

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF STRATEGIC COMMUNICATIONS)

Decision Makers Guide

Volume 5 Amendment 51 – June 2017

1. This letter provides details on Amendment 51; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

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

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

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

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

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

3. Amendment 51 affects chapters 26, 27, 28 & 29 ; The changes make amendments to
 - Chapter 26 appendix 1 – minor amendments
 - Chapter 27 added cross ref. in DMG 27010 and updated Appendices (for 16/17 & 17/18)
 - Chapter 28 incorporated DMG memos 9/17 and 11/17 -
 - para. 28050 – removed ref to 11/17 memo
 - para. 28052 – removed ref to 11/17 memo
 - para. 28085 – removed ref to 11/17 memo
 - para. 28163 – removed ref to 11/17 memo
 - para. 28350 – added references to SIBSS
 - para. 28352 – added BSP to header
 - para. 28354 – added BSP para and renumbered following paras (25354 -7)
 - para. 28419 – added references to SIBSS
 - paras. 28466-7 – added SIBSS
 - para. 28468 – added references to SIBSS
 - para. 28471 – added references to SIBSS
 - para. 28477 – removed reference to SIBSS memo
 - para. 28479 – removed reference to SIBSS memo
 - para. 28515 – added references to SIBSS
 - para. 28670 – added references to SIBSS
 - para. 28681 – added references to SIBSS
 - Chapter 29 DMG memos 9/17 & 11/17 incorporated. Guidance included on treatment of Lifetime ISA's, closure of ILF and where to look for information about Unit Trusts.

4. The last two amendment packages amending Volume 5 were
 Amendment 50 [February 2017]
 Amendment 49 [October 2016]

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

Remove

Chapter 26

26044 – 26054 (1 page)
 Appendix 2 (1 page)
 Appendix 3 (1 page)

Chapter 27

27009 -27014 (1 page)
 Appendix 1 (1 page)
 9. earning bands 15/16 (1 page)

Chapter 28

Conts 28000 – 28479 (4 pages)
 28350 – 28357 (3 pages)
 28417 – 28421 (1 page)
 28460 – 28489 (4 pages)
 28512 – 28529 (1 page)
 28668 – 28684 (2 pages)

Chapter 29

Conts 29421 – Conts apndx 4 (5 pages)
 29360 – 29367 (1 page)
 29416 – 29421 (1 page)
 29445 – 29484 (5 pages)
 29495 - 29504 (2 pages)
 29660 – 29719 (3 pages)
 29860 – 29866 (2 pages)

Insert

Chapter 26

26044 – 26054 (1 page)
 Appendix 2 (1 page)
 Appendix 3 (1 page)

Chapter 27

27009 -27014 (1 page)
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 29416 – 29421 (1 page)
 29445 – 29484 (5 pages)
 29495 - 29504 (2 pages)
 29660 – 29719 (3 pages)
 29860 – 29866 (2 pages)

and as such the earnings from that employment are not included in the calculation of the claimant's earnings as a S/E earner.

Advance of earnings or loans

26044 Earnings should be taken into account from the date they are treated as paid¹. This is based on when they are due to be paid (see DMG Chapter 25). If they are paid before the due date, treat any amount paid as capital until the due date arrives. Then take the amount properly due into account as normal from that date. Any other loan made by the employer should also be treated as capital².

1 JSA Regs, reg 94 & 96(1); IS (Gen) Regs, reg 29 & 31(1); 2 JSA Regs, reg 110(5) & Sch 7, para 34; IS (Gen) Regs, reg 48(5) & Sch 9, para 32

Example

Cameron earns £50 a week which is due to be paid every 4th Friday. He was last paid £200 on 8 November. On 18 November, he gets an advance of £100 from his employer. The £100 is treated as capital. The full £200 due to be paid on 6 December is then taken into account (6 December to 2 January = 4 weeks x £50).

Bonus or commission

26045 Payments of bonus or commission should be treated as earnings. DMG Chapter 25 contains guidance on the period over which they should be taken into account.

Broadcasting and publication fees

26046 Fees and royalties should be treated as earnings, no matter how often or infrequently they are paid. They can be for employment or self employment (see DMG Chapter 27) and include payments for

1. taking part in radio or television plays, commercials and documentaries
2. repeat showings of plays, commercials and documentaries
3. interviews with press reporters
4. published items.

Cash in lieu of concessionary coal

26047 Employees of British Coal who live in property where solid fuel cannot be used, may receive a cash payment instead of an agreed amount of coal (concessionary coal). Payments made instead of it should be treated as earnings¹.

1 R(SB) 2/86

Directors of limited companies

26048 A limited company, of whatever size, is separate from its employees and shareholders¹. This means that the profits of the company do not belong to the directors. A director of a limited company is an office holder in the company, and is an employed earner.

1 R(SB) 57/83

Establishing a director's income

26049 The income of a director can include

1. payments for services as a director or any other employment with the company
2. share dividend
3. debenture interest.

Note: see DMG Chapter 29 when considering the effect of a director's capital

Payments as a director or other employee

26050 Directors have no legal right to receive payment for their services as a director, but can still be voted payment. Or they may be entitled to payments under the company's Articles of Association. Any payments voted to a director or to which they are so entitled should be taken into account as earnings.

26051 A director may also be employed by the company for another reason, for example as a sales manager. Such a person has a contract of employment with the company and is entitled to a salary. Any salary should be taken into account as earnings.

26052 If a director in a small company does no other work in it, the services provided will be limited and the amount of payment expected will be small. If the director also does other work in the company, then more payment will be expected.

26053 Many small companies operate with only two directors, for example the claimant and partner. Such companies normally obtain contracts and pay employees a salary for work done. Any earnings paid to the claimant will usually be for work done as an employee of the company.

26054 Directors may leave earnings that they are entitled to in a company bank account. If the director is free to draw on the account at any time, the money is actual income. It should be taken into account as actual earnings. If it is not paid to the director, or the director cannot draw it out of the account, it is a debt due. This should be taken into account as income due but not paid¹.

1 JSA Regs, reg 105(6); IS (Gen) Regs, reg 42(3)

Appendix 2

Maximum weekly amount

[\[See DMG Memo 5/17\]](#)

Payable under section 227 of the Employment Rights Act 1996.

	£
From 1.2.00	230
From 1.2.01	240
From 1.2.02	250
From 1.2.03	260
From 1.2.04	270
From 1.2.05	280
From 1.2.06	290
From 1.2.07	310
From 1.2.08	330
From 1.2.09	350
From 1.10.09	380
From 1.2.11	400
From 1.2.12	430
From 1.2.13	450
From 6.4.14	464
From 6.4.15	475
From 6.4.16	479
From 6.4.17	489

Appendix 3

Statutory guarantee payments

[\[See DMG Memo 5/17\]](#)

Amount payable to employees under section 31 of the Employment Rights Act 1996.

	£
From 1.2.00	16.10 per day
From 1.2.01	16.70 per day
From 1.2.02	17.00 per day
From 1.2.03	17.30 per day
From 1.2.04	17.80 per day
From 1.2.05	18.40 per day
From 1.2.06	18.90 per day
From 1.2.07	19.60 per day
From 1.2.08	20.40 per day
From 1.2.09	21.50 per day
From 1.2.10	21.20 per day
From 1.2.11	22.20 per day
From 1.2.12	23.50 per day
From 1.2.13	24.20 per day
From 6.4.14	25.00 per day
From 6.4.15	26.00 per day
From 6.4.16	26.00 per day
From 6.4.17	27.00 per day

1. still employed as a S/E earner i.e. still trading
 - 1.1 if the answer is no then they will not be in employment and earnings from past employment can be disregarded² **or**
 - 1.2 if the answer is yes the DM considers question 2
2. carrying out activities connected to the self-employment or in a period of non-activity which is a normal incident of the cycle of work
 - 2.1 if the answer is no the DM considers question 4
 - 2.2 if the answer is yes the DM considers question 3
3. in remunerative work³ i.e. is the work 16 hours (24 hours in respect of a partner) or more a week
 - 3.1 if the answer is yes the claimant is not entitled to JSA or IS
 - 3.2 if the answer is no the DM considers question 4
4. in receipt of earnings that are to be taken into account⁴ and in respect of what period are the earnings to be taken into account⁵.

Note 1: See DMG 27020 for guidance on whether the claimant is still trading.

Note 2: A claimant could be in remunerative work if they are carrying out activities or it is a period of non-activity which is a normal incident in the cycle of work so they are treated as engaged in work. See DMG Chapter 20 for guidance on remunerative work.

Note 3: To calculate the assessment period in order to determine the weekly earnings of a S/E earner, see the guidance at DMG 27051 et seq.

1 JC v SSWP (JSA) [2008] UKUT 40 (AAC), R (JSA) 1/09; 2 JSA Regs, Sch 6, para 4; IS (Gen) Regs, Sch 8, para 3; 3 JSA Regs, reg 51(1); IS (Gen) Regs, reg 5(1) & (1A); 4 JSA Regs, reg 100(1); IS (Gen) Regs, reg 37(1); 5 JSA Regs, reg 95(1)(a) & (b); IS (Gen) Regs, reg 30(1)(a) & (b)

- 27009 If the S/E earner has ceased self-employment the DM should consider if
1. there are any capital assets from the business **and**
 2. any capital assets from the business should be disregarded (see DMG 27031 - 27033 and DMG 29366 et seq).

Directors of limited companies

- 27010 A limited company is a legal person¹ and is different from a sole trader or partnership because
1. the company belongs to its shareholders, who share in any distributed profits according to the size of their individual holding **and**
 2. the liability of each shareholder is limited to the number of shares taken, or the amount that the shareholder has stood as personal guarantor for. The shareholder is not liable for any amount above the amount unpaid on shares (if any) or the amount guaranteed **and**

3. if 2. does not apply, liability for debts is limited to the company's capital.

1 R(SB) 57/83

Note: see DMG Chapter 29 when considering the effect of a director's capital

- 27011 A limited company, of whatever size, is separate from its employees, officers and shareholders¹. This means that the profits of the company do not belong to the directors. A director of a limited company is an office holder in the company² and is an employed earner (see DMG 26048).

1 R(SB) 57/83; 2 McMillan v Guest 1942, AC 561

Earnings of self-employed earners

- 27012 In S/E cases, earnings are the gross receipts (see DMG 27125) of the employment¹.

1 JSA Regs, reg 100(1); IS (Gen) Regs, reg 37(1)

- 27013 S/E earnings do not include¹

1. charges paid to the S/E earner in return for providing BL accommodation (see DMG 27014) **or**
2. any of the payments in DMG 28377 and 28384 (fostering allowances and payments for people temporarily in the claimant's care)
3. any sports award² (see DMG 20480).

