

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 5 Amendment 54 – June 2018

1. This letter provides details on Amendment 54; 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 54 affects chapters 26, 27 & 28. The changes:
 - make various minor amendments to chapter 26
 - make various minor amendments to chapter 27
 - incorporate DMG memo 05/18 into chapter 28, adds material at paragraphs 28880 – 28981 on 'deductions from JSA(Cont) for pension payments' that was previously in DMG chapter 23, amends the definition of 'Care Home for Wales' at 28283 as well as making other amendments to the chapter.
4. Using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Chapter 26

26150 – 26159 (1 page)
Appendix 2 – Appendix 3 (2 pages)

Chapter 27

27260 – 27304 (2 pages)
Appendix 1 – Appendix 2 (5 pages)

Insert

Chapter 26

26150 – 26159 (1 page)
Appendix 2 – Appendix 3 (2 pages)

Chapter 27

27260 – 27304 (2 pages)
Appendix 1 – Appendix 2 (4 pages)

Chapter 28

Conts 28399 – 28479 (1 page)
Conts 28815 – Appendix 1 (1 page)
28008 – 28049 (1 page)
28230 – 28350 (9 pages)
28417 – 28421 (1 page)
28450 – 28491 (6 pages)
28512 – 28529 (1 page)
28663 – 28684 (3 pages)
28870 – 28999 (1 page)

Chapter 28

Conts 28399 – 28479 (1 page)
Conts 28815 – Appendix 1 (2 pages)
28008 – 28049 (1 page)
28230 – 28350 (9 pages)
28417 – 28421 (1 page)
28450 – 28491 (5 pages)
28512 – 28529 (1 page)
28663 – 28684 (3 pages)
28870 – 28999 (12 pages)

Employment and training schemes

General

26150 Employment and training schemes are funded out of public funds by the Young People's Learning Agency for England, the Chief Executive of Education and Skills Funding or by or on behalf of the Secretary of State for Business, Innovation and Skills, Scottish Enterprise, the Highlands and Islands Enterprise, Skills Development Scotland or Welsh Ministers. Where a person is on such a scheme, establish whether they are

1. employees
 - 1.1 in remunerative work **or**
 - 1.2 in P/T work **or**
2. trainees.

Employees

26151 Employees get a wage from their employer. Treat the wage as earnings. If the work is remunerative there will be no entitlement to benefit. If the work is P/T, take the net earnings into account, less any disregard (see DMG 26097 et seq).

Trainees

26152 Trainees get a training allowance with no income tax or SS contributions deducted¹. Treat these allowances as other income and take them into account in full² except for

1. travelling expenses repaid to the trainee unless the same expenses have already been disregarded as student income (see DMG Chapter 30)³
2. living away from home allowance (see DMG 28195)
3. training premium
4. childminding costs paid direct to the childminder⁴
5. training bonus⁵ (see DMG Chapter 29)
6. discretionary payments made under Employment and Training Law intended to meet or help meet the special needs of a person undertaking a qualifying course⁶.

*1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 JSA Regs, reg 101(1); IS (Gen) Regs, reg 40(1);
3 JSA Regs, Sch 7, para 63(2); IS (Gen) Regs, Sch 9, para 65(2); 4 JSA Regs, reg 105(10);
IS (Gen) Regs, reg 42(4); 5 JSA Regs, Sch 9, para 32; IS (Gen) Regs, Sch 10, para 30;
6 JSA Regs, Sch 7, para 14; IS (Gen) Regs, Sch 9, para 13; E & T Act 1973, s 2*

26153 - 26154

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

26155 Work Based Learning (TfW in Scotland and WBL - SB in Wales) is a voluntary scheme for the long term unemployed in Scotland and Wales. It is 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

- 26156 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.

Employment rehabilitation programmes

26157 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.

- 26158 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.

Work based Training for Young People and Modern Apprenticeships

- 26159 WBTfYP (Skillseeker's 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

Appendix 2

Maximum weekly amount

Payable under section 227 of the Employment Rights Act 1996.

	£
From 1.2.00	230
From 1.2.01	240
From 1.2.02	250
From 1.2.03	260
From 1.2.04	270
From 1.2.05	280
From 1.2.06	290
From 1.2.07	310
From 1.2.08	330
From 1.2.09	350
From 1.10.09	380
From 1.2.11	400
From 1.2.12	430
From 1.2.13	450
From 6.4.14	464
From 6.4.15	475
From 6.4.16	479
From 6.4.17	489
From 6.4.18	508

Appendix 3

Statutory guarantee payments

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

	£
From 1.2.00	16.10 per day
From 1.2.01	16.70 per day
From 1.2.02	17.00 per day
From 1.2.03	17.30 per day
From 1.2.04	17.80 per day
From 1.2.05	18.40 per day
From 1.2.06	18.90 per day
From 1.2.07	19.60 per day
From 1.2.08	20.40 per day
From 1.2.09	21.50 per day
From 1.2.10	21.20 per day
From 1.2.11	22.20 per day
From 1.2.12	23.50 per day
From 1.2.13	24.20 per day
From 6.4.14	25.00 per day
From 6.4.15	26.00 per day
From 6.4.16	26.00 per day
From 6.4.17	27.00 per day
From 6.4.18	28.00 per day

Calculation of income tax, contributions and qualifying premium

Introduction

27260 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 27270 et seq) **and**
2. Class 2 contributions (see DMG 27297 et seq) **and**
3. Class 4 contributions (see DMG 27316 et seq) **and**
4. half of any premium for a personal pension scheme (see DMG 27326).

1 JSA Regs, reg 101(4)(b) & (c); IS (Gen) Regs, reg 38(3)(b) & (c)

27261 The DM should base deductions for DMG 27260 **1. - 3.** on the chargeable income for the assessment period.

27262 - 27265

Chargeable income

27266 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 JSA Regs, reg 102(5); IS (Gen) Regs, reg 39(3); 2 JSA Regs, reg 102(5)(b); IS (Gen) Regs, reg 39(3)(b); 3 JSA Regs, reg 101(5); IS (Gen) Regs, reg 38(4); 4 JSA Regs, reg 101(4)(a); IS (Gen) Regs, reg 38(3)(a)

27267 The calculation at DMG 27266 1. - 3. should not include any deductions for

1. notional income tax **or**
2. SS/NI contributions **or**
3. premiums for a personal pension scheme.

27268 - 27269

Deduction for notional income tax

27270 The DM should use the tax rates and allowances for the year (6 April to 5 April) appropriate to the assessment period which is being used to calculate the earnings.

Note: from April 2016 the Scottish Government can set its own rate of income tax¹. DMs should ensure that the correct tax rate is used. See appendix 1 for more details.

1 the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016

Example

Andrew makes a claim for IS in June 2013. The DM accepts as evidence of his earnings his cash flow accounts up to the tax year ending the previous April. The tax rates and allowances used to calculate the notional tax deduction are those for the previous tax year.

Tax allowances

27271 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 income tax allowances are in Appendix 1 to this Chapter.

27272 - 27273

Personal allowance

27274 All earners whether married or single get a personal allowance. There are three age-related levels of personal allowance (see Appendix 1 to this Chapter), but for JSA and IS purposes only the personal allowance for a person aged under 65 is deducted - even if another personal allowance appears to apply.

Tax rates

27275 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 to this Chapter.

27276 - 27287

Calculation of deduction

27288 To determine the notional amount of income tax to be deducted from a S/E earners 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 (see Appendix 1 to this Chapter)
 - 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
4. multiply the first £34,800 (08/09 rates) of the remainder (or, if the assessment period is less than a year, a pro rata amount) by the basic rate of tax (see Appendix 1 to this Chapter)
5. round up where necessary.

Note 1: Prior to 2008/2009 tax year there were 2 rates of tax, a starting rate and a basic rate. (See Example 2 below and Appendix 1 to this Chapter).

Note 2: From April 2016 the Scottish Government can set its own rate of income tax² – DMs should ensure that the correct tax rate is used. See appendix 1 for more details.

*1 JSA Regs, reg 102(1)(a) & (b) & (4); IS (Gen) Regs, reg 39(1);
2 the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016*

Example 1

Sam is a married man aged 45. He works P/T as a S/E gardener and claims JSA. The DM determines that the assessment period is for a year and calculates the chargeable income for the assessment period as £15,500.

The DM calculates the notional income tax as follows:

	£	
Chargeable income	- 15,500.00	less
Claimant's personal allowance (08/09 rates)	- <u>6,035.00</u>	
	9,465.00	
£9,465.00 at 20%	= 1,893.00	
Total notional income tax	= 1,893.00	

Example 2

Angela is S/E. She is in receipt of IS. The assessment period is 13 weeks.

	£	
Chargeable income	- 15,500.00	less
Claimant's personal allowance	- 1,183.00	
	<hr/>	
(£4,745 (04/05 rates) x 91/365		
	= 14,317.00	
The first £503.62 (£2,020 x 91/365) at 10%	= 50.37	
The remainder (£13,813.38) at 22%	+ 3,038.95	
Total notional income tax	=	3,089.32

27289 - 27296

Deduction for notional Class 2 contributions

27297 A Class 2 contribution is a flat rate contribution. The same amount of Class 2 contribution is paid by men and women, although a higher rate is paid by share fishermen. The Class 2 rates are in Appendix 2 to this Chapter.

Liability for a Class 2 contribution

27298 The DM should make a deduction for a notional Class 2 contribution in **all** cases unless the chargeable income is below the small profits threshold (formerly the small earnings exception level). See DMG Appendix 2 for the applicable rates.

27299 The DM should only consider the chargeable income when deciding if a deduction for Class 2 should be made. If appropriate, a deduction should still be made even if the claimant holds a small earnings exception certificate.

