

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 4 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>

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 55 affects chapters 21 and 23. The changes;
 - make various minor amendments to chapter 21
 - incorporate DMG memo 04/18 into chapter 23 and moves material on 'deductions from JSA(Cont) for pension payments' (previously paragraphs 23800 to 23999) to DMG Chapter 28.
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).

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Chapter 20

20137 – 20157 (1 page)

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20137 People may also be treated as incapable where the PCA applies but it is not yet assessed where they

1. continue to send in medical evidence (see DMG Chapter 13) **and**
2. have not been found capable of work or treated as capable of work within the preceding six months because they failed to provide information or evidence or failed without good cause to attend a medical examination unless
 - 2.1 it is a different disease or disablement **or**
 - 2.2 it is the same disease or disablement but it has significantly worsened **or**
 - 2.3 in a case where they were found capable of work because they did not provide the information requested, they have now provided it¹.

1 SS (IW) (Gen) Regs, reg 28

Treated as capable

20138 Except where DMG 20134 3. applies, people treated as capable of work are not entitled to IS unless they can qualify on other grounds. People will be treated as capable if they

1. fail to attend or agree to a medical examination without good cause¹ **or**
2. fail without good cause to return the questionnaire within the permitted time² **or**
3. do work that is not permitted in the regulations³.

Note: In relation to work that is not permitted, if the person states that they are a volunteer the ordinary meaning of the phrase “engaged in voluntary work” should be applied. In one sense all work is voluntary because a person could walk away from a job at any time on giving notice. The fact that an employer cannot afford to pay a proper wage or declares the work to be voluntary does not mean that it is. However, a person could be a volunteer even though the arrangement was a formal one and the voluntary work they were involved in was long-standing and taxing.

1 SS (IW) (Gen) Regs, reg 8(2); 2 reg 7; 3 reg 16

Certain people in receipt of the daily living component of PIP

20139 A person will satisfy entitlement conditions for IS where

1. they are in receipt of the daily living component of PIP at the enhanced rate **and**
2. immediately before receiving that benefit the person was entitled to and in receipt of IS because they were treated as incapable of work by virtue of

being in receipt of the highest rate care component of DLA¹.

1 IS (Gen) Regs, Sch 1B, para 7A; SS (IfW) Regs, reg 10(2)(a)(i)

20140 - 20151

Disabled workers (revoked from and including 25.1.10 but see Appendix 6 for savings provisions)

20152 A disabled worker who satisfies DMG 20496 is treated as **not** engaged in remunerative work and can get IS¹.

1 IS (Gen) Regs, Sch 1B, para 8

People in work living in a care home, an Abbeyfield Home or an independent hospital (revoked from and including 25.1.10 but see Appendix 6 for savings provisions)

20153 People in employment who satisfy DMG 20504 - 20505 are treated as **not** engaged in remunerative work and can get IS¹.

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

People entitled to Mortgage Interest Run-on

20154 People in employment who satisfy DMG 20530 - 20532 are treated as **not** engaged in remunerative work and can get IS¹.

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

Disabled students (revoked from 30.12.09 but see Appendix 5 for savings provisions)

20155 F/T students can get IS if they¹

1. qualify for the DP or SDP under DMG Chapter 23 **or**
2. have been incapable of work as in DMG 20134 for a continuous period of not less than 196 days.

1 IS (Gen) Regs, Sch 1B, para 10(a) & (b)

20156 Two or more separate periods of incapacity, separated by a break of not more than 56 days, are treated as one continuous period¹.

1 IS (Gen) Regs, Sch 1B, para 10(b)

Old student cases

20157 Students can also get IS if¹

1. immediately before 1.9.90 they were in receipt of IS under the former definition of disabled student **or**

Temporary

- 21548 The principles in DMG 070853 et seq should be applied when deciding if something is temporary.

Temporary adverse industrial conditions

- 21549 Temporary adverse industrial conditions only apply if claimant's employers
1. have recently
 - 1.1 reduced working **or**
 - 1.2 closed down **and**
 2. are expected to resume working at some point in the foreseeable future.
- 21550 DMs should not accept temporary adverse industrial conditions as the reason for claimants being laid off or on short-time if their employer has permanently
1. reduced working **or**
 2. closed down.
- 21551 Customary slackness at particular times of the year is not temporary adverse industrial conditions¹.

1 R(U) 3/59

Temporarily absent from Great Britain

- 21552 Guidance on temporary absence from GB is at DMG 070853 et seq.

Temporarily absent from United Kingdom

- 21553 The principles in DMG 070853 et seq should be applied when deciding if someone is temporarily absent from the UK.

