

# DMG Chapter 85: Income other than earnings

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# General 85000 - 85029

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# Introduction 85000 - 85002

## Scope of this chapter

85000 This chapter deals with the calculation and treatment of income<sup>1</sup> other than earnings in claims for SPC.

1 SPC Act 02, s 15

## The calculation and treatment of income

85001 This chapter explains

1. how to treat the income of the claimant's partner - see DMG 85016
2. how to calculate the weekly amount of a claimant's income - see DMG 85030 et seq
3. the special rules for modifying the amount taken into account - see DMG 85015 et seq
4. income that is fully or partly disregarded - see DMG 85200 et seq
5. when to treat claimants as possessing income that they do not possess (known as notional income) - see DMG 85400 et seq.

85002 Other chapters deal with other aspects of income, including

1. earnings of employed earners - see DMG Chapter 86
2. earnings from self-employment and share fishermen - see DMG Chapter 86
3. how to calculate deemed weekly income from capital - see DMG Chapter 84.

# What is income 85003 - 85014

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85003 Income for SPC is only what is defined as income<sup>1</sup> in law. Apart from specified exceptions<sup>2</sup> it includes all SS benefits<sup>3</sup>. It also includes other specific types of income, income from capital and retirement/state pension and annuity income as listed in **DMG 85130** et seq.

1 SPC Act 02, s 15(1); 2 SPC Regs, reg 15(1); 3 SPC Act 02, s 17(1)

85004 Income is<sup>1</sup>

1. earnings
2. WTC
3. RP, SP and annuity income
4. income from annuity contracts
5. SS benefits other than those specified<sup>2</sup>
6. foreign SS benefits similar to those included at 5.
7. WDisPs or WWP
8. foreign WDisPs or WWP
9. payments from the Armed Forces and Reserve Forces Compensation Scheme
10. income from capital
11. any income that is specified<sup>3</sup>
12. any payment made to the claimant in lieu of any specified income<sup>4</sup>.

1 SPC Act 02, s 15(1); 2 SPC Regs, reg 15(1); 3 reg 15; 4 reg 15(5)(h)

## Deemed weekly income from capital

85005 Capital is deemed to provide a weekly income<sup>1</sup> unless the capital asset is disregarded<sup>2</sup> for

income purposes.

1 SPC Regs, reg 15(6); 2 Sch V

85006 Certain types of capital (such as a property held in a discretionary trust) are disregarded only for the purpose of applying the deemed income rule<sup>1</sup>, so any actual income the capital asset generates will be taken into account.

**Note: DMG chapter 84** gives guidance on how to calculate an amount of deemed weekly income from capital and explains when certain capital is disregarded for income purposes.

1 SPC Regs, Sch V, Part II

## **Income from capital - when deemed income has been taken into account**

85007 Most capital assets, unless disregarded, are deemed to yield a weekly income (see **DMG 84911**).  
Where deemed income

**1.** is taken into account **or**

**2.** would be taken into account except for the fact that the claimant's capital is below the lower limit of £10,000 for deemed income to apply

any actual income generated from the capital is fully disregarded<sup>1</sup>.

1 SPC Regs, Sch IV, para 18

### **Example 1**

When David claimed SPC he told the DM that he owned a share in a second property, which he had inherited from a relative.

He had tried to sell the property but had been unsuccessful, so three months before he claimed SPC he and the other owners sub-let the property to two students on a nine-month contract. David collects the rent monthly and occasionally does minor repairs, when required.

The DM decided that David is not operating a business. The DM also decided that David's share of the property cannot be disregarded for deemed income purposes.

A valuation is requested and David's share of the property is valued at £14,000, so deemed income of £8 a week is taken into account.

However, because deemed income is being taken into account, the income David receives from sub-letting the property is fully disregarded.

## **Example 2**

Janet claims SPC. She owns a share in a holiday home.

Janet's share is valued at £9,000. The DM decides that Janet's share of the property cannot be disregarded for deemed income purposes, however no deemed income is taken into account because Janet's capital is below £10,000.

Janet uses the property mainly for her own holidays, although occasionally it is rented out to friends.

In August Janet declares that she has received £100 because the property was let out to a friend for a week. The DM decides that Janet is not operating a business.

The £100 income Janet received is not taken into account because the capital is not disregarded for deemed income purposes.

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## How much income should be taken into account 85015 - 85029

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85015 The DM should take into account the gross amount of an income. Disregard the sums in **DMG 85021 - 85023** and **85200** et seq. when calculating gross income. For SS benefits consider the guidance at **DMG 85095**. No disregards should be made for any other expenses or deductions.

