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

Claimants without housing costs

23402 If a claimant is provided with free accommodation, for example under a charitable arrangement, there is no

1. liability or responsibility for housing costs **and**
2. entitlement to housing costs.

Rounding of fractions

23403 Where any calculation relating to this guidance results in a fraction of a penny, it should be rounded up to the next whole penny¹.

1 JSA Regs, Sch 2, para 19; IS (Gen) Regs, Sch 3, para 19

23404 - 23406

Definitions

23407 The following paragraphs explain the meaning of terms used throughout this guidance on housing costs.

Close relative

23408 A close relative is¹

1. a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-son-in-law, step-daughter, step-daughter-in-law, brother, brother-in-law, sister, sister-in-law **and**
2. similar relationships arising through civil partnerships².

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 CP Act 04, s 246

23409 Brother and sister includes half-brother and half-sister. A child who is adopted becomes a child of the adoptive parents and becomes the brother or sister of any other child of those parents. The child stops being the child of, or the brother or sister of any children of, the natural parents. Whether an adopted person is a close relative of another person depends upon the legal relationship and not the blood relationship¹.

1 R(SB) 22/87

Disabled person

23410 [\[See DMG Memo 6/17\]](#) [\[See ADM Memo 7/17\]](#) [\[See ADM Memo 8/17\]](#) For housing costs purposes, a disabled person is a person who¹

1. receives, or has living with them someone who receives
 - 1.1 DP **or**
 - 1.2 DCP **or**
 - 1.3 EPP² **or**
 - 1.4 HPP **or**
2. would, if they were entitled to JSA(IB) or IS, receive the premiums at **1**.
3. is disabled or severely disabled for the purposes of specified Tax Credits legislation.
4. receives ESA which includes either
 - 4.1 the support component **or**
 - 4.2 the work related activity component.
5. would, but for the application of time limiting, be entitled to ESA including the WRAC
6. a person who is entitled to UC that

- 6.1** includes the LCW or LCWRA element³ **or**
 - 6.2** would include the LCW element
 - 6.2.a** but for the fact that the LCWRA element was included with respect to the person's partner **or**
 - 6.2.b** but for entitlement to the carer element⁴
- is also a disabled person⁵.

*1 JSA Regs, Sch 2, para 1(3); IS (Gen) Regs, Sch 3, para 1(3) ESA Regs, Sch 6, para 1;
 2 JSA Regs, Sch 2, para 1(3)(c); 3 UC Regs, reg 27(1); 4 reg 29(4); 5 IS Regs, Sch 3 para1;
 JSA Regs, Sch 2 para 1(3); ESA Regs, Sch 6 para 1(3); SPC Regs, Sch II para 1(2)*

- 23411 A disabled person will not cease to be treated as a disabled person if they are¹
- 1.** disqualified from receiving benefit **or**
 - 2.** treated as capable of work because they
 - 2.1** are incapable of work due to their own misconduct **or**
 - 2.2** fail without good cause to
 - 2.2.a** attend for **or**
 - 2.2.b** submit to
 medical or other treatment that may be required **or**
 - 2.3** fail without good cause to observe the rules of behaviour.

See DMG 23135 et seq for further guidance.

1 JSA Regs, Sch 2, para 1(4); IS (Gen) Regs, Sch 3, para 1(4)

Dwelling occupied as the home

- 23412 "Dwelling occupied as the home" means¹
- 1.** the dwelling and any
 - 1.1** garage
 - 1.2** garden
 - 1.3** outbuildings
 normally occupied by the claimant as the home **and**
 - 2.** any buildings or land not occupied as the home where it is not practicable or reasonable to sell them separately **and**
 - 3.** in Scotland, any croft land on which the dwelling is situated.

Note: This means only the dwelling currently occupied as the home. It does not include any dwelling which is no longer occupied as the home².

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 R(IS) 5/96

Example

John and Chloe live on a plot of land on which there is a caravan, some outbuildings and an old cottage in need of repair. They are allowed to use the caravan as a temporary residence while the cottage is being repaired. They sleep in the caravan but have things stored in the outbuildings and cottage. The caravan has a fixed mains water supply and is linked directly to the electricity mains. There are no mains supplies to the cottage. The land could not be divided into two, with the caravan and site being owned or used separately from the cottage and site.

The DM decides that the dwelling includes the caravan, outbuildings and land and the cottage is occupied to a limited extent as part of that dwelling. John can therefore have housing costs assessed on the basis that the whole of the landholding, cottage, caravan and outbuildings are to be treated as the dwelling normally occupied by him.

Normally occupied

- 23413 The dwelling normally occupied as the home is the home where the claimant and their family normally live. In this context “normally” means “usually”. Periods of residence, or absence, that are of an exceptional nature should be disregarded.

Example

Julia lives alone in a flat on which she has a mortgage. She goes to stay with her father while he is recovering from an operation and is away from home for two weeks. While at her father’s house Julia is made redundant and claims JSA. The DM decides that Julia normally lives in her own flat. The time she spends at her father’s is exceptional. Housing costs can be considered for her mortgage.

Rooms sublet

- 23414 Rooms that are sublet in a house are part of the dwelling occupied as the home unless it is practicable or reasonable to sell that part of the house separately.

Housing costs

- 23415 Housing costs are¹
1. interest payments on loans used to
 - 1.1 acquire an interest in the home
 - 1.2 make certain repairs and improvements to the home
 - 1.3 pay for certain service charges for repairs or improvements to the home
 - 1.4 repay loans used to replace loans in 1.1 to 1.3

2. rents or ground rents on long tenancies
3. service charges
4. payments by way of rent charge
5. payments under co-ownership schemes
6. payments for tenancies or licences of Crown tenants
7. payments for tents and their sites.

1 JSA Regs, Sch 2, para 1(2), 14, 15 & 16; IS (Gen) Regs, Sch 3, para 1(2), 15, 16 & 17

23416 Only those payments in DMG 23415 should be allowed as housing costs. For example

1. capital repayments on a loan
2. insurance premiums on
 - 2.1 life or endowment policies linked to a loan
 - 2.2 buildings insurance¹ (but see DMG 23613)
3. rent required by a person who
 - 3.1 is making payments under a shared ownership scheme
 - 3.2 owns jointly with the claimant the property occupied by the claimant **and**
 - 3.3 does not live in that property
4. water charges paid via a landlord (for example paid at the same time as service charges)

should not be allowed as housing costs.

Note: This list is not exhaustive.

1 R(IS) 19/93

Loan

23417 In this Chapter, loan includes money borrowed

1. by way of a mortgage **or**
2. under a credit agreement **or**
3. under a hire purchase agreement.

Appendix 8 to this Chapter gives details of some of the many types of mortgage and loan arrangements.

Example 1

Clare is buying a freehold property by instalments. The purchase price of the property includes one year's interest added to the capital figure. No other interest is charged. The owner of the property lets Clare live in it while she is buying the freehold. But the title deeds will not be transferred to Clare until the full purchase monies have been paid. The arrangement between Clare and the owner of the property is not a loan. It is the payment mechanism agreed in the contract of sale.

Example 2

Ishaq wants to buy his home but his religion forbids him from paying interest on money loaned. A bank arranges a special scheme under which Ishaq and the bank agree jointly to buy the property. Ishaq provides £4,000 of the purchase price and the bank provides the balance of £26,000. Beneficial interest in the property is shared between Ishaq and the bank. Ishaq has the right and duty to acquire the bank's shares over 15 years in return for monthly payments. He also pays an extra monthly amount for his use of the bank's share of the property.

The agreement between Ishaq and the bank is a co-partnership arrangement provided specifically to avoid payment of interest and meet Ishaq's religious needs. It is not a loan or a mortgage and housing costs cannot be allowed for the payments due under it.

Water charges

23418 Water charges means¹ any

1. water charges **and**
2. sewerage charges

in respect of the dwelling which a person occupies as their home.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Water Act 1991, Part V, Ch 1; Local Government Finance Act 1992, Sch 11

23419

Steps to follow when deciding housing costs

- 23420 When deciding a claimant's housing costs, the DM should determine
1. if the claimant or partner is liable for the housing costs (see DMG 23423)
 2. if the amount spent is on the dwelling occupied as the home (see DMG 23412 and 23430 et seq)
 3. if the housing costs cannot be met (see DMG 23460)
 4. how to apportion the housing costs if
 - 4.1 the dwelling is used for domestic and business use (see DMG 23495)
or
 - 4.2 responsibility for the housing costs is shared (see DMG 23527)
 5. the weekly amount of housing costs to be allowed for loans (see DMG 23500)
 6. if the loans exceed the maximum amount (see DMG 23519)
 7. if a restriction should be applied because the housing costs are excessive (see DMG 23540)
 8. if there are any other eligible housing costs that can be allowed (see DMG 23605 et seq)
 9. if a deduction for a non-dependant is necessary (see DMG 23756)
 10. the start date of entitlement to housing costs (see DMG 23650 et seq).

23421 - 23422

Liability for housing costs

23423 A person is liable to meet housing costs where the

1. liability falls on them, their partner, or in the case of joint-claim couples, the other member of that couple, except where the liability is to another member of the same household¹ **or**
2. person liable for those costs is not meeting them **and**
 - 2.1 the claimant has to meet the costs to keep on living in the home **and**
 - 2.2 it is reasonable in all the circumstances to treat the claimant as liable for the costs² **or**
3. costs are shared with other members of the household who are not close relatives of the claimant, the claimant's partner, or the other member of a joint-claim couple **and**
 - 3.1 at least one member of the household is liable for those costs **and**
 - 3.2 it is reasonable in the circumstances to treat the claimant as sharing responsibility³.

1 JSA Regs, Sch 2, para 2(1)(a); IS (Gen) Regs, Sch 3, para 2(1)(a); R(IS) 4/00;

2 JSA Regs, Sch 2, para 2(1)(b); IS (Gen) Regs, Sch 3, para 2(1)(b); R(IS) 12/94; R(IS) 8/01;

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

Example 1

John is a widower in his 60s who has a mortgage on his home. The building society advise that the mortgage is a "60 plus scheme". The scheme does not require any payment of interest as long as the total amount outstanding (including any accrued interest) is less than 75% of the value of the property. When the amount outstanding reaches 75% of the valuation, payments will become due at the interest rate then applicable.

John does not currently have to make any payments under the "60 plus scheme". This means that housing costs cannot be allowed. But housing costs may be considered if and when payments become due (when the total amount outstanding reaches 75% of the value of the property).

Example 2

Harry lives with his mother who has a mortgage on their home. Harry's mother dies and her estate becomes liable to meet the mortgage payments. But she did not leave a will and her estate is not making any payments. The building society cannot transfer the mortgage to Harry until his mother's estate is settled. But they agree that if Harry pays the mortgage he can carry on living in the home. It is reasonable to treat Harry as liable for the payment of mortgage interest and housing costs for mortgage interest are allowed.

Trade disputes

- 23424 Where a member of a family is affected by a TD, the housing costs should be treated as the responsibility of a member of the household who is not affected by the TD¹ (see DMG Chapter 32).

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

Responsibility for housing costs

- 23425 A claimant who is liable for a housing cost is responsible for that cost unless someone else has accepted responsibility for it. If responsibility is shared, the claimant is responsible only for their share¹. The maximum amount (see DMG 23519 et seq) should be applied to the housing costs the claimant is responsible for².

1 JSA Regs, Sch 2, para 5(5); IS (Gen) Regs, Sch 3, para 5(5); R(IS) 4/00; 2 JSA Regs, Sch 2, para 10(6); IS (Gen) Regs, Sch 3, para 11(7)

Example 1

Mary and her ex-husband Didier buy their home with an endowment mortgage. Under the terms of the mortgage Mary and Didier are jointly liable for the mortgage payments. After the divorce, Didier moves out of the house but continues to accept responsibility for his half of the mortgage. He carries on paying his half of the mortgage interest and Mary pays the other half. Eligible housing costs calculated using the standard interest rate are £260 a month. So Mary's housing costs will be £130 per month. That is the half share for which she is responsible.

Example 2

David has a mortgage in joint names with his daughter, Sarah. They are both liable for the mortgage payments. Sarah has always paid all of the payments due on the mortgage and continues to do so. David, although liable for the housing costs, does not have any responsibility for them and none are awarded to him.

Several months later Sarah stops making the mortgage payments. As David is liable for the costs and no one else is accepting responsibility for them, the DM includes all of the loan interest in David's applicable amount.

23426 - 23429

Treated as occupying a dwelling as the home

Definitions

23430 The following definitions apply only to this guidance on treating a person as occupying a dwelling as the home.

Medically approved

23431 Medically approved means certified by a medical practitioner¹.

1 JSA Regs, Sch 2, para 3(13)(a); IS (Gen) Regs, Sch 3, para 3(13)(a)

Patient

23432 A patient is a person undergoing

1. medical **or**
2. other treatment

as an in-patient in a hospital or similar institution¹.

1 JSA Regs, Sch 2, para 3(13)(b); IS (Gen) Regs, Sch 3, para 3(13)(b)

Residential accommodation

23433 Residential accommodation is accommodation provided under specified arrangements, specific care home, Abbeyfield Home and independent hospital¹ (see DMG Chapter 24).

1 JSA Regs, Sch 2, para 3(13)(c); IS (Gen) Regs, Sch 3, para 3(13)(c)

Student

23434 A student is for

1. JSA, a F/T student **and**
2. IS, a student on certain F/T courses

For further information see the guidance on students in DMG Chapter 30.

Training course

23435 Training course means a course of training or instruction provided wholly or partly by, or on behalf of, or by arrangement with, or approved by or on behalf of¹

1. Scottish Enterprise **or**
2. Highlands and Islands Enterprise **or**

3. Skills Development Scotland
4. a government department **or**
5. the Secretary of State.

1 JSA Regs, Sch 2, para 3(13)(d); IS (Gen) Regs, Sch 3, para 3(13)(d)

Dwelling where claimant normally lives

23436 Unless DMG 23438 - 23446 applies, a claimant should

1. be treated as living in the home where they, or members of their family normally live (see DMG 23413 and DMG 29397) **and**
2. not be treated as occupying any other dwelling as the home¹.

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

23437 To decide where a claimant normally lives the DM should

1. consider all homes that the claimant has, whether or not the homes are in GB¹ **and**
2. not treat the claimant as living in more than one home, unless the circumstances in DMG 23441 - 23446 apply **and**
3. where the claimant is responsible for housing costs on more than one property, and DMG 23441 et seq does not apply, treat the claimant as living in the home they normally occupy.

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

Full-time students and claimants on training courses

23438 Single claimants and lone parents who are F/T students or on a training course, may have different homes in term time and vacations. Such a claimant should be treated as occupying the home for which they are liable to pay housing costs if¹ they are

1. occupying one of the homes because they are
 - 1.1 a F/T student **or**
 - 1.2 on a training course **and**
2. liable for the housing costs on either, but not both, of the homes they live in when
 - 2.1 attending the course of study or training **or**
 - 2.2 not attending the course of study or training and
 they are not absent from the home for which they are liable².

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

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

Example 1

Paul is a lone parent studying in Exeter. He is buying a flat in Exeter and has a mortgage to pay. When not studying he lives with his parents in their home in Liverpool. He has no housing costs for this accommodation. Paul cannot be treated as living in his flat in Exeter because he is absent from it.

Example 2

Griff, who has no partner, is a mature student studying in Bangor. He is buying a flat in Bangor and has a mortgage to pay. When not studying he lives with his son and daughter in law in their home in Liverpool. He is liable to pay his son for these lodgings during his stay. Rhys cannot be treated as living in his flat in Bangor because he has a liability at both homes.

- 23439 Students whose main purpose of living in their home is to attend a course of study will not normally be treated as living there for periods of absence outside the period of study. The exception is when the absence is due to admission to hospital for treatment¹.

1 JSA Regs, Sch 2, para 3(4); IS (Gen) Regs, Sch 3, para 3(4)

Temporary accommodation

- 23440 A claimant who
1. has to move into temporary accommodation so that essential repairs can be carried out to their home **and**
 2. is liable to pay housing costs for either, but not both the home or temporary accommodation

should be treated as living in the dwelling for which they have to pay housing costs¹.

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

Liable for two homes

- 23441 A person who is liable to make payments on two dwellings should be treated as living in, and allowed housing costs for both dwellings where they
1. have left their former home, and remain absent, because of fear of violence
 - 1.1 in that home **or**
 - 1.2 by a former member of their familyand it is reasonable to meet housing costs on both homes¹ **or**
 2. are members of a couple or polygamous marriage and have a partner who is a student or on a training course and it is

2.1 unavoidable that they have two homes **and**

2.2 reasonable to meet both housing costs².

*1 JSA Regs, Sch 2, para 3(6)(a); IS (Gen) Regs, Sch 3, para 3(6)(a); 2 JSA Regs, Sch 2, para 3(6)(b);
IS (Gen) Regs, Sch 3, para 3(6)(b)*

Note: One of the liabilities may be for rent.

23442 The question of reasonableness in DMG 23441 should be decided at the date the DM considers the issue and in the light of all the circumstances. These may include

1. the length of the absence
2. whether the claimant could reasonably be expected to take steps to end the liability for the former home
3. whether there is a hope of resuming occupation
4. whether it is practicable to end the liability
5. the claimant's situation and means of support
6. the extent to which the liability was in practice being met other than through IS or JSA(IB).

Example

Kath lives with Dave in a house on which she has a mortgage. She gets IS with housing costs for mortgage interest. Dave is violent towards Kath who leaves the house and moves to a rented flat. Kath starts legal proceedings and intends to return to the house as soon as it is safe for her to do so. The DM decides Kath has a liability to make payments for two homes, treats her as living in both homes and considers it reasonable to meet housing costs for the house (although the provision allows for payment to meet both liabilities rent is not an eligible housing cost).

23443 A person can also be treated as living in, and allowed housing costs for, two homes for up to four weeks if¹

1. they move to a new home, for a reason other than those in DMG 23440 and 23441 **and**
2. they are liable for housing costs on both homes **and**
3. the liability to make payments for both homes is unavoidable.

1 JSA Regs, Sch 2, para 3(6)(c); IS (Gen) Regs, Sch 3, para 3(6)(c)

23444 The four weeks under DMG 23443 is payable from the first day of the benefit week in which the move occurs¹.

1 JSA Regs, Sch 2, para 3(6); IS (Gen) Regs, Sch 3, para 3(6)

23445 A claimant can be allowed housing costs for two separate properties if he is treated as living in both dwellings as the home. See DMG 23441 for the criteria where more than one property could be the dwelling occupied as the home¹.

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- 23446 Claimants are entitled to an additional amount for these housing costs if
1. the claimant or partner is
 - 1.1 liable for those costs (see DMG 23423) **and**
 - 1.2 responsible for those costs **and**
 - 1.3 treated as living in the home that these costs are for (see DMG 23441) **and**
 2. those costs are allowable.

Treated as living in the home before moving in

- 23447 A claimant may be treated as living in their home for up to four weeks before the date they moved in where¹
1. they have moved in to the home and were liable to make payments for that home before moving in **and**
 2. if a
 - 2.1 JSA claim, they had claimed JSA before moving in **or**
 - 2.2 IS claim, they had claimed IS before moving in **and**
 3. a decision was
 - 3.1 not made on the claim **or**
 - 3.2 made on the claim but no housing costs were included **or**
 - 3.3 made refusing the claim, but another claim was made within four weeks of moving in **and**
 4. the delay in moving in was reasonable because
 - 4.1 the home was being adapted to meet the needs of a disabled member of the family **or**
 - 4.2 they were waiting for a decision on a connected SF claim and either
 - 4.2.a a member of the family is aged five or under **or**
 - 4.2.b the claimant's applicable amount includes PP, EPP, HPP, DP, SDP or DCP **or**
 - 4.2.c a CTC is paid for a member of the claimant's family who is disabled or severely disabled for the purposes of specified Tax Credits legislation **or**
 - 4.3 when they became liable to pay the housing costs they were
 - 4.3.a a patient **or**
 - 4.3.b in residential accommodation.
 - 4.4 they were waiting for a decision on a local welfare provision claim and either

- 4.4.a** a member of the family is aged five or under **or**
- 4.4.b** the support component or the WRAC is payable **or**
- 4.4.c** the claimant's applicable amount includes PP or SDP **or**
- 4.4.d** a CTC is paid for a member of the claimant's family who is disabled or severely disabled for the purposes of specified Tax Credits legislation²

1 JSA Regs, Sch 2, para 3(7); IS (Gen) Regs, Sch 3, para 3(7)

23448 - 23449

Temporary absences from home

Trial periods in residential accommodation

23450 Claimants who enter residential accommodation

1. to see whether the accommodation is suitable for their needs **and**
2. with the intention of returning home if the accommodation is unsuitable **and**
3. whose part of the home normally occupied has not been let or sublet

should be treated as living in their home and have their housing costs allowed for up to 13 weeks from the day of entry. The number of weeks for which the absence is treated as temporary is subject to an overall maximum of 52 weeks¹ (see DMG 23454).

1 JSA Regs, Sch 2, para 3(8) & (9); IS (Gen) Regs, Sch 3, para 3(8) & (9)

Example

Nigel has been in hospital for 43 weeks. He receives housing costs for his own home throughout that period. Nigel goes into residential accommodation for assessment. Nigel continues to be treated as temporarily absent from his own home and paid housing costs for that home for a further nine weeks or until a decision is made that he will not return to live in his own home, whichever is the sooner.

Temporary absences up to 13 weeks

23451 Unless DMG 23450 or 23454 applies, a person should be treated as living in their home for any period of temporary absence of not more than 13 weeks if ¹

1. they intend to return to live in the home **and**
2. the part of the home they normally live in has not been let or sublet to another person **and**
3. the period of absence is unlikely to exceed 13 weeks.

1 JSA Regs, Sch 2, para 3(10); IS (Gen) Regs, Sch 3, para 3(10)

23452 The intention to return to live in the home (see DMG 23451 1.) must

1. be unqualified **and**
2. be present from the start of the period of absence **and**
3. not be conditional on a future event.

Note: An intention to return to live in the home formed after the start of the period of absence would not be enough.

Example

Julia goes to stay with her father while he is recovering from an operation. She expects to be away from her home for eight weeks. The DM determines that Julia is temporarily absent from her home.

While Julia is away the bank repossesses her home. Julia is prevented by law from returning but she intends to return if the bank withdraws the possession order. Her intention to return is qualified. The DM determines that Julia's absence from her home is permanent. The superseding decision is effective from the date that the property was repossessed.

23453 When considering DMG 23451, housing costs may be allowed for up to 13 weeks from the first day of absence. Where the absence is likely to exceed 13 weeks the absence should be treated as permanent from the first day of absence, and housing costs should not be awarded.

Temporary absences up to 52 weeks

23454 A person should be treated as living in their home for a period of temporary absence of not more than 52 weeks if¹

1. they intend to return to live in the home **and**
2. the part of the home they normally live in has not been let or sublet **and**
3. they
 - 3.1 are required to live as a condition of bail, in either
 - 3.1.a a dwelling, other than the dwelling he occupies as his home **or**
 - 3.1.b a hostel **or**
 - 3.2 are
 - 3.2.a patients resident in a hospital or similar institution **and**
 - 3.2.b **for JSA(IB) only**, treated as capable of work during a short period of sickness **or**
 - 3.3 are, or a member of the family is, undergoing
 - 3.3.a medical treatment **or**
 - 3.3.b medically approved convalescence

- in the UK or elsewhere in accommodation that is not residential accommodation **or**
- 3.4** are on a training course in the UK or elsewhere **or**
- 3.5** are providing medically approved care for another person who is residing in the UK or elsewhere **or**
- 3.6** are caring for a child whose parent or guardian is temporarily absent from the dwelling that they normally occupy because they are receiving medically approved care or treatment **or**
- 3.7** are
 - 3.7.a** residing in the UK or elsewhere **and**
 - 3.7.b** providing medically approved care
 in accommodation that is not residential accommodation **or**
- 3.8** are students to whom DMG 23438 and 23439 do not apply **or**
- 3.9** are receiving care in residential accommodation other than in DMG 23450 **or**
- 3.10** have left the home because of fear of violence in it, or from a former member of the family, and DMG 23451 does not apply **or**
- 3.11** **for IS claims only**, are detained in custody on remand pending trial or pending sentence upon conviction **and**
- 4.** the absence is unlikely to
 - 4.1** exceed 52 weeks **or**
 - 4.2** substantially exceed 52 weeks in exceptional circumstances (for example, where an IS claimant has gone into hospital or a JSA claimant has to live in a bail hostel as a condition of bail).

1 JSA Regs, Sch 2, para 3(11) & (12); IS (Gen) Regs, Sch 3, para 3(11) & (12)

23455 The intention to return to live in the home (see DMG 23454 1.) must

- 1.** be unqualified **and**
- 2.** be present from the start of the period of absence **and**
- 3.** not be conditional on a future event out of the claimant's control.

Note: An intention to return to live in the home formed after the start of the period of absence would not be enough.

Example

Frances is admitted to hospital and carries on getting housing costs for her own home. While she is in hospital the bank repossesses her home and Frances is prevented by law from returning there. Frances intends to move back in if she can

persuade the bank to withdraw the possession order. Her intention to return is qualified and depends on what the bank decides. She can no longer be treated as living in the home and housing costs are withdrawn from the date the house was repossessed.

- 23456 If DMG 23454 applies, housing costs may be allowed for up to 52 weeks from the first day of absence¹. But a person may have several periods of temporary absence from home. The absences are treated as temporary if the claimant is not absent from home for more than 52 consecutive weeks.

1 JSA Regs, Sch 2, para 3(12); IS (Gen) Regs, Sch 3, para 3(12)

- 23457 The absence should be treated as permanent from the day that it is known that the absence

1. will exceed 52 weeks **or**
2. is likely to
 - 2.1 exceed 52 weeks **or**
 - 2.2 substantially exceed 52 weeks in exceptional circumstances¹.

1 JSA Regs, Sch 2, para 3(11)(d); IS (Gen) Regs, Sch 3, para 3(11)(d)

Example 1

Jon is in receipt of JSA(IB). He has to live in a hostel as a condition of bail. He intends to return to live in his own home when he leaves the hostel. His home has not been let or sublet. He has to live in the hostel for eight weeks. The DM determines that Jon is temporarily absent from his home from the date he went to live in the hostel.

Example 2

Christina is in receipt of IS and lives alone in her own home for which she has a mortgage. In February Christina decides to go and care for her mother who lives in the next town. She expects to be away from her home until August. The DM determines that Christina is not temporarily absent from home because the care is not medically approved, housing costs stop from February.

Example 3

Janet is in receipt of IS and lives alone in her own home for which she has a mortgage. In December 08 Janet is admitted to hospital suffering from an eating disorder. In November 09 the DM advises Janet that her housing costs are to be removed in the next few weeks because she will have been temporarily absent from her home for 52 weeks. The hospital social worker responded advising that Janet would be discharged from hospital for 1 night just prior to the December expiry. Janet returned home for 1 night and was readmitted to hospital the following day. A

further 52 week period of temporary absence could be considered from the date of Janet's readmission.

23458 - 23459

Housing costs not met

23460 Housing costs should not be allowed for

1. HB expenditure¹ **or**
2. claimants in care homes, Abbeyfield Home or independent hospitals, unless their absence from the home that they normally live in is temporary² (see DMG 23450 et seq) **or**
3. certain loans taken out in a relevant period, unless one of the exceptions in DMG 23475 et seq applies.

1 JSA Regs, Sch 2, para 4(1)(a); IS (Gen) Regs, Sch 3, para 4(1)(a); 2 JSA Regs, Sch 2, para 4(1)(b); IS (Gen) Regs, Sch 3, para 4(1)(b)

23461 HB expenditure means¹

1. any element for which HB may be payable² **and**
2. which are not allowable as housing costs in the claimant's applicable amount³.

1 IS (Gen) Regs, reg 2(1); 2 SS (HB) Regs, reg 10(1); 3 IS (Gen) Regs, reg 17(1)(e) & 18(1)(f); JSA Regs, reg 83(f) & 84(1)(g)

23462 - 23463

Loans taken out in a relevant period

23464 Apart from certain allowable housing costs (see DMG 23475 et seq) and certain loans for repairs and improvements (see DMG 23585 et seq), interest on a loan

1. taken out in a relevant period **and**
2. used to acquire an interest in the home

will not be eligible during that relevant period if the conditions in DMG 23468 or 23470 apply¹. This means that borrowing for house purchase cannot normally be increased in a relevant period.

