

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 3 Amendment 55 – June 2018

1. This letter provides details on Amendment 55; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer.

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

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

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<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 55 affects chapters 8, 9, 12, 15 & 17. The changes:
 - incorporate DMG memo 11/17 in chapter 8
 - incorporate DMG memo 11/17 in chapter 9
 - incorporate DMG memos 8/17 and 11/17 in chapter 12
 - make minor amendments and update the appendices to chapter 15
 - incorporate DMG memo 11/17 in chapter 17.
4. If 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 8

Conts 08001 – 08123 (1 page)
08001 – 08023 (2 pages)
08057 – 08095 (2 pages)

Chapter 9

09161 – 09166 (1 page)
09241 – 09247 (1 page)
09323 – 09339 (1 page)
09370 – 09378 (1 page)

Insert

Chapter 8

Conts 08001 – 08123 (1 page)
08001 – 08023 (2 pages)
08057 – 08095 (2 pages)

Chapter 9

09161 – 09166 (1 page)
09241 – 09247 (1 page)
09323 – 09339 (1 page)
09370 – 09378 (1 page)

Chapter 12

Conts (1 page)

12001 – 12056 (5 pages)

Chapter 15

15176 – 15197 (1 page)

15380 – 15389 (1 page)

15650 – 15680 (1 page)

Appendix 1 – Appendix 2 (4 pages)

Appendix 6 (1 page)

Chapter 17

17040 – 17088 (4 pages)

Chapter 12

Conts (1 page)

12001 – 12056 (6 pages)

Chapter 15

15176 – 15197 (1 page)

15380 – 15389 (1 page)

15650 – 15680 (1 page)

Appendix 1 – Appendix 2 (3 pages)

Appendix 6 (1 page)

Chapter 17

17040 – 17088 (4 pages)

Chapter 08 - Payment of benefit/Deductions from benefit

Contents

Time and manner of payments

General.....	08001
Direct payment	08006
Simple Payment service	08011
Treatment of fractions of a penny.....	08013
Definition of long term benefit.....	08014
Definition of working age benefit	08015

Payment of benefits

RP

General	08020
Identification	08021
Pensionable age.....	08022

RP - "old cases"

Pay day.....	08023
Interval of payment.....	08024
Day payment starts and date of change in the amount of benefit.....	08025
Benefit week.....	08027

RP - "new cases"

Pay day.....	08028
Interval of payment.....	08029
Day payment starts and date of change in the amount of benefit.....	08030
Termination of award on death	08037
Benefit week.....	08038
Daily payment.....	08039

SP

Date of entitlement for the purposes of payment	08050
Effective date of change of rate	08051
Pay day.....	08053
Interval of payment.....	08054

Payment at a daily rate.....	08055
Amount of daily rate	08057
Benefit week.....	08058
WMA, WPA, and WP	
Pay day.....	08080
Interval of payment.....	08081
Day payment starts and date of change in the amount of benefit.....	08083
Termination of award	08085
Benefit week.....	08087
Other long term benefits	
Pay day.....	08090
Intervals of payment.....	08091
AA/DLA.....	08092
Day payment starts and date of change in the amount of benefit.....	08093
Benefit week.....	08095
IB, MA and SDA	
Pay day.....	08100
Interval of payment.....	08101
SPC	
General.....	08110
Identification	08111
Pensionable age.....	08112
SPC - "old" cases	
Pay day.....	08114
Interval of payment.....	08115
Day payment starts and date of change in the amount of benefit.....	08116
Benefit week.....	08118
SPC - "new" cases	
Pay day.....	08119
Interval of payment.....	08120
Day payment starts and date of change in the amount of benefit.....	08121
Benefit week.....	08123

Chapter 08 - Payment of benefit/Deductions from benefit

Time and manner of payments

General

08001 The Secretary of State must pay benefit as soon as is reasonably practicable once an award has been made¹. In practice, benefits are generally paid into a claimant's bank account, known as direct payment, on a day and at an interval set out in legislation. Payment may also be made by means of the SimP service, and at other times.

1 SS (C&P) Regs, reg 20

08002 Guidance on payment of benefit follows but other guidance on this subject may be found in benefit specific DMG Chapters:-

1. IS/JSA Chapter 33
2. ESA Chapter 46
3. AA/DLA Chapter 61
4. SPC Chapter 79.

Note 1: ADM Chapter B1 contains guidance on the payment of UC, PIP, new style ESA and new style JSA.

Note 2: ADM Chapter M1 contains guidance on the meaning of new style ESA and new style JSA.

08003 - 08005

Direct payment

08006 Direct payment is the Department's official term for what was formerly called automated credit transfer. The regulations currently use the term "direct credit transfer"¹.

1 SS (C&P) Regs, reg 21

08007 The Secretary of State may pay benefit, by DCT, into a bank or other account nominated by

1. the person entitled to the benefit **or**
2. a person acting on their behalf¹.

1 SS (C&P) Regs, reg 21(1)

08008 In relation to joint-claim JSA, the person entitled to benefit is the member of the joint-claim couple who is nominated to receive the benefit¹.

1 SS (C&P) Regs, reg 21(5A)

08009 Benefit paid by direct payment will be paid within seven days of the last day of each successive period of entitlement¹ i.e. interval of payment. In respect of IS, it will be paid within seven days of the time determined for the payment of IS². However the Secretary of State may make different arrangements for paying³

1. arrears of benefit⁴ **or**
2. benefit when the award is ended or for any similar purpose⁵.

1 SS (C&P) Regs, reg 21(3); 2 reg 21(3A); 3 reg 21(4); 4 reg 21(4)(a); 5 reg 21(4)(b)

08010 Payments can be made by direct payment to

1. persons under the age of 18¹
2. persons listed in DMG 08355 after the death of the claimant² **and**
3. appointees³

and payment by this means will discharge the Secretary of State's liability to make payment.

1 SS (C&P) Regs, reg 29; 2 reg 30(2)(a); 3 reg 33(3)

Simple Payment service

08011 The SimP service is a method of paying benefit which is specifically designed for those claimants who, for the purposes of receiving their benefit payments, are unable to make use of mainstream accounts such as

1. a bank account
2. a building society account
3. a basic bank account
4. a credit union account
5. a PO account.

08012 Payments made under the SimP service are based on an electronic transfer of funds and should be treated as a direct payment.

Treatment of fractions of a penny

08013 For all benefits other than MA, if the amount payable includes a fraction of a penny, the amount is rounded down if it is less than half a penny, otherwise it is rounded up to the next penny¹. If the amount of MA includes a fraction of a penny, it is rounded up to the next penny².

1 SS (C&P) Regs, reg 28(1); 2 reg 28(2)

Definition of long term benefit

08014 Long term benefits¹ are

1. RP of any category

2. SP
3. SAP
4. WMA
5. WP
6. WPA
7. AA/DLA
8. CA
9. IIDB.

1 SS (C&P) Regs, reg 2(1)

Definition of working age benefit

08015 Working age benefits¹ are

1. ESA
2. IB
3. IS
4. JSA
5. WMA
6. WPA
7. WP.

1 SS (C&P) Regs, reg 2(1)

08016 - 08019

Payment of benefits

RP

General

08020 Legislation provides that RP is paid in different ways depending on when the person reaches pensionable age and their circumstances at that time.

Identification

08021 The following criteria are used to identify which system applies to the time and manner of payment of RP for a particular person. If the person

1. reaches pensionable age before 6.4.10¹ **or**
2. is a man², who reaches pensionable age on or after 6.4.10 **and**
 - 2.1 was in receipt of SPC for any period which begins on the day four months and four days before the day on which he reaches pensionable age and ends on 5.4.10 **or**
 - 2.2 was in continuous receipt of SPC from 5.4.10 until at least the first day of the period of four months and four days which ends immediately before the day on which he reaches pensionable age

these are “old” cases and guidance in DMG 08023 - 08027 applies. The guidance in DMG 08028 - 08042 applies to all other cases referred to as “new” cases in this guidance.

Note: The period of four months and four days does not include the day they reach pensionable age. If the date they reach pensionable age is 7.9.10, they must have continued to be in receipt of SPC until at least 3.5.10.

1 SS (C&P) Regs, reg 22C(1); reg 26BA(1); 2 reg 22C(7)

Pensionable age

08022 Pensionable age¹ is

1. 65 years for a man **or**
2. 60 years for a woman born before 6.4.50 **or**
3. the date in Appendix 3 to DMG Chapter 15 for a woman born between 6.4.50 and 5.4.55 **or**
4. 65 years for a woman born on or after 6.4.55.