1 IS (Gen) Regs, reg 37(2); JSA Regs, reg 100(2); 2 IS (Gen) Regs, reg 2(1); JSA Regs, reg 1(3); National Lottery etc. Act 1993, s 23(2)

Board and lodging accommodation

- 27014 BL accommodation is accommodation¹

1. where the charge for the accommodation includes some cooked or prepared meals that are both
 - 1.1 cooked or prepared by someone who is not
 - 1.1.a the person provided with accommodation **or**
 - 1.1.b a member of the family of the person provided with accommodation **and**
 - 1.2 eaten in that accommodation or associated premises **or**
2. provided to a person in a
 - 2.1 hotel **or**
 - 2.2 guest house **or**
 - 2.3 lodging house (see DMG 27015) **or**
 - 2.4 similar establishment **or**
3. that is
 - 3.1 not provided by a close relative (see DMG 27016 - 27017) of

Appendix 1

Notional deductions for income tax

Main income tax allowances

1. The main income tax allowances are as follows.

		08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18
		£	£	£	£	£	£	£	£	£	£
Personal	under 65	6,035	6,475	6,475	7,475	8,105	9,440	10,000	10,600	11,000	11,500
Personal	65-74	9,030	9,490	9,490	9,940	10,500	10,500	10,500	10,600	11,000	11,500
Personal	75 & over	9,180	9,640	9,640	10,090	10,660	10,660	10,660	10,660	11,000	11,500
Married couple	under 65	-	-	-	-	-	-	-	-	-	-
Married couple	65-74	-	-	-	-	-	-	-	-	-	-
Married couple	75 & over	-	-	6,995	7,295	7,705	7,915	8,165	8,355	8,355	8,445

Basic rates of tax

2. Income tax is payable on taxable income

	£	
08/09	1 - 34,800	at basic rate of 20%
09/10	1 - 37,400	at basic rate of 20%
10/11	1 - 37,400	at basic rate of 20%
11/12	1 - 35,000	at basic rate of 20%
12/13	1 - 34,370	at basic rate of 20%
13/14	1 - 32,010	at basic rate of 20%
14/15	1 – 31,865	at basic rate of 20%
15/16	1 – 31,785	at basic rate of 20%
16/17	1 – 32,000	at basic rate of 20%
17/18	1 – 33,500	at basic rate of 20%

9. Earnings Bands		Earnings Limits
15/16		15/16
Earnings	Percentage rates	LEL
1. up to LEL	NIL	Weekly £112
2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £486
		UEL
		Weekly £815
		Monthly £3532

Primary threshold

No contributions are payable on weekly earnings of £155 or less or monthly earnings of £672 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £155.01 and £815 per week and at 2% for earnings above £815 per week.

10. Earnings Bands		Earnings Limits
16/17		16/17
Earnings	Percentage rates	LEL
1. up to LEL	NIL	Weekly £112
2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £486
		UEL
		Weekly £827
		Monthly £3584

Primary threshold

No contributions are payable on weekly earnings of £155 or less or monthly earnings of £672 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £155.01 and £827 per week and at 2% for earnings above £827 per week.

11.	Earnings Bands 17/18		Earnings Limits 17/18
	Earnings	Percentage rates	LEL
	1. up to LEL	NIL	Weekly £113
	2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £490
			UEL
			Weekly £866
			Monthly £3753

Primary threshold

No contributions are payable on weekly earnings of £157 or less or monthly earnings of £681 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £157.01 and £866 per week and at 2% for earnings above £866 per week.

Class 2 contributions

12

	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18
	£	£	£	£	£	£	£	£	£	£
Ordinary Class 2 rate	2.30	2.40	2.40	2.50	2.65	2.70	2.75	2.80	2.80	2.85
Share fisherman rate	2.95	3.05	3.05	3.15	3.30	3.35	3.40	3.40	3.45	3.50

Small earnings exception/Small profits threshold

13.

	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18
	£	£	£	£	£	£	£	£	£	£
Earnings limit	4,825	5,075	5,075	5,315	5,595	5,725	5,885	5,965	5,965	6,025

Class 4 contributions

14.

	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
	£	£	£	£	£	£	£	£	£
Lower level	5,435	5,715	5,715	7,225	7,605	7,755	7,956	8,060	8,060
Higher level	40,040	43,875	43,875	42,475	42,475	41,450	41,865	42,385	43,000
Percent age rate	8% of £5,435 to £40,040 per year, 1% above £40,040	8% of £5,715 to £43,875 per year, 1% above £43,875	8% of £5,715 to £43,875 per year, 1% above £43,875	9% of £7,225 to £42,475 per year, 2% above £42,475	9% of £7,605 to £42,475 per year, 2% above £42,475	9% of £7,755 to £41,450 per year, 2% above £41,450	9% of £7,956 to £41,865 per year, 2% above £41,865	9% of £8,060 to £42,385 per year, 2% above £42,385	9% of £8,060 to £43,000 per year, 2% above £43,000

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

Chapter 28 - Income other than earnings

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the Fund, the Macfarlane Trusts and other specific Trusts**

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Income fully disregarded

Types of income fully disregarded

[See DMG Memo IS/JSA 64]

28350 The following incomes should be fully disregarded when calculating income for IS and JSA(IB)

1. any payment from and/or some payments from money that originally came from
 - 1.1 the Macfarlane Trust
 - 1.2 the Macfarlane (Special Payments) Trust
 - 1.3 the Macfarlane (Special Payments) (No. 2) Trust
 - 1.4 the Independent Living Fund (2006) – see note at 28351.
 - 1.5 the Fund
 - 1.6 the Eileen Trust
 - 1.7 the Skipton Fund
 - 1.8 MFET Limited
 - 1.9 the Caxton Foundation
 - 1.10 the Scottish Infected Blood Support Scheme (SIBSS)
2. any payment for a reduction of CT
3. AAs
4. AFIP
5. the Bereavement Support Payment (see DMG 28354))
6. certain payments due to be paid before the date of claim
7. child maintenance
8. Christmas Bonus
9. compensation for loss of HB
10. concessionary payments
11. cost of conversion of foreign money
12. CTB
13. dependant's or non dependant's contributions to accommodation and living costs
14. DLA
15. discretionary housing payments (DHPs)
16. Education maintenance allowance and the 16 - 19 Bursary Fund
17. Employment Retention and Advancement (ERA) Scheme payments

18. EZ, self-employed route
19. GA
20. gallantry awards
21. HB
22. income frozen abroad
23. income in kind
24. income tax refunds
25. income treated as capital
26. increases in SS benefits for absent dependants
27. jurors' or witnesses' court attendance allowance
28. local welfare provision
29. Mobility supplement
30. ND IAP, expenses and top-up payments
31. payments for foster children
32. payment for a person temporarily in the care of the claimant
33. payments from an LA in lieu of Community Care Services
34. payment by an employer of employee's expenses
35. payment of expenses to voluntary workers
36. payment of expenses to service users
37. payments to help disabled people get or keep employment
38. payments from the SF under SS legislation
39. payments from the Supporting People programme
40. certain payments made under employment and training law
41. payments made under the Return to Work Credit Scheme
42. payments made under the Repayment of Teacher's Student loans Scheme
43. PIP
44. resettlement benefit
45. special educational needs payments and budgets
46. special guardianship payments
47. training premium and expenses
48. travel or any other expenses in respect of the MWA Scheme or a prescribed scheme for assisting persons to obtain employment

- 49. vouchers including child care cheques
- 50. war widows/widowers, surviving civil partners supplementary pensions
- 51. welfare foods, NHS supplies, travelling expenses and assisted prison visits.

Note: See DMG 28450 et seq for further guidance on the payments listed at 1..

28351 For IS only any income paid to a person to whom DMG 20530 (MIRO) applies should be disregarded¹.

1 IS (Gen) Regs, Sch 9, para 74

Note: The Independent Living Fund (2006) closed on 30.6.15. Payments made under any of the replacement schemes (ILF Scotland (including NI), Welsh Independent Living Grant & Local Authorities in England) are not covered by this legislation and will be taken fully into account.

Attendance allowances, bereavement support payment, disability living allowance, personal independence payment and armed forces independence payment

Attendance allowances

28352 The DM should disregard in full¹ the following payments

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. payments for attendance under the Civilian's Personal Injury Scheme or any similar payment⁵. These payments are made to people who receive a DP because of war injuries suffered as civilians or civil defence volunteers
5. any payment for attendance which is a part of WDisP. This includes severe disablement occupational allowance paid with CAA.

1 JSA Regs, Sch 7, para 10; IS (Gen) Regs, Sch 9, para 9; 2 SS CB Act 92, s 64; 3 s 104 or 105; 4 s 104 or 105; 5 Personal Injuries (Civilians) Scheme 83, art 14 - 16 or 44

The meaning of attendance allowance

28353 DMs should recognize the difference between

1. the term attendance allowance which is commonly used to describe one particular benefit (abbreviation AA) **and**
2. "attendance allowance" which is defined in legislation¹ and includes all the benefits in DMG 28352 (abbreviation "AA").

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

Bereavement support payment

28354 The BSP replaces BB for people whose spouse or civil partner dies on or after 6.4.17¹. There are two rates of BSP; the higher rate and the standard rate. The regular monthly BSP payment is treated as income other than earnings² and is disregarded for the period in respect of which it is paid. Any unspent BSP remaining at the end of this month will become capital (with no disregard applied). The regular monthly payment does not include any arrears or the higher or standard rate of BSP that may be payable for the first month of the BSP period³.

Note: See DMG chapter 29 for how BSP affects capital and DMG chapter 59 for more information on BSP.

*1 Pensions Act 14 (Commencement No. 10) Order, art 2(1)(b); BSP Regs, reg 1(2);
2 IS (Gen) Regs, Sch 9, para 80; JSA Regs, Sch 7, para 76; 3 BSP Regs, reg 3(2) & (5)*

Disability living allowance

28355 The DM should fully disregard

1. DLA mobility component¹ **and**
2. DLA care component².

*1 JSA Regs, Sch 7, para 7; IS (Gen) Regs, Sch 9, para 6;
2 JSA Regs, Sch 7, para 10; IS (Gen) Regs, Sch 9, para 9*

Personal independence payment

28356 The DM should fully disregard

1. PIP mobility component¹ **and**
2. PIP daily living component².

*1 JSA Regs, Sch 7, para 7; IS (Gen) Regs, Sch 9, para 6
2 JSA Regs, Sch 7, para 10; IS (Gen) Regs, Sch 9, para 9*

Armed forces independence payment

28357 Payments of AFIP are fully disregarded¹.

1 JSA Regs, Sch 7, para 75; IS (Gen) Regs, Sch 9, para 76A

Income frozen abroad

28417 The DM should fully disregard income which is

1. payable in a foreign country **and**
2. cannot be transferred to the UK

for as long as it is frozen abroad¹. Income will usually be frozen when the foreign country does not allow its currency to be transferred to the UK.

1 JSA Regs, Sch 7, para 24; IS (Gen) Regs, Sch 9, para 23

Income in kind

28418 The DM should fully disregard any income in kind except

1. support provided to a claimant under specific immigration and asylum law **and**
2. notional income **and**
3. income paid to a claimant or member of the family because of involvement in a TD¹ **and**
4. payments made to a third party in respect of the claimant which are used by the third party to provide benefits in kind to the claimant².

Note 1: Credits received from participating in a LETS scheme (see DMG Chapter 27) are not income in kind. Credits should be taken into account in the appropriate way.

Note 2: See DMG 28670 **2.** for the treatment of concessionary coal.

1 JSA Regs, Sch 7, para 22(1); IS (Gen) Regs, Sch 9, para 21(1)

2 JSA Regs, Sch 7, para 22(4); IS (Gen) Regs, Sch 9, para 21(4)

Example 1

The claimant recently separated from her partner and claimed JSA.

The claimant's mother works in a shop and the shop owner gives the mother £10 of groceries each week for the claimant.

The DM decides the £10 a week is income in kind and should be fully disregarded.

Example 2

The shop owner (in example 1 above) then changes the arrangement and gives the claimant's mother £10 a week to buy groceries for the claimant.