1 IS (Gen) Regs, Sch 2, para 4(2); IS (Gen) Regs, Sch 3, para 4(2)

23465 The definition of a relevant period is the same for JSA(IB) and IS. But the rules for costs incurred in the relevant period are different for JSA(IB) and IS.

Relevant period - JSA(IB) and IS

23466 A relevant period is¹ any period during which the person to whom the loan was made

1. is entitled to JSA(IB), ESA(IR) or IS **or**
2. is living as a member of a family, one of whom is entitled to JSA(IB), ESA(IR) or IS **or**

3. is not entitled to JSA(IB), ESA(IR) or IS because they, their partner, or in the case of a joint-claim couple, the other member of that couple, are on²
 - 3.1 the EO(S/E) **or**
 - 3.2 a waged option on the voluntary sector or environment task force options of NDYP **or**
 - 3.3 the intensive activity period (IAP) for ND 25+
4. together with any period not exceeding 26 weeks that falls between two periods as in 1., 2. and 3..

Note 1: The effect of DMG 23466 3. is that housing costs will not normally be allowed for loans taken out while a person is on an ND option apart from the S/E employment option of NDYP.

Note 2: Two or more periods as in DMG 23466 1., 2. and 3., and any breaks that do not exceed 26 weeks, count as one relevant period³.

Note 3: The linking rules at DMG 37000 et seq do not apply to the relevant period⁴

1 JSA Regs, Sch 2, para 4(4) & 18(1)(c); IS (Gen) Regs, Sch 3, para 4(4); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; 2 JSA Regs, reg 75(1)(a)(ii) & (iv); Sch 2, para 4(4A); IS (Gen) Regs, Sch 3, para 4(4A); 3 JSA Regs, Sch 2, para 4(5)(b); IS (Gen) Regs, Sch 3, para 4(5)(b); 4 JSA Regs, Sch 2, para 4(4B); IS (Gen) Regs, Sch 3, para 4(4B)

JSA(IB)

23467 If a claimant moves to JSA(IB) from IS on 7.10.96 any period that the claimant was entitled to IS between 9.4.96 and 7.10.96 should be taken into account when determining when the relevant period starts¹.

1 JSA Regs, Sch 2, para 4(5)(a)

23468 The conditions are that the loan was taken out

1. after 7.10.96¹ **or**
2. after 2.5.94 and the loan interest was not eligible in an IS award in the 26 week period between 8.4.96 and 6.10.96² **or**
3. between 8.4.96 and 6.10.96 by a person³
 - 3.1 who was not entitled to IS when the loan was taken out **and**
 - 3.2 who becomes, or whose partner becomes, entitled to JSA(IB) after 6.10.96 **and**
 - 3.3 whose entitlement, or whose partner's entitlement, is within 26 weeks of an earlier entitlement to IS for the claimant, partner, or either member of a joint-claim couple **and**
 - 3.4 whose housing costs were ineligible for an IS award before 7.10.96.

1 JSA Regs, Sch 2, para 4(2)(a); 2 para 4(2)(b); 3 para 4(2)(c) & 4(3)

IS

23469 Any period that the claimant was entitled to IS between 3.4.95 and 1.10.95 should be taken into account when determining when the relevant period starts¹.

1 IS (Gen) Regs, Sch 3, para 4(5)(a)

23470 The conditions are that the loan was taken out

1. after 1.10.95¹ **or**
2. after 2.5.94 and the loan interest was not eligible in the 26 week period between 3.4.95 and 1.10.95² **or**
3. between 3.4.95 and 1.10.95 by a person³
 - 3.1 who was not entitled to IS when the loan was taken out **and**
 - 3.2 who becomes, or whose partner becomes, entitled to IS after 1.10.95 **and**
 - 3.3 whose entitlement, or whose partner's entitlement is within 26 weeks of an earlier entitlement to IS for the claimant or partner **and**
 - 3.4 whose housing costs were ineligible for an IS award before 2.10.95.

1 IS (Gen) Regs, Sch 3, para 4(2)(a); 2 para 4(2)(b); 3 para 4(2)(c) & (3)

Example 1

Mark has been in receipt of IS since 1993. He transferred to JSA on 7.10.96. He took out a mortgage exchanging contracts on 18.11.96, and bought his own home. Mark does not come into any of the exceptions in DMG 23495. No housing costs are allowable in the JSA award.

Example 2

Andrew is a supply teacher. He is in receipt of IS until 11.8.96 when he finds work. On 27.8.96 Andrew takes out a mortgage (exchanged contracts) to buy his own home, having previously lived with his parents. He loses his job on 27.9.96 and claims IS.

The DM determines that as the break between his two claims is less than 26 weeks, Andrew's mortgage was taken out in a relevant period. An award of IS is made but nothing is allowed for housing costs.

Andrew transfers to JSA on 7.10.96. No housing costs are allowed in JSA.

Example 3

Maria lives with her partner. There is a mortgage in joint names taken out on 20.3.89 which she and her partner jointly used to purchase the property. Maria leaves the household on 10.4.96 and goes to live with her parents. Her former partner moves out of the property on 24.5.96 allowing Maria to return to live there on 5.6.96. She claims IS.

The DM determines that Maria's housing costs have not been incurred in a relevant period. The housing costs were incurred on 20.3.89, the date the loan was taken out.

Example 4

Eric claims IS on 1 November because he is incapable of work. He takes out a mortgage on 20 January to buy his own home. Eric does not come into any of the exceptions in DMG 23495. No housing costs are included in the IS award.

On 13 August Eric claims JSA as he is now capable of work. His IS claim ends on 12 August. Eric's loan is taken out in a relevant period. No housing costs are included in the JSA award.

23471 - 23474

Loans that may be allowed

- 23475 An additional amount for housing costs cannot normally be allowed for loans taken out in a relevant period (see DMG 23460 et seq). The exceptions are where
1. the loan is a new loan used to repay an earlier allowable loan or buy a new home (see DMG 23479) **or**
 2. the claimant, or partner, was previously renting accommodation before the purchase of the home (see DMG 23480) **or**
 3. the loan is used to buy accommodation more suited to the needs of a disabled person (see DMG 23485) **or**
 4. the change of dwelling is to provide separate sleeping accommodation for children of different sexes (see DMG 23487) **or**
 5. other housing costs were in payment before the purchase (see DMG 23488).
- 23476 When considering the amount of housing costs to allow under the exceptions in DMG 23475 **2. to 5.**, DMs should note that
1. each exception may be subject to its own additional limitations **and**
 2. if more than one of the exceptions in DMG 23475 **2. to 5.** are relevant, the DM should apply the exception that is most favourable to the claimant or as the case may be to the joint-claim couple of which he is a member¹.
- 1 JSA Regs, Sch 2, para 4(7); IS (Gen) Regs, Sch 3, para 4(7)*
- 23477 Where appropriate, the maximum amount should be applied and the question of excessive housing costs should be considered (see DMG 23519 and 23540).
- 23478 If a loan taken out in a relevant period is an allowable housing cost, the DM should decide the date that the housing costs are payable from (see DMG 23650 et seq). Weeks when the claimant has been continuously entitled to JSA(IB), ESA(IR) or IS will count towards any QP.

New loan to repay earlier allowable loan or buy a new home

23479 If a claimant, or a member of their family takes out a secured or unsecured allowable loan in a relevant period¹ and uses it to

1. repay an earlier loan used to acquire an interest in the home, allowable during the relevant period **or**
2. buy the home, and another earlier allowable loan used
 - 2.1 to acquire an interest in **or**
 - 2.2 for repairs and improvements tothe previous property, is paid off (in whole or in part) with the money received from the sale of that property,

part of the new loan equal to the amount of the earlier loan is allowable².

Note: where the loan for repairs and improvements is not redeemed with the sale of the property see DMG 23588.

*1 JSA Regs, Sch 2, para 4(4); IS (Gen) Regs, Sch 3, para 4(4)
2 JSA Regs, Sch 2, para 4(6); IS (Gen) Regs, Sch 3, para 4(6)*

Example 1

Christopher takes out a loan of £95,000 in 1995 to buy his home. In October 2002 only £50,000 remains on his mortgage. The mortgage is allowable as a housing cost. In November 2002 Christopher moves house. He has a new mortgage of £57,000, and he pays off his first loan in the process. The eligible part of the later loan is £50,000.

Example 2

Angus remortgages his home for £50,470. £49,000 was used for the house purchase loan, the rest was an acceptance fee, he had to pay the lender to obtain the mortgage. £1,470 represented monies applied for the purpose of paying off the lender therefore it qualified as eligible housing costs. However the interest is restricted to the amount of the previous loan of £49,000.

Example 3

Lasse lives with his mother who has a mortgage on their home in her sole name. They both get IS and housing costs for mortgage interest are paid to Lasse's mother. Following her death in 1997 and settlement of the estate, the building society transfer the mortgage into Lasse's name. He is then liable for the payment of interest on the new mortgage.

he DM determines that housing costs for the transferred mortgage are allowable. This is because Lasse's new mortgage was used to pay off an earlier loan that qualified as allowable housing costs. The DM also decides that the transferred mortgage is a new housing cost. The transfer is a new loan that was taken out after 1.10.95 while Lasse was on IS. Housing costs will be payable when Lasse has been entitled to IS for a continuous period of 39 weeks.

Example 4

Sally lives with her son in the same home she used to occupy with her husband. He had taken out a sole mortgage in 1998 and was in full time work. The couple separated in 2011 although he continued to pay the mortgage until 2013 when Sally obtained a loan to buy him out. The new loan, taken out in a relevant period, is not eligible because the earlier loan that it paid off had not been allowable (the mortgagee was in full time work)

Previously renting accommodation before purchase of new dwelling

23480 Housing costs will be met if a claimant or a family member

1. acquire, during the relevant period, an interest in a dwelling which they
 - 1.1 then occupy **or**
 - 1.2 continue to occupyas their home¹ **and**
2. were entitled to HB in the week before the purchase².

But the housing costs met cannot initially exceed the amount of HB and any eligible housing costs that the claimant was entitled to immediately before the purchase³.

1 JSA Regs, Sch 2, para 4(8)(a); IS (Gen) Regs, Sch 3, para 4(8)(a); 2 JSA Regs, Sch 2, para 4(8)(b); IS (Gen) Regs, Sch 3, para 4(8)(b); 3 JSA Regs, Sch 2, para 4(8)(i) & (ii); IS (Gen) Regs, Sch 3, para 4(8)(i) & (ii)

23481 The housing costs awarded under DMG 23480 can only be increased and then only in line with increases in

1. the SIR **or**
2. other eligible housing costs (see DMG 23605)

after the date of the purchase¹.

1 JSA Regs, Sch 2, para 4(8)(b); IS (Gen) Regs, Sch 3, para 4(8)(b)

Example

Agnes is in receipt of JSA(IB). She lives in a council house and £47 per week HB is paid towards her rent. Agnes buys a nearby property using a mortgage. The interest payable on the mortgage using the SIR is £55 a week. Agnes's housing costs are restricted to £47 a week¹.

After the date of the purchase there is an increase in the SIR which means a £3 increase in her housing costs to £58. The amount actually allowed for housing costs is increased by £3 to £50.

The interest rate decreases and Agnes's housing costs assessed using the SIR fall from £58 to £54. Housing costs remain in payment at £50.

The SIR decreases further and Agnes's housing costs fall to £49. The allowable housing costs remain at £50.

Now that the actual housing costs are less than or equal to the restricted amount, the restriction ends. Any subsequent increases or decreases in the amount of housing costs are assessed in the normal way.

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23482 - 23484

Accommodation more suited to needs of a disabled person

23485 Any increase in housing costs should be allowed if a claimant or a member of the family, during a relevant period

1. takes out a new loan **or**
2. increases an existing loan

to buy alternative accommodation more suited to the special needs of a disabled person (see DMG 23410) than the accommodation previously occupied by the claimant¹.

1 JSA Regs, Sch 2, para 4(9); IS (Gen) Regs, Sch 3, para 4(9)

23486 When determining whether an increase in housing costs may be allowed the DM should note that

1. the new accommodation being more suited to the special needs of the disabled person need only be one of the reasons for buying it. It does not have to be the only or main reason
2. the new accommodation only has to be more suited. There is no test of whether or not it was reasonable to acquire the new accommodation
3. the special needs of the disabled person must be needs stemming from the person's disability. Only needs stemming from
 - 3.1 a specific disease **or**
 - 3.2 a specific bodily or mental disablement **or**
 - 3.3 the effects of ageing for the over 75'scan be special needs of the disabled person
4. the relevant features of the new accommodation could possibly include its running costs. But the price paid for it or the size of the loan taken out are not relevant
5. the person must be a disabled person (see DMG 23410) at the date the loan is taken out and not from any later date
6. there is no requirement of immediacy linking the time of acquisition, the time the loan is taken out, and the time the claimant moves but there does have to be a link between them¹

7. each case must be decided individually on its own facts.

1 Ahmed v Secretary of State for Work and Pensions [2011] EWCA Civ 1186

Separate sleeping accommodation for children of different sexes

- 23487 Any increases in housing costs should be allowed where, during a relevant period
1. a claimant or a member of the family increases a current loan commitment by
 - 1.1 taking out a new loan **or**
 - 1.2 increasing a current loanto buy an alternative home, having sold the previous home **and**
 2. the increase in the loan commitment was solely to provide sufficient sleeping accommodation so that two or more people who are
 - 2.1 members of the claimant's family **and**
 - 2.2 each aged ten or over but under the age of 20 when the loan is taken out or who will be that age within a year **and**
 - 2.3 of different sexesdo not have to share sleeping accommodation¹.

1 JSA Regs, Sch 2, para 4(10); IS (Gen) Regs, Sch 3, para 4(10); R(IS) 5/01

Example

Hans is in receipt of IS and lives in his own two bedroomed house with his son Bruno aged ten, and daughter Hilda aged four. There is no outstanding mortgage on the property. Hans decides that the children should have separate bedrooms. He sells their house and takes out a £20,000 mortgage to buy a three bedroomed house. The loan was taken out in a relevant period to provide separate bedrooms for the children. But they will not both be aged ten within a year of when the loan was taken out. Interest on the new mortgage cannot be allowed.

Other housing costs in payment before purchase

- 23488 Housing costs should be allowed up to the amount in payment before the new purchase where
1. a claimant or a member of the family acquires, during a relevant period, an interest in a dwelling which they occupy as their home **and**
 2. in the week before the purchase they were entitled to other housing costs (see DMG 23611) **and**
 3. no allowable interest was included in the housing costs¹.

1 JSA Regs, Sch 2, para 4(11)(a) & (b); IS (Gen) Regs, Sch 3, para 4(11)(a) & (b)

- 23489 Any subsequent increases after the purchase will be made in line with
1. allowable increases in the standard interest rate **or**

2. any increases in other housing costs¹.

1 JSA Regs, Sch 2, para 4(11); IS (Gen) Regs, Sch 3, para 4(11)

Example

Gillian is in receipt of IS. She pays ground rent of £4 a week on her maisonette which she leases without mortgage. The ground rent is met by IS. Gillian sells up and takes out a mortgage of £10,000 to buy a sheltered flat. The interest on the mortgage is £16 a week. Gillian has to pay service charges of £12 a week related to the adequacy of her new home. The service charge later increases by £3 to £15 a week.

The allowable housing costs are calculated as

1.	ground rent before purchase of new home	£4
2.	mortgage interest before purchase of new home	nil
3.	total housing costs on new home (£16 + £12)	£28
4.	restrict housing costs to	£4
5.	service charges increase by £3. Housing costs can also be increased by £3 to	£7

FURTHER MODIFICATIONS FOR JSA(IB)

Limitation applicable to qualifying loans

23490 Where the relevant benefit claimed is JSA, then any help with

1. qualifying loans taken out to buy the home **or**
2. qualifying loans for repairs and improvements **or**
3. a combination of the two

is limited to a total of 104 weeks¹.

1 The SS (Housing Costs Special Arrangements) (Amendment & Modification) Regulations 2008 (S.I. 2008 No. 3195); Reg 11, JSA Regs, Sch 2 para 4A(1)

23491 The 104 week limitation does not apply were

1. the claimant or his partner or, if the claimant is a member of a joint claim couple, the other member of the couple was previously entitled to IS or ESA **and**
2. there were 12 weeks or less between that previous entitlement and the JSA award¹.

1 JSA Regs, Sch 2 para 4A(6)

23492 The start of the period of 104 weeks commences from the earliest date those housing costs were first met in a JSA award on or after 5.1.09, and it is calculated disregarding

1. any weeks where the capital limit for loans was based on £100,000¹
2. housing costs (as described in paragraph 24) met as the result of a previous JSA award where the claimant does not have a linked period that begins on the first day of the last period in respect of which the claimant was not in receipt of a jobseeker's allowance and which ends immediately before the claimants most recent JSA claim is made or is treated as made².

1 JSA Regs, Sch 2 para 4A(3); 2 para 4A(5)

23493 - 23494

Apportionment of housing costs

Composite hereditaments

23495 A composite hereditament is¹ a property with both

1. domestic **and**
2. business

premises, for example, a shop with a flat above.

1 JSA Regs, Sch 2, para 5(1) & (4); IS (Gen) Regs, Sch 3, para 5(1) & (4); Local Government Finance Act 1988, s 41(1); Abolition of Domestic Rates etc. (Scotland) Act 1987, s 26(1)

23496 If a claimant occupies a composite hereditament, housing costs should be awarded for the part of the property used by the claimant for their own domestic use. Where appropriate, the maximum amount (see DMG 23519) should be applied to the eligible part of the loan.

23497 The calculation of the portion of housing costs that can be allowed in such a case is¹, where the composite hereditament was created

1. before 1.4.90 (in Scotland 1.4.89)², the amount obtained by using the formula

$$\frac{A}{A + B}$$

where

A is the rateable value of the domestic part of the property (in Scotland the annual value) **and**

B is the rateable value of the business part of the property (in Scotland the annual value)

2. on or after 1.4.90 (in Scotland 1.4.89)³, the amount obtained by using the formula

$$\frac{A}{A + B}$$

A is the current market value of the claimant's interest in the domestic part of the property **and**

B is the current market value of the claimant's interest in the business part of the property.

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

Example 1

Deepak owns an off-licence with a flat above that he bought with a mortgage of £170,000. He claims JSA after the business stops trading.

The LA confirm that the property is on the non-domestic rating list as a composite hereditament. The property has been listed as a composite hereditament since 11.7.87.

The rateable value of the domestic part of the property (A) is £300, while the rateable value of the business premises (B) is £600.

(A) (£300) divided by (A) + (B) (£900) = 1/3.

Housing costs can be allowed for 1/3 of the eligible mortgage interest.

Example 2

Gina has a bed and breakfast business in a six-bedroomed house she has bought with a mortgage of £192,000. The business stops trading and she claims IS. The premises are not registered as a composite hereditament. The DM

1. determines that the whole of Gina's property is the dwelling occupied as the home **and**
2. considers making a restriction because of the size of the home before allowing housing costs.

23498 - 23499

The calculation for loans

23500 The weekly amount of having costs to be met for mortgage and loan interest (see DMG 23575 and 23585) should be calculated by using the formula¹

$$\frac{A \times B}{52}$$

where

- A is the amount of the eligible portion of the loan for the time being outstanding
and
B is the standard interest rate

Note: See DMG 23682 if the claimant is entitled to an “add back”.

1 JSA Regs, Sch 2, para 9; IS (Gen) Regs, Sch 3, para 10

Outstanding balance

23501 The outstanding balance of the eligible portion of a loan is the amount which remains unpaid on the

1. whole of the loan, where the whole loan is eligible **or**
2. the portion of the loan used for an eligible purpose, where the loan was used to meet eligible and ineligible costs.

Example 1

Ishaq took out a loan of £140,000. He uses £75,000 to buy his home, all of which is eligible. The other £65,000 is used for business purposes and is not eligible. At the time he claims IS the outstanding balance of the loan, less unpaid interest and other ineligible items is £95,000. Ishaq receives loan interest based on an outstanding balance of £75,000

Example 2

Joyce takes out a loan of £80,000. She uses £67,000 to buy her home, all of which is eligible. She uses the other £13,000 to buy a mobile home, which is not eligible. At the time of her claim to JSA the outstanding balance of the loan, less unpaid interest and other ineligible charges is £58,000. Joyce receives loan interest based on an outstanding balance of £58,000.

23502 Before 22.10.97 the outstanding balance for assessing housing costs was the amount of the eligible portion of the loan which was unpaid on¹

1. for JSA claims
 - 1.1 the first day from which housing costs for that loan were included in the JSA(IB) applicable amount **or**
 - 1.2 the anniversary of that date **or**
2. for IS claims
 - 2.1 the first day from which housing costs for that loan were included in the IS applicable amount **or**
 - 2.2 the anniversary of that date.

1 JSA Regs, Sch 2, para 6(2) & 7(2); IS (Gen) Regs, Sch 3, para 6(1A) & 8(1A)

Example

Marilyn is in receipt of IS. The outstanding balance of the mortgage on her home is £30,000. Her housing costs are awarded from 23 June. On 25 August she claims JSA and is awarded JSA(IB) from 25 August. The outstanding balance on 25 August is £29,850. Her JSA(IB) applicable amount includes housing costs calculated on the outstanding balance of £29,850.

- 23503 Claimants who move between JSA(IB), ESA(IR) and IS within a linking period (see DMG 23706 to 23746) have had a common anniversary date. That is the date the housing costs were first met for whichever of the benefits the claimant or partner was first entitled¹.

1 JSA Regs, Sch 2, para 6(3), 6(4), 7(2A) & 7(2B); IS (Gen) Regs, Sch 3, para 6(1B) & 8(1B)

Example

Lynda is in receipt of IS. The outstanding balance on her mortgage is £60,000 and housing costs are awarded from 22.9.97. On 30.10.97 she claims JSA and is awarded JSA(IB) from that date. The outstanding balance on 30.10.97 is £59,950. Her JSA(IB) applicable amount continues to include housing costs calculated on the original outstanding balance of £60,000.

On 17.11.97, Lynda starts remunerative work and her claim to benefit ends. On 11.1.98 Lynda finishes work and reclaims IS from 12.1.98. The break between her claims is less than 12 weeks. There has been no eligible increase in the outstanding balance. IS is awarded including housing costs based on the original outstanding balance of £60,000.

If Lynda stays on IS or JSA, or switches between them, her outstanding balance will be re-determined on 22.9.98. That is the anniversary date on which her housing costs were first met.

Special rules for superseding decisions about loans

23504 This guidance explains the special rules that apply for superseding decisions when there are changes to the balance outstanding on a loan. See DMG Chapter 04 for full guidance on supersession.

Increases in outstanding balance

23505 An increase in borrowing incurred during the course of a claim falls within a relevant period (see DMG 23466 et seq) and can only be allowed if it is for

1. an allowable purpose (see DMG 23475 et seq) **or**
2. an eligible home improvement loan (see DMG 23585 et seq).

23506 The DM should supersede the IS/JSA decision if there is an eligible increase in the outstanding balance. The effective date of the supersession is the date the unpaid amount increases¹. For home improvement loans see DMG 23586.

1 SS CS (D&A) Regs, reg 7(2)

23507 Information may be received showing that a previously reported figure for the eligible outstanding balance was too low. In such a case the DM should consider whether to supersede the decision on the grounds that there has been a mistake as to a material fact (see DMG Chapter 04). In these circumstances there has not been an increase as such but a mistake as to the correct figure.

Example

Jacob is in receipt of IS. His housing costs are awarded from 3.1.01. The anniversary date is 3.1.02. On 2.10.01 there is an eligible increase in the outstanding balance. The IS decision is superseded from 2.10.01.

Decreases in outstanding balance

23508 The DM should supersede housing costs if there is a decrease in the outstanding balance. The effective date of the supersession will be¹

1. the first anniversary date, if the decrease in the outstanding balance occurs between the date housing costs are first met and the first anniversary date **or**
2. the next subsequent anniversary date, where the decrease in the outstanding balance occurs after the first anniversary date.

1 SS CS (D&A) Regs, reg 7(14) & 7(18)

Example

Pierre is in receipt of IS. His housing costs are awarded from 6.2.01. Unless there is an eligible increase in the outstanding balance, the IS decision is next superseded on 6.2.02.

Special rules for claimants with JSA transitional protection

Who do the special rules apply to

23512 The special rules apply to claimants

1. who have been awarded JSA(IB) under the transitional provisions in DMG Chapter 37 **and**
2. who were paid IS for 6.10.96 **and**
3. whose eligible capital for a mortgage or loan has reduced.

Other claimants should still have their decision superseded for housing costs following the guidance in DMG 23504 et seq.

IS housing costs anniversary date on or after 8.11.96

23513 In a case where the

1. claimant satisfies the conditions in DMG 23512 **and**
2. DM supersedes the claimant's JSA(IB) award because of a reduction in the amount of eligible capital for a mortgage or loan

the effective date of the supersession will be on the first or any following anniversary of the date that housing costs were first met in the IS applicable amount unless that date is before 8.11.96¹. See DMG 23514 for cases where the anniversary date is before 8.11.96.

1 SS CS (D&A) Regs, reg 7(22)

Example

John claims IS on 1.11.95. On 27.12.95 John becomes entitled to housing costs in his IS applicable amount. The amount of eligible capital outstanding on his mortgage is £32,500. On 9.10.96 he was awarded JSA(IB) as a person who had previously been claiming IS as an unemployed person. He was paid IS for 6.10.96.

On 7.12.96 the DM supersedes John's JSA(IB) award because the amount of eligible capital outstanding has reduced to £32,100. The supersession is effective from 27.12.96 which is the first anniversary of the date that housing costs were first met in John's IS applicable amount.

IS housing costs anniversary date before 8.11.96

23514 In a case where the

1. claimant satisfies the conditions in DMG 23512 **and**
2. DM supersedes the claimant's JSA(IB) award because of a reduction in the amount of eligible capital for a mortgage or loan

the effective date of the supersession will be 8.11.96 if the IS anniversary date was between 7.10.96 and 7.11.96. Any subsequent supersession because of capital reducing will have an effective date that coincides with the first or subsequent anniversary of the date that housing costs were first met in the claimant's IS applicable amount¹.

1 SS CS (D&A) Regs, reg 7(22)

Example

Kate claims IS on 1.9.95. She has a mortgage on her home. On 27.10.95 Kate becomes entitled to housing costs in her IS applicable amount. The amount of eligible capital outstanding on her mortgage is £49,700. On 11.10.96 she is awarded JSA(IB) as a person who had previously been receiving IS as an unemployed person. She was paid IS for 6.10.96.

On 15.11.96 the DM supersedes Kate's JSA(IB) because the amount of eligible capital on her mortgage has reduced to £48,000. Because the first anniversary of the award of Kate's housing costs is before 8.11.96 the effective date of the supersession is 8.11.96.

If Kate's eligible capital reduces again after 8.11.96 the effective date of supersession would be the next anniversary of 27.10.95, the date that housing costs were first met in her IS applicable amount.

23515 - 23518

Maximum amount of loans

23519 Except where DMG 23529 applies, the maximum amount of a loan that housing costs can be calculated on is £200,000. Where claimants are treated as occupying two homes the limit applies separately to each home¹.

Note: The £200,000 maximum was introduced under a temporary package of measures to support home owners who made new claims from 5.1.09. In certain circumstances, where there is linking to a claim made prior to 5.1.09 the maximum amount remains at £100,000 [See Memo DMG 43/09]

1 JSA Regs, Sch 2, para 10(3), (4) & (5); IS (Gen) Regs, Sch 3, para 11(4), (5) & (6)

Previous maximum amounts

23520 The maximum amount has not always been £200,000. For claims made

1. on or before 1.8.93 there was no maximum amount
2. in the period 2.8.93 to 10.4.94 the maximum amount was £150,000
3. in the period 11.4.94 to 9.4.95 the maximum amount was £125,000
4. after 9.4.95 the maximum amount was £100,000.
5. from 5.1.09 the maximum amount is £200,000 for certain new claims that do not link - see memo DMG 43/09

references throughout this chapter to the maximum amount of a loan being £100,000 could also mean £200,000 in appropriate circumstances

Savings provision where the max is £100,000

23521 A savings provision protects previous maximum amounts above the maximum of £100,000. Claimants retain previous maximum amounts above £100,000 if they remain continuously entitled to JSA(IB) or IS¹.

1 IS (Gen) Amdt No. 3 Regs 93; Income-related Benefits Schemes (Misc Amdt) Regs 95; IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

23522 From 12.12.95, a higher maximum amount could be carried over to a later claim if that claim linked with the earlier one under the normal linking rules. But on 2.8.99 those linking rules changed¹.

