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BP2 Assessment of income

About this chapter

- P2.00 This chapter
- gives guidance on
 - the assessment of income for pensioners, except for student claimants who are dealt with in *C2 Student claims*
 - income other than earnings
 - describes how various sources of income are treated, such as earnings of
 - employed people
 - the self-employed
- P2.01 In all cases, the income for consideration is that available to the claimant each week after deductions for tax and National Insurance (NI) contributions, that is the **net** weekly income.

P2.02-P2.09

The meaning of 'income'

- P2.10 HB(SPC) Reg 29(1)/CTB(SPC) Reg 19(2) define what is meant by 'income' by listing the types of income to be taken into account. If an income is not listed it is not relevant to the Housing Benefit (HB)/Council Tax Benefit (CTB) calculation.
- P2.11 The types of income that are relevant to the HB/CTB calculation are
HB(SPC) Reg 29; CTB(SPC) Reg 19
- a earnings
 - b Working Tax Credit (WTC)
 - c Retirement Pension (RP) income within the meaning of the State Pension Credit Act, that is
 - a Category A or Category B RP payable under sections 43 to 55 of the
 - ~ Social Security Contributions and Benefits Act 1992 or
 - ~ Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c.7)
 - ~ regular Financial Assistance Scheme (FAS) payments

continued

(P2.11)

- (P2.11) (c) - a shared additional pension payable under section 55A of either of those Acts (utilisation of State scheme pension credits on divorce)
- graduated retirement benefit payable under section 62 of either of those Acts
 - a Category C or Category D RP payable under section 78 of either of those Acts
 - age addition payable under section 79 of either of those Acts
 - income from an occupational pension scheme or a personal pension scheme. This includes any regular payment from the Pension Protection Fund
 - income from an overseas arrangement
 - income from a retirement annuity contract
 - income from annuities or insurance policies purchased or transferred for the purpose of giving effect to rights under a personal pension scheme or an overseas arrangement
 - income from annuities purchased or entered into for the purpose of discharging liability under
 - ~ section 29(1)(b) of the Welfare Reform and Pensions Act 1999(c. 30) (pension credits on divorce) or
 - ~ Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) (corresponding provision for Northern Ireland)
- d** income from annuity contracts (other than RP income)
- e** a War Disablement pension or War Widow's/Widower's pension
- f** a foreign war disablement pension or war widow's/widower's pension
- g** any guaranteed income payment (GIP) paid to those formerly in the armed forces who are disabled or widows, widowers or surviving civil partners
- h** any payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005
- i** income from capital, other than capital disregarded under HB Sch 6 and CTB Sch 4, see *BP1 Disregarded capital - pensioners* earlier in this part
- j** social security benefits, other than RP income or any of the following benefits
- Disability Living Allowance (DLA)
 - Attendance Allowance (AA) payable under section 64 of the Social Security Contributions and Benefits Act 1992
 - an increase of disablement pension under section 104 or 105 of that Act

continued

- (P2.11) - a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part II of Schedule 8 to that Act; namely
- “Regulations may provide*
- (2)....*
- (b) for conferring on persons to whom this paragraph applies who as a result of the injury or disease in question require constant attendance*
- (i) the like right to payments under this Act in respect of the need for constant attendance and*
- (ii) the like right to an increase for exceptionally severe disablement*
- as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent.”*
- an increase of an allowance payable in respect of constant attendance under paragraph 4 of Part I of Schedule 8 to that Act
 - any Guardian’s Allowance payable under section 77 of that Act
 - any increase for a dependant, other than the claimant’s partner, payable in accordance with Part IV of that Act
 - any Social Fund payment made under Part VIII of that Act
 - Christmas bonus payable under Part X of that Act
 - Housing Benefit
 - Council Tax Benefit
 - Bereavement Payment. **Note:** Bereavement Payment was introduced by section 54(1) of the Welfare Reform and Pensions Act 1999 (c. 30)
 - Statutory Sick Pay
 - Statutory Maternity Pay
 - Statutory Paternity Pay payable under section 171ZA or 171ZB of that Act. **Note:** Sections 171ZA and 171ZB were inserted by section 2 of the Employment Act 2002 (c.22)
 - Statutory Adoption Pay payable under section 171ZL of that Act. **Note:** Section 171ZL was inserted by section 4 of the Employment Act 2002
 - benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland
- Note:** See also *regulation 25(3)* on the rate of social security benefits to take into account
- k all foreign social security benefits which are similar to the social security benefits prescribed above
 - l any payment made under article 37 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (SI 1983/883)

continued

(P2.11)-P2.19

- (P2.11) **m** a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria
- n** payments under a scheme made under the Pneumoconiosis, etc (Worker's Compensation) Act 1979. **Note:** The 1979 Act c.41 was amended by section 24 of the Social Security Act 1985 (c.53)
- o** payments made towards the maintenance of the claimant by their spouse or former spouse or towards the maintenance of the claimant's partner by their spouse or former spouse, including payments made
- under a court order
 - under an agreement for maintenance
 - voluntarily
- p** payments due from any person in respect of board and lodging accommodation provided by the claimant
- q** payments consisting of royalties or other sums received as a consideration for the use of, or the right to use, any copyright, patent or trademark
- r** any payment made to the claimant in respect of any book registered under the Public Lending Right Scheme 1982. **Note:** The Scheme is set out in the Appendix to SI 1982/719
- s** any income in lieu of the above incomes. **Note:** Added by The Miscellaneous Amendments
- t** any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability
- u** any sum payable by way of pension out of money provided under the Civil List Act 1837 (c.2), the Civil List Act 1937 (c.32), the Civil List Act 1952 (c.37), the Civil List Act 1972 (c.7) or the Civil List Act 1975 (c.82)
- v** any payment of rent made to the claimant, for example by a sub-tenant, where the claimant occupies part of the property. See also *Items to be disregarded* later in this chapter. **Note:** Added by The Miscellaneous Amendments
- w** any payment made at regular intervals under an equity release scheme

P2.12-P2.19

Disregards

- P2.20 Certain income and changes in income are, or can be, disregarded, see
- *Disregarded earnings* later in this chapter for details of disregards applied to earned income, and
 - *Items to be disregarded* later in this chapter for details of disregards applied to income other than earnings

P2.21 Disregard any amount payable by way of income tax.

HB(SPC) Reg 33; HB(SPC) Reg 23

P2.22 Disregard any income of a child.

P2.23-P2.29

Effect on income of changes in tax, NI contributions, etc

P2.30 You have the discretion to disregard changes in income for up to 30 benefit weeks if they arise from legislative changes, such as those announced in the Budget Statement, which affect the

HB(SPC) Reg 34; CTB(SPC) Reg 24

- basic rate, or other rates, of income tax
- amount of any personal tax relief, that is changes in tax thresholds
- rates of
 - NI contributions
 - lower and upper earnings limits, that is the amount of gross earnings between which NI contributions are deductible, or
 - the lower or upper profit limits or the small earnings exception, for the self-employed
- amount of income tax payable due to an increase in the rate of state Retirement Pension, or any of the additions to it such as Dependant's Addition or Graduated Pension
- maximum rate of Child Tax Credit (CTC) or WTC

P2.31 Although these changes become effective from 6 April, they may not be reflected in a claimant's actual income until later, although backdated to April.

P2.32 You have discretion to ignore any such changes for up to 30 benefit weeks from, in this case, the benefit week following 6 April. The date from which the disregard starts is the effective date of the legislation bringing the change into effect. This provision is intended to give you time to gather the new information you need about a claimant's income and to re-calculate their benefit.

P2.33-P2.51

P2.33 Depending on the legislative change, claimant's net income could reduce or increase, and therefore increase or reduce their HB or CTB if the change were taken into account immediately.

P2.34 If you decide to apply this discretion, it does not mean that HB or CTB has been over/underpaid. Entitlement has been correctly assessed according to the treatment of income rules. So when the change is taken into account, there is no question of having to adjust retrospectively the benefit awarded up until that date.

P2.35-P2.49

Calculating income on a weekly basis

P2.50 A claimant's income should be calculated on a weekly basis. This is done by estimating the amount that is likely to be the claimant's average weekly income over the award period, including any

HB(SPC) Reg 30 & 41; CTB(SPC) Reg 22 & 31

- capital treated as income
- assumed income from capital, and

HB(SPC) Reg 27; CTB(SPC) Reg 19

- income from a capital asset

HB(SPC) Sch 6, Part 2; CTB(SPC) Sch 4 Part 2

but **deducting** any childcare charges to which HB(SPC) Reg 31, CTB(SPC) Reg 21 applies.

P2.51 For tax credits, see *Income from tax credits* later in this chapter. If a claimant receives a payment of earnings or other income for

HB(SPC) Reg 33; CTB(SPC) Reg 23

- **one week or less**, the weekly amount is the amount of that payment. For example, if a claimant with a part-time job works and is paid for two days each week, the weekly amount is the amount of that payment
- **one month**, the weekly amount is calculated by multiplying the payment received by 12 and dividing the product by 52
- **three months**, the amount to be included in the weekly income is calculated by multiplying the payment received by four and dividing the product by 52
- **a year**, the amount to be included in the weekly income is calculated by dividing the amount of payment by 52

continued

- (P2.51) • **any other period**, the average weekly income is calculated by multiplying the amount of payment received by seven and dividing product by the number of days in the period in respect of which it is made

HB(SPC) Reg 33; CTB(SPC) Reg 23

Example

After allowable expenses, net earnings are £5,000.

Amount [$£5000$] $\times 7 = £35,000$

Payment is in respect of 40 weeks, that is 280 days.

Average weekly earnings to be taken into account is

Amount [$£35,000$] \div number of days in period [280] = $£125$

Variable work patterns

- P2.52 If a claimant's regular pattern of work varies, ie they do not do the same number of hours every week, and there is a recognisable cycle of work, average their weekly income over that cycle. Any periods when the claimant does not do any work should be included if they are part of their normal cycle of work.

HB(SPC) Reg 33; CTB(SPC) Reg 23

- P2.53 If the claimant's pattern of work varies, and there is no recognisable cycle of work, or the amount of the claimant's income fluctuates, then average the weekly income using the last

HB(SPC) 33; CTB(SPC) Reg 23

- two payments if those payments are one month or more apart
- four payments if the last two payments are less than one month apart

Note: Payments here mean the last payments before the claim was made or treated as made, or if there is a subsequent supersession the last payments before the date of the supersession

HB(SPC) Reg 33; CTB(SPC) Reg 23

- any other means which will allow you to more accurately reflect the claimant's earnings

P2.54-P2.59

P2.60-P2.70

Employed earners

Definition of employed earner

P2.60 An employed earner is defined in Section 2(1)(a) of the Social Security Contributions and Benefits Act 1992 as

a person who is gainfully employed in Great Britain either under a contract of service, or in an office, including elective office, with emoluments chargeable to income tax under Schedule E.

P2.61-P2.69

Definition of earnings

P2.70 For an employed earner, earnings mean any remuneration or profit derived from employment and includes any

HB(SPC) Reg 2, 35 & 37; CTB(SPC) Reg 2, 25 & 28

- i bonus or commission, including tips
- ii payment in lieu of remuneration, such as a payment made by a liquidator when a company has been wound up and employees are owed earnings
- iii payment in lieu of notice or a payment intended as compensation for the loss of employment, such as may be made when a claimant is made redundant without the statutory period of notice being given
- iv holiday pay
- v payment by way of a retainer. A retainer is a payment made for a period when no actual work is carried out, such as payment made to employees of the school meals service during school holidays
- vi any payment for expenses not totally and necessarily incurred to do the job made by the claimant's employer including
 - travelling expenses between the claimant's home and place of employment
 - expenses incurred for the care of a member of the claimant's family, such as child minding costs, or
- vii payment made under the Employment Rights Act 1996 ss 112(4) and 117(3), eg compensation awards following unfair dismissal
- viii payment of protective awards which may be ordered by an Industrial Tribunal if an employer has not given a trade union the statutory notice of redundancies, or a payment which may be made to an ex-employee from the Redundancy Funds if an employer goes into liquidation

continued

- (P2.70) ix sick pay or maternity, paternity or adoption pay, either statutory or the employer's own scheme, including a corresponding payment in Northern Ireland

Note: While people who are on maternity/paternity/adoption leave or who are absent from work because they are ill are not to be treated as in remunerative work, sick pay or maternity/paternity/adoption pay, statutory or otherwise, should still be treated as earnings

- x backdated pay award
- xi permitted work, previously called therapeutic earnings
- xii non-cash vouchers that are liable for Class 1 NI contributions
- xii any payments received in the UK or from abroad, including royalties, by the claimant or their partner
 - under the Public Lending Right scheme for the use of or the right to use any copyright, design, patent or trade mark
 - when the claimant (or partner) is an original contributor to a book registered under the Public Lending Right Scheme 1982 or to a work under an analogous international Public Lending Right Scheme

Payments excluded from the definition of earnings

- P2.71 Payments excluded from the definition of earnings include

HB(SPC) Reg 35 & 38; CTB(SPC) Reg 25 & 28

- any income in kind (but not a non-cash voucher liable for class 1 NI contributions)
- any payments which reimburse out of pocket expenses actually and wholly incurred in performing the duties of the employment
- any occupational pension. However, occupational pensions should be treated as income other than earnings
- any sums specified in HB(SPC) Sch 4 and CTB(SPC) Sch 2

P2.72-P2.79

Special types of earnings

Broadcasting and publication fees - pensioners

- P2.80 Any fees or royalties payments to authors received in the UK or from abroad under the Public Lending Right Scheme or payments made on an occasional basis are to be treated as if the amount was paid in respect of a year.

HB(SPC) Reg 33; CTB(SPC) Reg 23

P2.81-P2.85

P2.81 If a person receives more than one payment in any year, each payment should be treated as if it were made for a year.

Example

A claimant receives £2,000 in November 2003 and then receives £3,000 in April 2004.

The first payment received in November 2003 will be taken into account for a year. The second payment, received in April 2004 will also be taken into account for a year. This means that for the period

- November 2003 to March 2004 only the first payment will be taken into account
- April 2004 to October 2004 both payments are taken into account
- November 2004 to March 2005 both payments will be taken into account

British Shipping Federation established benefit

P2.82 Payments may be made from an employer's financial pool to merchant seamen who are unemployed between periods at sea. This is known as 'pool pay'. Such payments should be treated as earnings.

Local Authority councillors

P2.83 Local Authority (LA) councillors, as elected officer holders, are treated as being employed by the LA. They can receive the following allowances

- basic allowance
- special responsibility allowance
- conference attendance allowance, and
- financial loss allowance

P2.84 With the exception of the financial loss allowance, they are treated as earnings **except** any element for expenses which have been wholly, exclusively and necessarily incurred in the performance of their duties. See also *Expenses payments* later in this chapter.

P2.85 A financial loss allowance can be treated either as

- earnings, or
- other income

See *Financial loss allowance* later in this chapter.

HB(SPC) Reg 35; CTB(SPC) Reg 25

Basic allowance

- P2.86 This allowance applies to councillors on main LAs and is the same for all councillors of that LA. It is paid either as a lump-sum or by instalments and comprises two elements
- payment for the time spent on council work, and
 - reimbursement for costs such as postage, stationery and telephone calls not covered by other provisions
- P2.87 The councillor or the LA may be able to provide a breakdown when deciding if all or part of the allowance should be disregarded as expenses which have been wholly, exclusively and necessarily incurred.

Special responsibility allowance

- P2.88 This may be paid to councillors on main LAs who have significant responsibilities, such as the chairperson of a committee. The amount and method of payment is at the discretion of the LA and is usually paid quarterly.

Conference attendance allowance

- P2.89 This allowance can be paid for attendance at conferences and meetings. When it is paid it is not subject to any specific limit.

Financial loss allowance

- P2.90 This allowance is only available to parish, town or community councillors (other than community councils in Scotland which are not LAs). Councillors may retain their option to continue to receive it rather than the attendance allowance. It is designed to meet out of pocket expenses, other than travel or subsistence, for which proof of loss is required, including compensation for loss of earnings.
- P2.91 If paid with any of the other allowances above, a financial loss allowance is treated as earnings in the normal way, with any element for expenses disregarded. But if paid on its own, financial loss allowance is taken into account as other income, in which case any payment for expenses incurred should again be disregarded, see *Items to be disregarded* later in this chapter.

Expenses payments

- P2.92 Allowances paid to meet specific expenses such as travelling and subsistence expenses wholly, exclusively and necessarily incurred in the performance of the duties of the office held are disregarded.
- P2.93 In connection with these, because a councillor has to do much of their work from home, the cost of travelling from home to a council office or any other place on council business is not just travelling to work in the ordinary sense, but is an integral part of their work as a councillor.

P2.94-P2.100

P2.94 Accordingly, reimbursement of such travelling expense is disregarded. This is in contrast to the normal treatment of travelling expenses.

Payments not claimed

P2.95 Councillors are entitled to allowances, subject to satisfying the appropriate conditions, whether they are claimed or not. If a claimant has not been paid an allowance when payment could be expected, for example, when this has been renounced, consider taking an amount into account as notional income.

Vouchers

P2.96 When an employee receives vouchers they are treated as payments in kind and fully disregarded as income other than earnings, as long as they are not liable for or they are excluded from NI Contributions.

HB(SPC) Reg 35; CTB(SPC) Reg 25

Local Exchange Trading Schemes

P2.97 Local Exchange Trading Schemes (LETS) are associations that allow participants to exchange goods and services with others in the community.

P2.98 LETS members exchange goods and services, and they may list their offers of, and requests for, goods and services in a directory. Payment is made by a system of credits or credits plus cash. The credits can be given many different names, such as

- Bobbins
- Brads
- Newberries
- Beacons
- Acorns

Participation in a scheme

P2.99 Participation in LETS is regarded as work. As the credits can be traded for goods and services supplied by participating shops, businesses or individuals, the LETS credits are **not** payments in kind but are treated as earnings.