1 SS A Act 92, s 191; Pensions Act, Sch 4, para 1

RP - “old cases”

Pay day

08023 The pay day for

RP is Monday¹

except

1. when a person became entitled to RP before 28.9.84, when it is payable on Thursdays
2. where
 - 2.1 a woman was entitled to a WB **or**
 - 2.2 a person was entitled to a BB

2. where DMG 08055 2. applies, the period beginning on the day on which the claimant's last benefit week begins and ending on the day on which the claimant dies⁴.

1 SS (C&P) Regs, reg 22DA(2); 2 reg 22DA(2)(a)(i); 3 reg 22DA(2)(a)(ii); 4 reg 22DA(2)(b)

Amount of daily rate

- 08057 The daily rate at which SP is payable is 1/7th of the claimant's weekly rate which would have had effect on the day if a weekly rate had been payable¹.

1 SS (C&P) Regs, reg 22DA(3)

Benefit week

- 08058 A "benefit week"¹ means the period of 7 days ending on the day on which the claimant's SP is payable in accordance with specified legislation².

1 SS (C&P) Regs, reg 22DA(4); 2 reg 22CA(4)

08059 - 08079

WMA, WPA, and WP

Pay day

- 08080 Awards of WMA, WPA, WP

1. made before 6.4.09 and not migrated, are payable on
 - 1.1 Tuesdays **or**
 - 1.2 such other day as the Secretary of State may determine where payment is by direct payment or in the circumstances of any particular case **or**
 - 1.3 a day which has become the appropriate day for payment for one of these benefits¹
2. made from 6.4.09, or made prior to that date and have been migrated, are payable on²
 - 2.1 the day specified based on the last two digits of their NINO as follows:-

NINO	Pay day
00 - 19	Monday
20 - 39	Tuesday
40 - 59	Wednesday
60 - 79	Thursday
80 - 99	Friday

2.2 such other day as the Secretary of State may determine where payment is by direct payment or in the circumstances of any particular case³.

Note: If the Secretary of State changes the claimant's pay day, any days that would have been paid had the change not been made can be paid at the daily rate which is 1/7th of the weekly rate⁴.

1 SS (C&P) Regs, reg 22A(2); 2 reg 22A(3); 3 reg 22A(2); 4 reg 22B(2)

Interval of payment

08081 From 6.4.09 these benefits are normally payable fortnightly in arrears¹. Awards before that date may be payable as in DMG 08080 1. but will be migrated to fortnightly in arrears.

1 SS (C&P) Regs, reg 22A(1)

08082 The Secretary of State may arrange for payment to be made¹

1. weekly in advance
2. weekly in arrears **or**, with the beneficiary's agreement
3. four weeks in arrears
4. 13 weeks in arrears.

1 SS (C&P) Regs, reg 22A(4)

Day payment starts and date of change in the amount of benefit

08083 For awards of BSP and WPA made before 6.4.09 if the earliest date of entitlement to benefit is not the first day of the benefit week, entitlement starts and benefit is payable from the first day of the following benefit week¹. From 6.4.09, entitlement starts on the first day that the person satisfies all the conditions² and benefit is paid at the daily rate of 1/7th of the weekly rate³ from the day entitlement starts until the day before the first day of the following benefit week.

1 SS (C&P) Regs, reg 16(1); reg 16(4); 2 reg 22B(1); 3 reg 22B(6)

08084 Any change in the rate of WMA, WPA and WP that would take effect from a day other than the first day of the benefit week will take effect from the first day of the following benefit week¹ except where the award is to be terminated².

1 SS (C&P) Regs, reg 16(2A); 2 reg 16(2B)

Termination of award

08085 When the award is to be terminated, it takes effect from

1. the date of change, when the benefit is paid in arrears¹ **or**

2. the first day of the following benefit week² when the benefit is paid in advance and the award would terminate on a day other than the first day of the benefit week.

1 SS (C&P) Regs, reg 16(2B); 2 reg 16(2C)

08086 If WMA, WPA and WP are paid in arrears and the award terminates on a day other than the last day of the benefit week, the claimant can be paid at the daily rate for the days from the first day of the final benefit week to the last day of entitlement¹. The daily rate of benefit is 1/7th of the weekly rate².

1 SS (C&P) Regs, reg 22B(3); reg 22B(4); reg 22B(5); 2 reg 22B(6)

Benefit week

08087 For the purpose of determining the first day from which these benefits are payable and the effective date of change of rate of long-term benefits, the first day of the benefit week is

1. before 6.4.09, the day of the week on which the long-term benefit is payable
2. from 6.4.09¹,
 - 2.1 if the benefit is paid in advance, the day of the week on which the benefit is payable
 - 2.2 if paid in arrears, the first day of the period of seven days which ends on the day on which the benefit is payable.

1 SS (C&P) Regs, reg 16(3)(c); reg 22; reg 22A

08088 - 08089

Other long term benefits

Pay day

08090 The pay days for other long term benefits are

1. SAP - Monday¹

except

- 1.1 where RP is payable to the claimant, SAP is payable on the same day as the RP²
- 1.2 the Secretary of State may arrange for SAP to be payable on such other day of the week as he may, in the circumstances of any particular case, determine³
2. AA/DLA⁴
 - 2.1 AA - Monday
 - 2.2 DLA - Wednesday

2.3 the Secretary of State may however pay AA/DLA on some other day of the week

3. CA - Monday⁵. However, where a person is entitled because of receiving a prescribed payment out of public funds⁶, the allowance is paid on Wednesday
4. IIDB (including increases) - Wednesday⁷.

1 SS (C&P) Regs, Sch 6, para 5A; 2 Sch 6, para 5A(a); 3 Sch 6, para 5A(b); 4 Sch 6, para 1; 5 Sch 6, para 4; 6 SS (ICA) Regs, reg 3; 7 SS (C&P) Regs, Sch 6, para 3

Intervals of payment

08091 These long term benefits may be paid at intervals of¹

1. four weeks in arrears
2. weekly in advance
3. where the beneficiary agrees, not exceeding 13 weeks in arrears
4. where the weekly amount of benefit is less than £5.00, as specified by the Secretary of State not exceeding 12 months².

1 SS (C&P) Regs, reg 22(1); 2 reg 22(2)

AA/DLA

08092 DLA may be paid at any interval as long as it is not more than four weeks¹. Both AA and DLA can be paid at a daily rate in specified circumstances - see DMG 61880 - in which case they are paid weekly or as the Secretary of State directs².

1 SS (C&P) Regs, reg 22(1A); reg 22(1B); 2 reg 25

Day payment starts and date of change in the amount of benefit

08093 If the earliest date of entitlement to benefit is not the first day of the benefit week, entitlement starts and benefit is payable from the first day of the following benefit week¹.

1 SS (C&P) Regs, reg 16(1)

08094 When there is a change in the rate of one of these long term benefits, including termination of the award, the change, if it would otherwise take effect on a day which is not the first day of the benefit week, takes effect from the first day of the following benefit week¹.

1 SS (C&P) Regs, reg 16(2)

Benefit week

08095 For the purpose of determining the first day from which these benefits are payable and the effective date of change of rate of long-term benefits, the first day of the benefit week is

Recoverability - principles governing benefits

Benefits covered

09161 [\[See Memo DMG 11/16\]](#) This guidance applies to the following benefits¹

1. benefits under the Acts²
2. CHB³
3. IS⁴
4. SF payments⁵
5. benefits under repealed Acts⁶
6. Supp B (including HB Supplement and single payments)⁷
7. JSA⁸ (but see DMG 09295 - 09300 for certain overpayments of JSA to 16/17 year olds)
8. SPC⁹
9. ESA¹⁰
10. PIP¹¹
11. health in pregnancy grant¹².

