

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 5

Amendment 55 – Oct 2018

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

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

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

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

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

3. Amendment 55 affects chapters 28, 29. The changes:
 - make various minor amendments to chapter 28
 - make various minor amendments to chapter 29
4. Using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Chapter 28

28052 – 28075 (1 page)
28350 – 28351 (2 pages)
28608 – 28616 (1 page)

Chapter 29

29495 – 29498 (1 page)
29860 – 29864 (2 pages)

Insert

Chapter 28

28052 – 28075 (1 page)
28350 – 28351 (2 pages)
28608 – 28616 (1 page)

Chapter 29

29495 – 29498 (1 page)
29860 – 29864 (2 pages)

Benefits taken fully into account

Bereavement allowance

- 28052 BA should be taken into account in full. It replaced WP for claimants whose spouse or civil partner has died. It is restricted to payment for not more than 52 weeks.

Note: WP may continue to be paid to widows whose husband died before 9.4.01.

Carer's allowance

- 28053 CA should be taken fully into account. It is payable to people who are unable to work because they are caring for a person receiving AA or DLA.
- 28054 When CA is in payment to a young person who is also a dependant on an IS claim, CA should be taken into account up to the amount of the dependant's personal allowance and any DCP payable for that young person. Any remaining CA should be disregarded.

Note: The Scottish carer's allowance supplement¹, paid by the Scottish Government to those recipients of CA living in Scotland, is **not** the same as CA and is fully disregarded for income purposes.

The Scotland Act 2018, s 47.

Child benefit

[See DMG Memo IS/JSA 64]

- 28055 CHB should be taken into account in full. It is payable to people in GB who are responsible for a child.

Note: CHB is the income of the adult responsible for a child. It is not the income of the child.

28056

Child tax credit

[See DMG Memo IS/JSA 64]

- 28057 CTC should be taken fully into account. It is paid to the main carer in the family whether they are in or out of work and is paid in arrears, either weekly or four weekly.

28058

ESA(Cont)

- 28059 ESA(Cont) should be taken fully into account. ESA(Cont) is paid to people who

1. have LCW **and**
2. satisfy the contribution conditions.

28060 - 28062

Incapacity benefit

28063 IB should be taken fully into account. IB is paid to people who are incapable of work

1. who are not entitled to SSP **or**
2. whose SSP has ended.

28064

Industrial injuries disablement benefit

28065 IIDB should be taken fully into account. The additional allowances

1. REA **and**
2. US

may also be paid with IIDB. They should be taken fully into account.

Note: Unemployability supplement was removed from the scheme on 6.4.87 but may continue in payment to people getting it before that date.

28066 See the guidance on attendance allowances for the treatment of ESDA and CAA paid with IIDB (see DMG 28352).

28067 Disablement gratuity should be treated as capital. But REA paid with it should be taken fully into account as income.

28068 - 28069

JSA(Cont)

28070 JSA(Cont) received by a partner should be taken fully into account. It is payable to unemployed people who have paid enough SS contributions¹.

Note: Any JSA(Cont) payable to either member of a joint-claim couple forms part of the couple's personal rate².

1 JS Act 95, s 2; 2 s 4A(10)

Maternity allowance

28071 MA should be taken fully into account. It is payable to women who cannot get SMP.

28072 - 28075

Income fully disregarded

Types of income fully disregarded

[See DMG Memo IS/JSA 64]

28350 The following incomes should be fully disregarded when calculating income for IS and JSA(IB)

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

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

- 46. special educational needs payments and budgets
- 47. special guardianship payments
- 48. training premium and expenses
- 49. travel or any other expenses in respect of the MWA Scheme or a prescribed scheme for assisting persons to obtain employment
- 50. vouchers including child care cheques
- 51. war widows/widowers, surviving civil partners supplementary pensions
- 52. welfare foods, NHS supplies, travelling expenses and assisted prison visits.

Note: See DMG 28450 et seq for further guidance on the payments listed at 1..

28351 For IS only any income paid to a person to whom DMG 20530 (MIRO) applies should be disregarded¹.

1 IS (Gen) Regs, Sch 9, para 74

Note 1: The Independent Living Fund (2006) closed on 30.6.15. Payments made under any of the replacement schemes (ILF Scotland (including NI), Welsh Independent Living Grant & Local Authorities in England) are not covered by this legislation and will be taken fully into account.