Valuing credits

P2.100 The organisers of the scheme may have equated the credits to a sterling equivalent for Inland Revenue or VAT purposes. If so use that equivalent as the exchange rate.

- P2.101 If a sterling equivalent is not available you should decide the value of the credits based on the circumstances of each case. You may wish to consider
- how the transaction price was arrived at
 - whether the amount of credits earned varies with the type of work performed
 - what the exchange value of a credit is, that is what does it buy
 - whether the claimant works in the cash economy as well as the LETS economy
 - what the average local rate of pay is for the particular work performed

Time-Exchange schemes

- P2.102 Participation in an activity known as Time-Exchange is increasingly being considered by voluntary organisations, and other government departments with an interest, as a way of allowing people to get involved in their communities when they may not wish to get involved in formal volunteering.
- P2.103 The participant states the skill they possess. When someone else needs that skill in that community the organisation contacts the participant to see if they are available to perform that task for the person concerned.
- P2.104 Participation in a Time-Exchange scheme involves an individual undertaking an agreed task for an agreed length of time.
- P2.105 There are a range of schemes in operation. We know of schemes in Gloucester, Newcastle upon Tyne, Peckham and Watford. However, the number of these schemes is likely to increase and there is no system of control registration. Some provide services that cannot be purchased, for example visiting people on medication to ensure that they take it regularly.
- P2.106 In return for the work performed, the participant is given a credit of time equivalent to the amount of time they have given in performing the task. All time is valued the same regardless of the task that is performed, for example someone who gardens for three hours will earn the same credit as a qualified lawyer giving three hours of their time.
- P2.107 These time credits cannot be exchanged for goods or converted into an alternative currency used by a LETS. They are not earnings or income and are disregarded when calculating income.
- P2.108-P2.119

Due date of payment

- P2.120 The date on which a payment of earnings is due to be made is the employee's normal pay day as agreed in the contract of employment. The terms of the contract may be explicitly stated or implied, and may be varied by mutual agreement between the parties, or by certain action taken by either party, for example dismissal or resignation.

P2.121-P2.129

P2.130-P2.135

Disregarded earnings

P2.130 Earnings are taken into account **less** certain disregards. The standard, weekly amounts to be disregarded vary according to the claimant's circumstances. If a person satisfies the conditions for more than one of the disregards, only the one which is most beneficial applies, unless one of the following exceptions applies.

Childcare disregard

P2.131 The childcare disregard is in addition to any other earnings disregards and is applied as the final step in the earnings calculation, see *Childcare charges* later in this chapter.

HB(SPC) Reg 31; CTB(SPC) Reg 21

Additional earnings disregard (formerly known as 30 hour earnings disregard)

P2.132 Only **one** 30 hour earnings or 30 hour element disregard is applicable per claim, even if both claimants are working 30 or more hours per week.

P2.133 The 30 hour earnings disregard is applied, even if WTC is not in payment, if the claimant meets the relevant criteria, ie the claimant is

- engaged in remunerative work for 30 or more hours per week, and is aged 25 or over
- a member of a couple, and
 - one of them is aged 25 or over and engaged in remunerative work for 30 or more hours per week

P2.134 For the purposes of working out the average hours worked a week

- the regulations provide that the provisions in regulation 6 of the HB and CTB General Regulations (remunerative work) can be used, but reading 30 hours for 16 hours, as appropriate
- periods of sickness and maternity/paternity leave do not count

P2.135 The additional earnings disregard in HB/CTB can be applied if the claimant, or their partner

- is working for 16 or more hours per week
- would be, or are entitled to, WTC, and
- fall within one of the categories of people listed below

P2.136 The following people can have the additional earnings disregard applied to their earnings

- lone parents
- couples with children
- disabled people*
- certain people aged 50 or over*

* If the claimant is part of a couple, the person who is disabled/over 50 must be the person working 16 or more hours per week.

P2.137 Single people, and at least one member of a couple without children, must still work at least 30 hours per week in order to be eligible for WTC and have entitlement to the additional earnings disregard. However, there is one exception, people aged 50 or over who are entitled to the 50 plus element of WTC.

50 plus element of WTC

P2.138 People aged 50 or over only need to work 16 hours per week to be eligible for WTC.

P2.139 Identification of people aged 50 or over

- who are receiving WTC is straightforward, the 50 plus element
 - will be shown on the award notice, see *Annex E*, or
 - can be confirmed by Her Majesty's Revenue and Customs (HMRC)
- not in receipt of WTC is a more detailed task. Regulation 18 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 sets out the entitlement conditions for the 50 plus element

The procedure outlined in *Annex E* will help you identify this group.

P2.140 The 50 plus element in WTC is payable for a maximum of 12 months, or for periods amounting in aggregate to a maximum of 12 months provided the gap between any consecutive pair of those periods is not more than 26 weeks.

Permitted work disregard

P2.141 There is a higher or lower HB/CTB earnings disregard in respect of permitted work for claimants also claiming ESA(C), IB or SDA and those entitled to credits only on the grounds of incapacity. The level of the disregard is the same level as the amount of money they would be allowed to earn from permitted work whilst receiving ESA(IR). The two disregards are

- up to the higher limit a week for
 - an unlimited period
 - up to 52 weeks and then the lower limit a week thereafter for an unlimited period
- up to the lower limit a week for an unlimited period

Note: As at April 2010 the figures are £93 and £20. The higher disregard is linked to the adult hourly national minimum wage, is reviewed annually and is likely to change yearly in October. See *Main earnings disregards* later in this chapter.

P2.142-P2.147

Decisions on whether work falls within the permitted work category

P2.142 You will not need to make decisions on whether work falls into the permitted work category or whether a time limit is appropriate. Those decisions will be made by the Secretary of State and the information made available to you enables you to apply the correct disregard for the correct amount of time.

How the information is made available to you

P2.143 Jobcentre Plus will make the information available to you clerically.

Claimant exceeds their permitted work limit

P2.144 If a claimant exceeds their permitted work hourly and/or monetary limit ESA/IB/SDA will end. However, HB/CTB entitlement will not necessarily end. Instead, you should deal with the cessation of ESA(C)/IB/SDA as a change of circumstances and assess the claim as an in-work claim, ending the permitted work earnings disregard and using the standard in-work earnings disregards £5, £10, £20 or £25 as appropriate.

52 week limit ends

P2.145 In ESA(IR), when a claimant is undertaking permitted work that has a 52 week higher limit and the 52 week period ends, their permitted work weekly limit will reduce to the lower limit for an indefinite period.

Effect on the other HB/CTB earnings disregards

P2.146 When the permitted work disregard applies you cannot award the

- £20 disregard awarded when the claimant is entitled to the disability premium or the work-related activity or support component, or is, or whose partner is, a carer or in a special occupation
- £10 disregard appropriate to a couple
- £5 disregard appropriate to a single claimant, or
- £25 lone parent disregard (but see *Permitted work rules for lone parents* later in this section if the permitted work limit is £20)

P2.147 However, claimants doing permitted work will be able to receive the following disregards on top of their relevant permitted work disregard

- the additional earnings disregard (formerly known as the 30 hour earnings disregard)
- child care charges
- parental contribution to a student's grant or loan when their other income does not use up the disregard
- earnings from employment outside the UK when the earnings cannot be transferred to the UK because of a prohibition

Permitted work rules for single claimants

- P2.148 Single claimants doing permitted work will have a maximum disregard of their permitted work earnings which is the same as their permitted work limit in ESA(IR). However, if they are earning less than their limit, you should use earnings from other work to make up the shortfall, irrespective of the amount of the shortfall. See *Main earnings disregards* later in this chapter for the permitted work earnings limits.
- P2.149 The following examples use the 2009/2010 rates.

Example 1

Single claimant claiming IB, earning £85 a week from permitted work has a £93 weekly limit. They receive earnings from other work. The £85 earned from permitted work is disregarded plus £8 of the other earnings.

Example 2

Single claimant claiming National Insurance credits on the grounds of incapacity, earning £45 a week from permitted work, permitted work limit £93 a week. They receive £35 a week earnings from other work. As the total weekly earnings from both sources are £80 and this is less than the permitted work limit of £93, the whole of the earnings is disregarded. (In ESA(IR) only £20 of the earnings from the other work is disregarded).

Example 3

Single claimant claiming ESA(C), earning £10 a week from permitted work; permitted work weekly limit £20. They have other earnings of £5 a week. As the total weekly earnings from both sources are less than the £20 permitted work limit, the whole of the earnings is disregarded.

Permitted work rules for couples

- P2.150 The same permitted work disregards (higher or lower limit) apply to the couple, ie they are not each entitled to a disregard. The same principle of an overriding limit of the appropriate permitted work disregard for single claimants, see *Permitted work rules for single claimants* earlier in this chapter, also applies to couples. Therefore, if the HB/CTB claimant is undertaking permitted work, receiving other earnings and is the only member of the couple working, you should disregard the aggregate earnings up to the level of the claimant's permitted work limit.

Example

(This example uses the 2009/2010 rates.)

Couple one member earning £42 a week from permitted work, has a £93 a week limit. That same person is also receiving other earnings of £40 a week. As the total weekly earnings from both sources are less than the £93 permitted work limit, the whole of the earnings is disregarded.

P2.151-P2.155

P2.151 If the claimant is undertaking permitted work and the partner is doing other work, you should disregard part of the partner's earnings so as to make up any shortfall of the claimant's permitted work disregard, but only up to £20. This limit does not apply if both members of a couple are doing permitted work – see *Both members of a couple doing permitted work* later in this chapter.

P2.152 The following examples use the 2009/2010 rates.

Example 1

Claimant earning £80 a week from permitted work, has a £93 a week limit. Of the partner's weekly earnings of £100, £13 can be disregarded and the balance of £87 is taken into account as earnings.

Example 2

Claimant earning £60 a week from permitted work, has a weekly £93 limit. Of the partner's weekly earnings of £100, £20 can be disregarded and the balance £80 is taken into account as earnings.

P2.153 The provisions for couples apply irrespective of which one of them is doing permitted work. This prevents the need for couples to swap which one of them is the HB/CTB claimant to gain the permitted work disregard.

P2.154 The following examples use the 2009/2010 rates.

Example 1

Claimant in work earning £120 a week, partner claiming ESA(C) and earning £75 a week from permitted work, has a weekly limit of £93. The partner's earnings from permitted work are disregarded in full along with £18 a week of the claimant's earnings.

Example 2

Claimant in work earning £120 a week, partner claiming ESA(C) earning £60 a week from permitted work, has a weekly limit of £93. The partner's earnings from permitted work are disregarded in full along with £20 a week of the claimant's earnings.

Example 3

Claimant claiming ESA(C) and earning £60 a week from permitted work, has a weekly limit of £93. The partner is in work earning £120 a week. The claimant's earnings from permitted work are disregarded in full along with £20 a week of the partner's earnings.

Both members of a couple doing permitted work

P2.155 Exceptionally, both members of a couple may be doing permitted work. Again one disregard applies to the combined earnings of the couple, which is in line with the ESA(IR) provisions. However, unlike ESA(IR), when one disregard is higher than the other, the higher disregard will apply.

P2.156 The following examples use the 2009/2010 rates.

Example 1

Couple each earning £15 a week from permitted work, and each has a £20 weekly limit. The lower disregard (£20) applies to the aggregate earnings of the couple. The excess over £20 (ie. £10) is taken into account as earnings.

Example 2

Couple, one earning £15 a week from permitted work, has a £20 weekly limit, the other earning £80 a week from permitted work and has a £93 weekly limit. The higher disregard (£93) applies to the aggregate earnings of the couple, £93 a week is disregarded and £2 a week taken into account as earnings.

Example 3

Couple both doing permitted work, one earning £60 from permitted work, has a £93 weekly limit, the other earning £40 a week from permitted work, also has a £93 limit. The higher disregard (£93) applies to the aggregate earnings of the couple, £93 a week is disregarded and £7 a week taken into account as earnings.

P2.157 There are many possible combinations where couples could be doing permitted work, with or without a time limit and with the higher or lower disregard. *Appendix 1* at the end of this chapter contains a table setting out scenarios and the HB/CTB disregard that would apply in each case.

Permitted work rules for lone parents

P2.158 The rules that apply to single claimants will also apply to lone parents. However, if a lone parent has a permitted work lower limit, their HB/CTB disregard is £25 (the standard disregard for lone parents) and not £20. This prevents a lone parent doing permitted work and other work being worse off than any other lone parent who is working.

P2.159

Main earnings disregards

P2.159 The main earnings disregards and the appropriate circumstances are

Amount of disregard	Circumstances
£93	<p>claimant/partner has earnings from permitted work. This higher rate</p> <ul style="list-style-type: none"> • applies either indefinitely or for up to 52 weeks and then reduces to the lower rate of £20 (£25 if a lone parent) • is linked to the adult hourly national minimum wage, reviewed annually and likely to change yearly in October. <p>See <i>Appendix 1</i> at the end of this chapter for full details of the permitted work earnings disregard</p>
£25	<p>claimant is a lone parent. This is the maximum disregard that can be applied if the claimant is a lone parent, no more than £25 shall be disregarded should the lone parent also come into one of the groups described in a-c below</p> <p style="text-align: right;"><i>HB(SPC) Sch 4 Para 2; CTB(SPC) Sch 2 Para 2</i></p>
£20	<p>a the claimant is employed as</p> <ul style="list-style-type: none"> • a part-time fire fighter • an auxiliary coast guard • a part-time member of a crew for launching or manning a lifeboat • a member of a territorial or reserve force

Notes: If the claimant is single and has earnings from one or more of the occupations in a, and/or has earnings from some other employment, the total maximum earnings disregard is £20 per week.

If the claimant is one of a couple, and the partner is engaged in any employment, the total maximum earnings disregard is £20 per week. The claimant and partner are **not** each entitled to a £20 disregard.

HB(SPC) Sch 4 Para 3; CTB(SPC) Sch 2 Para 3

Examples

- The claimant earns £20 as a part-time fire fighter, and their partner earns £10. Disregard £20 of the claimant's earnings and none of the partner's.

continued

(P2.159)

**Amount
of disregard****Circumstances****£20 (cont)**

- The claimant earns £10 as a part-time fire fighter and their partner earns £10. Disregard £10 of the claimant's earnings and £10 of the partner's.
- The claimant earns £5 as a part-time fire fighter and their partner (who is not a part-time fire fighter) earns £15. Disregard £5 of the claimant's earnings and £15 of the partner's.
- The claimant works part-time, earning £7 a week, and their partner is a part time fire fighter earning £12 a week. Disregard £7 of the claimant's earnings and £12 of their partner's earnings.
- The claimant is a part-time shop assistant earning £5 a week and their partner, as a member of a lifeboat crew, earns £20. Disregard £5 of the claimant's earnings and £15 of the partner's.

- b** the claimant's applicable amount includes the Carer Premium and the carer and/or their partner is working

HB(SPC) Sch 4 Para 4; CTB(SPC) Sch 2 Para 4

Examples

- The claimant earns £20 as a carer, and their partner earns £10 also as a carer. Disregard £20 of the claimant's earnings and none of the partner's.
- The claimant earns £10 as a carer and their partner earns £10 (not as a carer). Disregard £10 of the claimant's earnings and £10 of the partner's
- The claimant earns £5 as a carer and their partner earns £15 in one of the special occupations listed at a. Disregard £5 of the claimant's earnings and £15 of the partner's.

- c** the claimant or their partner, if they have a partner, is in receipt of

- long-term incapacity benefit
- main phase Employment and Support Allowance (ESA)
- ESA credits only and in the main phase
- Severe Disablement Allowance (SDA)
- Attendance Allowance (AA)

continued

(P2.159)

(P2.159)	Amount of disregard	Circumstances
	£20 (cont)	<ul style="list-style-type: none"> • Disability Living Allowance (DLA) • a mobility supplement • the disability element or the severe disability element of WTC <p style="margin-left: 40px;">or are</p> <ul style="list-style-type: none"> • registered blind • treated as incapable of work for a continuous period of <ul style="list-style-type: none"> - 196 days, if terminally ill, or - 364 days in any other case <p>Note: If the person to whom the disregard applies attains the qualifying age for Pension Credit and either they or their partner had an award of HB/CTB within eight weeks of attaining the qualifying age, then provided that they</p> <ul style="list-style-type: none"> - qualified for the £20 disregard under the previous award, and - continued in employment after that award ended <p>they re-qualify for the £20 disregard provided the break in entitlement or employment is less than eight weeks</p> <p style="text-align: right;"><i>HB(SPC) Sch 4 Para 5; CTB(SPC) Sch 2 Para 5</i></p> <p>d claimant/partner has earnings from permitted work which are subject to the £20 limit in ESA, IB or SDA. See <i>Appendix I</i> at the end of this chapter for full details of the disregards to apply when the claimant/partner is doing permitted work</p>
	£10	<p>claimant is one of a couple, none of the circumstances for awarding the £20 disregard are appropriate, and the claimant has earnings</p> <p style="text-align: right;"><i>HB(SPC) Sch 4 Para 7; CTB(SPC) Sch 2 Para 7</i></p>
	£5	<p>claimant is a single person, none of the circumstances for awarding the £20 disregard are appropriate, and the claimant has earnings</p> <p style="text-align: right;"><i>HB(SPC) Sch 4 Para 7; CTB(SPC) Sch 2 Para 7</i></p>

Childcare charges

- P2.160 All claims for childcare costs must be checked to ensure the childcare provider, see *Annex H* later in this chapter, is registered with the appropriate regulatory body. These are, for
- England - Office for Standards in Education (Ofsted)
 - Wales - National Assembly for Wales through the Case Standards Inspectorate for Wales
 - Scotland - Scottish Commission for the Regulation of Care
- P2.161 To check if a childcare provider is registered, contact
- **for Ofsted**
Children Information Services (CIS)
Website: www.childcarelink.gov.uk
Childcare Link Central Helpline: 0800 0960296
Note: This helpline will provide the relevant CIS telephone number for your region. Childcare Link have no part in the registration of childcare providers, or administration of regulatory forms, and cannot give advice about working in childcare.
 - **for National Assembly for Wales**
Care Standards Inspectorate for Wales
National Assembly for Wales
1, Alexandra Gate
Rover Way, Tremorfa
Cardiff, CF24 2SB
 - **for Scottish Commission for the Regulation of Care**
Compass House
Discovery Quay
Riverside Drive
Dundee, DD1 4XA
Website: www.carecommission.com
Tel: 013282 207100
- P2.162 You can offset relevant childcare charges up to the level of the childcare disregard against earnings when calculating entitlement to HB and CTB. Apply this disregard, which is in addition to the other earnings disregards, as the final step in the income calculation. But see *Relevant childcare charges exceed earnings* for when WTC can be disregarded.