The claimant's mother uses the £10 to buy food each week for the claimant.

The DM decides the £10 a week cannot be disregarded as income in kind and it should be taken fully into account as notional income.

- 28419 The exceptions at DMG 28418 do not apply¹ when the income in kind comes from
1. the Macfarlane Trust
 2. the Macfarlane (Special Payments) Trust
 3. the Macfarlane (Special Payments) (No. 2) Trust
 4. the Fund
 5. the Eileen Trust
 6. the Independent Living Fund (2006) see note at DMG 28351
 7. the Skipton Fund
 8. the Caxton Foundation
 9. MFET Limited
 10. the Scottish Infected Blood Support Scheme **or**
 11. the partner who is subject to immigration control and is receiving support under specific immigration and asylum law and the income in kind is support provided in respect of the essential living needs of the partner of the claimant and his dependants (if any).

1 JSA Regs, Sch 7, para 22(2) & (3); IS (Gen) Regs, Sch 9, para 21(2) & (3)

Income tax refunds

When should tax refunds be treated as capital

- 28420 The DM should treat the following types of income tax refund as capital¹
1. PAYE refunds
 2. refunds of tax deducted from a student's income
 3. refunds of tax on business profits
 4. refunds on tax on interest received on capital or an annuity.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 48(2)

When should tax refunds be treated as income

- 28421 Income tax refunds may be taken into account in full as income¹ if the claimant or a member of the family
1. is involved in a TD **or**
 2. in IS cases only has
 - 2.1 been involved in a TD **and**
 - 2.2 is entitled to IS after returning to work.

(See DMG Chapter 32 for guidance on TDs).

Note: The rule in IS that allows people who are working to receive IS for the first 15 days after a TD does not exist in JSA.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 41(4)

What is the Skipton Fund

28460 The Skipton Fund administers an ex-gratia payment scheme for the benefit of people suffering from Hepatitis C. It includes people infected as a result of NHS blood products and other people eligible for payment in accordance with the scheme's provisions¹.

Note: Payments from the Skipton Fund will be payments of capital (see DMG Chapter 29).

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

The London Bombings Relief Charitable Fund

28461 The London Bombings Relief Charitable Fund¹ was set up to relieve the needs of victims, including families or dependants of victims, of the terrorist attacks in London on 7.7.05. Interim payments were made to relieve the immediate needs of victims followed by further lump sum payments. Recipients may receive more than one lump sum payment.

Note: Payments made from the London Bombings Relief Charitable Fund will be payments of capital (See DMG Chapter 29).

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

MFET Limited

28462 MFET Limited¹ is an organisation funded by DH. The purpose of MFET Limited is to make payments to people who have acquired HIV as a result of treatment by the NHS with blood or blood products.

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

Income from MFET Limited

28463 Fully disregard¹

1. any income from MFET Limited **and**
2. any income from capital that was received from MFET Limited.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1)

The Caxton Foundation

28464 The Caxton Foundation was established on 28.3.11. It administers funds provided by DH for the benefit of certain persons suffering from hepatitis C and other persons eligible for payments¹.

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

Income from the Caxton Foundation

28465 Fully disregard¹

1. any income from the Caxton Foundation **and**
2. any income from capital that was received from the Caxton Foundation.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1)

The Scottish Infected Blood Support Scheme

28466 The Scottish Infected Blood Support Scheme (SIBSS)¹ became operational from 1.4.17, although no payments will be made until 3.4.17. It is administered by NHS National Services Scotland (NSS), legally known as the Common Services Agency. NSS is an NHS Board accountable to Scottish Ministers. SIBSS combines the existing blood support schemes into one scheme in Scotland.

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

Income from the Scottish Infected Blood Support Scheme

28467 Fully disregard¹

1. any income from the Scottish Infected Blood Support Scheme **and**
2. any income from capital that was received from the Scottish Infected Blood Support Scheme.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1) & 39(7)

Payments from money which came from the Trusts

Meaning of the Trusts

28468 "The Trusts"¹ is the term that describes

1. the Macfarlane Trusts **and**
2. the Fund **and**
3. the Eileen Trust **and**
4. the Skipton Fund **and**
5. the London Bombings Relief Charitable Fund **and**
6. MFET Limited **and**
7. the Caxton Foundation **and**
8. the Scottish Infected Blood Support Scheme.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(7)

What payments should be disregarded

28469 Income passed to another person from money from a Trust payment should be disregarded in the cases described in DMG 28470 - 28487. In these cases, the person receiving the income is not the person who qualified for the Trust payment. In any other circumstances, payments of income from a Trust payment should be treated under normal rules.

Person with HIV

28470 In this guidance the term "person with HIV" is used to describe

1. people with haemophilia **or**
2. other people

who qualify for Trust payments.

Qualifying person

28471 In this guidance a qualifying person means¹ a person in respect of whom a payment has been made from

1. the Fund **or**
2. the Eileen Trust **or**
3. the Skipton Fund **or**
4. the London Bombings Relief Charitable Fund **or**
5. MFET Limited **or**
6. the Caxton Foundation **or**
- 7.. the Scottish Infected Blood Support Scheme

Note: A person in respect of whom a payment has been made from the Macfarlane Trust is not included above but is included in the definition at DMG 28470.

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

Payments by a qualifying person or person with HIV to partners, children and young people

28472 Disregard any payment made by or on behalf of a qualifying person or person with HIV from money from a Trust payment made to or for the benefit of

1. their partner or their former partner if they are **not**
 - 1.1 estranged **or**
 - 1.2 divorced **or**
 - 1.3 former civil partners **or**

- 1.4 estranged, divorced or had their civil partnership dissolved at the date of death if the qualifying person or person with HIV has died¹ **or**
- 2. any child or young person who
 - 2.1 is a member of the family of the qualifying person or person with HIV **or**
 - 2.2 was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family².

Note: DMG 28479 - 28480 explains for how long the payment is disregarded.

*1 JSA Regs, Sch 7, para 41(2)(a); IS (Gen) Regs, Sch 9, para 39(2)(a);
2 JSA Regs, Sch 7, para 41(2)(b); IS (Gen) Regs, Sch 9, para 39(2)(b) & (c)*

Payments by the partner or former partner of the qualifying person or person with HIV

- 28473 Fully disregard any payment from a Trust payment made by or on behalf of a partner or former partner of a qualifying person or person with HIV, providing the qualifying person or person with HIV and partner or former partner are **not**
- 1. estranged **or**
 - 2. divorced **or**
 - 3. former civil partners **or**
 - 4. estranged, divorced or had their civil partnership dissolved at the date of death of either
 - 4.1 the qualifying person or person with HIV **or**
 - 4.2 the partner or former partner.

- 28474 This disregard applies if the payment is made to or for the benefit of
- 1. the qualifying person or person with HIV¹ **or**
 - 2. any child or young person² who
 - 2.1 is a member of the family of the qualifying person or person with HIV **or**
 - 2.2 was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family.

Note: DMG 28479 - 28480 explains for how long the payment is disregarded.

*1 JSA Regs, Sch 7, para 41(3)(a); IS (Gen) Regs, Sch 9, para 39(3)(a);
2 JSA Regs, Sch 7, para 41(3)(b); IS (Gen) Regs, Sch 9, para 39(3)(b)*

Payments by a qualifying person or person with HIV to parents, step parents or guardians

- 28475 Fully disregard any payment from a Trust payment by a qualifying person or person with HIV to their
- 1. parent **or**
 - 2. step parent¹ **or**

3. guardian² if the qualifying person or person with HIV has no parent or step parent and is a

- 3.1 child **or**

- 3.2 young person **or**

- 3.3 student in FTE.

1 JSA Regs, Sch 7, para 41(4)(b)(i); IS (Gen) Regs, Sch 9, para 39(4)(b)(i);

2 JSA Regs, Sch 7, para 41(4)(b)(ii); IS (Gen) Regs, Sch 9, para 39(4)(b)(ii)

28476 This disregard applies if the qualifying person or person with HIV

1. has no partner or former partner from whom that person is **not**

- 1.1 estranged **or**

- 1.2 divorced **or**

- 1.3 former civil partners **and**

2. has no child or young person in the family **and**

3. has never had a child or young person in their family¹.

Note: DMG 28481 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(4)(a); IS (Gen) Regs, Sch 9, para 39(4)(a)

Payments from the estate of a qualifying person or person with HIV to a parent, step parent or guardian

28477 Fully disregard any payment from the estate of a qualifying person or person with HIV to

1. a parent **or**

2. a step parent¹ **or**

3. a guardian² if at the date of death/the qualifying person or person with HIV had no parent or step parent and was a

- 3.1 child **or**

- 3.2 young person **or**

- 3.3 student in FTE.

1 JSA Regs, Sch 7, para 41(5)(b)(i); IS (Gen) Regs, Sch 9, para 39(5)(b)(i);

2 JSA Regs, Sch 7, para 41(5)(b)(ii); IS (Gen) Regs, Sch 9, para 39(5)(b)(ii)

28478 This disregard applies if at the date of death the qualifying person or person with HIV had

1. no partner or former partner from whom that person is **not**

- 1.1 estranged **or**

- 1.2 divorced **or**

- 1.3 former civil partners **or**

2. no child or young person in the family **and**
3. at no time had a child or young person in the family¹.

Note: DMG 28482 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(5)(a); IS (Gen) Regs, Sch 9, para 39(5)(a)

For how long should the payment be disregarded

Payments to a qualifying person or person with HIV and partners

28479 Disregard payments made to or for the benefit of

1. a qualifying person or person with HIV¹ **or**
2. the partner or former partner of a qualifying person or person with HIV²

for the lifetime of the person who received the payment. Breaks in entitlement to IS or JSA(IB) do not alter this disregard.

1 JSA Regs, Sch 7, 41(3)(a); IS (Gen) Regs, Sch 9, para 39(3)(a)

2 JSA Regs, Sch 7, para 41(2)(a); IS (Gen) Regs, Sch 9, para 39(2)(a)

Payments to children and young people

28480 Disregard payments made to or for the benefit of a child or young person as long as they remain

1. a child or young person **and**
2. in (or they were in) the family of¹
 - 2.1 the qualifying person or person with HIV **or**
 - 2.2 the partner or former partner of the qualifying person or person with HIV **and**
3. a member of the IS or JSA(IB) claimant's family.

1 JSA Regs, Sch 7, para 41(2)(b) and 41(3)(b); IS (Gen) Regs, Sch 9, para 39(2)(b) & (c) & 39(3)(b) & (c)

Payments to parents and guardians from a qualifying person or person with HIV

28481 Disregard payments to a

1. parent **or**
2. step parent **or**
3. guardian

from the date the payment is made until the end of two years after the qualifying person or person with HIV dies¹.

Note: In some cases this disregard may last for the length of the JSA(IB)/IS claim, because the person with HIV may not die whilst the claimant is on JSA(IB)/IS.

1 JSA Regs, Sch 7, para 41(4); IS (Gen) Regs, Sch 9, para 39(4)

Payments to parents and guardians from the estate of a qualifying person or person with HIV

28482 Disregard¹ payments to a

1. parent **or**
2. step parent **or**
3. guardian

for a period of two years from the date the qualifying person or person with HIV died.

Note: This disregard applies from the date of death not the date the estate makes a payment.