1 IS (Gen) & JSA Amdt Regs 1999, reg 2

23523 From 2.8.99, where a loan exceeds the current maximum amount, a claimant will only be treated as continuously in receipt of and entitled to JSA(IB) or IS¹

1. for the purposes of determining the qualifying period (see DMG 23650 et seq)
or
2. where they ceased to be in receipt of JSA(IB) or IS because the claimant or their partner was a WtWB (see DMG 23719 et seq).

1 JSA Regs, Sch 2, para 13(4A); IS (Gen) Regs, Sch 3, para 14(3AA)

23524 A higher maximum amount can only be carried over to a later claim if that claim links with the earlier one under the special linking rules for WtWBs (see DMG 23719 et seq). In all other cases any breaks in entitlement, including one day, mean that claimants will lose their entitlement to a maximum amount above £100,000. The maximum amount of £100,000 will then apply.

Liabie for two homes

23525 A person may be treated as occupying two dwellings as their home (see DMG 23441 to 23443). In such a case the maximum amount applies separately to each dwelling¹.

1 JSA Regs, Sch 2, para 10(5); IS (Gen) Regs, Sch 3, para 11(6)

Composite hereditaments

23526 Where the claimant's home is a composite hereditament (see DMG 23495), the amount of the loan on which housing costs are calculated will be the lower of¹

1. the amount calculated by applying the formula $P \times Q$ where

P is the fraction used to calculate the eligible portion of the housing costs as in DMG 23497 **and**

Q is the amount of the whole loan which is outstanding **or**

2. £100,000. or £200,000 whichever is appropriate

1 JSA Regs, Sch 2, para 10(6); IS (Gen) Regs, Sch 3, para 11(7)

23527

Part of loan used for eligible purposes

23528 Where only part of the loan has been used for an eligible purpose, the amount of the loan on which housing costs are to be calculated will be the lower of¹

1. the outstanding amount of the eligible part of the loan **or**

2. £100,000 or £200,000 as appropriate .

1 JSA Regs, Sch 2, para 10(7); IS (Gen) Regs, Sch 3, para 11(8)

Loans to adapt a dwelling for the needs of a disabled person

23529 Loans may be used in full, or in part, to adapt a home for the special needs of a disabled person. The outstanding amount of such loans is exempt from the maximum amount limit¹.

1 JSA Regs, Sch 2, para 10(8); IS (Gen) Regs, Sch 3, para 11(9)

Example

Russell has two loans

Loan 1 - £160,000 for acquiring an interest in the home. The limit is applied to this loan and only £100,000 is allowed.

Loan 2 - £25,000 to adapt the home for Russell's mother, who lives in his home and who is disabled. This loan is allowed in addition to the £100,000 limit.

The eligible housing costs are	£100,000
	+£ 25,000
	<hr/>
	=£125,000
	<hr/>

Adapt a dwelling

- 23530 In order to qualify as an adaptation the work being undertaken can be in areas other than to the fabric or structure of the dwelling. Furnishing and redecoration is sufficient to qualify as an adaptation where the claimant's disablement needs make it reasonably necessary for the work to be done¹.

1 Mahmoudi, R v London Borough of Lewisham & Anor [2014] EWCA Civ 284.

Several eligible loans

- 23531 Where there are several eligible loans which when added together exceed £100,000 the loans should be apportioned using the formula¹

$$\frac{R \times S}{T}$$

where

R is £100,000

S is the amount of the eligible loan which is outstanding

T is the total of all the eligible loans which are outstanding.

1 JSA Regs, Sch 2, para 10(9) & (10); IS (Gen) Regs, Sch 3, para 11(10) & (11)

Example

Andre has three loans which when added together are more than the £100,000 limit. If the three loans are eligible and not used for a purpose that would exempt them from restriction the loans should be apportioned as follows

Loan 1 - £100,000 used to acquire an interest in the home

Loan 2 - £60,000 used to correct unsafe structural defects

Loan 3 - £40,000 used for the provision of damp proofing and insulation, electric lighting, and to repair an existing heating system

Loan 1	$\frac{\pounds 100,000 \times \pounds 100,000}{\pounds 200,000}$	=	£50,000
Loan 2	$\frac{\pounds 100,000 \times \pounds 60,000}{\pounds 200,000}$	=	£30,000
Loan 3	$\frac{\pounds 100,000 \times \pounds 40,000}{\pounds 200,000}$	=	£20,000

Shared responsibility for housing costs

23532 Where more than one person has responsibility for a loan, calculate the eligible part of the loan. Then apply the fraction of the housing costs for which the claimant is responsible to the eligible part of the loan to give the amount that can be allowed.

Example

Stephanie shares her home with her parents. They are liable for the loan of £180,000 used to buy the home and two home improvement loans of £45,000 and £15,000. Her parents have each taken responsibility for $\frac{1}{4}$ of the loan used to acquire the home and Stephanie is responsible for the other $\frac{1}{2}$. Each of the three have taken responsibility for $\frac{1}{3}$ of the two home improvements loans. So the eligible part of each loan for Stephanie will be

Loan to purchase the home	$\pounds 180,000 \times \frac{1}{2} = \pounds 90,000$
Home improvement loan	$\pounds 45,000 \times \frac{1}{3} = \pounds 15,000$
Home improvement loan	$\pounds 15,000 \times \frac{1}{3} = \pounds 5,000$

The total loans for which the claimant is responsible are restricted to £100,000 by apportionment as follows

Loan 1	$\frac{\pounds 100,000 \times \pounds 90,000}{\pounds 110,000}$	=	£81,818.18181818
Loan 2	$\frac{\pounds 100,000 \times \pounds 15,000}{\pounds 110,000}$	=	£13,636.36363636
Loan 3	$\frac{\pounds 100,000 \times \pounds 5,000}{\pounds 110,000}$	=	£4,545.45454545

Note: rounding at the end of the calculation gives an amount of £100,000

The standard rate

23533 Prior to 28.11.04 the standard interest rate was based on the weighted average of basic rates charged by the main building societies. This figure was published monthly by the Office for National Statistics in Financial Statistics Table 7.1L. Changes to the standard rate were triggered by moves of 0.25% or more in the published figures.

23534 From 5.12.04 the calculation of the standard rate of interest applied to loans which qualify for housing costs was based on

1. the Bank of England base rate **or**
 2. any rate determined by the Treasury under its reserved powers
- plus 1.58%.

23535 From 1.10.10 the calculation of the SIR applied to loans which qualify for housing costs is based on the average mortgage rate published monthly by the Bank of England. A change in the SIR is only triggered when the Bank of England's published average mortgage rate differs by 0.5 percentage points¹ or more from the SIR applicable on that day. Any change in the SIR is effective from a date determined by the Secretary of State².

1 IS (Gen) Regs, Sch 3, para 12; JSA Regs, Sch 2, para 11; 2 SI 2014/591

23536 See Appendix 6 to this Chapter for details of the standard interest rates.

23537 - 23539

Excessive housing costs

General

23540 Housing costs should be restricted to the housing costs needed to acquire suitable¹ alternative accommodation² where the

1. claimant's housing costs are excessive³ **and**
2. DM decides, after considering the relevant factors (see DMG 23548), that it is reasonable to expect the claimant to seek alternative cheaper accommodation.

1 R(SB) 7/89; 2 R(IS) 9/91; 3 JSA Regs, Sch 2, para 12(1); IS (Gen) Regs, Sch 3, para 13(1); R(SB) 6/89

23541 DMs should note, when deciding on excessive housing costs, that

1. housing costs may still be considered to be excessive even if the maximum amount (see DMG 23519) has been imposed **and**
2. no account should be taken of the capital value of the dwelling occupied as the home¹ **and**
3. unless an immediate restriction is appropriate (see DMG 23561), the claimant should be notified in advance that a restriction is likely to take place in the future².

1 JSA Regs, Sch 2, para 12(2); IS (Gen) Regs, Sch 3, para 13(2); 2 R(SB) 7/89

23542 When calculating the restricted amount the DM should consider the

1. equity in the existing dwelling **and**
2. likely costs involved in buying suitable alternative accommodation¹.

1 R(IS) 9/91

Meaning of excessive housing costs

23543 Housing costs are excessive where¹ the

1. home, excluding any part which is let, is larger than required by
 - 1.1 the claimant **and**
 - 1.2 the claimant's family **and**
 - 1.3 any non-dependants (including foster children)

having regard to suitable alternative accommodation occupied by households of the same size **or**

2. immediate area in which the home is located is more expensive than other areas in which suitable alternative accommodation exists **or**
3. costs are more than those for suitable alternative accommodation in the area

1 JSA Regs, Sch 2, para 12(1); IS (Gen) Regs, Sch 3, para 13(1)

Consideration of size of dwelling

23544 All the circumstances of the family should be considered when deciding if the dwelling occupied as the home is too big for the claimant, family and any non-dependants. For example

1. the accommodation needed by the claimant, family, and any non-dependants having regard to
 - 1.1 ages
 - 1.2 sex **and**
 - 1.3 state of health
2. it should be accepted that there is an need for unoccupied rooms if they are occupied occasionally, for example by a non-dependant working away from home for part of the week
3. the size of suitable alternative accommodation occupied by the same number of people.

These examples are not exhaustive.

Expensive nature of the area

23545 The immediate area¹ should be considered expensive if the houses are of a higher standard or more luxurious than those in the general locality, including luxury accommodation.

1 R(IS) 12/91

23546 - 23547

Is a restriction appropriate

23548 No restriction should be made if, having regard to the relevant factors, it is not reasonable to expect the claimant to seek alternative cheaper accommodation¹. Examples of relevant factors are²

1. the availability of suitable accommodation and the level of housing costs in the area **or**
2. the circumstances of the family including

- 2.1 the age and state of health of the members of the family **or**
- 2.2 the employment prospects of the claimant **or**
- 2.3 where a change of home is likely to mean a change of school affecting the education of any
 - 2.3.a child or young person who is a member of the claimant's family **or**
 - 2.3.b foster child
- 3. where people cannot sell their home or have negative equity (see DMG 23550) **or**
- 4. where a person cannot obtain a loan to buy alternative property (see DMG 23552) **or**
- 5. where rented accommodation is a suitable alternative (see DMG 23553).

Note: This list is not exhaustive and all of the circumstances of the family should be considered³.

1 JSA Regs, Sch 2, para 12(4); IS (Gen) Regs, Sch 3, para 13(4); 2 JSA Regs, Sch 2, para 12(5); IS (Gen) Regs, Sch 3, para 13(5); 3 R(SB) 6/89; R(SB) 7/89; R(IS) 10/93

Meaning of available

23549 Available means whether suitable properties are being offered for sale or rent in the area¹, not whether the claimant's circumstances permit another property to be obtained.

1 R(IS) 12/91

Cannot sell home or negative equity

23550 Many people are in a situation where they

- 1. cannot sell the home they are living in **or**
- 2. have negative equity, (that is, the value of their home is less than the loans secured on it).

23551 In such a situation the DM should consider whether, in these circumstances, it would be reasonable to expect the claimant to seek alternative accommodation.

Cannot obtain a loan to buy alternative property

23552 A person may be unable to obtain a loan to buy an alternative property. In these circumstances it may be that other accommodation is not available because a loan cannot be raised to buy it. The DM should consider whether it would be reasonable to expect the claimant to seek alternative accommodation.

Rented accommodation as a suitable alternative

23553 Rented accommodation may be considered as a suitable alternative. But a move from being an owner-occupier to a tenant may cause problems. One example may be where the

1. amount of equity in the property would exceed £8,000 **and**
2. claimant would be excluded from receipt of JSA(IB) or IS.

The DM should consider whether, in such circumstances, rented accommodation would be a suitable alternative.

Questions for the DM

23554 Before deciding if a claimant should be expected to look for alternative suitable accommodation the DM should consider¹ whether

1. there is alternative accommodation available in the area² which is suitable and cheaper
2. the move would be detrimental, taking into account the health and age of any member of the family
3. the move would seriously jeopardize the claimant's employment prospects
4. any child, young person or foster child would need to change school, and would this affect their education
5. the claimant has shown that it is not possible to buy suitable alternative accommodation. For example, if they have negative equity, are unable to sell the home, or cannot obtain a loan to buy suitable accommodation.

1 R(SB) 6/89; R(SB) 7/89; R(IS) 10/93; 2 R(IS) 12/91

Example 1

Sanjay's home is valued at £105,000, his loan interest is £80 per week. The home is a three bedroomed semi-detached house located on one of a number of similar estates around the town where he lives. Living with him are his wife and two children. Outgoings on suitable alternative accommodation would be £130 per week. Sanjay's housing costs are not excessive.

Example 2

Jack lives on his own in a one-bedroomed flat which is on a luxury riverside development. Jack bought the flat for £90,000. His weekly housing costs are £135. Outgoings on suitable alternative accommodation would be £40 per week. Jack's housing costs are excessive. Both the immediate location of his home and the outgoings on it are more expensive than suitable alternative accommodation.

23555 - 23559

Date of restriction

23560 The date that the restriction takes effect depends on whether the claimant, or other member of the family, was able to meet the financial commitment when it was entered into. The DM should bear in mind that

1. a loan is a long term commitment. At the time the loan was taken out the claimant or other member of the family should have been able to meet the continuing commitment for the reasonably foreseeable future
2. the time the loan was taken out is the material time. Any changes in the claimant's financial circumstances that occur after the material time that could not reasonably have been foreseen should be ignored
3. the ability to meet the financial commitment should be considered looking only at the facts of the claimant's case. The claimant's view of ability to pay should not be considered
4. the fact that a loan was made available by a lender is not conclusive proof of the claimant's ability to meet the commitment.

1 R(IS) 13/92; Secretary of State for SS v. Julien

Restriction applied immediately

23561 The restriction should be applied immediately¹ where the

1. claimant's housing costs are excessive **and**
2. claimant **was not** able to meet the financial commitments for the home when they were entered into **and**
3. DM considers, having regard to the relevant factors, that it is reasonable to expect the claimant to seek alternative accommodation.

1 JSA Regs, Sch 2, para 12(3); IS (Gen) Regs, Sch 3, para 13(3)

Restriction not applied immediately

23562 A restriction should not be applied immediately where¹ the

1. claimant's housing costs are excessive **and**
2. claimant **was** able to meet the financial commitments for the home when they were entered into **and**
3. DM considers, having regard to the relevant factors, that it is reasonable to expect the claimant to seek alternative accommodation.

1 JSA Regs, Sch 2, para 12(6); IS (Gen) Regs, Sch 3, para 13(6)

- 23563 If the restriction is not applied immediately the restriction will not apply¹
1. for the first 26 weeks of any period of entitlement to JSA(IB) or IS **or**
 2. during the 26 weeks from the date of a revision or supersession² **or**
 3. for the next 26 weeks after 1. or 2. as long as the claimant is using every effort to obtain cheaper accommodation³.

Note: The maximum period for which the restriction will not apply is 52 weeks in any period of entitlement.

1 JSA Regs, Sch 2, para 12(6) & 18(1)(cc); IS (Gen) Regs, Sch 3, para 13(6); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; 2 R(SB) 9/91; R(IS) 7/89; 3 R(IS) 9/91

Calculation of the period of 26 weeks

- 23564 When calculating any of the 26 weeks in DMG 23563, for claimants in receipt of
1. JSA(IB), include periods of entitlement to IS¹ **and**
 2. IS, include periods of entitlement to JSA(IB)².

1 JSA Regs, Sch 2, para 18(1)(c); 2 IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Breaks in JSA or IS claims

- 23565 For the purpose of calculating the 26 week period, claimants who are not in receipt of JSA(IB) or IS for twelve weeks or less between two claims are treated as entitled to JSA(IB) or IS during that period¹

1 JSA Regs, Sch 2, para 12(7) & 18(1)(c); IS (Gen) Regs, Sch 3, para 13(7); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Revision, supersession or appeal

- 23566 A claimant who
1. has received JSA or IS **and**
 2. is found on
 - 2.1 appeal **or**
 - 2.2 revision or supersession

not to be entitled to JSA or IS for that period will be treated as not in receipt of JSA or IS¹.

1 JSA Regs, Sch 2, para 12(8); IS (Gen) Regs, Sch 3, para 13(8)

Treated as in receipt of and entitled on another person's claim

23567 A person may be treated as being in receipt of, and entitled to JSA(IB) and IS on another person's claim. See DMG 23743 et seq for further guidance.

Calculation of housing costs once restriction has been applied

23568 Once the restriction is applied, the amount¹ of the loan interest is

1. calculated on the amount of the loan needed to purchase suitable alternative accommodation **or**
2. limited to the amount of rent payable on alternative rented accommodation.

Note: If the loan required to buy suitable alternative accommodation is more than the loan outstanding on the claimant's own home, no restriction should be applied.

1 R(SB) 6/89

Example

The value of Dougal's home is £95,000. He has a mortgage of £20,000. After paying costs connected to the sale of the home Dougal would be left with £65,500. Suitable alternative accommodation is available for £76,500. The total cost would be £79,200, with search fees etc. Dougal would need a loan of £13,700. His restricted housing costs should be assessed on a loan of that amount.

23569 - 23574

Loans to acquire an interest in the home

23575 Any loan, or any part of a loan, taken out and used to

1. acquire an interest in the dwelling occupied as the home **or**
2. pay off another loan (but only to the amount the other loan would have been eligible had it not been paid off)

is a qualifying loan¹.

1 JSA Regs, Sch 2, para 14(1), (2) & (3); IS (Gen) Regs, Sch 3, para 15(1), (2) & (3)

Example 1

Andy remortgages his home for £80,000. Only £60,000 is used to acquire an interest in the home, the rest is not eligible. When he claims JSA £72,000 is outstanding on the mortgage. The interest is calculated on £60,000.

Example 2

Edward claims IS. His mortgage is a remortgage for £85,000. Only £77,000 was used to acquire an interest in the home, the rest is not eligible housing costs. At the time of the claim £73,500 is outstanding on the mortgage. The interest is calculated on £73,500.

Example 3

Angus remortgages his home for £50,470. £49,000 was used for the house purchase loan, the rest was an acceptance fee, he had to pay the lender to obtain the mortgage. £1,470 represented monies applied for the purpose of paying off the lender therefore it qualified as eligible housing costs. The interest is calculated on £50,470.

Costs of acquiring an interest in a dwelling

23576 The costs of acquiring an interest in the dwelling occupied as the home include

1. the amount used to buy the home (the purchase price of the property) **and**
2. any costs necessary to complete the purchase, such as
 - 2.1 search fees
 - 2.2 valuation fees
 - 2.3 land registry fees
 - 2.4 stamp duty
 - 2.5 legal fees
 - 2.6 bank charges

- 2.7** where the home has been built using a loan, the interest charged on that loan for the land, materials and labour up to the first day of occupation.

Note: This list is not exhaustive.

Meaning of acquiring an interest in a dwelling

23577 Acquiring an interest in the dwelling occupied as the home means¹ buying

1. a freehold **or**
2. a leasehold interest **or**
3. some lesser interest such as the interest of a tenant in common or joint tenant.

Note: This list is not exhaustive.

1 R(IS) 7/93; R(IS) 18/93

23578 Acquiring an interest in the dwelling occupied as the home may include

1. purchase of the freehold by a leaseholder¹
2. buying out a former partner
3. the purchase of either the whole or part of the interest in the dwelling occupied as the home from a trustee in bankruptcy²
4. buying out the rights and interests of a statutory tenant.

1 R(IS) 7/93; 2 R(IS) 6/94

23579 Acquiring an interest in the dwelling occupied as the home does not include

1. the transfer of an interest between the members of a couple where they already jointly own the entire interest¹ **or**
2. payment for the removal of a Class F land charge².

1 R(IS) 1/95; 2 R(IS) 4/95

Example 1

Anne-Marie has claimed JSA. She is a declared bankrupt. She asks if the interest on a loan raised by her partner to acquire an interest in the dwelling occupied as their home from a trustee in bankruptcy can be treated as an eligible housing cost. The interest in the dwelling acquired from the trustee was previously owned by Anne-Marie. The interest is allowed as an eligible housing cost.

Note: A declared bankrupt's possessions become the property of the trustee in bankruptcy. The trustee is a person chosen by the bankrupt's creditors to obtain as much of the money owed to the creditors as possible.

Example 2

Brian has claimed IS. He asks if the interest payable on loans on a self-build scheme to build the dwelling now occupied as the home can be treated as eligible housing costs.

The loans were for the purchase of a building plot, materials and labour. Payments for the labour charges were made partly to contractors and partly for Brian's own wages whilst building the property.

The interest is allowed as an eligible housing cost¹.

1 R(IS) 11/94

Example 3

Tom has a mortgage of £450,000 with the building society and is in financial difficulty. The building society agree to give Tom a mortgage of £85,000 to buy a cheaper house if his old house is sold and the proceeds are used to pay off his debts. But this still leaves a debt to the building society. The building society insist that in addition to the £85,000 mortgage to buy the new property, a further £30,000 should be secured on it because of Tom's outstanding debt.

The extra £30,000 secured on Tom's new house is not a further advance made by the building society. It is an attempt to recoup losses already suffered by them in case the new house increases in value. The £30,000 is not a loan used to acquire an interest in the new home and interest payments on it cannot be allowed as a housing cost¹.

1 R(IS) 2/99

23580 - 23584

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

2. repairs to existing heating systems
3. damp proof measures (see DMG 23594)
4. provision of ventilation and natural lighting
5. provision of drainage facilities
6. provision of facilities for preparing and cooking food, but not for storing it²
7. provision of insulation of the dwelling occupied as the home
8. provision of electric lighting and sockets
9. provision of storage facilities for fuel or refuse
10. the repair of unsafe structural defects (see Appendix 9 to this Chapter)
11. the adaptation of the home for the special needs of a disabled person (see DMG 23597)
12. provision of separate sleeping accommodation for two or more children who are
 - 12.1 members of the claimant's family **and**
 - 12.2 each aged ten or over when the loan is taken out, or who will be that age within a year **and**
 - 12.3 of different sexes (see DMG 23598).

1 JSA Regs, Sch 2, para 15(2); IS (Gen) Regs, Sch 3, para 16(2); 2 R(IS) 16/98

23592 Provision of, in this context, applies to measures both to provide and maintain a dwelling in an acceptable state for human habitation, indicating that repair and replacement (where the item no longer performs the function for which it was designed) can also be considered as well as initial installation.

Example 1

Jack buys a cottage lacking basic modern amenities and obtains a loan to carry out extensive improvement work. This involves the building of an extension to house a new kitchen and bathroom. Jack and his partner have two young children and are expecting a third and there is no other way of providing these facilities in the existing structure. Interest on a loan for the extension can be considered under DMG 23591 **1.** and **6.**, as the allowable expenditure is for providing or adapting a room to house the bath, shower etc. or the facilities for cooking and preparing food.

Example 2

Roger lives in a run down property where the windows have been smashed, the DM considers that the installation of new windows falls within the meaning of provision of insulation

Example 3

Kelly has taken out a home improvement loan for replacement windows. The previous window frames were rotten and they leaked. The DM determines that interest on the loan cannot be allowed as the windows already provide ventilation, insulation and natural lighting, albeit less effectively, and there is therefore no need to provide it.

Example 4

Warren lives in a property where the broken windows have been replaced by boarding, the DM considers that the installation of new windows would amount to the provision of natural lighting.

Fitness for human habitation

23593 Fitness for human habitation is a flexible concept that can change from one generation to another. The measures listed at DMG 23591 are an exclusive list of items currently considered necessary for a dwelling to be fit for human habitation.

But this does not mean that all the items in the list must be installed to make the dwelling fit. The DM should exercise discretion as to what is necessary in each particular case.

Example 1

Gina takes out a loan to pay for the installation of a damp proof course in her home. The property is not damp and is not likely to become so. But Gina wants to have the work done anyway. The DM determines that interest on the loan cannot be allowed. The installation of a damp proof course is not necessary to maintain the home's fitness for human habitation.

Example 2

Eric has a loan for various repairs to his home. The work he had done includes insulating the loft, re-wiring, a new bathroom, a new kitchen, and a new central heating boiler and radiators. Eric says that

1. there was no insulation in the loft
2. the upstairs rooms were cold due to heat escaping through the roof
3. the wiring was in good repair but he thought he would have it done
4. the washbasin and toilet were cracked and the bath leaked
5. the kitchen was usable but his wife wanted something more up to date
6. there was central heating but the boiler had broken down and he had 2 of his 10 radiators replaced at the same time.

Allowable amounts are the new bathroom, insulating the loft, the central heating boiler and the radiators. The rest are not allowable because they are not a repair or improvement nor necessary to maintain the home's fitness for human habitation as adequate facilities were already in place.

Example 3

Blair's central heating system is condemned by the Gas Board. He takes out a loan to pay for a complete new central heating system. The DM determines that interest on the loan cannot be allowed. The replacement of the old unsafe system with a complete new central heating system is not a repair to an existing heating system.

Damp proof measures

23594 When considering damp proof measures as in DMG 23591 **3.**, DMs should note that a roof

1. keeps out the elements
2. provides security
3. is an important part of the structure of a building
4. prevents water entering a building
5. prevents damp occurring.

23595 A repair or improvement made to a roof is a damp proof measure as in DMG 23591 **3.** if that is its sole or predominant purpose. It is not a damp proof measure if that is merely one part of its function. The renewal of a roof is not a damp proof measure but may be the repair of an unsafe structural defect (see DMG 23591 **10.**).

Home improvements for domestic items

23596 Home improvements for a cooker can only be allowed where the item is fixed and cannot be removed. For example

1. interest on a loan for a cooker that forms part of a fitted or built in kitchen should be allowed if it cannot be removed
2. if cookers are slotted in between fitted units and can be removed the interest on the loan cannot be allowed
3. other domestic items and carpets can be removed and are not an improvement under DMG 23591 **1 to 12.**

Special needs of a disabled person

23597 Housing costs can be allowed for interest on loans that are taken out to adapt a dwelling for the special needs of a disabled person. Those special needs must stem from the person's disability and must be in connection with

1. a specific disease **or**
2. a specific bodily disablement **or**
3. a specific mental disablement **or**
4. the effects of ageing for the over 75's.

Adapt a dwelling

23598 The DM should no longer apply the rigid requirement that works must be to the fabric of the dwelling when considering what constitutes adapting a dwelling for the special needs of a disabled person or any member of his family. Instead there needs to be a clear connection between the work undertaken and the claimant's disability needs, the process which the dwelling had undergone was a change that made it more suitable.

Example

Karen suffers from obsessive compulsive disorder and has anxiety problems. Her property is being repainted throughout and she is having all her carpets replaced with tiling so that it is easier for Karen to keep clean. Karen requests help with the further loan she has taken out to pay for these improvements. The DM allows the home improvement loan as there is a direct connection between the work being carried out and her disability and it is reasonably necessary for the works to be carried out in order to prevent Karen from suffering distress.

Separate sleeping accommodation for children of different sexes

23599 Housing costs can be allowed for interest on loans used to provide sufficient sleeping accommodation so that two or more people who are

1. members of the claimant's family **and**
2. each aged ten or over but under the age of 20 when the loan is taken out, or who will be that age within a year **and**
3. of different sexes

do not have to share sleeping accommodation¹.

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

Example

Hans is in receipt of IS and lives with his wife Greta, his grandson Bruno aged 10 and granddaughter Hilda aged 14 in his own two bedroomed house. Hans decides that the children should have separate bedrooms. He takes out a home improvement loan to finance the building of an extension to provide a third bedroom.

The loan was taken out and is used to provide separate bedrooms for Bruno and Hilda. They were both aged ten or over when the loan was taken out. An additional amount for housing costs for the loan interest can be allowed.

Other housing costs

Definitions

23600 The following paragraphs explain the meaning of terms used throughout this guidance on other eligible housing costs.

Shared ownership schemes

23601 Property can be owned jointly by more than one person or organization (see DMG Chapter 29). This is known as shared ownership and can include many different types of arrangement. DMs should note that for housing costs purposes, shared ownership does not simply mean co-ownership.

23602 A co-ownership scheme in this context is¹ a specific type of scheme under which the

1. home is let by a housing association **and**
2. money payable to someone ceasing to be a member of the scheme is based directly or indirectly on the value of the property.

Note: Such a scheme does not involve the purchase of a share of the property so no house purchase loan is involved.

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

23603 A shared ownership scheme is more likely to involve the claimant

1. buying a share in the property **and**
2. paying rent for the remaining share.

