

# Department for Work and Pensions

DECISION MAKING AND APPEALS

## Decision Makers Guide

### Volume 4

### Amendment 58 – June 2019

1. This letter provides details on Amendment 58; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available on the Internet (see link below). These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

<https://www.gov.uk/government/publications/decision-makers-guide-vols-4-5-6-and-7-jobseekers-allowance-and-income-support-staff-guide>

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

3. Amendment 58 affects chapters 23 and 24. The changes:

Chapter 23 – removes references to “new and existing” housing costs in 23647; adds examples to paras 23413, 23425, 23438, 23442 and 23633; makes clear in 23454 that temporary absence also includes those detained in custody; adds guidance at 23756 that there can only be one non-dependant deduction per non-dependant; adds another income disregard (IBS) to 23775; makes clear at 23780 that only those housing costs which can be determined should be included; adds ‘Rates from 8.4.19’ to Appendix 4 (housing costs – amount of non-dependant deductions rates).

Chapter 24 - references to DMG Memos JSA/IS 64 & 106 removed and replaced with signposts to 23039 which makes clear it only applies to families with children in the household before 6.4.04; reference to “mortgage run-on” at 24390 changed to “housing costs run-on” as housing costs no longer include mortgage payments.

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

#### Remove

##### Chapter 23

23007 – 23013 (1 page)  
23019 – 23030 (2 pages)  
23039 – 23045 (1 page)  
23241 – 23244 (1 page)  
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23632 – 23699 (2 pages)  
23756 – 23761 (1 page)  
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Appendix 4, para 6 – 7 (1 page)

#### Insert

##### Chapter 23

23007 – 23013 (1 page)  
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**Chapter 24**

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**Chapter 24**

Conts 24160 – Conts 24512 (1 page)

24001 – 24001 (1 page)

24108 – 24144 (1 page)

24390 – 24999 (5 pages)

## **JSA(Cont) - personal rate**

23007 JSA(Cont) is paid for the claimant only. There are no increases for any partner or dependants. The personal rate is calculated by<sup>1</sup>

1. deciding the age-related amount payable to the claimant **and**
2. deducting, in each benefit week
  - 2.1 any earnings<sup>2</sup> (see DMG 26001 et seq and 27000 et seq) **and**
  - 2.2 pension payments<sup>3</sup> (see DMG 23800 et seq).

**Note:** Where the calculation results in a fraction of a penny, it should be rounded up to the next whole penny<sup>4</sup>.

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

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

### **Example 1**

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

### **Example 2**

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

### **Example 3**

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

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

1. 16 to 24
2. 25 and over<sup>1</sup>.

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

## JSA(IB) - applicable amount

23010 JSA(IB) is paid for the claimant and any family<sup>1</sup>. The applicable amount includes<sup>2</sup>

1. the claimant's personal allowance. This may include an amount for a joint-claim couple, partner or, in the case of a polygamous marriage, partners<sup>3</sup> (see DMG 23034) **and**
2. if appropriate
  - 2.1 a personal allowance for any dependants (see DMG 23039)
  - 2.2 a FP
  - 2.3 other premiums
  - 2.4 certain housing costs
  - 2.5 any transitional element (see DMG 36301).

**Note:** In special circumstances a claimant can have an applicable amount of nil<sup>4</sup>.

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

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

1. SDP **and**
2. housing costs<sup>1</sup>.

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

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

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

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

23013 The law<sup>1</sup> allows a claim to be treated as made for a definite period where a relevant change of circumstances is expected. Where the DM considers that a definite award is not appropriate, an award may be made for an indefinite period. This is so even if at the date of decision the amount of housing costs is not known<sup>2</sup>.

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

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

*1 JS Act 95, s 4(1)*

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

1. no income, the applicable amount **or**
2. income that does not exceed the applicable amount, the difference between the income and the applicable amount<sup>1</sup>.

*1 JS Act 95, s 4(3)*

### **Joint claim couples**

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

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

*1 JS Act 95, s 4A(2)*

### **Example**

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

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

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

*1 JS Act 95, s 4A(3)*

### **Example**

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

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

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

23023 Where a couple are entitled to a joint claim jobseeker's allowance and one or each of them is also entitled to JSA(Cont) and either has an income, the amount payable is

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

*1 JS Act 95 s 4A(5)*

### **Example**

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

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

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

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

*1 JS Act 95, s 4A(6)*

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

23025 Where a couple's entitlement consists only of their personal rate<sup>1</sup>, as in DMG 23021 2. or 23023 2. then the amount payable will be each members personal rate and not a joint claim jobseekers allowance.

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

## Example

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

## IS

### Amount of IS payable

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

1. no income **or**
2. income that does not exceed the applicable amount<sup>1</sup>.

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

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

1. no income, the applicable amount **or**
2. income that does not exceed the applicable amount, the difference between the income and the applicable amount<sup>1</sup>.

*1 SS CB Act 92, s 124(4)*

### Applicable amount

23028 IS is paid for the claimant and any family<sup>1</sup>. The applicable amount includes<sup>2</sup>

1. the claimant's personal allowance. This may include an amount for any partner or, in the case of a polygamous marriage, partners<sup>3</sup> (see DMG 23034) **and**
2. if appropriate
  - 2.1 a personal allowance for any dependants (see DMG 23039)
  - 2.2 a FP
  - 2.3 other premiums
  - 2.4 certain housing costs
  - 2.5 any TE (see DMG Chapter 36).