1 JSA Regs, Sch 7, para 41(5); IS (Gen) Regs, Sch 9, para 39(5)

Deciding if a disregard applies

28483 Once the claimant has declared any payments made from one of the Trusts the DM should decide

1. if the payment qualifies for a disregard **and**
2. the length of any disregard.

28484 Seek further evidence if there is doubt about the

1. source of the payment **or**
2. relationship of the person receiving the payment with the qualifying person or person with HIV **or**
3. extent that money from the Trust has been kept separately.

Trust payments invested with other money

28485 If a Trust payment is invested with other money to produce an income, disregard only the proportion that came from the trust payment¹.

1 JSA Regs, Sch 7, para 41(6); IS (Gen) Regs, Sch 9, para 39(6)

Example

Michael bought an annuity for £5,000. £4,000 came from the Eileen Trust. The balance came from his own savings.

The annuity produces an income of £50 a month.

The DM decides to disregard £40 a month. £10 a month is taken into account as income.

Qualifying person or person with HIV's relationship with former partners

- 28486 The DM should be satisfied that a former partner or civil partner is not estranged or divorced or had the civil partnership dissolved. Accept the claimant's statement unless it is considered to be improbable or self-contradictory.

Example

Joanne receives a payment of money from the Macfarlane Trust. She is divorced from her former partner Harold, who is a person with HIV.

The DM decides that the payment should not be disregarded.

Social fund funeral payments

- 28487 Trust payments will become part of a person's estate upon death. Any assets of a dead person including

1. payments of income from the Trusts including Variant Creutzfeldt-Jakob disease payments **and**
2. payments of income from money that originally came from the Trusts or from Variant Creutzfeldt-Jakob disease payments

are not taken into account as assets of the estate if a claim for a SFFP is made (see DMG Chapter 39).

28488 - 28489

When is a payment due to be made

28512 A payment is due to be paid where there is a promise or agreement to make a payment.

Disregard for relevant payments

28513 Fully disregard¹ any relevant payment unless one of the exceptions at DMG 28514 - 28515 apply.

1 JSA Regs, Sch 7, para 15(1); IS (Gen) Regs, Sch 9, para 15(1)

Relevant payments that should be taken fully into account

28514 The disregard in DMG 28513 does not apply to

1. a person affected by a TD¹ **or**
2. LRPs² **or**
3. maintenance, that is not an LRP for
 - 3.1 a member of the family **or**
 - 3.2 a former partner **or**
 - 3.3 the childrenof the person making the payment³ **or**
4. a student's covenant or grant income⁴ **or**
5. in JSA cases only, any payment made to a member of the family because another member of the family is involved in a TD⁵ **or**
6. in IS cases only, to a person entitled to IS during
 - 6.1 a TD **or**
 - 6.2 the first 15 days after returning to work after a TD⁶.

Note: JSA can not be paid to claimants involved in a TD. Special rules apply if a member of the family of a JSA claimant is involved in a TD.

1 JSA Regs, Sch 7, para 15(3)(b)(i); IS (Gen) Regs, Sch 9, para 15(3)(b); 2 JSA Regs, reg 89 & 90; IS (Gen) Regs, reg 25 & 25A; 3 JSA Regs, Sch 7, para 15(3)(a); IS (Gen) Regs, Sch 9, para 15(3)(a); 4 JSA Regs, reg 134; IS (Gen) Regs, reg 65; 5 JSA Regs, Sch 7, para 15(3)(b)(ii); 6 IS (Gen) Regs, Sch 9, para 15(3)(b)

Relevant payments paid in kind

28515 Fully disregard relevant payments that are paid in kind¹ unless one of the exceptions at DMG 28418 applies. The exceptions at DMG 28418 do not apply when the income in kind comes from

1. the Macfarlane Trust
2. the Macfarlane (Special Payments) Trust

3. the Macfarlane (Special Payments) (No. 2) Trust
4. the Fund
5. the Eileen Trust
6. the Independent Living Fund (2006) but see DMG 28351
7. MFET Limited
8. the Caxton Foundation **or**
9. the Skipton Fund
10. the Scottish Infected Blood Support Scheme.

as explained at DMG 28419.

1 JSA Regs, Sch 7, para 22; IS (Gen) Regs, Sch 9, para 21

28516 - 28529

2. neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment¹.

1 IS (Gen) Regs, reg 42(4ZA)(d); JSA Regs, reg 105(10A)(d)

28668 **[See DMG Memo IS/JSA 64]** A claimant is also not treated as possessing a payment under DMG 28665 where

1. the estate of the person for whom the payment is made
 - 1.1 is subject to a sequestration order **or**
 - 1.2 has a judicial factor on it **and**
2. the payment is made to a person acting on behalf of the creditors **and**
3. neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment¹.

1 IS (Gen) Regs, reg 42(4ZA)(d); JSA Regs, reg 105(10A)(d)

28669 **[See DMG Memo IS/JSA 64]** Income other than a benefit may be paid to a third party. The DM should treat this type of income as the notional income of the person for whom it is payable, to the extent it is used for that person's¹

1. food
2. ordinary clothing or footwear
3. fuel, for the household that the claimant normally occupies
4. housing costs covered by IS or JSA(IB)
5. rent for which HB is payable
6. water charges
7. CT.

Ignore any part of the income not used on these items.

Note: If the income paid to the third party in the first instance is a payment in kind it would be excluded from this notional income rule.

1 JSA Regs, reg 105(10)(a)(ii); IS (Gen) Regs, reg 42(4)(a)(ii)

28670 Disregard the payment to the third party¹

1. whatever it is used for, if it is made from
 - 1.1 the Macfarlane Trusts **or**
 - 1.2 the Eileen Trust **or**
 - 1.3 MFET Limited **or**
 - 1.4 the Fund **or**
 - 1.5 the Independent Living Fund (2006) see DMG 28351 **or**
 - 1.6 the Skipton Fund **or**

1.7 the Caxton Foundation **or**

1.8 the Scottish Infected Blood Support Scheme **or**

2. if it is for the purchase and supply of concessionary coal under specified legislation². The Department of Energy and Climate Change is now responsible for the purchase and supply of concessionary coal. Coal is purchased through contracts and supplied to ex-coal workers and their families. The payment from the Department of Energy and Climate Change to the contractor is a payment to a third party and is disregarded.

1 JSA Regs, reg 105(10A)(a); IS (Gen) Regs, reg 42(4ZA)(a);

2 The Coal Industry Act 94, s 19(1)(a); JSA Regs, reg 105(10A)(b); IS (Gen) Regs, reg 42(4ZA)(b)

Meaning of ordinary clothing or footwear

28671 The expression “ordinary clothing or footwear” means¹ clothing or footwear for normal daily use. It does not include

1. school uniforms **or**
2. clothing or footwear used solely for sport, for example football boots.

1 JSA Regs, reg 105(16); IS (Gen) Regs, reg 42(9)

28672 The DM should consider the wide needs of all claimants when applying the test of “for normal daily use”.

Example

Emma receives IS. She has a disabled son, Ben, who needs to wear orthopaedic shoes.

The DM decides that orthopaedic shoes may be normal for Ben but are not normal for children in general. The DM decides that the orthopaedic shoes are not for normal daily use.

28673 - 28675

Payments by a third party for care home, Abbeyfield Home or independent hospital charges

28676 **[See DMG Memo IS/JSA 64]** Treat payments made by a third party, who is not a member of the family, towards the cost of charges for a

1. care home **or**
2. Abbeyfield Home **or**
3. independent hospital

as the income of the claimant¹.

1 JSA Regs, reg 105(11); IS (Gen) Regs, reg 42(4A)

- 28677 This rule applies when the
1. claimant lives in or is temporarily absent from a care home, Abbeyfield Home or independent hospital **and**
 2. payment is made to the care home, Abbeyfield Home or independent hospital.

The DM should calculate the amount of income and treat it as if it was actual income¹.

1 JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

Third party payments for care homes, Abbeyfield Homes or independent hospitals and National Health maintenance

- 28678 A payment is disregarded¹ if it is
1. made for
 - 1.1 after-care under specified legislation² **or**
 - 1.2 accommodation or welfare services referred to in specified legislation³ **and**
 2. treated as possessed under the notional income rule at DMG 28676⁴.

1 IS (Gen) Regs, Sch 9, para 66; JSA Regs, Sch 7, para 64; 2 MH Act 83, s 117; MH (C & T) (Scot) Act 03, s 25; 3 NA Act 48, Part III; SW (Scot) Act 68; 4 IS (Gen) Regs, reg 42(4A)

- 28679 Payments that satisfy DMG 28678 include payments or reimbursements by a LA for
1. persons who because of age, illness, disability or other circumstances are in need of care and attention which is not otherwise available to them **or**
 2. expectant and nursing mothers¹.

1 NHS and Community Care Act 1990, s 42; NA Act 1948, s 21(4)

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

- 28680 **[See DMG Memo IS/JSA 64]** Take into account in full any income paid to a member of the family for a third party who is not a member of the family if
1. the income is kept by **or**
 2. is not paid over to the third party by
- the person who received it. Ignore any income that is paid over to the third party¹.

Note: CHB is the personal income of the CHB claimant. Even if the child for whom the CHB is paid is not part of the claimant's family for IS or JSA it should be taken into account as the claimant's actual income.

1 JSA Regs, reg 105(10)(b); IS (Gen) Regs, reg 42(4)(b)

28681 **[See DMG Memo IS/JSA 64]** Fully disregard any payment from

1. the Macfarlane Trusts
2. the Eileen Trust
3. MFET Limited
4. the Fund
5. the Independent Living Fund (2006) but see DMG 28351
6. the Skipton Fund
7. the Caxton Foundation
8. the Scottish Infected Blood Support Scheme

regardless of who keeps it or how it is used.

28682 **[See DMG Memo IS/JSA 64]** The DM should decide using, available evidence

1. whether **and**
2. how much

income has been kept by a member of the family.

28683 **[See DMG Memo IS/JSA 64]** Treat income as having been kept when

1. there is no intention of
 - 1.1 paying it over to **or**
 - 1.2 using it forthe third party **or**
2. if after having the income for a reasonable period of time the family member has
 - 2.1 not started paying it over **or**
 - 2.2 not started using it for the third party **or**
 - 2.3 has no plans for paying it over or using it for the third party.

28684 The DM should consider

1. the type of income **and**
2. how often the income is paid **and**
3. why the income is paid

when deciding if a reasonable period of time has passed.

Example 1

Rodney is a JSA(IB) claimant.

Rodney receives income for his cousin Roland who is a long-term patient in a local hospital.

The income is paid weekly and Rodney has been receiving it for four weeks.

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Capital disregarded indefinitely

Adoption allowance

29360 LAs and other adoption agencies may pay adoption allowance to help people who might otherwise not be able to afford to adopt children. It may be paid where a

1. long-term foster parent wishes to adopt but cannot afford to lose their boarding out allowance **or**
2. child's prospects of adoption are lowered because of disability.

Each LA has its own scheme. There is usually a rule that ends the allowance when the adopted child or young person stops living with the adopter.

29361 Payments of adoption allowances made under specific legislation¹ are disregarded indefinitely².

1 Adoption and Children Act 2002, s 2(6)(b) 3 or 4; 2 JSA Regs, Sch 8, para 61; IS (Gen) Regs, Sch 10, para 68

Special guardianship payments

29362 Special guardianship payments are made in England and Wales to provide more security for a child than long-term fostering but without the complete severance from a child's birth family that would happen with an adoption order. Any special guardianship payment made to the claimant under specific legislation¹ is fully disregarded indefinitely². In order to find out if the payments are made under the specified legislation, the DM can make enquiries of the paying body.