Note 2: From 2.10.17 approved IBS for England, Wales and Northern Ireland replaced the five existing UK payment schemes (The Eileen Trust, The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation) which provided financial support to people infected with HIV and/or hepatitis C as a result of contaminated NHS blood or blood products (see DMG 28450).

Notional income - carer's allowance

28608 DMG 28609 - 28616 gives guidance on how to apply the notional income provisions in cases

1. where

1.1 SDP has been withdrawn or reduced because CA is in payment to the carer **and**

1.2 the carer then chooses to give up CA **and**

2. where it appears that a carer may be entitled to CA but CA is not in payment.

Note: The Scottish carer's allowance supplement¹, paid by the Scottish Government to those recipients of CA living in Scotland, is **not** the same as CA and is fully disregarded for income purposes.

The Scotland Act 2018, s 47.

Deprivation of income

28609 If carers do something that means CA stops being paid, this is deprivation of income¹. This may include

1. telling the DM they no longer wish CA to be paid to them **or**

2. changing their circumstances so they no longer qualify for CA.

Where there has been a deprivation of CA, the purpose of the deprivation should then be considered².

1 R(SB) 40/85, para 8; 2 JSA Regs, reg 105(1); IS (Gen) Regs, reg 42(1)

28610 A carer should be treated as possessing income where CA has been given up for the purpose of

1. in JSA cases, gaining entitlement to, or increasing the amount of JSA(IB)¹ **or**

2. in IS cases, gaining entitlement to, or increasing the amount of IS²

for the carer, the carer's partner or any other member of the carer's JSA(IB) or IS family (see DMG Chapter 22).

Note: The carer does not have to be the JSA or IS claimant.

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

28611 Carers should not be treated as possessing CA which they have given up solely to secure or increase JSA(IB) or IS for someone who is **not** a member of the JSA(IB) or IS family. In these circumstances DMs should consider whether DMG 28613 applies.

- 28612 Guidance on establishing the purpose of a deprivation is at DMG 28586 et seq. DMs should note that it is not enough that securing or increasing JSA(IB) or IS is a natural consequence of giving up CA. A positive intention to secure or increase JSA(IB) or IS has to be shown¹.

1 R(SB) 9/91, para 8

Income available on application

- 28613 If CA is not to be taken into account under the deprivation rule, the DM should also consider the available on application rule (see DMG 28593 et seq)¹.

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

- 28614 CA may be taken into account using this rule where there is no doubt that

1. a fresh claim **or**
2. an application to the DM for payments to resume

will lead to payments being made to the carer. Guidance on the date from which notional income is assumed under this rule is at DMG 28598 et seq.

Income due but not paid

- 28615 CA should not be assumed under this rule¹. CA is an exception (see DMG 28641 4.1)².

1 JSA Regs, reg 105(6); IS (Gen) Regs, reg 42(3)

2 JSA Regs, reg 105(7)(b); IS (Gen) Regs, reg 42(3)(b)

Notional income and changes in circumstances

- 28616 After notional CA is taken into account, the carer's circumstances may change. Notional income is calculated as if the income in question is really in payment¹. This means that notional CA should only stop where the change

1. would have caused CA to stop, had it really been in payment **and**
2. has not been contrived by the carer to secure or increase benefit as in DMG 28610.

Note: This applies to notional income under either DMG 28610 or 28614.

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

Capital disregarded for 52 weeks

Arrears of allowances and benefits

The law

29495 Arrears of certain allowances and benefits are disregarded for 52 weeks from the date the payment of arrears is received¹ (but see DMG 29511 if the arrears and any concessionary payment total £5000 or more). The disregard applies to arrears of

1. AA²
2. CAA which is paid with a disablement pension because disablement has been assessed at 100%³
3. ESDA paid because industrial disablement has been assessed at 100%⁴
4. CAA and ESDA paid because the claimant is entitled to workmen's compensation⁴
5. an attendance allowance paid under the PB and MDB scheme
6. payments for attendance under the Civilian's Personal Injury Scheme⁵ or any similar payment. These payments are made to people who receive a DP because of war injuries suffered as civilians or civil defence volunteers
7. any payment for attendance which is part of a WDisP. This includes severe disablement occupational allowance paid with CAA
8. the care component of DLA
9. the mobility component of DLA
10. the mobility component of PIP
11. Mobility Supplement
12. Mobility Allowance which people could get under repealed social security law⁶
13. CTB
14. IS
15. for JSA only - JSA(IB)
16. for IS only - JSA(IB)
17. discretionary housing payment
18. CTC
19. WTC
20. ESA(IR)
21. any payment made to the claimant for travel or other expenses in respect of participation in

21.1 MWA Scheme or

21.2 SAPOE

22. UC

23. BSP⁶.

The disregard also applies to a concessionary payment which is made to compensate for arrears of those benefits or allowances. The disregard applies from the date the concessionary payment is received¹.