Example

Brendan buys a 75% interest in his home with a mortgage of £37,000. The other 25% is owned by a housing association who let the property to Brendan. If he leaves the scheme, Brendan will receive 75% of the value of the property. He has to make mortgage payments and also has to make rent payments under the shared ownership scheme. Brendan's mortgage payments are awarded in the normal way, after the relevant qualifying period (see DMG 23663 and 23667). The payments of rent are not eligible housing costs and are not allowed.

23604

Crown tenants

23605 Crown tenants¹ are tenants or licensees of homes which

1. belong to **or**
2. are held on trust for

the Crown or a government department. They do not include tenants in homes managed by the Crown Estates Commission or tenants of the Duchies of Cornwall or Lancaster.

Note: Greenwich Hospital Estate tenants are Crown tenants.

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

Housing association

23606 A housing association is a non-profit making voluntary body formed with the aim of providing good quality low cost housing¹.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Housing Associations Act 1985, s 1(1)

Long tenancy

23607 A long tenancy is¹ one where the lease is made by deed, registered with the Land Registry and granted for

1. a specific number of years, exceeding 21 **or**
2. a term fixed by law with a covenant or obligation for perpetual renewal (unless DMG 23608 applies).

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

23608 An original lease that is not a long tenancy may have been sublet for a fixed term. Even if there is a covenant or obligation for perpetual renewal it should not be treated as a long tenancy.

23609 In some cases a lease may be granted for life rather than for a set number of years. The law provides¹ for life tenancies to be converted to 90 year leases. Such a tenancy for life should be treated as a long tenancy.

1 Law of Property Act, s 149(6)

Rent charge

23610 Rent charges, including chief rents, are rents charged to people under the conditions by which they own the freehold¹.

1 JSA Regs, Sch 2, para 16(1)(c); IS (Gen) Regs, Sch 3, para 17(1)(c); Rent charges Act 1977, s 1

Other eligible housing costs

23611 Other eligible housing costs are payments for¹

1. rents or ground rents on long tenancies
2. service charges (see DMG 23613)
3. rent charges (see DMG 23617)
4. co-ownership schemes (see DMG 23618)

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)

Mobile motor homes

23622 Some mobile motor homes have reached a level of sophistication and are designed for living in. Mobile motor homes that contain the normal range of facilities for domestic life and is suited for continuous occupation should be regarded as accommodation, and as such housing costs can be allowed.

23623

Deductions from other eligible housing costs

23624 Deductions should be made from other eligible housing costs¹ where they include an amount for

1. fuel charges **or**
2. ineligible services charges **or**
3. repairs and improvements.

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

Deductions for fuel charges

23625 Where any of the charges for other housing costs in DMG 23611 include an amount for fuel charges, the following deductions should be made¹

1. a standard fuel deduction for
 - 1.1 heating (other than for hot water) £25.50
 - 1.2 hot water £2.95
 - 1.3 lighting £2.05
 - 1.4 cooking £2.95 **or**
2. if the claimant provides evidence that the
 - 2.1 actual amount **or**
 - 2.2 estimated amount

for fuel is different to the standard deductions in **1.**, the deduction should be varied to the amounts in **2.**

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

23626 When considering deductions under DMG 23625, DMs should note that

1. if the claimant's home is one room, the standard fuel deduction in DMG 23625
 1. will be
 - 1.1 half the amount in DMG 23625 **1.1 to 1.3 but**

- 1.2 the full amount in DMG 23625 1.4 and
- 2. a deduction for heating (other than hot water) under DMG 23625 1.1 should only be made on the amount for heating the claimant's home. Service charges for heating any communal areas are not excluded.

Deductions for ineligible service charges

23627 Where any of the charges for other eligible housing costs in DMG 23611 include an amount for ineligible service charges, the following deductions should be made¹

- 1. an amount equal to the amount of the ineligible service charges **or**
- 2. where the charges in 1. cannot be identified separately from other housing costs, a deduction should be made
 - 2.1 that is fairly attributable to the services in question **and**
 - 2.2 having regard to the costs of comparable services.

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

23628 DMs should note that the rules for what should be deducted as an ineligible service charge have changed in the past. Guidance on the previous rules is at Appendix 10 to this Chapter.

23629 The ineligible service charges that should be deducted from other eligible housing costs¹ are charges for

- 1. living expenses for
 - 1.1 meals - including the
 - 1.1.a preparation of meals **or**
 - 1.1.b provision of unprepared food **or**
 - 1.2 laundry - other than the provision of
 - 1.2.a premises **or**
 - 1.2.b equipment
 to enable people to do their own laundry **or**
 - 1.3 leisure items such as
 - 1.3.a sports facilities - but not a children's play area **or**
 - 1.3.b television rental, subscription and licence fees - except radio relay charges and charges made for the cost of adaptation or conversion of equipment for the conveyance of a television broadcasting service **or**
 - 1.4 cleaning of rooms and windows, except cleaning of
 - 1.4.a communal areas **or**
 - 1.4.b the exterior of any windows where the claimant or any member of their household is unable to clean them

where a payment as in DMG 23630 is not made in respect of such cleaning² **or**

- 1.5 transport **or**
2. the acquisition of furniture or household equipment and the use of such items where the items will become the property of the claimant under an agreement with the landlord **or**
3. the provision of an emergency alarm system³ **or**
4. medical expenses including the cost of treatment or counselling related to a
 - 4.1 mental disorder
 - 4.2 mental handicap
 - 4.3 physical disablement **or**
 - 4.4 past or present alcohol or drug dependence **or**
5. nursing or personal care, including assistance
 - 5.1 at meal times **or**
 - 5.2 with personal appearance or hygiene **or**
6. general counselling or any other support services⁴, whoever provides those services **or**
7. any services not specified in 1. to 6., which are not connected with the provision of adequate accommodation.

Note: The cleaning of communal areas and the outside of windows (referred to in 1.4) where no member of the household is able to clean them can still be allowed where a payment is **not** made

1 JSA Regs, Sch 2, para 16(2)(b); IS (Gen) Regs, Sch 3, para 17(2)(b); HB Regs, Sch 1; 2 Sch 1, para 1(a)(iv); 3 Sch 1, para 1(c); 4 Sch 1, para 1(f)

- 23630 A payment (as in DMG 23629 1.4) is¹ any payment made by a LA (including, in England, a county council) or the National Assembly for Wales to the claimant, the claimant's partner, or to another person on their behalf.

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

Connected to the adequacy of the accommodation

- 23631 Charges for certain services not connected with the provision of adequate accommodation are not eligible. When considering if services are connected to the adequacy of the accommodation (see DMG 23629 7.) the DM should take a common sense view of charges for communal lounges, paths, walkways, gardens etc and not just the individual needs of the claimant.

Example 1

Josh lives in one of a group of 20 flats set in enclosed gardens. The flats are all linked by paths to a communal area. Service charges are payable for maintenance of the communal areas, gardens and warden system, heating and lighting of, and replacement furniture for, the communal areas and administration costs for providing all the services.

The DM determines that the service charges are connected to the adequacy of the accommodation for Josh and that they are eligible.

Example 2

Fred lives in a group of 50 apartments set in enclosed grounds. Service charges are payable for maintenance of the communal gardens and fountains, repainting of all wooden surfaces, replacing all the boundary fencing, repairing the car park, replacing car park barriers and entry gates, the electricity and gas charges for the communal and administration areas.

The DM determines that the charges for garden, fountain maintenance, repainting, electricity, repairing the car park, barriers and entry gate and gas for the communal and administration areas are all connected to the adequacy of the accommodation and are eligible.

Example 3

Byron, the occupier, employs a painter to paint the outside of his property. The provision of the service, though placing contractual obligations on Byron and the painter, is something he is free to arrange for himself and is not connected with the conditions by which the property is occupied. The charge associated with the provision of the service in this case will not satisfy the definition of a service charge.

Example 4

The painting of the property is arranged by the landlord or agent under the conditions by which the property is occupied. Theresa, the occupier, is obliged to accept the arrangement. In this situation the charges incurred satisfy the definition of a service charge.

Example 5

Luigi, a leaseholder, reimburses the landlord for the payment of insurance premiums, as a condition under which he occupies his home. In the case of damage to the property the premiums ensure the payment of repairs to the property and therefore satisfy the condition of being connected with the adequacy of the accommodation. In this case the insurance premiums can be met as a housing cost.

Deductions for repairs and improvements

23632 The charges for other eligible housing costs in DMG 23611 may include an amount for repairs and improvements (see DMG 23591). In such a case the amount for repairs and improvements cannot be allowed and should be deducted¹. If the claimant raises a loan to pay for the repairs and improvements, housing costs should be considered under DMG 23586 **2.**

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

23633 Where service charges include an amount for repairs and improvements listed in DMG 23591, and are undertaken to maintain the fitness for human habitation, they should not be allowed. If the claimant raises a loan for these repairs or improvements, housing costs should be considered under DMG 23586 **2.** et seq.

Example 1

Tina is charged by her landlord for payment of repairs to the roof of her home. A gable-end had cracked causing the roof to start to collapse. The DM determines that

1. repairs have been undertaken to maintain the fitness of the home for human habitation (see DMG 23591) **and**
2. the damaged roof is an unsafe structural defect (see DMG 23591 **10.**).

The DM refuses payment of the repairs as a service charge.

Example 2

Razak is charged by his landlord for payment of improvements to his driveway. The previous shingle drive has been relaid using cobbles to enhance the appearance of the property and to avoid loose chippings hitting pedestrians when cars use the driveway. The DM determines that the improvements to the driveway

1. have not been undertaken to maintain the fitness of the home for human habitation **and**
2. were not covered by the list of eligible repairs and improvements.

23634 - 23635

Contingency funds

23636 Service charges may contain an element that is paid into some kind of fund or reserve. These are most commonly referred to as

1. contingency funds **or**
2. reserve funds **or**
3. sinking funds.

23637 Payments made into such a fund are “for” the general purposes of the fund, whether or not there has been any expenditure in the year in question. If those purposes include both allowable and non-allowable elements, make a corresponding apportionment of the relevant annual payment to determine how much can be allowed.

23638 – 23639

Costs payable regularly

23640 The amount of the invoice should be converted to give a weekly amount

Costs payable over 53 weeks or irregularly

23641 Where other housing costs are payable for 52 weeks **but**

1. paid for 53 weeks **or**
2. paid irregularly **or**
3. no such costs are payable or collected in certain periods **or**
4. the costs for different periods are different amounts

the weekly amount is the amount payable for the year divided by 52¹.

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

23642 Those housing costs attributed to a fixed 52 week period under DMG 23641 are payable from the date the liability arose.

Note: At any one time, a claimant’s award of housing costs for service charges may therefore be made up of housing costs arising from different liabilities notified at different times.

Example

The claimant's award of IS includes a weekly amount of £8.31 for housing costs arising from estimated service charges of £431.84 for the period 1.4.07 - 31.3.08. The amount for housing costs is due to end on 31.3.08. In February 2008 the claimant sends in an estimate of service charges for the 2008-09 financial year. The awarding decision is superseded on the grounds of an anticipated relevant change of circumstances to include housing costs of £10.87 weekly arising from estimated service charges of £564.94 for the period 1.4.08 - 31.3.09. On 9.9.08 the claimant receives an invoice for £243.85, being the balance of finalised service charges for the 2007-8 year, and sends it to the DWP. The DM supersedes the decision of February 2008 to award housing costs of £10.87 and £4.69 for the period 9.9.08 - 31.3.09, and £4.69 for the period 1.4.09 - 6.9.09, the balance for the 2007-08 year charges being paid over a 52 week period. If a further estimate for charges for the 2008-09 year is received, the September 2008 decision may be superseded accordingly.

Payment of costs waived

23643 Other housing costs should continue to be allowed for up to eight weeks if

1. the claimant or a member of the family pays for reasonable repairs or redecoration to the home **and**
2. that work was not the responsibility of the claimant or any member of the family **and**
3. payment for other housing costs is waived because the work has been done¹.

1 ISA Regs, Sch 2, para 16(4); IS (Gen) Regs, Sch 3, para 17(4)

23644 - 23646

Housing costs - starting dates of entitlement

23647 With the exception of the housing costs payable at the start of a claim (see DMG 23661) all other eligible housing costs have a QP.

23648 [See Memo DMG 43/90] For most new claims made after 5.1.09 the QP is 13 weeks.

Note: The 13 week QP was introduced under a temporary package of measures to support home owners, the temporary measures will remain until 31.3.16.

23649 [See Memo DMG 43/09] In cases that do not qualify for the temporary package of measures, usually only those where the claim links to an earlier award, the length of the QP depends on whether the housing costs are new or existing housing costs.

23650

Definition of existing and new housing costs

Existing housing costs

23651 Existing housing costs¹ are costs arising under an agreement entered into

1. before 2.10.95 **or**
2. after 1.10.95 which
 - 2.1 replaces an existing agreement entered into before 2.10.95 **and**
 - 2.2 the person liable to meet the housing costs is party to the agreement in both the existing and the new agreement **and**
 - 2.3 is a loan of the same amount or less than the loan that it replaces, and for this purpose no account will be taken of any amount paid for arranging the new agreement.

Note: Certain new housing costs can be treated as existing housing costs, (see DMG 23657).

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

23652 It is not unusual for

1. lenders to merge **or**
2. one lender to take over another **or**
3. lenders to buy portfolios of loan accounts from other lenders.

Usual practice is for the new lender to ask existing borrowers to sign a new agreement. Where this happens after 1.10.95, existing housing costs will remain as existing housing costs because there is no new borrowing.

Example 1

Harry has an agreement with the Yorkshire Building Society for £80,000 which he entered into on 2.8.93. When he marries he remortgages to take advantage of a low interest rate on a new loan.

The new agreement is entered into on 10.12.02 and is for £60,000. The new agreement is made between Harry, his wife and the Yorkshire Building Society. The new agreement includes the same person as the original agreement and can be treated as existing housing costs.

New housing costs

23653 New housing costs¹ are costs arising under an agreement entered into after 1.10.95. This includes loans where on entering into a new agreement after 1.10.95 a previous agreement

1. ends, (except as in DMG 23651 2.) **or**
2. continues independently of the new agreement.

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

Example

Joan has a mortgage of which £53,435 is outstanding and a home improvement loan of which £21,560 is outstanding, used for repairs to the structure of the home. Both the loans were taken out in 1994 when she moved into the house. On 11.11.02 Suzanne enters into an agreement with a different lender and borrows £61,000. The loan is used to repay her mortgage, buy a car and replace three broken windows. The amount included in the new loan for administration is £450.

The new agreement is treated as new borrowing because the new loan is for more than the original loan it replaced.

The part of the new loan used to repay the amount outstanding on the original mortgage and the amount used to pay for the three replacement windows would qualify as new borrowing if a claim for JSA or IS was made. The original home improvement loan of £21,560 is existing borrowing. The loan for the car is not eligible.

Informal contracts

23654 In most cases a loan is made under a formal contract. But there will be loans where an informal contract exists, for example between friends and relatives. In all cases the date that the agreement is entered into will be a matter of fact and should be determined by considering all the available evidence.

23655 - 23656

New housing costs treated as existing housing costs

23657 New housing costs should be treated as existing housing costs for claimants who at the time of the claim for JSA or IS¹ has been

1. refused payments under an insurance policy²
 - 1.1 because of a pre-existing medical condition which is exempt from payment under the terms of the insurance policy **or**
 - 1.2 as a direct result of infection by HIVwhere the policy was taken out to insure against being unable to make payments on a loan secured on land which forms part of the dwelling occupied as the home, or heritable security in Scotland **or**
2. making the claim for JSA or IS for themselves and a child because of³
 - 2.1 the death of their partner **or**
 - 2.2 being abandoned (see DMG 23658) by a partner
3. carers⁴ (see DMG Chapter 20) **or**
4. **for IS claims only**, detained in custody pending trial or sentence on conviction⁵.

Note 1: For the purpose of 1., it is not necessary for the DM to investigate the terms of the insurance policy. The DM has to be satisfied that the payments were refused for the reason stated. It does not matter that refusal of payments under a mortgage protection policy was not contemporaneous with the claim for IS.

Note 2: For the purpose of 2.2 abandoned means deserted, involves physical separation and there may be a lack of consent to it on the part of the deserted or abandoned party.

1 JSA Regs, Sch 2, para 7(6); IS (Gen) Regs, Sch 3, para 8(4); 2 JSA Regs, Sch 2, para 7(3); IS (Gen) Regs, Sch 3, para 8(2)(c); 3 JSA Regs, Sch 2, para 7(4) & (7); IS (Gen) Regs, Sch 3, para 8(3) & (5); 4 JSA Regs, Sch 2, para 7(5); IS (Gen) Regs, Sch 3, para 8(2)(a); 5 Sch 3, para 8(2)(b)

Abandoned by partner - JSA(IB) and IS

23658 DMs should consider whether abandonment¹ has occurred when a claim is made for IS or JSA because

1. the claimant declares recent separation from their partner **or**
2. a recent separation has been brought about by their partner's arrest or bail conditions.

1 R(IS) 9/05

23659 What is relevant is either direct evidence of an intention on the part of the abandoning party to end the relationship or evidence from which that intention can be inferred. This may arise where

1. the partner's behaviour, and the nature of the offences committed, indicated an inferred intention to end the relationship
2. in committing the offences the person inferred an intention to abandon, and abandonment is completed with the physical separation (at the time of arrest).

Note: The claimant's own intention might not be important given the partner's behaviour.

23660 When considering the facts of each case and the evidence from which intention can be inferred the DM should bear in mind that if the nature and seriousness of the alleged offences are such that the offender is unable to return to the family home or where the alleged offences are such that any reasonable person would consider they were unable to continue with their relationship, the claimant will have probably been abandoned. Such offences may include offences against children, offences of a sexual or violent nature. The list is not exhaustive.

Example 1

Jenny and her husband Pete have three children. Their relationship is such that their only contact consists of arguments. Pete pays the repayments on their joint mortgage but nothing else. Jenny's solicitor writes to Pete explaining that Jenny intends to start divorce proceedings. The solicitor suggests that it would be in the best interests of the children if Pete left the house. Pete agrees to leave and stops paying the mortgage. Jenny claims IS for herself and the children.

Jenny's mortgage counts as new housing costs. She was not abandoned by Pete. They separated by mutual agreement. Jenny's housing costs cannot therefore be treated as existing housing costs. She cannot get help with her mortgage interest payments for the first 39 weeks of her IS claim.

Example 2

Katie is a social worker and Christopher is a support worker at the local children's home. They have four children all under ten years. On 11.10.05 Christopher is arrested and charged with offences against a number of the children who live in the home where he works. On 31.1.06 Katie claims IS on the grounds that as a bail condition Christopher has to reside in a bail hostel. He is also unable to return to the family home and is not allowed to be in the company of any children under 16 years. Katie advises that Christopher was initially suspended with pay and he has been paying the mortgage, the last payment being made on 26.1.06. She has been unable to work since the beginning of November but has been able to manage on her wages and financial support from Christopher, which has now come to an end. She advises she had had to leave her job to care for her children. Katie also states that their separation is temporary and Christopher hopes to return home after his court case, which is due to be heard in April. Due to the nature of and seriousness of the offences the DM does not heed the claimant's intentions because by committing the

offences Christopher inferred his intention to abandon Katie and that the abandonment was complete when he was arrested and charged. The DM decides Katie has been abandoned.

Housing costs payable at the start of the claim

23661 Where claimants (for JSA only), their partners, or either member of a joint-claim couple, are not less than the qualifying age for SPC¹, all new or existing housing costs are paid in full from the first day of entitlement to JSA(IB) or IS². Housing costs are also paid in full from the first day of entitlement to SPC. See DMG 78170 et seq for guidance on SPC.

1 SS CB Act 92, s 124(1)(aa); 2 JSA Regs, Sch 2, para 8(1)(a) & (2)(a); IS (Gen) Regs, Sch 3, para 9(1)(a) & (2)(a)

23662 All claimants should be paid housing costs for

1. co-ownership schemes (see DMG 23618)
2. crown tenancies (see DMG 23619)
3. tents and their sites¹ (see DMG 23621)

from the first day of entitlement to JSA(IB) or IS.

1 JSA Regs, Sch 2, para 8(1)(b) & (2)(b); IS (Gen) Regs, Sch 3, para 9(1)(b) & (2)(b)

Start date for existing housing costs

23663 The amount of the award for existing housing costs is¹

1. nil where the claimants have been entitled to JSA(IB) or IS for less than eight weeks² **or**
2. 50% of the amount in **3.** where claimants have been entitled to JSA(IB) or IS for a continuous period of eight weeks but less than 26 weeks³ **or**
3. for claimants who have been entitled to JSA(IB) or IS for a continuous period of 26 weeks or more⁴,

3.1 100% of the amount calculated by applying the standard interest rate to the eligible capital currently owed on eligible loans (see DMG 23500)
and

3.2 the amount of any

3.2.a rent or ground rent relating to a long tenancy **and**

3.2.b service charges **and**

3.2.c rent charges.

1 JSA Regs, Sch 2, paras 6(1) & 18(1)(c); IS (Gen) Regs, Sch 3, para 6(1); IS (Gen) (JSA Consequential Amdts) Regs 1996, reg 32; 2 JSA Regs, Sch 2, para 6(1)(c); IS (Gen) Regs, Sch 3, para 6(1)(c); 3 JSA Regs, Sch 2, para 6(1)(b); IS (Gen) Regs, Sch 3, para 6(1)(b); 4 JSA Regs, Sch 2, para 6(1)(a); IS (Gen) Regs, Sch 3, para 6(1)(a)

23664 - 23665

23666 Claimants who at 1.10.95¹ have been entitled to IS for less than

1. 16 weeks, continue to receive the same amount of housing costs until they have been entitled continuously for 16 weeks and after that date are treated as if they had been in receipt for 26 weeks²
2. 26 weeks, but more than 16 weeks, are treated as if they had been in receipt for 26 weeks³

but only for as long as the agreement under which those housing costs arose continues⁴.

1 IS (Gen) Regs, Sch 3, para 6(2); 2 para 6(3)(a); 3 para 6(3)(b); 4 para 6(4)

Example

Ben is entitled to IS for two weeks until 29.9.95 when he started remunerative work. He had received 50% mortgage interest of £52.40 weekly. After a break of eleven weeks he reclaims IS.

Ben's two claims link and he is treated as entitled to IS for 13 weeks. His mortgage interest continues to be paid at £52.40 for a further three weeks, up to the 16 week date calculated on his original claim. After that date he is treated as being entitled to IS for 26 weeks and mortgage interest is paid at 100% calculated using the standard interest rate.

Note: As he had not had an applicable amount in the benefit week which included 1.10.95 no add back is appropriate.

Start date for new housing costs

23667 The amount of the award for new housing costs is¹

1. nil where claimants have not been continuously entitled to JSA(IB) or IS for 39 weeks²
2. for claimants who have been entitled to JSA(IB) or IS for a continuous period of 39 weeks or more³,
 - 2.1 100% of the amount calculated by applying the standard interest rate to the eligible capital currently owed on eligible loans (see DMG 23500)
and
 - 2.2 the amount of any
 - 2.2.a rent or ground rent relating to a long tenancy **and**
 - 2.2.b service charges **and**
 - 2.2.c rent charges.

1 IS (Gen) Regs, Sch 2, para 7(1) & 18(1)(c); Sch 3, para 8(1); IS (Gen) (JSA Consequential Amdts) Regs 1996, reg 32; 2 JSA Regs, Sch 2, para 7(1)(b); IS (Gen) Regs, Sch 3, para 8(1)(b); 3 JSA Regs, Sch 2, para 7(1)(a); IS (Gen) Regs, Sch 3, para 8(1)(a)

JSA(IB) starting date of entitlement - waiting days

23668 A claimant is not entitled to JSA when serving waiting days¹. As a result waiting days do not count towards any housing costs qualifying period.

1 JS Act 95, Sch 1, para 4

New and existing housing costs - general provisions

23669 Where

1. for JSA, a person enters into a new agreement **and**
2. for IS, a person enters into a new agreement after 1.10.95 **and**
3. that agreement is for a home **and**
4. another agreement entered into before 2.10.95 continues independently of the new agreement

the housing costs for the new agreement are new housing costs. The housing costs for the earlier agreement are existing housing costs. The total housing costs are the two amounts added together¹.

1 JSA Regs, Sch 2, para 10(1); IS (Gen) Regs, Sch 3, para 11(2)

New and existing housing costs - sanctions JSA(IB) only

23670 If a JSA claimant is sanctioned (see DMG Chapter 34) that claimant is still entitled to JSA, but JSA is not paid.

23671 Sanctioned periods will count towards the qualifying periods for new and existing housing costs as long as the claimant has been continuously entitled to JSA(IB) for the qualifying period.

New and existing housing costs - hardship JSA(IB) only

23672 JSA claimants may be entitled to a hardship payment (see DMG Chapter 35) if they

1. are not available **or**
2. are not ASE **or**
3. have not got a valid JSAg **or**
4. a question has been passed to the ESDM on **1. to 3. or**
5. are sanctioned.

Hardship payments are payments of JSA(IB).

23673 Some JSA claimants are not entitled to a hardship payment straightaway (see DMG Chapter 35). Such claimants who are not entitled to hardship payments, are not entitled to JSA(IB).

23674 JSA hardship payments will count towards the qualifying periods for new and existing housing costs as long as the claimant has been continuously entitled to JSA(IB) for the QP.

Note: Once the QP is satisfied, normal linking rules apply.

Late receipt of MI12

23675 Where the MI12 is received late, see DMG 04517 for guidance on the effective date of supersession.

23676

Transitional protection

Loans that are not qualifying loans after 1.10.95

IS

23677 IS claimants who were in receipt of loan interest for the loans

1. in DMG 23679 **and**
2. that are not qualifying loans after 2.10.95

will have the interest on those loans protected by a savings provision¹. Interest on the loans will be paid as long as claimants satisfy the condition of the savings provision.

1 IS (Gen) Amendments & Transitional Regs 95

JSA (IB)

23678 Claimants

1. who transfer from IS to JSA(IB) **and**
2. whose IS housing costs include an amount for interest on a loan in DMG 23679 that is protected by the saving provision¹

will be entitled to interest on that loan as long as the conditions of the savings provision are still satisfied².

1 IS (Gen) Amendments & Transitional Regs 95; 2 JSA Regs, Sch 2, para 18(2)

Conditions of saving provision - JSA(IB) and IS

23679 From 2.10.95 the following loans, or parts of loans that were eligible before that date, are not qualifying loans. Further guidance on these loans is in Appendix 5 to this Chapter. These are loans for¹

1. interest accruing on certain deferred interest loans²
2. interest accruing in the first sixteen weeks of claims due to
 - 2.1 only 50% housing costs being paid **or**
 - 2.2 no housing costs being paid as the claimant did not qualify for IS when only entitled to 50% housing costs
3. home improvements and repairs that were eligible before 2.10.95 (see Appendix 4 to this Chapter) but are not now eligible (see DMG 23591)

4. an item other than acquiring an interest in the home or repaying a loan used to acquire an interest in the home that
 - 4.1 is secured on the home **and**
 - 4.2 has been taken out solely by or jointly with a former partner **and**
 - 4.3 the former partner will not or cannot pay the interest on **and**
 - 4.4 the claimant has to pay the interest on to remain in the home.

1 IS (Gen) Amendments & Transitional Regs 95, reg 3(1); 2 R(IS) 14/01

23680 The savings provision allows the loans or parts of loans in DMG 23679 eligible before 2.10.95 to be qualifying loans after that date¹.

1 IS (Gen) Amendments & Transitional Regs 95, reg 3(2)

23681 A loan will be a qualifying loan if¹

1. the IS claim is made before 2.10.95 **and**
2. in the benefit week including 1.10.95 the applicable amount includes interest on a loan as in DMG 23679 **and**
3. the claimant continues to be
 - 3.1 in receipt of JSA(IB)² or IS **or**
 - 3.2 treated as in receipt of JSA(IB)³ or IS because of the following linking rules
 - 3.2.a breaks in entitlement to JSA(IB) or IS (see DMG 23706) **or**
 - 3.2.b claimant previously a member of a couple or polygamous marriage (see DMG 23743) **or**
 - 3.2.c change of claimant within a couple or polygamous marriage (see DMG 23745).

Note: The claimant must also continue to satisfy any conditions that relate to the loan, had the former rules remained in force.

1 IS (Gen) Amendments & Transitional Regs 95, reg 3(1) & 3(2); 2 JSA Regs, Sch 2, para 18(2); 3 IS (Gen) Amendments & Transitional Regs 95, reg 3(3); IS (Gen) (JSA Consequential Amdt) Regs, 96, reg 32

Add back

IS

23682 IS claimants in receipt of loan interest on 2.10.95 would have had those costs reassessed using the standard interest rate. Those claimants whose housing costs reduced because of the reassessment were entitled to an add back¹.