27300 - 27303

Calculation of the Class 2 contribution

27304 The deduction for the notional Class 2 contribution should be based on the rate of Class 2 contributions and small profits threshold current at the time of the claim only¹. Take no account of any increases in the contribution rates or small profits threshold. To calculate the amount of the deduction the DM should

1. establish the chargeable income² **and**

Appendix 1

Notional deductions for income tax

Main income tax allowances

1. The main income tax allowances are as follows.

		11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19
		£	£	£	£	£	£	£	£
Personal	under 65	7,475	8,105	9,440	10,000	10,600	11,000	11,500	11,850
Personal	65-74	9,940	10,500	10,500	10,500	10,600	11,000	11,500	11,850
Personal	75 & over	10,090	10,660	10,660	10,660	10,660	11,000	11,500	11,850
Married couple	under 65	-	-	-	-	-	-	-	
Married couple	65-74	-	-	-	-	-	-	-	
Married couple	75 & over	7,295	7,705	7,915	8,165	8,355	8,355	8,445	8,695

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.

	£	
10/11	1 - 37,400	at basic rate of 20%
11/12	1 - 35,000	at basic rate of 20%
12/13	1 - 34,370	at basic rate of 20%
13/14	1 - 32,010	at basic rate of 20%
14/15	1 – 31,865	at basic rate of 20%
15/16	1 – 31,785	at basic rate of 20%
16/17	1 – 32,000	at basic rate of 20%
17/18	1 – 33,500	at basic rate of 20%
18/19	1 – 34,500	at basic rate of 20%

3. Scottish Income Tax Rates

18/19	11,850 – 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 contributions

Class 1 contributions

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

Earnings Bands		Earnings Limits	
11/12		11/12	
Earnings	Percentage rates	LEL	
1. up to LEL	NIL	Weekly £102	
2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £442	
		UEL	
		Weekly £817	
		Monthly £3540	

Primary threshold

No contributions are payable on weekly earnings of £139 or less or monthly earnings of £602 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £139.01 and £817 per week and at 2% for earnings above £817 per week.

3. Earnings Bands			Earnings Limits
12/13			12/13
Earnings	Percentage rates	LEL	
1. up to LEL	NIL	Weekly £107	
2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £464	
			UEL
			Weekly £817
			Monthly £3540

Primary threshold

No contributions are payable on weekly earnings of £146 or less or monthly earnings of £634 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £146.01 and £817 per week and at 2% for earnings above £817 per week

4. Earnings Bands			Earnings Limits
13/14			13/14
Earnings	Percentage rates	LEL	
1. up to LEL	NIL	Weekly £109	
2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £472	
			UEL
			Weekly £797
			Monthly £3453

Primary threshold

No contributions are payable on weekly earnings of £149 or less or monthly earnings of £645 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £149.01 and £797 per week and at 2% for earnings above £797 per week.

5. Earnings Bands		Earnings Limits
14/15		14/15
Earnings	Percentage rates	LEL
1. up to LEL	NIL	Weekly £111
2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £481
		UEL
		Weekly £805
		Monthly £3488

Primary threshold

No contributions are payable on weekly earnings of £153 or less or monthly earnings of £663 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £153.01 and £805 per week and at 2% for earnings above £805 per week.

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

Primary threshold

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

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

Primary threshold

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

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

Primary threshold

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

9.	Earnings Bands 18/19		Earnings Limits 18/19
	Earnings	Percentage rates	LEL
	1. up to LEL	NIL	Weekly £116
	2. LEL to UEL	12% of earnings that exceed LEL up to UEL	Monthly £503
			UEL
			Weekly £892
			Monthly £3863

Primary threshold

No contributions are payable on weekly earnings of £162 or less or monthly earnings of £503 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £162.01 and £892 per week and at 2% for earnings above £892 per week.

Class 2 contributions

10.

	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

11.

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

Class 4 contributions

12.

	13/14	14/15	15/16	16/17	17/18	18/19
	£	£	£	£	£	£
Lower level	7,755	7,956	8,060	8,060	8,164	8,424
Higher level	41,450	41,865	42,385	43,000	45,000	46,350

Percent	9% of	9% of	9% of	9% of	9% of	9% of
age	£7,755 to	£7,956 to	£8,060 to	£8,060 to	£8,164 to	£8,424 to
rate	£41,450	£41,865	£42,385	£43,000	£45,000	£46,350
	per year.	per year	per year	per year	per year	per year
	2%	2%	2%	2%	2%	2%
	above	above	above	above	above	above
	£41,450	£41,865	£42,385	£43,000	£45,000	£46,350

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

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JSA(Cont) and pension payments

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- 2.1 work-related requirement **or**
- 2.2 an interview relating to
 - 2.2.a the imposition of work-related requirements **or**
 - 2.2.b verifying a person's compliance with a work-related requirement **or**
 - 2.2.c assisting a person to comply with a work-related requirement

the amount of new style ESA to take into account is the amount before a reduction is made¹.

Note: New style ESA means ESA as amended from 29.4.13 to remove references to ESA(IR)².

*1 JSA Regs, reg 103(5B); IS (Gen) Regs, reg 40(6)(c); WR Act 07, s 11J;
2 Part 1; WR Act 12, Sch 3 & Sch 14, Part 1: ESA Regs 08, reg 2(1)*

Overpayment recovery from other income

28008 Except where DMG 28004 applies, when income paid to a claimant is reduced because the paying authority is enforcing recovery of an overpayment, the DM should take into account the net amount. This is the amount actually received by the claimant, unless the circumstances in DMG 28009 apply. Where a retrospective change creates an overpayment, please see the guidance at DMG 25047.

Example

Paul is in receipt of JSA(IB). His partner, Lorna, works and is in receipt of WTC. HMRC has awarded WTC at a rate of £50 per week. However, due to the recovery of an overpayment which occurred on a previous award of WTC, the amount Lorna actually receives is £28 per week. When determining the amount of WTC to take into account on Paul's award of JSA(IB), the DM takes into account Lorna's WTC of £28 per week.

28009 If the claimant volunteers to repay an overpayment by offering to have deductions made from his income, the DM should consider whether the claimant has deprived himself of that income (see DMG 28576 et seq).

Deduction of income tax

28010 Any tax actually paid, or due to be paid¹, should be deducted when calculating any income that is to be

- 1. taken fully into account **or**
- 2. disregarded in part².

Note 1: Where the amount of tax due to be paid has been assessed under the HMRC Tax Self Assessment process then DMs should consider revision action if it is shown that there is a tax liability or the actual tax liability differs from the forecast provided by the claimant. DMG Chapter 03 provides guidance on revision.

1 R(IS) 4/05; 2 JSA Regs, Sch 7, para 1; IS (Gen) Regs, Sch 9, para 1

Note 2: From April 2016 the Scottish Government can set its own rate of income tax¹ – DMs should ensure that the correct tax rate is used. See DMG Chapter 27, Appendix 1 for more details.

1 the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016

Example

Jack makes a claim for IS on 5 June. His partner has been receiving RP of £106.50 a week since April. Jack provides a forecast tax liability which estimates that his partner will be liable for £79.00 tax under the HMRC Tax Self Assessment process on this year's RP paid to her.

The DM calculates the amount of RP to be taken into account as:

£106.50 a week RP being paid less £1.52 a week tax [$£79 \div 52$] = £104.98. The DM takes £104.98 RP a week into account.

Questions on the treatment of income

- 28011 The DM should direct further enquiries if there is any doubt whether income fits into any of the definitions in this Chapter. Enquiries will usually be to the paying authority and should be made before any decision is given.
- 28012 After deciding whether any disregards apply, the DM should calculate
1. the period over which the income should be taken into account **and**
 2. the weekly rate at which the income should be taken into account.

28013 - 28049

Payments for housing costs and mortgage protection payments

Introduction

28230 The following paragraphs explain disregards on payments for housing costs. The type of disregard depends upon the way a payment is made. DMs should make sure that there is sufficient evidence available to decide how to apply the disregards.

Meanings of terms used

28231 In the following paragraphs references to

1. “home” means “dwelling occupied as the home” which includes

1.1 the dwelling and any

1.1.a garage

1.1.b garden **or**

1.1.c outbuildings

normally occupied by the claimant as the home **and**

1.2 any buildings or land not occupied as the home which it is not practicable or reasonable to sell separately **and**

1.3 in Scotland, any croft land on which the dwelling is situated.

Note: Rooms that are sub let should be treated as part of the dwelling occupied as the home unless it is practicable or reasonable to sell that part of the house separately.

2. “qualifying housing cost” means

2.1 a loan which qualifies under the Loans for Mortgage Interest Regulations¹ (LMI), see ADM Memo 8/18 **or**

2.2 any other housing costs (for example service charges) which satisfy the conditions of DMG, Chapter 23.

1 The Loans for Mortgage Interest Regulations 2017 ([SI 2017/725](#))

Note: From 6.4.18 the regulations which provide for entitlement to owner occupier payments within UC, IS, JSA(IB), ESA(IR) and SPC are repealed but payment towards certain other housing costs will continue. Support for owner occupier payments will be met by stand-alone loans under new legislation. However transitional arrangements are in place for existing claimants whose housing costs can continue for a prescribed/limited period – see ADM [Memo 8/18](#) for **full** details.