Note: The disregard at **16.** will not apply after 28.3.04.

*1 JSA Regs, Sch 8, para 12; IS (Gen) Regs, Sch 10, para 7; 2 SS CB Act 92, s 64; 3 s 104 or 105;
4 Workmen's Compensation Acts 1925 to 1945; 5 Personal Injuries (Civilians) Scheme 1983,
Art 14, 15, 16, 43 or 44; 6 SS Act 75, s 37A; 6 Pensions Act 14, s.30*

Meaning of concessionary payment

29496 Concessionary payment means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to

1. the NI Fund **or**
2. a Departmental Expenditure Vote to which payments of benefit under SS law¹ are charged².

1 JS Act 95; SS CB Act 92; 2 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

Additional payment of bereavement support payment

29497 Where a claimant in receipt of IS or JSA

1. makes a claim for BSP 12 months or less after their spouse or civil partner died **and**
2. receives the additional payment of BSP for the first month of their BSP period at either the higher (£3,500) or standard (£2,500) rate¹

that first additional payment is disregarded when calculating that person's capital for a period of 52 weeks from the date of receipt².

1 BSP Regs, reg 3(2) & (5); 2 IS (Gen) Regs, Sch 10, para 72; JSA Regs, Sch 8, para 65

Arrears of payments to certain war widows or surviving civil partners

29498 Payments to certain war widows and surviving civil partners are disregarded for 52 weeks from the date the payment of arrears is received. The disregard applies to arrears of

1. a supplementary pension paid to a widow or surviving civil partner, or where a person is not entitled to such a payment but to whom the Secretary of State has made a similar payment, for

1.1 the disablement or

Personal equity plans

29660 A personal equity plan was an investment. People could invest up to a certain amount of money in one in each tax year if they were

1. 18 or over **and**
2. liable to pay UK tax (see DMG Chapter 07).

The value of a personal equity plan is what people would get if they withdrew their investment on the date of claim or supersession. Any income which is paid out of a personal equity plan is income from capital.

29661 A personal equity plan mortgage is not a mortgage. It is a personal equity plan and should be valued as such even if people say they are going to use their investment to pay off their mortgage. Normally, a mortgage is an incumbrance secured on the property bought with the mortgage. The mortgage is not likely to be an incumbrance secured on the personal equity plan.

Note: A personal equity plan was replaced by an individual savings account in April 1999. From that date people could no longer invest in their personal equity plan or open a new one.

Individual savings account

29662 An individual savings account is an investment. People can invest up to a certain amount of money in one in each tax year if they are

1. 16 or over **and**
2. resident or ordinarily resident in the UK for tax purposes.

The value of an individual savings account is what people would get if they withdrew their investment on the date of claim or supersession. Any income, which is paid out of an individual savings account, is income from capital.

29663 Normally, a mortgage is an incumbrance secured on the property bought with the mortgage. If someone says they are using an individual savings account to pay off their mortgage this is not likely to be an incumbrance secured on the individual savings account and it should be valued as such.

29664 It is a requirement of the regulations that the individual savings account remain in the beneficial ownership of the investor¹.

1 The Individual Savings Account Regulations 1998 para 4(6)

Note: If there is evidence that the individual savings account or personal equity plan was taken out at the same time as the mortgage and it can be shown that the lender had an equitable charge over the individual savings account or personal equity plan then it may constitute an equitable charge and they should be valued taking that into account.

Lifetime individual savings account

29665 The Lifetime individual savings account is available for people who are aged 18 to 40 when it is opened. It is similar in many ways to a normal individual savings account with the addition of a government bonus of 25% paid on the contributions made by the saver of up to a limit of £4000 annually. This Lifetime individual savings account should be treated as capital from the outset with a value of

1. 75% of the surrender value where the person is under age 60 **or**
2. 100% of the surrender value where the person is over age 60

taken into account.