HB(SPC) Sch 4 Para 9; CTB(SPC) Sch 2 Para 9

P2.163-P2.165

P2.163 Deductions for childcare charges are made when a claimant is a

- lone parent and engaged in remunerative work, or
- member of a couple and
 - both are engaged in remunerative work, or
 - one member is engaged in remunerative work and the other member is

HB(SPC) Reg 31; CTB(SPC) Reg 21

- ~ incapacitated
- ~ in hospital
- ~ in prison

P2.164 For childcare deduction purposes, treat a person as in remunerative work for a period of up to 28 weeks if they are absent from work through illness and being

- paid
 - Statutory Sick Pay (SSP)
 - Short Term Incapacity Benefit (STIB)
 - Income Support (IS)
 - ESA
- credited with earnings

Note: This only applies if immediately before the first day of the period in respect of which these payments were made or earnings credited, they were engaged in remunerative work. In the case of payments of IS or credited earnings, the 28 week period begins on the day the person is either first paid IS or the first day of the period for which they are credited with earnings.

Person on maternity/adoption leave

W2.165 For childcare deduction purposes, treat a person as in remunerative work for a period of up to 39 weeks if they are absent from work and being

- paid
 - Statutory Maternity Pay (SMP)
 - Maternity Allowance (MA)
 - Statutory Adoption Pay (SAP)
- credited with earnings

P2.166 A person who is on maternity/adoption leave and entitled to SMP, MA or SAP is still deemed to be in remunerative employment provided

HB(SPC) Reg 31; CTB(SPC) Reg 21

- in the week before maternity/adoption leave started they were actually in remunerative work
- the claimant incurred relevant child care charges in that week

P2.167 A person ceases to be deemed as in remunerative work at the earliest of

- the date the maternity/adoption leave ceases, or
- if childcare element
 - is not payable with either WTC or CTC at the time entitlement to MA, SMP or SAP ends, that end date
 - was payable with either WTC or CTC on the date entitlement to MA, SMP or SAP ended, the date the entitlement to that award of the childcare tax credit ended

Note: There does not have to be entitlement to HB or CTB in the week before maternity/adoption leave started.

Person on paternity leave

P2.168 For childcare deduction purposes, treat a person as in remunerative work for a period of up to 26 weeks if they are absent from work and being

- paid Statutory Paternity Pay (SPP)
- credited with earnings

P2.169 A person who is on paternity leave and entitled to SPP is still deemed to be in remunerative employment provided

- in the week before paternity leave started they were actually in remunerative work
- the claimant incurred relevant child care charges in that week

P2.170 A person ceases to be deemed as in remunerative work at the earliest of

- the date the paternity leave ceases, or
- if childcare element
 - is not payable with either WTC or CTC at the time entitlement to SPP ends, that end date
 - was payable with either WTC or CTC on the date entitlement to SPP ended, the date the entitlement to that award of the childcare tax credit ended

Note: there does not have to be entitlement to HB or CTB in the week before paternity leave started.

P2.171-P2.173

What are relevant childcare charges

P2.171 Relevant childcare charges are charges, other than those for the child's compulsory education, paid by the claimant for the care of any child of the claimant's family who is of qualifying age. This does not include retainer fees paid for periods when no care is actually provided, such as during holiday periods. Nor does it include payments made by a claimant to a partner or by a partner to a claimant.

HB(SPC) Reg 31; CTB(SPC) Reg 21

P2.172 The qualifying age is from birth up to the first Monday in September following their

- 15th birthday, or
- 16th birthday if the child is disabled

P2.173 To qualify the care must be provided by

- a registered childminder or other registered childcare provider such as a nursery or playscheme, see *Annex H* later in this chapter
- an out of hours school club or holiday playscheme when care is provided out of school hours for children aged
 - between 8 and the day before the first Monday in September following their
 - ~ 15th birthday, or
 - ~ for a disabled child, their 16th birthday

This care may be provided, for example, by a school on school premises or an LA

- schools or other establishments which are not required to register under section 71 of the Children Act 1989, and include
 - schools maintained or assisted by a local education authority
 - independent schools
 - grant maintained schools
 - voluntary home
 - community homes

This list is not a complete list. See Section 71 and paragraphs 3 and 4 of Schedule 9 to the Children Act 1989 for a full list. (These schools or other establishments may provide out of hours school clubs or holiday play schemes for children under 8 years).

- a childcare scheme exempt from the requirement to register under section 71 of the Children Act 1989. This includes schemes run on Crown property
- childcare provided by persons registered under section 7(1) of the Regulations of Care (Scotland) Act 2001 or LAs registered under section 33(1) of that Act. The care provided must be childminding or day care of children within the meaning of the Act

continued

- (P2.173)
- a childcare provider approved by an organisation accredited by the Secretary of State for Education and Employment under the scheme established by the Tax Credit (New Category of Childcare Provider) Regulations 1999. These childcare providers can produce their Approval Registration number to verify that they are approved. The Approval Registration number is made up of a number of capital letters followed by a five digit number, for example KCN 00001 = Kiddies Club Network (please note that this is an illustration and not a real number)
 - persons registered under Part XA of the Children Act 1989
 - eligible childcare providers, see *Annex H* later in this chapter, now include
 - foster carers but not if the child being cared for is the foster child
 - in the child's own home by a person, but **not** a relative of the child
 - ~ registered as a domiciliary care worker, or
 - ~ approved under the Home Care Providers Scheme

Calculating average weekly childcare costs

- P2.174 Estimate weekly childcare charges over whatever period, not exceeding a year, that gives the best estimate of the average weekly charge over the award period. Only use complete weeks in the calculation.

Example

At the outset of a claim the claimant indicates that, over the coming year they will incur the following childcare charges

- £15 a week during school term-time, and
- £40 a week during school holidays

Average weekly childcare charges over a 52 weeks award period is calculated as

Term-time charges	$£15 \times 39^* = £585$
	*39 is the usual number of term-time weeks –
this may vary	
Holiday charges	$£40 \times 13 = £520$
Total average weekly childcare costs	$(585 + 520) \div 52 = £21.25$

- P2.175 When relevant childcare charges are likely to change in the future, for example, if a child has just started school and the charge during the holidays is not yet known, it may be appropriate to restrict the award period accordingly.
- P2.176 If, during the course of a benefit award, the amount of the charge unexpectedly changes, the normal change of circumstances provisions apply.
- P2.177 In all cases, ask the claimant to provide confirmation of the amount of the charge from the childminder or the person providing the care.

P2.178-P2.189

Maximum amount of childcare deduction

P2.178 The maximum amount for relevant childcare charges that can be deducted from earnings is

- £175.00 for one child
- £300.00 for two or more children

Relevant childcare charges exceed earnings

P2.179 A claimant's net earnings after any disregards are applied may be **less** than the lower of the
HB(SPC) Reg 30; CTB(SPC) Reg 20

- actual relevant childcare charges, or
- appropriate maximum childcare deduction

P2.180 If the whole of the childcare charges cannot be offset against earnings, any remaining balance can be offset against any WTC/CTC in payment, up to the maximum deduction.

P2.181 As low earnings will result in high WTC/CTC, the offset against WTC/CTC should ensure a deduction equal to the full value of the relevant childcare charges, or the maximum deduction if lower, can be made in addition to the existing disregards.

P2.182 However, if WTC/CTC is not in payment, or exceptionally it is insufficient to fully offset any remaining childcare charges, any remaining balance of charges **cannot** be offset against any other income received.

Example 1

A lone parent works 20 hours a week with net earnings of £100. They have one child age 7, for whom relevant childcare charges are £70.

WTC is payable at £116.40.

Net earnings less lone parent disregard £25.00 and Additional earnings, formerly '30' hour, disregard £14.50 ($£100 - £39.50 = £60.50$). As this is less than the relevant childcare charges and less than the maximum deduction (£175), relevant childcare charges can be deducted from the balance of earnings plus WTC. For instance, £60.50 childcare costs from the earnings and the rest of the childcare costs of £9.50 from WTC.

Example 2

A lone parent works 25 hours a week with net earnings of £250 a week.

They have one child aged 13, for whom relevant childcare charges are £185.

WTC is payable at £125.70.

Net earnings less lone parent disregard £25.00 and Additional earnings, formerly '30' hour, disregard £14.50 ($£250 - £39.50 = £210.50$).

Although this is less than the relevant childcare charges (£185) the maximum deduction is only £175. So earnings which remain (£210.50) are enough to meet the allowable childcare charges, and no deduction from WTC is needed.

P2.183-P2189

HB/CTB Guidance Manual

Earnings paid on termination of work

- P2.190 If a claimant's employment ended before HB/CTB entitlement begins disregard all final earnings, except
- earnings taken into account during an award of benefit prior to full or part time employment ceasing
 - retainer payments including statutory guarantee payments and payments made when a person has been suspended on medical or maternity grounds
 - Statutory Sick/Maternity/Paternity/Adoption Pay or equivalent payments from an employer
 - employment tribunal awards, including 'Out of court' settlements
 - earnings from copyright, patent or trade mark derived from that employment

HB(SPC) Sch 4 para 8; CTB(SPC) Sch 2 para 8

Example 1

A claimant ceases work on Friday 20 August. The change of circumstances occurs on Saturday 21 August, and under normal provisions takes effect from Monday 23 August, the first day of the benefit week following the date on which the change occurred.

It is the date on which the employment **ceased** that is important, **not** the date the claimant last worked, which may be earlier.

- P2.191 If the employment does **not** cease before the date of claim for HB or CTB, take any earnings from that employment into account as normal, subject to the appropriate earnings disregards.

Claimant absent from work before date of claim

- P2.192 When a claimant is absent from remunerative work, for example due to sickness or maternity/paternity/adoption, and the interruption happened immediately **before** the date of claim for HB or CTB, disregard any earnings from that employment, **except** payment by way of a retainer or sick/maternity/paternity/adoption pay.

HB(SPC) Sch 4 Para 1; CTB(SPC) Sch 3 Para 1

Claimant was in part-time employment before date of claim

- P2.193 If a claimant was in part-time employment, that is for less than 16 hours a week, and that employment ceased **before** the date of claim for HB or CTB, disregard any earnings paid on the termination of the employment **except** for any retainer payments including statutory guarantee payments and payments made when a person has been suspended on medical or maternity grounds or sick/maternity/paternity/adoption pay.

HB(SPC) 35; CTB(SPC) 25

P2.194-P2.221

P2.194 If, although not ceased, that part-time work was *interrupted* before the date of claim, disregard any earnings from that employment **except** holiday pay, payment by way of a retainer, sick or maternity pay or a backdated pay award.

P2.195 If the part-time employment was interrupted or ended, but that interruption or termination happened on or **after** the date of claim, then take any earnings from that employment into account as normal, subject to the appropriate earnings disregard.

P2.196-P2.209

Claimant receives Pension Credit (guarantee credit)

P2.210 Disregard any earnings of a claimant who receives Pension Credit (guarantee credit).
HB(SPC) Reg 26; CTB(SPC) Reg 16

Parental contributions to students

P2.211 Disregard parental contributions to students first against a claimant's other income. If the claimant's other income is less than the parental contribution, the balance may be offset against any earnings.

HB(SPC) Sch 5 Para 18 & 19; CTB(SPC) Sch 3 Para 18 & 19

Payment made in currency other than sterling

P2.212 If a payment of earnings is made in a currency other than sterling, disregard any banking or commission charge payable on converting that payment into sterling.

HB(SPC) Sch 4 Para 10; CTB(SPC) Sch 2 Para 10

P2.213-P2.219

Assessment of income from earnings

P2.220 Assess the likely income from earnings on the average earnings over the four weeks if paid weekly, or two months if paid monthly, immediately before the benefit week in which the claim is made or treated as made.

P2.221 It is important to decide how much these periods represent normal average earnings.

HB(SPC) Reg 33; CTB(SPC) Reg 23

- P2.222 Examples of when it would not be appropriate to consider solely the preceding four weeks or two months are when
- the claimant usually works overtime but has not done so during the relevant weeks, or, conversely, has worked overtime during those weeks but does not usually do so and the overtime is not expected to continue
 - seasonal earnings usually fluctuate and average earnings over the award period are likely to be higher or lower than those over the period immediately before the claim
 - the claimant is about to get a pay rise, or
 - the claimant receives bonuses or commission on an occasional or irregular basis
- P2.223 In these circumstances, average the claimant's weekly earnings over a longer period before the benefit week in which the claim is made or treated as made, which will allow you to more accurately calculate the average weekly earnings over the award period.
- P2.224 When collecting information on earnings, it is not enough simply to ask for details of net earnings or take home pay. For each week/month of the relevant period you should ask for the
- gross income
 - income tax deducted
 - NI contributions deducted
 - occupational pension or personal pension contributions made by the employee

Claimant has been in employment less than four weeks/two months

- P2.225 If a claimant has been in employment for less than four weeks if weekly paid, or two months if monthly paid, you do not need to wait until these periods have elapsed before deciding a claim.
- P2.226 Earnings should normally be taken into account from the outset of employment. For example, if a claimant on Pension Credit is already in receipt of HB and/or CTB and starts work on 1 November, earnings would be taken into account from 7 November, the first day of the benefit week following the change. This is irrespective of when earnings are actually due, which could be weekly, fortnightly or monthly etc.

P2.227-P2.239

P2.240-P2.247

Ancillary school workers

P2.240 A Social Security Commissioner's decision held that certain ancillary school workers who are not entitled to IS/JSA during term-time because they are in remunerative work are also not entitled during school holidays or other non-working weeks.

P2.241 The decision only applies when a worker at a school, or other educational establishment or other place of employment has a recognisable cycle of one year.

Impact on HB and CTB

P2.242 Before the Commissioner's decision some of those school workers would, have been entitled to IS/JSA during their non-working weeks. As a result of this decision, their claims to IS/JSA will now fail on the grounds that they are in remunerative work.

P2.243 If claims are received, ask for any evidence, such as a copy of their contract of employment, and decide which of the following two options is appropriate.

P2.244 Each case must be determined on its circumstances. The number of variations in a claimant's circumstances make it impossible to offer blanket advice in choosing how to establish average weekly earnings.

P2.245 Factors to consider when making the decision as to which option is appropriate include

- the extent earnings fluctuate
- the length of the award period, and
- any other changes in a claimant's circumstances that affect entitlement

Option 1: Using past earnings

P2.246 Average the claimant's weekly earnings over a past period, starting the benefit week in which the claim is made or treated as made, that allows you to calculate an accurate average weekly earnings figure.

HB(SPC) Reg 33; CTB(SPC) Reg 23

Option 2: Using future earnings

P2.247 If the amount of a claimant's earnings will change during the award period, estimate the average weekly earnings using the likely earnings from the employment over the remainder of the benefit period.

HB(SPC) Reg 33; CTB(SPC) Reg 23

Verification of earnings

P2.248 Earnings are usually verified from pay slips or a certificate of earnings. When there is a doubt about the authenticity of a payslip or no evidence is offered by the claimant, ask for confirmation in writing from the employer. However, because of the Government's overall policy of reducing the burden on business, LAs should avoid asking the employer about a claimant's earnings unless no other source of information is available. For further information, see *HB/CTB Security Guidance, Evidence of earnings - employed earners*.

P2.249-P2.259

Calculation of net earnings

P2.260 When you consider the claimant's earnings for the period before their claim to be representative of their normal earnings, net earnings in each week is their gross income **less**

HB(SPC) Reg 36; CTB(SPC) Reg 26

- income tax
- primary Class 1 NI contributions

HB(SPC) Reg 36; CTB(SPC) Reg 26

- half of any sum paid by the claimant towards an occupational or personal pension scheme. See *Converting chargeable income to net profit* later in this chapter for the calculation of contributions to personal pension

P2.261 Guidance on converting monthly salaries to weekly amounts is given in *Calculating income on a weekly basis* earlier in this chapter.

HB(SPC) Reg 36; CTB(SPC) Reg 26

P2.262 After the net weekly amounts are calculated, apply the appropriate earnings disregards. Average the resulting weekly amounts over the relevant period to arrive at average net weekly earnings.

P2.263 If the claimant has been in employment less than four weeks/two months and their earnings are estimated, calculate the net amount by estimating and then deducting the amounts of

- NI contributions that would be payable in respect of those earnings
- income tax, and
- half of any sum payable by the claimant towards an occupational or personal pension scheme

P2.264 For the calculation of notional earnings, see *Notional income* later in this chapter.

HB(SPC) Reg 36; CTB(SPC) Reg 26

P2.265-P2.309

- P2.265 HMRC issue a Budget Proposals leaflet each year showing the
- income bands for tax purposes
 - tax codes, and
 - personal allowances
- P2.266 You may find it helpful to obtain an up-to-date version of this leaflet each year. The HMRC leaflet contains details for the current year.
- P2.267 A personal pension scheme is defined as any scheme or arrangement which is covered by a written agreement and which has the effect of providing benefits, in the form of pensions or otherwise, payable on death or retirement to or in respect of employed earners who have made arrangements with the trustees or managers of the scheme to become members of it.
- P2.268 Do **not** deduct any part of a payment towards an occupational or personal pension which is made by an *employer*. The only pension payment to be deducted from gross income is half of what the **claimant** pays.