3. “mortgage protection policy” means an insurance policy taken out to insure against the risk of not being able to maintain repayments on a loan or mortgage
4. “third party” means a person or organisation to whom the claimant is liable to make payments for housing or accommodation. This could include a
 - 4.1. landlord
 - 4.2. building society
 - 4.3. insurance company
 - 4.4. care home, an Abbeyfield Home or independent hospital (see DMG 28283 - 28285 for the meaning of care home and independent hospital)
5. capital repayments include repayments of capital on a “repayment” mortgage or loan as well as payments into
 - 5.1. endowment policies
 - 5.2. individual savings accounts (ISAs)
 - 5.3. personal pension plans
 - 5.4. other investment plans

that have been taken out to repay a mortgage or loan.

Payments made direct to a third party when the claimant could not receive the income direct

28232 Where a claimant receives housing costs within their award as in DMG 28231 **2.2**, then the DM should take these payments into account but only up to the level of the housing costs included in the applicable amount. Any excess should be ignored¹. This disregard applies

1. to a payment if the claimant could not successfully apply to receive the income direct **and**
2. for any period before the claimant could expect to get a payment in a case where the claimant could successfully apply to receive the income direct.

Example

Asif claims JSA(IB). He has an income protection policy that pays £50 a week.

Under the terms of the policy payments must be made direct to his landlord. The money is used to meet Asif’s service charges.

Asif’s applicable amount includes £25 a week for service charges.

The DM treats Asif as having income of £25 a week. The balance of £25 is ignored.

Note: The disregards in DMG 28233 et seq do not apply to these payments².

1 JSA Regs, reg 105(10)(a)(ii); IS (Gen) Regs, reg 42(4)(a)(ii); 2 JSA Regs, Sch 7, para 31(1); IS (Gen) Regs, Sch 9, para 30(2)

Payments made direct to a third party when the claimant could receive the income direct

28233 Where a claimant receives housing costs within their award as in DMG 28231 **2.2**, then the DM should treat any payments made direct to a third party as the claimant's income from the date the claimant could expect to get the income¹

1. if an application was made **and**
2. if the claimant could successfully apply to receive the income direct.

This notional income should be treated as if it is actually received by the claimant².

1 JSA Regs, reg 105(2); IS (Gen) Regs, reg 42(2); 2 JSA Regs, reg 103(14); IS (Gen) Regs, reg 42(7)

How should the DM decide when the claimant could expect to get the income

28234 The DM should calculate the date the claimant could expect to receive the income by

1. assuming that an application was made on the date the DM first becomes aware of the possible income **and**
2. adding the estimated time it would take for an application to be processed.

Payments made direct to the claimant

28235 If the claimant

1. receives payments **or**
2. is treated as receiving payments

for housing costs direct the DM should decide if the income comes from a mortgage protection policy.

28236 Where a payment is made from a mortgage protection policy the DM should always apply any disregard for a mortgage protection policy payment before considering any other disregards¹.

Note: The DM will not automatically obtain a statement from a claimant's lender about housing costs. The DM should normally accept the claimant's own evidence. Corroboration of the claimant's evidence should only be sought if there are grounds to doubt it.

1 JSA Regs, Sch 7, para 30; IS (Gen) Regs, Sch 9, para 29

28237 - 28239

Mortgage protection policy payments

How much mortgage protection policy payment should be disregarded

28240 The DM should disregard any payments that are **used** to pay the amount of any loan which

1. qualifies under the Loans for Mortgage Interest Regulations¹ (see DMG 28231) **or**
2. would qualify for such a loan if an application was made.

Note: the claimant only has to have a loan which qualifies for an LMI loan, they do not have to be in receipt of an amount of LMI loan for this disregard to apply.

1 JSA Regs, Sch 7, para 30; IS (Gen) Regs, Sch 9, para 29

Example 1

Arsene receives IS and applies for a loan under the new LMI scheme. He also has a mortgage protection policy. Arsene is assessed as requiring a loan of £50/week under LMI but he does not receive a payment as his mortgage protection policy is equal to the amount of that - £50/week. As his loan is a qualifying loan and he uses his mortgage protection policy to meet his mortgage repayments, they are disregarded in the weekly calculation of his IS award.

Example 2

Thierry receives IS and applies for a loan under the new LMI scheme. He also has a mortgage protection policy of £50/ week. Thierry is assessed as requiring a loan of £75/week under LMI, taking into account the mortgage protection policy of £50/week. As his loan is a qualifying loan and he uses his mortgage protection policy to meet his mortgage repayments, they are disregarded in the weekly calculation of his IS award.

28241

What if the payment from the mortgage protection policy is more than the claimant's housing costs

28242 If the amount payable from the mortgage protection policy is more than the total the claimant has to pay to the third party, the balance will be ignored. This is because the mortgage protection policy is already taken into account in the calculation of payments under the LMI scheme. See ADM [Memo 8/18](#) for **full** details.

Example

Meghan receives JSA and applies for a loan under the new LMI scheme. She also has a mortgage protection policy. Meghan is assessed as requiring a loan of £100/week under LMI. She does not receive this loan as her mortgage protection policy is £150/week. As her loan is a qualifying loan and she uses the mortgage protection policy to pay her mortgage repayments, the payment from the mortgage protection policy is completely disregarded for JSA purposes.

28243 - 28249

Other payments for housing costs

Types of payment disregarded

28250 Payments of income

1. intended by the claimant, or person making the payment as a contribution towards certain housing and accommodation costs **and**
2. used as a contribution

towards any of the costs in DMG 28253 should be disregarded¹. This disregard does not apply to payments under an insurance policy to which DMG 28107 applies.

1 JSA Regs, Sch 7, para 31(1); IS (Gen) Regs, Sch 9, para 30(1)

28251 If the payment is from a mortgage protection policy the DM should consider the disregards explained in DMG 28240 - 28242 before considering this disregard.

28252 If a payment is made from an insurance policy the DM should decide if the policy was taken out to meet housing costs¹. If the policy was taken out to meet housing costs the DM should consider the disregards at DMG 28240 et seq before any other disregards.

1 R(IS) 13/01

28253 Payments for the following housing and accommodation costs should be disregarded

1. any payment on a loan secured on the claimant's home which is not a qualifying housing cost. (If only part of the loan is not a qualifying housing cost this disregard only applies to the amount of the payment for that part¹)
2. interest payments for a loan which is a qualifying housing cost where those payments are not met in the applicable amount or by a loan payment under the new LMI scheme²
3. capital repayments for a loan which is a qualifying housing cost where those payments are not met by a loan payment under the new LMI scheme³
4. insurance policy premiums for
 - 4.1 mortgage protection polices if the other payments disregarded under this paragraph come from it⁴ **and**
 - 4.2 building insurance policies for the claimant's home⁵
5. other housing costs
 - 5.1 any payment towards
 - 5.1.a service charges **and**
 - 5.1.b ground rent or rent charge **and**

- 5.2** any payment for
 - 5.2.a** a co-ownership scheme **and**
 - 5.2.b** a Crown tenancy **and**
 - 5.2.c** a tent

to the extent that they are not met in the applicable amount or by a loan payment under the new LMI scheme⁶

- 6.** rent on the home that is not met by HB⁷
- 7.** accommodation charges⁸ but only to the extent that the actual charge exceeds the amount payable by LAs under certain legislation.

Note 1: The disregards at **2 and 3** only apply to that part of the loan that is a qualifying housing cost.

Note 2: A service charge is a qualifying housing cost if it is payable as a condition of the claimant occupying a property. See DMG Chapter 23 for guidance when a service charge can be met as a housing cost.

1 JSA Regs, Sch 7, para 31(1)(a); IS (Gen) Regs, Sch 9, para 30(1)(a); 2 JSA Regs, Sch 7, para 31(1)(b); IS (Gen) Regs, Sch 9, para 30(1)(b); 3 JSA Regs, Sch 7, para 31(1)(c); IS (Gen) Regs, Sch 9, para 30(1)(c); 4 JSA Regs, Sch 7, para 31(1)(d)(i); IS (Gen) Regs, Sch 9, para 30(1)(d)(i); 5 JSA Regs, Sch 7, para 31(1)(d)(ii); IS (Gen) Regs, Sch 9, para 30(1)(d)(ii); 6 JSA Regs, Sch 7, para 31(1)(b); IS (Gen) Regs, Sch 9, para 30(1)(b); 7 JSA Regs, Sch 7, para 31(1)(e); IS (Gen) Regs, Sch 9, para 30(1)(e); 8 NA Act 48, Part III, Care Act 2014 (care and support) Part 1; Social Services and Well-being (Wales) Act 2014, s 50 or 52

Example 1

George receives IS and has a loan secured on his home which does not qualify under the new LMI scheme. George's father meets the loan repayments in full. The payments from George's father are completely disregarded for the purposes of calculating George's IS award.

Example 2

Charlotte receives JSA and has a loan which is a qualifying loan under the new LMI scheme but she chooses not to take up the loan offer. This is because Charlotte's parents are meeting the loan repayments in full for her. These payments are completely disregarded for the purposes of calculating Charlotte's JSA award.

Example 3

William receives IS and receives a payment for his mortgage under the new LMI scheme. However, William's loan payments are less than the amount he has to pay because the lender's interest rate is higher than the standard interest rate used to calculate the LMI payments. William's brother makes a contribution to him for the shortfall and he uses this to meet his mortgage repayments in full. The amount given to William by his brother is completely disregarded for the purposes of calculating his IS award.

Example 4

Kate receives IS and a payment for her mortgage under the new LMI scheme. Kate's sister also gives her the money needed to meet her mortgage repayments each month. The money given to Kate by her sister is taken fully into account for the purposes of calculating her award of IS as it does not fall to be disregarded under the provisions described in DMG 28253.

28254 The disregards in DMG 28253 do not apply if the DM decides the payment is an LRP¹.

1 JSA Regs, reg 89; IS (Gen) Regs, reg 25

28255 If a payment for a housing cost or part of a housing cost has already been disregarded under DMG 28240 - 28242 the payment for the same cost should not be disregarded again under DMG 28253.