1 IS (Gen) Regs, Sch 3, para 7(1)

JSA(IB)

23683 JSA claimants

1. who transfer from IS **and**
2. whose IS housing costs include an add back

shall have the amount of the add back included in the JSA(IB) housing costs. The JSA(IB) add back is subject to the same conditions as the IS add back¹.

1 JSA Regs, Sch 2, para 18(1)(b)

Calculation of add back

23684 Where the amount of interest on a loan payable in the IS benefit week that includes 1.10.95 ("the first benefit week") is more than the amount of housing costs payable in the next benefit week ("the second benefit week") an addition called an add back is made¹.

1 IS (Gen) Regs, Sch 3, para 7(1)

23685 The add back¹ is the difference between the amount of loan interest payable in the

1. first benefit week **and**
2. second benefit week.

1 IS (Gen) Regs, Sch 3, para 7(2)

More than one loan

23686 The add back is calculated separately for each loan¹. Reduction of the add back on one loan does not affect the add back on another loan.

1 IS (Gen) Regs, Sch 3, para 7(9)

Erosion of add back

23687 The add back will be eroded by the amount of any increase in the amount of housing costs compared with those costs on the previous week¹.

1 IS (Gen) Regs; Sch 3, para 7(4A)

Add back reduced to nil

23688 When an add back is reduced to nil it cannot be re-applied¹.

1 IS (Gen) Regs; Sch 3, para 7(4)

Breaks in entitlement to JSA and IS

23689 Separate periods of entitlement to IS or JSA may link. The normal rule is that where a claimant or their partner

1. is entitled to JSA(IB) or IS **and**
2. is entitled to an add back **and**
3. ceases to be entitled to JSA(IB) or IS for a continuous period of **twelve weeks or less**

they will continue to qualify for an add back on the new claim for JSA or IS¹.

1 IS (Gen) Regs, Sch 3, para 7(5); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

23690 If the break in entitlement to JSA(IB) or IS is more than twelve weeks an add back is not normally payable on the new claim¹. The exception is where an IS claimant or the partner of an IS or JSA(IB) claimant is a WtWB. See DMG 23691 for guidance in such cases

1 IS (Gen) Regs, Sch 3, para 7(5)

Welfare to work beneficiaries

23691 The normal linking period for separate periods of entitlement to IS or JSA is twelve weeks (see DMG 23689). But from 5.10.98, where an IS claimant or the partner of an IS or JSA(IB) claimant

1. is a WtWB **and**
2. is entitled to IS or JSA(IB) **and**
3. is entitled to an add back **and**
4. ceases to be entitled to IS or JSA(IB) for a continuous period of **52 weeks or less**

they will continue to qualify for an add back on the new claim for IS or JSA¹.

1 IS (Gen) Regs; Sch 3, para 7(5) & (10); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Claimant no longer responsible for loan that has an add back

23692 When claimants are no longer responsible for a loan they lose any add back connected to it. Claimants do not regain the add back if they become liable for that or another loan¹.

1 IS (Gen) Regs, Sch 3, para 7(6)

Partner previously responsible for a loan that had an add back

23693 The partner of a person to whom DMG 23682 applies may make a claim for JSA or IS. The normal rule is that where

1. the applicable amount includes an amount for existing housing costs **and**
2. those housing costs had previously been met in the partner's claim **and**
3. the claim was made not more than **twelve weeks** after the last day the partner was entitled to those costs

the housing costs should be determined as though the claimant was responsible for them immediately before 2.10.95¹.

1 IS (Gen) Regs, Sch 3, para 7(7); IS (Gen) (JSA Consequential Amdts) 96, reg 32

23694 The exception is where the claimant or their partner is a WtWB. See DMG 23695 for guidance in such cases.

Welfare to work beneficiaries

23695 Where the partner of a person to whom DMG 23682 applies makes a claim for JSA or IS and

1. the claimant or their partner is a WtWB **and**
2. the applicable amount includes an amount for existing housing costs **and**
3. those housing costs had previously been met in the partner's claim **and**
4. the claim was made not more than **52 weeks** after the last day the partner was entitled to those costs

the housing costs should be determined as though the claimant was responsible for them immediately before 2.10.95¹.

1 IS (Gen) Regs, Sch 3, para 7(7) & (10); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

50% housing costs in “first benefit week”

23696 Where in the “first benefit week” housing costs were being paid at 50% of the allowable amount of interest because the claimant has not been in receipt of IS for 16 weeks, that amount continued to be paid until 100% housing costs would have been payable. For qualifying conditions before 2.10.95 see Appendix 5 to this Chapter.

23697 The add back was calculated as though 100% housing costs were payable in the “second benefit week” and awarded from the benefit week that 100% loan interest became payable¹.

1 IS (Gen) Regs, Sch 3, para 7(8)

Example

On a claim made in July 1995 Sally is receiving 50% eligible loan interest of £41 per week. When her housing costs are reassessed using the standard interest rate they are £76 per week.

If Sally had been receiving 100% housing costs an add back of £6 per week would have been payable ($£82 - £76 = £6$). £41 per week continues to be paid until the date in November when Sally qualifies for 100% loan interest. At this date the new housing costs calculated using the standard interest rate become payable along with the add back ($£76 + £6$), £82 per week.

23698 - 23699

Linking rules

Breaks in entitlement to JSA(IB), ESA(IR) or IS

23700 Breaks in entitlement to JSA(IB), ESA(IR) or IS can affect the claimant's housing costs. This is because most eligible housing costs have a QP (see DMG 23650 et seq). But there are special rules under which claimants can be treated as entitled to JSA(IB) or IS in certain circumstances.

23701 If there are breaks in entitlement, claimants can be treated as entitled to JSA(IB), ESA(IR) or IS for periods¹ of

1. twelve weeks or less (see DMG 23708)
2. 26 weeks or less, in certain circumstances (see DMG 23709)
3. more than 26 weeks, in certain circumstances (see DMG 23712)
4. 52 weeks or less (see DMG 23715).

*1 JSA Regs, Sch 2, para 13 & 18(1)(c); IS (Gen) Regs, Sch 3, para 14;
IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32*

Previous entitlements

23702 Where a person moves from

1. IS to JSA
2. JSA to IS
3. SPC to JSA
4. being the partner of a person who was previously in receipt of SPC to IS or JSA¹
5. being either member of a joint claim couple who was previously in receipt of SPC to JSA²

they can receive the same amount of housing costs current when entitlement to the first benefit ended³.

*1 JSA Regs, Sch 2, para 1A(1ZA); IS (Gen) Regs, Sch 3, para 1A(1A);
2 JSA Regs, Sch 2, para 1A(1B); 3 Sch 2, para 1A(1)(a); IS (Gen) Regs, Sch 3, para 1A(1)(a)*

23703 The provisions above apply if, immediately before entitlement ended, housing costs

1. were payable on the previous claim¹ (in full or in part) **and**
2. the circumstances affecting the calculation of those housing costs remain unchanged².

*1 JSA Regs, Sch 2, para 1A(1ZA)(a); IS (Gen) Regs, Sch 3, para 1A(1A)(a);
2 JSA Regs, Sch 2, para 1A(1ZA)(b); IS (Gen) Regs, Sch 3, para 1A(1A)(b)*

23704 Breaks in entitlement between claims are ignored for any period

1. of 12 weeks or less **or**
2. up to 26 weeks where
 - 2.1 payments from an insurance policy to insure against loss of employment have ceased¹.

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

23705 - 23707

Twelve week linking periods

23708 Where there are breaks in entitlement to JSA(IB), ESA(IR) or IS, claimants are treated as being continuously in receipt of, and entitled to JSA(IB) or IS for any period

1. when entitlement is decided on revision, supersession or appeal **or**
2. of twelve weeks or less during which
 - 2.1 they were not in receipt of JSA(IB), ESA(IR) or IS **and**
 - 2.2 that period is immediately between two periods when
 - 2.2.a they were in receipt of JSA(IB), ESA(IR) or IS or a combination of the two **or**
 - 2.2.b they were treated as in receipt of JSA(IB), ESA(IR) or IS **or**
 - 2.2.c they are treated as entitled to JSA(IB), ESA(IR) or IS for certain reasons because their capital exceeds £16,000 or their income exceeds the applicable amount (see DMG 23734 - 23742) **or**
 - 2.2.d entitlement to JSA(IB), ESA(IR) or IS is decided on revision, supersession or appeal¹.

1 JSA Regs, Sch 2, para 13(1)(a), 13(4) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(a), 14(3A) & 14(15); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

26 week linking periods

23709 Claimants can be treated as entitled to JSA(IB), ESA(IR) or IS for periods of up to 26 weeks where they regain entitlement and have had payments from an insurance policy to insure against the loss of employment and those payments have ceased (see DMG 23710).

Payments from insurance policies against the loss of employment

- 23710 Claims should be linked together and the weeks between them ignored where¹ the
1. claimant or a member of their family has
 - 1.1 received payments from an insurance policy taken out to insure against the loss of employment and those payments are exhausted **and**
 - 1.2 had a previous award of JSA(IB), ESA(IR) or IS which included housing costs **and**
 2. previous award stopped not more than 26 weeks before the date the new claim was made.

1 JSA Regs, Sch 2, para 13(10), 13(11) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(8) & (9); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

23711

More than 26 weeks

- 23712 Claimants can be treated as entitled to JSA(IB), ESA(IR) or IS for periods of more than 26 weeks where
1. the claimant or their partner is participating in certain training or attending certain courses (see DMG 23713) **or**
 2. they have income from mortgage payment protection insurance (see DMG 23714).

Employment rehabilitation centres and specified training

- 23713 A claimant should be treated as continuously in receipt of, and entitled to, JSA(IB), ESA(IR) or IS for any period that they¹
1. are not (or no longer) entitled to JSA(IB), ESA(IR) or IS **and**
 2. are not entitled because they, their partner, or in the case of a joint-claim couple the other member of that couple, are
 - 2.1 participating in arrangements for specified training **or**
 - 2.2 attending a course at an employment rehabilitation centre.

1 JSA Regs, Sch 2, para 13(3) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(3) & (3A); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; E & T Act 73, s 2

Payments from mortgage payment protection insurance

23714 Claimants who

1. are treated as entitled to JSA(IB), ESA(IR) or IS solely because their income exceeds their applicable amount (see DMG 23735, 23737 and 23742) **and**
2. have included in their income payments from an insurance policy taken out to insure against the risk of being unable to meet eligible interest

should be treated as entitled throughout any period that payments are made under the terms of the policy¹.

1 JSA Regs, Sch 2, para 13(9); IS (Gen) Regs, Sch 3, para 14(6)

52 week linking periods

23715 A claimant can be treated as entitled to JSA(IB), ESA(IR) or IS for periods of up to 52 weeks¹ where the claimant or their partner

1. had already qualified for housing costs before losing entitlement to JSA(IB), ESA(IR) or IS² (see DMG 23716)
2. is participating in an ND option, an EZ scheme, or a prescribed government scheme³ (see DMG 23719).

1 JSA Regs, Sch 2, para 13(13)(a); IS (Gen) Regs, Sch 3, para 14(11)(a); ESA Regs, Sch 6, para 15(16)(a)

2 JSA Regs, Sch 2, para 13(15); IS (Gen) Regs, Sch 3, para 14(13); ESA Regs, Sch 6, para 15(18)

3 JSA Regs, Sch 2, para 13(14)(c); IS (Gen) Regs, Sch 3, para 14(12)(c); ESA Regs, Sch 6, para 15(17)(c)

Qualifying period for housing costs already served

23716 Most eligible housing costs have a QP (see DMG 23650 et seq). Such a QP may have to be served again following a break in entitlement to JSA(IB), ESA(IR) or IS. But there is a linking rule for cases where the QP has already been served when entitlement to JSA(IB), ESA(IR) or IS ends.

23717 The linking rule applies if¹, immediately before entitlement ended, housing costs

1. were payable on the previous claim (in full or in part) **or**
2. would have been payable (in full or in part) but for a non-dependant deduction (see DMG 23756 et seq).

1 IS (Gen) Regs, Sch 3, para 14(13); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; JSA Regs, Sch 2, para 13(15) & (18)(1)(c); ESA Regs, Sch 6, para 15(18)

23718 In such a case, treat the claimant as continuously in receipt of JSA(IB), ESA(IR) or IS for any period of 52 weeks or less¹ during which they were not entitled because

1. the claimant or partner
 - 1.1 had started employment as an employed or S/E earner **or**

- 1.2 had increased their hours in such employment **or**
- 1.3 was taking active steps to become employed or S/E under a prescribed government scheme² **and**
- 2. the claimant or partner
 - 2.1 was in remunerative work **or**
 - 2.2 had income that exceeds the applicable amount. For IS this includes cases where the income was equal to the applicable amount³.

*1 IS (Gen) Regs, Sch 3, para 14(12); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; JSA Regs, Sch 2, para 13(14) & 18(1)(c); 2 reg 19(1)(r)(i) to (iii); ESA Regs, Sch 6, para 15(17);
3 IS (Gen) Regs, Sch 3, para 14(12)(c)*

New deal options, employment zone and prescribed government schemes

23719 Entitlement to IS, ESA(IR) or JSA(IB) may end when a claimant or their partner starts on an ND option, an EZ programme or a prescribed government scheme. This is because

- 1. the person may be in remunerative work **or**
- 2. their income may exceed the applicable amount.

23720 There is a linking rule to ensure that the benefit position of such a person is protected if they return to IS, ESA(IR) or JSA(IB). The linking rule applies if¹ housing costs

- 1. were payable on the previous claim (in full or in part) **or**
- 2. would have been payable (in full or in part) but for a non-dependant deduction (see DMG 23756 et seq)

immediately before entitlement ended.

1 IS (Gen) Regs, Sch 3, para 14(13); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; JSA Regs, Sch 2, para 13(15) & 18(1)(c); ESA Regs, Sch 6, para 15(18)

23721 In such a case, treat the claimant as continuously in receipt of IS, ESA(IR) or JSA(IB) for any period of 52 weeks or less¹ during which they were not entitled because the claimant or partner is participating in²

- 1. an ND option (apart from the employed employment option of NDYP)
- 2. an EZ programme **or**
- 3. the EO(S/E) **or**
- 4. the intensive activity period (IAP) of ND25+³.

1 IS (Gen) Regs, Sch 3, para 14(12); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; JSA Regs, Sch 2, para 13(14) & 18(1)(c); ESA Regs, Sch 6, para 15(17);

2 IS (Gen) Regs, Sch 3, para 14(12)(c); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32; JSA Regs, Sch 2, para 13(14)(c) & 18(1)(c); ESA Regs, Sch 6, para 15(17)(c); 3 reg 75(1)(a)(iv)

104 week linking periods

23722 A claimant can be treated as entitled to JSA(IB), ESA(IR) or IS for periods of up to 104 weeks¹ where the claimant (for IS or ESA) or their partner (for IS or JSA) is a WtWB (see DMG 23723).

1 JSA Regs, Sch 2, para 13(12); IS (Gen) Regs, Sch 3, para 14(10)

Welfare to work beneficiaries

23723 Entitlement to JSA(IB) or IS 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. for IS only, the claimant may no longer be in a prescribed category of person.

23724 On 5.10.98 special linking rules were introduced to ensure that the benefit position is protected if the person returns to benefit within the period prescribed. To qualify for the special linking rules

1. in IS a person¹ has to
 - 1.1 be a WtWB **and**
 - 1.2 again become incapable of work
2. in JSA a partner² has to
 - 2.1 be a WtWB **and**
 - 2.2 again become incapable of work
3. in ESA a claimant³ has to
 - 3.1 be a WtWB⁴ **and**
 - 3.2 again become incapable of work⁵.

*1 IS (Gen) Regs, Sch 3, para 14(10); 2 JSA Regs, Sch 2, para 13(12); 3 ESA Regs, Sch 6, para 15(15);
4 SS (IW) (Gen) Regs, reg 13A(1); 5 SS CB Act 92, Part XIII A*

23725 In such a case, treat the claimant as continuously in receipt of, and entitled to, IS or JSA(IB) for any period of 104 weeks or less¹

1. during which they were not in receipt of IS or JSA(IB) **and**
2. that is immediately between two periods when
 - 2.1 they were in receipt of IS or JSA(IB), or a combination of the two **or**
 - 2.2 they were treated as in receipt of IS or JSA(IB) **or**
 - 2.3 they are treated as entitled to IS or JSA(IB) for certain reasons (see DMG 23734 - 23742) **or**

2.4 entitlement to IS or JSA(IB) is decided on appeal or review.

*1 IS (Gen) Regs, Sch 3, para 14(1)(a) & (10); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32;
JSA Regs, Sch 2, para 13(1)(a), 13(12) & 18(1)(c)*

23726 This means that WtWBs do not lose entitlement to housing costs by having to serve a further QP. Breaks of 104 weeks or less are protected in the same way as other claimants who have a break of up to twelve weeks (see DMG 23708).

23727

Not entitled on revision, supersession or appeal

23728 A claimant is treated as not in receipt of JSA or IS for any period that entitlement is found not to exist on revision, supersession or appeal unless that period falls in a period in DMG 23708 2.¹

*1 JSA Regs, Sch 2, para 13(1)(b), 13(4) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(b) & 14(3A);
IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32*

Participation in new deal and employment zone schemes

23729 Claimants should be treated as continuously in receipt of and entitled to JSA(IB) or IS for any period that they¹

1. are not (or no longer) entitled to JSA(IB) or IS **and**
2. are not entitled because they, their partner, or the other member of a joint-claim couple, are participating in
 - 2.1 the EO(S/E) **or**
 - 2.2 a waged option of the voluntary sector or environment task force options of NDYP **or**
 - 2.3 the intensive activity period (IAP) of ND25+ **or**
 - 2.4 an EZ scheme **or**
 - 2.5 flexible new deal.

Note: See DMG Chapter 14 for full guidance on ND.

*1 JSA Regs, Sch 2, para 13(3A), 13(4) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(3ZA) & (3A);
IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32*

23730 The time spent on an ND option or EZ scheme counts towards any QP for housing costs. But that period may have already been served when the person goes on the ND option or EZ scheme. If so, the person will not have to serve a fresh period if they return to JSA(IB) or IS within twelve weeks of leaving that option or scheme (see DMG 23708)¹.

1 JSA Regs, Sch 2, para 13(1)(a), 13(4) & (18)(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(a) & (3A); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

JSA(Cont)

23731 A person may have been getting JSA(Cont) immediately before going on to an ND option or EZ scheme. Such a person may claim JSA(IB) at the end of that option or scheme. Where appropriate the claimant can be treated as entitled to JSA(IB) for the

1. period when they were entitled to JSA(Cont)¹ (see DMG 23737) **and**
2. time they spent on the ND option or EZ scheme².

1 JSA Regs, Sch 2, para 13(5)(bb); 2 para 13(3A) & (4)

23732 A person may have been getting JSA(Cont) immediately before going on an ND option or EZ scheme. Such a person may claim IS at the end of that option or scheme. In such a case treat the claimant as entitled to IS for the

1. period when they were entitled to JSA(Cont) (see DMG 23737)¹ **and**
2. time they spent on the ND option or EZ scheme².

1 IS (Gen) Regs, Sch 3, para 14(3B); 2 para 14(3ZA) & (3A)

Change of claimant

23733 A couple may decide to change claimants when one of them comes to the end of the ND option or EZ scheme. Treat the new claimant as being in receipt of and entitled to JSA(IB) or IS for the same period as their partner if¹

1. the claimant is a member of a couple or polygamous marriage **and**
2. immediately before one of them went on an ND option or EZ scheme, or flexible new deal, the claimant's partner was in receipt of JSA(IB) or IS for both or all of them **and**
3. immediately after the end of that option or scheme the claimant has become the claimant because of an election by the members of the couple or polygamous marriage.

*1 JSA Regs, Sch 2, para 13(1)(ee) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(ee);
IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32*

Capital exceeds £16,000/income exceeds applicable amount

23734 The rules are different for JSA and IS with the exception of cases involving

1. lone parents and carers (see DMG 23741) **and**
2. claimants who receive payments from mortgage payment protection insurance (see DMG 23714).

JSA(IB)

23735 Claimants who would not be entitled to JSA(IB) only because¹

1. their capital exceeds £16,000 **or**
2. their income is equal to or exceeds their applicable amount **or**
3. both 1. and 2. apply

should be treated as entitled to JSA(IB) throughout any continuous period of not more than 39 weeks provided that the further conditions in DMG 23736 are satisfied.

Note 1: The period of not more than 39 weeks can fall between periods of entitlement to JSA(IB), ESA(IR) and IS².

Note 2: It is not necessary for a claim to have been made for a person to benefit from this provision.

1 JSA Regs, Sch 2, para 13(5) & (6); 2 para 18(1)(c)

23736 The further conditions are that during the period of not more than 39 weeks claimants are

1. entitled to JSA(Cont), SSP or IB **or**
2. registering for work and entitled to credits **or**
3. submitting medical certificates and entitled to credits

on a day to day basis¹.

1 JSA Regs, Sch 2, para 13(5) & (6)

JSA(Cont)

23737 Claimants who are not entitled to JSA(IB) because their JSA(Cont) personal rate

1. is equal to **or**
2. more than

their JSA(IB) applicable amount should be treated as entitled to JSA(IB) throughout any continuous period of up to 39 weeks provided that the further conditions in DMG 23736 are satisfied¹.

1 JSA Regs, Sch 2, para 13(5)(bb)

23738 Before the first day of the benefit week that includes 28.10.96, days of entitlement to JSA(Cont) in the circumstances in DMG 23737 did not count towards this linking provision.

IS

23739 Claimants who are not entitled to IS only because¹

1. their capital exceeds £16,000 **or**
2. their income is equal to or exceeds their applicable amount **or**
3. both 1. and 2. apply

should be treated as entitled to IS throughout any continuous period of not more than 39 weeks provided that the further conditions in DMG 23740 are satisfied.

Note 1: The period of not more than 39 weeks can fall between periods of entitlement to JSA(IB) and IS².

Note 2: It is not necessary for a claim to have been made for a person to benefit from this provision.

1 IS (Gen) Regs, Sch 3, para 14(4) & (5); 2 IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

23740 The further conditions are that during the period of not more than 39 weeks claimants are

1. entitled to JSA(Cont), ESA(Cont), SSP or IB **or**
2. registering for work or submitting medical certificates and are entitled to credits **or**
3. treated as being in receipt of JSA(IB) or IS

on a day to day basis¹.

1 IS (Gen) Regs, Sch 3, para 14(4) & (5); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Lone parents and carers - JSA(IB) and IS

23741 Lone parents and carers may not be entitled to JSA(IB) or IS because¹

1. their capital exceeds £16,000 **or**
2. their income is equal to or exceeds the applicable amount **or**
3. both 1. and 2. apply.

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

23742 In such a case treat the claimant as entitled to JSA(IB) or IS throughout any continuous period of not more than 39 weeks¹

1. following the refusal of a claim made by them or on their behalf **and**
2. during which they are not
 - 2.1 engaged in or treated as engaged in remunerative work **or**
 - 2.2 the partner of a person engaged in or treated as engaged in remunerative work **or**
 - 2.3 a F/T student (except where they would be entitled to IS) **or**
 - 2.4 absent from GB, except on a temporary basis (see DMG 071940 and 072132 et seq).

1 JSA Regs, Sch 2, para 13(7) & (8); IS (Gen) Regs, Sch 3, para 14(5A) & (5B)

Treated as in receipt of and entitled to JSA(IB) or IS on another person's claim

Claimant previously a member of a couple or polygamous marriage

23743 A claimant should be treated as being in receipt of and entitled to JSA(IB) or IS for the same period as a former partner if¹ the claimant

1. was a member of a couple or polygamous marriage **and**
2. had a partner who was in receipt of JSA(IB), SPC or IS for them both for a past period **and**
3. is no longer a member of the couple or polygamous marriage **and**
4. claims JSA or IS within
 - 4.1 twelve weeks **or**
 - 4.2 in the circumstances set out in DMG 23717 et seq, 52 weeksof ceasing to be a member of that couple or polygamous marriage¹.

1 JSA Regs, Sch 2, para 13(1)(c), 13(12) to 13(15) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(c), 14(10) to 14(13); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Claimant becomes a member of a couple or polygamous marriage

23744 A claimant should be treated as having been in receipt of and entitled to JSA(IB) or IS for the same period as their partner, or the other member of a joint-claim couple, if¹

1. the claimant's partner or the other member of a joint-claim couple has for a past period been paid JSA(IB), SPC or IS as a
 - 1.1 single claimant **or**

- 1.2 lone parent **and**
 - 2. the claimant claims JSA or IS within
 - 2.1 twelve weeks **or**
 - 2.2 in the circumstances set out in DMG 23717 et seq, 52 weeks
- of becoming a member of a couple or polygamous marriage.

1 JSA Regs, Sch 2, para 13(1)(d), 13(1)(dd) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(d); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Change of claimant

- 23745 A claimant should be treated as being in receipt of and entitled to JSA(IB) or IS for the same period as their partner if the
- 1. claimant is a member of a couple or polygamous marriage **and**
 - 2. claimant's partner has been in receipt of JSA(IB), SPC or IS for both or all of them for a past period **and**
 - 3. claimant has become the claimant as the result of a decision by the members of the couple or polygamous marriage¹.

Note: See DMG 23733 if the change of claimant happens when a ND programme or EZ scheme ends.

1 JSA Regs, Sch 2, para 13(1)(e) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(e); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

Change of family

- 23746 A claimant X should be treated as being in receipt of and entitled to JSA(IB) or IS for the same period as person Y if¹
- 1. X was a member of Y's family (Y not being a former partner) **and**
 - 2. Y was entitled to JSA(IB), SPC or IS and at least one other member of the family was a child or young person **and**
 - 3. X becomes a member of another family which includes that child or young person **and**
 - 4. X claims JSA or IS within
 - 4.1 twelve weeks **or**
 - 4.2 in the circumstances set out in DMG 23717 et seq, 52 weeks or 104 weeks
- of Y ceasing to be a entitled to JSA(IB) or IS.

1 JSA Regs, Sch 2, para 13(1)(f), 13(12) to (15) & 18(1)(c); IS (Gen) Regs, Sch 3, para 14(1)(f) & 14(10) to (13); IS (Gen) (JSA Consequential Amdts) Regs 96, reg 32

23747 - 23755

Non-dependant deductions

Introduction

23756 Where non-dependants live with the claimant, a deduction from the allowable housing costs may be appropriate¹. A deduction should be considered for each non-dependant or group of non-dependants.

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

Definition of a non-dependant

23757 With the exception of those people mentioned in DMG 23764, non-dependants¹ are people aged 18 or over who

1. normally reside with the claimant **or**
2. the claimant normally resides with.

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

Meaning of normally resides

23758 A person normally resides where they usually live. Periods of residence or absence that are of an exceptional nature should be disregarded. A person who is temporarily absent from their normal home, continues to normally reside where they usually live and with the people they usually live with.

23759 When considering where a person normally resides the DM should have regard to

1. the total amount of time spent in a place
2. how often time is spent in a place
3. how permanent the stay is thought to be
4. the person's intentions
5. individual circumstances
6. what degree the accommodation is shared
7. the services provided
8. whether the person owns or rents any other accommodation
9. whether the person has any liabilities for services/utilities/tv licence.

Example 1

Oonagh and her sister Mairead share a flat on which Oonagh has a mortgage. Mairead goes to stay with their father to look after him while he is recovering from a major operation. She is away for three weeks. While Mairead is staying with her father Oonagh is made redundant and claims JSA. The DM decides that Mairead normally lives with Oonagh and is a non-dependant. The time she spends at her father's is exceptional.

Example 2

Mary normally lives alone in her own flat. Her brother Steven comes to stay with her for a week at a time every three months. He does not normally live with Mary and is not a non-dependant.

Sharing the accommodation

23760 A person resides with another only if they share any accommodation and in this context, people should be regarded as sharing the accommodation unless¹

1. the only shared area is a
 - 1.1 bathroom **or**
 - 1.2 lavatory **or**
 - 1.3 communal area **or**
2. they are separately liable to make payments to the landlord for that accommodation.

1 JSA Regs, reg 2(6); IS (Gen) Regs, reg 3(4); R(IS) 12/96

23761 A communal area is¹ an area of common access (not a room) including

1. halls
2. passageways
3. stairways
4. rooms of common use in sheltered accommodation.