Traineeship

- 21554 Traineeship means¹ a course which
1. is funded (in whole or in part) by, or under arrangements made by, the
 - 1.1 Secretary of State under specified legislation² **or**
 - 1.2 Chief Executive of Education and Skills Funding **and**
 2. lasts no more than six months **and**
 3. includes training to help prepare the participant for work and a work experience placement **and**
 4. is open to persons who on the first day of the course have attained the age of 16 but not 25.

1 JSA Regs, reg 1(3); 2 Education Act 2002, s 14

Training allowance

21555 A training allowance is¹ an allowance payable

1. out of public funds by
 - 1.1 a government department **or**
 - 1.2 by or on behalf of
 - 1.2.a the Secretary of State for Work and Pensions **or**
 - 1.2.b Scottish Enterprise **or**
 - 1.2.c Highlands and Islands Enterprise **or**
 - 1.2.d Skills Development Scotland **or**
 - 1.2.e the Chief Executive of Education and Skills Funding **or**
 - 1.2.f Welsh Ministers **and**
2. to people for
 - 2.1 their maintenance **or**
 - 2.2 a member of their family (see DMG Chapter 22) **and**
3. for the period, or part of the period, that they are taking part in a course of training instruction
 - 3.1 provided by, or under arrangements made with, that department **or**
 - 3.2 approved by that department in relation to the person **or**
 - 3.3 so provided or approved by or on behalf of
 - 3.3.a the Secretary of State for Work and Pensions **or**
 - 3.3.b Scottish Enterprise **or**
 - 3.3.c Highlands and Islands Enterprise **or**
 - 3.3.d Skills Development Scotland **or**
 - 3.3.e Welsh Ministers

But it does not include an allowance paid by any government department to, or for, people who are following a course of FTE which is not arranged under relevant legislation² or who are training as a teacher.

1 JSA Regs, reg 1(3); 2 E & T Act 73, s 2; Enterprise & New Towns (Scotland) Act 90, s 2

21556

2.2.b only at a level of pay that they are used to receiving **or**

2.2.c both **2.2.a** and **2.2.b**.

1 JS Act 95, s 7(5); JSA Regs, reg 20(2) & (3); 2 JS Act 95, s 7(5); JSA Regs, reg 20(1)

21751 Claimants are only entitled to a permitted period for ASE if they are treated as available for a permitted period. If they¹

1. are treated as available for a permitted period they are treated as ASE for the same permitted period that they are treated as available **or**
2. are not treated as available for a permitted period they cannot be treated as ASE for a permitted period.

1 JSA Regs, reg 20

21752 - 21753

Programmes provided by Venture Trust

21754 Claimants can be treated as ASE for any week that they are taking part in a programme provided by the Venture Trust. Claimants must be taking part in the programme for three days or more in that week. Claimants can only be treated as ASE for this reason for a maximum of

1. four weeks for each programme **and**
2. one programme in any period of twelve months¹.

1 JSA Regs, reg 19(1)(k)

21755 The programme provided by the Venture Trust must be provided under an agreement made by the Scottish Ministers¹.

Note: For England and Wales there are now no programmes provided by the Venture Trust. In Scotland Venture Trust programmes continue to operate.

1 JSA Regs, reg 19(1)(k)

21756 - 21758

Reservists

21759 A claimant taking part in training for three days or more in a week as a member of a reserve force is to be treated as ASE either

1. if engaged in their first year of training, for a maximum of 43 days in that year **or**
2. if engaged in annual continuous training, for a maximum of 15 days in any calendar year.

This includes training outside of GB.

Note: Appendix 1 to DMG Chapter 26 lists the reserve forces.

1 JSA Regs, reg 19(1)(y)

Taking steps to become self-employed

21760 Claimants can be treated as ASE in any week during which they are taking active steps to establish themselves in S/E earner's employment. But it must be under a scheme for helping people to become S/E in¹

1. England, where the scheme is provided directly or indirectly by, or with financial help from
 - 1.1 the Secretary of State **or**
 - 1.2 the Urban Regeneration Agency **or**
 - 1.3 an Urban Development Corporation **or**
 - 1.4 a Housing Action Trust **or**
2. Scotland, where
 - 2.1 the scheme is established under arrangements made by Scottish Enterprise or Highlands and Islands Enterprise or Skills Development Scotland² **or**
 - 2.2 the scheme is provided directly or indirectly by, or with financial help from, the Secretary of State **or**
3. Wales, where they attend under arrangements made by the Secretary of State³.

1 JSA Regs, reg 19(1)(r); 2 Enterprise and New Towns (Scotland) Act 90, s 2(3); 3 E & T Act 73, s 2(3)

21761 If the claimant is undertaking a scheme that is provided directly or indirectly by, or with financial help from someone other than the Secretary of State, the DM should ask the corporation whether they are

1. an Urban Regeneration Agency¹ **or**
2. an Urban Development Corporation² **or**
3. a Housing Action Trust³

set up by the Secretary of State (see DMG 21764 - 21766).