1 Children Act 1989, s 14F; 2 JSA Regs, Sch 8, para 61A; IS (Gen) Regs, Sch 10, para 68A

Annuities

29363 An annuity is a fixed sum payable at specified intervals in return for a premium paid either by instalments or in a single payment. An annuity is normally taken out to provide an income in retirement. Both the right to receive income from an annuity and the surrender value of the annuity are disregarded indefinitely¹. Payments made under an annuity are capital which is treated as income.

1 JSA Regs, Sch 8, para 16; IS (Gen) Regs, Sch 10, para 11

Business assets

The law

29364 The assets of a business are disregarded indefinitely if

1. the person owns all or some of the assets and works in the business as a S/E earner¹ **or**
2. the assets have been acquired by a person receiving assistance under the S/E Employment Option of the ND (see DMG 14132) for the purpose of establishing or carrying out the commercial activity for which the assistance is being received².

1 JSA Regs, Sch 8, para 11(1); IS (Gen) Regs, Sch 10, para 6(1);

2 JSA Regs, Sch 8, para 11(3); IS (Gen) Regs, Sch 10, para 6(3)

29365 The assets of a business are disregarded for a reasonable period to allow them to be sold if the person

1. owns all or some of the business assets and has stopped working in the business as a S/E earner¹ **or**
2. was receiving assistance under the S/E Employment Option of the ND (see DMG 14132) and has ceased carrying on the commercial activity in respect of which such assistance was being received².

Example

John owns an amusement arcade in Bournemouth. He stopped working in the arcade as a S/E earner on 31 October and claimed JSA on 3 November. The assets of the business are a lease on the building, gaming machines and tools used to repair the machines. John states the value of these assets is £45,000. John also states that he is not going to sell the assets because he needs them when he opens the arcade again in the following April. The DM decides that the assets of the business cannot be disregarded.

Note: A different disregard applies if persons are not able to work in the business because they are ill or physically or mentally disabled and are going to start or return to work in the business (see DMG 29520 - 29523).

1 JSA Regs, Sch 8, para 11(1); IS (Gen) Regs, Sch 10, para 6(1);

2 JSA Regs, Sch 8, para 11(4); IS (Gen) Regs Sch 10, para 6(4)

Meaning of business assets

29366 Business assets include standard items such as machinery, vehicles, fixtures and cash held in the bank (including money held following the sale of assets). They may also include items such as customer lists and contacts, current and future contracts and goodwill.

29367 In the event of their sale, assets may result in an income or capital receipt. A sale of an asset such as "work in hand" may result in an income receipt and so would be appropriate for inclusion in the profit and loss account. Where doubt exists as to whether a particular asset would represent a capital or income receipt upon its sale,

29416 Payments can only come within this disregard where the claimant or partner for whom the payment was made themselves suffered a physical and/or psychological injury. If there is any doubt as to what the payment was awarded for, then the DM should request sight of the papers awarding the amount. These should specify on what basis the award was made.

Example 1

Peter's wife was killed in a road traffic accident and he was awarded £36,000 which covered loss of earnings. As the award was not due to Peter suffering any injury to himself, then this amount would be taken in account when calculating his capital.

Example 2

Fiona received £100,000 as the result of an assault on her partner which resulted in his death. The award was for the psychological injury to Fiona arising from her witnessing the attack. As the amount was awarded for the injury to Fiona, the amount is disregarded in calculating her capital.

The Children's Memorial Trust

29417 The Children's Memorial Trust was set up as a result of Court action taken by parents of deceased children whose organs were retained by Alder Hey hospital without agreement. Payments are made from the Children's Memorial Trust to the parents in respect of each child. Where people can show that they have received a payment from the Children's Memorial Trust under the "Heads of Agreement" in relation to the Court action, the payment will be made in consequence of a personal injury to **them**. The value of a payment made by the Children's Memorial Trust is disregarded indefinitely if held on trust. The value of the right to receive payment from the Children's Memorial Trust is also disregarded indefinitely.

Payment in kind

29418 A payment in kind is disregarded indefinitely if made by

1. a charity
2. the Macfarlane (Special Payments) Trust (see DMG 29458)
3. the Macfarlane (Special Payments) (No. 2) Trust (see DMG 29459)
4. the Fund (see DMG 29460)
5. the Skipton Fund (see DMG 29463)
6. the Caxton Foundation (see DMG 29464)
7. SIBSS (see DMG 29463)
8. the Independent Living Fund (2006) (see DMG 29443) **and**

for JSA only

8. the Macfarlane Trust (see DMG 29457)
9. Eileen Trust (see DMG 29461).

1 JSA Regs, Sch 8, para 31; IS (Gen) Regs, Sch 10, para 29

Payment made by local authority under child care law

29419 A payment of capital made by the LA under child care law¹ is disregarded indefinitely where DMG 29420 below applies². This does not apply if

1. for JSA it is paid to a member of the claimant's family who is involved in a TD
or
2. for IS it is paid
 - 2.1 to a claimant or partner who is involved in a TD **or**
 - 2.2 during the first 15 days to a claimant or partner who has returned to work after being involved in a TD³.

Note: The capital is treated as income if **1.** or **2.** applies (see DMG 29383).

1 Children Act 1989, s 17, 23B, 23C & 24A; Children (Leaving Care) Act 2000; Social Work (Scotland) Act 1968, s 12; Children (Scotland) Act 1995, s 29 & 30; 2 JSA Regs, Sch 8, para 22; 3 IS (Gen) Regs, Sch 10, para 17

29420 Where

1. a former child (aged 18+) who was in the claimant's care still lives with the claimant **and**
2. the LA make a lump sum payment under certain child care law to the former child in care **and**
3. the former child in care passes the payment on to the claimant

that sum received by the claimant is disregarded indefinitely¹ when calculating the claimant's capital.

1 JSA Regs, Sch 8, para 22; IS (Gen) Regs, Sch 10, para 17

Payment made to disabled persons to get or keep employment

The law

29421 A payment made by the Secretary of State or some other person under the law governing the employment of disabled people¹ to help disabled people get or keep employment despite their disability is disregarded indefinitely².

Note: See DMG 29503 for guidance on payments made to disabled people under employment and training law.

1 Disabled Persons (Employment) Act 1944; 2 JSA Regs, Sch 8, para 40; IS (Gen) Regs, Sch 10, para 42

Meaning of the Independent Living Fund (2006)

29445 The Independent Living Fund (2006) was set up on 10.4.06 between the Secretary of State on the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin on the other part¹.

Note: The Independent Living Fund (2006) closed on 30.6.15 with funding responsibilities transferring to Local Authorities 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 the claimant receives funding from any of these schemes.

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

29446

Payment included with other capital

29447 If the payment is included with other capital the disregard does not apply to the other capital.

29448 If money is withdrawn from an account which includes the payment and other capital accept the money withdrawn is from the other capital and not the payment. If there is evidence to show the money withdrawn is from the payment and not the other capital accept that evidence.

Payments in kind

29449 If payment is made in kind see DMG 29419.

The Macfarlane Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, SIBSS or the London Bombings Relief Charitable Fund

The law

29450 One-off payments made from the Trusts (see DMG 29454) are disregarded indefinitely¹.

Note: If the payments are made regularly they are income and the DM should decide if they can be disregarded before working out the amount of income.

1 JSA Regs, Sch 8, para 27(1); IS (Gen) Regs, Sch 10, para 22(1)

29451 A payment from money which a person gets from the Trusts is disregarded indefinitely if the payment is made

1. by or on behalf of the person who got the money from the Trusts and that person

- 1.1 has haemophilia or is a qualifying person **or**
- 1.2 had haemophilia or was a qualifying person if the person has died **and**
- 2. to or for the benefit of
 - 2.1 a partner or former partner of the person who got the money from the Trusts and they are not estranged, divorced or part of a dissolved civil partnership or were not if the person has died **or**
 - 2.2 a child or young person who
 - 2.2.a is a member of the family of the person who got the money from the Trusts **or**
 - 2.2.b was a member of that person's family and is a member of the claimant's family¹.

The disregard does not apply if the person to whom or for whose benefit the payment is made is a child or young person and that person is no longer a child or young person.

1 JSA Regs, Sch 8, para 27(2); IS (Gen) Regs, Sch 10, para 22(2)

29452 A payment from money which a partner or former partner gets from the Trusts is disregarded indefinitely if the payment is made

- 1. by or on behalf of a partner or former partner of a person who
 - 1.1 has haemophilia or is a qualifying person **or**
 - 1.2 had haemophilia or was a qualifying person if the person has died and they are not estranged, divorced or part of a dissolved civil partnership or were not if the person has died **and**
- 2. to or for the benefit of
 - 2.1 a person who has haemophilia or is a qualifying person **or**
 - 2.2 a child or young person who
 - 2.2.a is a member of the person's at 2.1 family **or**
 - 2.2.b was a member of that person's family and is a member of the claimant's family¹.

This disregard does not apply if the person to whom or for whose benefit the payment is made is a child or young person and that person is no longer a child or young person.

1 JSA Regs, Sch 8, para 27(3); IS (Gen) Regs, Sch 10, para 22(3)

29453 Any capital the person gets from the income or capital of the payment

- 1. from the Trusts **or**
- 2. at DMG 29450

is disregarded indefinitely¹.

Example

Virginia is in receipt of IS. On 5 March she gets a one-off payment of £15,000 from the Fund. She opens a building society account with the money. She has no other capital. The DM decides that the money in the building society account is disregarded. On 1 April Virginia withdraws all the money and the interest it has made and buys some shares. The DM decides that the value of the shares is disregarded indefinitely.

1 JSA Regs, Sch 8, para 27(6); IS (Gen) Regs, Sch 10, para 22(6)

The Trusts

29454 The Trusts means the

1. Macfarlane Trust
2. Macfarlane (Special Payments) Trust
3. Macfarlane (Special Payments) (No. 2) Trust
4. the Fund
5. Eileen Trust
6. MFET Limited
7. Skipton Fund
8. Caxton Foundation
9. SIBSS and
10. London Bombings Relief Charitable Fund¹.

1 JSA Regs, Sch 8, para 27(1); IS (Gen) Regs, Sch 10, para 22(1) & para 22(7)

The Macfarlane Trust

29455 The Macfarlane Trust is the name of a charitable trust set up with part of the money being given by the Secretary of State to the Haemophilia Society for the relief of poverty or distress among those suffering from haemophilia¹.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1) & Sch 10, para 22(1)

The Macfarlane (Special Payments) Trust

29456 The Macfarlane (Special Payments) Trust is the name of a discretionary trust set up on 29.1.90 with part of the money being given by the Secretary of State for the benefit of certain people who are affected by haemophilia¹.

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

The Macfarlane (Special Payments) (No. 2) Trust

29457 The Macfarlane (Special Payments) (No. 2) Trust is the name of a discretionary trust set up on 3.5.91 with part of the money being given by the Secretary of State

for the benefit of certain people who are affected by haemophilia and other people¹.

The other people are people who

1. have become infected with HIV **or**
2. were at risk of infection

because of contact with haemophiliacs.