1 SSA Act 92, s 71(11); 2 SS CB Act 92, s 122; SS A Act 92, s 71(11)(a); 3 s 71(11)(f); 4 s 71(11)(b); 5 s 71(11)(e), s 71 ZA; SS CB Act 92, s 138; 6 s 186, Sch 10; 7 s 186, Sch 10; 8 s 71(11)(aa); 9 s 71(11)(ab); 10 s 71(11)(ac); 11 s 71(11)(ad); 12 s 71(11)(ea)

Benefits not covered

09162 The following payments are not recoverable

1. refunds of NHS charges for prescriptions, dentures, dental treatment, glasses, wigs and fabric supports claimed on or after 1.11.74
2. travelling expenses of patients attending hospital
3. payments for welfare foods
4. travelling expenses for prison visits etc.
5. third party deductions for housing costs, water charges, community charge arrears or fuel made in error to third party after termination of a Supp B/IS award
6. fares to a DWP office
7. Christmas bonus payments
8. HB/CTB
9. any extra-statutory payments
10. interim payments of Supp B made under provisions in being before 6.4.87

11. SSP and statutory paternity pay
12. WC (Supp) and allowances under the PB and MDB.

General principles

- 09163 Misrepresentation and failure to disclose have different meanings in law. The DM should decide at the outset, under DMG 09196 et seq and DMG 09234 et seq, which ground is appropriate bearing in mind that
1. both grounds can occur during the period of an overpayment for the same or different parts of that period
 2. the DM should identify each misrepresentation or failure to disclose
 3. the misrepresentation and failure to disclose may be wholly innocent.
- 09164 When considering the recoverability of an overpayment, the law¹ says that
1. where any person
 2. whether fraudulently or otherwise²
 3. misrepresents, **or**
 4. fails to disclose
 5. a material fact, **and**
 6. this results in an overpayment of benefit for any period

the amount of the overpayment is recoverable from the person misrepresenting or failing to disclose that material fact.

1 SS A Act 92, s 71(1); 2 R(SB) 21/82; R(SB) 2/92 Appendix

- 09165 This guidance also applies to the recovery of JSA overpaid to 16/17 year olds in severe hardship cases where the Secretary of State certificate has been revoked¹.

1 SS A Act 92, s 71A

The material fact

- 09166 Material fact means any fact which had it been known about and properly acted upon by the DM would have prevented all or part of the overpayment in question. It is a fact which is objectively material to the decision of the Secretary of State to make an award of benefit. A fact is material where, on disclosure, it would prompt further enquiries or investigations by the DM in order to decide whether an existing entitlement continued or required some change. Whether the particular person considers it material is of no relevance¹.

1 R(IS) 7/94

Example 1

The disclosure of widowhood is not disclosure of an income from WMA.

When a failure to disclose does not arise

09241 Disclosure is not expected where the information is within public knowledge and therefore known to the DM.

Example

Frank is in receipt of RP and SPC. He is not expected to report to the office handling his SPC payments that his RP payments have increased due to annual uprating.

Duty to disclose other than for JSA

09242 The claimant must disclose a material fact where they

1. have been clearly and unambiguously advised of the need to disclose the fact¹ **and**
2. were aware of the fact **or**
3. ought to have been aware of the fact by making reasonable enquiries².

Note: The burden of enquiry placed upon the claimant varies from case to case depending on the nature of the material fact and how easily they could have discovered it.

1 R(IB) 4/07; R(IS) 9/06; 2 R(SB) 28/83

Instructions to claimants

09243 [\[See Memo DMG 11/16\]](#) Instructions to claimants about the notification of information are usually given in claim forms, notes that accompany claim forms and leaflets. These can be accepted as sufficient to inform the claimant of their obligation to disclose any change of circumstances as listed therein. However, the instructions must be clear and unambiguous¹.

1 R(IS) 9/06; R(IB) 4/07

09244 The claimant should comply with the instructions given to them. They are not entitled to form views about how the benefit system works or what knowledge the relevant DM might have¹. As claim forms and leaflets are periodically updated, the DM will need to ensure that they have a copy of the relevant version when looking at what instructions the claimant has been given and when.

1 Hinchy v Secretary of State for Work and Pensions [2005] 1 WLR 967; R(IS) 7/05

Example

Susan was in receipt of DLA and IS with a DP. She received an INF4 leaflet in relation to her IS award which told her to report if her income went up or down. Her award of DLA came to an end. She did not tell the office administering her IS benefit payments. She failed to disclose the material fact that her level of income had changed. The overpayment of the DP was recoverable from her.

Modification of instructions

09245 Notwithstanding the claimant's instructions regarding their duty to disclose as discussed in DMG 09236 to DMG 09238, it is possible for those instructions to be modified by an officer acting on behalf of the Secretary of State. The effect of this modification is that the claimant no longer has to do all or part of what they were originally required to do¹. A modification can be done orally or in writing and where a duty to disclose has been modified, the DM should consider what the modified duty was. This should be based on what was said to the claimant. For example

1. if the claimant was, in effect, told that further disclosure was unnecessary, there will be no duty to disclose from that point onwards. It follows that there will be no failure to disclose from then on **or**
2. if the claimant was not, in effect, told that further disclosure was unnecessary, the DM should consider what the claimant was, in effect, still required to do. The DM should consider which parts of the previous instructions were changed and which were not changed. The DM should then determine what the claimant still had to disclose, and when, how and to whom it had to be disclosed. This will form the claimant's new duty to disclose from the date of modification onwards. There will be a failure to disclose only if the claimant does not comply with the new duty.

1 R(A) 2/06

09246

Additional duty to disclose

09247 In addition to the duty described in DMG 09242, the claimant also has a duty to disclose if

1. they were aware of the material fact **and**
2. the fact represented a change of circumstances **and**
3. it was reasonable to expect the claimant to know that their benefit might be affected by the change in circumstances **and**
4. they did not report the change as soon as reasonably practicable after it occurred¹ by giving notice of the change
 - 4.1 to the appropriate office² or postal address
 - 4.2 in writing or by telephone **or**
 - 4.3 in whatever form specified by the Secretary of State.

1 SS (C&P) Regs, reg 32(1B); 2 reg 2(1);

Adjustments - payments on account of benefit

Introduction

09323 Under certain conditions¹, payments can be made which are not covered by an award of benefit. These discretionary payments, formerly known as interim payments, are made by the Secretary of State and, with effect from 1.4.13, are known as POAOB.

Note: Operational guidance is available for the circumstances when a POAOB can be made and how much may be paid.

1 SS A Act 92, s 5(1)(r); SS (POAOB) Regs, regs 3 to 9

Definition of “benefit”

09324 Benefit means¹

1. IS
2. SPC
3. benefits under specified legislation² (except AA, DLA and GA).

Note: DMs should note that this definition also includes UC, new style ESA and new style JSA. A version of this guidance for these benefits is in ADM Chapter D1. ADM Chapter M1 contains guidance on the meaning of new style ESA and new style JSA.

1 SS (POAOB) Regs, reg 3(1); 2 SS CB Act 92, Parts 2 to 5

Bringing payments on account of benefit into account

09325 Where it is practical to do so and where a POAOB was made in anticipation of an award of benefit, it should be brought into account by means of an offset against the sum payable to the claimant under the award¹.

Note: Operational guidance is available for details of repayment schedules.

1 SS A Act 92, s 71ZG; SS (POAOB) Regs, reg 10(a)

09326 Where an amount, whether or not made in anticipation of an award of benefit, is not offset as in DMG 09325 above, the DM must deduct a POAOB from

1. the sum payable to the claimant under the award of benefit on account of which it was made **or**
2. any sum payable under any subsequent award to the claimant of that benefit¹.

1 SS (POAOB) Regs, reg 10(b)

Savings provision

09327 DMs should note that the previous provisions¹ continue to apply in respect of

1. interim payment applications made before 1.4.13 **and**
2. interim payments made before 1.4.13².

1 SS (POR) Regs, Part 2; 2 SS (POAOB) Regs, reg 19

09328 - 09339

Adjustments - abatements

Introduction

09370 SPC, IS, JSA(IB) or ESA(IR) may be recovered if it would not have been paid if another income had been paid at the correct time¹. There are three methods of recovery². These are

1. abatement of arrears of UK benefits **or**
2. receipt from arrears of EC benefits **or**
3. deductions from benefit or direct from the claimant where neither of the above applies.

1 SSA Act 92, s 74(1)(b) & (2)(b); 2 SS (POR) Regs, reg 7-11

09371

Abatements of United Kingdom benefits

09372 The amount of a prescribed payment of a UK benefit is reduced by the amount calculated as in DMG 09375¹ where

1. the prescribed payment (see DMG 09373) is not made on or before the prescribed date (see DMG 09374) for that payment **and**
2. it is decided that an amount of SPC, IS, JSA(IB) or ESA(IR) has been paid that would not have been paid if the prescribed payment had been made at the correct time.

Note: DMs should note that, with the exception of joint-claim cases, a deduction cannot be made in relation to the claimant who is a member of a couple when the prescribed payment arrears are paid to the other member of that couple.