P2.269-P2.279

Earnings of children and young people

- P2.280 Disregard any earnings of a child or young person who is a member of the claimant's family. Special rules apply, however, when that child or young person leaves school and starts paid work, see *C1 Young person reaches their 20th birthday* later in this guidance.
HB(SPC) Reg 23; CTB(SPC) Reg 13
- P2.281 A child or young person who leaves school and takes up remunerative work continues to be treated as a member of the claimant's family until the Child Benefit (ChB) terminal date is reached, see *C1 Young person reaches their 20th birthday* later in this guidance. During this period, disregard the earnings of the child or young person.
HB(SPC) Reg 19; CTB(SPC) Reg 9

P2.282-P2.309

Self-employed earners

Earnings of self-employed earners

P2.310 A self-employed claimant is defined in section 2(1)(b) of the Social Security Contributions and Benefits Act 1992 as

a person who is gainfully employed in Great Britain otherwise than in employed earner's employment, whether or not they are also employed in such employment.

P2.311 Accept the claimant's own statement that they are self-employed unless there are grounds for uncertainty. In these cases ask for evidence, such as correspondence from the claimant's tax office showing the claimant's recent

- NI contributions record showing Class 2 and/or 4 contributions paid, or
- tax record, showing tax paid under Schedule D or E, including PAYE

P2.312 If any doubt arises, take the NI position rather than the tax position as a guide.

P2.313 Franchise holders who pay Schedule D tax and Class 2 and/or Class 4 NI contributions are classed as self-employed.

Reg 2

P2.314 Office holders, such as company directors and others whose income tax is payable under Schedule E, are liable for Class 1 contributions in the same way as employees. They are therefore employed earners, and should be assessed as such.

P2.315-P2.329

Average weekly profit of self-employed earners

P2.330 Take into account the weekly net profit from their occupation. The period over which net profit is determined is usually the last year's trading account but, if appropriate, you can use a period which is more representative of the current trading position or of fluctuations in business activity, for example the latest three months.

P2.331 Whatever period is chosen, it should not exceed one year. There may be some cases, for example when a business has just been set up, when it may be more appropriate to make an assumption in the short term as to the likely future level of earnings. This avoids causing hardship to the claimant by denying benefit solely on the grounds of uncertainty.

HB(SPC) Reg 37; CTB(SPC) Reg 27

P2.332 The onus is on the claimant to demonstrate

P2.332-P2.349

- their self-employed status, and

HB(SPC) Reg 37; CTB(SPC) Reg 27

- the level of any likely earnings within the relevant assessment period

P2.333 If there are no accounts available, eg the claimant has only just started self employment, or the latest available accounts are out of date, calculate notional earnings. If the claimant is about to start self employment and is unable to provide evidence of future earnings, you can estimate the earnings figure.

P2.334-P2.339

Incentive schemes

Single Regeneration Budget payments

P2.340 The Single Regeneration Budget (SRB) has replaced various national schemes and programmes for

- training
- housing
- enterprise, and
- employment, including the Business Start up Allowance

P2.341 Payments to businesses from the SRB are usually arranged by the Training and Enterprise Councils (TECs) and may take the form of

- grants
- loans, or
- regular weekly or monthly payments

P2.342 Each agreement will therefore need to be considered individually and the payments treated as normal business receipts, that is treat

- grants and loans as capital receipts, and
- any regular payments as income of the business

HB(SPC) Reg 38; CTB(SPC) Reg 28

The Prince's Trust

P2.343 The Prince's Trust can make grants to support self-employment. Treat receipt of a grant as a capital receipt and disregard it.

P2.344-3.349

Deductions from gross profit

P2.350 The next stage in establishing actual profit is to make the following deductions, if applicable, from gross profit

HB(SPC) Reg 39; CTB(SPC) Reg 29

- the repayment of capital on any loan used for replacing existing business assets such as
 - tools
 - plant
 - equipment or machinery, or
 - the repair of an existing business asset, but only to the extent that no insurance policy covers the cost of repair
- income spent on the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair

HB(SPC) Reg 39; CTB(SPC) Reg 29

- interest paid on loans, including hire purchase agreements taken out for business purposes
- VAT paid in excess of VAT received

HB(SPC) Reg 39; CTB(SPC) Reg 29

- expenses that have to be met in order to conduct the business, including employees' wages

HB(SPC) Reg 39; CTB(SPC) Reg 29

- bad proven debts, that is when default has occurred

HB(SPC) Reg 39; CTB(SPC) Reg 29

P2.351 When all appropriate deductions are made, the result is the **chargeable income**.

HB(SPC) Reg 39; CTB(SPC) Reg 29

P2.352-P2.369

When deductions should not be made

P2.352 Do **not** make deductions for the following expenditure

- capital expenditure, that is expenditure on a capital item such as a taxi
- money used to set up or expand a business
- depreciation or write-off of equipment, etc
- money spent on business entertainment or meals, including promotional events
HB(SPC) Reg 39; CTB(SPC) Reg 29
- compensation for losses incurred before the beginning of the assessment period, or for other losses (other than proven bad debts)
- losses, suffered in running other businesses
- domestic or personal expenses, that is drawings, that are not essential in running the business, for example personal use of a vehicle
HB(SPC) Reg 39; CTB(SPC) Regs 29

P2.353-P2.359

Depreciation

P2.360 Depreciation is not an allowable expense in HB because to allow it as a deductible business expense would be the same as funding at public expense a cost that should be borne by a business itself. The tax system is not directly comparable, because it operates according to different rules constructed to serve a different purpose.

HB(SPC) Reg 39; CTB(SPC) Reg 29

P2.361-P2.369

Converting chargeable income to net profit

P2.370 Convert chargeable income to net profit by establishing how much of each of the following is payable, and deducting the appropriate amounts

- income tax
- NI contributions (Class 2 and/or 4, as appropriate)

Note: Use the appropriate tax and/or NI contribution rates applicable over the assessment period.

- half of the qualifying premium. Premium, in this context, should not be confused with the premiums built into applicable amounts, and which are covered in *BW3* or *BP3 Applicable amounts* later in this part. Premiums, in this context refers to periodic sums payable in respect of a retirement annuity contract or personal pension scheme

HB(SPC) Reg 39; CTB(SPC) Reg 29

P2.371 You should note that a personal pension was not available to self-employed claimants when the HB scheme was drawn up. Only retirement annuity contracts were then available, and continue for those taken out then. A 'qualifying premium', therefore, refers to either retirement annuity contracts or personal pensions which superseded them.

P2.372 The amount to be deducted by way of one half of a qualifying premium is based on the amounts payable periodically at the date

- of claim
- on which the claim is treated as made, or
- when payable, if it becomes payable during the award period

P2.373 When qualifying premiums are payable monthly, calculate the amount to deduct as follows

HB(SPC) Reg 39; CTB(SPC) Reg 29

- multiply the amount by 12
- divide the answer by 365, and
- multiply by the number of days in the assessment period
- divide the answer by two to obtain half the premium

P2.374 If premiums are paid for any other period, divide the amount payable by the number of days in the period that it covers, for example, if paid

- weekly divide by 7
- yearly divide by the number of days in the year and multiply by the number of days in the assessment period

To obtain half the premium, divide the answer by two.

P2.375-P2.392

P2.375 The end product represents the claimant's net profit from self-employment. Convert it to a weekly average for assessment of benefit entitlement and apply the appropriate earnings disregard(s).

P2.376 For HB and CTB purposes, net profit should broadly reflect the flow of cash into and out of the business. This may mean that reliance on published accounts only will not be enough in establishing average weekly income.

P2.377-P2.389

Drawings

P2.390 Many self-employed earners draw money from their business for day to day living expenses. These drawings will be strictly drawn against expected profits, and they are **not** an allowable business expense. So if money **has** been drawn from the business for personal use, you must establish whether this amount has been deducted from the amount declared as the gross profit.

HB(SPC) Reg 39; CTB(SPC) Reg 29

P2.391 When up to date accounts are kept and the gross figure has not been reduced by the amount of the drawings, which are usually shown in the Capital Account

- ignore the drawings figure, and
- calculate net profit in the normal way

P2.392 If the gross profit figure has been reduced by the amount of the drawings, then the gross profit of the business will be the amount of the gross profit declared **plus** all of the drawings.

Example 1

Gross profit declared after deducting drawings of £1,000	£4,000
Personal drawings	£1,000
Gross profit of the business	£5,000

Example 2

Gross profit declared with no deduction for drawings	£5,000
Personal Drawings	£1,000
Gross Profit of the business	£5,000

- P2.393 Ignore any drawings which have not been drawn from the gross profit of the business, as they will have come from elsewhere, for example from withdrawals from capital, or from loan or overdraft facilities.

Example 1

Gross profit declared with no deduction for drawings	£5,000
Personal drawings, made up of £5,000 gross profit and £1,000 withdrawn from overdraft)	£6,000
Gross Profit of the business	£5,000

Example 2

Gross profit declared after deducting drawings of £5,000)	£NIL
Personal Drawings (made up of £5,000 gross profit and £1,000 withdrawn from overdraft)	£6,000
Gross Profit of the business	£5,000

- P2.394 When accounts are kept but there is a loss and drawings have still been taken, this person is in effect living off the equity of the business. As before, ignore any drawings taken from capital, or from loan or overdraft facilities. Add back into the gross profit figure any drawings deducted from the gross profit figure declared, as in **Example 2**. However in some cases this may still result in a nil net profit.
- P2.395 When no proper accounts are kept but there is some indication of potential earnings, for example an excess of income over outgoings, you must make an assessment of average weekly income based on the best evidence to hand, such as sales ledgers, notebooks, bank statements, receipted invoices, chequebook stubs, etc. It is also essential to remember to include tips, gratuities, royalties, etc in the earnings figure.
- P2.396 There may also be cases when the claimant is unable to explain adequately the source of the drawings. If this is so, the only reasonable explanation may be that the drawings came from money coming into the business, in which case, treat them as earnings in the normal way.

Example 1

Personal drawings	£4,000
Declared expenses of which £1,000 are allowable expenses	£2,000
Gross profit	£6,000
Net profit after deducting allowable expenses but before deductions for tax, NI etc	£5,000

continued

(P2.396)-P2.416

(P2.396)

Example 2

Personal drawings	£4,000
Declared expenses, all allowable	£2,000
Gross profit	£6,000
Net profit, after deducting allowable expenses but before deductions for tax, NI etc	£4,000

P2.397-P2.409

Deduction of tax and contributions for self-employed earners

P2.410 The HB and CTB Regulations incorporate the tax position for self-employed earners, see *Part VII of the Income and Corporation Taxes Act 1988*, including reliefs (*Sections 257 and 259*). The amount of tax due can be calculated by applying the personal allowance and the basic rate of tax, as appropriate, applicable at the date of claim to the reckonable amount of chargeable income. Even when there is no liability for tax there should be evidence that trading still continues.

HB(SPC) Reg 40; CTB(SPC) Reg 30

P2.411 A self-employed person may be liable to pay two classes of NI contribution, Class 2 and Class 4.

P2.412 **Class 2** contributions are payable each week, at a flat rate, including during periods when the person is temporarily unable to work.

P2.413 There is no liability to pay during periods of sickness or unemployment, or for periods when they have been granted a small earnings exception.

P2.414 Leaflet CA02 lists the Class 2 rates payable. These change each year.

P2.415 **Class 4 contributions** are earnings-related and are set at a percentage of profits or gains chargeable to tax under Case I and II of Schedule D (*part VI Chapter 1 of the Income and Corporation Taxes Act 1988*). These are

Case I tax in respect of any trade carried on in the United Kingdom

Case II tax in respect of any profession or vocation not contained in any other tax schedule

P2.416 Class 4 contributions are normally assessed and collected by the Inland Revenue, along with Schedule D income tax, unless deferred liability has been granted. In a case of deferred liability, contributions will be worked out and collected by HMRC.

- P2.417 Liability for Class 4 contributions ceases from the end of the tax year during which a claimant reaches retirement age.
- P2.418 You will need to establish a **notional** tax and NI contribution figure, see *Annex D*, for assessment of HB or CTB entitlement because of the lapses of time which may occur between
- the period during which earnings are generated
 - lodging a claim for HB or CTB, and
 - the fixed dates when tax and NI contributions are payable. These are annually in arrears for Schedule D tax and Class 4 NI contributions
- P2.419 For tax this should be assumed at the starting rate of tax and the basic rate of tax, as appropriate, **less** the personal allowance and, if appropriate the relief based on the additional personal allowance.
- P2.420 Apply the normal personal allowance regardless of age or disability. Do **not** use the higher rate allowances, for example for pensioners or blind people.
- P2.421 For Class 2 contributions apply the rate payable at the date of claim to the chargeable income.
- P2.422 For Class 4 contributions a simple formula can be applied by taking the amount of any profit above the lower and not exceeding the upper profit limits which apply for the tax year in which the date of claim falls, and multiplying the answer by the rate of contribution applicable at the date of claim.

Example

Profit	£8,800
Less lower profit limit	£4,745
Balance	£4,055
Class 4 NIC at 8%	£324.40

- P2.423 Further guidance on Personal Allowances and Class 4 contributions can be found in HMRC leaflets.
- P2.424 The end product represents net profit from self-employment. The appropriate earnings disregards should then be applied.
- HB(SPC) Sch 4; CTB(SPC) Sch 2*
- P2.425 Do not apply the tax relief granted by HMRC on Class 4 National Insurance contributions to a benefit claim as the HB or CTB calculation is based on notional tax and NI liability. HB/CTB Regulations do not confer on LAs any power to apply provisions derived from tax legislation, see *Finance Act 1985*.

HB(SPC) Reg 40; CTB(SPC) Reg 30

P2.426-P2.439

P2.440-P2.461

Earnings payable abroad or in a foreign currency

P2.440 Any money that is paid and received by the business in any country which prohibits the transfer of funds to the UK should be

- treated as a gross business receipt, and
- disregarded from any net profit figure

P2.441 Disregard from any net profit figure any banking or commission charges made on converting self-employed earnings from another currency into sterling.

P2.442-P2.449

Starting up in business

P2.450 Ask to see the accounts or other records which are available for the business. However, if the business is just starting up, no accounts will be available. When proper accounts are not available, you should make your own estimate of likely income, based on the available information, for example notices of receipts, paid invoices, and reconsider after a reasonable short period to reassess income in the light, for example, of fluctuations in business activity.

P2.451 In these circumstances, ask the claimant to document all receipts and payments over this period.

P2.452-P2.459

Particular forms of self-employment

Childminders

P2.460 Childminders, who often receive incidental or low earnings, and whose function allows others to work outside the home, are – for these reasons – allowed the extra incentive of having only one-third of their earnings taken into account in the calculation of benefit entitlement.

P2.461 To calculate net profit for this group, deduct from the remaining one third of earnings

- tax
- NI contributions, and
- half of the qualifying premium for any pension scheme

The appropriate earnings disregard should then be applied.

HB(SPC) Reg 39; CTB(SPC) Reg 29

Partnerships

- P2.462 Partners are similar to sole traders, except that ownership and control of the business is shared between two or more people. If a Deed of Partnership exists it will contain details of how profits are calculated, shared, etc.
- P2.463 If there is no Deed, regard profits as shared equally among the partners, unless there is any express or implied agreement between them to the contrary.

Share fishermen

- P2.464 A share fisherman is a person not under a contract of service, who
- is ordinarily employed in the fishing industry as a master or crew member of a British fishing boat manned by more than one person and paid in whole, or in part, by a share of the profit or gross earnings of the boat, or
 - has been ordinarily employed in this way, but because of age or infirmity, no longer goes to sea but is employed ashore in making or mending any gear of a British fishing boat, or performing other services in connection with the boat, and is paid for these services by a share of the profits or earnings of the boat

Note: Share fishermen who have reached the qualifying age for Pension Credit must be assessed under normal self employed earner provisions, as detailed earlier in this chapter. The special provisions in the HB Regulations 1987 and CTB Regulations 1993 were not carried forward to the HB and CTB (State Pension Credit) regulations 2006.

- P2.465 Regard share fishermen as being self-employed but who pay a
- special higher rate Class 2 NI contribution. This allows them, in certain circumstances, to qualify for contribution-based Jobseeker's Allowance (JSA(Cont)) in addition to the other benefits a self-employed person may claim, and
 - Class 4 contribution, when appropriate, if earnings exceed the set level
- P2.466 Ask any claimant who is the owner or part-owner of a boat for details of the gross receipts and expenses of the boat, together with details of the agreement of sharing the proceeds of the catch.
- P2.467 Ask a claimant who is not the owner or part-owner of a boat to approach the owner for details of the
- gross receipts and expenses of the boat over the assessment period, and
 - arrangements for sharing the proceeds of the catch

P2.468-P2.499

P2.468 Ask the claimant if

- the boat owner pays the
 - claimant's NI contribution
 - cost of provisions, such as food, and
 - cost of replacement gear or clothing, and
- any payment for these items is made out of the gross receipts of the boat

P2.469 Any payment made for these items out of the boat's gross receipts in the assessment period should **not** be included as a further gross receipt or as a business expense. But add to the gross receipts any payment not made out of the gross receipts, for example if it is made out of previous gross receipts or from the owner's own personal account.

P2.470 Accept figures supplied by a share fisherman, unless there is any reason for doubt. If there is any reason for doubt, you should ask the share fisherman for documents to verify the amounts supplied.