1 JSA Regs, reg 2(7); IS (Gen) Regs, reg 3(5)

Example

Katja lives in a self-contained granny flat attached to her daughter's house. She has her own bathroom, kitchen, bedroom and living room. Access to the flat is from the hall of her daughter's house and the front door of the property is shared. Everything else is separate.

The hall is the only shared area and is a communal area. Katja does not share the accommodation and does not normally reside with her daughter.

People who are not non-dependants

- 23764 The following people who normally reside with the claimant, or who the claimant normally resides with, are not non-dependants
1. any person aged under 18¹
 2. any member of the claimant's family²
 3. any child or young person who is not treated as a member of the claimant's household³ (see DMG Chapter 22)
 4. a person or their partner who
 - 4.1 lives in, to care for the claimant or partner **and**
 - 4.2 is engaged by a
 - 4.2.a charitable **or**
 - 4.2.b voluntary organizationwhich makes a charge to the claimant or partner for the person's services. A voluntary organization is a non-profit making organization that is not a public authority or LA⁴
 5. any person who is not a close relative (see DMG 23408) of the claimant or partner, who
 - 5.1 is liable to make payments on a commercial basis to the claimant or partner (see DMG 23221) for occupation of the dwelling⁵ **or**
 - 5.2 the claimant or partner is liable to make payments to on a commercial basis (see DMG 23221) for the occupation of the dwelling⁶
 6. any person who is not a close relative, who is a member of the household of a person to whom **5.** applies⁷
 7. a person, or their partner (not a close relative except where **8.** applies), who jointly occupies the claimant's dwelling and who is
 - 7.1 a co-owner of the dwelling with the claimant or partner **or**
 - 7.2 jointly liable with the claimant or partner to make payments to a landlord for the occupation of the dwelling⁸
 8. a close relative who satisfies **7.** and the claimant's or partner's co-ownership or joint liability arose

8.1 before 11.4.88 **or**

8.2 if later than 11.4.88, before the date on which the claimant or partner first occupied the dwelling⁹.

Note: When considering **7.1** it does not matter if there are other co-owners.

1 JSA Regs, Sch 2, para 17(1) & (2); IS (Gen) Regs, Sch 3, para 18(1) & (2); 2 JSA Regs, reg 2(2)(a); IS (Gen) Regs, reg 3(2)(a); 3 JSA Regs, reg 2(2)(b); IS (Gen) Regs, reg 3(2)(b); 4 JSA Regs, reg 2(2)(c) & (d); IS (Gen) Regs, reg 3(2)(c) & (d); 5 JSA Regs, reg 2(3)(a); IS (Gen) Regs, reg 3(2A)(a); 6 JSA Regs, reg 2(3)(b); IS (Gen) Regs, reg 3(2A)(b); 7 JSA Regs, reg 2(3)(c); IS (Gen) Regs, reg 3(2A)(c); 8 JSA Regs, reg 2(4); IS (Gen) Regs, reg 2(2B); 9 JSA Regs, reg 2(5); IS (Gen) Regs, reg 3(2C)

Amount of deduction

23765 The amount of deductions for non-dependants aged 18 or over depends on the

1. circumstances of the non-dependant **and**
2. amount of the non-dependant's gross weekly income¹.

See Appendix 7 to this Chapter for the rates of non-dependant deductions.

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

Non-dependants who have partners

23766 A non-dependant may be a member of a couple or polygamous marriage. In such a case

1. only one deduction should be made **and**
2. where different amounts would apply to each partner or additional spouse, the higher of those deductions should be applied¹.

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

23767 If any one of a couple or polygamous marriage is aged 18 or over a deduction should be made unless a deduction is not appropriate (see DMG 23770).

Calculation of income

23768 The joint income of members of a couple or polygamous marriage should be considered¹.

1 JSA Regs, Sch 2, para 17(4); IS (Gen) Regs, Sch 3, para 18(4)

Non-dependant of more than one joint occupier

23769 Where people are non-dependants of more than one joint occupier, deductions should be apportioned between the joint occupiers, taking account of the

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 [\[See DMG Memo 6/17\]](#) [\[See ADM Memo 8/17\]](#) 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)(I) :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 [See Memo DMG 14/17] 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

Questions that cannot be decided immediately

Insufficient information to determine housing costs - IS only

23779 Where a DM is

1. deciding an IS claim **or**
2. determining an issue on IS housing costs

the applicable amount should include any housing costs that can be determined immediately on the evidence available¹. Where there is insufficient evidence IS can be awarded without housing costs.

1 SS CS (D&A) Regs, reg 13(1)

23780 If there are several housing costs on the IS claim the applicable amount should include only those housing costs where there is sufficient information to make a decision.

Example

Rose has two loans, one to buy her home and one for home improvements. There is also a service charge that includes several items. Sufficient information is available for the DM to determine housing costs on part of the loan used for home improvements and some, but not all, of the individual items within the service charge.

The DM can decide the IS claim. The applicable amount includes an amount for those housing costs that can be decided. No account is taken of the housing costs on which there is insufficient information.

23781 The decision may be revised or superseded if further information about any of the claimant's housing costs is received after the IS claim or question has been decided¹.

1 SS CS (D&A) Regs, regs 3 & 6

23782 - 23799

JSA(Cont) and pension payments

Deductions from JSA(Cont) for pension payments

Introduction

23800 The guidance in DMG 23801 to 23932 refers only to deductions from JSA(Cont).

General

23801 Pension payments, Pension Protection Fund periodic payments and Financial Assistance Scheme payments that are

1. made to a claimant for any week **and**
2. more than £50 each week

are deducted from the claimant's age related amount, when calculating the amount of JSA(Cont) payable to the claimant for each benefit week. The amount deducted is the excess over £50¹.

1 JS Act 95, s 4(1); JSA Regs, reg 81(1)

Example

A woman receives pension payments totalling £83.50 each week. The pension payments exceed the £50 maximum by £33.50. So £33.50 is deducted each benefit week from the amount of JSA(Cont) that she is entitled to.

23802 The law provides for

1. when pension payments, Pension Protection Fund payments and Financial Assistance Scheme payments are to be taken into account¹ (see DMG 23886 - 23887) **and**
2. certain payments to be disregarded² (see DMG 23905) **and**
3. the calculation of a weekly amount where pensions are paid for periods other than a week³ (see DMG 23931 - 23932).

1 JSA Regs, reg 81(1A) & (1B); 2 reg 81(2)(c); 3 reg 81(3)

23803 - 23805

Meaning of pension payments, protection fund and financial assistance scheme payments

23806 “Protection fund periodic payments” are defined as¹

1. any periodic compensation payments made in relation to a person, payable under the pension compensation provisions set out in specified legislation²
2. any periodic payments made in relation to a person, payable under specific legislation³

other than payments made to a surviving dependant of a person entitled to such payments.

*1 JS Act 95, s 35; 2 Pensions Act 04, s 162(2); Pensions (Northern Ireland Order) 05, art 146(2);
3 Pensions Act 04, s 166; Pensions (Northern Ireland) Order 05, art 150*

23807 Financial assistance scheme payments provide financial help to some people who have lost out on their occupational pension because

1. the scheme they were a member of was under-funded when it started to wind-up **and**
2. they are within three years of their normal retirement age (as laid down in their pension scheme rules) or older on 14.5.04.

23808 The Financial Assistance Scheme can pay an award of up to 90% of what a person would have received if the pension scheme had not been wound up. The award is paid on top of any pension the individual receives from the scheme up to an annual limit. A Financial Assistance Scheme award is paid for life at a fixed rate so it will not increase. The award is paid by DWP net of tax.

Example

The claimant would have received a pension of £18,750 if the scheme had not been wound up. 90% of the amount he would have received is £16,875. In the event the claimant receives a pension of £10,000 a year so this amount is topped up through a Financial Assistance Scheme award by an amount needed to reach the annual ceiling.

23809 - 23811

23812 Pension payments are¹ periodical payments (see DMG 23854) paid to or for a person

1. under a personal pension scheme (see DMG 23846) **or**
2. in connection with the ending of the person’s employment as an earner (see DMG 23866) under

2.1 an occupational pension scheme (see DMG 23814) **or**

2.2 a public service pension scheme (see DMG 23819).

1 JS Act 95, s 35

23813 Payments as in DMG 23812 **2.** may be, but are not confined to, pensions that the employer has contributed to. The following types of payment are included

1. payments made under a scheme arranged by the employer where the money is provided exclusively by the claimant
2. payments made by the UK or other governments where provision is made for them in law, for example pensions to former Crown employees
3. pensions from employment overseas (see DMG 23924)
4. the compensation element of a retired local government officer's pension¹
5. payments under the Civil Service Compensation Scheme (see DMG 23825)
6. payments under the Civil Service Pension Scheme.

1 Local Government (Compensation for Premature Retirement) Regs

Occupational pension scheme

23814 An occupational pension scheme is¹ any scheme or arrangement that

1. is comprised in one or more instruments (for example trust deeds) or agreements (for example informal arrangements) **and**
2. has, or is capable of having, effect on one or more types of employment **and**
3. provides benefits, for example pensions, payable on
 - 3.1 termination of service **or**
 - 3.2 death **or**
 - 3.3 retirement

for earners with qualifying service.

1 JS Act 95, s 35; Pension Schemes Act 93, s 1; R(JSA) 1/01; R(JSA) 6/02

23815 - 23818

Public service pension scheme

23819 A public service pension scheme is¹ an occupational pension scheme that is

1. established under legislation, by royal prerogative or under a royal charter **and**
 - 1.1 all its particulars are set out in the legislation, royal warrant or charter **or**
 - 1.2 it cannot come into force or be amended without the government's approval **or**

2. established with the government's approval **or**
3. prescribed by legislation².

1 JS Act 95, s 35; Pension Schemes Act 93, s 1; 2 Occupational Pension Schemes (Public Service Pension Schemes) Regs 1978

23820 Pension schemes that are also public service pension schemes include pension schemes for

1. civil servants **or**
2. local government employees **or**
3. teachers **or**
4. the Armed Forces **or**
5. police officers.

23821 If DMs have difficulty in determining whether a pension scheme is a public service pension scheme they should arrange to get

1. the claimant's consent to contact the manager of the scheme **and**
2. a statement from the manager of the scheme as to whether the pension scheme is a public service pension scheme within the meaning of the relevant law¹.

1 Pension Schemes Act 93, s 1

23822 If a pension scheme is not a public service pension scheme it may still fall within the definition of an occupational pension scheme (see DMG 23814).

23823 Most public service schemes include provision for injury or contracting a disease (for example Police and Fire Service schemes). Such pensions may be paid on a minimum income guarantee basis. This means that the pension tops up existing income to a certain level. The pension rate may therefore be affected by the amount of JSA(Cont) entitlement. In such cases the DM should take into account the gross amount of pension i.e. before any adjustment has been made for JSA(Cont). This ensures that the gross amount of the pension is offset against any JSA(Cont), and the pension provider takes the subsequent balance of any JSA(Cont) payable into account. There is no disadvantage to the claimant, and means that in cases where the amount of pension paid to the claimant is equal to the level of guarantee, the claimant's total income remains unchanged. The pension provider needs to be informed of the correct amount of JSA(Cont) payable.

Example

The amount of pension is £120.00 per week, and the amount of guarantee is £120.00 per week. JSA(Cont) entitlement is £71.70 which is reduced by £35.00 (half the excess over £50) to £36.70. The pension is then paid at £83.30 to bring the guaranteed income back to £120.00.

23824

Civil Service Compensation Scheme

23825 Civil servants may be entitled to annual payments as compensation¹ if their employment ends because of

1. compulsory redundancy **or**
2. voluntary early retirement or severance

in a redundancy situation.

1 R(JSA) 1/01; R(JSA) 2/01

23826 Until 1995, payments made to civil servants taking early retirement or redundancy were made as part of the Principal Civil Service Pension Scheme. The Principal Civil Service Pension Scheme also provided benefits to those who retired at the normal retirement age. But on 1.1.95, a separate scheme, called the Civil Service Compensation Scheme was introduced.

23827 The Civil Service Compensation Scheme provides benefits to civil servants whose employment ends before the normal retirement age. The Principal Civil Service Pension Scheme continues to provide benefits to those who retire at the normal retirement age.

23828 Under the Civil Service Compensation Scheme, annual compensation payments may be made to civil servants. The Civil Service Compensation Scheme also allows civil servants to change the mix of their

1. lump sum **and**
2. annual compensation payments **and**
3. preserved pension.

23829 The Civil Service Compensation Scheme is a public service pension scheme¹ and annual compensation payments from it are payments from a public service pension scheme. This means that annual compensation payments in excess of the £50 limit (see DMG 23801) are taken into account in JSA(Cont).

1 R(JSA) 2/01

23830 - 23841

Local government premature retirement scheme

23842 Some pensionable local government employees who

1. are made redundant **or**
2. volunteer for redundancy **or**
3. cease work in the interests of the efficient exercise of the employers' functions

receive payments under the local government premature retirement scheme¹.

1 Local Government (Compensation for Premature Retirement) Regs

23843 The scheme entitles employees¹ to annual payments as compensation for their employment ending as in DMG 23842. These are calculated on the same basis as their annual retirement pension under the superannuation legislation². The compensation payment is a payment from a public service pension scheme.

1 Local Government (Compensation for Premature Retirement) Regs, reg 6;

2 Local Government (Superannuation) Regs

Armed Forces redundancy arrangements

23844 Pensions payable to service personnel who retire from the Armed Forces are paid under a public service pension scheme.

23845 Pensions paid to service personnel who have been made redundant

1. are calculated on the length of qualifying service completed, plus an additional number of years **and**
2. fall within the definition of public service pension schemes¹.

1 Queen's Regulations

Personal pension scheme

23846 Personal pension scheme¹ means a pension scheme that

1. is not an occupational pension scheme **and**
2. is established by a person within any of the paragraphs of specified legislation².

1 PS Act 93, s 1; 2 Finance Act 04, s 154(1)

23847 - 23849

23850 If the member of the scheme used the personal pension to contract-out of SERPS, the part of the pension that

1. comes from DWP rebates **and**
2. is used to replace the state earnings related pension scheme

can only be drawn from age 60.

23851 - 23852

23853 The DM should refer the case to DMA, Leeds, if the

1. DM is unable to decide whether a pension is paid under a personal pension scheme **and**
2. pension payment does not satisfy any other part of DMG 23812.

Periodical payments and lump sums

23854 Periodical payments are those that are paid at regular intervals.

23855 A lump sum payment is not a periodical payment. This applies even where the claimant has chosen to receive a lump sum instead of a periodical payment¹. But where

1. a person is entitled to a lump sum payment **and**
2. the rules of the scheme allow the lump sum to be paid in instalments **and**
3. the person chooses to receive it in this way

the instalments are periodical payments.

1 R(U) 5/85

23856 – 23865

In connection with the coming to an end of the employment

23866 A pension must be paid in connection with the end of employment of the person who it is paid for, to fall within DMG 23812 **2**.. Occupational or public service pensions that are paid where the employment has not ended do not fall within DMG 23812 **2**.. For example, war pensions paid

1. because of disablement **and**
2. regardless of whether the employment is continuing.

23867 In this context “employment” includes any trade, business, profession, office or vocation¹. Employment in the Armed Services falls within this definition.

1 JSA Regs, reg 3(1)

23868 Retired officers who are entitled to a war pension receive it as a disablement addition to their service pension. This disablement addition is

1. awarded by DWP **and**
2. paid by the Paymaster General in the same cheque as the person’s service pension.

23869 If the claimant is a retired officer with a service pension, the DM should

1. find out the amount of any disablement addition **and**
2. deduct it from the total payment received.

Note: Other ranks have their war pension paid direct by DWP so there is no difficulty in separating their war pension from their service pension.

23870 Gallantry awards are sometimes paid to former members of the Forces in addition to their service pensions. Payment is

1. made from the date of the award **and**
2. a reward for conduct rather than a period of service.

These awards are not paid in connection with the coming to an end of an employment and are **not** pension payments.

23871 Pension payments may be payable to the claimant from the former employer of a deceased partner or other relative. Such payments should be disregarded (see DMG 23889).

23872 The amount of a service pension may be increased if the claimant has been invalidated out of the Forces. The full amount should be taken into account.

23873 Police officers who retire because of permanent disability may be entitled to an ill health award¹ in addition to a pension under a public service pension scheme. If they are permanently disabled through an injury received while carrying out their duties, they are also entitled to an injury pension. It is a condition for the receipt of both payments that the officer ceases to be a member of a police force. The payments are therefore made in connection with the coming to an end of a police officer's employment and are payments as in DMG 23812 **2.2**.

1 Police Pension Regs

23874 - 23885

When to take pension payments into account

First payment of a pension

23886 Where

1. a claimant is entitled to a pension payment **and**
2. the first payment is **paid** to the claimant

the pension payment should be taken into account from the first day of the benefit week that includes the day for which payment is first made¹.

1 JSA Regs, reg 81(1A)

Example

Roger claims JSA and is entitled to JSA(Cont) from Thursday 7 November. His benefit week ends on a Thursday. He receives a pension payment of £78 a week, starting on Monday 11 November. Only the amount above £50 can be deducted from JSA(Cont). In the benefit week 8 November to 14 November £28 is deducted from his JSA(Cont).

Payment in arrears

23887 Pension payments are often made in arrears, and can be

1. weekly **or**
2. monthly **or**
3. quarterly **or**
4. any other period.

Any pension payments deducted from JSA(Cont) should start from the **first** day of the benefit week that entitlement to the pension, by way of the first payment, has been made to the claimant¹.

1 JSA Regs, reg 81

23888 The pension payment **must actually be made** before the DM deducts an amount from JSA(Cont) because of a pension payment.

Example

William claims JSA and is entitled to JSA(Cont) from Thursday 6 November. His benefit week ends on a Thursday. He is entitled to a pension payment of £78 a week from Monday 3 November of which he receives his first payment (£312) on Monday 1 December. Only the weekly pension amount above £50 can be deducted from JSA(Cont). JSA(Cont) is awarded at the full rate from 7 November but from the benefit week 28 November to 4 December and thereafter £28 (£78 - £50) is deducted from his JSA(Cont).

23889 - 23899

When the pension is uprated

23900 A claimant's rate of pension may change. Any change should be taken into account from the first day of the benefit week that includes the first day for which the increase or decrease is paid¹.

1 JSA Regs, reg 81(1B)

Example

Amrit claims JSA, her benefit week ends on a Thursday and she is entitled to JSA(Cont). She receives a pension payment of £78 a week. Her JSA(Cont) is reduced by £28 each benefit week. She receives an increase of £7 a week in her pension starting on Monday 11 November. The increase in the pension payment is taken into account for the benefit week 8 November to 14 November.

So in the benefit week

1. 1 November to 7 November, £28 is deducted from her JSA(Cont)
2. 8 November to 14 November, £35 is deducted from her JSA(Cont).

23901 - 23904

Disregarded payments

23905 Payments may be payable to the claimant

1. under
 - 1.1 a personal pension scheme **or**
 - 1.2 an occupational pension scheme **or**
 - 1.3 a public service pension scheme **and**
2. because a person who was a member of the scheme has died.

23906 Any payments in DMG 23905 are known as survivors' benefits and should be disregarded in full¹.

1 JSA Regs, reg 81(2)(c)

Example

Geoff's wife Mildred is a member of an occupational pension scheme. Following Mildred's death a reduced pension payment is paid by the scheme to Geoff. This pension is not taken into account when working out the amount of JSA(Cont) payable to Geoff.

Example 2

Emma's husband Neil is a member of a public service scheme receiving an army pension. Following Neil's death a family forces pension is paid by the scheme to Emma. This *survivor* pension is not taken into account when working out the amount of JSA(Cont) payable to Emma

23907 - 23909

Delay in payment

- 23910 Sometimes a pension payment is not made on the date it is due, for example because of industrial action by the employees of the paying authority. If the date that the payment will be made cannot be predicted with reasonable certainty, it is not reasonable to wait for as long as six months before giving a decision.
- 23911 If the DM considers it unreasonable to defer the decision until payment is made, a decision should be given on the basis that payment has not been made. If a payment is made later, the decision to award JSA(Cont) without any deductions may be revised or superseded. Where a delay in payment occurs the DM should obtain evidence of the reason for the delay and its likely duration.

23912 - 23920

Calculating the amount of the pension

General

23921 Except for DMG 23923, the amount of the pension payment is the gross amount payable. Where income tax is deducted at source, the amount to be taken into account is the amount before tax is deducted¹.

1 R(U) 8/83

23922 Some claimants

1. have to make **or**
2. choose to make

certain payments from their pensions. The payments may be to the employer or a third party. With the exception of compulsory payments to buy or repay an element of their current pension, any payments deducted before the pension is paid should be ignored. The claimant's liability to make the payments is separate from the liability to pay the pension. The deductions at source are simply a convenient method of ensuring that the claimant's obligations or wishes are met. The amount of pension to be taken into account is the amount after deduction of any compulsory payments towards the current pension and before other deductions are made. Examples of these payments include

- repaying a debt to a former employer
- payments to someone because of a court order
- subscriptions to a trade union or other association
- payments into a further pension scheme.

23923 Where the rules of the claimant's pension scheme provide for compulsory deductions, for example to buy or repay an element of their current pension, the amount deducted should be disregarded in calculating the amount of pension. This is because "payments" refers to the amount the claimant is actually entitled to receive. So a payment made under a binding obligation, for example to acquire additional pension rights, should be disregarded in calculating the amount of the pension.

Example

Jason is employed by an electricity company for 29 years and two months. He retires voluntarily. For superannuation purposes he is treated as having completed 30 years service. Under the rules of the superannuation scheme, a monthly deduction of £32.23 is made from his gross occupational pension of £232.83 for the purchase of the ten additional months. He is also paying £20.00 a month to a debt collecting agency under a court order.

Jason cannot avoid the reduction to his pension payments. While he must buy additional pension rights under the rules of the scheme he would normally repay his other debts from any net income he receives. The payments made under the court order are not to be disregarded. The DM takes into account a pension payment of £200.60 a month¹.

1 R(U) 4/83

23924 Sometimes pension payments are received by the claimant in a currency other than sterling. To work out the sterling equivalent, DMs should use the selling rate that applies

1. on the date on which payment is due **and**
2. not the date on which it is actually converted.

No allowance should be made for commission or other expenses incurred in converting currency¹.

1 R(SB) 28/85

23925 Because exchange rates fluctuate, the DM will need to give a fresh decision each time a pension payment is made, for the period it covers (subject to DMG 23886 - 23889). For the purposes of working out a sterling equivalent only, it does not matter that the pension is not available in sterling until some time after the pension is due.

23926 - 23930

Calculating the weekly pension rate

23931 If pension payments are not paid weekly, they should be converted into a weekly amount as follows¹

1. annual payments should be divided by 52
2. quarterly payments (three monthly) should be divided by 13
3. monthly payments should be multiplied by twelve and the result divided by 52. A month means a calendar month²
4. payments of two or more calendar months (other than **1.** or **2.**) should be
 - 4.1 Divided by the number of months the payment covers **and**
 - 4.2 the result multiplied by twelve then divided by 52
5. payments for any other period should be divided by the number of days covered by the payment and the result multiplied by seven.

1 JSA Regs, reg 81(3); 2 CG 66/49 (KL)

More than one pension

23932 Where a claimant is receiving more than one pension the DM should

1. calculate the weekly rate of each pension separately **and**
2. add the weekly rates together

before working out the excess over the maximum sum¹.

1 JSA Regs, reg 81(3)

23933 - 23999

Appendix 1

Disability premium transitional arrangements because of the introduction of Incapacity Benefit - Income Support only

Claimant already in receipt of DP on 12.4.95

1. DP continues after 12.4.95 if the claimant is

1. entitled to SSP **or**
2. incapable of work

subject to the linking rules (see DMG 23143).

Example 1

Henri is entitled to DP on 12.4.95 and entitlement to DP continues due to incapacity for work. Henri fails without good cause to observe the prescribed rules for behaviour and is treated as capable of work for six weeks from 21.8.95 to 1.10.95. DP is not applicable for the period of the disqualification. The break in the periods of incapacity for work is 56 days or less and the periods link. DP is applicable from 2.10.95 - the day after the disqualification ends¹.

1 DWA & IS (Gen) Amdt Regs, reg 15(2) & (3)

Example 2

Earl is entitled to DP on 12.4.95 and entitlement to DP continues. Earl is found not incapable of work from 5.7.95. Entitlement to IS is reviewed and disallowed. Earl appeals, IS continues and DP is withdrawn. On 9.12.95 the SSAT upholds the AOs decision. On 29.1.96 a claim on the grounds of incapacity for work is made and the AWT is satisfied. DP is not reinstated. A new qualifying period begins on 29.1.96. The periods of incapacity do not link. The break is more than 56 days (5.7.95 - 28.1.96).

Note: If the AT had allowed the appeal, arrears of DP would be due from 5.7.95.

Days before 13.4.95 - qualifying period

2. Days of incapacity for work or entitlement to SSP before 13.4.95 count towards the 196/364 days qualifying period if
 1. the claimant satisfied the incapacity conditions that applied before 13.4.95
and
 2. the days were continuous¹.

1 DWA & IS (Gen) Amdt Regs, reg 15(4)

Example 1

Sean is incapable of work continuously from 13.2.95 to 13.6.95. The period spans 13.4.95. The days before 13.4.95 count towards the qualifying period.

Example 2

As example 1 but Sean is incapable of work again from 23.8.95. The gap between the periods of incapacity for work is more than 56 days (14.6.95 - 22.8.95). The periods do not link and the qualifying period starts again from 23.8.95.

Example 3

Lisa is incapable of work from 9.1.95 to 3.4.95. She is incapable of work again from 22.5.95. The days of incapacity before 13.4.95 do not count towards the qualifying period because Lisa was not continuously incapable of work up to and including 12.4.95. This applies even though the gap between the periods of incapacity was 56 days or less.

Appendix 2

The severe disability premium saving provision

Introduction

- 1 This provision enables certain claimants to retain their SDP entitlement despite the amendment of 11.11.91 to the definition of non-dependant (see Appendix 3).
- 2 This provision applies to both JSA(IB) and IS. IS claimants with SDP entitlement from this provision who move to JSA will retain their SDP entitlement as long as the other conditions are satisfied¹.

1 JSA Regs, Sch 1, para 15(8)

- 3 There are two qualifying conditions that govern the savings provision.

First qualifying condition

- 4 To satisfy the first qualifying condition the claimant must have
 1. made a claim for IS which had not been decided by 21.10.91 but if it had been, would have included SDP¹ **or**
 2. an IS award current at 21.10.91 which included SDP² **or**
 3. before 21.10.91, made a written request for a review of a decision awarding IS because the claimant and a close relative had become **either**³
 - 3.1 co-owners of their home⁴ **or**
 - 3.2 co-tenants⁵.

In most cases the grounds for review will be that a relevant change of circumstances has occurred⁶.

Note: The DM (previously the AO) should decide that the claimant has become either a co-owner or co-tenant of the home with a close relative.

*1 IS (Gen) Amdt No. 6 Regs, reg 4(8)(a)(i); 2 reg 4(8)(a)(ii); 3 reg 4(8)(a)(iii); 4 reg 4(8)(a)(iii)(aa);
5 reg 4(8)(a)(iii)(bb); 6 SS A Act 92, s 25(1) & (3)*

5 To decide if the conditions at paragraph 4.3 are satisfied it is not relevant that

1. there are other co-owners **or**
2. there are other tenants **or**
3. prior to 21.10.91, SDP had been awarded¹.

1 IS (Gen) Amdt No. 6 Regs, reg 4(8)(a)(iii)(bb)

Second qualifying condition

6 To satisfy the second qualifying condition the claimant and the close relative must have been

1. co-owners of their home¹ **or**
2. co-tenants²

before 21.10.91.

1 IS (Gen) Amdt No. 6 Regs, reg 4(8)(b)(i); 2 reg 4(8)(b)(ii)

7 To decide if the second qualifying condition is satisfied it is not relevant that there are other

1. co-owners **or**
2. co-tenants¹.

1 IS (Gen) Amdt No. 6 Regs, reg 4(8)(b)

8 Where claimants satisfy the second qualifying condition but their circumstances change, this provision may still apply if they become

1. a co-owner of the home with the close relative where formerly they were co-tenants¹ **or**
2. a co-tenant with a close relative of the home they formerly co-owned². The conditions will still be satisfied where a different close relative or home is involved³.