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

The Fund

29458 The Fund is money made available from time to time by the Secretary of State for the benefit of people who satisfy the terms of the scheme which was set up Scotland on 10.4.92 and elsewhere on 24.4.92¹. It benefits non-haemophiliacs who were infected with HIV whilst undergoing treatment by NHS blood or tissue transfer or blood products. It makes one-off payments.

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

The Eileen Trust

29459 The Eileen Trust is the name of a charitable trust set up on 29.3.93 with money given by the Secretary of State for the benefit of persons who satisfy the terms of the trust¹. It further benefits non-haemophiliacs who benefit under the Fund. It makes payment for occasional or continuing need.

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

MFET Limited

29460 The Department of Health funds an organisation called MFET Limited¹ to provide financial help to people who have been infected with HIV as a result of treatment with NHS blood or blood products.

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

The Skipton Fund

29461 The Skipton Fund is the Skipton Fund Limited which was incorporated on 25.3.04 to administer an ex-gratia payment scheme for the benefit of people suffering from Hepatitis C and other people eligible for payment in accordance with the scheme's provisions¹. The ex-gratia payments will be a

1. lump sum payment of £20,000 to people infected with Hepatitis C **and**
2. further payment of £25,000 to people who develop advanced liver disease.

Note 1: No payments will be made in respect of people who died before 29.8.03 or recover from Hepatitis C naturally.

Note 2: Where a person who is entitled to an ex-gratia payment dies on or after 29.8.03 but before a payment can be made, the payment will be made to that person's dependants.

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

The Caxton Foundation

29462 The Caxton Foundation was established on 28.3.11. It administers funds provided by the Secretary of State for Health for the benefit of certain persons suffering from hepatitis C and other persons eligible for payments¹.

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

Scottish Infected Blood Support Scheme

29463 Following a review of the existing infected blood support schemes, the Scottish Government has decided that these services will be combined and administered by a new single scheme administrator for Scotland. SIBSS will be operational from 1.4.17 and will be administered by NHS National Services Scotland (NSS), legally known as the Common Services Agency. NSS is an NHS Board accountable to Scottish Ministers.

The London Bombings Relief Charitable Fund

29464 The London Bombings Relief Charitable Fund was established on 11.7.05 following the terrorist attacks carried out in London on 7.7.05. People who were bereaved, or who suffered injury, may receive lump sum payments from the London Bombings Relief Charitable Fund ranging between £3,000 and £25,000.

Further lump sum payments of a similar amount may also be made to the same beneficiaries.

Qualifying person

29465 Qualifying person means a person for whom a payment has been made from the Fund, the Eileen Trust, the Skipton Fund, the Caxton Foundation, the London Bombings Relief Charitable Fund or SIBSS¹.

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

Evidence

29466 The Secretary of State has agreed the payments from the

1. Macfarlane Trust
2. Macfarlane (Special Payments) Trust
3. Macfarlane (Special Payments) (No. 2) Trust

4. Fund
5. Eileen Trust
6. Skipton Fund
7. Caxton Foundation
8. London Bombings Relief Charitable Fund

do not have to be declared if they are kept separate from any other capital the person has. The person getting the payment is told of this.

29467 Benefit Delivery Specialist Operations Team will get information about payments from those trusts or fund if it is needed. The trustees and DH should not be contacted.

Payment included with other capital

29468 If the payment is included with other capital the disregard does not apply to the other capital.

29469 If money is withdrawn from an account which includes the payment and other capital accept the money withdrawn is from the other capital and not the payment. If there is evidence to show the money withdrawn is from the payment and not the other capital accept that evidence.

Other payments which are disregarded

29470 Other payments are disregarded. If the payment is made

1. in kind, see DMG 29419 **or**
2. to or for the benefit of some other person, see DMG 29485 - 29489.

Payments to persons imprisoned or interned by the Japanese during the Second World War

29471 An ex-gratia payment of £10,000 made by the Secretary of State on or after 1.2.01 in consequence of the imprisonment or internment of

1. the claimant **or**
2. the claimant's partner **or**
3. the claimant's deceased spouse or civil partner **or**
4. the claimant's partner's deceased spouse or civil partner

by the Japanese during the Second World War is disregarded indefinitely¹.

Example

Jim is receiving JSA. His civil partner Albert, has capital of £2,300. Albert receives a payment of £10,000 because he was interned by the Japanese during the Second World War. The DM decides that the payment of £10,000 received by Albert is disregarded indefinitely.

1 JSA Regs, Sch 8, para 56; IS (Gen) Regs, Sch 10, para 61

Payments made to sufferers of variant Creutzfeldt-Jakob disease and their partners

Meaning of “the relevant trust”

29472 The relevant trust means the trust established out of funds provided by the Secretary of State in respect of persons who have suffered or are suffering from variant Creutzfeldt - Jakob disease and their families. Trustees have discretion to pay compensation from the fund to those eligible¹.

1 JSA Regs, Sch 8, para 57(6); IS (Gen) Regs, Sch 10, para 64(6)

Meaning of “diagnosed person”

29473 Diagnosed person means a person who has been diagnosed as suffering from or who after his death, has been diagnosed as having suffered from variant Creutzfeldt-Jakob disease¹.

1 JSA Regs, Sch 8, para 57(6); IS (Gen) Regs, Sch 10, para 64(6)

29474 Any payments made from the relevant trust to

1. the diagnosed person **or**
2. the partner of the diagnosed person **or**
3. the person who was the diagnosed person’s partner at the date of the diagnosed person’s death

is disregarded from the date on which the payment is made until the date on which that person dies¹.

Example

Thomas died of variant Creutzfeldt-Jakob disease on 25.11.06. His widow, Helga, makes a claim for IS. On 5.5.07 she receives a payment of £25,000 from the relevant trust. The DM decides that this payment is disregarded for Helga’s lifetime.

Note: The reference to the surviving partner of the diagnosed person includes someone who would have been the partner but for the diagnosed person being in a care home on the date they died².

1 JSA Regs, Sch 8, para 57; IS (Gen) Regs, Sch 10, para 64; 2 JSA Regs, Sch 8, para 57(5); IS (Gen) Regs, Sch 10, para 64(5)

29475 Where a payment is made

1. by a person to whom a payment from the relevant trust has been made or from the estate of such a person **or**
2. to
 - 2.1 the partner of the diagnosed person **or**
 - 2.2 the person who was the diagnosed person's partner on the date the diagnosed person died

the payment is disregarded indefinitely¹.

Example

Melanie is diagnosed as suffering from variant Creutzfeldt-Jakob disease and on 29.8.05 she receives a payment of £30,000 from the relevant trust. Melanie dies on 6.7.06 and her husband, David, inherits the payment which has been invested. On 2.2.07 David claims JSA(IB). He declares that he has capital of £31,210 which is the original payment of £30,000 plus £1,210 interest from investing that money. The DM decides that the £30,000 trust payment is disregarded for David's lifetime but the interest obtained for investing that payment cannot be disregarded.

Note: The disregard only applies to the extent that the total payments made do not exceed the total of any payments made from the relevant trust.

1 JSA Regs, Sch 8, para 57(3); IS (Gen) Regs, Sch 10, para 64(3)

29476 Trust payments may be made to other relatives of a person diagnosed with variant Creutzfeldt-Jakob disease. See

1. DMG 29490 if the payment is made to a parent of the diagnosed person
2. DMG 29492 if the payment is made to a dependant child or young person who is a member of the diagnosed person's family.

Second World War compensation payments

29477 The amount of a payment, other than a war pension, to compensate for the fact that during the Second World War the person

1. was a slave labourer or a forced labourer **or**
2. suffered property loss or suffered personal injury **or**
3. was a parent of a child who died

is disregarded indefinitely.

Note: Lump sum gratuities paid under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 do not fall within the definition of a war pension. Such payments would be disregarded indefinitely

- 29478 The disregard in DMG 29478 applies where the payment is made in respect of the
1. claimant **or**
 2. claimant's partner **or**
 3. claimant's deceased spouse or civil partner **or**
 4. claimant's partner's deceased spouse or civil partner¹.

1 JSA Regs, Sch 8, para 58; IS (Gen) Regs; Sch 10, para 65

Age related payments

- 29479 One-off age-related payments are payments of capital. DMs should not take them into account for IS purposes¹.

1 Age-Related Payments Act 2004, s 6(b)

Education maintenance allowance payments

- 29480 Any education maintenance allowance payable under prescribed legislation as
1. education maintenance allowance¹ **or**
 2. the same as education maintenance allowance² is disregarded indefinitely².

1 Education Act 1996, s 518; Education (Scotland) Act 1980, s 49 and 73(f); Further and Higher Education (Scotland) Act 1992, s 12(2)(c) & 21; 2 Education Act 2002, s 14 and 181; JSA Regs, Sch 8, para 52(1); IS (Gen) Regs, Sch 10, para 63(1)

16-19 Bursary Fund

- 29481 A new bursary scheme called the 16-19 Bursary Fund was introduced in September 2011. In England, this will replace EMA, however there will be some transitional protection for existing recipients. Any payment from this bursary fund is disregarded indefinitely¹.

1 Education Act 2002, s 14; JSA Regs, Sch 8, para 52(1); IS (Gen) Regs, Sch 10, para 63(1)

- 29482 In addition to the disregard at DMG 29481 and DMG 29482 any payment made under prescribed legislation¹ in respect of a course of study attended by a
1. child or young person **or**
 2. person who is receiving an education maintenance allowance or other payment as in DMG 29481 or DMG 29482 above

is also disregarded indefinitely².

1 Education Act 1996, s 518; Education (Scotland) Act 1980 s 49; Further and Higher Education (Scotland) Act 1992, s 12(2)(c) & 21; 2 JSA Regs, Sch 8, para 52(2); IS (Gen) Regs, Sch 10, para 63(2)

29483

Local welfare provision

29484 Local welfare provision means¹ occasional financial or other assistance made by an LA, the Welsh Ministers, the Scottish Ministers or an authorised person for the purpose of

1. meeting or helping to meet, an immediate short term need
 - 1.1 arising out of an exceptional event or exceptional circumstances **and**
 - 1.2 that requires to be met to avoid a risk to the well-being of an individual
or
2. enabling individuals to establish or maintain a settled home where those individuals have been or without assistance might otherwise be
 - 2.1 in prison, hospital, a residential care establishment or other institution
or
 - 2.2 homeless or living an unsettled way of life.

Such payments are disregarded indefinitely.

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

Capital disregarded for 52 weeks

[See Memo DMG 18/08]

Arrears of allowances and benefits

The law

29495 [\[See memo DMG 23/14\]](#) Arrears of certain allowances and benefits are disregarded for 52 weeks from the date the payment of arrears is received¹ (but see DMG 29511 if the arrears and any concessionary payment total £5000 or more). The disregard applies to arrears of

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. CAA and ESDA paid because the claimant is entitled to workmen's compensation⁴
5. an attendance allowance paid under the PB and MDB scheme
6. payments for attendance under the Civilian's Personal Injury Scheme⁵ or any similar payment. These payments are made to people who receive a DP because of war injuries suffered as civilians or civil defence volunteers
7. any payment for attendance which is part of a WDisP. This includes severe disablement occupational allowance paid with CAA
8. the care component of DLA
9. the mobility component of DLA
10. the mobility component of PIP
11. Mobility Supplement
12. Mobility Allowance which people could get under repealed social security law⁶
13. CTB
14. IS
15. for JSA only - JSA(IB)
16. for IS only - JSA(IB)
17. discretionary housing payment
18. CTC
19. WTC
20. ESA(IR)
21. any payment made to the claimant for travel or other expenses in respect of participation in

21.1 MWA Scheme **or**

21.2 SAPOE

22. UC

23. BSP⁶.

The disregard also applies to a concessionary payment which is made to compensate for arrears of those benefits or allowances. The disregard applies from the date the concessionary payment is received¹.