Stocks and shares quoted on the London Stock Exchange

Value of stocks and shares

29666 The value of stocks and shares can be obtained from the financial pages in a newspaper which is dated the same date as the date of claim or supersession. A newspaper gives the price for most of the stocks and shares quoted on the London Stock Exchange. A valuation using the price given in a newspaper is not an exact valuation.

29667 To decide if an exact valuation is needed, first work out the value of the stocks and shares using the price given in a newspaper. An exact valuation is always needed if the price of a stock or share is not given in a newspaper.

29668 To work out the value of stocks and shares from the price given in a newspaper

1. find the price of the stock or share in a newspaper which is dated the same date as the date of claim or application for supersession **and**
2. multiply the figure at 1. by the number of that stock or share the person has.

29669 An exact valuation is needed if the value of the stocks or shares are close to the lower or upper capital limits or there is a change to the amount of tariff income when the value is added to any other capital

1. the claimant and partner has **or**
2. a child or young person has¹.

1 R(IS) 18/95

29670 To work out the exact value of stocks and shares

1. use the free internet tool Yahoo Finance to find the highest and lowest price for the day before the date of claim or supersession **and**

2. deduct the lowest price from the highest price **and**
3. divide the figure at 2. by four **and**
4. add the figure at 3. to the lowest price **and**
5. multiply the figure at 4. by the number of that stock or share the person has.

29671 Once the share value has been calculated as in DMG 29669, deduct 10% costs of sale as per DMG 29611, rounding down in the claimant's favour at the last stage in the calculation.

Example

Roy has 250 Marks and Spencer shares. The highest and lowest share prices for the day before the date of claim is £4.1750 and £4.1250 respectively.

Deduct the lowest from the highest price (£4.1750 - £4.1250) = £0.05

Divide £0.05 by 4 = £0.0125

Add £0.0125 to the lowest share price (£0.0125 + £4.1250) = £4.1375

Multiply £4.1375 by the number of share (250) = £1034.3750

Deduct 10% expense of sale = £930.93.

Incumbrances secured on stocks and shares

29672 Stockbrokers have an incumbrance secured on stocks or shares if the person they have bought the stocks or shares for has not paid

1. the broker for them **or**
2. the broker's commission¹.

1 R(IS) 18/95

The incumbrance is secured only on the stocks and shares which have not been paid for or on which commission has not been paid. The incumbrance is not secured on any other stocks and shares which the stockbroker buys for the person.

29673 The amount of the incumbrance is the amount owed to the stockbroker.

Government securities

29674 Government Securities are stocks issued by the British Government. They are sold in £100 units but re-investments can be for different amounts. Government Securities include

1. consolidated stock
2. conversion loan

3. exchequer stock
4. funding stock
5. Treasury stock
6. 3½% War Loan.

29675 The value of Government Securities should be worked out in the same way as for stocks and shares (see DMG 29665 et seq).

29676 The free internet tool Yahoo Finance will provide DMs with a value provided the stock has not reached the date when the capital invested is repayable. If that date has been reached, the claimant should be advised to write to the Historic Price Service, London Stock Exchange, Old Broad Street, London EC2N 1HP. Any cost imposed by this service would be payable by the claimant. Information can be obtained from the London Stock Exchange website. However, this only holds data from 1999 onwards.

29677 - 29679

Unit trusts

Value of unit trusts

29680 To work out the value of a unit in a unit trust

1. find the bid price for a unit in the trust in a newspaper which is dated the same date as the date of claim or application for supersession **and**
2. multiply the figure at 1. by the number of units a person has.

Note: the value of a unit trust can also be found at:

<http://markets.ft.com/research/Markets/Data-Archive>

Costs of sale

29681 Persons apply to the manager of the trust to withdraw their money so there are no costs of sale. This applies even if persons use an agent, such as a stockbroker.

29682 - 29684

Value of capital in certain cases

Bank and building society accounts

29685 A person who has money in a bank or building society account has a right to capital. The value of the rights to capital is the balance in the account on the date of claim or

Capital paid to or for a third party

Capital paid to a third party for the claimant or a member of the claimant's family

29860 **[See DMG Memo JSA/IS 64]** The law states that a claimant or a member of a claimant's family is treated as having capital which is paid to a third party if the payment

1. is for that
 - 1.1 claimant **or**
 - 1.2 member of the claimant's family **and**
2. is made under social security law¹ or is a
 - 2.1 WDisP **or**
 - 2.2 WWP **or**
 - 2.3 a pension paid to a forces widow or surviving civil partner under specific provisions² or any other pension for persons who have been disabled or died as members of the armed forces **or**
 - 2.4 War Widower's Pension³
 - 2.5 Surviving Civil Partner's War Pension
3. for JSA would normally have been paid to that
 - 3.1 claimant **or**
 - 3.2 member of the claimant's family⁴.