**Note:** In special circumstances a claimant may have an applicable amount of nil<sup>4</sup>. An applicable amount may also be reduced in certain circumstances or may be limited to allowable housing costs only (see DMG Chapter 24).

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

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

1. housing costs<sup>1</sup> **or**
2. SDP<sup>2</sup>

if there is not enough evidence to include these elements.

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

23030 The applicable amount may be revised or superseded if further information about SDP or housing costs is received after the IS claim or question has been decided<sup>1</sup>.

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



## Dependant's personal allowances

23039 Where the claimant's applicable amount has included, for a continuous period from 6.4.04, any amount in respect of a child, their applicable amount should include an amount for any

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

who is a member of the claimant's family (see DMG Chapter 22), who does not have capital over £3000<sup>1</sup> (see DMG Chapter 29) and who was born before 6.4.17

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

23040 A personal allowance can be awarded for a child born after 6.4.17, but only where

1. the claimant already has at least one other child or young person in their family born before 6.4.17<sup>1</sup> (this would include a child or young person joining the family after 6.4.17 but who was born on or before 6.4.17)
2. a 3<sup>rd</sup> or subsequent child born after that date can only be included in the claimants award where one of the exceptions in Appendix 9 applies.

*1 The Social Security (Restrictions on amounts for Children and Qualifying Young Persons)*

*Amendment Regulations 2017 reg 5 & 6*

## Structure of allowances

23041 From 10.4.00 there are two rates of personal allowances for children and young persons<sup>1</sup>. These are from

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

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

23042 When a dependant reaches age 16 the personal allowance does not increase until the first Monday in the September which follows the sixteenth birthday. Although because both categories are paid at the same rate there will be no material change.

23043 - 23045



# Disabled child premium

## JSA(IB) and IS

23241 DCP is paid at one rate. If the conditions for DCP are met, DCP should be included in the claimant's applicable amount in addition to any other premium.

### Qualifying conditions

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

1. the claimant or the claimant's partner is responsible for **and**
2. is a member of the claimant's household **and**
3. is disabled **and**
4. does not have capital over £3000<sup>1</sup>
5. is not a long term patient<sup>2</sup>.

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

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

### Meaning of disabled

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

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

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

### DCP following the death of a child

23244 Where

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

an alternative qualifying condition is satisfied for the additional period of eight weeks, alongside the run on of CHB<sup>1</sup>.

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



23296 DCP is withdrawn when the child becomes a long term patient<sup>1</sup>.

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

## **Carer premium**

### **JSA(IB) and IS - general**

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

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

is a patient.

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

### **JSA(IB) - claimant in hospital**

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

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

23300 CP stops eight weeks after the partner or the member of a joint-claim couple is no longer entitled to CA<sup>1</sup>.

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

23301 - 23309

### **IS - single claimant or lone parent**

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

### **Breaks in caring**

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

## **IS - couples or polygamous marriages**

23312 CP stops eight weeks after the carer has ceased to be entitled to CA<sup>1</sup>.

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

### **Example 1**

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

### **Example 2**

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

23313 - 23399

## Definitions

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

### Close relative

23408 A close relative is<sup>1</sup>

1. a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-son-in-law, step-daughter, step-daughter-in-law, brother, brother-in-law, sister, sister-in-law **and**
2. similar relationships arising through civil partnerships<sup>2</sup>.

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

23409 Brother and sister includes half-brother and half-sister. A child who is adopted becomes a child of the adoptive parents and becomes the brother or sister of any other child of those parents. The child stops being the child of, or the brother or sister of any children of, the natural parents. Whether an adopted person is a close relative of another person depends upon the legal relationship and not the blood relationship<sup>1</sup>.

*1 R(SB) 22/87*

### Disabled person

23410 For housing costs purposes, a disabled person is a person who<sup>1</sup>

1. receives, or has living with them someone who receives
  - 1.1 DP **or**
  - 1.2 DCP **or**
  - 1.3 EPP<sup>2</sup> **or**
  - 1.4 HPP **or**
2. would, if they were entitled to JSA(IB) or IS, receive the premiums at 1.
3. is disabled or severely disabled for the purposes of specified Tax Credits legislation
4. from 3.4.17, is a person in respect of whom the support component is payable or they are a member of the work-related activity group<sup>3</sup> **or**
5. would but for the application of time limiting, be entitled to ESA<sup>4</sup>
6. a person who is entitled to UC that

- 6.1** includes the LCW or LCWRA element<sup>5</sup> **or**
  - 6.2** would include the LCW element
    - 6.2.a** but for the fact that the LCWRA element was included with respect to the person's partner **or**
    - 6.2.b** but for entitlement to the carer element<sup>6</sup>
- is also a disabled person<sup>7</sup>.