**Note:** For guidance on how to calculate a weekly amount see **DMG 85030**.

### Income of the claimant's partner

85016 In a claim for SPC, calculate income of the claimant's partner in the same way as for the claimant<sup>1</sup>. The income should then be treated as the claimant's income<sup>2</sup>.

**Note:** In SPC a member of a couple is referred to as a partner and both members are referred to as partners<sup>3</sup>. **DMG 77117.6** gives guidance that a person subject to immigration control should be treated as not being a member of the same household. The income of a partner subject to immigration control should not be treated as the claimant's income.

1 SPC Regs, reg 14; 2 SPC Act 02, s 5; 3 SPC Regs, reg 1(3)

### Polygamous marriages

85017 If a claimant or partner **is married** polygamously to two or more members of his household, the

income of each of those members should be treated as the claimant's income and should be calculated in the same way<sup>1</sup>.

**Note: DMG 77115** gives guidance on who may be members of the claimant's household.

1 SPC Regs, Sch III, para 1(4)

## Multiple relationships

85018 There is no special rule to cover multiple relationships. If the claimant is

**1. married to any, but not all** of the other members of the relationship - the DM should treat any unmarried member as a claimant who has no partner. The income of each separate claimant who has no partner should be calculated accordingly

**2. not married to any** of the members - the DM should treat each member of the relationship as a claimant who has no partner. This is because when a claimant has a relationship similar to marriage with two or more people, none of them can form an unmarried couple. The income of each separate claimant should be calculated accordingly.

## Rounding of fractions

85019 Where the calculation of income results in a fraction of a penny, the amount should be rounded to a penny, either up or down, whichever is to the claimant's advantage<sup>1</sup>.

**Note:** If more than one calculation is involved in deciding the amount of an income, each fraction should be rounded to the claimant's advantage.

1 SPC Regs, reg 24A

## Payments made in a foreign currency

85020 Where payments are made in a foreign currency, the value of the payment should be calculated by taking the sterling equivalent on the date the payment was made<sup>1</sup>.

1 SPC Regs, reg 17(6)

## Deductions of income tax and social security contributions

85021 Any tax paid, or due to be paid<sup>1</sup> and National Insurance contributions should be deducted<sup>2</sup> when calculating any income other than earnings that is to be



1. taken fully into account **or**

2. disregarded in part.

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

1 R(IS) 4/05; 2 SPC Regs, reg 17(10); SS CB Act 92; CPC/1970/2015

### Example

Sara makes a claim for SPC on 5 June. Her AMG is £109.45.

Sara has been receiving RP of £110.50 since April.

Under the HMRC Tax Self Assessment process Sara calculates her forecast tax liability for HMRC and estimates that she will be liable for £79 tax on this year's RP.

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

£110.50 a week RP being paid less £1.52 a week tax [ $\frac{£79}{52}$  and rounded up] = £108.98

The DM takes £108.98 RP into account.

Sara is entitled to 47 pence GC a week.

### Overpayment recovery from other income

85022 Except where **DMG 85095** applies, when income paid to a claimant is reduced because the paying authority is enforcing recovery of an overpayment, the DM should take into account the net amount. This is the amount the claimant actually receives<sup>1</sup> unless the circumstances in **DMG 85023** apply.

1 R(IS) 5/99 Leeves

### Example

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

85023 If a claimant volunteers to repay an overpayment by offering to have deductions made from his income, the DM should consider whether the claimant has deprived himself of that income (see **DMG 85408** et seq).

### **Treatment of income paid incorrectly to the claimant**

85024 A claimant may have income (including benefit income) that is being taken into account in an income-related benefit award, which is then retrospectively revised. This can often lead to an overpayment of that income but this does not mean that arrears of the income-related benefit in payment also arise. In such cases, the overpaid income is taken into account until the recipient comes under an immediate obligation to repay it, and only then from the date on which an obligation to repay arises<sup>1</sup>. For more information on overpayments, see **DMG Chapter 9**.

1 R(IS)  
5/99  
(Leev  
es v.  
CAO)

### **Example**

Ella has been receiving RP since 1.3.10 and SPC since 4.10.10. HMRC provide an updated NI record on 1.6.16 which shows that Ella's RP award has been incorrectly calculated from the outset. On 7.6.16, a DM revises Ella's RP award to a lower amount with effect from 1.3.10. On 27.6.16 a DM decides that the overpaid RP is a non-recoverable overpayment. For SPC purposes, the revised RP award is taken into account from the next payday – 30.6.16, the effect is not retrospective and there are no arrears of SPC to be offset against the overpaid RP.