For IS this does not apply if the payment is made to a third party and it is for a member of the third party's family⁵.

1 WR Act 07; JS Act 95; SS CB Act 92; 2 Armed Forces (Pensions and Compensation) Act 2004; Naval, Military and Airforces etc (Disablement and Death) Service Pensions Order 83 made under the Naval and Marine Pay and Pensions Act 1865 or the Pension and Yeomanry Pay Act 1884; SS (Misc Prov) Act 77; 3 SS (Miscellaneous Amendment) Regs 2002, regs 2 & 3; 4 JSA Regs, reg 113(3)(a)(i); IS (Gen) Regs, reg 51(3)(a)(i); 5 reg 51(3)(a)(i)

29861 The law says the claimant or a member of a claimant's family is treated as having a certain amount of capital which is paid to a third party if the payment is

1. not a payment under SS law¹ **and**
2. not a payment of a
 - 2.1 WDisP **or**
 - 2.2 WWP **or**
 - 2.3 War Widower's Pension²
 - 2.4 Surviving Civil Partner's War Pension
3. not a payment³ made under the
 - 3.1 Macfarlane Trust (see DMG 29451) **or**

- 3.2 Macfarlane (Special Payments) Trust (see DMG 29452) **or**
- 3.3 Macfarlane (Special Payments) (No. 2) Trust (see DMG 29453) **or**
- 3.4 Fund (see DMG 29454) **or**
- 3.5 Eileen Trust (see DMG 29455) **or**
- 3.6 MFET Limited (see DMG 29456) **or**
- 3.7 Independent Living Fund (2006) (see DMG 29441) **or**
- 3.8 Skipton Fund (see DMG 29457)
- 3.9 Caxton Foundation (see DMG 29458)
- 3.10 SIBSS (see DMG 29459) **or**
- 3.11 approved blood scheme (see DMG 29460)
- 3.12 London Emergencies Trust (DMG 29462)
- 3.13 We Love Manchester Emergency Fund (DMG 29463) **and**
- 3.14 London Bombings Relief Charitable Fund (DMG 29461)
- 4. not a payment⁴ under relevant legislation⁵ in respect of participation in
 - 4.1 a specified employment programme⁶ **or**
 - 4.2 a specified training scheme⁷ **or**
 - 4.3 the Intensive Activity Period⁸ or Intensive Activity Period for ND 50+ **or**
 - 4.4 Flexible New Deal⁹ **or**
 - 4.5 a specified employment-related course¹⁰ **or**
 - 4.6 the MWA Scheme¹¹ **or**
 - 4.7 SAPOE¹² **and**
- 5. for that
 - 5.1 claimant **or**
 - 5.2 member of the claimant's family **and**
- 6. used to pay for
 - 6.1 food **or**
 - 6.2 ordinary clothing or footwear **or**
 - 6.3 household fuel **or**
 - 6.4 rent for which housing benefit is payable **or**
 - 6.5 housing costs which are included when working out the claimant's applicable amount **or**
 - 6.6 CT or water charges which the claimant or member of the claimant's family has to pay **and**

the amount of capital that claimant or member of the claimant's family is treated as having is the amount paid out under 5.¹³. For IS this does not apply if the payment is made to a third party and it is for a member of the third party's family¹⁴.

Note: "Ordinary clothing or footwear" means clothing or footwear for normal daily use. It does not include school uniforms or clothing or footwear used solely for sporting activities¹⁵.