*1 JSA Regs, Sch 2, para 1(3); IS (Gen) Regs, Sch 3, para 1(3) ESA Regs, Sch 6, para 1; 2 JSA Regs, Sch 2, para 1(3)(c); 3 IS Gen Regs, Sch 3, para 1(3)(d)(i); JSA Regs, Sch 2, para 1(3)(e)(i); 4 IS Gen Regs, Sch 3, para 1(3)(d)(ii); JSA Regs, Sch 2, para 1(3)(e)(ii); 5 UC Regs, reg 27(1); 6 UC Regs, reg 29(4); 7 IS Regs, Sch 3 para 1; JSA Regs, Sch 2 para 1(3); ESA Regs, Sch 6 para 1(3); SPC Regs, Sch II para 1(2)*

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

See DMG 23135 et seq for further guidance.

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

## Dwelling occupied as the home

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



**Note:** This means only the dwelling currently occupied as the home. It does not include any dwelling which is no longer occupied as the home<sup>2</sup>.

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

### **Example**

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

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

### **Normally occupied**

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

### **Example**

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

### **Rooms sublet**

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

### **Housing costs**

- 23415 Housing costs are<sup>1</sup>

1. rents or ground rents on long tenancies
2. service charges

3. payments by way of rent charge
4. payments under co-ownership schemes
5. payments for tenancies or licences of Crown tenants
6. payments for tents and their sites.

*1 JSA Regs, Sch 2, para 1(2), 5 & 16; IS (Gen) Regs, Sch 3, para 1(2), & 17*

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

1. rent required by a person who
  - 1.1 is making payments under a shared ownership scheme
  - 1.2 owns jointly with the claimant the property occupied by the claimant **and**
  - 1.3 does not live in that property
2. water charges paid via a landlord (for example paid at the same time as service charges)

should not be allowed as housing costs.

**Note:** This list is not exhaustive.

*1 R(IS) 19/93*

## **Water charges**

23417 Water charges means<sup>1</sup> any

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

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

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

## Steps to follow when deciding housing costs

- 23418 When deciding a claimant's housing costs, the DM should determine
1. if the claimant or partner is liable for the housing costs (see DMG 23423)
  2. if the amount spent is on the dwelling occupied as the home (see DMG 23412 and 23430 et seq)
  3. if the housing costs cannot be met (see DMG 23460)
  4. how to apportion the housing costs if the dwelling is used for domestic and business use (see DMG 23495)
  5. if there are any other eligible housing costs that can be allowed (see DMG 23605 et seq)
  6. if a deduction for a non-dependant is necessary (see DMG 23756)
  7. the start date of entitlement to housing costs (see DMG 23647 et seq).

23419 - 23422



## Liability for housing costs

- 23423 A person is liable to meet housing costs where the
1. liability falls on them, their partner, or in the case of joint-claim couples, the other member of that couple, except where the liability is to another member of the same household<sup>1</sup> **or**
  2. person liable for those costs is not meeting them **and**
    - 2.1 the claimant has to meet the costs to keep on living in the home **and**
    - 2.2 it is reasonable in all the circumstances to treat the claimant as liable for the costs<sup>2</sup> **or**
  3. costs are shared with other members of the household who are not close relatives of the claimant, the claimant's partner, or the other member of a joint-claim couple **and**
    - 3.1 at least one member of the household is liable for those costs **and**
    - 3.2 it is reasonable in the circumstances to treat the claimant as sharing responsibility<sup>3</sup>.

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

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

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

## Trade disputes

- 23424 Where a member of a family is affected by a TD, the housing costs should be treated as the responsibility of a member of the household who is not affected by the TD<sup>1</sup> (see DMG Chapter 32).

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

## Responsibility for housing costs

- 23425 A claimant who is liable for a housing cost is responsible for that cost unless someone else has accepted responsibility for it. If responsibility is shared, the claimant is responsible only for their share<sup>1</sup>.

*1 JSA Regs, Sch 2, para 5(5); IS (Gen) Regs, Sch 3, para 5(5); R(IS) 4/00;*

### Example

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

Several months later Sarah stops making the payments for the rent and service charges. As David is liable for the costs and no one else is accepting responsibility for them, the DM includes the eligible housing costs in David's applicable amount.



## Example

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

- 23439 Students whose main purpose of living in their home is to attend a course of study will not normally be treated as living there for periods of absence outside the period of study. The exception is when the absence is due to admission to hospital for treatment<sup>1</sup>.

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

## Temporary accommodation

- 23440 A claimant who

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

should be treated as living in the dwelling for which they have to pay housing costs<sup>1</sup>.

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

## Liable for two homes

- 23441 A person who is liable to make payments on two dwellings should be treated as living in, and allowed housing costs for both dwellings where they

1. have left their former home, and remain absent, because of fear of violence
  - 1.1 in that home **or**
  - 1.2 by a former member of their familyand it is reasonable to meet housing costs on both homes<sup>1</sup> **or**
2. are members of a couple or polygamous marriage and have a partner who is a student or on a training course and it is
  - 2.1 unavoidable that they have two homes **and**
  - 2.2 reasonable to meet both housing costs<sup>2</sup>.

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

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

1. the length of the absence

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

**Example**

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

23443 A person can also be treated as living in, and allowed housing costs for, two homes for up to four weeks if<sup>1</sup>

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

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

23444 The four weeks under DMG 23443 is payable from the first day of the benefit week in which the move occurs<sup>1</sup>.

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

23445 A claimant can be allowed housing costs for two separate properties if he is treated as living in both dwellings as the home. See DMG 23441 for the criteria where more than one property could be the dwelling occupied as the home<sup>1</sup>.