How should the DM treat payments for housing costs that also attract other disregards

28256 The DM should include any other disregard that applies to a payment made for housing costs. This includes any

1. income tax deducted from the payment **and**
2. disregard that applies to charitable and voluntary payments.

28257 - 28259

Supersessions and payments for housing costs

28260 Special rules on the supersession of disregards of payments for housing costs apply in JSA¹ and IS² cases. The special rules apply to

1. mortgage protection policies **and**
2. other payments for housing costs.

1 SS & CS (D & A) Regs, reg 6(2) & 7(19); 2 regs 6(2) & 7(15)

28261 Some disregards on payments for housing costs are based on the interest payable on a loan. If the interest payable alters, the disregard has to be revised or superseded.

28262 A supersession caused by a change in interest payable on

1. a loan that is a qualifying housing cost **or**
2. a loan that is not a qualifying housing cost but is secured on the home

will not be effective until the next appropriate date is reached¹.

1 SS & CS (D & A) Regs, reg 7(20) & 7(16)

28263 The appropriate date in DMG 28262 is the later of

1. the date when¹
 - 1.1 new or existing housing costs are awarded in full because the claimant or partner is aged at least 60 **or**
 - 1.2 existing housing costs are awarded at 100% after the claimant has been in continuous receipt of JSA(IB) or IS for 26 weeks **or**
 - 1.3 new housing costs are awarded at 100% after the claimant has been in continuous receipt of JSA(IB) or IS for 39 weeks **or**
2. the date of the next change in standard interest rate².

1 SS & CS (D & A) Regs, reg 7(20)(a) & 6(16)(a); 2 reg 7(20)(b) & 6(16)(b)

Example

Frank claims JSA on 1 April. He has a mortgage on his home which was taken out before 2.10.95. Frank has a mortgage protection policy which pays the interest and capital repayments on his mortgage.

The DM calculates the amount of the disregard for Frank's mortgage protection policy payments and decides that no income should be taken into account.

On 1 May the interest payable on Frank's mortgage increases. The DM supersedes the disregard of Frank's mortgage protection policy payments but the supersession is not effective until 1 October when his existing housing costs have been awarded at 100%.

28264 The special supersession rules only apply to changes in interest payments caused by interest rate changes. Normal supersession rules apply to all other changes of circumstances including

1. changes in capital repayments on a loan **and**
2. changes in premiums for
 - 2.1 mortgage protection policies **and**
 - 2.2 policies designed to repay the loan **and**
 - 2.3 buildings insurance policies.

Note: The amount of premiums for some mortgage protection policies depends on the amount of interest actually payable. Normal supersession rules apply where a change in interest payable causes mortgage protection policy premiums to change.

28265 - 28267

28268 When

1. a change of interest payable is not effective until the next appropriate date is reached **and**
2. a later change occurs that
 - 2.1 affects the amount of interest disregarded **and**
 - 2.2 the special supersession rules do not apply

the amount of interest disregarded because of the second change should be based on the actual interest payable.

Example

Liam has a mortgage protection policy. The interest payable on his loan is £15 a week. He receives £10 a week interest in his applicable amount.

On 1 January the DM disregards £5 a week.

On 1 February the interest payable increases to £16 a week. The DM supersedes the interest payable but the supersession is not effective until the next appropriate date is reached. The disregard remains at £5.

On 1 March the standard interest rate changes. The interest in Liam's applicable amount increases to £12. The actual interest payable remains at £16.

The DM supersedes the amount of the disregard. The disregard is reduced to £4 (£16 - £12).

28269 When

1. a change in interest payable is not effective until the next appropriate date is reached **and**
2. a later change occurs that
 - 2.1 affects disregarded items other than loan interest **and**
 - 2.2 special supersession rules do not apply

there will be no grounds to supersede the disregard of interest. The supersession should be restricted to the items directly affected by the change¹.

1 R(IS) 15/93

Example

Christina receives payments from a mortgage protection policy. The interest payable on her loan is £15 a week. She gets £10 a week in her applicable amount.

From 1 January the DM disregards £5 from the mortgage protection policy payment.

On 1 February the interest on the loan increases to £16 a week. The DM supersedes the interest payable but the supersession is not effective until the next appropriate date is reached. The disregard remains at £5 a week.

On 1 March mortgage protection policy premiums increase. The DM increases the amount of the disregard relating to mortgage protection policy premiums only. The amount of the disregard relating to loan interest is not superseded until the next appropriate date is reached.

28270 - 28280

Payments for care home, Abbeyfield Home or independent hospital charges

Introduction

28281 DMG 28282 - 28305 gives guidance on the treatment of payments of income towards accommodation charges for

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

28282 The treatment of the income depends on

1. the type of payment
2. whether the LA has sponsored the claimant in their accommodation.

Care homes and independent hospitals

28283 In England and Wales a care home means¹ a home, other than a hospital, an independent clinic or children's home, which provides accommodation along with nursing or personal care for persons who

1. are or have been ill including mental illness **or**
2. are disabled or infirm **or**
3. are or have been dependent on alcohol and drugs.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Care Standards Act 2000, s 3; Regulation and Inspection of Social Care (Wales) Act 2016, part 1

28284 In Scotland a care home means¹ a home care service which provides accommodation along with nursing, personal care or personal support but does not include

1. hospitals
2. schools
3. independent health care services.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Public Services Reform (Scotland) Act 2010, Sch 12, para 2

28285 An independent hospital means¹ in

1. England, a hospital that is not a health service hospital as defined in legislation² **or**
2. Wales, a hospital which is not a health service hospital as defined in legislation³ **or**

3. Scotland, an independent healthcare service as defined in legislation⁴.

*1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 National Health Service Act 2006, s 275;
3 Care Standards Act 2000, s 2; 4 NHS (Scot) Act 78, s 10F(1)(a) & (b)*

Types of payment

28286 The payments for accommodation may be

1. charitable or voluntary (see DMG 28492 et seq) **or**
2. other payments.

The DM should decide what type of payment is being made.

28287 - 28302

Payments to claimants not in Local Authority sponsored accommodation

28303 This disregard applies where a claimant is residing in

1. a care home, Abbeyfield Home, or independent hospital **and**
2. accommodation that has not been provided by an LA under certain legislation¹.

Note: This disregard does not apply to charitable or voluntary payments which are fully disregarded - see DMG 28513.

1 NA Act 48, s 26; SW (Scot) Act 68, s 59

28304 The DM should disregard from any payment intended and used for accommodation charges the difference between the

1. claimant's applicable amount **and**
2. actual charge made by the home or hospital¹.

1 JSA Regs, Sch 7, para 32; IS (Gen) Regs, Sch 9, para 30A

Example

Andrew receives IS. He lives in an independent hospital which provides treatment for drug and alcohol dependency. The LA are not sponsoring Andrew under National Assistance legislation. The weekly charge for the hospital is £300. Andrew receives a payment of £250 a week from a Trust Fund towards his accommodation charges.

The DM calculated Andrew's applicable amount as follows

personal allowance	£54.65
DP	£23.30
	£77.95

The difference between £77.95 and the charge by the hospital is the amount of the disregard.

actual charge	£300.00
less	£77.95
The disregard is	£222.05

Other payments towards accommodation costs.

28305 Disregard the amount of the payment intended and used for charges not met by the LA¹ under certain legislation².

Note: This would only happen if the charge was greater than the amount allowed by the LA but not if the claimant chose a more expensive home than the LA would allow.

*1 JSA Regs, Sch 7, para 31(1)(e); IS (Gen) Regs, Sch 9, para 30(1)(e);
2 NA Act 48, s 26; the Care Act 2014 (care and support), part 1; Social Services and Well-being (Wales) Act 2014, part 4 (excluding Direct Payments any under s 50 or 52)*

28306 - 28349

Income fully disregarded

Types of income fully disregarded

[See DMG Memo IS/JSA 64]

- 28350 The following incomes should be fully disregarded when calculating income for IS and JSA(IB)
1. any payment from and/or some payments from money that originally came from
 - 1.1 the Macfarlane Trust
 - 1.2 the Macfarlane (Special Payments) Trust
 - 1.3 the Macfarlane (Special Payments) (No. 2) Trust
 - 1.4 the Independent Living Fund (2006) – see **Note 1** at 28351.
 - 1.5 the Eileen Trust (“The Fund”)
 - 1.6 the Skipton Fund
 - 1.7 MFET Limited
 - 1.8 the Caxton Foundation
 - 1.9 the Scottish Infected Blood Support Scheme (SIBSS)
 - 1.10 the London Emergencies Trust (LET)
 - 1.11 the We Love Manchester Emergency Fund (WLMEF)
 - 1.12 Infected Blood Schemes (IBS) – see **Note 2** at 28351
 - 1.13 Thalidomide Trust (TT)
 2. any payment for a reduction of CT
 3. AAs
 4. AFIP
 5. the Bereavement Support Payment (see DMG 28354)
 6. certain payments due to be paid before the date of claim
 7. child maintenance
 8. Christmas Bonus
 9. compensation for loss of HB
 10. concessionary payments
 11. cost of conversion of foreign money
 12. CTB
 13. dependant's or non dependant's contributions to accommodation and living costs

14. DLA
15. discretionary housing payments (DHPs)
16. Education maintenance allowance and the 16 - 19 Bursary Fund
17. Employment Retention and Advancement (ERA) Scheme payments
18. EZ, self-employed route
19. GA
20. gallantry awards
21. HB
22. income frozen abroad
23. income in kind
24. income tax refunds
25. income treated as capital
26. increases in SS benefits for absent dependants
27. jurors' or witnesses' court attendance allowance
28. local welfare provision
29. Mobility supplement
30. ND IAP, expenses and top-up payments
31. payments for foster children
32. payment for a person temporarily in the care of the claimant
33. payments from an LA in lieu of Community Care Services
34. payment by an employer of employee's expenses
35. payment of expenses to voluntary workers
36. payment of expenses to service users
37. payments to help disabled people get or keep employment
38. payments from the SF under SS legislation
39. payments from the Supporting People programme
40. certain payments made under employment and training law
41. payments made under the Return to Work Credit Scheme
42. payments made under the Repayment of Teacher's Student loans Scheme
43. PIP
44. resettlement benefit
45. special educational needs payments and budgets

Income frozen abroad

28417 The DM should fully disregard income which is

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

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

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

Income in kind

28418 The DM should fully disregard any income in kind except

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

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

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

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

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

Example 1

The claimant recently separated from her partner and claimed JSA.