P2.471 To calculate the normal weekly earnings of a share fisherman over the assessment period

- total the gross receipts of the boat
- deduct any allowable business expenses of the boat and of the share fisherman, taking care to avoid duplication
- calculate the person's share of the sum remaining after the deductions have been made, according to the agreement for distributing the proceeds of the catch
- deduct
 - income tax and NI contributions
 - one half of any qualifying premium for any pension scheme, and
- any appropriate disregard

P2.472-P2.489

Other income

P2.490 The remainder of this chapter deals with the treatment of income which is not

- earnings from employment or self-employment
- a substitute for earned income, such as Statutory Sick Pay or Statutory Maternity Pay

P2.491-P2.499

Types of income to be taken fully into account

P2.500 For pensioner cases only income listed in HB(SPC) Reg 29, CTB(SPC) Reg 19 counts as income in the HB/CTB calculation. Therefore, if an income is not listed in those regulations it must be ignored.

P2.501-P2.509

Calculation of income other than earnings

P2.510 Income other than earnings is the total of the claimant's

HB(SPC) Reg 33; CTB(SPC) Reg 23

- gross income, and
- any capital treated as income, **less**
- any sum which is to be disregarded, see paragraphs *Items to be disregarded* later in this chapter

P2.511 If a claimant receives a state benefit and an amount is deducted from that benefit, for example to recover an overpayment or a social fund loan, take the gross amount of the benefit into account. However, if a state benefit is reduced because a claimant is in hospital, take the reduced rate of benefit into account.

HB(SPC) Reg 29; CTB(SPC) Reg 19

Reduced Benefit Directions

P2.512 In certain circumstances, the amount of IS, JSA or ESA(IR) received by a claimant may be reduced by a Reduced Benefit Direction issued by the Child Support Agency.

P2.513 **Remember**, if a claimant remains entitled to IS, JSA or ESA(IR), the whole of their income and capital is disregarded.

Calculating a weekly average

P2.514 Just as earnings need to be calculated on the basis of the weekly average, so does other income. Estimate the amount over whatever period, up to 52 weeks, you consider appropriate to make an accurate estimate of average weekly income. This does not mean that you have discretion to ignore all or part of a person's other income in addition to that which must be disregarded under *HB(SPC) Schedule 5 and CTB(SPC) Schedule 3*. The point is to decide what weekly sum properly reflects the claimant's likely income, other than earnings, over the award period.

HB(SPC) Reg 33; CTB(SPC) Reg 23

P2.515-P2.532

P2.515 When the income is a state benefit, the period over which the benefit should be taken into account is the period for which the benefit payment is made, regardless of how it is paid, for example weekly in advance or weekly in arrears.

HB(SPC) Reg 33; CTB(SPC) Reg 23

Income paid into a bank or other account

P2.516 When income is paid directly into a bank or other account, that income should be ignored as a capital resource for the period it was meant to cover such as weekly, monthly, etc. This to avoid the position whereby, for example, a claimant's retirement pension is paid four-weekly in arrears into a bank account and is at the same time immediately taken into account as capital. This means that income should not be treated as capital until the relevant period, in this example four weeks, has passed. So that income, or any remaining balance, will only be capitalised from the next payment date.

P2.517 Once a weekly amount of income has been calculated, the next step is to apply any appropriate disregard or disregards.

P2.518-P2.529

Items to be disregarded

P2.530 Certain items of a claimant's other income should be disregarded in whole or in part for the purposes of calculating benefit. Items not listed as income can be disregarded in full.

HB(SPC) Sch 5; CTB(SPC) Sch 3

Items to be wholly disregarded

P2.531 Child Benefit, charitable and voluntary payments are fully disregarded.

HB(SPC) Reg 29; CTB(SPC) Reg 19

Note: Maintenance payments from a former partner or parent of a child are not treated as voluntary payments. For more information on these types of payment, see *Charitable and Voluntary Payments* later in this chapter.

Partial disregards

P2.532 Some other types of income should be partially disregarded.

Certain pensions

P2.533 A **£10 disregard** is applied to

HB(SPC) Sch 5 Para 1; CTB(SPC) Sch 3 Para 1

- War Disablement Pensions, War Widow's Pensions or any corresponding pension payable to a widower or surviving civil partner
- Guaranteed Income Payments (GIPs) under the Armed Forces and Reserve Forces Compensation Scheme (AFRFCS) including payments of survivors GIP paid to widows, widowers or surviving civil partners. The full £10 disregard can continue to apply if these payments are abated by a payment made under the Armed Forces Pension Scheme 1975 or 2005
- any comparable payment paid by the government of a country outside Great Britain, but **not** pre-1973 War Widow's Special Payments, which are disregarded in full
- a pension paid under the law of the Federal Republic of Germany or Austria to victims of National Socialist persecution

Apply this disregard **after** disregarding the whole of any amount included in these pensions in respect of the claimant's need for constant attendance or their exceptionally severe disablement.

P2.534 A **£15 disregard** is applied to Widowed Parent's Allowance (WPA), which replaced Widowed Mother's Allowance (WMA) in April 2001. Widows in receipt of WMA before this date are also be entitled to this disregard.

HB(SPC) Sch 5 Para 7; CTB(SPC) Sch 3 Para 7

P2.535-P2.539

*Particular types of home income plans**Annuities*

P2.540 If a claimant has purchased an annuity under a home income plan, and part of the annuity is used to pay the mortgage on the home, the net mortgage interest payable should be ignored.

P2.541 The amount taken into account after applying the disregard and deducting any income tax payable on the interest from the annuity will represent the income actually received.

HB(SPC) Sch 5 Para 11; CTB(SPC) Sch 3 Para 11

P2.542 There should not be any doubt about the definition of a home income plan but to qualify for the disregard

- the person must have purchased a life annuity with a loan or mortgage under a scheme whereby not less than 90% of the proceeds of the loan were used for this purpose by the person to whom the loan was made
- the annuity will end with the person's life or with the life of the survivor of two or more people, the annuitants, one of whom should be the person to whom the loan was made

continued

HB/CTB Guidance Manual

(P2.542)-P2.545

- (P2.542) • the interest on the loan is payable by the person to whom it was made or by one of the annuitants
- at the time the loan was made, the person to whom it was made or each of the annuitants had reached the age of 65, and
 - the loan was secured on a home in Great Britain and the person to whom it was made, or one of the annuitants, owns and has a financial interest in that home, and occupies it as their home at the time the loan interest is being paid

Example

A typical Home Income Plan might work as follows

Gross annuity payable for life	£2,331.96
Less income tax at 15% on annuity interest element of £485.88	£ 121.47
Net annuity after tax	£2,210.49
Less loan interest fixed at £1,650.00	£1,650.00
Actual net annual income received	£560.49

Note: This example uses 15% tax rates.

The amount to be taken into account per annum is the

Net annuity	£2,210.49
less	
Net mortgage interest payment of £1,650.00	£890.49

Roll-up Mortgages

P2.543 In these cases a claimant usually takes out a form of annuity but the mortgage repayments are deferred until either the property is sold or the claimant dies.

P2.544 The annuity income should be taken fully into account after any income tax, if applicable, is deducted.

Parental contributions to students

P2.545 Any parental contribution which is made by a claimant to a student and which has been taken into account by a local education authority in calculating a student's entitlement to a state grant or loan should be deducted from the claimant's income.

- P2.546 The deduction should apply only during those periods for which the grant or loan is awarded. This will normally be
- the student's term time and short vacations only for personal maintenance grants
HB(SPC) Sch 5 Para 18 & 19; CTB(SPC) Sch 3 Para 18 & 19
 - September to June for loans
- P2.547 If the student is under 25, in advance education and does not have a state grant, or receives a discretionary award of lesser value, and the parent makes payments towards the student's maintenance, the amount to be disregarded is the
- HB(SPC) Sch 5 Para 19; CTB(SPC) Sch 3 Para 19*
- actual amount of the contribution, or
 - personal allowance for a single claimant under 25 less the weekly amount of any award, whichever is the smaller
- P2.548 For these purposes, parental contribution means both that assessed for the purpose of calculating a discretionary award and any other contribution made voluntarily (because the state grant is itself means-tested).
- P2.549 Parental contributions should be disregarded first against a claimant's other income. If the claimant's other income is insufficient to meet the whole of the parental contribution, the balance may be offset against any earnings.
- HB(SPC) Sch 4 Para 6; CTB(SPC) Sch 2 Para 6*

Income from sub-tenants

- P2.550 For a definition of sub-tenants, see *C1 Tenants and sub-tenants* later in this guidance.
- P2.551 It should be noted that in the case of a claimant on IS or Pension Credit, this calculation is not necessary since it will have been done already as part of the assessment of entitlement to IS or Pension Credit.
- P2.552 When a claimant is a tenant with a sub-tenant, or an owner-occupier with a tenant, living in part of their home and there is a contractual liability to pay for the accommodation, the income from each sub tenant has a disregard of £20.
- P2.553 The £20 disregard is applied irrespective of whether the charge includes a payment for heating.
- HB(SPC) Sch 5 para 10; CTB(SPC) Sch 3 para 10*

Income from a boarder

- P2.554 For HB and CTB the money a claimant receives from a boarder should be taken into account with special disregards.

P2.555-P2.570

P2.555 These are

- a flat rate disregard of £20, and
- 50% of the excess over £20

P2.556 This disregard should apply to the weekly amount payable in respect of each individual boarder, regardless of

HB(SPC) Sch 5 Para 9; CTB(SPC) Sch 3 Para 9

- the number of
 - boarders
 - nights that accommodation is provided, or
- the frequency of payment, and
- who makes the payments

Example

A claimant, partner and child are boarders in the same accommodation for which the charges are £70 per week for an adult and £50 for a child. The disregard is calculated as follows

Adults

Flat rate disregard £20

Disregard of 50% of excess over £20 =

$[\text{£}70 - \text{£}20] \times 50\% = \text{£}50 \times 50\% \quad \text{£}25$

Total for each adult £45

Child

Flat rate disregard £20

Disregard of 50% of excess over £20 =

$[\text{£}50 - \text{£}20] \times 50\% = \text{£}30 \times 50\% \quad \text{£}15$

Total for child £35

Total disregards [£45 + £45 + £35]

£125

P2.557-P2.569

Treatment of special types of income

Social security benefits

P2.570 Most weekly social security benefits should be counted in full as income **except** those which are disregarded in full or part. For details of

- full disregards, see *The meaning of income* earlier in this chapter
- partial disregards, see *Partial disregards* earlier in this chapter

- P2.571 Social security benefits must be taken into account for the period that benefit was payable.
HB(SPC) Reg 33; CTB(SPC) Reg 23

Deductions from social security benefits

- P2.572 If a deduction is being made from a social security benefit, take the amount into account at the rate **before** the deduction is made.

- P2.573 But take the benefit into account at the rate **after** the adjustment is made, if an adjustment is being made from the social security benefit under

HB(SPC) Regs 29; CTB(SPC) Regs 19

- the Social Security (Overlapping Benefits) Regulations 1979
- the Social Security (Hospital In-patients) Regulations 1975 (these refer to downrating of benefits of hospital in-patients)
- section 30DD or section 30E of the Social Security Contributions and Benefits Act 1992 (deductions in incapacity benefit in respect of pensions and councillor's allowances)

Assessed Income Figure

- P2.574 The claimant's total assessed income and capital, known as the Assessed Income Figure (AIF) will be notified to LAs, in all Pension Credit (savings credit) only cases, within two working days of the calculation being done, or as soon as practicable afterwards. It will

HB(SPC) Reg 27; CTB(SPC) Reg 17

- include details of incomes taken into account in the Pension Credit assessment and the disregards (if any) applied to those incomes
- **not** include the savings credit element, but The Pension Service will inform the LA of that amount

Modifying the AIF

- P2.575 LAs must use the AIF notified by The Pension Service when assessing the claimant's income. However, in some circumstances, the AIF must be modified.

- P2.576 When assessing the claimant's income, LAs

- must modify The Pension Service's calculation of the claimant's income to take account of
 - any savings credit element. This is because the amount of the savings credit results from, rather than being part of, The Pension Service's calculation of the claimant's income and capital. The Pension Service will inform LAs of any savings credit element as well as their calculation of the claimant's income and capital
 - childcare charges

continued

(P2.576)-P2.578

- (P2.576) • must modify The Pension Service's calculation of the claimant's income to apply more generous disregards in HB/CTB than those which apply in Pension Credit. This applies to
HB(SPC) Reg 30; CTB(SPC) Reg 20
- lone parent's earnings
 - payments of spousal maintenance
 - payments of WTC 16/30 hour element
 - claimants/partners earnings from permitted work, see *Appendix I* at the end of this chapter for full details of permitted work earnings disregards
- must modify The Pension Service's calculation of the claimant's income to take account of the income of
- a partner who is not included in The Pension Service's calculation, for example due to the absence of a partner abroad. When Pension Credit removes the partner from the Pension Credit assessment at an earlier stage than HB/CTB
 - non dependants when the LA has decided to treat their income as the claimant's
HB(SPC) Reg 27; CTB(SPC) Reg 17
- may modify The Pension Service's calculation of the claimant's income when the LA has decided to apply a disregard to a war pension, greater than that applied by The Pension Service, under section 134(8) of the social Security Administration Act 1992

Note: The Pension Service does not have details of the breakdown of the components of war pensions, eg Mobility Supplement if a pre 1973 widow's payment is included. LAs will need to get this information from their own records or from the Veterans Agency.

Pension Credit (savings credit) only cases

P2.577 HB Regs 25 to 42 and CTB Regs 15 to 32 (which provide LAs with powers to assess the income of pension age claimants) in standard HB/CTB claims **do not apply** to the calculation of income for Pension Credit (savings credit) only cases. However, these regulations **do apply** for the purposes of deciding any modification to the AIF supplied by The Pension Service.

P2.578 If the claimant is entitled to Pension Credit (savings credit) of less than 10p per week (and payment cannot be combined with another benefit) The Pension Service will advise LAs that Pension Credit (savings credit) is not payable under State Pension Credit regulations, regulation 13. The savings credit element, in these cases, does not form part of the assessment for standard HB/CTB, but LAs are still required to use the AIF, as The Pension Service will continue to maintain the Pension Credit claim.

FAS payments - claimants with an AIP and receiving Pension Credit (savings credit) only

- P2.579 When a claimant or their partner has an Assessed Income Period (AIP) and FAS is awarded after the AIP start date, the FAS should not be taken into account when calculating Pension Credit. This is because FAS payments form part of the claimant's retirement pension income and as such should not be taken into account when the overall change would reduce Pension Credit. You must use the AIF passed to you by The Pension Service.

HB(SPC) Reg 27; CTB(SPC) Reg 17

- P2.580 If the claimant receives a lump sum of arrears which takes their capital over the £16,000 upper limit, normal rules apply and the HB/CTB entitlement should be terminated.

HB(SPC) Reg 27; CTB(SPC) Reg 17

Claimants without an AIP receiving Pension Credit (savings credit) only

- P2.581 If the claimant does not have an AIP, FAS payments will be taken into account in the AIF passed to you by The Pension Service. Therefore, there is no need to amend the AIF to take account of FAS payments as income or capital.

Maintenance payments received by the claimant

Child maintenance

- P2.582 A full disregard applies to child maintenance, including that assessed by the Child Support Agency (CSA), received in any case when the maintenance payment is made or is due to be made by the

- claimant's former partner
- claimant's partner's former partner, or
- parent of a child or young person provided that the child or young person is a member of the claimant's family. But this provision will not apply if the person paying the maintenance is the claimant or the claimant's partner. This is to guard against the situation where, for example, a parent who has a court order to pay maintenance returns home, and that order is still in existence

HB(SPC) Sch 5 Para 20; CTB(SPC) Sch 3 Para 20

- P2.583 The disregard also applies to any payments made or due to be made by a person direct to a third party, when these fall to be treated as the income of the claimant. An example would be a regular quarterly payment made by a former partner to the electricity board on the claimant's behalf. See *Payments to, or in respect of, a third party* for more information.

P2.584-P2.610

Other maintenance

P2.584 A £15 disregard applies to any other maintenance, including that assessed by the Child Support Agency (CSA), received in any case when

- the applicable amount includes an amount in respect of the family premium, and
- the maintenance payment is made or is due to be made by the
 - claimant's former partner
 - claimant's partner's former partner, or
 - parent of a child or young person provided that the child or young person is a member of the claimant's family. But this provision will not apply if the person paying the maintenance is the claimant or the claimant's partner. This is to guard against the situation where, for example, a parent who has a court order to pay maintenance returns home, and that order is still in existence

HB Sch 5 Para 47; CTB Sch 4 Para 48

P2.585 The disregard also applies to any payments made or due to be made by a person direct to a third party, when these fall to be treated as the income of the claimant. An example would be a regular quarterly payment made by a former partner to the electricity board on the claimant's behalf. See *Payments to, or in respect of, a third party* for more information.

P2.586 Only one £15 disregard for other maintenance can be applied in any benefit week irrespective of the number or make-up of the maintenance payments and whether these are made under a court order or otherwise.

Training schemes and allowances

P2.587 People on training schemes normally receive a training allowance. Do **not** treat training allowances as earnings. A full description of all current schemes is set out in the leaflet *Just the Job (EMPL 48)*, available from your local Jobcentre.

P2.588-P2.609

Charitable and voluntary payments

What are charitable payments?

P2.610 A charitable payment is a payment made under a charitable trust at the discretion of the trustees. A charitable trust must

R(IS) 4/4; R v Doncaster Borough Council, Ex Parte Boulton

- be wholly and exclusively charitable, and
- promote a public benefit, that is, it must benefit a sufficient section of the public except where the purpose is the relief of poverty

P2.611 Charitable trusts

- do not have to be
 - registered, or
 - administered by a registered charity
- usually provide for
 - the relief of poverty
 - advancement of education
 - advancement of religion
 - other purposes which benefit the community

Disregards

P2.612 Any charitable or voluntary payment which is made or due to be made at regular intervals should be fully disregarded.