*1 R(JSA) 9/03*

23446 Claimants are entitled to an additional amount for these housing costs if

1. the claimant or partner is
  - 1.1 liable for those costs (see DMG 23423) **and**
  - 1.2 responsible for those costs **and**
  - 1.3 treated as living in the home that these costs are for (see DMG 23441) **and**
2. those costs are allowable.



## Treated as living in the home before moving in

23447 A claimant may be treated as living in their home for up to four weeks before the date they moved in where<sup>1</sup>

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

<sup>1</sup> JSA Regs, Sch 2, para 3(7); IS (Gen) Regs, Sch 3, para 3(7)

## Temporary absences from home

### Trial periods in residential accommodation

23450 Claimants who enter residential accommodation

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

should be treated as living in their home and have their housing costs allowed for up to 13 weeks from the day of entry. The number of weeks for which the absence is treated as temporary is subject to an overall maximum of 52 weeks<sup>1</sup> (see DMG 23454).

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

#### Example

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

### Temporary absences up to 13 weeks

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

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

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

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

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

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

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

### **Temporary absences up to 52 weeks**

23454 A person should be treated as living in their home for a period of temporary absence of not more than 52 weeks if<sup>1</sup>

1. they intend to return to live in the home **and**
2. the part of the home they normally live in has not been let or sublet **and**
3. they
  - 3.1 are detained in custody pending trial or, as a condition of bail, are required to live in either
    - 3.1.a a dwelling, other than the dwelling he occupies as his home **or**
    - 3.1.b a hostel **or**
  - 3.2 are
    - 3.2.a patients resident in a hospital or similar institution **and**
    - 3.2.b **for JSA(IB) only**, treated as capable of work during a short period of sickness **or**
  - 3.3 are, or a member of the family is, undergoing
    - 3.3.a medical treatment **or**
    - 3.3.b medically approved convalescencein the UK or elsewhere in accommodation that is not residential accommodation **or**
  - 3.4 are on a training course in the UK or elsewhere **or**
  - 3.5 are providing medically approved care for another person who is residing in the UK or elsewhere **or**
  - 3.6 are caring for a child whose parent or guardian is temporarily absent from the dwelling that they normally occupy because they are receiving medically approved care or treatment **or**
  - 3.7 are
    - 3.7.a residing in the UK or elsewhere **and**
    - 3.7.b providing medically approved carein accommodation that is not residential accommodation **or**
  - 3.8 are students to whom DMG 23438 and 23439 do not apply **or**
  - 3.9 are receiving care in residential accommodation other than in DMG 23450 **or**

**3.10** have left the home because of fear of violence in it, or from a former member of the family, and DMG 23451 does not apply **or**

**3.11 for IS claims only**, are detained in custody on remand pending trial or pending sentence upon conviction **and**

**4.** the absence is unlikely to

**4.1** exceed 52 weeks **or**

**4.2** substantially exceed 52 weeks in exceptional circumstances (for example, where an IS claimant has gone into hospital or a JSA claimant has to live in a bail hostel as a condition of bail).

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

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

**1.** be unqualified **and**

**2.** be present from the start of the period of absence **and**

**3.** not be conditional on a future event out of the claimant's control.

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

23456 If DMG 23454 applies, housing costs may be allowed for up to 52 weeks from the first day of absence<sup>1</sup>. But a person may have several periods of temporary absence from home. The absences are treated as temporary if the claimant is not absent from home for more than 52 consecutive weeks.

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

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

**1.** will exceed 52 weeks **or**

**2.** is likely to

**2.1** exceed 52 weeks **or**

**2.2** substantially exceed 52 weeks in exceptional circumstances<sup>1</sup>.

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

### **Example 1**

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

**Example 2**

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

**Example 3**

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

23458 - 23459



## Deductions for repairs and improvements

23632 The charges for other eligible housing costs in DMG 23611 may include an amount for repairs and improvements (see ADM memo 8/18 paragraph 97). In such a case the amount for repairs and improvements cannot be allowed and should be deducted<sup>1</sup>

*1 JSA Regs, Sch 2, para 16(2)(c); IS (Gen) Regs, Sch 3, para 17(2)(c)*

23633 Where service charges include an amount for repairs and improvements listed in ADM memo 8/18, paragraph 97, and are undertaken to maintain the fitness for human habitation, they should not be allowed.

### Example 1

Razak's landlord charges him for the cost of improvements to his driveway. The previous shingle drive has been re-laid using cobbles to enhance the appearance of the property and to avoid loose chippings hitting pedestrians when cars use the driveway. The DM determines that the improvements to the driveway

1. have not been undertaken to maintain the fitness of the home for human habitation **and**
2. are not covered by the list of eligible repairs and improvements.

### Example 2

Byron, the occupier, employs a painter to paint the outside of his property. The provision of the service, though placing contractual obligations on Byron and the painter, is something he is free to arrange for himself. It is not connected with the conditions by which the property is occupied. The charge associated with the provision of the service in this case will not satisfy the definition of a service charge.

### Example 3

The landlord arranges the painting of the property under the conditions by which the property is occupied. Theresa, the occupier, is obliged to accept the arrangement. In this situation the charges incurred satisfy the definition of a service charge.