1 IS (Gen) Amdt No. 6 Regs, reg 4(9)(a); 2 reg 4(9)(b); 3 reg 4(9)(c)

The circumstances where the savings provision applies

9 The saving provision applies where, in the week beginning 14.10.91, the claimant

1. satisfied both the qualifying conditions above¹ **or**
2. did not satisfy one or both of the qualifying conditions **and**
 - 2.1 had satisfied both of the qualifying conditions in one of the eight weeks preceding 21.10.91 (that is 26.8.91 to 20.10.91)²

- 2.2** would have satisfied both the qualifying conditions had the amendment not been made, in a week not later than eight weeks since both conditions were satisfied³ **or**
- 3.** was not in receipt of IS because the claimant was in remunerative work if
- 3.1** the period of remunerative work did not exceed the permitted period of twelve consecutive weeks⁴ and started but had not ended before 21.10.91⁵ **and**
- 3.2** the claimant satisfied both the qualifying conditions in the week immediately before the permitted period⁶ **and**
- 3.3** had the amendment not been made, the claimant would have satisfied both qualifying conditions in the week immediately before the permitted period ended⁷ **or**
- 4.** satisfied both of the qualifying conditions immediately before taking part in a training course provided, or approved, by the DM (previously known as AO), or was attending an employment rehabilitation centre course if ⁸
- 4.1** the claimant began the training, or joined the course, before 21.10.91 and was continuing with it at that date⁹ **and**
- 4.2** had the amendment not been made, the claimant would have satisfied both the qualifying conditions in the week immediately following the last day of attendance at the training or course¹⁰.

1 IS (Gen) Regs, reg 4(3); 2 reg 4(4)(a); 3 reg 4(4)(b); 4 reg 6; 5 reg 4(5)(a); 6 reg 4(5)(b); 7 reg 4(5)(c); 8 ET Act 73, s 2; Enterprise & New Towns (Scotland) Act 90; 9 IS (Gen) Amdt No. 6 Regs, reg 4(6)(a); 10 reg 4(6)(b)

Changes of tenancy, ownership or home

- 10 Where claimants satisfy the second qualifying condition but their circumstances change, the savings provision may still apply if they continue to be a co-tenant or co-owner with a close relative.
- 11 It is irrelevant that the co-ownership or tenancy
- 1.** is with the relative, or a different close relative **or**
 - 2.** relates to the same, or a different, home.

Claimants who satisfy the condition because they were co-tenants, may continue to be treated as satisfying it if they become a co-owner. (This also applies if a co-owner becomes a co-tenant)¹.

Note: Breaks of up to eight weeks between periods of co-tenancy and co-ownership do not affect the savings provision even if entitlement to SDP ceases during that period.

1 IS (Gen) Amdt No. 6 Regs, reg 4(a)

Example

Matthew has retained SDP through the savings provision because he was a co-tenant with his widowed mother. On 29 November his mother dies and he goes to live with his unmarried brother. The brothers' tenancy is put into their joint names from 17 December. Although Matthew is not entitled to SDP from 30 November to 16 November the savings provision applies. He re-qualifies for SDP from 17 December.

No entitlement to severe disability premium

- 12 It is possible for the savings provision to continue even if there is no entitlement to SDP.

Example

Pamela keeps her SDP because of the savings provision but CA is then paid and she loses her SDP. If CA stops she can still get the premium back, if the savings provision rules still apply.

The circumstances where the savings provision ceases to apply

- 13 Once the claimant or the claimant's partner is entitled to SDP because of the savings provision, the entitlement continues until the claimant or their partner

1. cease to be entitled to IS or JSA¹ **or**
2. is unable to satisfy, or be treated as satisfying, the second qualifying condition²

for a period of eight consecutive weeks.

1 IS (Gen) Amdt No. 6 Regs, reg 5(2)(a); JSA Regs, Sch 1, para 15(8); 2 IS (Gen) Amdt No. 6 Regs, reg 5(2)(b)

- 14 When calculating the eight week period the DM (previously the AO) should disregard any periods spent in

1. remunerative work, not exceeding the permitted period¹ **or**
2. training² **or**
3. attending an employment rehabilitation centre course.

1 IS (Gen) Regs Amdt No. 6 Regs, reg 5(3)(a); 2 reg 5(3)(b)

Appendix 3

Severe disablement premium - changes to the definition of a non-dependant from 11.4.88 to 1.12.94

Introduction

- 1 The following guidance explains the major changes to the definition of a non-dependant from 11.4.88 to 11.11.91. The changes all refer to the groups of people who would not be a non-dependant for SDP purposes. The changes were made following decisions from the SS Commissioners, the Court of Appeal and the House of Lords.

Meaning of non-dependant between 11.4.88 and 8.10.89

- 2 Between 11.4.88 and 8.10.89 a person was not a non-dependant if they jointly occupied the dwelling with the claimant¹. In this context "jointly occupies" has a technical meaning². This involves a legal relationship between two or more people and
 1. a third party **or**
 2. an item of property.

1 IS (Gen) Regs, reg 3(2)(c); 2 Fulwood v. Chesterfield B.C. 92 L.G.R. 160; R(IS) 12/96

Meaning of non-dependant between 10.4.89 and 30.9.90

- 3 Between 10.4.89 and 30.9.90 a person was not a non-dependant if the claimant was liable to make payments (see DMG 23213) for the occupation of the dwelling¹. Liability refers to a legal liability. There are different rules for England, Wales and Scotland.

1 IS (Gen) Regs, reg 3(2)(d)

England, Wales and non-incapax cases in Scotland (para 5)

- 4 For there to be a legal liability the
1. person must legally have to make payments, for example, because of a contract **and**
 2. payments must only be for the occupation of the dwelling **and**
 3. contract can only end if payments have not been made.

Incapax cases in Scotland

- 5 In Scotland
1. certain mentally handicapped claimants **or**
 2. claimants who cannot give meaningful and useful instructions about their affairs
- cannot enter into contracts.
- 6 An incapax, the term used to describe the claimants in paragraph 5., can still satisfy the liability test using the Scots Law doctrines of
1. Recompense **or**
 2. Negotiorum Gestio.
- 7 Recompense will be the more commonly used of the two doctrines and means the making up of a financial loss. The DM (previously the AO) should consider whether
1. there is an intention to charge (if there is no intention to charge, Recompense cannot be applied) **and**
 2. payment is expected from the incapax for occupation of the dwelling **and**
 3. expense is incurred because of the incapax's occupation of the dwelling **and**
 4. financial gain and loss are involved **and**
 5. the amounts are reasonable in the circumstances.

The liability test is satisfied if all of these conditions are met.

- 8 Negotiorum Gestio is unusual. It means securing the right of a person to be paid back all expenditure reasonably and exclusively paid out on behalf of the incapax. It applies where
1. a person manages the affairs of those who, temporarily or permanently, are unable to manage their affairs themselves **and**
 2. it is reasonable to conclude that power for this would have been given had it been possible to ask for it.

- 9 The claimant satisfies the doctrine of Negotiorum Gestio if
1. there have been expenses related to the occupation of the dwelling **and**
 2. the expenses have been for the good of the incapax **and**
 3. the person providing the care can provide proof of their spending **and**
 4. the person giving the expense or care did so without thought of receiving anything in return.

- 10 The DM should be satisfied that¹ the
1. owner intends to charge the incapax for the occupation of the dwelling **and**
 2. amounts are realistic and regular
- before accepting that there is an intention to charge.

1 IS (Gen) Regs, reg 3(2)(d)

Meaning of non-dependant between 1.10.90 and 10.11.91

- 11 Between 1.10.90 and 10.11.91 a person was not a non-dependant if any previously established liability was on a commercial basis. For the liability to be on a commercial basis the payment should be broadly in line with what a lodger might pay for similar accommodation.

Meaning of non-dependant between 11.11.91 and 1.12.94

- 12 Between 11.11.91 and 1.12.94 the people who were not non-dependants are the same as they are now. Basically the changes on 11.11.91 introduced DMG 23220 **7.** & **8.** and an SDP saving provision (see Appendix 2).
- 13 The amendment from 2.12.94 changed the definition of a non-dependant from "someone who normally resides with the claimant", to "someone who normally resides with the claimant or with whom the claimant normally resides".

Appendix 4

Housing costs loans for repairs and improvements - previous rules and guidance

1 This appendix reproduces the guidance on the previous rules that may still apply to a claimant depending on the date of claim.

2 Those IS claimants who have loan interest calculated using the previous rules will continue to receive the interest if they transfer to JSA(IB)¹.

1 JSA Regs, Sch 2, para 18(1)(a) & (2)

AO's decision before 2.5.94

3 If the current IS claim was made before 2.5.94 and a loan for repairs and improvements was taken out before that date the AO should have applied the rules in paragraphs 4 to 10.

4 If

1. the current JSA claim was made after an IS claim which was made before 2.5.94 **and**
2. there was no break in entitlement

the AO should have applied the rules in paragraphs 4 to 10 on any loan for repairs and improvements taken out before 2.5.94.

5 The decision made in paragraph 3 and 4 will still apply as long as the claimant has remained continuously in receipt of JSA(IB) or IS since the decision was made.

6 The interest on a loan taken out for the purpose of repairs or improvements to

1. the dwelling occupied as the home **or**
2. any part of the building where the home forms part of the building

should be allowed as a housing cost subject to the maximum amount in force. Loans used to adapt a home for the use of a disabled person were not subject to the maximum amount.

7 The loan¹ can be taken out by freeholders and tenants and has to be used within six months of receipt, or such further period as is reasonable, for

1. major repairs that are necessary to maintain the fabric of the dwelling occupied as the home, or where the home forms part of a building, any part of that building, for example, structural work, stabilising foundations, replacing floors and staircases **or**

2. any of the following home improvements²
 - 2.1 installation of a bath, shower, wash basin, sink or lavatory and any necessary associated plumbing
 - 2.2 damp-proofing measures
 - 2.3 provision or improvement of ventilation and natural lighting
 - 2.4 provision of electric lighting and sockets
 - 2.5 provision or improvement of drainage facilities
 - 2.6 improvements to the structural condition of the dwelling occupied as the home
 - 2.7 improvements to the facilities for storage, preparing and cooking food
 - 2.8 provision of heating including central heating
 - 2.9 provision of storage facilities for fuel and refuse
 - 2.10 improvements to the insulation of the home
 - 2.11 other improvements which are reasonable in the circumstances (see paragraph 9).

Note: This paragraph also applies to the interest on loans taken out to pay off such loans to the extent that interest on the original loan would have been met if it had not been paid off.

1 IS (Gen) Regs, Sch 3, para 8(1); 2 Sch 3, para 8(3) [pre 2.5.94]

- 8 Improvements made under paragraph 7 **2.7** and 7 **2.11** for domestic items can be allowed where those items are fixed and cannot be removed.

Note 1: Interest on loans for cookers, fridges, dishwashers and other kitchen items that form part of a fitted or built-in kitchen should be allowed if these items cannot be removed.

Note 2: If the items are slotted in between fitted units and can be removed the interest on the loan should not be allowed.

Note 3: Carpets can be removed and are not an improvement under paragraph 7 **2**.

- 9 For the purposes of paragraph 7 **2.11** any improvements that are consistent with the needs of those occupying the dwelling are treated as reasonable in the circumstances. Two tests have to be applied when loans were considered under this heading. These are

1. objective - has the work improved the home's fitness for occupation?
2. subjective - is the improvement reasonable in the circumstances?

- 2.1 reasonable is not defined in legislation. The AO should decide if the improvement is reasonable taking into account the facilities offered by the dwelling and the needs of the occupants
- 2.2 the circumstances to be considered are those at the time the improvements were undertaken
- 2.3 the needs of non-dependants and other occupants should be considered as well as those of the claimant and the claimant's family. The AO should consider the adequacy of the accommodation. The claimant's ability to meet the cost of financing the loan may be one consideration but not the only one.

Example

It would not be unreasonable to convert a loft in to a study or additional storage space where

- 1. there is insufficient space in the dwelling **and**
- 2. it is consistent with the needs of the occupants.

10 Leaseholders may be entitled to help with the interest on loans taken out to meet freeholders' demands for a sum for the cost of repairs of the type listed in **6**.

AOs or DMs decision after 2.5.94

11 Interest will be payable on a loan

- 1. taken out after 2.5.94 **and**
- 2. not taken out in a relevant period if the loan was used for any of the purposes in **7**.¹

1 IS (Gen) Regs, Sch 3, para 5A

12 Interest will be payable on a loan taken out in a relevant period after 2.5.94¹ if the loan was used for any of the purposes in **15**.

1 IS (Gen) Regs, Sch 3, para 5A(1)(a)

13 A relevant period is any period after 2.5.94 during which a person is¹

- 1. entitled to IS **or**
- 2. living as a member of a family, one of whom is entitled to IS **or**
- 3. in a period not exceeding 26 weeks between two periods of entitlement as in **1**. and **2**.

1 IS (Gen) Regs, Sch 3, para 5A(2)

- 14 Loans for major home repairs and improvements may be allowed if
- 1 the claimant was already entitled to housing costs for a loan at the time the new loan was taken out **and**
 2. subject to the maximum limit (at the time £125,000) **and**
 3. subject to excessive housing costs provisions.
- 15 Loans for
1. installation of a bath, shower, wash basin, sink or lavatory and any necessary associated plumbing
 2. damp-proofing measures
 3. provision or improvement of ventilation and natural lighting
 4. provision of electric lighting and sockets
 5. provision or improvement of drainage facilities
 6. improvements to the structural condition of the dwelling occupied as the home
 7. improvements to the facilities for storage, preparing and cooking food
 8. provision of heating including central heating
 9. provision of storage facilities for fuel and refuse
 10. improvements to the insulation of the home
 11. provision of separate sleeping accommodation so that children who are
 - 11.1 aged 10 or over **and**
 - 11.2 of different sexes **and**
 - 11.3 who are members of the same familydo not have to share sleeping accommodation¹

can be allowed in a relevant period if the conditions in 14 are satisfied

1 IS (Gen) Regs, Sch 3, para 5A(5)

- 16 Because of the changes from 2.10.95 claimants may ask for a revision or supersession of a decision where they
1. took out a loan for home improvements after 2.5.94 **and**
 2. were refused interest on the loan as a housing cost because they were not entitled to housing costs when they took out the loan.
- 17 A saving provision provides protection for a loan that was for home improvements and repairs that were eligible before 2.10.95 but are not eligible after 2.10.95 (see DMG 23642, and Appendix 5).

- 18 Although not part of the changes to home improvements loans, the DM should be aware that from 2.5.94¹ interest on loans used to adapt the home for needs of a disabled person could be allowed if taken out in a relevant period.

1 IS (Gen) Regs, Sch 3, para 5A

Appendix 5

Housing costs - loans that are not eligible from 2.10.95 but are saved by a saving provision

1 This Appendix contains the guidance that was available on loans that were eligible before 2.10.95 but not eligible after that date. The interest payable on these loans is protected by a saving provision (see DMG 23677).

2 This guidance applies to

1. IS claims **and**
2. JSA claims where the claimant was in receipt of IS on 1.10.95

where the claimant has been continuously in receipt of either of those benefits since 2.10.95.

Interest on deferred interest loans

3 Interest payable on arrears of interest should be met as a housing cost where unpaid interest has accrued under a deferred interest mortgage scheme.

4 It must have been a term or condition of the loan that, for a minimum period of two years, a portion of the interest charged to the loan account will not be payable¹

1 IS (Gen) Regs, Sch 3, para 7(6)(c)

5 Interest will be payable on the deferred amount from the date the interest is charged by the lender¹.

1 IS (Gen) Regs, Sch 3, para 7(6)(c)

Interest accruing in the first 16 weeks of the claim

Qualifying conditions before 2.10.95

6 The amount of eligible interest to be allowed as a housing cost is

1. where the claimant or any partner is aged 60 or over 100% of the eligible interest¹ **or**
2. where the claimant and any partner is aged under 60 **and**
 - 2.1 have received IS continuously for 16 weeks or more 100% of the eligible interest² **or**

- 2.2 have not received IS continuously for 16 weeks or more 50% of the eligible interest³ .

1 IS (Gen) Regs, Sch 3, para 7(1)(a); 2 para 7(1)(b)(i); 3 para 7(1)(b)(ii)

Arrears accumulating because 50% of eligible interest payable

- 7 Where arrears accumulate because only 50% of the claimant's loan interest is met during the first 16 weeks of a claim, any interest charged on the arrears of interest should be met as a housing cost. This applies whether or not those arrears are added to the capital outstanding¹

1 IS (Gen) Regs, Sch 3, para 7(6)(a)

- 8 The interest should only be met to the extent that the arrears do not exceed 50% of the eligible interest that would otherwise have been payable for the 16 week period. The maximum amount should be used when calculating the interest.

- 9 The interest will be payable from the

1. day after the end of the 16th week **or**
2. date from which it is charged by the lender, if this is later.

Income exceeds applicable amount because 50% of eligible interest payable

- 10 Interest payable on arrears of interest should be met as a housing cost where the arrears accumulated over a period of up to 20 weeks where

1. IS was refused because 100% of eligible interest was not allowed **and**
2. the claimant's income exceeded the applicable amount¹

1 IS (Gen) Regs, Sch 3, para 7(6)(a)

- 11 Interest payable on arrears of interest should also be met as a housing cost where an award is terminated solely due to the claimant's income exceeding the applicable amount because 50% of the eligible interest is allowed as a housing cost.

- 12 For the purpose of 11., the claimant or partner must make a further claim not later than 20 weeks after the date of the original claim¹.

Note: such interest should only be met to the extent that the arrears do not exceed 50% of the eligible interest that would otherwise have been payable up to the 20th week.

1 IS (Gen) Regs, Sch 3, para 7(2)

Home improvements eligible before 2.10.95

- 13 Guidance on home improvements eligible before 2.10.95 is in Appendix 4 to this Chapter.

Former partner not meeting interest

- 14 The interest on loans other than those taken out for the purpose of
1. acquiring an interest in the dwelling occupied as the home **or**
 2. paying off another loan but only to the extent that interest on that other loan would have been eligible interest under **1.**

will be allowable as a housing cost if all the conditions in **15.** are met¹.

Note: Some of the uses for the loans may have been to buy a car, pay for a holiday or to run a business.

1 IS (Gen) Regs, Sch 3, para 7(7)

- 15 Where
1. the loan is secured on the dwelling occupied by the claimant as the home
 2. the loan was taken out jointly with or solely by a former partner
 3. the former partner has left the dwelling and cannot or will not pay the interest on the loan
 4. the claimant has to pay the interest on the loan in order to continue to live in the dwelling occupied as the home

the interest on the loan will be eligible interest.

- 16 All cases where the claimant or claimant's partner was formerly one of a couple should be considered. Imprisonment or any other circumstances under which the former partner is no longer treated as a member of a couple¹ are cases where the interest on these loans may be paid.

1 IS (Gen) Regs, reg 16

- 17 Where a partner has died¹ and the conditions in **15.1.**, **15.2.** and **15.4.** are met, interest may be met on loans covered in **14.**

1 IS (Gen) Regs, Sch 3, para 7(7)(b)

Appendix 6

Housing costs - changes in the standard interest rate

- 1 This appendix provides details of the changes in the standard interest rate (SIR) (see DMG 23533 et seq).
- 2 The date that claims are affected by a change in the SIR depends on how they are paid.

Paid in arrears

- 3 Cases paid in arrears, are affected
1. from the first day of the benefit week that includes the “effective date” **or**
 2. if the claim is for a period beginning after the “effective date”, from the first day of the first BWC after the date that the SIR changed. Paid in advance
- 4 Cases paid in advance are affected from the first day of the first BWC after the “effective date”.

Changes in the standard interest rate

Date SIR changed	Rate of SIR	Effective from
15.12.96	6.89%	22.12.96
13.4.97	7.20%	20.4.97
21.9.97	7.57%	28.9.97
23.11.97	7.97%	30.11.97
24.5.98	8.34%	31.5.98
20.12.98	8.65%	27.12.98
21.2.99	8.24%	28.2.99
21.3.99	7.75%	28.3.99
18.4.99	7.39%	25.4.99
9.5.99	7.08%	16.5.99
20.6.99	6.66%	27.6.99
16.4.00	6.92%	23.4.00
18.6.00	7.44%	25.6.00
17.6.01	6.94%	24.6.01
19.8.01	6.65%	26.8.01
16.12.01	6.19%	23.12.01
17.2.02	5.74%	24.2.02
17.3.02	5.34%	24.3.02
16.11.03	5.07%	23.11.03
21.3.04	5.33%	28.3.04
18.7.04	5.59%	25.7.04
19.9.04	5.88%	26.9.04
28.11.04	6.33%	5.12.04

5 Prior to 28.11.04 the standard interest rate was based on the weighted average of basic rates charged by the main building societies. This figure was published monthly by the Office for National Statistics in Financial Statistics Table 7.1L. Changes to the standard rate were triggered by moves of 0.25% or more in the published figures.

6 From 5.12.04 the calculation of the standard rate of interest applied to loans which qualified for housing costs was based on

1. the Bank of England base rate **or**
2. any rate determined by the Treasury under its reserved powers

plus 1.58%¹.

1 IS (Gen) Regs, Sch 3, para 12(2); JSA Regs, Sch 2, para 11(2)

7 Between 28.11.04 and 5.12.04 all housing costs, other than those where the lenders interest rate is less than 5%, were calculated using 5.88% as the standard rate of interest¹.

1 IS (Gen) Regs, Sch 3, para 12(6); JSA Regs, Sch 2, para 11(6)

8 Further changes to the SIR calculation were made from 1.10.10 - see DMG 23533.

Actual interest rate less than 5%

9 From 28.11.04 where a lenders interest rate was

1. less than 5% on the day housing costs first fall to be met **and**
2. that day was before 28.11.04

then that original interest rate was used in the housing costs calculation¹.

10 That actual interest rate applied until the earlier of

1. a change of circumstances **or**
2. the normal annual review of housing costs **or**
3. the actual rate increases to 5% or more²

at which point the interest rate to be used in the housing cost calculation was that described at DMG 23534.

1 IS (Gen) Regs, Sch 3, para 12(4); JSA Regs, Sch 2, para 11(4);

2 IS (Gen) Regs, Sch 3, para 12(5); JSA Regs, Sch 2, para 11(5)

Example

Carol has a mortgage that has, on 28.11.04, a lender's interest rate of 4.6%. However the rate allowed when housing costs were first met, is 4.4%. Carol's housing costs continue to be calculated using the interest rate of 4.4%. The next anniversary date of when Carol's housing costs were first met is 7.1.05, at this point

the DM decides that a standard interest rate equivalent to the Bank of England base rate plus 1.58% should be used in the calculation of her housing costs.

Date SIR changed	Rate of SIR	Effective from
11.9.05	6.08%	11.9.05
3.8.06	6.33%	10.9.06
9.11.06	6.58%	17.12.06
11.1.07	6.83%	18.2.07
10.5.07	7.08%	17.6.07
5.7.07	7.33%	12.8.07
6.12.07	7.08%	13.1.08
2.2.08	6.83%	16.3.08
10.4.08	6.58%	18.5.08
8.10.08	6.08%	16.11.08
14.12.08	4.58%	Not implemented
5.1.09	6.08%	Amount prescribed SI 3195/08
1.10.10	3.63%	1.10.10
June 15	3.12%	Determined by SoS

Appendix 7

[\[See DMG Memo 5/17\]](#)

Housing costs - amount of non-dependant deductions

- 1 This appendix provides the rates of the non-dependant deductions¹.

1 JSA Regs 95, Sch 2, para 17(1); IS (Gen) Regs, Sch 3, para 18(1)

Rates from 7.4.97

- 2 Deductions which apply are where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £33.00
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £78.00 £7.00
 - 2.2 £78.00 to £115.99 £13.00
 - 2.3 £116.00 to £151.99 £17.00
 - 2.4 £152.00 or more £33.00
3. any other non-dependant for whom deductions are relevant - £7.00.

Rates from 6.4.98

- 3 From 6.4.98, two new rates of deductions have been introduced. The amount of deductions that apply from 6.4.98 are

1. non-dependants in remunerative work (see DMG Chapter 20) - £45.00
2. where the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £78.00 £7.00
 - 2.2 £78.00 to £115.99 £16.00
 - 2.3 £116.00 to £151.99 £22.00
 - 2.4 £152.00 to £199.99 £36.00
 - 2.5 £200.00 to £249.99 £41.00
 - 2.6 £250.00 or more £45.00
3. any other non-dependant for whom deductions are relevant - £7.00

Rates from 12.4.99

4 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £46.35
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £80.00 £7.20
 - 2.2 £80.00 to £117.99 £16.50
 - 2.3 £118.00 to £154.99 £22.65
 - 2.4 £155.00 to £203.99 £37.10
 - 2.5 £204.00 to £254.99 £42.25
 - 2.6 £250.00 or more £46.35
3. any other non-dependant for whom deductions are relevant - £7.20.

Rates from 10.4.00

5 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £81.00 £7.40
 - 2.2 £81.00 to £119.99 £17.00
 - 2.3 £120.00 to £156.99 £23.35
 - 2.4 £157.00 to £206.99 £38.20
 - 2.5 £207.00 to £258.99 £43.50
 - 2.6 £259.00 or more £47.75
3. any other non-dependant for whom deductions are relevant - £7.40.

Rates from 9.4.01

6 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £84.00 £7.40

2.2	£84.00 to £124.99	£17.00
2.3	£125.00 to £162.99	£23.35
2.4	£163.00 to £214.99	£38.20
2.5	£215.00 to £268.99	£43.50
2.6	£269.00 or more	£47.75

3. any other non-dependant for whom deductions are relevant - £7.40.

Rates from 8.4.02

7 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	less than £88.00	£7.40
2.2	£88.00 to £130.99	£17.00
2.3	£131.00 to £169.99	£23.35
2.4	£170.00 to £224.99	£38.20
2.5	£225.00 to £280.99	£43.50
2.6	£281.00 or more	£47.75

3. any other non-dependant for whom deductions are relevant - £7.40.

Rates from 7.4.03

8 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	less than £92.00	£7.40
2.2	£92.00 to £136.99	£17.00
2.3	£137.00 to £176.99	£23.35
2.4	£177.00 to £234.99	£38.20
2.5	£235.00 to £292.99	£43.50
2.6	£293.00 or more	£47.75

3. any other non-dependant for whom deductions are relevant - £7.40.

Rates from 12.4.04

9 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £97.00 £7.40
 - 2.2 £97.00 to £143.99 £17.00
 - 2.3 £144.00 to £185.99 £23.35
 - 2.4 £186.00 to £246.99 £38.20
 - 2.5 £247.00 to £307.99 £43.50
 - 2.6 £308.00 or more £47.75
3. any other non-dependant for whom deductions are relevant - £7.40.

Rates from 11.4.05

10 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £101.00 £7.40
 - 2.2 £101.00 to £149.99 £17.00
 - 2.3 £150.00 to £193.99 £23.35
 - 2.4 £194.00 to £257.99 £38.20
 - 2.5 £258.00 to £321.99 £43.50
 - 2.6 £322.00 or more £47.75

Rates from 10.4.06

11 Deductions apply where

1. non-dependants are in remunerative work (see DMG Chapter 20) - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 less than £106.00 £7.40
 - 2.2 £106.00 to £156.99 £17.00
 - 2.3 £157.00 to £203.99 £23.35
 - 2.4 £204.00 to £270.99 £38.20
 - 2.5 £271.00 to £337.99 £43.50
 - 2.6 £338.00 or more £47.75

Rates from 9.4.07

12 Deductions apply where

1. non-dependants are in remunerative work - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than **£111.00** £7.40
 - 2.2 £111.00 to **£163.99** £17.00
 - 2.3 £164.00 to **£212.99** £23.35
 - 2.4 £213.00 to **£282.99** £38.20
 - 2.5 £283.00 to **£352.99** £43.50
 - 2.6 **£353.00** or more £47.75

Rates from 7.4.08

13 Deductions apply where

1. non-dependants are in remunerative work - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	Less than £116.00	£7.40
2.2	£116.00 to £171.99	£17.00
2.3	£172.00 to £222.99	£23.35
2.4	£223.00 to £295.99	£38.20
2.5	£296.00 to £368.99	£43.50
2.6	£369.00 or more	£47.75

Rates from 6.4.09

14 Deductions apply where

1. non-dependants are in remunerative work - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	Less than £120.00	£7.40
2.2	£120.00 to £177.99	£17.00
2.3	£178.00 to £230.99	£23.35
2.4	£231.00 to £305.99	£38.20
2.5	£306.00 to £381.99	£43.50
2.6	£382.00 or more	£47.75

Rates from 12.4.10

15 Deductions apply where (note for this year the bandwidths and the rates of deduction have not changed)

1. non-dependants are in remunerative work - £47.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	Less than £120.00	£7.40
2.2	£120.00 to £177.99	£17.00
2.3	£178.00 to £230.99	£23.35
2.4	£231.00 to £305.99	£38.20
2.5	£306.00 to £381.99	£43.50
2.6	£382.00 or more	£47.75

Rates from 11.4.11

16 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £60.60
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	Less than £122.00	£9.40
2.2	£122.00 to £179.99	£21.55
2.3	£180.00 to £233.99	£29.60
2.4	£234.00 to £309.99	£48.45
2.5	£310.00 to £386.99	£55.20
2.6	£387.00 or more	£60.60

3. any other non-dependant aged 18 or over for whom deductions are relevant - £9.40.