P2.613 LAs should also note this disregard does **not** apply to

- maintenance payments which are made or due to be made by
 - a former partner of the claimant, or a former partner of any member of the claimant's family, or
 - the parent of a child or young person where that child or young person is a member of the claimant's family

P2.614 In certain circumstances, however, a £15 disregard will apply, see *Maintenance payments received by claimant* earlier in this chapter. Otherwise, maintenance payments made by a person as in above paragraph should be taken fully into account.

What are voluntary payments?

P2.615 A voluntary payment is a payment that has

- a benevolent purpose, and
- is given without anything being given in return

R(IS) 4/94

P2.616 A voluntary payment is similar to a charitable payment but it will not usually be made from a charitable trust. Voluntary payments are usually paid for the benefit of an individual. But LAs should recognise that charitable payments may also be made to individuals

- for the relief of poverty, or
- because a wider purpose is involved

P2.617-P2.619

P2.617 When deciding if the payment is a voluntary payment, consider the

- background to the payment, and
- reasons for it

Example 1

Jim claims HB. He declares that he gets a payment of £20 a week from his Uncle Peter, towards the cost of running his car.

Peter makes the payment because Jim has been receiving HB for some time and needs a car to get around.

Peter makes the payment because of family ties and affection for Jim. Peter does not expect or receive anything in return.

The assessing officer decides that the £20 is a voluntary payment.

Example 2

Frances claims HB. She is retired and receives a payment of £4.50 a week from her former employer in addition to her occupational pension. This payment is made to all former employees who worked for the company for over 20 years.

The payments were awarded by the board of directors following criticism by shareholders of the treatment of former employees with long service.

The assessing officer decides the payment is not voluntary because the

- directors of the company are receiving in return for the payment greater satisfaction from the shareholders
- company's image is improved
- payments are not made specifically to help needy employees, but are made to **all** former employees, regardless of need

P2.618-P2.619

Payments from any of the Trusts

P2.620 The following payments, whether of income or capital, should be fully disregarded

HB Sch 5 Para 35; CTB Sch 4 Para 36

- any
 - payment made under the
 - ~ Macfarlane Trust
 - ~ Macfarlane (Special Payments) Trust
 - ~ Macfarlane (Special Payments) No 2) Trust
 - ~ Eileen Trust
 - ~ MFET Ltd trust fund
 - ~ Independent Living Fund (the Fund), or
 - ~ London Bombings Relief Charitable Fund (LBRCF), and
 - sum derived from such a payment
- certain payments which originated from any of the Macfarlane Trusts, or the Eileen Trust or the Fund and which have been inherited from, or gifted by or on behalf of the Trust beneficiary or the qualifying person as follows
 - a from the haemophiliac or qualifying person to their partner or former partner
 - b from the haemophiliac's or qualifying person's partner or former partner to the haemophiliac or qualifying person
 - c from the haemophiliac or the qualifying person to any child or young person who is, or at any time was, a member of the haemophiliac's or the qualifying person's family and is a member of the claimant's family
 - d from the haemophiliac's or the qualifying person's partner or former partner to any child or young person who is, or at any time was, a member of the haemophiliac's or the qualifying person's family and is a member of the claimant's family
 - e from the haemophiliac or qualifying person to their
 - parent or step parent, or
 - guardian provided that they have no parent or step-parent, and at the date of the payment is a child, a young person, or a student who has not completed their full-time education

This only applies if the haemophiliac or qualifying person has neither a partner nor former partner, nor a child or young person who is, or at any time was, a member of their family. The disregard will apply for a period from the date of the payment until the end of two years from the date of the haemophiliac's or qualifying person's death

continued

(P2.620)-P2.622

- (P2.620) **f** from the haemophiliac's or qualifying person's estate to their
- parent of step-parent, or
 - guardian, provided that they had no parent or step-parent, and at the date of the death was a child, a young person, or a student who had not completed their full-time education

This only applies if the haemophiliac or qualifying person had neither a partner nor former partner nor a child or young person who, at any time, had been a member of their family. The disregard will apply for a period of two years from the date of the haemophiliac's or the qualifying person's death)

Note:

The terms **child, the Fund, young person, student, qualifying person and partner** have the meaning specified in regulation 2 of the HB and CTB Regulations.

Former partner means a person who, although not satisfying the definition of partner because they are not members of the same household, for example due to illness, is not, or if that partner, former partner, qualifying person or haemophiliac has died, was not, estranged or divorced from the qualifying person or haemophiliac.

Full-time education should be given its normal meaning, in the sense of the natural progression from school, to college or university, and then to work.

Tax credits

P2.621 There are two tax credits

HB(SPC) Reg 29, 32 & SI 2502; CTB(SPC) Reg 19, 22 & SI 2502

- CTC
- WTC

P2.622 For HB/CTB purposes

- tax credits are taken fully into account as income, however disregard any CTC in payment
- arrears of tax credits, paid in a lump sum, are treated as capital, not income, and are disregarded for 52 weeks
- the amount paid to the claimant, ie actual rather than notional amounts, is always taken into account in the assessment. Do not consider the notional income provisions if you think a claimant could have claimed a tax credit
- people may have to report a change of circumstance at different times for tax credit and HB/CTB claims
- ignore changes to the amount of tax credit, following annual uprating, for up to 30 weeks

Verifying tax credit award details

P2.623 Generally, claimants will have an award notice from HMRC and these may be accepted as evidence. Claimants who have lost their notice may obtain a duplicate one from HMRC. If the claimant is unable to provide proof, you can obtain the information from HMRC, see *HB/CTB Security Guidance*.

Income from tax credits

P2.624 To calculate the weekly income, use the actual instalment, not the annual award.

P2.625 Take the actual instalment into account in line with the payment cycle of the instalment, ie the date the instalment is treated as paid from.

Example

Treat a four-weekly instalment of £250 paid on Tuesday 26 April 2005 as paid from Wednesday 30 March 2005 to Tuesday 26 April 2005. The weekly amount will be £62.50, ie $£250 \div 4$.

Treat a weekly instalment of £75 paid on Tuesday 26 April 2005 as paid from Wednesday 20 April 2005 to Tuesday 26 April 2005. The weekly amount is £75.

Treat a two weekly instalment of £120, with the first payment on Tuesday 26 April 2005, as paid from Wednesday 20 April 2005 to Tuesday 3 May 2005 (in line with the payment cycle). The weekly rate will be £60, ie $£120 \div 2$.

For daily instalments the award notice may read, 'That from 26 April 2005 your employer will include tax credit with your pay at a rate of £5 a day.' Treat the person as being paid £5 per day from and including Tuesday 26 April 2005.

Arrears paid

P2.626 The first page of the award notice confirms the period of the award is from 6 April until 5 April. However, if the award notice is dated at a later date it is probable that the

- award has been processed after the start of the tax year
- first payment will be of arrears

P2.627 This may occur when, for example, a person makes a claim during May but is entitled to WTC from 6 April, so the award is backdated to that date.

P2.628 In such cases, the award will consist broadly of

- an instalment of the tax credit for the initial period
- a series of regular instalments for the remainder of the award

P2.629 The award notice, page 3 shows details of the payments made. If the first payment differs considerably from the rest of the instalments it will be an arrears payment. Treat this payment as capital and disregard it for 52 weeks from date of receipt. The remaining instalments are treated as income.

P2.630-P2.636

Awards revised during course of tax year

P2.630 Revised tax credit award notices may be issued during the course of the tax year for a variety of reasons, eg

- an increase in wages
- the birth of a child
- a child returning to relevant education after age 16

All these circumstances can result in a change in the amount of tax credit due for the remainder of the year.

P2.631 You may already be aware of the change and have reassessed the HB/CTB claim accordingly. However different rules apply to the reporting of a change of circumstance that affects a tax credit claim. Therefore the change in the tax credit award may take place at a different time.

P2.632 The important points to remember are

- the relevant date that decides when you will take change of circumstance action is *the date the instalment is treated as paid from*. It is **not** the date the tax credit award actually changes
- you use the amount of the tax credit award that is due to be paid, ie the actual instalment
- any arrears paid are treated as capital. Disregard them for 52 weeks **only** if they have been paid because of a change of circumstance in the tax credit claim

P2.633 The information on an award notice giving details of a revised award should provide you with all the information you require to deal with the claim. However, in some circumstances, you may need to contact HMRC helpline.

P2.634 If you receive a *further* revised award notice take action as above, **but remember** you only need to reassess entitlement if the instalment amount of the tax credit alters.

Recovery of overpaid tax credits

P2.635 If an overpayment of tax credits has occurred during a period in which HB/CTB was also payable, and the overpayment is subsequently recovered, there is no provision in regulations to reassess the HB/CTB award for that previous period.

P2.636 HMRC may recover an overpayment in full which results in nil or reduced payments. If this method causes hardship for the claimant, HMRC can make 'top-up' or 'hardship' payments, see *Top-up payments and Hardship payments* later in this chapter.

- P2.637 The revised tax credit award shows the new award, the amount of the overpayment and the balance due to be paid. If a tax credit is overpaid, the award notice shows the date the last payment or unrevised payment of that credit was made. However, the only information needed for the assessment of HB/CTB are the instalments in payment.
- P2.638 The overpayment is usually recovered from the remaining tax credit in payment.
- P2.639 The revised notice shows that the annual award of tax credit remaining in payment has not changed. However, the payments will be considerably less because of the overpayment recovery.
- P2.640 In these cases, calculate the weekly income by using the new instalment.
- P2.641 The normal change of circumstance rule applies and the revised weekly amount will be taken into account from the following Monday.

Top-up payments

- P2.642 If the overpayment recovery results in reduced or nil payments and financial hardship, the claimant can ask for the recovery to be over a longer period. If HMRC agrees, the claimant receives the revised tax credit award due for the remainder of the year but the award will be adjusted so that some of the overpayment is recovered. These are called top-up payments.

Example

A family whose original annual award is £4,000 has the award revised six months later to £2,000 over the same period. After six months the family have had their full entitlement of £2,000 and now have nil entitlement.

- P2.643 In these cases, the pro-rata award is amended and reduced by
- **10%** when the claimant's income is under the taper threshold of £5,060 or they are receiving IS/JSA/ESA(IR). These are untapered awards
 - **25%** when the claimant has some income but is still receiving a reduced amount of WTC. These are tapered awards

Hardship payments

- P2.644 Hardship payments, also known as emergency payments, are usually made when there is a delay in processing a claim and entitlement to tax credit exists. The payment is a lump sum irrespective of the period it covers and is treated as capital.

P2.645-P2.669

P2.670-P2.681

Notional income

P2.670 A person may be treated as receiving income which they have not actually received (that is, income they are entitled to, but have not claimed). This is called notional income.
HB(SPC) Reg 41 & 42; CTB(SPC) Reg 31 & 32

P2.671 Notional income may be assumed in any of the following circumstances

- deprivation of income in order to claim, or increase entitlement to, benefit
HB(SPC) Reg 41; CTB(SPC) Reg 31
- retirement pension income which would be available to the claimant if they applied for it
HB(SPC) Reg 41; CTB(SPC) Reg 31
- income paid to a third party
HB(SPC) Reg 42; CTB(SPC) Reg 32
- payment from an occupational pension scheme has been deferred
HB(SPC) Reg 41; CTB(SPC) Reg 31

P2.672 A person may be treated as receiving the income of a third party paid to a member of the family, and kept and used for the family.

P2.673-P2.679

Possible entitlement to other retirement pension income/deferred income from occupational pension schemes

P2.680 From 4 April 2005, when a person is deferring receipt of their State Retirement Pension the notional income provisions do not apply.
HB(SPC) Reg 41; CTB(SPC) Reg 31

Note: If Pension Credit guarantee credit (with or without a savings credit) is in payment, award full eligible HB/CTB. If Pension Credit (savings credit) only is in payment, use the AIF provided by The Pension Service.

P2.681 Social security benefits should not normally be treated as income available on application unless an authority is satisfied not only that there would be entitlement to that income but also to the amount of that entitlement.

Trivial commutation of an occupational pension

- P2.682 HMRC rules allow a person to opt to take a lump sum (up to a maximum of £15,000) in lieu of a small private or occupational pension.
- P2.683 The notional income rules do not apply when a person has commuted a small amount of an occupational/private pension into a lump sum. However, any lump sum(s) received should be treated as capital in the normal way.

Occupational/personal pensions: money purchase benefits and annuities

- P2.684 If a claimant who has attained the qualifying age for Pension Credit is
- entitled to money purchase benefits as defined in Section 181 of the Pension Schemes Act 1993, under an occupational pension scheme, or
 - a personal pension scheme, or
 - is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, and
 - fails to purchase an annuity with the funds available in that scheme where
 - they defer (in whole or in part) the payment of any income which would have been payable to them by their pension fund holder
 - they fail to take any necessary action to secure that the whole of any income which would be payable to them by their pension fund holder upon their applying for it, is so paid; or
 - income withdrawal is not available to them under that scheme, or
 - in the case of a retirement annuity contract, they fail to purchase an annuity with the funds available under that contract

treat the amount of any income foregone as possessed by them, but only from the date on which it could be expected to be acquired were an application for it to be made.

HB(SPC) Reg 41; CTB(SPC) 31

- P2.685 If the claimant defers the payment of any income which would have been payable to them by their pension fund holder, or fails to take any necessary action to secure that the whole of any income which would be payable to them by their pension fund holder upon them applying for it
- approach the pension fund holder for this information
 - take into account the maximum income which may be withdrawn from the fund

P2.686-P2.752

P2.686 Take it into account only from the date on which it could be expected to be acquired by the claimant if an application for it were made.

HB(SPC) Reg 41; CTB(SPC) Reg 31

P2.687 If the claimant fails to purchase annuity because income withdrawal is not available to them under that scheme, or in the case of a retirement annuity contract, they fail to purchase an annuity with the funds available under that contract, the amount of any income foregone shall be the income that the claimant could have received without purchasing an annuity had the funds held under the relevant scheme or retirement annuity contract been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and shall be determined in the manner specified in HB(SPC) Reg 41 and CTB(SPC) Reg 31 as appropriate.

P2.688-P2.719

Deferred Retirement Pension

P2.720 If a claimant, having decided to receive increments following a deferral of their Retirement Pension (RP) changes their mind and elects to receive a lump sum, **do not** treat the increments as notional income.

HB(SPC) Reg 41; CTB(SPC) Reg 31

P2.721-P2.749

Deprivation of income

P2.750 Deprivation of income means that a claimant has relinquished, or transferred to another person, an income

- that they
 - have been receiving, or
 - were due to receive, and
- which would have continued during the period of award of HB or CTB

P2.751 Evidence of transfer would be the existence of a recent deed of gift conveying income to someone else. The onus of proving that a resource is no longer held, and that there is a legitimate reason for the transfer, rests on the claimant.

HB(SPC) Reg 41; CTB(SPC) Reg 31

P2.752 Any income, other than income from a discretionary or compensation trust or Jobcentre rehabilitation allowance, which would be paid to a claimant on application must be taken into account from the date it would have been acquired if the claimant had taken the necessary action to obtain it.

- P2.753 The LA should establish
- the amount of the income
 - the date(s) it is due to be paid, and
 - that the claimant, or someone acting on their behalf, is not prevented from applying for it
- P2.754 Only the types of income which are listed in HB(SPC) Reg 29 and CTB(SPC) Reg 19 can be taken into account. See *The meaning of 'income'* earlier in this section.

P2.755-P2.789

Upated changes in social security benefits

- P2.790 All social security benefits are upated during the benefit week which starts on or after the 6 April, the start of the tax year.
- P2.791 For HB purposes, the upated amount of these benefits should be taken into account as notional income from
- the first Monday in April, when rents are paid at weekly intervals or a multiple thereof, or
 - 1 April when rents are paid monthly or multiples thereof, until the date that the increased benefit would otherwise fall to be taken into account

HB(SPC) Reg 41

- P2.792 For CTB purpose, LAs may select either 1 April or the first Monday in April from which to take into account the upated social security benefits, but they must be uniform in the treatment of claims in their area.

CTB(SPC) Reg 31

P2.793-P2.839

Payments to, or in respect of, a third party

- P2.840 Any payment made in respect of a member of the family, but paid to a third party outside the family, should be treated as part of the family's income if it is paid to, or used to, provide for ordinary clothing or footwear, household fuel, rent, council tax or water charges.

HB(SPC) Reg 42; CTB(SPC) Reg 32

- P2.841 The term third party can include a public body, such as an LA or public utility, as well as an individual. It should, however, be noted by LAs that such payments in certain circumstances may constitute a charitable or voluntary payments, which attract a £10 disregard.

HB(SPC) Reg 42; CTB(SPC) Reg 32

P2.842-P2.891

P2.842 The *Social Security Amendment (Notional Income and Capital) Regulations (SI 1999/2640)* restore the policy intention that occupational and personal pensions, including Payment Protection Fund payments, which are primarily paid for day-to-day living expenses, are taken into account in full, regardless of whether they are paid direct to a claimant or to a third party.

P2.843 The above Regulations do allow an exception in those cases when a bankrupt has no other source of income or form of capital. In these circumstances any income or capital paid to a creditor will not be counted as either notional income or capital.

HB(SPC) Reg 42; CTB(SPC) Reg 32

P2.844-P2.859

Income of children and young persons

P2.860 The income of any child or young person who is a member of the claimant's family is ignored when calculating HB/CTB.