23634 - 23635

## Contingency funds

23636 Service charges may contain an element that is paid into some kind of fund or reserve. These are most commonly referred to as

1. contingency funds **or**
2. reserve funds **or**
3. sinking funds.

23637 Payments made into such a fund are “for” the general purposes of the fund, whether or not there has been any expenditure in the year in question. If those purposes include both allowable and non-allowable elements, make a corresponding apportionment of the relevant annual payment to determine how much can be allowed.

23638 – 23639

### **Costs payable regularly**

23640 The amount of the invoice should be converted to give a weekly amount

### **Costs payable over 53 weeks or irregularly**

23641 Where other housing costs are payable for 52 weeks **but**

1. paid for 53 weeks **or**
2. paid irregularly **or**
3. no such costs are payable or collected in certain periods **or**
4. the costs for different periods are different amounts

the weekly amount is the amount payable for the year divided by 52<sup>1</sup>.

*1 JSA Regs, Sch 2, para 16(3); IS (Gen) Regs, Sch 3, para 17(3)*

23642 Those housing costs attributed to a fixed 52 week period under DMG 23641 are payable from the date the liability arose.

**Note:** At any one time, a claimant’s award of housing costs for service charges may therefore be made up of housing costs arising from different liabilities notified at different times.

#### **Example**

The claimant's award of IS includes a weekly amount of £8.31 for housing costs arising from estimated service charges of £431.84 for the period 1.4.07 - 31.3.08. The amount for housing costs is due to end on 31.3.08. In February 2008 the claimant sends in an estimate of service charges for the 2008-09 financial year. The awarding decision is superseded on the grounds of an anticipated relevant change of circumstances to include housing costs of £10.87 weekly arising from estimated service charges of £564.94 for the period 1.4.08 - 31.3.09. On 9.9.08 the claimant receives an invoice for £243.85, being the balance of finalised service charges for the 2007-8 year, and sends it to the DWP. The DM supersedes the decision of February 2008 to award housing costs of £10.87 and £4.69 for the period 9.9.08 - 31.3.09, and £4.69 for the period 1.4.09 - 6.9.09, the balance for the 2007-08 year charges being paid over a 52 week period. If a further estimate for charges for the 2008-09 year is received, the September 2008 decision may be superseded accordingly.



## Payment of costs waived

23643 Other housing costs should continue to be allowed for up to eight weeks if

1. the claimant or a member of the family pays for reasonable repairs or redecoration to the home **and**
2. that work was not the responsibility of the claimant or any member of the family **and**
3. payment for other housing costs is waived because the work has been done<sup>1</sup>.

*1 JSA Regs, Sch 2, para 16(4); IS (Gen) Regs, Sch 3, para 17(4)*

23644 - 23646



## Housing costs - starting dates of entitlement

23647 With the exception of the housing costs payable at the start of a claim (see DMG 23661) all other eligible housing costs have a QP.

23648 For most new claims made after 1.4.16 the QP is 39 weeks.

**Note:** The temporary measures, which introduced a 13 week QP from 5.1.09 to support home owners, will still apply to claimants who are in a waiting period for housing costs up to and including 31.3.2016<sup>1</sup>.

*1 SS (Housing Costs Special Arrangement) (Amdt and Modification) Regs 08 & SS (Housing Costs Special Arrangements) (Amdt) Regs 09.*

23649 - 23660

## Housing costs payable at the start of the claim

23661 Where claimants, their partners, or either member of a joint-claim couple, are not less than the qualifying age for SPC<sup>1</sup>, all housing costs are paid in full from the first day of entitlement to JSA(IB) or IS<sup>2</sup>. Housing costs are also paid in full from the first day of entitlement to SPC. See DMG 78170 et seq for guidance on SPC.

*1 SS CB Act 92, s 124(1)(aa); 2 JSA Regs, Sch 2, para 8(1)(a) ; IS (Gen) Regs, Sch 3, para 9(1)(a)*

23662 All claimants should be paid housing costs for

1. co-ownership schemes (see DMG 23618)
2. crown tenancies (see DMG 23619)
3. tents and their sites<sup>1</sup> (see DMG 23621)

from the first day of entitlement to JSA(IB) or IS.

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

23663 - 23666

## Start date for housing costs

23667 The amount of the award for housing costs is<sup>1</sup>

1. nil where claimants have not been continuously entitled to JSA(IB) or IS for 39 weeks<sup>2</sup>
2. for claimants who have been entitled to JSA(IB) or IS for a continuous period of 39 weeks or more<sup>3</sup>,

**21** the amount of any

**2.1.a** rent or ground rent relating to a long tenancy **and**

**2.1.b** service charges **and**

**2.1.c** rent charges.

*1 IS (Gen) Regs, Sch 3, para 17); JSA Regs, Sch 2, para 6; 2 JSA Regs, Sch 2, para 7(1)(b); IS (Gen) Regs, Sch 3, para 8(1)(b); 3 JSA Regs, Sch 2, para 7(1)(a); IS (Gen) Regs, Sch 3, para 8(1)(a)*

## **JSA(IB) starting date of entitlement - waiting days**

23668 A claimant is not entitled to JSA when serving waiting days<sup>1</sup>. As a result waiting days do not count towards any housing costs qualifying period.