### **Treatment of income for part-week payments at the start of entitlement**

85025 A claimant may only be paid a GC for a part week at the start of entitlement to SPC in certain circumstances. **DMG 79105** provides guidance on the treatment of income for a part-week.

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# Calculation of weekly income 85030 - 85051

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# At the start of entitlement or a new assessed income period 85030 - 85051

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85030 At the start of entitlement to SPC, or a new AIP, when calculating whether and how much a claimant is entitled to, the DM should

**1.** establish the first day

**1.1** the claimant satisfies the conditions for entitlement to SPC (see **DMG Chapter 77**), including whether the claimant is in receipt of any income on that day **or**

**1.2** of the new AIP (see **DMG Chapter 83**)

**2.** decide whether any income should be taken fully into account, partially disregarded or fully disregarded (see **DMG 85091** et seq)

**3.** calculate a weekly amount of income (see **DMG 85032** et seq)

**4.** add to the weekly amount

**4.1** any deemed weekly income from capital (see **DMG Chapter 84**) **and/or**

**4.2** any earnings (see **DMG Chapter 86**) and

**5.** take the total weekly amount into account from the first day of the first benefit week and/or new AIP.

**Note:** If at the start of entitlement the claimant is entitled to a part-week payment all income is ignored for that part-week. **DMG Chapter 79** gives guidance on part-week payments.

## Meaning of benefit week

85031 Benefit week means<sup>1</sup>

**1.** where SPC is paid in advance, the period of seven days beginning on the day on which SPC is payable to the claimant

**2.** where SPC is paid in arrears, the period of seven days ending on the day which SPC is payable to the claimant.

1 SPC Regs, reg 1(2)

## Period of a week or less

85032 Where the period for which a payment is made is a week or less, the claimant's weekly income will include the whole amount of the payment<sup>1</sup>.

1 SPC Regs, reg 17(1)(a)

## Period of a month

85033 Where the payment is for a period of a month the weekly amount should be worked out by

**1.** multiplying the amount of the payment by twelve **and**

**2.** dividing the result by 52<sup>1</sup>.

1 SPC Regs, reg 17(1)(b)(i)

## Example

A payment of £100 is made for a period of a month. The DM calculates that the weekly amount is £23.07 (£100 x 12 ÷ 52).

## Period of three months

85034 Where the payment is for a period of three months the weekly amount should be worked out by

1. multiplying the amount of the payment by four **and**
2. dividing the result by 52<sup>1</sup>.

1 SPC Regs, reg 17(1)(b)(ii)

### Example

A payment of £100 is made for a period of three months. The DM calculates that the weekly amount is £7.69 ( $£100 \times 4 \div 52$ ).

## Period of a year

85035 Where the payment is for a period of a year the weekly amount should be worked out by dividing the amount of the payment by 52<sup>1</sup>.

**Note:** See **DMG 85039** for payments which are treated as if they are made for a period of a year.

1 SPC Regs, reg 17(1)(b)(iii)

## Period of more than a week

85036 Where the payment is for more than a week, and **DMG 85033 - 85035** does not apply, the weekly amount should be worked out by

1. multiplying the amount of the payment by seven **and**
2. dividing the result by the number of days in the period for which the payment is made<sup>1</sup>.

1 SPC Regs, reg 17(1)(b)(iv)

### Example

A payment of £100 is made for a period of four weeks. The DM calculates that the weekly amount is £25 ( $£100 \times 7 \div 28$ ).

## Averaging of amounts

85037 If the claimant's income fluctuates and has changed more than once, the weekly amount of a claimant's income should be averaged<sup>1</sup>. The DM should average on the basis of<sup>2</sup>

1. the last two payments if those payments are one month or more apart **or**
2. the last four payments, if the last two payments are less than one month apart **or**
3. any other period if it means a more accurate weekly amount can be calculated.

1 SPC Regs, reg 17(2)(b); 2 reg 17(2)(b)(ii)

85038 The last payments<sup>1</sup> for the purposes of **DMG 85037 1.** and **2.** are the last payments made to the claimant

1. before the date the claim was made or treated as made **or**
2. if there is a later supersession the last payments before the date of the supersession.