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

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

Example 2

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

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

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

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

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

Income tax refunds

When should tax refunds be treated as capital

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

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

When should tax refunds be treated as income

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

(See DMG Chapter 32 for guidance on TDs).

Infected Blood Schemes and other specific Trusts

Payments from Infected Blood Schemes and other specific Trusts

Infected Blood Schemes

28450 Infected Blood Schemes (IBS), approved for such purposes by the Secretary of State, replaced the five existing payment schemes (The Eileen Trust (“The Fund”), The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation – see DMG 28469-73) for England, Northern Ireland and Wales from 2.10.17. These schemes provide financial support to people infected with HIV and/or hepatitis C as a result of contaminated NHS blood or blood products.

Income from Infected Blood Schemes

28451 Fully disregard¹

1. any income from approved Infected Blood Schemes **and**
2. any income from capital that was received from approved Infected Blood Schemes.

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

The Scottish Infected Blood Support Scheme

28452 The Scottish Infected Blood Support Scheme (SIBSS)¹ became operational from 1.4.17. It is administered by NHS National Services Scotland (NSS), legally known as the Common Services Agency. NSS is an NHS Board accountable to Scottish Ministers. SIBSS combined the five existing blood support schemes (The Eileen Trust (“The Fund”), The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation – see DMG 28469 - 28473) into one scheme in Scotland.

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

Income from the Scottish Infected Blood Support Scheme

28453 Fully disregard¹

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

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

Previous Infected Blood Schemes

28454 Prior to the introduction of the Infected Blood Schemes at DMG 28450 and the Scottish Infected Blood Support Scheme at DMG 28454, five separate schemes provided financial support to people affected by contaminated NHS blood or blood products.

The Eileen Trust (“The Fund”)

28455 The Eileen Trust (“The Fund”) was a charitable trust set up on 29.3.93 to give further help to people who are not haemophiliacs but who contracted HIV when receiving NHS

1. blood **or**
2. tissue or organ transfers **or**
3. blood products.

The Macfarlane Trusts

28456 The Macfarlane Trusts were set up to provide compensation to haemophiliacs who contracted HIV when receiving NHS

1. blood **or**
2. tissue or organ transfers **or**
3. blood products.

28457 The Macfarlane Trusts are

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

MFET

28458 MFET Limited¹ is an organisation funded by DH. The purpose of MFET Limited is to make payments to people who have acquired HIV as a result of treatment by the NHS with blood or blood products.

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

The Caxton Foundation

28459 The Caxton Foundation was established on 28.3.11. It administers funds provided by DH for the benefit of certain persons suffering from hepatitis C and other persons eligible for payments¹.

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

Income from the Eileen Trust (“The Fund”), Macfarlane Trusts, MFET and the Caxton Foundation

28460 Fully disregard¹

1. any income **and**
2. any income from capital that was received from schemes in DMG 28469-73.

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

The Skipton Fund

28461 The Skipton Fund administers an ex-gratia payment scheme for the benefit of people suffering from Hepatitis C. It includes people infected as a result of NHS blood products and other people eligible for payment in accordance with the scheme’s provisions¹.

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

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

The London Emergencies Trust

28462 The London Emergencies Trust (LET)¹ was set up to alleviate hardship for those who have been bereaved or injured as a result of the terror attacks in London on 22.3.17 and 3.6.17. Beneficiaries of the LET may receive lump sum and/or regular payments.

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

Income from the London Emergencies Trust

28463 Fully disregard¹

1. any income from the London Emergencies Trust **and**
2. any income from capital that was received from the London Emergencies Trust.

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

The We Love Manchester Emergency Fund

28464 The We Love Manchester Emergency Fund (WLMEF)¹ was set up to alleviate hardship for those have been bereaved or injured as a result of the terror attack in Manchester on 22.5.17. Beneficiaries of the WLMEF may receive lump sum and/or regular payments.

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

Income from the We Love Manchester Emergency Fund

28465 Fully disregard¹

1. any income from the We Love Manchester Emergency Fund **and**
2. any income from capital that was received from the We Love Manchester Emergency Fund.

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

The London Bombings Relief Charitable Fund

28466 The London Bombings Relief Charitable Fund¹ was set up to relieve the needs of victims, including families or dependants of victims, of the terrorist attacks in London on 7.7.05. Interim payments were made to relieve the immediate needs of victims followed by further lump sum payments. Recipients may receive more than one lump sum payment.

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

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

The Independent Living Fund (2006)

28467 The original Independent Living Fund ran from 1988 to 1993. It was replaced by the Independent Living (1993) Fund and the Independent Living (Extension) Fund. With effect from 1.10.07 these funds were replaced by the Independent Living Fund (2006). The fund closed permanently on 30.6.15. Any payments made under any of the replacement schemes (see note at DMG 28351) are not covered by this legislation and will therefore be taken fully into account.

Income from the Independent Living Fund (2006)

28468 Fully disregard¹ any income from the Independent Living Fund (2006).

Note: Income which remains unspent and becomes capital at the end of the period it was paid for is not disregarded.

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

28469 - 28471

Payments from money which came from the Trusts

Meaning of the Trusts

28472 "The Trusts"¹ is the term that describes

1. the Macfarlane Trusts **and**
2. the Eileen Trust ("The Fund") **and**
3. the Skipton Fund **and**
4. the London Bombings Relief Charitable Fund **and**

5. MFET Limited **and**
6. the Caxton Foundation **and**
7. the Scottish Infected Blood Support Scheme **and**
8. the London Emergencies Trust **and**
9. the We Love Manchester Emergency Fund **and**
10. Infected Blood Schemes.

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

What payments should be disregarded

28473 Income passed to another person from money from a Trust payment should be disregarded in the cases described in DMG 28474 - 28487. In these cases, the person receiving the income is not the person who qualified for the Trust payment. In any other circumstances, payments of income from a Trust payment should be treated under normal rules.

Person with HIV

28474 In this guidance the term "person with HIV" is used to describe

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

who qualify for Trust payments.

Qualifying person

28475 In this guidance a qualifying person means¹ a person in respect of whom a payment has been made from

1. the Eileen Trust ("The Fund") **or**
2. the Skipton Fund **or**
3. the London Bombings Relief Charitable Fund **or**
4. MFET Limited **or**
5. the Caxton Foundation **or**
6. the Scottish Infected Blood Support Scheme **or**
7. the London Emergencies Trust **or**
8. the We Love Manchester Emergency Fund **or**
9. Infected Blood Schemes.

Note: A person in respect of whom a payment has been made from the Macfarlane Trust is not included above but is included in the definition at DMG 28474.

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

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

28476 Disregard any payment made by or on behalf of a qualifying person or person with HIV from money from a Trust payment made to or for the benefit of

1. their partner or their former partner if they are **not**
 - 1.1 estranged **or**
 - 1.2 divorced **or**
 - 1.3 former civil partners **or**
 - 1.4 estranged, divorced or had their civil partnership dissolved at the date of death if the qualifying person or person with HIV has died¹ **or**
2. any child or young person who
 - 2.1 is a member of the family of the qualifying person or person with HIV **or**
 - 2.2 was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family².

Note: DMG 28483 - 28484 explains for how long the payment is disregarded.

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

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

28477 Fully disregard any payment from a Trust payment made by or on behalf of a partner or former partner of a qualifying person or person with HIV, providing the qualifying person or person with HIV and partner or former partner are **not**

1. estranged **or**
2. divorced **or**
3. former civil partners **or**
4. estranged, divorced or had their civil partnership dissolved at the date of death of either
 - 4.1 the qualifying person or person with HIV **or**
 - 4.2 the partner or former partner.

28478 This disregard applies if the payment is made to or for the benefit of

1. the qualifying person or person with HIV¹ **or**
2. any child or young person² who
 - 2.1 is a member of the family of the qualifying person or person with HIV **or**
 - 2.2 was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family.

Note: DMG 28483 - 28484 explains for how long the payment is disregarded.

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

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

28479 Fully disregard any payment from a Trust payment by a qualifying person or person with HIV to their

1. parent **or**
2. step parent¹ **or**
3. guardian² if the qualifying person or person with HIV has no parent or step parent and is a
 - 3.1 child **or**
 - 3.2 young person **or**
 - 3.3 student in FTE.

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

28480 This disregard applies if the qualifying person or person with HIV

1. has no partner or former partner from whom that person is **not**
 - 1.1 estranged **or**
 - 1.2 divorced **or**
 - 1.3 former civil partners **and**
2. has no child or young person in the family **and**
3. has never had a child or young person in their family¹.

Note: DMG 28485 explains for how long the payment is disregarded.