1 SSA Act 92, s 74(2)

Prescribed payments

09373 [\[See Memo DMG 11/16\]](#) A prescribed payment can be

1. any benefit under the Act¹, except a gratuity or WPT²
2. CHB (including OPB³)
3. WDP or WWP which is not a gratuity and any payment which the Secretary of State accepts as similar to such a pension⁴
4. an allowance paid under the Job Release Act⁵
5. training allowance⁶
6. Child maintenance for the initial period⁷ (see DMG 09378)
7. WPA⁸
8. receipts from EC benefits⁹

9. JSA(Cont)¹⁰
10. Financial Assistance Scheme payments¹¹
11. ESA(Cont)¹²
12. PIP¹³.

1 SS CB Act 92; 2 R(SB) 28/85; 3 SS (POR) Regs, reg 8(1)(b); 4 reg 8(1)(d); 5 reg 8(1)(e); 6 reg 8(1)(f); 7 reg 7(1)(b); 8 reg 8(1)(i); 9 reg 8(1)(j); 10 reg 8(1); 11 reg 8(1)(k); 12 reg 8(1)(l); 13 reg 8(1)(aa)

Prescribed date

09374 The prescribed date is the date the receipt of, or entitlement to the benefit, would have to be notified to the Secretary of State in time for it to be taken into account in the SPC, IS, JSA(IB) or ESA(IR) assessment¹. This means that an amount can be recovered if the

1. prescribed payment has not been made **and**
2. Secretary of State was notified of entitlement to the payment and the SPC, IS, JSA(IB) or ESA(IR) award could not be revised or superseded.

1 SS (POR) Regs, reg 8(2); R(SB) 28/85

Calculation of amount to be recovered

09375 The amount to be recovered should be worked out (see Annex 2) by comparing the amount of

1. SPC, IS, JSA(IB) or ESA(IR) paid **and**
2. SPC, IS, JSA(IB) or ESA(IR) which would have been paid if the prescribed payment had been made at the correct time.

Note: The amount to be recovered in any week cannot be more than the amount of prescribed benefit which should have been taken into account in that week.

09376

SF payments

09377 SF payments are not part of the SPC, IS, JSA(IB) or ESA(IR) schemes and should not be taken into account for recovery.

Child maintenance

09378 Recovery of IS, JSA(IB) or ESA(IR) from arrears of child maintenance is limited to the amount paid in each week of the initial payment period¹. This is the period between the date on which liability to pay maintenance begins and the date on which regular payments of child maintenance are to start.

1 SSA Act 92, s 74(1)

Chapter 12 - Imprisonment

Contents

Effect of imprisonment on Social Security benefits	12001
Effect of imprisonment on JSA, IS, SPC and ESA.....	12015
Effect of imprisonment on UC, PIP, new style JSA and new style ESA.....	12016
Effect of imprisonment on SP	
Meaning of prisoner.....	12017
Prisoners who are not to be paid SP.....	12018
Paying SP to persons remanded in custody.....	12020
Effect of imprisonment on BSP	
Meaning of prisoner.....	12022
Prisoners who are not to be paid BSP.....	12023
Paying BSP to persons remanded in custody	12025
Meaning of imprisonment and detention in legal custody	12027
Period of detention in legal custody	12031
Effect of a pardon	12032
Effect of a successful appeal	12033
Release on licence	12034
Release on temporary licence.....	12041
Exceptions to the disqualification provisions	12050
No penalty imposed.....	12051
Benefits affected.....	12052
Meaning of Court.....	12053
Meaning of penalty	12054
Penalty cancelled	12057
Suspension.....	12059
Imprisonment for non-payment of fines.....	12069
Mentally disordered persons detained in legal custody.....	12070
Life sentences and tariffs	12080
Technical Lifers - England and Wales only	12084

Guardian's Allowance and Death Grant	12088
Industrial Injuries Disablement Benefit	12090
Imprisonment or detention in legal custody abroad	12100
Imprisonment or detention of dependants	
Spouse or civil partner	12110
Person caring for a child	12111
Fresh claims	12112
Mentally disordered persons detained in legal custody	Appendix 1

Chapter 12 - Imprisonment

Effect of imprisonment on Social Security benefits

12001 When a person is in prison or detained in legal custody, SS benefits are affected as follows

1. the person is disqualified from receiving any benefit¹ including any dependency increase under specified legislation, but see the exceptions in DMG 12050 - 12079
2. a person receiving benefit will not receive an increase for any dependent spouse, civil partner or person having care of their child who is in prison or detained in legal custody² (see DMG 12110 - 12111).

1 SS CB Act 92, s 113(1)(b); 2 s 113(1)(b)

12002 The SS benefits affected are¹

1. IB
2. MA
3. BPT
4. WMA
5. WP
6. WPA
7. BA
8. RP
9. SAP
10. GRB
11. AA
12. SDA
13. CA
14. DLA
15. IIDB
16. SP²
17. BSP

1 SS CB Act 92, Parts II-V; 2 Pensions Act 14, s 19

12003 Claimants are disqualified from receiving these benefits when they are imprisoned or detained in legal custody following criminal proceedings¹. Disqualification only affects the payability of the benefit not claimants' entitlement to that benefit². This means that when the conditions supporting the disqualification no longer apply, payment of benefit can resume providing all the conditions of entitlement remain satisfied. Unless entitlement has been terminated during the period of imprisonment or detention in legal custody, a claimant should not be required to make a new claim to benefit on release.

1 SS CB Act 92, s 113(1)(b); 2 CDLA/1930/04

12004 - 12014

Effect of imprisonment on JSA, IS, SPC and ESA

12015 For benefit specific guidance on the effect of imprisonment or detention in legal custody on JSA and IS see DMG Chapter 24, on SPC see DMG Chapter 78, on ESA(Cont) see DMG Chapter 53 and on ESA(IR) see DMG Chapter 54.

Effect of imprisonment on UC, PIP, new style JSA and new style ESA

12016 For benefit specific guidance on the effect of imprisonment or detention in legal custody on UC see ADM Chapter E3, on PIP see ADM Chapter P4, on new style JSA see ADM Chapter S1 and on new style ESA see ADM Chapter U6.

Note: ADM Chapter M1 contains guidance on the meaning of new style JSA and new style ESA.

Effect of imprisonment on SP

Meaning of prisoner

12017 For SP purposes a prisoner is a person, in GB or elsewhere, who is

1. imprisoned or detained in legal custody **or**
2. unlawfully at large¹.

1 Pensions Act 14, s 19(2)

Prisoners who are not to be paid SP

- 12018 Unless DMG 12020 applies, a person is not to be paid SP during the period they are a prisoner¹
1. in GB or elsewhere who is imprisoned or detained in legal custody
 - 1.1 in connection with **or**
 - 1.2 as a result of criminal proceedings² **or**
 2. in GB or elsewhere who is unlawfully at large³ **or**
 3. in GB who is being detained⁴
 - 3.1 in a mental hospital under specific legislation⁵ which allows the Secretary of State for Justice to order that an offender, suffering from mental disorder, be transferred from prison to detention in a mental hospital **and**
 - 3.2 on or before the Secretary of State for Justice certifies their release date⁶, if any **or**
 4. in GB who is being detained in a mental hospital under specific legislation⁷ which allows Scottish Ministers to order that an offender, suffering from mental disorder, be transferred from prison to detention in a mental hospital⁸.

Note: See DMG 12019 for guidance on when a person is not a prisoner in accordance with **1.** or **2.**.

1 SP Regs, reg 2(1); 2 reg 2(2)(a); 3 reg 2(2)(b); 4 reg 2(2)(c); 5 MH Act 83, s 47; 6 s 50(3); 7 MH (C&T) (Scot) Act 03, s 136; 8 SP Regs, 2(2)(d)

- 12019 However, a person is not a prisoner in accordance with DMG 12018 **1.** or **2.** if
1. they are a prisoner outside GB **and**
 2. they would not be a prisoner in similar circumstances in GB¹.

1 SP Regs, reg 2(3)

Paying SP to persons remanded in custody

- 12020 A person who is remanded in custody is not a prisoner¹ in accordance with DMG 12018 so can be paid SP unless
1. a sentence of imprisonment or detention in legal custody as a result of criminal proceedings² **or**
 2. a sentence of detention where paragraph 12018 **3.1** or **4.** applies³ **or**
 3. a suspended sentence of imprisonment⁴

is later imposed on the person for the offence⁵. Therefore DMs should suspend SP when a person is remanded in custody pending the outcome of proceedings.

*1 SP Regs, reg 3(1); 2 reg 3(2)(a); 3 reg 3(2)(b); 4 reg 3(2)(c); Criminal Justice Act 03, s 189;
5 SP Regs, reg 3(1)*

12021 However, DMG 12020 **1.** does not apply if

1. it is imposed outside GB **and**
2. it would not have been imposed in similar circumstances in GB¹.