Note: The disregard at **16.** will not apply after 28.3.04.

*1 JSA Regs, Sch 8, para 12; IS (Gen) Regs, Sch 10, para 7; 2 SS CB Act 92, s 64; 3 s 104 or 105;
4 Workmen's Compensation Acts 1925 to 1945; 5 Personal Injuries (Civilians) Scheme 1983,
Art 14, 15, 16, 43 or 44; 6 SS Act 75, s 37A; 6 Pensions Act 14, s.30*

Meaning of concessionary payment

29496 Concessionary payment means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to

1. the NI Fund **or**
2. a Departmental Expenditure Vote to which payments of benefit under SS law¹ are charged².

1 JS Act 95; SS CB Act 92; 2 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

Additional payment of bereavement support payment

29497 Where a claimant in receipt of IS or JSA

1. makes a claim for BSP 12 months or less after their spouse or civil partner died **and**
2. receives the additional payment of BSP for the first month of their BSP period at either the higher (£3,500) or standard (£2,500) rate¹

that first additional payment is disregarded when calculating that person's capital for a period of 52 weeks from the date of receipt².

1 BSP Regs, reg 3(2) & (5); 2 IS (Gen) Regs, Sch 10, para 72; JSA Regs, Sch 8, para 65

Arrears of payments to certain war widows or surviving civil partners

29498 Payments to certain war widows and surviving civil partners are disregarded for 52 weeks from the date the payment of arrears is received. The disregard applies to arrears of

1. a supplementary pension paid to a widow or surviving civil partner, or where a person is not entitled to such a payment but to whom the Secretary of State has made a similar payment, for

1.1 the disablement **or**

- 1.2 death
 - of service personnel before 1973
- 2. a supplementary pension paid to a widow or surviving civil partner under the Personal Injuries (Civilians) Scheme **and**
- 3. a supplementary pension paid to the widow or surviving civil partner of a person
 - 3.1 whose death was caused by service similar to being in the armed forces **and**
 - 3.2 that service ended before 31.3.73 **and**
 - 3.3 the payment is equal to the amount in 1. above¹.

1 JSA Regs, Sch 8, para 39; IS (Gen) Regs, Sch 10, para 41

Payment for certain travel costs and National Health Service charges

29499 Payments and repayments of certain travel costs and NHS charges are disregarded for 52 weeks from the date the payment or repayment is received. The disregard applies to

- 1. a payment or repayment for
 - 1.1 travel costs to and from hospital for treatment as an in-patient or out-patient
 - 1.2 prescription charges
 - 1.3 sight tests
 - 1.4 glasses
 - 1.5 dental treatment
 - 1.6 wigs
 - 1.7 fabric supports
 under NHS law¹ **and**
- 2. a payment or repayment made by the
 - 2.1 Secretary of State for Health **or**
 - 2.2 Secretary of State for Scotland **or**
 - 2.3 Secretary of State for Wales
 which is like those at 1.².

1 National Health Service (Travel Expenses and Remission Charges) Regulations 2003, regs 3, 4 & Part IV; National Health Service (Travelling Expenses and Remission Charges) (Wales) Regulations 2007, regs 5, 6 & Part IV; National Health Service (Travelling Expenses and Remission Charges) (Scotland) (No. 2) Regulations 2003, regs 3, 5 & 8; 2 JSA Regs, Sch 8, para 36; IS (Gen) Regs, Sch 10, para 38

Payment made in place of milk or vitamin tokens

29500 A payment made under welfare food law¹ in place of

1. milk tokens **or**
2. vitamins **or**
3. healthy start vouchers

is disregarded for 52 weeks from the date the payment is received².

1 Welfare Food Regulations 1996; Health Start and Welfare Food (Amendment) Regulations 2005, reg 3;

2 JSA Regs, Sch 8, para 37; IS (Gen) Regs, Sch 10, para 39

Payment to visit a person in custody

29501 A payment made to a person by the

1. Secretary of State for Justice **or**
2. Secretary of State for Scotland

to pay for a visit to see someone who is in custody is disregarded for 52 weeks from the date the payment is received¹.

1 JSA Regs, Sch 8, para 38; IS (Gen) Regs, Sch 10, para 40

Reduction of community charge or council tax benefit

29502 A payment made because of the reduction of council tax under local government or domestic rates law¹ is disregarded for 52 weeks from the date the payment is received².

Note: The amount of council tax a person has to pay is normally reduced if the person can get a reduction. The disregard does not apply in that case. It only applies if a payment is made instead.

1 Local Government Finance Act 1992, s 13, 13A, 80 & Part 2;

2 JSA Regs, Sch 8, para 35; IS (Gen) Regs, Sch 10, para 36

Payments made under employment and training law

29503 Certain payments made under employment and training law¹ that are payments of capital are disregarded for a period of 52 weeks beginning on the date of receipt of the payment².

Note: See DMG Chapter 28 for guidance on the types of payments made under employment and training law.

1 E & T Act 73, s 2; Enterprise and New Towns (Scotland) Act 1990, s 2;

2 JSA Regs, Sch 8, para 32; IS (Gen) Regs, Sch 10, para 30

29504

Personal equity plans

29660 A personal equity plan was an investment. People could invest up to a certain amount of money in one in each tax year if they were

1. 18 or over **and**
2. liable to pay UK tax (see DMG Chapter 07).

The value of a personal equity plan is what people would get if they withdrew their investment on the date of claim or supersession. Any income which is paid out of a personal equity plan is income from capital.

29661 A personal equity plan mortgage is not a mortgage. It is a personal equity plan and should be valued as such even if people say they are going to use their investment to pay off their mortgage. Normally, a mortgage is an incumbrance secured on the property bought with the mortgage. The mortgage is not likely to be an incumbrance secured on the personal equity plan.

Note: A personal equity plan was replaced by an individual savings account in April 1999. From that date people could no longer invest in their personal equity plan or open a new one.

Individual savings account

29662 An individual savings account is an investment. People can invest up to a certain amount of money in one in each tax year if they are

1. 16 or over **and**
2. resident or ordinarily resident in the UK for tax purposes.

The value of an individual savings account is what people would get if they withdrew their investment on the date of claim or supersession. Any income, which is paid out of an individual savings account, is income from capital.

29663 Normally, a mortgage is an incumbrance secured on the property bought with the mortgage. If someone says they are using an individual savings account to pay off their mortgage this is not likely to be an incumbrance secured on the individual savings account and it should be valued as such.

29664 It is a requirement of the regulations that the individual savings account remain in the beneficial ownership of the investor¹.

1 The Individual Savings Account Regulations 1998 para 4(6)

Note: If there is evidence that the individual savings account or personal equity plan was taken out at the same time as the mortgage and it can be shown that the lender had an equitable charge over the individual savings account or personal equity plan then it may constitute an equitable charge and they should be valued taking that into account.

Lifetime individual savings account

29665 The Lifetime individual savings account is available for people who are aged 18 to 40 when it is opened. It is similar in many ways to a normal individual savings account with the addition of a government bonus of 25% paid on the contributions made by the saver of up to a limit of £4000 annually. This Lifetime individual savings account should be treated as capital from the outset with a value of

1. 75% of the surrender value where the person is under age 60 **or**
2. 100% of the surrender value where the person is over age 60

taken into account.

Stocks and shares quoted on the London Stock Exchange

Value of stocks and shares

29666 The value of stocks and shares can be obtained from the financial pages in a newspaper which is dated the same date as the date of claim or supersession. A newspaper gives the price for most of the stocks and shares quoted on the London Stock Exchange. A valuation using the price given in a newspaper is not an exact valuation.

29667 To decide if an exact valuation is needed, first work out the value of the stocks and shares using the price given in a newspaper. An exact valuation is always needed if the price of a stock or share is not given in a newspaper.

29668 To work out the value of stocks and shares from the price given in a newspaper

1. find the price of the stock or share in a newspaper which is dated the same date as the date of claim or application for supersession **and**
2. multiply the figure at 1. by the number of that stock or share the person has.

29669 An exact valuation is needed if the value of the stocks or shares are close to the lower or upper capital limits or there is a change to the amount of tariff income when the value is added to any other capital

1. the claimant and partner has **or**
2. a child or young person has¹.

1 R(IS) 18/95

29670 To work out the exact value of stocks and shares

1. use the free internet tool Google Finance to find the highest and lowest price for the day before the date of claim or supersession **and**

2. deduct the lowest price from the highest price **and**
3. divide the figure at 2. by four **and**
4. add the figure at 3. to the lowest price **and**
5. multiply the figure at 4. by the number of that stock or share the person has.

29671 Once the share value has been calculated as in DMG 29669, deduct 10% costs of sale as per DMG 29611, rounding down in the claimant's favour at the last stage in the calculation.

Example

Roy has 250 Marks and Spencer shares. The highest and lowest share prices for the day before the date of claim is £4.1750 and £4.1250 respectively.

Deduct the lowest from the highest price ($£4.1750 - £4.1250$) = £0.05

Divide £0.05 by 4 = £0.0125

Add £0.0125 to the lowest share price ($£0.0125 + £4.1250$) = £4.1375

Multiply £4.1375 by the number of share (250) = £1034.3750

Deduct 10% expense of sale = £930.93.

Incumbrances secured on stocks and shares

29672 Stockbrokers have an incumbrance secured on stocks or shares if the person they have bought the stocks or shares for has not paid

1. the broker for them **or**
2. the broker's commission¹.

1 R(IS) 18/95

The incumbrance is secured only on the stocks and shares which have not been paid for or on which commission has not been paid. The incumbrance is not secured on any other stocks and shares which the stockbroker buys for the person.

29673 The amount of the incumbrance is the amount owed to the stockbroker.

Government securities

29674 Government Securities are stocks issued by the British Government. They are sold in £100 units but re-investments can be for different amounts. Government Securities include

1. consolidated stock
2. conversion loan

3. exchequer stock
4. funding stock
5. Treasury stock
6. 3½% War Loan.

29675 The value of Government Securities should be worked out in the same way as for stocks and shares (see DMG 29665 et seq).

29676 The free internet tool Google Finance will provide DMs with a value provided the stock has not reached the date when the capital invested is repayable. If that date has been reached, the claimant should be advised to write to the Historic Price Service, London Stock Exchange, Old Broad Street, London EC2N 1HP. Any cost imposed by this service would be payable by the claimant. Information can be obtained from the London Stock Exchange website. However, this only holds data from 1999 onwards.

29677 - 29679

Unit trusts

Value of unit trusts

29680 To work out the value of a unit in a unit trust

1. find the bid price for a unit in the trust in a newspaper which is dated the same date as the date of claim or application for supersession **and**
2. multiply the figure at 1. by the number of units a person has.

Note: the value of a unit trust can also be found at:

<http://markets.ft.com/research/Markets/Data-Archive>

Costs of sale

29681 Persons apply to the manager of the trust to withdraw their money so there are no costs of sale. This applies even if persons use an agent, such as a stockbroker.