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

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

28481 Fully disregard any payment from the estate of a qualifying person or person with HIV to

1. a parent **or**
2. a step parent¹ **or**
3. a guardian² if at the date of death/the qualifying person or person with HIV had no parent or step parent and was a
 - 3.1 child **or**
 - 3.2 young person **or**

3.3 student in FTE.

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

28482 This disregard applies if at the date of death the qualifying person or person with HIV had

1. no partner or former partner from whom that person is **not**
 - 1.1 estranged **or**
 - 1.2 divorced **or**
 - 1.3 former civil partners **or**
2. no child or young person in the family **and**
3. at no time had a child or young person in the family¹.

Note: DMG 28486 explains for how long the payment is disregarded.

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

For how long should the payment be disregarded

Payments to a qualifying person or person with HIV and partners

28483 Disregard payments made to or for the benefit of

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

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

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

Payments to children and young people

28484 Disregard payments made to or for the benefit of a child or young person as long as they remain

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

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

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

28485 Disregard payments to a

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

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

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

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

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

28486 Disregard¹ payments to a

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

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

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

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

Deciding if a disregard applies

28487 Once the claimant has declared any payments made from one of the Trusts the DM should decide

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

28488 Seek further evidence if there is doubt about the

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

Trust payments invested with other money

- 28489 If a Trust payment is invested with other money to produce an income, disregard only the proportion that came from the trust payment¹.

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

Example

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

The annuity produces an income of £50 a month.

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

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

- 28490 The DM should be satisfied that a former partner or civil partner is not estranged or divorced or had the civil partnership dissolved. Accept the claimant's statement unless it is considered to be improbable or self-contradictory.

Example

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

The DM decides that the payment should not be disregarded.

Social fund funeral payments

- 28491 Trust payments will become part of a person's estate upon death. Any assets of a dead person including

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

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

When is a payment due to be made

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

Disregard for relevant payments

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

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

Relevant payments that should be taken fully into account

28514 The disregard in DMG 28513 does not apply to

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

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

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

Relevant payments paid in kind

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

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

3. the Macfarlane (Special Payments) (No. 2) Trust
4. the Eileen Trust ("The Fund")
5. the Independent Living Fund (2006) but see DMG 28351
6. MFET Limited
7. the Caxton Foundation **or**
8. the Skipton Fund
9. the Scottish Infected Blood Support Scheme
10. the London Emergencies Trust
11. the We Love Manchester Emergency Fund
12. Infected Blood Schemes

as explained at DMG 28419.

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

28516 - 28529

3. SMP
4. CHB
5. a benefit under the WC(Supp) Scheme
6. a benefit under the PB and MDB Scheme
7. WDisP
8. WWP, War Widower's Pension or Surviving Civil Partner's War Pension
9. a pension paid to a forces widow or surviving civil partner under specific provisions¹ **or**
10. another pension for persons who have been disabled or died as members of the armed forces made under a prerogative of the Queen

as income of the member of the family if the third party pays it to or uses it on behalf of any member of the claimant's family².

*1 Armed Forces (Pensions and Compensation) Act 2004;
2 JSA Regs, reg 105(10)(a)(i); IS (Gen) Regs, reg 42(4)(a)(i)*

Example

Anna claims IS for herself and her daughter Janet.

Anna is separated from her husband, David. David claims RP, including an increase for Janet.

David pays the RP increase for Janet to Anna.

The DM treats the RP addition as Janet's income.

Training and Flexible New Deal payments to third parties

28663 A payment should not be treated as notional income under the third party payment rule where it is made

1. under certain legislation¹ **and**
2. for a person's participation in
 - 2.1 an employment programme² **or**
 - 2.2 a training scheme³ **or**
 - 2.3 the IAP⁴ **or**
 - 2.4 a qualifying course⁵ (see DMG 21152)

For JSA(IB) only this also includes FND⁶. DMG Chapter 34 provides guidance on training schemes and employment programmes including the IAP.

*1 E & T Act 73, s 2; 2 JSA Regs, reg 105(10A)(c)(i); IS (Gen) Regs, reg 42(4ZA)(c)(i);
3 JSA Regs, reg 105(10A)(c)(ii); IS (Gen) Regs, reg 42(4ZA)(c)(ii);
4 JSA Regs, reg 105(10A)(c)(iia); IS (Gen) Regs, reg 42(4ZA)(c)(iia);
5 JSA Regs, reg 105(10A)(c)(iii); IS (Gen) Regs, reg 42(4ZA)(c)(iii); 6 JSA Regs, reg 105(10A)(c)(iv)*

Payments to a third party for participants in the MWA Scheme and schemes for assisting persons to obtain employment

28664 [See Memo DMG JSA/IS 64] A payment should not be treated as notional income under the third party payment rule where it is made in respect of a claimant's participation in

1. the MWA Scheme¹ **or**
2. a prescribed scheme for assisting persons to obtain employment².

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

2 JSA Regs, reg 105(10A)(cc); IS (Gen) Regs, reg 42(4ZA)(ca)

Other payments to a third party

28665 [See Memo DMG JSA/IS 64] Except where DMG 28666 - 28668 apply, a claimant is treated as possessing certain payments paid to a third party in respect of¹ (see DMG 28660) a claimant or a member of the claimant's family. These payments are

1. occupational pensions and payments from the Pension Protection Fund
2. pensions or any other periodical payments under a personal pension scheme².

1 R(IS) 2/03; 2 IS (Gen) Regs, reg 42(4)(a)(ia); JSA Regs, reg 105(10)(a)(ia)

28666 A claimant is not treated as possessing a payment under DMG 28665 where¹

1. they have been made bankrupt before 29.5.00 **and**
2. pension payments are paid to the claimant's trustee in bankruptcy and not the claimant.

This is because before 29.5.00 pension payments were included in a bankrupt person's estate that was assigned to the trustee in bankruptcy.

Note: From 29.5.00 the law changed to exclude from their estate any rights of a person made bankrupt under approved pension arrangements. This means that such pension payments can be treated as income of a person made bankrupt on or after 29.5.00.

1 R(IS) 4/02

28667 [See Memo DMG JSA/IS 64] A claimant is not treated as possessing a payment under DMG 28665 where

1. the payment is made
 - 1.1 for a person in respect of whom a bankruptcy order has been made **and**
 - 1.2 to the trustee in bankruptcy or any other person acting on behalf of the creditors **and**

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

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

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

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

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

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

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

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

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

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

28670 Disregard the payment to the third party¹

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

- 1.6 the Caxton Foundation **or**
 - 1.7 the Scottish Infected Blood Support Scheme **or**
 - 1.8 the London Emergencies Trust **or**
 - 1.9 the We Love Manchester Emergency Fund **or**
 - 1.10 Infected Blood Schemes
2. if it is for the purchase and supply of concessionary coal under specified legislation². The Department of Energy and Climate Change is now responsible for the purchase and supply of concessionary coal. Coal is purchased through contracts and supplied to ex-coal workers and their families. The payment from the Department of Energy and Climate Change to the contractor is a payment to a third party and is disregarded.

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

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

Meaning of ordinary clothing or footwear

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

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

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

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

Example

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

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

28673 - 28675

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

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

- 1. care home **or**
- 2. Abbeyfield Home **or**

3. independent hospital

as the income of the claimant¹.

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

28677 This rule applies when the

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

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

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

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

28678 A payment is disregarded¹ if it is

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

1 IS (Gen) Regs, Sch 9, para 66; JSA Regs, Sch 7, para 64; 2 MH Act 83, s 117; MH (C & T) (Scot) Act 03, s 25; 3 NA Act 48, Part III; SW (Scot) Act 68; the Care Act 2014 (care and support), Part 1; Social Services and Well-being (Wales) Act 2014, Part 4; 4 IS (Gen) Regs, reg 42(4A)

28679 Payments that satisfy DMG 28678 include payments or reimbursements by a LA for

1. persons who because of age, illness, disability or other circumstances are in need of care and attention which is not otherwise available to them **or**
2. expectant and nursing mothers¹.

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

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

28680 **[See Memo DMG JSA/IS 64]** Take into account in full any income paid to a member of the family for a third party who is not a member of the family if

1. the income is kept by **or**
2. is not paid over to the third party by

the person who received it. Ignore any income that is paid over to the third party¹.

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

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

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

1. the Macfarlane Trusts
2. the Eileen Trust ("The Fund")
3. MFET Limited
4. the Independent Living Fund (2006) but see DMG 28351
5. the Skipton Fund
6. the Caxton Foundation
7. the Scottish Infected Blood Support Scheme (SIBBS)
8. the London Emergencies Trust (LET)
9. the We Love Manchester Emergency Fund (WLMEF)
10. Infected Blood Schemes

regardless of who keeps it or how it is used.

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

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

income has been kept by a member of the family.

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

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

28684 The DM should consider

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

When should the DM start to take the non-periodical payment into account

- 28870 The period over which the non-periodical payment should be taken into account begins on the date the payment is treated as paid¹.

1 JSA Regs, reg 121(8); IS (Gen) Regs, reg 57(48)

28871 - 28874

Date a non-periodical payment is treated as paid

Non-periodical payment made before the first benefit week of the claim

- 28875 If a non-periodical payment is made before the first benefit week of the claim treat it as paid on the day in the week in which it is paid that corresponds to the first day of the benefit week¹. This rule does not apply if the payment is made during a period in which a previous non-periodical payment is being taken into account.

1 JSA Regs, reg 123(2)(a); IS (Gen) Regs, reg 59(2)(a)

Non-periodical payment made during the course of an award of IS or JSA(IB)

- 28876 If a non-periodical payment is made during the period of an award it should be treated as paid on the first day of

1. the benefit week in which it was paid **or**
2. a subsequent benefit week if it is not practicable to take the payment into account straight away¹.