1 SP Regs, reg 3(3)

Effect of Imprisonment on BSP

Meaning of prisoner

12022 For the purposes of BSP a prisoner¹ is a person who

1. In Great Britain or elsewhere is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings, **or**
2. In Great Britain or elsewhere is unlawfully at large **or**
3. In Great Britain is being detained
 - 3.1 Under provisions to remove prisoners to hospital²; **and**
 - 3.2 On or before the day the Secretary of State certifies to be the person's release date (if any)³ **or**
4. a prisoner in Great Britain who is being detained under Scottish provisions⁴ to transfer prisoners for mental health treatment.

1 BSP Regs, reg 6(2); 2 MH Act 83, s 47; 3 s 50(3); 4 MH (C&T) (Scot) Act 03, s 136

Prisoners who are not to be paid BSP

12023 Unless DMG 12025 applies a person is not to be paid BSP during the period they are a prisoner¹

1. In Great Britain or elsewhere who is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings **or**
2. In Great Britain or elsewhere who is unlawfully at large **or**
3. Being detained
 - 3.1 Under provisions to remove prisoners to hospital² **and**
 - 3.2 On or before the day which the Secretary of State certifies to be the person's release date (if any)³
4. in Great Britain who is being detained under Scottish provisions to transfer prisoners for mental health treatment⁴.

1 BSP Regs, reg 6(1); 2 MH Act 83, s. 47; 3 s. 50(3); 4 MH (C&T) (Scot) Act 03, s. 136

- 12024 A person is not a prisoner in accordance with DMG 12022 **1**. Or **2**. Where
1. A person is a prisoner outside Great Britain, **and**
 2. In similar circumstances in Great Britain, the person would not have been a prisoner¹.

1 BSP Regs, reg 6(3)

Paying BSP to persons remanded in custody

- 12025 A person who is remanded in custody is not a prisoner as in DMG 12022 so can be paid BSP¹ unless
1. a sentence of imprisonment or detention in legal custody as a result of criminal proceedings **or**
 2. a sentence of detention under certain provisions² **or**
 3. a suspended sentence of imprisonment
- is later imposed on the person for the offence.

1 BSP Regs, reg 7(2); 2 MH Act 83, s 47; MH (C&T)(Scot) Act 03, s 136

- 12026 DMG 12025 **1**. Does not apply if
1. it is imposed outside GB **and**
 2. it would not have been imposed in similar circumstances in GB¹.

1 BSP Regs, reg 7(3)

Meaning of imprisonment and detention in legal custody

12027 The term “imprisonment or detention in legal custody” means

1. any detention connected with criminal proceedings¹ **or**
2. imprisonment imposed by a criminal court².

A claimant sentenced to imprisonment as a result of civil proceedings is not disqualified².

1 R(P) 2/57; 2 R(S) 8/79

12028 Imprisonment or detention in legal custody includes detention

1. in a prison or detention centre **or**
2. of a child or young person under the direction of the Secretary of State **or**
3. in a hospital or similar institution as a result of criminal proceedings¹ **or**
4. abroad².

A person in a young offenders' institution is not imprisoned, but is detained in legal custody.

1 SS (Gen Ben) Regs, reg 2(8)(b); 2 R(S) 2/81

12029 Imprisonment or detention in legal custody might be

1. before the proceedings commence, for example custody before a charge **or**
2. before the conclusion of proceedings, for example remand in custody **or**
3. after the proceedings, for example sentenced to prison.

It does not include a period before criminal proceedings begin where the person is released on bail.

12030 The word "detention" describes the physical confinement of a person¹. A period of authorized absence from a place of detention is not a period in which a claimant is

1. kept in a prison **or**
2. detained in legal custody.

See DMG 12041 for pre-release schemes.

1 R(S) 10/56

Period of detention in legal custody

12031 The day on which detention in legal custody starts **is** a day of detention in legal custody. The day of release **is not** a day of detention.

Effect of a pardon

12032 Where

1. disqualification because of imprisonment or detention in legal custody had been imposed **and**
2. a pardon is granted for the offence associated with the imprisonment or detention in legal custody

the disqualification ends because of the pardon. See DMG Chapter 04 for further guidance on supersession for a relevant change of circumstances and when the decision takes effect.

Effect of a successful appeal

12033 Where a person successfully appeals against conviction they are not disqualified for the period of imprisonment or detention in legal custody. See also DMG 12057.

Release on licence

12034 Release on licence means release on parole after completion of a specified part of the original sentence. The following guidance does not cover prisoners on pre-release schemes; guidance on such cases should be sought from DMA Leeds through the usual channels. A person released on licence¹, including on temporary licence, is no longer imprisoned or detained in legal custody. The DM should consider

1. the importance of any specific terms the licence may have **and**
2. the way the terms alter the actual state of the release.

1 Criminal Justice Act 03, s 237 to 258; Prisoners and Criminal Proceedings (Scotland) Act 1993, Part I; Prisons (Scotland) Act 1989

12035 Conditions are imposed in all cases of release on licence and the person can be returned to prison if they breach these conditions.

12036 There are several early release on licence schemes including

- Parole - where the prisoner is released on the recommendation of the Parole Board after completing a specified part of their original sentence.
- Curfew - more commonly referred to as “tagging”, where a prisoner is released on licence before their automatic release date. The conditions of release require them to wear an electronic tag and remain at home during agreed periods of the day¹.

- Remote monitoring on release - another type of curfew applicable to various types of release on licence².

1 Criminal Justice Act 03, s 253; Prisoners and Criminal Proceedings (Scotland) Act 1993, Part I;

2 Criminal Justice (Scotland) Act 2003, s 40

12037 - 12040

Release on temporary licence

12041 In certain circumstances prisoners may be allowed short periods of release on temporary licence. The purpose of this is either for compassionate reasons or to help the prisoner improve their chances of resettlement after their release. They may find work outside prison to support themselves and their families and spend short periods at home. Prisoners released on temporary licence are not imprisoned or detained in legal custody¹.

1 CAO v Carr; R(IS) 20/95

12042 - 12049

Exceptions to the disqualification provisions

12050 There are exceptions to the provisions disqualifying benefit on imprisonment or detention in legal custody. These are where

1. no penalty is imposed¹ (see DMG 12051) **or**
2. the person is suffering from mental disorder² (see DMG 12070 - 12087) **or**
3. the person is in receipt of GA or death grant³ (see DMG 12088) **or**
4. the person is in receipt of IIDB⁴ (see DMG 12090 - 12091).

1 SS (Gen Ben) Regs, reg 2(2); 2 reg 2(3), (4) & (4A); 3 reg 2(5); 4 reg 2(6)

No penalty imposed

12051 There is no disqualification for receiving certain benefits for imprisonment or detention in legal custody unless at the end of criminal proceedings the court imposes

1. a penalty (see DMG 12054 - 12058) **or**
2. a penalty for fine default¹ (see DMG 12069).

1 SS (Gen Ben) Regs, reg 2(2)

Benefits affected

12052 The benefits affected are¹

1. IB
2. AA
3. DLA
4. WB
5. WPA
6. Child's special allowance
7. MA
8. SAP
9. RP
10. SDA
11. IIDB
12. REA
13. IDB

14. CA²

15. RA.

1 SS (Gen Ben) Regs, reg 2(2); 2 SS (ICA) Regs, reg 14

Meaning of Court

12053 Court means¹ any

1. Court in

1.1 UK

1.2 Channel Islands

1.3 Isle of Man

1.4 any place to which the Colonial Prisoners Removal Act 1884 applies **or**

2. Court-Martial within the meaning of the Courts-Martial (Appeals) Act 1968 **or**

3. Courts-Martial Appeal Court.

1 SS (Gen Ben) Regs, reg 2(8)(a)

Meaning of penalty

12054 Penalty¹ is

1. a sentence of imprisonment **or**

2. detention in a young offenders institution **or**

3. an order for detention in a young offenders institution **or**

4. detention in GB as a result of any order made under the Colonial Prisoners Removal Act 1884².

1 SS (Gen Ben) Regs, reg 2(8)(c); 2 reg 2(8)(d)

12055 The term penalty includes a suspended sentence of imprisonment at the end of criminal proceedings, even if it has not taken effect¹.

Note: A suspended sentence does not disqualify a claimant who is not in prison or detained in legal custody.