1 SPC Regs, reg 17(3)

### Example

The claimant is receiving spousal maintenance from her ex-husband under a voluntary agreement. However, the amounts vary each week.

Week 1 £20

Week 2 £15

Week 3 £25

Week 4 £20

**Total = £80**

The DM decides to average over the last four payments because the last two payments are less than a month apart. The DM calculates that the weekly amount is £20 ( $£80 \div 4$ ) and this is applied from week 5. Prior to week 5, the DM took the actual amounts received into account.

## **Period for royalties, copyright payments, lending right payments and occasional payments**

85039 The amount of each payment should be treated as if made in respect of a year<sup>1</sup> if the claimant receives

**1.** royalties or other payments in respect of the use of, or the right to use any

**1.1** copyright **or**

**1.2** design **or**

**1.3** patent **or**

**1.4** trade mark **or**

**2.** any payment in respect of any

**2.1** book registered under the Public Lending Right Scheme 1982 **or**

**2.2** work made under any international public lending right scheme that is similar to the Public Lending Right Scheme 1982 **or**

**3.** any payment made on an occasional basis (e.g. an irregular lump sum/ad-hoc payment(s) of spousal maintenance).

1 SPC Regs, reg 17(4) & (5)

## **Date on which JSA(Cont), MA, ESA(Cont), IB or SDA are treated as paid**

85040 Special rules apply to payments of JSA(Cont), MA, ESA(Cont), IB or SDA for which entitlement is calculated on a daily basis. If the claimant receives one of these benefits the DM should treat each day's benefit as paid on the day of the week in respect of which it is payable<sup>1</sup> from.

1 SPC Regs, reg 13B(1)

85041 Any other benefit should be treated as paid<sup>1</sup>

**1.** where the benefit is paid in advance, on the first day of the benefit week in which the benefit is payable from **or**

**2.** where the benefit is paid in arrears, on the last day of the benefit week in which the benefit is payable from.

1 SPC Regs, reg 13B(2)



## **Example**

Les has just retired from work. He will be entitled to RP of £97.65 a week. It will be paid fortnightly in arrears on a Thursday. RP was awarded to Les from 12.4.10 with the first payment actually due to be paid to him on 22.4.10. The first payment will cover the period 16.4.10 to 22.4.10.

On 12.4.10 Les also makes a claim for SPC. His first payment of SPC is due to be paid to him on 22.4.10 and will cover the period 16.4.10 to 22.4.10 (see DMG 79012).

The DM decides that for the purposes of SPC, Les's RP of £97.65 has to be taken into account with a treat as paid date of 22.4.10 because this is the last day of the SPC benefit week in which the RP is payable.

## **Questions on the treatment of income**

85042 The DM should make further enquiries if there is any doubt whether income fits into any of the definitions in this Chapter. Enquiries will usually be to the paying authority and should be done before any decision is made.

**85043 - 85051**

## **Changes in weekly income 85052 - 85090**

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## Deemed increase to retirement pensions or annuities income other than retirement pension 85052 - 85057

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85052 Where an AIP is in force and the Secretary of State knows that a claimant's non-state retirement pension scheme or annuity contract contains **no** provision for periodical increases then the amount of that element of retirement provision is deemed not to change<sup>1</sup>.

1 SPC Regs, reg 10(2)

85053 However, where **DMG 85052** does not apply, during an AIP income from a claimant's retirement pension scheme or annuity (but not RP) is deemed to increase on the dates and at the amounts explained in **DMG 85054** et seq<sup>1</sup>.

1 SPC Regs, reg 10

### Deemed increase based on actual increase

85054 Where the DM has been notified that income from a claimant's non-state retirement pension or annuity will be increased

1. periodically **and**
2. on a specific date **and**
3. by an exact amount

the income will be deemed to increase by the amount specified<sup>1</sup>. The date the increase takes effect from depends on when the increase is first paid, as explained in **DMG 85055 - 85056**.

1 SPC Regs, reg 10(4)

85055 Where the increase is first paid for a period, which is equal in length to the period for which the last pre-increased regular payment was made<sup>1</sup> the deemed increase takes effect from<sup>2</sup> the

1. day the increase is actually paid if that is the first day of the claimant's benefit week **or**

2. first day of the claimant's benefit week that immediately follows the date the increase is paid.

1 SPC Regs, reg 10(5A); 2 reg 10(5)(a)

### Example

Frances has been receiving SPC since 6.10.03. Her benefit week starts on a Monday. She is in receipt of an occupational pension, which is paid on the last day of each month.