Consider the method of payment of JSA or IS when deciding if it is not practicable to take a payment into account straight away. See DMG 28834 for an example.

These rules do not apply if the payment is made during a period in which a previous non-periodical payment is being taken into account.

1 JSA Regs, reg 123(2)(b); IS (Gen) Regs, reg 59(2)(b)

Non-periodical payment made during a period where a previous non-periodical payment is already being taken into account

- 28877 If a non-periodical payment is made during the period in which a previous non-periodical payment is being taken into account treat it as paid on the first day following that period¹.

1 JSA Regs, reg 123(3); IS (Gen) Regs, reg 59(3)

28878 - 28879

JSA(Cont) and pension payments

Deductions from JSA(Cont) for pension payments

Introduction

28880 The guidance in DMG 28881 to 28981 refers only to deductions from JSA(Cont).

General

28881 Pension payments, Pension Protection Fund periodic payments and Financial Assistance Scheme payments that are

1. made to a claimant for any week **and**
2. more than £50 each week

are deducted from the claimant's age related amount, when calculating the amount of JSA(Cont) payable to the claimant for each benefit week. The amount deducted is the excess over £50¹.

1 JS Act 95, s 4(1); JSA Regs, reg 81(1)

Example

A woman receives pension payments totalling £83.50 each week. The pension payments exceed the £50 maximum by £33.50. So £33.50 is deducted each benefit week from the amount of JSA(Cont) that she is entitled to.

28882 The law provides for

1. when pension payments, Pension Protection Fund payments and Financial Assistance Scheme payments are to be taken into account¹ (see DMG 28835 - 28837) **and**
2. certain payments to be disregarded² (see DMG 28955) **and**
3. the calculation of a weekly amount where pensions are paid for periods other than a week³ (see DMG 28980 - 28981).

1 JSA Regs, reg 81(1A) & (1B); 2 reg 81(2)(c); 3 reg 81(3)

Meaning of pension payments, protection fund and financial assistance scheme payments

Protection fund periodic payments

28883 “Protection fund periodic payments” are defined as¹

1. any periodic compensation payments made in relation to a person, payable under the pension compensation provisions set out in specified legislation²
2. any periodic payments made in relation to a person, payable under specific legislation³

other than payments made to a surviving dependant of a person entitled to such payments.

*1 JS Act 95, s 35; 2 Pensions Act 04, s 162(2); Pensions (Northern Ireland Order) 05, art 146(2);
3 Pensions Act 04, s 166; Pensions (Northern Ireland) Order 05, art 150*

Financial assistance scheme payments

28884 Financial assistance scheme payments provide financial help to some people who have lost out on their occupational pension because

1. the scheme they were a member of was under-funded when it started to wind-up **and**
2. they are within three years of their normal retirement age (as laid down in their pension scheme rules) or older on 14.5.04.

28885 The Financial Assistance Scheme can pay an award of up to 90% of what a person would have received if the pension scheme had not been wound up. The award is paid on top of any pension the individual receives from the scheme up to an annual limit. A Financial Assistance Scheme award is paid for life at a fixed rate so it will not increase. The award is paid by DWP net of tax.

Example

The claimant would have received a pension of £18,750 if the scheme had not been wound up. 90% of the amount he would have received is £16,875. In the event the claimant receives a pension of £10,000 a year so this amount is topped up through a Financial Assistance Scheme award by an amount needed to reach the annual ceiling.

Pension payments

28886 Pension payments are¹ periodical payments (see DMG 28906) paid to or for a person

1. under a personal pension scheme (see DMG 28903) **or**

2. in connection with the ending of the person's employment as an earner (see DMG 28916) under

2.1 an occupational pension scheme (see DMG 28888) **or**

2.2 a public service pension scheme (see DMG 28889).

1 JS Act 95, s 35

28887 Payments as in DMG 28886 2. may be, but are not confined to, pensions that the employer has contributed to. The following types of payment are included

1. payments made under a scheme arranged by the employer where the money is provided exclusively by the claimant
2. payments made by the UK or other governments where provision is made for them in law, for example pensions to former Crown employees
3. pensions from employment overseas (see DMG 28973)
4. the compensation element of a retired local government officer's pension¹
5. payments under the Civil Service Compensation Scheme (see DMG 28894)
6. payments under the Civil Service Pension Scheme.

1 Local Government (Compensation for Premature Retirement) Regs

Occupational pension scheme

28888 An occupational pension scheme is¹ any scheme or arrangement that

1. is comprised in one or more instruments (for example trust deeds) or agreements (for example informal arrangements) **and**
2. has, or is capable of having, effect on one or more types of employment **and**
3. provides benefits, for example pensions, payable on
 - 3.1 termination of service **or**
 - 3.2 death **or**
 - 3.3 retirement

for earners with qualifying service.

1 JS Act 95, s 35; Pension Schemes Act 93, s 1; R(JSA) 1/01; R(JSA) 6/02

Public service pension scheme

28889 A public service pension scheme is¹ an occupational pension scheme that is

1. established under legislation, by royal prerogative or under a royal charter **and**
 - 1.1 all its particulars are set out in the legislation, royal warrant or charter **or**

1.2 it cannot come into force or be amended without the government's approval **or**

2. established with the government's approval **or**

3. prescribed by legislation².

1 JS Act 95, s 35; Pension Schemes Act 93, s 1; 2 Occupational Pension Schemes (Public Service Pension Schemes) Regs 1978

28890 Pension schemes that are also public service pension schemes include pension schemes for

1. civil servants **or**

2. local government employees **or**

3. teachers **or**

4. the Armed Forces **or**

5. police officers.

28891 If DMs have difficulty in determining whether a pension scheme is a public service pension scheme they should arrange to get

1. the claimant's consent to contact the manager of the scheme **and**

2. a statement from the manager of the scheme as to whether the pension scheme is a public service pension scheme within the meaning of the relevant law¹.

1 Pension Schemes Act 93, s 1

28892 If a pension scheme is not a public service pension scheme it may still fall within the definition of an occupational pension scheme (see DMG 28888).

28893 Most public service schemes include provision for injury or contracting a disease (for example Police and Fire Service schemes). Such pensions may be paid on a minimum income guarantee basis. This means that the pension tops up existing income to a certain level. The pension rate may therefore be affected by the amount of JSA(Cont) entitlement. In such cases the DM should take into account the gross amount of pension i.e. before any adjustment has been made for JSA(Cont). This ensures that the gross amount of the pension is offset against any JSA(Cont), and the pension provider takes the subsequent balance of any JSA(Cont) payable into account. There is no disadvantage to the claimant, and means that in cases where the amount of pension paid to the claimant is equal to the level of guarantee, the claimant's total income remains unchanged. The pension provider needs to be informed of the correct amount of JSA(Cont) payable.

Example

The amount of pension is £120.00 per week, and the amount of guarantee is £120.00 per week. JSA(Cont) entitlement is £71.70 which is reduced by £35.00 (half

the excess over £50) to £36.70. The pension is then paid at £83.30 to bring the guaranteed income back to £120.00.

Civil Service Compensation Scheme

28894 Civil servants may be entitled to annual payments as compensation¹ if their employment ends because of

1. compulsory redundancy **or**
2. voluntary early retirement or severance

in a redundancy situation.

1 R(JSA) 1/01; R(JSA) 2/01

28895 Until 1995, payments made to civil servants taking early retirement or redundancy were made as part of the Principal Civil Service Pension Scheme. The Principal Civil Service Pension Scheme also provided benefits to those who retired at the normal retirement age. But on 1.1.95, a separate scheme, called the Civil Service Compensation Scheme was introduced.

28896 The Civil Service Compensation Scheme provides benefits to civil servants whose employment ends before the normal retirement age. The Principal Civil Service Pension Scheme continues to provide benefits to those who retire at the normal retirement age.

28897 Under the Civil Service Compensation Scheme, annual compensation payments may be made to civil servants. The Civil Service Compensation Scheme also allows civil servants to change the mix of their

1. lump sum **and**
2. annual compensation payments **and**
3. preserved pension.

28898 The Civil Service Compensation Scheme is a public service pension scheme¹ and annual compensation payments from it are payments from a public service pension scheme. This means that annual compensation payments in excess of the £50 limit (see DMG 28801) are taken into account in JSA(Cont).

1 R(JSA) 2/01

Local government premature retirement scheme

28899 Some pensionable local government employees who

1. are made redundant **or**
2. volunteer for redundancy **or**
3. cease work in the interests of the efficient exercise of the employers' functions

receive payments under the local government premature retirement scheme¹.

1 Local Government (Compensation for Premature Retirement) Regs

28900 The scheme entitles employees¹ to annual payments as compensation for their employment ending as in DMG 28899. These are calculated on the same basis as their annual retirement pension under the superannuation legislation². The compensation payment is a payment from a public service pension scheme.

1 Local Government (Compensation for Premature Retirement) Regs, reg 6;

2 Local Government (Superannuation) Regs

Armed Forces redundancy arrangements

28901 Pensions payable to service personnel who retire from the Armed Forces are paid under a public service pension scheme.

28902 Pensions paid to service personnel who have been made redundant

1. are calculated on the length of qualifying service completed, plus an additional number of years **and**
2. fall within the definition of public service pension schemes¹.

1 Queen's Regulations

Personal pension scheme

28903 Personal pension scheme¹ means a pension scheme that

1. is not an occupational pension scheme **and**
2. is established by a person within any of the paragraphs of specified legislation².

1 PS Act 93, s 1; 2 Finance Act 04, s 154(1)

28904 If the member of the scheme used the personal pension to contract-out of SERPS, the part of the pension that

1. comes from DWP rebates **and**
2. is used to replace the state earnings related pension scheme

can only be drawn from age 60.