1 R(S) 1/71

12056 The following are not penalties and so no disqualification is imposed for the period before the end of criminal proceedings during which the person is remanded in custody when

1. a fine is imposed (see DMG 12069) **or**

2. the charge is withdrawn **or**

3. there is a conditional or absolute discharge or acquittal **or**

Employment and training schemes

General

- 15176 The main schemes organised by the DWP were the various ND schemes (see DMG Chapter 14) and, since 2011, the “Get Britain Working” measures and the Work Programme.
- 15177 In addition there are a number of employment and training programmes provided by the Young People’s Learning Agency for England, the Chief Executive of Education and Skills Funding, Skills Development Scotland or provided by or on behalf of the Secretary of State for Business, Innovation and Skills, Scottish Enterprise, the Highlands and Islands Enterprise or the National Assembly for Wales.
- 15178 Where a person is on such a scheme, DMs will need to establish whether they are
1. employees (or self-employed) **or**
 2. trainees.

Employees

- 15179 Employees get a wage from their employer. Treat the wage as earnings.

Trainees

- 15180 Trainees get a training allowance with no income tax or SS contributions deducted. These allowances should not be treated as earnings, but see Chapter 17 for guidance on overlapping benefits.

15181 - 15184

Work based learning - Skill Build and Training for Work (Wales and Scotland)

- 15185 Work Based Learning, (TfW in Scotland and WBL - SB in Wales) are voluntary schemes for the long term unemployed. They are provided by Scottish Enterprise, the Highlands and Islands Enterprise and Skills Development Scotland or the Welsh Ministers¹. Schemes may be known locally by a name other than Work Based Learning. Local Jobcentre Plus offices can confirm whether a particular scheme is Work Based Learning.

1 TfW (Miscellaneous Provisions) Order 1995

- 15186 There are two groups who are treated differently depending on whether a training allowance is payable
1. those receiving or eligible to receive a training allowance, who are treated as trainees

2. those receiving or entitled to receive remuneration from the employer providing the training facilities who are treated as employees.

15187 - 15189

Employment rehabilitation programmes

15190 Employment rehabilitation programmes are for adults who, because of illness, injury or disability, may need help to improve their employment prospects. Courses can last up to six months and are also known as Work Choice.

15191 People taking part in employment rehabilitation programmes are trainees. Treat any payments in the same way as a training allowance. Payments can include

1. an allowance for attending the course
2. travelling expenses
3. an allowance for midday meals.

15192 - 15193

Work Based Training for Young People and Modern Apprenticeships

15194 WBTfYP (Skillseekers in Scotland) and Modern Apprenticeships provide training for young people who

1. have reached the minimum school leaving age
2. are not attending school or college F/T as a pupil or student
3. are not in higher education
4. are not in custody as prisoners or on remand
5. are not overseas nationals subject to
 - 5.1 employment restrictions **or**
 - 5.2 a time limit on their stay in GB (other than a refugee or asylum seeker)**and**
6. are not benefiting from any other Government scheme (for example WBLA).

15195 Young people on WBTfYP (Skillseekers in Scotland) and Modern Apprenticeships can be employees or trainees with wages or training allowances. Employee status is more common on Modern Apprenticeships. Courses may vary in length and typically may be around two years on WBTfYP or three on Modern Apprenticeships. See DMG Chapter 34 for further details.

15196 - 15197

Calculation of net earnings

Deductions from gross earnings

15380 Net earnings are gross earnings less¹

1. income tax **and**
2. Primary Class 1 SS contributions **and**
3. half of any sum paid by the employee, towards an occupational or personal pension scheme
4. expenses not reimbursed by employer².

1 SS Ben (C of E) Regs, reg 10(4); 2 R(IS) 16/93

Income tax

15381 Deduct from gross earnings any income tax deducted by the employer.

Note: Scotland has been able to set its own Income Tax rates since 2016. See Appendix 1.

Social Security contributions

15382 SS contributions are often called NI Contributions or NI Conts. Reduce the employee's gross earnings by any Class 1 contribution deducted by the employer.

Occupational pension scheme deductions or personal pension scheme payments

15383 Deduct from the employee's gross earnings for a normal pay period one half of any amount which

1. a person pays into an occupational pension scheme for that period **or**
2. is deducted by the employer from a payment of earnings as a contribution to an occupational pension scheme for that period **or**
3. a person contributes towards a personal pension scheme for that period.

Example

Patricia earns £50 a week and is paid weekly. She pays £26 a month into a personal pension scheme. Her normal pay period is a week. Her pension contribution is changed into a weekly figure ($£26 \times 12 \div 52 = £6$ per week) and half of this weekly figure ($£6 \div 2 = £3$) is deducted from her gross weekly earnings ($£50 - £3 = £47$).

15384 Occupational pension schemes¹ are arrangements by which an employer provides benefits for employees based on service. The benefits may be provided by the employer or through a pension provider. Benefits are

1. normally in the form of a pension, all or part of which may be taken as a lump sum
2. payable on death or retirement.

1 PS Act 93, s 1

15385 Personal pension schemes¹ are arrangements between employees, or S/E earners, and pension providers such as insurance companies. They provide benefits independently of any employer (although an employer may still make contributions to such a scheme). Benefits are payable as annuities which may provide lump sum and pension payments payable on death or retirement.

1 PS Act 93, s 1; SS Ben (C of E) Regs, reg 2(1)

15386 Where a person pays contributions into both an occupational and a personal pension scheme, the deduction from gross earnings should be one half of the total payments made for the pay period¹.

1 R(FC) 1/90

Expenses not reimbursed by employer

15387 An expense that is not repaid to an employee by the employer should be deducted from earnings if it is incurred in the performance of the duties of the employment and is wholly, exclusively and necessarily incurred¹.

1 R(IS) 16/93

15388 Examples of expenses for which deductions may be made are

1. equipment, tools and stationery
2. overalls and specialist clothing
3. telephone calls made entirely for work purposes
4. travelling costs between different work places and any accommodation costs involved.

15389 The expense must be incurred in direct connection with the employer's trade or business¹. If there is some element of private use, for example telephone bills, that part of the bill for business use should be allowed. Any decision by HMRC on the apportionment of expenses may be taken into account as evidence. If there is no doubt, that decision can normally be followed².

*1 Davies v. Gwaun Cae Gurwen Colliery (1924) 2K8 651; Borley v. Ockended (1925) 2K8 325;
2 R(IS) 16/93*

Calculation of income tax, Social Security contributions and qualifying premium

Introduction

15650 Having calculated the gross receipts and expenses from self-employment on a cash flow basis, the DM should consider deductions for¹

1. income tax (see DMG 15654 et seq) **and**
2. Class 2 SS contributions (see DMG 15685 at seq) **and**
3. Class 4 SS contributions (see DMG 15690 et seq) **and**
4. half of any premium for a personal pension scheme (see DMG 15694) or retirement annuity contract (see DMG 15696).

1 SS Ben (C of E) Regs, reg 13(4)(b) & (c)

15651 The DM should base deductions for income tax and class 2 and class 4 SS contributions (see DMG 15650) on the chargeable income for the assessment period.

Chargeable income

15652 The chargeable income¹, that is, the income chargeable for tax, for the assessment period is the amount of earnings

1. in the case of a S/E child minder, one third of the gross receipts of that employment² **or**
2. in the case of a partnership, the person's share of
 - 2.1 the gross receipts of the employment less
 - 2.2 any allowable business expenses³ **or**
3. in any other case, the person's
 - 3.1 gross receipts of the employment less
 - 3.2 any allowable expenses⁴.

1 SS Ben (C of E) Regs, reg 14(3); 2 reg 14(3)(b); 3 reg 13(5); 4 reg 13(4)(a)

15653 The calculation at DMG 15652 should not include any deductions for

1. notional income tax **or**
2. SS contributions **or**
3. premiums for a personal pension scheme or retirement annuity contract.

Deduction for notional income tax

- 15654 The DM should calculate the deduction for notional income tax using the tax allowance and tax rates for the tax assessment year (6 April to 5 April) appropriate to the assessment period which is being used to calculate the earnings.

Tax allowances.

- 15655 A tax allowance is an amount of income a person can earn or receive in a tax year without paying tax. There are a number of tax allowances, but for the purposes of calculating the earnings of a S/E earner, DMs should have regard to the personal allowance only.

The rates of the income tax allowances are in Appendix 1. Note that since 2016, Scotland has been able to set its own income tax rates.

Personal allowance

- 15656 All earners whether married or single get a personal allowance. There are three age-related levels of personal allowance (Appendix 1), but for benefit purposes only the personal allowance for a person aged under 65 is deducted - even if another personal allowance appears to apply.

Tax rates

- 15657 The tax rate is the percentage of taxable income payable to HMRC. Taxable income is the amount of income remaining after deducting tax allowances. The rate is in Appendix 1.

Note: From April 2016 the Scottish Government can set its own rate of income tax¹. See Appendix 1 for more details.