The DM has been given details of when Frances' occupational pension will increase and the amount of the increase.

The last pension payment was paid on 30.6.04.

An annual increase of 2% takes effect from the first day of July, but will not be paid until 31.7.04.

The DM decides that 1.7.04 to 31.7.04 is a period equal to the last regular payment period (i.e. a calendar month).

Therefore the deemed increase takes effect from 2.8.04 (which is the first day of the benefit week following the date the increase is paid).

85056 Where the increase is first paid for a period, which is **not** equal in length to the period for which the last pre-increased regular payment was made the deemed increase takes effect from<sup>1</sup> the

**1.** day the second payment of the increased amount is actually paid, if that is the first day of the claimant's benefit week **or**

**2.** first day of the claimant's benefit week that immediately follows the date the second payment, which includes the increased amount, is actually paid.

1 SPC Regs, reg 10(5)(b)

### Example

Claire has been receiving SPC since 1.11.03. Her benefit week starts on a Monday. She is in receipt of an occupational pension that is paid on the last day of each month.

The DM has been given details of when Claire's occupational pension will increase and the amount of the increase.

An annual increase of 2.6% takes effect from 15.9.04, but will not be paid until 30.9.04.

The DM decides that 15.9.04 to 30.9.04 (16 days) is a period which is not equal in length to the last

regular payment made on 31.8.04 (i.e. for a calendar month).

The DM decides that the second payment of the increased amount is to be paid on 31.10.04.

Therefore the deemed increase takes effect from 1.11.04 (which is the first day of the benefit week following the date the second payment that includes the increase is paid).

## Deemed increase based on standard increase

85057 Where the DM has been notified that income from a claimant's non-state pension or annuity contract (but not RP) is expected to increase periodically but details of the increase have **not** been provided the income will be deemed to increase<sup>1</sup> on the

**1.** date in April each year when annual uprating of additional pensions in long term benefits<sup>2</sup> take effect if that is the first day of the claimant's benefit week **or**

**2.** first day of the claimant's next benefit week

by the same percentage increase applied in respect of additional pensions in long term benefits<sup>3</sup>.

1 SPC Regs, reg 10(6)(a); 2 SS A Act 92, s 150(1)(c); 3 s 150(1)(c) & s 151(1)

### Example

Jack receives £85 a month from his retirement annuity contract. He claims SPC and £19.61 a week annuity income is taken into account from BWC Monday 9 February.

When Jack claimed SPC he said that he expected his annuity to increase in April each year, but he did not provide any further details about the increase.

The DM decides that because the annuity is expected to increase each year and details have not been provided, the claimant's annuity income will be deemed to increase

**1.** from Monday 12 April, which is the first day of the claimant's benefit week and the date in April, when increases for the current year take effect for additional pensions in long term benefits **and**

**2.** by 1.7%, which is the percentage applied for the current year in respect of additional pensions in long term benefits.

The DM calculates the weekly amount of annuity income to be taken into account from BWC 12 April is £19.94 ( $£85 + 1.7\% = £86.44 \times 12 \div 52$ ).

## Final payments of income 85058 - 85062

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85058 There is a rule<sup>1</sup> that applies when dealing with final payments of income for SPC purposes. It applies where

1. a claimant has been receiving a regular payment of income **and**
2. that payment is coming to an end or has ended **and**
3. the claimant receives a final payment of that income.

1 SPC Regs, reg 17ZA(1)

### Meaning of regular payment

85059 For the purposes of **DMG 85058** “regular payment” means<sup>1</sup> a payment of income made in respect of a period as described in **DMG 85032 - 85037**.

1 SPC Regs, reg 17ZA(5)

### Period over which final payments are taken into account

85060 If the circumstances in **DMG 85058** apply<sup>1</sup>

1. where a final payment is

1.1 less than **or**

1.2 equal to

the amount of the previous regular payment, the whole of the final payment should be treated as being paid in respect of a period equal in length to that of the regular payment **or**

2. where a final payment is greater than the amount of the previous regular payment, to the extent that it comprises one or more multiples of that amount, **each multiple** should be treated as being paid in respect of a period that is equal in length to that of the regular period. Any excess should be treated as being paid in respect of a further period that is equal in length to that of the regular period.

## Date final payments are treated as paid

85061 A final payment falling within **DMG 85060 1.** should be treated as paid<sup>1</sup> on the date the next regular payment would have been paid had payments continued, if not actually paid on that date.