1 JSA Regs, reg 19(3); Leasehold Reform, Housing and Urban Development Act 93, s 158(1);

2 JSA Regs, reg 19(3); Local Government, Planning and Land Act 80, s 135(1);

3 JSA Regs, reg 19(3); Housing Act 88, s 62

21762

21763 A Chamber of Commerce, LEC, the Chief Executive of Education and Skills Funding or NCET (also known as National Council for Education and Learning in Wales) may organise schemes to help claimants to become S/E. The DM should confirm whether such schemes are provided for as in DMG 21760. People in the NDYP gateway who start the short course or one to one counselling for EO(S/E) have been accepted onto a scheme as in DMG 21760, and can be treated as ASE.

Housing Action Trust

21764 A Housing Action Trust is a corporation established by an order of the Secretary of State, whose first objective is to¹

1. repair or improve the housing held by the trust **and**
2. secure proper and effective management and use of that housing **and**
3. encourage diversity in
 - 3.1 which housing in the area is occupied **and**
 - 3.2 the identity of the landlords, where the accommodation is occupied by tenants **and**
4. improve the living conditions, social conditions and general environment of the area.

1 JSA Regs, reg 19(3); Housing Act 88, Part III

Urban Development Corporation

21765 An Urban Development Corporation is a corporation established by the Secretary of State to regenerate a particular area that the Secretary of State feels it is in the national interest to designate as an urban development area¹.

1 JSA Regs, reg 19(3); Local Government, Planning and Land Act 80, s 134, 135 & 136

Urban Regeneration Agency

21766 An Urban Regeneration Agency is a corporate body whose purpose is to regenerate land that is in England and which is

1. vacant or unused **or**
2. in an urban area and that is under used or ineffectively used **or**
3. contaminated, derelict, neglected or unsightly **or**
4. likely to become derelict, neglected or unsightly because of actual or possible collapse of the surface due to operations that have ceased to be carried out

that the Agency determines to be suitable for regeneration¹.

1 JSA Regs, reg 19(3); Leasehold Reform, Housing and Urban Development Act 93, s 158(1), 159(1) & (2)

21767

Maximum period

21768 People can only be treated as ASE under DMG 21760 for any week that falls in an eight week period¹. If they do not claim for all or any of those weeks or are not entitled to JSA, they cannot be treated for different weeks instead.

1 JSA Regs, reg 19(1)(r)

21769 The provision only applies to a single period of eight weeks for each period of continuous entitlement to JSA¹. If claimants have already been treated under this provision in the same period of continuous entitlement to JSA and they make another attempt to establish themselves in S/E, they cannot be treated as ASE again.

1 JSA Regs, reg 19(1)(r)

21770 Claimants who fall under DMG 21760 can be treated as ASE for the period beginning with the week in which they are accepted on a place on the scheme¹.

1 JSA Regs, reg 19(1)(r)

Active steps

21771 Whether claimants are taking active steps to establish themselves in S/E is a question of fact. Steps to establish claimants in S/E include taking steps directed by the scheme, for example, going on courses, learning bookkeeping. Proof that they are taking such steps may consist of evidence that they have, for example

1. applied to banks or other institutions for a business loan **or**
2. bought equipment for use in the business **or**
3. looked for, rented or bought business premises **or**
4. advertised their services **or**
5. consulted an Enterprise Agency **or**
6. started work on any paperwork required by the relevant CCTE, LEC, the Chief Executive of Education and Skills Funding or NCET.

Temporary absence from Great Britain for NHS treatment abroad

21772 Claimants can be treated as ASE for any period when they are temporarily absent from GB for the purpose of receiving NHS treatment abroad¹ (see DMG Chapter 7).

Note: If claimants are treated as ASE for only part of the week, the steps they need to take on the other days in that week should be reduced in proportion to the amount of the week for which they are treated as ASE.

1 JSA Regs, reg 19(1)(u)

Traineeship

21773 Where a claimant is treated as available for employment because they are participating in a Traineeship then they must also be treated as ASE for the same period of time¹.