HB(SPC) Reg 23; CTB(SPC) Reg 13

P2.861-P2.889

Trust Funds

P2.890 A trust is an arrangement in which sums of money or property are held and administered by one or more people, acting as trustees for the benefit of another. It is usually governed by a trust deed which lays out the terms of the trust, eg a will or Deed of Settlement. Funds in trust may be held by

- the Public Trustee
- the Court of Protection. The Ministry of Justice (MoJ) selects a regulated banker to hold the money in the name of the beneficiary. The banker needs a court order before being able to release the money to the beneficiary
- private trustees or executors

P2.891 Examples of resources which may be held in Trust are

- compensation awards for personal (including criminal) injury or for personal loss
- maintenance, separation or divorce settlements
- occupational pension funds. Payments from these should be treated like any other occupational pension and taken fully into account

P2.892 The commonest types of trust are

- **constructive trusts**, imposed in certain circumstances by a court of equity in the event of a dispute over the beneficial ownership of property. The commonest form of constructive trust is called a resulting trust. This is when the person in whose name property was bought is said to hold it in resulting trust for the person who actually provided the purchase money
- **discretionary trusts**, when the trustees are empowered, usually in the trust deed, to pay money to one or more people at their discretion. A charitable trust is always discretionary and must be wholly and exclusively charitable, that is set up to promote an educational or religious purpose or a public benefit, eg relief of poverty, welfare

P2.893 A person's interest in a trust fund will only affect their entitlement to benefit if

- there is absolute entitlement to income or capital, or
- payments of income or capital are made at the trustee's discretion

Personal injury compensation trusts are described in *BW1* or *BP1 Disregarded capital*, earlier in this part. More information on other trust fund payments can be found in *BW1* or *BP1 Trust funds*, earlier in this part.

P2.894 Such a payment will be disregarded unless the payment is for

HB(SPC) Sch 5; CTB(SPC) Sch 3

- obtaining food, ordinary clothing and footwear or household fuel
- the payment of rent, council tax or water charges for which that claimant or partner is liable
- meeting housing costs of a kind specified in Schedule II to the State Pension Credit Regulations 2002 (SI 2002/1792)

in which case, there is a maximum £20 disregard. But bear in mind that if a £10 disregard has already been applied to

- war disablement or war widow's/war widower's pension, or any comparable payment paid by the government of a country outside Great Britain
- Guaranteed Income Payments (GIPs) under the Armed Forces and Reserve Forces Compensation Scheme (AFRFCS) including payments of survivors GIP paid to widows, widowers or surviving civil partners. The full £10 disregard can continue to apply if these payments are abated by a payment made under the Armed Forces Pension Scheme 1975 or 2005 or any comparable payment paid by the government of a country outside Great Britain, or
- a pension paid under the law of the Federal Republic of Germany or Austria to victims of National Socialist persecution

then you can only apply a maximum £10 disregard.

P2.895-P2.999

P2.895 If a £15 disregard has been applied to Widowed Parent's Allowance (WPA) or Widowed Mother's Allowance (WMA) and a disregard has been applied to:

- War Disablement or War Widow's/Widower's Pension, or any comparable payment paid by the government of a country outside Great Britain, or
- a pension paid under the law of the Federal Republic of Germany or Austria to victims of National Socialist persecution

then no disregard can be applied.

P2.896 If a £15 disregard has been applied to WPA or WMA and there is no disregard in respect of:

- War Disablement or War Widow's/Widower's Pension, or any comparable payment paid by the government of a country outside Great Britain, or
- a pension paid under the law of the Federal Republic of Germany or Austria to victims of National Socialist persecution

then you can only apply a maximum £5 disregard.

P2.897-P2.919

Loans and overdrafts

P2.920 Before deciding whether any loan or overdraft should be treated as income, it will be necessary to have regard to the particular circumstances of the individual case.

P2.921 Money which has been obtained by way of a one-off lump sum for example, would normally fall to be treated as capital, see *BW1* or *BP1 Assessment of capital* earlier in this part. This would particularly apply if a payment is for the purchase of a specific item or items such as a car or a holiday.

P2.922 There may, however be occasions when money obtained by way of a loan or overdraft may amount to other income. An example would be money received in the form of a series of loans which are made periodically to help defray a person's living costs, although we would suggest that an unused overdraft facility would not fall to be treated as either income or capital.

P2.923 As the way in which to treat a loan or overdraft depends so much on the individual circumstances, authorities may wish, in some instances, to seek advice from its legal advisers.

P2.924-P2.999

Examples of calculating self-employed earnings

In calculating the earnings of self-employed persons in these examples, the 2005/2006 rates of income tax and NI contributions have been used.

Class 2 contributions are payable for each week beginning between midnight Saturday/Sunday.

In the year 2005/2006, contributions are payable for 52 weeks from the week beginning midnight between Saturday 2 April and Sunday 3 April 2005, up to and including the contribution week beginning midnight between Saturday 1 April and Sunday 2 April 2006.

The small earnings exception for Class 2 contributions is £4,345 a year.

The weekly earnings should be calculated by dividing the yearly earnings by the number of days in the year and multiplying by 7.

In a leap year, the weekly earnings should be calculated by dividing the yearly earnings by 366 and multiplying by 7.

BP2 - Assessment of income

Annex A

Example A – A plumber

Claimant is married and only income is from his self-employment

	£	£	£	£
GROSS INCOME				
19,500.00				
less allowable business expenses				
Purchase of stock		1,500.00		
Heating/lighting		300.00		
Vehicle maintenance/running costs		1,200.00		
Repayment of loan (capital and interest) taken out to replace van		2,000.00		
Repairs to equipment		200.00		
VAT not yet recovered		100.00		
Wages of part-time assistant		<u>2,360.00</u>		
Total allowable business expenses			7,660.00	
CHARGEABLE INCOME = (£19,500 - £7,660)				11,840.00
deduct				
1 Tax				
Chargeable income	11,840.00			
less personal allowance	<u>4,895.00</u>			
leaves Taxable income of	6945.00			
10% tax on £2,090	209.00			
22% tax on £4855	<u>1,068.10</u>			
Total tax deduction		1,277.10		
2 Class 2 NIC @ £2.10 plus		109.20		
3 Class 4 NIC on difference between chargeable income and low profit limit x 8% of profit over £4,895				
£11,840 - £4,895 x 8%		555.60		
4 50% of personal pension scheme contributions of £300 payable yearly		<u>150.00</u>		
Total deductions for tax, NICs and personal pension contributions			2,091.90	
NET PROFIT = (£11,840 - £2,091.91)				9,748.09
Average weekly earnings (£9,768.09 ÷ 365 x 7) = 186.94966*				
Apply earnings disregard	<u>- 10.00</u>			
Weekly income forming the basis for HB or CTB assessment				176.94966*

*Income should not be rounded until the end of the HB or CTB calculation. See *A5 Rounding* earlier in this manual.

Example B – A Widget Grinder

Claimant is single and his only income is from his self-employment.

	£	£	£	£
GROSS INCOME				27,000.00
Sales			24,000.00	
VAT refund			3,000.00	
less allowable business expenditure				
Raw materials		5,800.00		
Repayment of loan (capital and interest) taken out to replace widget grinder		4,000.00		
Wages of part-time secretary		3,500.00		
Heating/lighting/power		1,200.00		
Vehicle maintenance/running costs		1,100.00		
Stationery/postage/phone		500.00		
Total allowable business expenses			16,100.00	
CHARGEABLE INCOME = (£27,000 - £16,100)				10,900.00
deduct				
1 Tax				
Chargeable income	10,900.00			
less personal allowance	4,895.00			
leaves Taxable income of	6,005.00			
10% tax on £2,090	209.00			
22% tax on £3,915	861.30			
Total tax deduction			1,070.30	
2 Class 2 NIC @ £2.10 plus		109.20		
3 Class 4 NIC on difference between chargeable income and low profit limit x 8% of profit over £4,895 £10,900 - £4,895 x 8%		480.40		
4 50% of contributions to personal pension scheme £400 payable yearly		200.00		
Total deductions for tax, NICs and personal pension contributions			1859.90	
NET PROFIT (£10,900.00 - £1859.90) =				9040.10
Average weekly earnings (£9040.10 ÷ 365 x 7) = 173.37177*				
Apply earnings disregard		- 5.00		
Weekly income forming the basis for HB or CTB assessment				168.37177*

*Income should not be rounded until the end of the HB or CTB calculation. See A5 Rounding earlier in this manual.

Annex A

Example C – I Floggit, Market Trader

Claimant is married and only income is from his self-employment

	£	£	£	£
GROSS INCOME				
Sales and miscellaneous				20,280.00
less allowable business expenses				
Purchase of stock		7,500.00		
Vehicle running costs		900.00		
Materials to repair stall		300.00		
Stall rental @ £40 pw		<u>2,080.00</u>		
Total allowable business expenses			10,780.00	
CHARGEABLE INCOME = (£20,280 - £10,780)				9,500.00
deduct				
1 Tax				
Chargeable income	9,500.00			
less personal allowance	<u>4,895.00</u>			
leaves Taxable income of	4,605.00			
10% tax on £2,090	209.00			
22% tax on £2,515	<u>553.30</u>			
Total tax deduction		762.30		
2 Class 2 NIC @ £2.10 pw plus		109.20		
3 Class 4 NIC on difference between chargeable income and lower profit limit x 8% of profit over £4,895 £9,500 - £4,895 x 8%		<u>368.40</u>		
4 50% of personal pension scheme contributions of £240 payable yearly		120.00		
Total deductions for tax, NICs and personal pension contributions			1,359.90	
NET PROFIT = (£9,500.00 - £1,359.90)				8,140.10
Average weekly earnings (£ 8,140.10 ÷ 365 x 7) = 156.1115*				
Apply earnings disregard	<u>- 10.00</u>			
Weekly income forming the basis for HB or CTB assessment				146.1115*

*Income should not be rounded until the end of the HB or CTB calculation. See *A5 Rounding* earlier in this manual.

Example D – Fringe Effects: Lampshade Maker

Claimant is married with two children. Her husband is unemployed and in receipt of JSA (Cont). Both aged over 25

	£	£	£	£
GROSS INCOME				
Sales				11,165.00
less allowable business expenditure				
Purchase of materials		1,775.00		
Interest on business loan		950.00		
Repair of sewing machine		150.00		
Heating/lighting/power		600.00		
Total allowable business expenses			3,475.00	
CHARGEABLE INCOME (£11,165 - £3,475) =				7,690.00
deduct				
1 Tax				
Chargeable income		7,690.00		
less personal allowance		4,895.00		
leaves Taxable income of		2,795.00		
10% tax on £2,090		209.00		
22% tax on £705.00		155.10		
Total tax deduction			364.10	
2 Class 2 NIC @ £2.10 plus			109.20	
3 Class 4 NIC on difference between chargeable income and lower profit limit x 8% on profit over £4,895				
£7,690 - £4,895 x 8%			223.60	
4 No personal pension scheme contributions				NIL
Total deductions for tax, NICs and personal pension contributions			696.90	
NET PROFIT = (£7,690.00 - £696.90)				6,993.10
Average weekly earnings (£6,993.10 ÷ 365 x 7) = 134.11424*				
Apply earnings disregard		- 10.00		
		124.11424*		
Add husband's contributory Jobseeker's Allowance, 56.20				
Child Benefit		28.00		
Weekly income forming the basis for HB or CTB assessment				208.71424*

*Income should not be rounded until the end of the HB or CTB calculation. See *A5 Rounding* earlier in this manual.

Annex A

Example E – A Kidd: Childminder

Claimant is married. Her husband is in full-time employment and has net earnings of £96 a week.

	£	£	£	£
GROSS INCOME				3,120.00
CHARGEABLE INCOME (£3,120.00 ÷ 3) =				1,040.00
deduct				
1 Tax not applicable as income below single person's tax threshold of £4,895	NIL			
2 Class 2 NIC – not applicable as income below small earnings exception level of £4,345	NIL			
3 Class 4 NIC – not applicable as lower profit limit of £4,895 not reached	NIL			
4 50% of personal pension scheme contributions of £220 payable yearly	110.00			
Total deductions for tax, NICs and personal pension contributions			110.00	
NET PROFIT = (£1,040.00 - £110.00)				930.00
Average weekly earnings (£930 ÷ 365 x 7) =	17.8356*			
Add Husband's net earnings	96.00			
				113.8356*
Apply earnings disregard	- 10.00			
Weekly income forming the basis for HB or CTB assessment				103.8356*

*Income should not be rounded until the end of the HB or CTB calculation. See *A5 Rounding* earlier in this manual.

| Does not apply to pensioners.

| Does not apply to pensioners.

Notional deductions for Income Tax

Main Income Tax allowance

1 The main income tax allowances are as follows.

		01/02	02/03	03/04	04/05	05/06	06/07	07/08
Allowance	Age	£	£	£	£	£	£	£
Personal	under 65	4,535	4,615	4,615	4,745	4,895	5,035	5,225
Personal	65-74	5,990	6,100	6,610	6,830	7,090	7,280	7,550
Personal	75 & over	6,260	6,370	6,720	6,950	7,220	7,420	7,690
Married Couple	people born before 6/4/1935	-	-	5,565	5,725	5,905	6,065	6,285
Married Couple	75 & over	-	-	-	5,795	5,975	6,135	6,365

Basic rate of tax

2 Income tax is payable on taxable income as shown in the table below.

Year	£	Rate
98/99	up to 4,300	at lower rate of 20%
	4,301 - 27,100	at basic rate of 23%
99/00	up to 1,500	at lower rate of 10%
	1,501 - 28,000	at basic rate of 23%
00/01	up to 1,520	at starting rate of 10%
	1,521 - 28,400	at basic rate of 22%
01/02	up to 1,880	at starting rate of 10%
	1,881 - 29,400	at basic rate of 22%
02/03	up to 1,920	at starting rate of 10%
	1,921 - 29,900	at basic rate of 22%
03/04	up to 1,960	at starting rate of 10%
	1,961 - 30,500	at basic rate of 22%
04/05	up to 2,020	at starting rate of 10%
	2,021 - 31,400	at basic rate of 22%
05/06	up to 2,090	at starting rate of 10%
	2,091 - 32,400	at basic rate of 22%
06/07	up to 2,150	at starting rate of 10%
	2,151 - 33,300	at basic rate of 22%
07/08	up to 2,230	at starting rate of 10%
	2,231 - 34,600	at basic rate of 22%

Tax credits - general information

1 This annex contains some general information about tax credits.

Tax Credit

Working Tax Credit

Employees

2 Working Tax Credit (WTC) payments for employees

- *payment for the first 6 weeks (42 days)* is made in three fortnightly instalments. The award notice shows the method and amount of each payment
- *after 42 days* payments are made by the employer through the claimant's pay-packet. The award notice shows the daily rate used by the employer
- in exceptional circumstances direct payments of WTC may be re-instated. These direct payments can be weekly or four-weekly at the claimant's preference, no preference they will be four-weekly

Self-employed

3 WTC payments for self-employed employees are made into their bank accounts.

Childcare element

4 Childcare is an element of WTC, however it is generally be paid to the main carer with the Child Tax Credit (CTC). Page 3 of the award notice shows which credit the childcare element is paid with.

Child Tax Credits

5 CTCs are paid on a four weekly cycle. However the claimant can request weekly payments.

Identifying claimants entitled to the 50 plus element

- 6 The claimant, or their partner, is aged at least 50, and **that person**
- starts 'qualifying remunerative work, and
Reg 4, Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002
 - is working for at least 16 hours per week, and
 - satisfies **one** of conditions **1-5**, as outlined below

Note: This person is referred to as 'person A' in the conditions below.

In some cases, someone absent from work through illness, maternity etc may be treated as being in 'qualifying remunerative work'.

Condition 1

Reg 18, Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

- 7 During either
- a a period of at least six months immediately before starting that work, or
 - b consecutive periods totalling at least six months, with the last period immediately before starting that work,
- 'person A' was in receipt of
- Income Support (IS)
 - Jobseeker's Allowance (JSA)
 - Incapacity Benefit (IB)
 - Severe Disablement Allowance (SDA), or
 - both State Retirement Pension (SRP) and State Pension Credit - guarantee credit

Condition 2

Reg 18, Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

- 8 For at least six months immediately before starting that work
- a another person was receiving IS, or JSA, or IB, or SDA, or both SRP and State Pension Credit - guarantee credit, **and**
 - b an increase was payable with that payment in respect of 'person A' as a dependant of the other person

Condition 3

Reg 18, Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

- 9
- a Immediately before starting that work, either
 - i 'person A' was in receipt of IS, or JSA, or IB, or SDA, or both SRP and State Pension Credit - guarantee credit, or
 - ii another person was receiving IS, or JSA, or IB, or SDA, or both SRP and State Pension Credit - guarantee credit, and an increase was payable with that payment in respect of 'person A' as a dependant of the other person, and
 - b immediately before the period satisfied by **3a**, there is a period when 'person A' – or their partner – was receiving one of Carer's Allowance (CA) (previously Invalid Care Allowance), Bereavement Allowance (BAllce) or Widowed Parent's Allowance WPA), and
 - c the total of the periods satisfied by **3a** and **3b** is at least six months

Condition 4

Reg 18, Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

- 10
- 'Person A', or their partner, is receiving one of
- CA
 - BAllce or
 - WPA

Condition 5

Reg 18, Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

- 11
- a for at least six months immediately before starting that work, 'person A' was entitled to be credited with contributions or earnings in accordance with the Social Security (Credits) Regulations 1975, or
 - b immediately before starting that work, 'person A' was entitled to be credited with contributions or earnings in accordance with the Social Security (Credits) Regulations 1975, **and** immediately prior to this, there was a period in which 'person A', or their partner, was receiving CA, BAllce or WPA, **and** the total of these periods is at least six months

Conditions 1, 2, 3 or 4 not satisfied

- 12
- If you have a case where conditions **1, 2, 3 and 4** are not satisfied, but you feel that condition **5** may be satisfied, please contact the relevant person for clarification of the details of this condition.

Meaning of terms used in childcare charges

For the purposes of relevant childcare charges, the following meanings must be used.