*1 JS Act 95, Sch 1, para 4*

23669

## **Housing costs - sanctions JSA(IB) only**

23670 If a JSA claimant is sanctioned (see DMG Chapter 34) that claimant is still entitled to JSA, but JSA is not paid.

23671 Sanctioned periods will count towards the qualifying periods for housing costs as long as the claimant has been continuously entitled to JSA(IB) for the qualifying period.

## **Housing costs - hardship JSA(IB) only**

23672 JSA claimants may be entitled to a hardship payment (see DMG Chapter 35) if they

1. are not available **or**
2. are not ASE **or**
3. have not got a valid JSAg **or**
4. a question has been passed to the ESDM on 1. to 3. **or**
5. are sanctioned.

Hardship payments are payments of JSA(IB).

23673 Some JSA claimants are not entitled to a hardship payment straightaway (see DMG Chapter 35). Such claimants who are not entitled to hardship payments, are not entitled to JSA(IB).

23674 JSA hardship payments will count towards the qualifying periods for new and existing housing costs as long as the claimant has been continuously entitled to JSA(IB) for the QP.

**Note:** Once the QP is satisfied, normal linking rules apply.

23675 - 23699

# Non-dependant deductions

## Introduction

23756 Where non-dependants live with the claimant, a deduction from the allowable housing costs may be appropriate<sup>1</sup>. A deduction should be considered for each non-dependant or group of non-dependants, but only one deduction can be applied to each non-dependant<sup>2</sup>.

*1 JSA Regs, Sch 2, para 17; IS (Gen) Regs, Sch 3, para 18. 2 JSA Regs, Sch 2, para 17(2A); IS Gen Regs, Sch 3, para 18(2A)*

## Definition of a non-dependant

23757 With the exception of those people mentioned in DMG 23764, non-dependants<sup>1</sup> are people aged 18 or over who

1. normally reside with the claimant **or**
2. the claimant normally resides with.

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

## Meaning of normally resides

23758 A person normally resides where they usually live. Periods of residence or absence that are of an exceptional nature should be disregarded. A person who is temporarily absent from their normal home, continues to normally reside where they usually live and with the people they usually live with.

23759 When considering where a person normally resides the DM should have regard to

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

### Example 1

Oonagh and her sister Mairead share a flat on which Oonagh has a mortgage. Mairead goes to stay with their father to look after him while he is recovering from a major operation. She is away for three weeks. While Mairead is staying with her father Oonagh is made redundant and claims JSA. The DM decides that Mairead normally lives with Oonagh and is a non-dependant. The time she spends at her father's is exceptional.

### Example 2

Mary normally lives alone in her own flat. Her brother Steven comes to stay with her for a week at a time every three months. He does not normally live with Mary and is not a non-dependant.

## Sharing the accommodation

23760 A person resides with another only if they share any accommodation and in this context, people should be regarded as sharing the accommodation unless<sup>1</sup>

1. the only shared area is a
  - 1.1 bathroom **or**
  - 1.2 lavatory **or**
  - 1.3 communal area **or**
2. they are separately liable to make payments to the landlord for that accommodation.

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

23761 A communal area is<sup>1</sup> an area of common access (not a room) including

1. halls
2. passageways
3. stairways
4. rooms of common use in sheltered accommodation.

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

### Example

Katja lives in a self-contained granny flat attached to her daughter's house. She has her own bathroom, kitchen, bedroom and living room. Access to the flat is from the hall of her daughter's house and the front door of the property is shared. Everything else is separate.

The hall is the only shared area and is a communal area. Katja does not share the accommodation and does not normally reside with her daughter.

## Calculation of a non-dependant's gross weekly income

- 23775 When calculating the gross weekly income of a non-dependant disregard<sup>1</sup> any
1. AA
  2. DLA
  3. payments, including payments in kind (see DMG Chapter 28), made under, or derived from
    - 3.1 the Macfarlane Trust
    - 3.2 the Macfarlane (Special Payments) Trust
    - 3.3 the Macfarlane (Special Payments) (No. 2) Trust
    - 3.4 the Fund
    - 3.5 the Eileen Trust
    - 3.6 the Independent Living Fund (2006) (but see **note**)
    - 3.7 MFET Limited
    - 3.8 the Skipton Fund
    - 3.9 the Caxton Foundation.
    - 3.10 the London Emergencies Trust (LET) and the We Love Manchester Emergency Fund (WLMEF)
    - 3.11 any income from capital received from Infected Blood Schemes (IBS)
  4. PIP
  5. AFIP

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

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

23776 - 23778





## Questions that cannot be decided immediately

### Insufficient information to determine housing costs - IS only

23779 Where a DM is

1. deciding an IS claim **or**
2. determining an issue on IS housing costs

the applicable amount should include any housing costs that can be determined immediately on the evidence available<sup>1</sup>. Where there is insufficient evidence IS can be awarded without housing costs.

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

23780 If there are several housing costs on the IS claim the applicable amount should include only an amount for those that can be determined. The applicable amount should not include any amount for those housing costs where there is insufficient information to make a decision.

23781 The decision may be revised or superseded if further information about any of the claimant's housing costs is received after the IS claim or question has been decided<sup>1</sup>.