1 The SS (Scottish Rate of Income Tax etc.) Amendment Regs 2016

15668 - 15679

Calculation of deduction

- 15680 To decide the notional amount of income tax to be deducted from a S/E earner's chargeable income the DM should¹

1. establish the chargeable income
2. establish the personal allowance appropriate to the S/E earner. If it
 - 2.1 is equal to or greater than the chargeable income there will be no notional income tax to deduct **or**
 - 2.2 is less than the chargeable income, go to 3.
3. deduct the personal allowance (Appendix 1)
 - 3.1 in full if the assessment period is a year **or**
 - 3.2 on a pro rata basis if the assessment period is less than a year

Appendix 1

Notional deductions for income tax (see DMG 15650 - 15680)

Income tax allowances

1. The personal income tax allowance for someone under 65 is as follows.

	12/13	13/14	14/15	15/16	16/17	17/18	18/19
	£	£	£	£	£	£	£
Personal under 65	8,105	9,440	10,000	10,600	11,000	11,500	11,850

Basic rates of tax

2. Income tax is payable on taxable income.

Note: there are different rates for Scotland from 18/19 – see 3 below.

	£	
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%
18/19	- 1 – 34,500	at basic rate of 20%

3. Scottish Income Tax Rates

18/19	- 1 – 13,850	at starter tax rate of 19%
	- 13,851 – 24,000	at basic rate of 20%
	- 24,001 – 43,430	at intermediate rate of 21%

Appendix 2

Notional deductions for Social Security contributions (see DMG 15681 et seq)

Class 1 contributions

1. The Class 1 SS contribution for any week or month is based on the percentage rate appropriate to the band that the estimated gross earnings fall.

Earnings Bands 11/12

Earnings

1. £139 or less weekly

Percentage rates

NIL

2. £139.01 or more weekly to UEL

12%

3. £817.01 weekly and above

2%

Earnings Limits 11/12

Lower earnings limit

weekly £102

Upper earnings limit

weekly £817

Earnings Bands 12/13

Earnings

1. £146 or less weekly

Percentage rates

NIL

2. £146.01 or more weekly to UEL

12%

3. £817.01 weekly and above

2%

Earnings Limits 12/13

Lower earnings limit

weekly £107

Upper earnings limit

weekly £817

Earnings Bands 13/14

Earnings

1. £149 or less weekly

Percentage rates

NIL

2. £149.01 or more weekly to UEL

12%

3. £797.01 weekly and above

2%

Earnings Limits 13/14

Lower earnings limit

weekly £109

Upper earnings limit

weekly £797

Earnings Bands 14/15

Earnings

1. £153 or less weekly

Percentage rates

NIL

2. £153.01 or more weekly to UEL

12%

3. £805.01 weekly and above

2%

Earnings Limits 14/15

Lower earnings limit

weekly £111

Upper earnings limit

weekly £805

Earnings Bands 15/16**Earnings**

1. £155 or less weekly
2. £155.01 or more weekly to UEL
3. £815.01 weekly and above

Percentage rates

- NIL
- 12%
- 2%

Earnings Limits 15/16**Lower earnings limit**

weekly £112

Upper earnings limit

weekly £815

Earnings Bands 16/17**Earnings**

1. £155 or less weekly
2. £155.01 or more weekly to UEL
3. £827.01 weekly and above

Percentage rates

- NIL
- 12%
- 2%

Earnings Limits 16/17**Lower earnings limit**

weekly £112

Upper earnings limit

weekly £827

Earnings Bands 17/18**Earnings**

1. £157 or less weekly
2. £157.01 or more weekly to UEL
3. £866.01 weekly and above

Percentage rates

- NIL
- 12%
- 2%

Earnings Limits 17/18**Lower earnings limit**

weekly £113

Upper earnings limit

weekly £866

Earnings Bands 18/19**Earnings**

1. £162 or less weekly
2. £162.01 or more weekly to UEL
3. £892.01 weekly and above

Percentage rates

- NIL
- 12%
- 2%

Earnings Limits 18/19**Lower earnings limit**

weekly £116

Upper earnings limit

weekly £892

Class 2 contributions

1. The weekly rates of Class 2 contributions are as follows.

	13/14	14/15	15/16	16/17	17/18	18/19
	£	£	£	£	£	£
Ordinary Class 2 rate	2.70	2.75	2.80	2.80	2.85	2.95
Share fisherman rate	3.35	3.40	3.40	3.45	3.50	3.60

Small earnings exception/Small profits threshold

1. The rates of the small earnings exception and small profits threshold are as follows.

	12/13	13/14	14/15	15/16	16/17	17/18	18/19
	£	£	£	£	£	£	£
Earnings limit	5,595	5,725	5,885	5,965	5,965	6,025	6,205

Class 4 contributions

2. The weekly rates of Class 4 contributions are as follows.

	12/13	13/14	14/15	15/16	16/17	17/18	18/19
	£	£	£	£	£	£	£
Lower level	7,605	7,755	7,956	8,060	8,060	8,164	8,424
Higher level	42,475	41,450	41,865	42,358	43,000	45,000	46,350
Percentage rate (taxable profits between lower & higher levels)	9%	9%	9%	9%	9%	9%	9%
Percentage rate (taxable profits over higher level)	2%	2%	2%	2%	2%	2%	2%

Appendix 6

Maximum weekly amount (See DMG 15262 - 15263)

Amounts specified in section 227(1) of the Employment Rights Act 1996.

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
From 6.4.18	508

Adjustment between different personal Act benefits

17040 [\[See Memo DMG 11/16\]](#) In this Part the term Act benefit refers to benefits provided for under specific legislation¹ and includes

1. JSA(Cont)
2. IB
3. MA
4. BB
5. RP
6. AP and GRB. These benefits are treated as separate personal benefits and overlap in certain situations (See DMG 17064)
7. SDA and CA, subject to DMG 17180
8. age addition, subject to DMG 17063
9. ESA(Cont).

1 SS CB Act 92, Parts II & III; WR Act 07; JS Act 95

17041 Except for those benefits referred to in DMG 17042, all personal Act benefits are subject to the rules described in DMG 17050 to 17061 concerning adjustment when more than one personal Act benefit is payable.

17042 The excepted benefits and payments which are not adjusted and do not require another personal Act benefit to be adjusted on account of them being payable¹ are

1. WPT
2. BPT
3. any other sum which is not paid for a period
4. AA
5. DLA.

Note: SAP is not a personal Act benefit².

1 SS (OB) Regs, reg 4(2); 2 reg 2(1) definition of "personal benefit"

17043 - 17049

Method of adjustment

- 17050 Where a claimant is entitled to two or more personal Act benefits the DM should follow the steps in DMG 17051 - 17061 to identify which benefit takes precedence and how to make the adjustment to the other.

First step

- 17051 If one of the benefits is a contributory benefit and the other is not, the contributory benefit takes precedence and the non-contributory benefit is the one to be adjusted. This is done by deducting the amount of the contributory benefit from the amount of the non-contributory benefit¹. The amount of the contributory benefit is payable in full but only the balance of the non-contributory benefit, if any, is payable.

1 SS (OB) Regs, reg 4(5)(a)

Example

A claimant in receipt of SDA at the rate of £59.45 becomes entitled to reduced basic Category A RP at £48.83. RP is a contributory benefit while SDA is non-contributory, therefore RP is paid in full together with a balance of £10.62 SDA.

Second step

- 17052 If DMG 17051 does not apply, and one of the benefits is payable weekly the general rule is that the benefit payable on a weekly basis takes precedence and the other benefit is to be adjusted. This is done by deducting the amount of the weekly benefit from the amount of the non-weekly benefit. The amount of the benefit payable on a weekly basis is payable in full but only the balance, if any, of the non-weekly benefit is payable¹. See DMG 17053 if the claimant has applied for the benefit payable on a weekly basis to be adjusted.

1 SS (OB) Regs, reg 4(5)(b)(ii)

- 17053 Where DMG 17051 does not apply and one of the benefits is payable weekly, the beneficiary may make an application to have the weekly benefit adjusted. The application to have the weekly benefit adjusted can be made at any time but only applies to payments due after the application has been made. In this case the benefit not payable on a weekly basis takes precedence and the other benefit is adjusted. This is done by deducting the amount of the benefit not payable on a weekly basis from the amount of the benefit payable on a weekly basis. The amount of the benefit not paid on a weekly basis is payable in full, but only the balance, if any, of the benefit payable on a weekly basis is payable¹.