Term used	Meaning
Adoption leave	a period during which an employed parent is absent from work to care for a child newly matched with them by an approved adoption agency, and at the end of which they have a right to return to work either under the terms of their contract or under section 75A or 75B of the Employment Rights Act 1996
Crown property	property held by the Crown or a government department
Disabled child	a child who is <ul style="list-style-type: none"> • receiving DLA, or would be if they were not in hospital • registered blind, or ceased to be registered blind during the period <ul style="list-style-type: none"> - beginning 28 weeks before the first Monday in September that follows their 15th birthday and - ending the day before the first Monday in September that follows their 16th birthday

Example1

Child A is registered blind and is aged 16 on 24 July 2006. Childcare charges should be disregarded until 4 September 2006.

However, Child A ceased to be registered blind on 10 April 2005. As this is within the 28 weeks immediately preceding 5 September 2005, ie first Monday in September following child's 15th birthday, childcare charges can be disregarded up to and including 3 September 2006.

Example 2

Child B is registered blind and is aged 16 on 6 September 2007. Childcare charges should be disregarded until 1 September 2008.

However, Child B ceased to be registered blind on 30 May 2006. As this is within the 28 weeks immediately preceding 3 September 2006, ie first Monday in September following child's 15th birthday, childcare charges should be disregarded up to and including 31 August 2008.

continued

Annex F

Term used	Meaning
(Disabled child)	<p>Example 3</p> <p>Child C is registered blind. Their birthday is 10 July, and they will be 16 in 2007. However, they ceased to be registered blind on 1 November 2005. As this is outside the 28 week period immediately preceding the first Monday in September following their 15th birthday (4 September 2006), childcare charges should only be disregarded up to and including 3 September 2006.</p>
Local Authority	<p>in relation to</p> <ul style="list-style-type: none">• England, the<ul style="list-style-type: none">- council of a<ul style="list-style-type: none">~ county or district~ metropolitan district, or~ London Borough- Common Council of the City of London, or- Council of the Isles of Scilly• Wales, the Council of a<ul style="list-style-type: none">- county or- county borough• Scotland, a regional, islands or district council
Lone parent	<p>a person who has no partner and who is responsible for and a member of the same household as a child or young person</p>
Maternity leave	<p>a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract or under Part VIII of the Employment Rights Act 1996</p>
Incapacitated	<p>for the purposes of the childcare disregard, the other member of a couple is incapacitated when</p> <ul style="list-style-type: none">a they are aged 80 or over

continued

Term used	Meaning
Incapacitated	<p>b they are aged less than 80 and satisfy one of the conditions in para 13 of HB Sch 3/para 13 of CTB Sch 1, or would satisfy one of these conditions but for being treated as capable of work under section 171E of the Social Security Contributions and Benefits Act 1992. The claimant's applicable amount would include the work-related activity component or the support component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work</p> <p>c they have been treated as incapable of work for a continuous period of at least 196 days. Breaks in continuity of not more than 56 days should be ignored when calculating the 196 days</p> <p>d they have been treated as having limited capability for work-related activity for a continuous period of at least 196 days. Breaks in continuity of not more than 84 days should be ignored when calculating the 196 days</p> <p>e one or more of the following is payable in respect of them</p> <ul style="list-style-type: none"> – short-term higher rate or long-term Incapacity Benefit – Employment and Support Allowance (ESA) – Attendance Allowance (AA) under section 64 of the Social Security Contributions and Benefits Act 1992, ie not AA as defined in Reg 2(1) – Severe Disablement Allowance (SDA) – Disability Living Allowance (DLA) – an increase of disablement pension under section 104 of the Social Security Contributions and Benefits Act 1992 – an increase of a war pensions or disablement pension analogous to AA, DLA or an increase in disablement pension <p>f where any of the pensions or allowances, except short-term higher rate or long-term Incapacity Benefit have ceased because of hospitalisation</p> <p>g a payment equivalent to the ones described in c or d above is payable under Northern Ireland law in respect of the other member's incapacity</p> <p>h claimant has an invalid carriage or other vehicle provided under the relevant legislation</p>
Paternity leave	<p>a period during which a man is absent from work to take care of a baby, or child placed with them for adoption, and at the end of which he has a right to return to work under the terms of his contract or under section 80A or 80B of the Employment Act 1996</p>

Pension Credit case studies

Please note the following point before working through the examples

- these are not actual cases but are intended to help you understand how to begin processing a claim for HB from pensioners. Pension Credit awards will vary from person to person

Case study 1 - Case with guarantee credit element only in payment

A single woman aged 64, her income consists of basic rate Retirement Pension at £77.45 per week and a private pension of £20 per week.

She is a tenant, living alone.

Claimant claims Pension Credit. The claimant states she is not in receipt of HB/CTB. The Pension Service sends the claimant form HCTB1(PC), see A2 HBCTB1(PC) earlier in this manual, which the claimant returns to the LA.

Step 1: The Pension Service calculates Pension Credit

Appropriate Amount =	£102.10
Claimant's income:	
Retirement Pension	£77.45
Private Pension	£20.00
Total income	£97.45
Claimant will be entitled to	£102.10
	-£97.45
Pension Credit (guarantee credit)	£4.65
As the claimant is aged under 65, there is no entitlement to the savings credit element.	
Total Pension Credit award =	£4.65

Step 2: Notifying the LA

The Pension Service notifies the Local Authority of the award of Pension Credit (guarantee credit). See A5 Claimant receives IS, JSA(IB) or Pension Credit earlier in this manual.

Step 3: LA action

As the claimant is in receipt of Pension Credit (guarantee credit), the whole of the claimant's income and capital is disregarded for the purposes of assessing the HB/CTB claim.

HB (SPC) Reg 26, 64; CTB(SPC) Reg 16, 53

Case study 2 - Case with Pension Credit (guarantee credit and savings credit) in payment

A single man aged 66, his income consists of basic rate Retirement Pension at £77.45 per week and a private pension of £15 per week.

He is a tenant, living alone.

Claimant claims Pension Credit. The claimant states he is not in receipt of HB/CTB. The Pension Service sends the claimant form HCTB1(PC), see A2 HBCTB1(PC) earlier in this manual, which the claimant returns to the LA.

Step 1: The Pension Service calculates Pension Credit

Appropriate Amount =	£102.10
Claimant's income:	
Retirement Pension	£77.45
Private Pension	£15.00
Total income	£92.45
Claimant will be entitled to	£102.10
	-£92.45
Pension Credit (guarantee credit)	£9.65

As the claimant is aged 66, there would also be entitlement to the savings credit element.

Private Pension (£15.00) x 60%	£9.00
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Therefore, the claimant's Pension Credit entitlement would be **£18.65**, comprising £9.65 guarantee credit and £9.00 savings credit.

Steps 2 and 3

These steps are exactly the same as in Case Study 1. The important thing to remember is that the pensioner in Case Study 2 has been awarded Pension Credit (guarantee credit). Awards of Pension Credit (guarantee credit), whether or not with the savings credit element, give linked entitlement to full HB/CTB.

Case study 3 - Case with Pension Credit (savings credit) only in payment

A single woman aged 66, her income consists of basic rate Retirement Pension at £77.45 per week and a private pension of £30 per week.

Person is a tenant, living alone.

Claimant claims Pension Credit. The claimant states she is not in receipt of HB/CTB. The Pension Service sends the claimant form HCTB1(PC), see A2 HBCTB1(PC) earlier in this manual, which the claimant returns to the LA.

Step 1: The Pension Service calculates Pension Credit

Appropriate Amount =	£102.10
Claimant's income:	
Retirement Pension	£77.45
Private Pension	£30.00
Total income =	£107.45

The claimant's income exceeds their appropriate amount, so there is no entitlement to the guarantee credit element. However, as the claimant is aged over 65 and has qualifying income, the savings credit element will be considered.

The claimant's qualifying income is £30 above the savings credit starting point for a single person (£77.45). This would give her £18 savings credit (£30 x 60%), but maximum savings credit is £14.79.

So the maximum amount of savings credit will be reduced by 40p for every £1 of income that exceeds the relevant appropriate amount for the guarantee credit element. In this case, the claimant's income exceeds her appropriate amount by £5.35 (£107.45 - £102.10).

Maximum savings credit	£14.79
Less £5.35 x 40%	£2.14
Pension Credit (savings credit) entitlement =	£12.65

Step 2: Notifying the LA

In this example there is no entitlement to Pension Credit (guarantee credit) and therefore the claimant would not qualify for linked entitlement to full HB/CTB.

The HB/CTB claim would be treated as a 'standard' HB/CTB claim. The Pension Service would provide the LA with details about income to use in the standard HB/CTB calculation, and of the amount of Pension Credit (savings credit) awarded.

The details provided in this example would be:

Assessed Income Figure (AIF) =	£107.45
Pension Credit (savings credit) entitlement =	£12.65

See also A5 Claimant receives Pension Credit (savings credit) earlier in this manual.

Step 3: LA Action

The LA is required to use The Pension Service income assessment under

- HB(SPC) Reg 27
- CTB(SPC) Reg 17

The LA is required to take Pension Credit (savings credit) into account in cases when the savings credit element only is in payment under, for

- HB(SPC) Reg 27
- CTB(SPC) Reg 17

Therefore, when assessing the claimant's entitlement to standard HB/CTB, the LA will take into account in this case

AIF =	£107.45
Pension Credit (savings credit) entitlement =	£12.65

The LA would use the total of the AIF and the savings credit element entitlement as the income figure on which to base their HB/CTB calculation.

Registered or approved childcare providers

- 1 This annex is to help you identify approved childcare providers for the purpose of applying the childcare deduction in HB/CTB.
- 2 If the childcare element is in payment with the Working Tax Credit (WTC), usually childcare has been approved and the relevant childcare costs can be deducted for HB/CTB purposes.
- 3 If the childcare element is not in payment or there are doubts about whether the claimant qualifies, you may need to investigate further or urgently contact the relevant person as shown on the contact list.
- 4 You may find the following list helpful in identifying who are relevant childcare providers for tax credit purposes.
- 5 The childcare must be provided by one of the following
 - in England, Scotland and Wales
 - a childcare provider approved under a Ministry of Defence accreditation scheme abroad
 - an approved foster carer (the care must be for a child who is not a foster carer's foster child)
 - in England only
 - a childcare provider registered by Ofsted
 - out-of-school hours childcare or supervised activity based childcare, provided by a school on the school premises, or by a Local Authority or by a childcare provider registered by Ofsted
 - until 30 September 2007 - childcare schemes run by approved providers; for example, an out-of-school-hours scheme approved by an accredited childcare organisation. Please see Change in the law on childcare approved by accredited organisations in England
 - a person approved under the Childcare Approval Scheme providing childcare in the child's home or in other domestic premises
 - a domiciliary worker or nurse from an agency registered under the Domiciliary Care Agencies Regulations 2002 providing childcare in the child's home
 - in Scotland only
 - a childcare provider registered by the Scottish Commission for the Regulation of Care
 - out-of-school-hours childcare clubs registered by the Scottish Commission for the Regulation of Care
 - childcare provided in the child's home by, or introduced through childcare agencies, sitter services and nanny agencies which are required to be registered

- in Wales only
 - a childcare provider registered by the National Assembly for Wales (through the Care Standards Inspectorate for Wales)
 - out-of-school-hours childcare, provided by a school on the school premises, or by a Local Authority
 - a person approved under the Approval of Child Care Providers (Wales) 2007 Scheme providing childcare in the child's home or if several children are being looked after, in one of the children's homes
 - a domiciliary worker or nurse from an agency registered under the Domiciliary Care Agencies (Wales) Regulations 2004 providing childcare in the child's home

Change in the law on childcare approved by accredited organisations in England

- 6 From 1 October 2007, childcare providers or over seven clubs approved by one of the following accredited Quality Assurance Schemes ceased being eligible childcare providers for tax purposes unless they are also registered with Ofsted
- Aiming High
 - Flying High
 - For one child and all children
 - Growing in Quality
 - Merits of Quality Play
 - Norfolk Quality Kitemark
 - Quality for All
 - Quality in Play
 - Star Quality Assurance
- 7 If you have doubts about whether or not a childcare provider or a childcare scheme is registered with Ofsted, you can check with Ofsted on 0845 601 4771.
- 8 Costs of childcare given in the child's own home cannot be deducted if the person registered or approved to give that childcare is a relative of the child. Relative means a parent, grandparent, aunt or uncle, brother or sister (whether by blood, half-blood, marriage or affinity), and includes step-parents.

Earnings from permitted work: Weekly disregards

Notes:

The higher limit is linked to the adult hourly national minimum wage and is reviewed annually and likely to change yearly in October. See *Main earnings disregards* earlier in this chapter for the amounts.

The 52 week period is decided by the Secretary of State, you cannot set your own 52 week period.

Customer	ESA(C)/IB/SDA higher permitted work limit for 52 weeks	ESA(C)/IB/SDA higher permitted work limit, indefinitely	ESA(C)/IB/SDA lower permitted work limit, indefinitely
Single, only doing permitted work	Up to the higher limit for up to 52 weeks then the lower limit a week thereafter	Up to the higher limit indefinitely	Up to the lower limit indefinitely
Single, doing permitted work and has other earnings Note: 'Other earnings' means earnings from work that has not been classed as 'permitted work'	Up to the higher limit for up to 52 weeks then the lower limit for indefinite period thereafter	Up to the higher limit indefinitely	Up to the lower limit indefinitely
Lone parent, only doing permitted work	Up to the higher limit for up to 52 weeks then £25 a week for an indefinite period thereafter	Up to the higher limit indefinitely	Up to £25 indefinitely
Lone parent, doing permitted work and has other earnings	Up to the higher limit for up to 52 weeks then £25 for indefinite period thereafter	Up to the higher limit indefinitely	Up to £25 indefinitely

Customer	ESA(C)/IB/SDA higher permitted work limit for 52 weeks	ESA(C)/IB/SDA higher permitted work limit, indefinitely	ESA(C)/IB/SDA lower permitted work limit, indefinitely
Couple, only one doing permitted work (has no other earnings)	Up to the higher limit for up to 52 weeks then the lower limit for indefinite period thereafter	Up to the higher limit indefinitely	Up to the lower limit indefinitely
Couple, only one doing permitted work same one has other earnings	Up to the higher limit for up to 52 weeks then the lower limit for indefinite period thereafter	Up to the higher limit indefinitely	Up to the lower limit indefinitely
Couple, both doing permitted work (have no other earnings)	Where 52 weeks expire at the same time - up to the higher limit for up to 52 weeks then the lower limit for indefinite period thereafter Where 52 weeks expire at a different time, allow the higher limit for as long as one of them is entitled to the higher disregard in ESA(C)/IB/SDA, then the lower limit for an indefinite period thereafter	Where at least one is in this category, up to the higher limit indefinitely	Where neither is entitled to the higher limit disregards, up to the lower limit indefinitely
Couple, both doing permitted work, one or both have other earnings	Where 52 weeks expire at the same time - up to the higher limit for up to 52 weeks then the lower limit for indefinite period thereafter Where 52 weeks expire at a different time, allow the higher limit for as long as one of them is entitled to the higher disregard in ESA(C)/IB/SDA, then the lower limit for an indefinite period thereafter	Where at least one is in this category, up to the higher rate indefinitely	Where neither is entitled to the the higher limit disregard, up to the lower limit indefinitely

Customer	ESA(C)/IB/SDA higher permitted work limit for 52 weeks	ESA(C)/IB/SDA higher permitted work limit, indefinitely	ESA(C)/IB/SDA lower permitted work limit, indefinitely
<p>Couple, one doing permitted work with no other earnings, the other has other earnings</p> <p>Up to the higher limit of the earnings from permitted work for as long as one of them is entitled to the higher disregard in ESA(C)/IB/SDA. If the permitted work earnings are less than the higher limit, also disregard up to a maximum of the of the other's earnings towards making up the shortfall. Once the higher disregard from permitted work ceases to apply, a maximum of the lower limit of all the earnings for an indefinite period thereafter</p>	<p>Up to the higher limit of the earnings from permitted work and other earnings of the same person for as long as that person is entitled to the higher disregard in ESA(C)/IB/SDA. If the total earnings disregarded is less than the higher limit, also disregard up to a maximum of the lower rate of the other's earnings towards making up the shortfall. Once the higher disregard for permitted work ceases to apply, a maximum of the lower rate of all the earnings for an indefinite period thereafter</p>	<p>Up to the higher limit of the earnings from permitted work indefinitely. If the permitted work earnings are less than the higher limit also disregard up to a maximum of the lower limit of the other's earnings towards making up the shortfall, indefinitely</p>	<p>Up to the lower limit of the earnings from permitted work indefinitely. If the permitted work earnings are less than the lower limit, also disregard enough of the other's earnings to make up the shortfall, indefinitely</p>
<p>Couple, one doing permitted work, both have other earnings</p> <p>Up to the higher limit of the earnings from permitted work and other earnings of the same person for as long as that person is entitled to the higher disregard in ESA(C)/IB/SDA. If the total earnings disregarded is less than the higher limit, also disregard up to a maximum of the lower rate of the other's earnings towards making up the shortfall. Once the higher disregard for permitted work ceases to apply, a maximum of the lower rate of all the earnings for an indefinite period thereafter</p>	<p>Up to the higher limit of the earnings from permitted work and other earnings of the same person indefinitely. If the total earnings disregarded is less than the higher limit, also disregard up to a maximum of the lower limit of the other's earnings towards making up the shortfall, indefinitely</p>	<p>Up to the higher limit of the earnings from permitted work and from earnings of the same person indefinitely. If the total earning disregarded is less than the lower limit, also disregard enough of the other's earnings to make up the shortfall, indefinitely</p>	<p>Up to the lower limit of the earnings from permitted work and from earnings of the same person indefinitely. If the total earning disregarded is less than the lower limit, also disregard enough of the other's earnings to make up the shortfall, indefinitely</p>