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

23782 - 23799



## Rates from 10.4.17

6 Deductions apply where

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

## Rates from 6.4.18

7 Deductions apply where

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

## Rates from 8.4.19

8 Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £100.65

**2.** the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

**2.1** Less than £143.00 £15.60

**2.2** £143.00 to £208.99 £35.85

**2.3** £209.00 to £271.99 £49.20

**2.4** £272.00 to £362.99 £80.55

**2.5** £363.00 to £450.99 £91.70

**2.6** £451.00 or more £100.65

**3.** any other non-dependant aged 18 or over for whom deductions are relevant - £15.60.

Motor cars .....	24160
Mobile motor homes.....	24161
Absence from home .....	24162
Care home and Independent hospitals.....	24163
<b>Members of religious orders - Income-based Jobseeker's Allowance and Income Support</b>	
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Member fully maintained.....	24172
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# Chapter 24 - Special cases

## General

### Scope of this Chapter

- 24001 This Chapter explains how to calculate the amount of JSA or IS payable where people are
1. in hospital (see DMG 24002)
  2. members of joint-claim couples where one member fails to attend or fails to satisfy the labour market conditions (see DMG 24145)
  3. members of joint-claim couples where one member is outside GB (see DMG 24146)
  4. without accommodation (see DMG 24156)
  5. members of religious orders (see DMG 24170)
  6. prisoners (see DMG 24197)
  7. temporarily separated members of a couple or polygamous marriage (see DMG 24241)
  8. absent from GB/UK (see DMG 24247)
  9. appealing against a decision that they are not incapable of work (see DMG 24370)
  10. entitled to a mortgage interest run-on (see DMG 24390)
  11. from abroad or subject to immigration control (see DMG 24500)
  12. living in a care home or independent hospital (see DMG 24163).





## All IS/JSA(IB) cases

### Person in hospital

24108 The normal applicable amount of a claimant may be affected when the claimant or a member of his family has been a patient for a continuous period of more than 52 weeks. At this point the DM should consider withdrawing<sup>1</sup> any

1. HPP
2. DP
3. EDP
4. DCP.

**Note:** But the claimant will not normally be able to satisfy all the conditions for JSA (see DMG 24106), and may need to claim IS or another appropriate benefit, for example IB.

*1 JSA Regs, Sch 1, para 12(5), 13(2), 15A(2), 16(2); IS (Gen) Regs, Sch 2, para 10(6), 11(2), 13A(2), 14(2)*

### Example

Bert suffered a stroke in 2008 and was admitted to hospital on 1.8.08. Bert went on home leave for a few days over Christmas returning to hospital on 27.12.08. On 1.8.09 a DM decides Bert is now entitled to a Disability premium, as he has been incapable of work for a period of 364 days. The removal of the disability premium is not considered until after 52 continuous weeks as an in-patient and therefore will not be appropriate until December 2009.

24109 - 24144



## Housing costs run-on

24390 A person may be entitled to IS in respect of housing costs for a limited period after they start remunerative work (see DMG 20530).

### Applicable amount

24391 In these cases the applicable amount is the lowest of<sup>1</sup>

1. the applicable amount in respect of housing costs **or**
2. the amount of IS JSA(IB) or ESA(IR) to which the claimant was entitled prior to commencing remunerative work **or**
3. if the claimant was in receipt of training allowance, the amount of IS, JSA, or ESA(IR) which he would have been entitled to in respect of housing costs.

*1 IS (Gen) Regs, Sch 7, para 19A(1)*

### Changes to the applicable amount

24392 The applicable amount in respect of housing costs run on may only be varied if<sup>1</sup>

1. there are changes to
  - 1.1 a personal allowance **or**
  - 1.2 premiums **or**
  - 1.3 an applicable amount paid in a special case
2. the amount of housing costs in the applicable amount changes as a result of
  - 2.1 the claimant being entitled to income support for a continuous period of 26 weeks or more **or**
  - 2.2 a change to the Standard Interest Rate **or**
  - 2.3 a non-dependant deduction either becoming or ceasing to become applicable.

*1 IS (Gen) Regs, Sch 7, para 19A(2) & (3)*

24393 - 24499



# Person from abroad and persons subject to immigration control - JSA(IB) and IS

## General

- 24500 Prior to 3.4.00 the definition of a PFA included asylum seekers. The applicable amount for a PFA was nil but many asylum seekers qualified for urgent case payments.
- 24501 The Asylum and Immigration Act 1999 removed entitlement for the vast majority of asylum seekers. The National Asylum Support Service was set up within the Home Office to provide support.

## Persons from abroad

- 24502 A PFA is now defined as someone who has failed the habitual residence test<sup>1</sup>. See DMG Chapter 7 for guidance on the habitual residence test.

*1 JSA Regs, reg 85A(1); IS (Gen) Regs, reg 21AA(1)*

- 24503 The applicable amount of a person from abroad is nil<sup>1</sup>.

*1 JSA Regs, Sch 5, para 14; IS (Gen) Regs, Sch 7, para 17*

24504 - 24506



## Persons subject to immigration control

24507 A person subject to immigration control (PSIC) means a person who is **not** an EEA national and who<sup>1</sup>

1. requires leave to enter or remain in the UK but does not have it
2. has leave subject to the condition “no recourse to public funds”
3. is a sponsored immigrant (see DMG Chapter 07) **or**
4. has had limited leave extended only because he has appealed a decision to vary or refuse to vary that leave.