1 WR Act 07; JS Act 1995; SS CB Act 92; 2 SS (Miscellaneous Amendments) Regs 2002, regs 2 & 3; 3 JSA Regs, reg 113(3A)(a); IS (Gen) Regs, reg 51 (3A) (a); 4 JSA Regs, reg 113(3A)(b); IS (Gen) Regs, reg 51(3A)(b); 5 E&T Act 73, s 2; 6 JSA Regs, reg 75(1)(a)(ii); 7 reg 75(1)(b)(ii); 8 reg 75(1)(a)(iv); 9 reg 75(1)(b)(v); 10 reg 17A(7); 11 reg 113(3A)(bb); 12 reg 113(3A)(bc); 13 reg 113(3)(a)(ii); IS (Gen) Regs, reg 51(3)(a)(ii); 14 reg 51(3)(a); 15 JSA Regs, reg 113(8); IS (Gen) Regs, reg 51(8)

Capital paid to a claimant or a member of the claimant's family for a third party

29862 The law states that a claimant or a member of the claimant's family is treated as having a certain amount of capital if a payment is

1. made
 - 1.1 to that claimant or member of the claimant's family **and**
 - 1.2 for a third party¹ **and**
2. not made² under the
 - 2.1 Macfarlane Trust (see DMG 29451) **or**
 - 2.2 Macfarlane (Special Payments) Trust (see DMG 29452) **or**
 - 2.3 Macfarlane (Special Payments) (No. 2) Trust (see DMG 29453) **or**
 - 2.4 Fund (see DMG 29454) **or**
 - 2.5 Eileen Trust (see DMG 29455) **or**
 - 2.6 MFET Limited (see DMG 29456) **or**
 - 2.7 Independent Living Fund (2006) (see DMG 29441) **or**
 - 2.8 Skipton Fund (see DMG 29457) **or**
 - 2.9 Caxton Foundation (see DMG 29458) **or**
 - 2.10 SIBSS (see DMG 29459) **or**
 - 2.11 approved blood scheme (see DMG 29460) **or**
 - 2.12 London Emergencies Trust (DMG 29462) **or**
 - 2.13 We Love Manchester Emergency Fund (DMG 29463) **or**
 - 2.14 London Bombings Relief Charitable Fund (see DMG 29461)
3. not a payment³ under relevant legislation⁴ in respect of participation in
 - 3.1 a specified employment programme⁵ **or**
 - 3.2 a specified training scheme⁶ **or**

- 3.3 the Intensive Activity Period⁷ or Intensive Activity Period for ND 50+ **or**
- 3.4 Flexible New Deal⁸ **or**
- 3.4 a specified employment-related course⁹ **or**
- 3.5 the MWA Scheme¹⁰ **or**
- 3.6 SAPOE¹¹
- 4. not a payment of
 - 4.1 an occupational pension¹² **or**
 - 4.2 a pension or any other periodical payment under a personal pension scheme¹³ **or**
 - 4.3 a payment made by the Board of the Pension Protection Fund
 where DMG 29870 applies¹⁴.

Note: See DMG 23846 - 23849 for the definition of “personal pension scheme” and DMG 23854 - 23855 for the definition of “periodical payment”.

1 JSA Regs, reg 113(3)(b); IS (Gen) Regs, reg 51(3)(b); 2 JSA Regs, reg 113(3A)(a); IS (Gen) Regs, reg 51(3A)(a); 3 JSA Regs, reg 113(3A)(b); IS (Gen) Regs, 51(3A)(b); 4 E&T Act 73, s 2; 5 JSA Regs, reg 75(1)(a)(ii); 6 reg 75(1)(b)(ii); 7 reg 75(1)(a)(iv); 8 reg 75(1)(a)(v); 9 reg 17A(7); 10 reg 113(3A)(bb); 11 reg 113(3A)(bc); 12 reg 1(3); IS (Gen) Regs, reg 2(1); 13 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 14 JSA Regs, reg 113(3A)(c); IS (Gen) Regs, reg 51(3A)(c)

29863 DMG 29862 does not apply to a payment of capital made to

- 1. claimants which is for a member of their family **or**
- 2. a member of a claimant’s family which is for
 - 2.1 that claimant **or**
 - 2.2 another member of that family¹.

1 JSA Regs, reg 113(3)(b); IS (Gen) Regs, reg 51(3)(b)

29864 The amount of capital that the claimant or member of the claimant’s family is treated as having is the amount

- 1. kept by that
 - 1.1 claimant **or**
 - 1.2 member of the claimant’s family **or**
- 2. used by that
 - 2.1 claimant **or**
 - 2.2 member of the claimant’s family **or**
 - 2.3 claimant for any member of that claimant’s family **or**
 - 2.4 member of the claimant’s family for that claimant or any other member of that family¹.

1 JSA Regs, reg 113(3)(b); IS (Gen) Regs, reg 51(3)(b)