29682 - 29684

Value of capital in certain cases

Bank and building society accounts

29685 A person who has money in a bank or building society account has a right to capital. The value of the rights to capital is the balance in the account on the date of claim or

application for supersession because it is assumed the bank or building society will be able to pay out the money when asked.

29686 An expert valuation of a right to capital is needed if there is something which stops people getting their money out of a bank or building society account, such as the

1. person is the beneficial owner of the money in the account and not the legal owner and the legal owner will not withdraw the money **or**
2. bank or building society has gone into liquidation.

29687 Where a person has more than one account with the same bank/building society, the DM should check if there is any contractual right between the bank and the person, allowing the bank, without any prior warning, to debit any in credit accounts held with them to offset the debit accounts. If so then it will be the net value of all the accounts held with that same bank/building society that should be taken into account as part of the person's capital¹. This will not apply however where no such contractual right exists or where accounts are held with different banks/building societies.

1 JRL v SSWP (JSA) [2011] UKUT 63 (AAC); [2011] AACR 30

Right to receive income

29688 An expert valuation is needed of the value of the right to receive an income if the income can be signed over to another person.

29689 Income which cannot be signed over to another person is

1. periodical maintenance payments
2. public service pensions, such as a civil service pension
3. SS benefits and allowances, such as CHB.

Shares in a private company

29690 Shares in a private company are not quoted on the London Stock Exchange so an expert valuation is needed.

29691 The value of the shares is not worked out by dividing the value of all the shares in the company by the number of shares a person has¹. If the company's auditors say what a fair value is the expert valuation cannot be more than this figure and is more likely to be less².

1 R(SB) 18/83; 2 R(IS) 2/90

29692 The expert valuation should take into account

1. anything in the articles of association which restricts the sale of the shares, such as the shares can only be sold

- 1.1 to the other shareholders and the shareholders will not buy them **or**
 - 1.2 if the directors agree and they do not agree **and**
2. whether the person's shares in the company are a minority, equal or controlling interest.

Vested interest in a trust - child or young person

29693 In England and Wales the value of a child's or young person's vested interest in a trust (see DMG 29232) is

1. half the value of the child's or young person's interest **and**
2. the value of the child's or young person's right to sue the trustees for the other half when the child or young person is 18¹.

1 Trustee Act 1925, s 32

29694 The trustees should be able to say what the value of the interest held on trust is. If not, an expert valuation is needed. If the trustees provide evidence which shows the child's or young person's half share in the interest is more than £3,000 an expert valuation is not needed.

29695 In Scotland an expert valuation of a child or young person's vested interest in a trust is needed in all cases.

29696 - 29719

Capital paid to or for a third party

Capital paid to a third party for the claimant or a member of the claimant's family

29860 **[See DMG Memo JSA/IS 64]** The law states that a claimant or a member of a claimant's family is treated as having capital which is paid to a third party if the payment

1. is for that
 - 1.1 claimant **or**
 - 1.2 member of the claimant's family **and**
2. is made under social security law¹ or is a
 - 2.1 WDisP **or**
 - 2.2 WWP **or**
 - 2.3 a pension paid to a forces widow or surviving civil partner under specific provisions² or any other pension for persons who have been disabled or died as members of the armed forces **or**
 - 2.4 War Widower's Pension³
 - 2.5 Surviving Civil Partner's War Pension
3. for JSA would normally have been paid to that
 - 3.1 claimant **or**
 - 3.2 member of the claimant's family⁴.

For IS this does not apply if the payment is made to a third party and it is for a member of the third party's family⁵.

1 WR Act 07; JS Act 95; SS CB Act 92; 2 Armed Forces (Pensions and Compensation) Act 2004; Naval, Military and Airforces etc (Disablement and Death) Service Pensions Order 83 made under the Naval and Marine Pay and Pensions Act 1865 or the Pension and Yeomanry Pay Act 1884; SS (Misc Prov) Act 77; 3 SS (Miscellaneous Amendment) Regs 2002, regs 2 & 3; 4 JSA Regs, reg 113(3)(a)(i); IS (Gen) Regs, reg 51(3)(a)(i); 5 reg 51(3)(a)(i)

29861 **[See memo DMG 23/14]** The law says the claimant or a member of a claimant's family is treated as having a certain amount of capital which is paid to a third party if the payment is

1. not a payment under SS law¹ **and**
2. not a payment of a
 - 2.1 WDisP **or**
 - 2.2 WWP **or**
 - 2.3 War Widower's Pension²
 - 2.4 Surviving Civil Partner's War Pension
3. not a payment³ made under the
 - 3.1 Macfarlane Trust (see DMG 29457) **or**

- 3.2 Macfarlane (Special Payments) Trust (see DMG 29458) **or**
- 3.3 Macfarlane (Special Payments) (No. 2) Trust (see DMG 29459) **or**
- 3.4 Fund (see DMG 29460) **or**
- 3.5 Eileen Trust (see DMG 29461) **or**
- 3.6 MFET Limited (see DMG 29462) **or**
- 3.7 Independent Living Fund (2006) (see DMG 29443) **or**
- 3.8 Skipton Fund (see DMG 29463)
- 3.9 Caxton Foundation (see DMG 29464)
- 3.10 SIBSS (see DMG 29463) **or**
- 3.11 London Bombings Relief Charitable Fund (DMG 29465) **and**
- 4. not a payment⁴ under relevant legislation⁵ in respect of participation in
 - 4.1 a specified employment programme⁶ **or**
 - 4.2 a specified training scheme⁷ **or**
 - 4.3 the Intensive Activity Period⁸ or Intensive Activity Period for ND 50+ **or**
 - 4.4 Flexible New Deal⁹ **or**
 - 4.5 a specified employment-related course¹⁰ **or**
 - 4.6 the MWA Scheme¹¹ **or**
 - 4.7 SAPOE¹² **and**
- 5. for that
 - 5.1 claimant **or**
 - 5.2 member of the claimant's family **and**
- 6. used to pay for
 - 6.1 food **or**
 - 6.2 ordinary clothing or footwear **or**
 - 6.3 household fuel **or**
 - 6.4 rent for which housing benefit is payable **or**
 - 6.5 housing costs which are included when working out the claimant's applicable amount **or**
 - 6.6 CT or water charges which the claimant or member of the claimant's family has to pay **and**

the amount of capital that claimant or member of the claimant's family is treated as having is the amount paid out under 5.¹³. For IS this does not apply if the payment is made to a third party and it is for a member of the third party's family¹⁴.

Note: “Ordinary clothing or footwear” means clothing or footwear for normal daily use. It does not include school uniforms or clothing or footwear used solely for sporting activities ¹⁵.

*1 WR Act 07; JS Act 1995; SS CB Act 92; 2 SS (Miscellaneous Amendments) Regs 2002, regs 2 & 3;
3 JSA Regs, reg 113(3A)(a); IS (Gen) Regs, reg 51 (3A) (a); 4 JSA Regs, reg 113(3A)(b);
IS (Gen) Regs, reg 51(3A)(b); 5 E&T Act 73, s 2; 6 JSA Regs, reg 75(1)(a)(ii); 7 reg 75(1)(b)(ii);
8 reg 75(1)(a)(iv); 9 reg 75(1)(b)(v); 10 reg 17A(7); 11 reg 113(3A)(bb); 12 reg 113(3A)(bc); 13 reg 113(3)(a)(ii);
IS (Gen) Regs, reg 51(3)(a)(ii); 14 reg 51(3)(a); 15 JSA Regs, reg 113(8); IS (Gen) Regs, reg 51(8)*

Capital paid to a claimant or a member of the claimant’s family for a third party

29862 [\[See memo DMG 23/14\]](#) The law states that a claimant or a member of the claimant’s family is treated as having a certain amount of capital if a payment is

1. made
 - 1.1 to that claimant or member of the claimant’s family **and**
 - 1.2 for a third party¹ **and**
2. not made² under the
 - 2.1 Macfarlane Trust (see DMG 29457) **or**
 - 2.2 Macfarlane (Special Payments) Trust (see DMG 29458) **or**
 - 2.3 Macfarlane (Special Payments) (No. 2) Trust (see DMG 29459) **or**
 - 2.4 Fund (see DMG 29460) **or**
 - 2.5 Eileen Trust (see DMG 29461) **or**
 - 2.6 MFET Limited (see DMG 29462) **or**
 - 2.7 Independent Living Fund (2006) (see DMG 29443) **or**
 - 2.8 Skipton Fund (see DMG 29463)
 - 2.9 Caxton Foundation (see DMG 29464)
 - 2.10 SIBSS (see DMG 29463) **or**
 - 2.9 London Bombings Relief Charitable Fund (see DMG 29465)
3. not a payment³ under relevant legislation⁴ in respect of participation in
 - 3.1 a specified employment programme⁵ **or**
 - 3.2 a specified training scheme⁶ **or**
 - 3.3 the Intensive Activity Period⁷ or Intensive Activity Period for ND 50+ **or**
 - 3.4 Flexible New Deal⁸ **or**
 - 3.4 a specified employment-related course⁹ **or**
 - 3.5 the MWA Scheme¹⁰ **or**
 - 3.6 SAPOE¹¹
4. not a payment of

- 4.1 an occupational pension¹² **or**
- 4.2 a pension or any other periodical payment under a personal pension scheme¹³ **or**
- 4.3 a payment made by the Board of the Pension Protection Fund
where DMG 29870 applies¹⁴.

Note: See DMG 23846 - 23849 for the definition of “personal pension scheme” and DMG 23854 - 23855 for the definition of “periodical payment”.

*1 JSA Regs, reg 113(3)(b); IS (Gen) Regs, reg 51(3)(b); 2 JSA Regs, reg 113(3A)(a); IS (Gen) Regs, reg 51(3A)(a);
3 JSA Regs, reg 113(3A)(b); IS (Gen) Regs, 51(3A)(b); 4 E&T Act 73, s 2; 5 JSA Regs, reg 75(1)(a)(ii);
6 reg 75(1)(b)(ii); 7 reg 75(1)(a)(iv); 8 reg 75(1)(a)(v); 9 reg 17A(7); 10 reg 113(3A)(bb);
11 reg 113(3A)(bc); 12 reg 1(3); IS (Gen) Regs, reg 2(1); 13 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1);
14 JSA Regs, reg 113(3A)(c); IS (Gen) Regs, reg 51(3A)(c)*

29863 DMG 29862 does not apply to a payment of capital made to

- 1. claimants which is for a member of their family **or**
- 2. a member of a claimant’s family which is for
 - 2.1 that claimant **or**
 - 2.2 another member of that family¹.

1 JSA Regs, reg 113(3)(b); IS (Gen) Regs, reg 51(3)(b)

29864 The amount of capital that the claimant or member of the claimant’s family is treated as having is the amount

- 1. kept by that
 - 1.1 claimant **or**
 - 1.2 member of the claimant’s family **or**
- 2. used by that
 - 2.1 claimant **or**
 - 2.2 member of the claimant’s family **or**
 - 2.3 claimant for any member of that claimant’s family **or**
 - 2.4 member of the claimant’s family for that claimant or any other member of that family¹.

1 JSA Regs, reg 113(3)(b); IS (Gen) Regs, reg 51(3)(b)

Third party

29865 Third party includes a public body, such as a LA.

Meaning of ordinary clothing or footwear

29866 Ordinary clothing or footwear means clothing or footwear for normal daily use but not

- 1. school uniforms **or**