*1 Immigration & Asylum Act 1999 s 115*

24508 A PSIC is excluded from IS and JSA(IB)<sup>1</sup> unless they fall within the category in DMG 24509.

*1 Immigration & Asylum Act 1999 s 115*

### PSICs entitled to normal IS/JSA(IB)

24509 The following PSICs can be considered for IS/JSA(IB) under the normal rules:

1. certain asylum seekers<sup>1</sup>.

*1 SS (Immigration & Asylum)  
Consequential Amendment Regulations 2000 reg 2(5) & Sch 1B, para 21*

### PSICs entitled to urgent case payments

24510 PSICs can no longer be considered for urgent case payments<sup>1</sup>

*1 SS (Misc Amends) (No 5) Regulations 2009 (SI 2009/3228) reg 2(1)*

## Lone parent is not a PSIC but child or young person is a PSIC

24511 If

1. a lone parent is not a PSIC, or falls within the category in DMG 24509 **and**
2. a child or young person in the family is a PSIC

an amount should be included in the applicable amount for that child or young person<sup>1</sup>. (but see DMG 23039)

*1 JSA Regs, reg 83(b) & (d); IS (Gen) Regs, reg 17(1)(b) & (c)*

## **Lone parent is a PSIC but child or young person is not a PSIC**

- 24512 A lone parent that is a PSIC is not entitled to benefit and so will not be entitled to any applicable amounts for a child or young person that is not a PSIC.



## Couples

### Claimant is not a PSIC but partner is a PSIC

24513 If the claimant is a member of a couple and is not a PSIC, or falls within the category in DMG 24509, but the partner is a PSIC, the applicable amount will be<sup>1</sup>

1. the claimant's personal allowance **and**
2. for any child or young person who is a member of the claimant's family and either not a PSIC or in the category in DMG 24509 (but see DMG 23039)
  - 2.1 the appropriate child or young person's allowance **and**
  - 2.2 a FP **and**
  - 2.3 a DCP, if appropriate **and**
3. any appropriate premium **and**
4. housing costs **and**
5. any transitional entitlement.

*1 JSA Regs, Sch 5, para 13A(a); IS (Gen) Regs, Sch 7, para 16A(a)*

**Note:** There is no modification of the premiums where the claimant's partner is a PSIC therefore if the claimant qualifies for a DP it should be paid at the couple rate.

### Claimant and partner are not PSICs but child or young person is a PSIC

24514 If

1. the claimant and partner are not PSICs **and**
2. a child or young person in the family is a PSIC

an amount should be included in the applicable amount for that child or young person<sup>1</sup>. (but see DMG 23039)

*1 JSA Regs, reg 83(d); IS (Gen) Regs, reg 17(1)(c)*

24515 - 24530



## Polygamous marriages

### Claimant is not a PSIC and one or more of the partners is a PSIC

24531 If the claimant is a member of a polygamous marriage and is not a PSIC, or falls within the category in DMG 24509, but one or more of the partners is a PSIC, the applicable amount will be<sup>1</sup>

1. the personal allowance for the claimant and one partner who is not a PSIC (including special cases) **and**
2. an amount for any other partner who is not a PSIC **and**
3. for any child or young person who is a member of the claimant's family and either not a PSIC or in one of the exempt categories (but see DMG 23039)
  - 3.1 the appropriate child or young person's allowance **and**
  - 3.2 a FP **and**
  - 3.3 a DCP, if appropriate **and**
4. any appropriate premium for the claimant and the partner in 1. **and**
5. housing costs **and**
6. any transitional entitlement.

*1 JSA Regs, Sch 5, para 13A(b); IS (Gen) Regs, Sch 7, para 16A(b)*

### Claimant and all of partners are not PSICs but child or young person is a PSIC

24532 If

1. the claimant and all of the partners are not PSICs **and**
2. a child or young person in the family is a PSIC

an amount should be included in the applicable amount for that child or young person<sup>1</sup>.(but see DMG 23039)

*1 JSA Regs, reg 84(1)(c); IS (Gen) Regs, reg 18(1)(c)*

### Income and capital of a partner, child or young person who is a PSIC

24533 If a claimant is married polygamously to two or more members of the household, the

1. income and capital of each partner **and**

2. income of a child or young person who is a member of the claimant's family should be calculated in the same way as for the claimant<sup>1</sup>. The income or capital should then be treated as belonging to the claimant<sup>2</sup>.

**Note:** The DM should consider the special rules on the income of a child or young person.

*1 JSA Regs, reg 88(4); IS (Gen) Regs, reg 23(3); 2 JS Act 95, s 13(2); SS CB Act 92, s 136(1)*

### **Example**

Hussain is a member of a polygamous marriage and has three wives, Fatima, Parveen and Yasmin. Yasmin has limited leave to enter the UK and her passport is not endorsed that she is prohibited from working. Yasmin works twelve hours per week and earns £35. Hussain claims IS.

The DM decides that

1. Hussain, Fatima, Parveen and Yasmin are members of a polygamous marriage **and**
2. Yasmin is a PSIC who is not entitled to a UCP **and**
3. Hussain is entitled to a personal allowance for himself and Fatima and a separate personal allowance for Parveen, no benefit is payable for Yasmin **and**
4. Yasmin's wages should be taken into account on Hussain's IS claim.

24534 - 24999

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