Rates from 9.4.12

17 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £73.85
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	Less than £124.00	£11.45
2.2	£124.00 to £182.99	£26.25
2.3	£183.00 to £237.99	£36.10
2.4	£238.00 to £315.99	£59.05
2.5	£316.00 to £393.99	£67.25
2.6	£394.00 or more	£73.85

3. any other non-dependant aged 18 or over for whom deductions are relevant - £11.45

Rates from 8.4.13

18 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £87.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1 Less than £126.00 £13.60

2.2 £126.00 to £185.99 £31.25

2.3 £186.00 to £241.99 £42.90

2.4 £242.00 to £321.99 £70.20

2.5 £322.00 to £400.99 £79.95

2.6 £401.00 or more £87.75

3. any other non-dependant aged 18 or over for whom deductions are relevant - £13.60

Rates from 7.4.14

19 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £91.15
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1 Less than £128.00 £14.15

2.2 £128.00 to £187.99 £32.45

2.3 £188.00 to £244.99 £44.55

2.4 £245.00 to £325.99 £72.95

2.5 £326.00 to £405.99 £83.05

2.6 £406.00 or more £91.15

3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.15.

Rates from 6.4.15

20 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £93.80

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.

Appendix 8

Types of mortgage and loan arrangements

There are many types of mortgage and loan agreements offered by building societies, banks and other financial institutions. This Appendix gives details of some that are available and explains briefly how they work.

1 **Repayment mortgage**

With this type of mortgage, the borrower pays both interest and capital over the whole term of the loan agreement.

2 **Endowment mortgage**

The borrower pays only interest on this type of mortgage. Separate payments are made on an endowment insurance policy. When the policy matures at the end of the loan, the money from the policy is used to repay the capital outstanding on the loan.

3 **Fixed rate loan**

The principle of a fixed rate loan is that the lender offers a loan at a fixed interest rate. While other interest rates may go up or down, the interest on this type of loan stays the same. The period for which the fixed rate agreement lasts may vary. It may be for the first few years of the loan or for the whole of the repayment period.

4 **Equity release mortgage**

An equity release mortgage is a remortgage on the home to release capital from the equity in the property. They are sometimes called “roll up” or “60+” schemes. Under such a scheme, interest may be charged to the loan account in the normal way. But the borrower does not have to actually pay any interest, the arrangement he has entered into is a voluntary one..so effectively there is no liability to pay interest¹

1 Backup 23/182

5 **Deferred interest loan**

There are many different types of deferred interest loans. But the common principle is that during part of the loan the borrower pays less interest than is charged to the loan account¹. This is usually done by the borrower paying

1. only a percentage of the interest charged **or**
2. at a lower interest rate than the lender charges.

1 R(IS) 14/01

6 **Low start loan**

A low start mortgage is similar to a deferred interest loan. It is a financial product under which part of the interest payments are effectively deferred from the first years of the mortgage to later years. A low start mortgage is made up of a subsidiary agreement linked to the main loan where the

1. main loan is an ordinary repayment mortgage secured on the property and repayable in the usual way **and**
2. subsidiary agreement is a deferred interest credit agreement (within the terms of the Consumer Credit Act 1974).

The subsidiary agreement is repayable with interest over the same period as the mortgage loan. But payments under it do not start until a future date (usually a number of years later). Until then, the interest charged on the subsidiary loan is capitalised and added to the outstanding loan.

7 **Foreign currency loan**

A loan or mortgage may be taken out in a foreign currency. In such a case the amount outstanding should be converted into sterling using current exchange rates. As exchange rates vary this means that the amount outstanding, once converted into sterling, may also vary. If there is an increase due to a change in the exchange rate, use the amount of the loan that is currently outstanding.

8 **APR and credit loans**

These loans are given over a fixed term (for example five years) and usually at a fixed interest rate. When the loan is arranged the interest due is worked out and added to the loan. The whole amount owed is then divided by the number of months over which the loan has to be repaid. This gives a fixed monthly payment.

9 **Stabilizer and flexible payment schemes**

This type of mortgage operates in a fairly random way but usually falls within the definition of a deferred interest loan. The borrower is given or may choose a payment rate that may be more or less than the rate charged to the account.

10 **Loans from family and friends**

A loan from family or friends must be for a purpose for which eligible housing costs may be considered. If it is used for such a purpose, any interest payable on it may be considered. If the loan is interest free no housing costs will be payable.

11 **Overdraft facilities**

An overdraft is an arrangement under which a person is allowed to withdraw more money than they have in their bank account. But a person does not have to make use of any such arrangement. An overdraft may simply be a facility that is available if needed and the granting of it is not a loan. But the use of an overdraft facility may be a loan that can be allowed for housing costs purposes if¹ the overdraft is

1. specifically arranged in advance for an eligible purpose **and**
2. used for that eligible purpose.

1 R(IS) 22/98

12 **Flexible mortgage**

This type of mortgage combines mortgage borrowing with savings and/or a current account. Flexible mortgage accounts and the type of statements issued by lenders vary. But basically all income is paid into the account and regular spending is taken from it. Such accounts may also include a “drawdown” facility. This can be used to provide extra loan monies to the borrower when and if required with the minimum of inconvenience. When considering a flexible mortgage the DM should

1. find out what the true capital balance outstanding is at the outset **and**
2. revisit that amount on the anniversary date (unless there is an eligible increase in the outstanding balance) **and**
3. apply normal rules when considering whether housing costs can be allowed on loan monies used from a “drawdown” facility.

Note: The amount of any drawdown facility should not be treated as part of the outstanding balance as in 1.. This is because although such a facility is available automatically, there is no compulsion on the borrower to take it up.

13 **Mortgage Rescue Scheme**

The mortgage rescue scheme has two separate parts – a mortgage to rent scheme and a shared equity scheme.

Under the mortgage to rent scheme, a housing association buys the home and allows the claimant to carry on living there as a tenant. The claimant will no longer own the home and will not be entitled to housing costs.

Under the shared equity scheme, a housing association will give the claimant a loan (based on the equity they have in the property) which will be paid to the main mortgage lender and will be used to lower the monthly mortgage payments to that lender. The claimant will be entitled to housing cost interest on the housing association loan as well as the interest to the main mortgage lender.

Appendix 9

Housing costs - unsafe structural defects

This Appendix contains a list of structural elements that are considered to come within the meaning of unsafe structural defects. But DMs should note that

1. all work connected with items on the list is not automatically entitled to help as an unsafe structural defect, however help may be available under a different repairs and improvement provision.
2. the list is not exhaustive - other work could come within the meaning of the repair of an unsafe structural defect when considered on its merits
3. the costs of survey work reasonably necessary or incidental to the carrying out of actual physical remedial work should be included

Relevant structural elements

- Foundations, including damp proof courses
- External load bearing walls, columns, beams, slabs, frames and any infill panels, but excluding any applied finish, window, glazed screen or door
- Party floors, excluding any applied finish, bedding or floorboards
- Load bearing roof components, including ceiling joists
- Private balcony floors, excluding any applied finish or bedding
- Communal balconies, excluding handrails, balustrades and any applied finish or fittings
- Communal staircases, excluding handrails, balustrades and any applied finish or fittings
- Internal load bearing walls, columns, beams, slabs, frames and any infill panels, but excluding any applied finish, window, glazed screen or door
- Parapet walls
- Chimney stacks
- Structures on the structure, such as motor rooms and water tank enclosures
- Roof coverings where the section of the roof affected, or the nature of the defect, is such as to require the replacement of all or a significant part of the roof
- Door frames, but not external or internal doors
- Window frames, (but not sashes or glass to windows, which may qualify under a different provision)
- Lift shafts

Appendix 10

Housing costs - ineligible service charges - previous rules and guidance

- 1 The following guidance explains the changes that were made to the definition of ineligible service charges before 1.4.00. The changes all refer to whether service charges for counselling and other support services fell to be deducted from other housing costs as ineligible service charges.
- 2 The rules that apply from 1.4.00 onwards are at DMG 23613 et seq.

Meaning of ineligible service charges before 18.8.97

- 3 Before 18.8.97, a deduction was made from other housing costs for the following ineligible service charges¹
 1. living expenses for
 - 1.1 meals - including the
 - 1.1.a preparation of meals **or**
 - 1.1.b provision of unprepared food **or**
 - 1.2 laundry - other than provision of
 - 1.2.a premises **or**
 - 1.2.b equipmentto enable people to do their own laundry **or**
 - 1.3 leisure items such as
 - 1.3.a sports facilities - but not a children's play area **or**
 - 1.3.b television rental and licence fees - except television and radio relay charges **or**
 - 1.4 cleaning of rooms and windows, except
 - 1.4.a where the claimant or any member of their household is unable to clean them **or**
 - 1.4.b where the cleaning is for a communal area **or**
 - 1.5 transport **or**
 2. acquisition of furniture or household equipment or use of such items where the items will become the property of the claimant under an agreement with the landlord **or**

3. provision of an emergency alarm system except where such a system is in accommodation
 - 3.1 specifically designed or adapted for elderly, sick or disabled people **or**
 - 3.2 which is particularly suitable for such people, having regard to
 - 3.2.a its size
 - 3.2.b heating system **and**
 - 3.2.c other major features or facilities **or**
4. medical expenses - including the cost of treatment of counselling related to a
 - 4.1 mental disorder
 - 4.2 mental handicap
 - 4.3 physical disablement
 - 4.4 past or present alcohol or drug dependence **or**
5. nursing or personal care - including assistance
 - 5.1 at meal times **or**
 - 5.2 with personal appearance or hygiene **or**
6. general counselling or other support services, who ever provides those services, except those which
 - 6.1 relate to the provision of adequate accommodation **or**
 - 6.2 are provided by the landlord or someone employed by the landlord where a majority of their time is spent providing a service (other than this one) which would be eligible **or**
7. charges not specified in 1. to 6. but which are not connected with the provision of adequate accommodation.

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

Meaning of ineligible service charges from 18.8.97 to 31.3.00

- 4 On 18.8.97¹ the meaning of “ineligible service charges” changed following a Court judgment². The judge noted that in deciding whether charges for general counselling or other support services related to “the provision of adequate accommodation” (see paragraph 3 6.) the phrase
 1. should be interpreted narrowly
 2. incorporates only those services that would preserve the condition of the accommodation’s fabric as the landlord undertakes to provide it **and**
 3. does not encompass dealing with problems about whether the tenant might
 - 3.1 lose the property

3.2 make a mess of the property **or**

3.3 aggravate the neighbours.

1 HB (Gen) Amdt (No. 2) Regs 1997, reg 2; DC decision in R v. HB Review Boards for Sutton, Swansea and Ors.

5 From 18.8.97 to 31.3.00, a deduction should be made in respect of charges made for general counselling or other support services, whoever provided those services, **except** those which¹

1. relate to the provision of adequate accommodation **or**

2. are provided by

2.1 the landlord **or**

2.2 someone employed by the landlord

where a majority of their time is spent providing a service (other than any services eligible under this paragraph or under **3.**) which would be eligible **or**

3. are provided to a claimant in supported accommodation by

3.1 the landlord **or**

3.2 someone on the landlord's behalf

and are payable as a condition on which the claimant's right to occupy the accommodation depends.

1 HB (Gen) Regs

6 "Supported accommodation" means¹ accommodation which was occupied or available for occupation on 18.8.97 and which was at that date and continues to be

1. a resettlement place (for persons without a settled way of life) where the landlord is assisted with a grant under certain law²

2. accommodation provided by

2.1 a housing authority

2.2 a registered social landlord³

2.3 a charity

2.4 a voluntary organization

2.5 in England - a non-metropolitan county council⁴

2.6 in Scotland

2.6.a a registered housing association **or**

2.6.b a recognised body⁵

where care, support or supervision is provided by, or on behalf of, that body to the occupants of that accommodation

3. accommodation occupied by HB claimants protected under certain law⁶, who are provided with care, support, or supervision by, or on behalf of, the landlord.

1 HB (Gen) Regs, Sch 1, para 7; 2 JS Act, s 30; 3 Housing Act 1996, Part I; 4 Local Government Act 1972, s 1; 5 Law Reform (Misc Provisions) (Scotland) Act 1990, s 1(7); 6 HB (Gen) Amdt Regs 1995, reg 10(1)(a)

7 Accommodation which would otherwise fall within the meaning of “supported accommodation” may not have been available for occupation on 18.8.97. Treat such accommodation as available for occupation¹ if it was not available solely by reason of temporary closure due to

1. refurbishment **or**
2. cleansing **or**
3. pest control.

1 HB (Gen) Regs, Sch 1, para 7

Appendix 11

Housing costs - Leasehold major works

INTRODUCTION

- 1 The following guidance explains about the amount of benefit allowed as a housing cost for leasehold residents where their accommodation is modernised under the Decent Homes initiative.

Background

- 2 The Decent Homes initiative was extended by the Public Service Agreement in response to a challenge from the government to increase the number of households in the private sector living in decent homes. This includes homes of former LA tenants who have purchased their property under the right to buy scheme.
- 3 In order to be decent a home should meet the current statutory minimum standard for housing, be in a reasonable state of repair and have reasonably modern facilities and services.
- 4 The building components that should be in a reasonable state of repair include external walls, roof structure and coverings, windows and doors, heating systems, plumbing and electrics. Modern facilities are indicated by kitchens less than 20 years old and bathrooms less than 30 years old and, for blocks of flats, there should be adequate size and layout of common areas.
- 5 Landlords are achieving the Decent Homes standard by a programme of regeneration and refurbishment with building works carried out on their leasehold housing stock.

Costs

- 6 The cost of the structural work and refurbishments will be charged to leaseholders through service charges. A service charge is, as decided in R(IS) 4/91, a charge which the claimant is obliged to pay in terms of their occupancy agreement for services rendered in terms of that agreement.
- 7 Some residents may choose to meet their service charge costs by obtaining a home improvement loan.

Service Charge

- 8 To determine what part of the service charge is eligible to be met as a housing cost the claimant will provide the annual service charge account which should include an itemised breakdown of the total expenditure including the reason that each item or structure has been replaced or refurbished. For example

Items	Major building works	Costs	Unit cost/dwelling	Reason for work
Electrica installations	Replace mains distribution board, rising and lateral mains cables	£13,040	£1,630	Updating old systems and wiring
Rainwater goods	Replace guttering and down pipes	£2,400	£300	Leaking, broken and in disrepair

Note: to be representative of different sized dwellings the unit cost may be presented on the annual account as a fraction or a percentage of the total cost.

- 9 Having identified the amount charged for a year the DM should convert the total costs for the claimant's portion of the refurbishment works into a weekly amount (dividing by 52) and then from that weekly total deduct any ineligible costs. The resulting sum represents the weekly amount of eligible service charge.

ineligible costs

- 10 Ineligible costs¹ which should be deducted from the weekly amount arise in three circumstances. These are

1. where the costs are inclusive of any items mentioned in paragraph 6(2) of Schedule 1 to the Housing Benefit regulations 2006 (payments in respect of fuel charges)
2. where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations 2006 (ineligible service charges) the amount attributable to those ineligible service charges;
3. any amount for repairs and improvements.

1 JSA Regs, Sch 2, para 16(2); IS (Gen) Regs, Sch 3, Para 17(2); ESA Regs, Sch 6, Para 18(2); SPC Regs, Sch 2, para 13(2)

- 11 The ineligible charges¹ mentioned in paragraph 10 1. above concern payments in respect of fuel charges and are unlikely to arise under the Decent Homes improvements.

1 HB Regs 06, Sch 1, para 6(2)

- 12 There are several ineligible service charges¹, mentioned in paragraph 10 2. above, which includes any charges that are not connected with the provision of adequate accommodation, however these are unlikely to arise under the Decent Homes improvements.

1 Sch 1, para 1

- 13 "Repairs and improvements", mentioned in paragraph 10 3. above, means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling–

1. Provision of a fixed bath, shower, wash basin, sink or lavatory and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
2. Repairs to existing heating systems;
3. Damp proof measures;
4. Provision of ventilation and natural lighting;
5. Provision of drainage facilities;
6. Provision of facilities for preparing and cooking food;
7. Provision of insulation of the dwelling occupied as a home;
8. Provision of electric lighting and sockets;
9. Provision of storage facilities for fuel or refuse;
10. Repairs of unsafe structural defects;
11. Adapting a dwelling for the special needs of a disabled person; **or**
12. Provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under age 20 who is part of the same family as the claimant.

14 Commissioners have addressed some of the issues encountered when determining the eligible and ineligible aspects of the service charge. The Commissioners have decided that:

1. the upkeep/maintenance of communal pathways, gardens¹, repair of a lift and repointing of brickwork are all connected with the provision of adequate accommodation. The costs of a car park barrier, a car park attendant², the installation of a pergola and the repair of a clock tower are all connected with the provision of adequate accommodation.
2. works which are to be funded out of the service charge can be for the avoidance of the need for the repair of unsafe structural defects. For example, timely replacement of slackening roofing tiles will prevent the roof timbers becoming rotted to the point of collapse through water penetration³.
3. where there are windows there is natural light already and no need to provide it³.
4. provision is something not already in existence or the replacement of something which no longer functions³.
5. re-pointing is not a damp proof measure, redecoration is not a repair or improvement and so their associated costs are not deducted from the service charge⁴.
6. by preventing the entry of rainwater a roof may prevent damp, damp proofing may not be the predominant purpose of a roof and although a roof repair might have the predominant purpose of preventing damp a roof renewal would not⁵.

1 CIS/1496/95; 2 CIS/2205/0; 3 R(IS)2/07; 4 CIS/667/02; 5 CIS/2132/98

15 The final weekly amount of the service charge is then attributed to a 52 week period from the date the liability arose¹.

Note: the attribution period for this service charge is independent of any prior service charge that is already in payment so the dates are unlikely to be the same.

*1 JSA Regs, Sch 2, para 16(3); IS (Gen) Regs, Sch 3, Para 17(3);
ESA Regs, Sch 6, Para 18(3); SPC Regs, Sch 2, para 13(3)*

Example

The leasehold residents of a 2 storey flat complex have had their building modernised under the Decent Homes programme at a cost of £90,400, the work involved the prudent renewal of the communal electrical wiring, windows and doors, the lift, replacing all the roof tiles, external redecoration, the perimeter fencing and the upgrading of the roof space insulation. The costs are levied as a service charge and each of the 8 residents are required to contribute an appropriate share of the costs. In this case each persons share of the costs amounted to £11,300 which comprised of £1,100 for wiring, £2,800 for windows and doors, £2,000 for lift renewal, £3,200 for roof tiles, £500 towards redecoration, £900 for fencing and £800 towards insulation.

Resident 1, Juliet, is liable for the service charge (she does not obtain a loan to meet the service charge). The DM decides that the £11,300 is a service charge¹ and that this converts to a weekly amount of £217.31 a week (£11,300 divided by 52). From the weekly amount there should be deducted the costs of any works considered to be, not connected with the provision of adequate accommodation or a repair or improvement. The DM considers that, all the works are connected with the provision of adequate accommodation (therefore there is nothing to deduct as described by paragraph 10 **2.** above). The DM considers the roof renewal is not a damp proof measure² and therefore not a repair or improvement, the rewiring is not the provision of electrical lighting or sockets³ and not a repair or improvement, the replacement of windows and doors is not the provision of natural lighting or ventilation⁴, the upgrading of roof space insulation with better rated material is not the provision of insulation and neither redecoration⁵, the lift replacement, nor fencing are included in the exhaustive list of potential repair or improvements. As there is nothing in the works to indicate that what is contemplated is anything more than the prudent renewal of protective decoration or the replacement of potentially unserviceable items with similar items, then there is nothing that is a repair or improvement (as described by paragraph 10 **3.** above) and therefore nothing to deduct. The cost of the building works is met in full giving a housing cost service charge of £217.31 a week.

1 R(IS) 4/91; 2 CIS/2132/1998; 3 CSJSA/160/98; 4 CIS/2901/04; 5 CSJSA/106/98

Home improvement loan

16 A claimant who obtains a home improvement loan to meet the service charge costs should provide evidence of the purpose of the loan, this should include an itemised breakdown of the

costs and reason that each item has been replaced or refurbished. The home improvement loan will be eligible to the extent that the works are considered to be for repairs or improvements¹.

1 JSA Regs, Sch 2, para 15(2); IS (General) Regs, Sch 3, Para 16(2); ESA Regs, Sch 6, Para 17(2); SPC Regs, Sch 2, para 12(2)

17 Commissioners have addressed some of the issues encountered when determining whether certain structural works and refurbishments are a repair or an improvement. The Commissioners have decided that:

1. by preventing the entry of rainwater a roof may prevent damp, damp proofing may not be the predominant purpose of a roof and although a roof repair might have the predominant purpose of preventing damp a roof renewal would not¹.
2. re-pointing is not a damp proof measure¹.
3. installation of a new central heating system is not a repair².
4. insulation is limited to such things as the installation of loft or cavity wall insulation³.
5. provision is something not already in existence or the replacement of something which no longer functions³. Where there are windows there is natural light already and no need to provide it.
6. accommodation includes all the grounds and buildings available to the claimant as of right under the lease, such as dining rooms, the laundry, communal areas, gardens, car parks, walkways or any other part of the complex which are used by the claimant for purposes for which he would normally use part of his dwelling if he were not in leasehold accommodation⁴.

1 CIS/2132/98; 2 CIS/514/97; 3 R(IS)2/07; 4 CIS/1460/95

Example

The leasehold residents of a 2 storey flat complex have had their building modernised under the Decent Homes programme at a cost of £90,400, the work involved the refurbishment or replacement of the - communal electrical wiring, windows and doors, the lift, replacing all the roof tiles, external redecoration, the perimeter fencing and the upgrading of roof space insulation. The costs are levied as a service charge and each of the 8 residents are required to contribute an appropriate share of the costs. In this case each persons share of the costs amounted to £11,300 which comprised of £1,100 for wiring, £2,800 for windows and doors, £2,000 for lift renewal, £3,200 for roof tiles, £500 towards redecoration, £900 for fencing and £800 towards insulation.

Resident 2, George, obtains a home improvement loan to pay off his £11,300 service charge. The DM considers if each of the refurbishments is a repair or an improvement (as described on the exhaustive list at paragraph 13 above), he decides that the roof renewal is not a damp proof measure¹ nor the repair of an unsafe structural defect and therefore not a repair or improvement, the rewiring is not the provision of electrical lighting or sockets² and not a repair or improvement, the replacement of windows and doors is not the provision of natural lighting or ventilation³ nor is it the provision of insulation, the upgrading of roof space insulation with better rated material is not the provision of insulation and neither redecoration⁴, the lift replacement nor fencing are listed

as a potential repair or improvement. None of the works are considered to be a repair or improvement and as such the DM cannot award any amount as a housing cost in respect of the home improvement loan.

1 CIS/2132/1998; 2 CSJSA/160/98; 3 CIS/2901/04; 4 CSJSA/106/98

Typical repairs

- 18 The following table contains a list of some of the typical building repair and refurbishments carried out on leasehold accommodation under the decent homes initiative including corresponding columns highlighting eligibility where the costs are met by either a loan or a service charge.

Typical repairs		loan eligible	service charge
Roof	a. Major Repair	Yes	No
	b. Renewal	No	Yes
	c. Replacement	No	Yes
	d. Chimney stack repairs	No	Yes
Roof safety	This may include fitting roof safety rails, or roof safety harness's, allowing regular inspection and maintenance	No	Yes
Insulation	a. Roof insulation	Yes but only if provision	Yes if not provision
	b. Wall insulation		
Building frame repairs	a. Cladding to the exterior of the building to prevent damage to the structure, insulates protects building from the elements	No	Yes
Concrete repairs	This may include cleaning, painting and protective coating, or repairs (including the concrete frame)	No	Yes

External walls	a.	Brickwork cleaning	No	Yes
	b.	Repairs to brickwork, pointing, repairs to rendered surfaces	No	Yes
	c.	Replace wall ties	No	Yes
Balcony walkways	a.	Repairs to balcony balustrades and handrails	No	Yes
	b.	Repairs to common walkways and balconies	No	Yes
Windows	a.	Replacement	No	Yes
	b.	Replacement of single glaze with double glaze	No	Yes
Communal doors	a.	Repair and replacement of communal doors, ensuring compliance with fire regulations	No	Yes
External redecoration	a.	Carry out the redecoration to all external elements of the existing fabric of the building, including use of anti-graffiti paint where appropriate	No	Yes
Communal area repairs & decoration	a.	Carry out redecoration of all communal internal areas including corridors and stairways, using fire retardant and/or anti-graffiti paint where appropriate	No	Yes
	b.	Replacement of communal flooring	No	Yes
Rainwater goods	a.	Repair/replace guttering and down pipes	Yes but only if provision	Yes if not provision
Drains	a.	Rod and Jetting wash through all existing drainage and inspection chambers	No	Yes
	b.	Replace communal waste/soil pipes	} Yes if provision	} Yes if not provision
	c.	Major repairs or replacement		

Electrical Installations	a.	Replace mains distribution board	No	Yes
	b.	Replace rising and lateral mains cables	No	Yes
	c.	Replace bulk head lighting to communal staircases & balcony soffits	Yes if provision	} Yes if not provision
	d.	Replace communal corridor lighting		
TV aerial	a.	Replace analogue aerial with digital, may include replacing cabling serving all units	No	Yes
	b.	Installation of satellite dish to receive additional channels	No	Yes
Ventilation	a.	Maintenance and cleaning of communal shafts & flues	No	Yes
	b.	Replace communal extractor fans	Yes if provision	Yes if not provision
Entry Systems and Access	a.	Installation or renewal of entry systems, which may include cabling and handsets in each property	No	Yes
	b.	Works to comply with Disability Discrimination Act	No	Yes
Damp works		All methods of damp proofing, which may include:-		
	a.	Insertion of chemical damp proof course	Yes	No
	b.	Laying a waterproof membrane on the basement floor	Yes	No
Refuse/recycling systems	a.	Replacement or repair of refuse/recycling systems and or hopper heads	Yes if provision	Yes if not provision
Bin chambers	a.	Repairs to communal bin chambers	No	Yes

Lifts	a.	Replacement of lift car, control panel and components	No	Yes
	b.	Replace lift motor room equipment	No	Yes
	c.	Major overhaul	No	Yes
	d.	Installing lifts and shafts	No	Yes
Dry rot works	May include:-			
	a.	Chemical treatment of problem areas	No	Yes
	b.	Replacement of structural timbers such as joists	Yes	No
Water pumps	May include:-			
	a.	Installation of pumps due to reduced water mains pressure	No	Yes
	b.	Replacement of an existing pump	No	Yes
Water supply	a.	Replacement of the water main serving the building	No	Yes
	b.	Replacement of communal water tanks	No	Yes
Fire safety	a.	Install, repair or replace communal fire detection systems	No	No
	b.	Installation or renewal of smoke detectors	No	No
	c.	Replacement of dry risers to tower blocks (essential part of fire fighting)	No	Yes
	d.	Install, repair or replace fire escapes	No	Yes
Lightning protection	a.	Installation or replacement of lightning conductor	No	Yes
Asbestos removal	a.	Removal of asbestos under controlled conditions	No	Yes

Communal Heating	a.	Major overhaul or replacement of communal heating systems or individual elements	Yes	No
	b.	Installation of communal heating systems	No	Yes
Estate works	a.	Estate lighting	Yes if provision	Yes if not provision
	b.	Controlled access and security	No	Yes
	c.	Repairs to estate roads or paths	No	Yes
	d.	Provision and refurbishment of recreational areas	No	Yes
	e.	Landscaping	No	Yes
	f.	Boundary walls and fences	No	Yes
Associated costs	Costs essential to the works, which may include			
		Surveys	} Yes if associated with an eligible item	Yes
		Preliminaries e.g. site set up costs		Yes
		Fees		Yes
		Access equipment e.g. scaffolding		Yes
		Health and safety		Yes

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