28905 The DM should refer the case to DMA, Leeds, if the

1. DM is unable to decide whether a pension is paid under a personal pension scheme **and**
2. pension payment does not satisfy any other part of DMG 28886.

Periodical payments and lump sums

28906 Periodical payments are those that are paid at regular intervals.

28907 A lump sum payment is not a periodical payment. This applies even where the claimant has chosen to receive a lump sum instead of a periodical payment¹. But where

1. a person is entitled to a lump sum payment **and**
2. the rules of the scheme allow the lump sum to be paid in instalments **and**
3. the person chooses to receive it in this way

the instalments are periodical payments.

1 R(U) 5/85

28908 - 28915

In connection with the coming to an end of the employment

28916 A pension must be paid in connection with the end of employment of the person who it is paid for, to fall within DMG 28886 2.. Occupational or public service pensions that are paid where the employment has not ended do not fall within DMG 28886 2.. For example, war pensions paid

1. because of disablement **and**
2. regardless of whether the employment is continuing.

28917 In this context “employment” includes any trade, business, profession, office or vocation¹. Employment in the Armed Services falls within this definition.

1 JSA Regs, reg 3(1)

28918 Retired officers who are entitled to a war pension receive it as a disablement addition to their service pension. This disablement addition is

1. awarded by DWP **and**
2. paid by the Paymaster General in the same cheque as the person’s service pension.

28919 If the claimant is a retired officer with a service pension, the DM should

1. find out the amount of any disablement addition **and**
2. deduct it from the total payment received.

Note: Other ranks have their war pension paid direct by DWP so there is no difficulty in separating their war pension from their service pension.

28920 Gallantry awards are sometimes paid to former members of the Forces in addition to their service pensions. Payment is

1. made from the date of the award **and**
2. a reward for conduct rather than a period of service.

These awards are not paid in connection with the coming to an end of an employment and are **not** pension payments.

28921 Pension payments may be payable to the claimant from the former employer of a deceased partner or other relative. Such payments should be disregarded (see DMG 28955).

28922 The amount of a service pension may be increased if the claimant has been invalided out of the Forces. The full amount should be taken into account.

28923 Police officers who retire because of permanent disability may be entitled to an ill health award¹ in addition to a pension under a public service pension scheme. If they are permanently disabled through an injury received while carrying out their duties, they are also entitled to an injury pension. It is a condition for the receipt of both payments that the officer ceases to be a member of a police force. The payments are therefore made in connection with the coming to an end of a police officer's employment and are payments as in DMG 28886 **2.2**.

1 Police Pension Regs

28924 - 28934

When to take pension payments into account

First payment of a pension

28935 Where

1. a claimant is entitled to a pension payment **and**
2. the first payment is **paid** to the claimant

the pension payment should be taken into account from the first day of the benefit week that includes the day for which payment is first made¹.

1 JSA Regs, reg 81(1A)

Example

Roger claims JSA and is entitled to JSA(Cont) from Thursday 7 November. His benefit week ends on a Thursday. He receives a pension payment of £78 a week, starting on Monday 11 November. Only the amount above £50 can be deducted from JSA(Cont). In the benefit week 8 November to 14 November £28 is deducted from his JSA(Cont).

Payment in arrears

28936 Pension payments are often made in arrears, and can be

1. weekly **or**
2. monthly **or**
3. quarterly **or**
4. any other period.

Any pension payments deducted from JSA(Cont) should start from the **first** day of the benefit week that entitlement to the pension, by way of the first payment, has been made to the claimant¹.

1 JSA Regs, reg 81

28937 The pension payment **must actually be made** before the DM deducts an amount from JSA(Cont) because of a pension payment.

Example

William claims JSA and is entitled to JSA(Cont) from Thursday 6 November. His benefit week ends on a Thursday. He is entitled to a pension payment of £78 a week from Monday 3 November of which he receives his first payment (£312) on Monday 1 December. Only the weekly pension amount above £50 can be deducted from JSA(Cont). JSA(Cont) is awarded at the full rate from 7 November but from the benefit week 28 November to 4 December and thereafter £28 (£78 - £50) is deducted from his JSA(Cont).

28938 - 28949

When the pension is uprated

28950 A claimant's rate of pension may change. Any change should be taken into account from the first day of the benefit week that includes the first day for which the increase or decrease is paid¹.

1 JSA Regs, reg 81(1B)

Example

Amrit claims JSA, her benefit week ends on a Thursday and she is entitled to JSA(Cont). She receives a pension payment of £78 a week. Her JSA(Cont) is reduced by £28 each benefit week. She receives an increase of £7 a week in her pension starting on Monday 11 November. The increase in the pension payment is taken into account for the benefit week 8 November to 14 November.

So in the benefit week

1. 1 November to 7 November, £28 is deducted from her JSA(Cont)
2. 8 November to 14 November, £35 is deducted from her JSA(Cont).

28951 - 28954

Disregarded payments

28955 Payments may be payable to the claimant

1. under
 - 1.1 a personal pension scheme **or**
 - 1.2 an occupational pension scheme **or**
 - 1.3 a public service pension scheme **and**
2. because a person who was a member of the scheme has died.

28956 Any payments in DMG 28955 are known as survivors' benefits and should be disregarded in full¹.

1 JSA Regs, reg 81(2)(c)

Example 1

Geoff's wife Mildred is a member of an occupational pension scheme. Following Mildred's death a reduced pension payment is paid by the scheme to Geoff. This pension is not taken into account when working out the amount of JSA(Cont) payable to Geoff.

Example 2

Emma's husband Neil is a member of a public service scheme receiving an army pension. Following Neil's death a family forces pension is paid by the scheme to Emma. This *survivor* pension is not taken into account when working out the amount of JSA(Cont) payable to Emma

28957 - 28959

Delay in payment

- 28960 Sometimes a pension payment is not made on the date it is due, for example because of industrial action by the employees of the paying authority. If the date that the payment will be made cannot be predicted with reasonable certainty, it is not reasonable to wait for as long as six months before giving a decision.
- 28961 If the DM considers it unreasonable to defer the decision until payment is made, a decision should be given on the basis that payment has not been made. If a payment is made later, the decision to award JSA(Cont) without any deductions may be revised or superseded. Where a delay in payment occurs the DM should obtain evidence of the reason for the delay and its likely duration.

28962 - 28969

Calculating the amount of the pension

General

28970 Except for DMG 28972, the amount of the pension payment is the gross amount payable. Where income tax is deducted at source, the amount to be taken into account is the amount before tax is deducted¹.

1 R(U) 8/83

28971 Some claimants

1. have to make **or**
2. choose to make

certain payments from their pensions. The payments may be to the employer or a third party. With the exception of compulsory payments to buy or repay an element of their current pension, any payments deducted before the pension is paid should be ignored. The claimant's liability to make the payments is separate from the liability to pay the pension. The deductions at source are simply a convenient method of ensuring that the claimant's obligations or wishes are met. The amount of pension to be taken into account is the amount after deduction of any compulsory payments towards the current pension and before other deductions are made. Examples of these payments include

- repaying a debt to a former employer
- payments to someone because of a court order
- subscriptions to a trade union or other association
- payments into a further pension scheme.

28972 Where the rules of the claimant's pension scheme provide for compulsory deductions, for example to buy or repay an element of their current pension, the amount deducted should be disregarded in calculating the amount of pension. This is because "payments" refers to the amount the claimant is actually entitled to receive. So a payment made under a binding obligation, for example to acquire additional pension rights, should be disregarded in calculating the amount of the pension.

Example

Jason is employed by an electricity company for 29 years and two months. He retires voluntarily. For superannuation purposes he is treated as having completed 30 years service. Under the rules of the superannuation scheme, a monthly deduction of £32.23 is made from his gross occupational pension of £232.83 for the

purchase of the ten additional months. He is also paying £20.00 a month to a debt collecting agency under a court order.

Jason cannot avoid the reduction to his pension payments. While he must buy additional pension rights under the rules of the scheme he would normally repay his other debts from any net income he receives. The payments made under the court order are not to be disregarded. The DM takes into account a pension payment of £200.60 a month¹.

1 R(U) 4/83

28973 Sometimes pension payments are received by the claimant in a currency other than sterling. To work out the sterling equivalent, DMs should use the selling rate that applies

1. on the date on which payment is due **and**
2. not the date on which it is actually converted.

No allowance should be made for commission or other expenses incurred in converting currency¹.

1 R(SB) 28/85

28974 Because exchange rates fluctuate, the DM will need to give a fresh decision each time a pension payment is made, for the period it covers (subject to DMG 28935 - 28937). For the purposes of working out a sterling equivalent only, it does not matter that the pension is not available in sterling until some time after the pension is due.

28975 - 28979

Calculating the weekly pension rate

28980 If pension payments are not paid weekly, they should be converted into a weekly amount as follows¹

1. annual payments should be divided by 52
2. quarterly payments (three monthly) should be divided by 13
3. monthly payments should be multiplied by twelve and the result divided by 52. A month means a calendar month²
4. payments of two or more calendar months (other than **1.** or **2.**) should be
 - 4.1 Divided by the number of months the payment covers **and**
 - 4.2 the result multiplied by twelve then divided by 52
5. payments for any other period should be divided by the number of days covered by the payment and the result multiplied by seven.

1 JSA Regs, reg 81(3); 2 CG 66/49 (KL)

More than one pension

28981 Where a claimant is receiving more than one pension the DM should

1. calculate the weekly rate of each pension separately **and**
2. add the weekly rates together

before working out the excess over the maximum sum¹.

1 JSA Regs, reg 81(3)

28982 - 28999