1 SS (OB) Regs, reg 4(5)(b)(i)

Example

A woman in receipt of WP of £97.65 is entitled to IB of £91.40 basic rate. WP is a weekly and IB a daily benefit. Before the payment due on 12.5.10 she applies to have her WP adjusted and to keep the whole of her IB. She therefore receives IB from 12.5.10 and only the balance of her WP - £6.25. For the period before 12.5.10 when she made the application, she receives full WP and her IB is extinguished.

17054 - 17059

Third step

17060 If neither DMG 17051 nor DMG 17052 - 17053 apply, the total amount payable is

1. the amount of the highest benefit **or**
2. where the benefits are payable at the same rate, the amount of one of them¹.

1 SS (OB) Regs, reg 4(5)(c)

17061 Where two or more benefits are still payable after adjustment, the total amount payable cannot be greater than the amount arrived at in DMG 17060¹.

1 SS (OB) Regs, reg 4(5)(c)

Exceptions and modifications

17062 [\[See Memo DMG 11/16\]](#) The guidance in DMG 17050 - 17061 is modified for the benefits in DMG 17063 - 17069.

Age addition

17063 [\[See Memo DMG 11/16\]](#) Age addition is an increase of RP for claimants over age 80¹. An age addition can only be reduced by another age addition².

1 SS CB Act 92, s 79; 2 SS (OB) Regs, reg 4(3)

Additional Pension or Graduated Retirement Benefit

17064 [\[See Memo DMG 11/16\]](#) Where

1. AP or GRB is payable with two or more of the personal benefits in DMG 17040 **or**
2. the claimant is over pension age and is entitled to one or more benefits which includes AP or GRB **and** IB at the RP rate

the AP or GRB is treated as part of the personal benefit with which it is payable¹.

1 SS (OB) Regs, reg 4(4)(a)

17065 [\[See Memo DMG 11/16\]](#) Where a further adjustment is necessary against a third benefit the claimant is treated as having a single long-term benefit including the highest amount, before adjustment, of

1. AP or
2. GRB or
3. the total of AP and GRB payable with one of the benefits¹

1 SS (OB) Regs, reg 4(4)(c)

Example

A man is in receipt of SDA at the weekly rate of £59.45. On 12.5.10 he becomes entitled to a Category A RP made up of

Basic Pension	£48.83	(50% of the standard rate due to deficient contribution record)
Additional Pension	£23.50	
Graduated Retirement Benefit	£1.96	

The basic RP rate is paid in full with a balance of £10.62 SDA. As AP and GRB are only payable with one of the benefits, they are unaffected by the overlap provisions and are paid in full.

Widows and Incapacity Benefit

17066 [\[See Memo DMG 11/16\]](#) There were special provisions¹ applying to widows who before 13.4.95 were under pension age and entitled to WMA or WP and IB. These provisions do not apply to IB unless the modified savings provisions apply². These benefits should be adjusted as in DMG 17068.

1 SS (OB) Regs, reg 3(3) (revoked); 2 SS (IB) (Conseq & Trans Amendi & Savings) Regs 95, reg 14(9) & (10)

17067 [\[See Memo DMG 11/16\]](#) Under the special provisions the total amount of WMA or WP and IB was made up of

1. the sum of the Basic Pensions up to the standard rate of Cat A RP¹ **and**
2. the sum of the AP up to the prescribed maximum².

1 SS CB Act 92, s 44(3)(a); 2 SS (MAP) Regs, reg 3

17068 [\[See Memo DMG 11/16\]](#) Under the modified provisions, the total amount of WMA or WP and IBLT is made up of

1. an amount equal to the basic rate of IBLT or the basic rate of WMA or WP or the higher of the two **and**

2. the sum of IB payable at the additional rate and the AP payable with WMA or WP

up to the prescribed maximum.

Example

A woman is entitled to IBLT made up of £61.15 basic rate. She is widowed on 18.11.96 and becomes entitled to WP from 19.11.96 made up of £56.87 Basic Pension and £66.40 AP. As there is no AP with IB, the AP payable with WP is unaffected

WP is a weekly and IB a daily benefit. Before the payment due on 26.11.96 she applies to have her WP adjusted and to keep the whole of her IB. She therefore receives IB at the rate of £61.15 and WP AP of £66.40 from 26.9.95, her WP Basic Pension is extinguished. From 19.11.96 to 25.11.96 she receives full WP, as this was paid before the date of application, and a balance of IB.

17069 [\[See Memo DMG 11/16\]](#) Where the special provisions no longer apply, the DM should adjust IB and WB as in DMG 17064.

Example

A woman is entitled to a transitional award of IBLT made up of

£61.15 basic rate and

£10.00 additional rate.

She is widowed on 18.9.95 and becomes entitled to WP from 19.11.96 made up of

£56.87 Basic Pension and

£66.40 AP

WP is a weekly and IB a daily benefit. Before the payment due on 26.11.96 she applies to have her WP adjusted and to keep the whole of her IB. She therefore receives IB at the rate of £71.15 from 26.11.96 and a balance of £52.12 Widow's Pension. From 19.11.96 to 25.11.96 she receives full WP as this was paid before the date of application, and her IB is extinguished.

17070 - 17084

Adjustment of personal Act benefits by personal industrial injuries and non-Act benefits

17085 [\[See Memo DMG 11/16\]](#) Personal Act benefits are adjusted for personal II and non-Act benefits before any adjustment has been made for other personal Act benefits under DMG 17040. The Act benefits in Column 1 below are reduced by the II and non-Act benefits in Column 2¹.

1 SS (OB) Regs, reg 6(1) & Sch 1

Column 1 – personal benefit	Column 2 – other personal benefit by reference to which the benefit in column (1) is to be adjusted
JSA (Cont)	US and training allowance
IBST	US and training allowance
MA	training allowance
WA, WPA, and benefit under specific legislation ¹ corresponding to WMA and WP	US; IDB or war pension death benefit payable to a widow, widower or surviving civil partner (including TAW); training allowance (except where the column 1 benefit is WA)
RP of any category (excluding age addition), AP and GRB, IB, SDA, ESA(Cont) and CA	US (see DMG 17099); IDB or war pension death benefit payable to the claimant as the surviving spouse or civil partner; training allowance (see DMG 17101 - 17123)
AA, DLA care component, PIP daily living component, AFIP up to the value of the daily living component of PIP at the enhanced rate	CAA and any benefit based on need for attendance under any PB and MDB scheme (see DMG Ch 73), WC (Supp) scheme (see DMG Ch 73), service pensions instrument (see DMG 18092) or 1914-1918 War Injuries Scheme (see DMG 17100)
AA, DLA, PIP	AFIP
IVA, or an age increase of IBLT	an age increase to IIDB; US and an additional allowance payable to a person who is entitled to US under any PB and MDB scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme

US

Any other US

Increase of disablement pension (see DMG 17097) during hospital treatment

Treatment allowance (see DMG 17098)

1 SS CB Act 92, s 78(9)

Industrial Injuries and non-Act benefits

17086 The II and non-Act benefits referred to in Column 2 of DMG 17085 are

1. US and age related increases
2. CAA awarded under the II scheme¹
3. any personal injuries scheme² payment made under certain legislation³
4. any service pensions instrument (see DMG 17092)
5. the PB and MDB (see Benefit Specific Guidance)
6. the WC (Supp) (see Benefit Specific Guidance) the general benefit rules for former constables and firefighters⁴
7. IDB⁵
8. war pension death benefit (see DMG 17095)
9. training allowances (see DMG 17101)
10. AFIP.

*1 SS CB Act 92, Sch 7, Part I, s 104; 2 SS (OB) Regs, reg 2(1);
3 Personal Injuries (Emergency Provisions) Act 1939; Pensions (Navy, Army, Air Force and
Mercantile Marine) Act 1939; 4 SS CB Act 92, Sch 8, Part II; 5 Sch 7, Part VI*

Armed Forces Compensation Scheme

17087 The Armed Forces Compensation Scheme¹ is a no fault compensation scheme which covers death, illnesses or injures attributable to or significantly aggravated by service where the illness first presented or the incident occurred on or after 6.4.05. Under the terms of this scheme a lump sum will be payable to service or ex-service personnel based on a tariff according to the seriousness of the condition. A Guaranteed Income Payment, payable for life, will also be paid where there has been a loss of earning capacity and to surviving partners where the service person's death was caused by service.

17088 Lump sums and income from the Armed Forces Compensation Scheme **do not** overlap with personal act benefits. The scheme was established under specific legislation¹ to which no reference is made in the Overlapping Benefit Regulations.

1 Armed Forces (Pensions and Compensation) Act 2004