1 JSA Regs, reg 19(1)(aa)

Appendix 1

Lower earnings limit

From	To	Amount (£)
6.4.00	5.4.01	67
6.4.01	5.4.02	72
6.4.02	5.4.03	75
6.4.03	5.4.04	77
6.4.04	5.4.05	79
6.4.05	5.4.06	82
6.4.06	5.4.07	84
6.4.07	5.4.08	87
6.4.08	5.4.09	90
6.4.09	5.4.10	95
6.4.10	5.4.11	97
6.4.11	5.4.12	102
6.4.12	5.4.13	107
6.4.13	5.4.14	109
6.4.14	5.4.15	111
6.4.15	5.4.16	112
6.4.16	9.4.17	112
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Deductions from JSA(Cont) for pension payments

The guidance on this subject has been moved to Chapter 28	23800
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JSA(Cont) - personal rate

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

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

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

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

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

Example 1

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

Example 2

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

Example 3

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

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

1. 16 to 24
2. 25 and over¹.

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

JSA(IB) - applicable amount

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

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

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

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

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

1. SDP **and**
2. housing costs¹.

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

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

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

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

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

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

Personal allowances for JSA(IB) and IS

Personal allowances

Claimant's personal allowances

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

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

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

23032 The personal allowance may be different if

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

Structure of allowances

23033 There are separate rates of personal allowance¹ for

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

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

Personal allowances for polygamous marriages

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

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

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

Other multiple relationships

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

Example 1

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

Example 2

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

23038

Dependant's personal allowances

[See DMG Memo JSA/IS 64]

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

1. child or
2. young person

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

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

Structure of allowances

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

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

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

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

23042 - 23045

Definitions

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

Close relative

23408 A close relative is¹

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

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

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

1 R(SB) 22/87

Disabled person

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

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

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

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

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

See DMG 23135 et seq for further guidance.

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

Dwelling occupied as the home

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

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

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

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

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

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

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

Non-dependant deduction not appropriate

23770 [\[See DMG Memo 6/17\]](#) [\[See ADM Memo 8/17\]](#) Deductions should not be made if

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

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

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

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

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

Deduction appropriate – UC non-dependants

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

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

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

Participation in new deal for young people

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

23773 - 23774

Calculation of a non-dependant's gross weekly income

23775 [\[See Memo DMG 14/17\]](#) When calculating the gross weekly income of a non-dependant disregard¹ any

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

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

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

23776 - 23778

Deductions from JSA(Cont) for pension payments

23800 The guidance on this subject has been moved to DMG Chapter 28

23801 - 23999

Appendix 7

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

Housing costs - amount of non-dependant deductions

1 This appendix provides the rates of the non-dependant deductions¹.

1 JSA Regs 95, Sch 2, para 17(1); IS (Gen) Regs, Sch 3, para 18(1)

Rates from 8.4.13

2 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £87.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £126.00 £13.60
 - 2.2 £126.00 to £185.99 £31.25
 - 2.3 £186.00 to £241.99 £42.90
 - 2.4 £242.00 to £321.99 £70.20
 - 2.5 £322.00 to £400.99 £79.95
 - 2.6 £401.00 or more £87.75
3. any other non-dependant aged 18 or over for whom deductions are relevant - £13.60

Rates from 7.4.14

3 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £91.15
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £128.00 £14.15
 - 2.2 £128.00 to £187.99 £32.45
 - 2.3 £188.00 to £244.99 £44.55
 - 2.4 £245.00 to £325.99 £72.95
 - 2.5 £326.00 to £405.99 £83.05
 - 2.6 £406.00 or more £91.15
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.15.

Rates from 6.4.15

4 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £93.80
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £129.00 £14.55
 - 2.2 £129.00 to £188.99 £33.40
 - 2.3 £189.00 to £245.99 £45.85
 - 2.4 £246.00 to £327.99 £75.05
 - 2.5 £328.00 to £407.99 £85.45
 - 2.6 £408.00 or more £93.80
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.55.

Rates from 11.4.16

5 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £94.50
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £133.00 £14.65
 - 2.2 £133.00 to £194.99 £33.65
 - 2.3 £195.00 to £252.99 £46.20
 - 2.4 £253.00 to £337.99 £75.60
 - 2.5 £338.00 to £419.99 £86.10
 - 2.6 £420.00 or more £94.50
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.65.

Rates from 10.4.17

6 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £95.45
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £136.00 £14.80
 - 2.2 £136.00 to £199.99 £34.00
 - 2.3 £200.00 to £258.99 £46.65
 - 2.4 £259.00 to £345.99 £76.35
 - 2.5 £346.00 to £429.99 £86.95
 - 2.6 £430.00 or more £95.45
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.80.

Rates from 6.4.18

7 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £98.30
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £139.00 £15.25
 - 2.2 £139.00 to £203.99 £35.00
 - 2.3 £204.00 to £264.99 £48.05
 - 2.4 £265.00 to £353.99 £78.65
 - 2.5 £354.00 to £438.99 £89.55
 - 2.6 £439.00 or more £98.30
3. any other non-dependant aged 18 or over for whom deductions are relevant - £15.25.