1 SPC Regs, reg 17ZA(3)

### Example

Paul's claim to SPC starts on 15.4.13 and his benefit week starts on a Monday.

He has been receiving SSP paid every 4 weeks.

The regular weekly amount taken into account is £87.55 (less the earnings disregard).

Paul decided to leave his employment on 23.8.13 due to his ill health and on that day he received a final payment of £350.20 SSP.

The DM treats this as paid on Mon 26.8.13 and takes £87.55 (less the disregard) into account from BWC 26.8.13 until BWC 16.9.13.

From BWC 23.9.13 there is no SSP to take into account because no payment of SSP will be made on 20.9.13.

85062 Each multiple of the final payment falling within paragraph **85060 2.** above should be treated as paid<sup>1</sup> on the date the next regular payment would have been paid had payments continued, if not actually paid on that date.

1 SPC Regs, reg 17ZA(4)

### Example

Alan's claim to SPC started on 8.6.04 and his benefit week commences on a Monday.

He has been receiving SSP of £66.15 a week.

On 15.9.04 he decides to leave his employment.

On 17.9.04 he receives a final payment of SSP of £105.84 (final 1 week and 3 days).

The DM treats £66.15 regular payment of SSP as paid on 20.9.04 and the balance of £39.69 as paid on 27.9.04.

On 1.10.04 no payment of SSP is either made, or treated as made, so no SSP is taken into account from BWC 4.10.04.



# Treatment of arrears of income or benefits 85063 - 85090

[Arrears of other income](#) 85063 - 85065

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## Arrears of other income

85063 Where the claimant receives payments of arrears of income (but not arrears of benefits - see **DMG 85066**), then the DM should decide how much SPC has been paid to the claimant which would not have been paid if the arrears had been paid on time<sup>1</sup>. This figure will be the amount of SPC overpaid and may be recovered from the claimant.

1 SS A Act 92, s 74(1)

85064 The DM also has to establish if the current rate of income has changed. If it has, the DM must supersede the award of SPC. The superseding decision must take effect on the first day of the benefit week in which the claimant receives the new amount of income (or if that is not practicable on the first day of the next following benefit week)<sup>1</sup>.

1 SS CS (D&A) Regs, Sch 3B, para 2; PS v SSWP (SPC) [2016] UKUT 0021 (AAC)

85065 The weekly amount of the arrears for the purposes of determining the overpayment should be calculated by reference to the period that the arrears covers<sup>1</sup>. This means, for example, that if the arrears period is one month then the weekly amount of the payment should be determined in accordance with **DMG 85033**. If the arrears period is a period of more than one week but **DMG 85033 – 85035** does not apply then the payment should be calculated accordance with **DMG 85036** and so on.

1 SPC Regs, reg 17(1)

### Example 1

Spiro receives £100 a month income from an occupational pension.

The DM decided not to set an AIP because other elements of the claimant's retirement provision are unpredictable.

In July Spiro tells the DM that his pension has increased to £110 a month from April. He received a payment in July of £140, which included £30 arrears (for April - June). This prompts the DM to undertake a supersession and to take £110 a month into account from July.

The £30 arrears relating to the period April - June is a late payment of income and the DM calculates the overpayment and the amount to recover by looking at the amount of SPC which would not have been paid if the arrears had been paid on time.

## **Example 2**

Alison is entitled to payments under a personal pension scheme and there is no AIP in place.

The first payment of Alison's pension is made on 31 August. This includes a payment which was due on 31 July. This payment would have been payable at an amount of £180 for the period 18 July to 31 July.

The DM calculates an overpayment of SPC based on the £180 which was a late payment of income in respect of 14 days (see **DMG 85036**).

## **Arrears of benefit**

85066 Any payment of

**1.** arrears of benefit (but not those benefits to which DMG 85040 applies) **or**

**2.** compensation for the late payment of benefit **or**

**3.** in lieu of the payment of benefit **or**

**4.** by a LA out of money

**4.1** in England and Wales provided for by the Supporting People Scheme under certain legislation **or**

**4.2** in Scotland under certain housing support legislation

is capital that is disregarded<sup>1</sup>. Further guidance is at **DMG 84566**.

1 SPC Regs, Sch V, para 20(1)

## **Meaning of benefit**

85067 In **DMG 85066** benefit means<sup>1</sup>

**1.** AA

**2.** BSP

**3.** CAA and ESDA payable because the claimant is entitled to WC

**4.** CHB

**5. CTC**

**6. CTB**

**7. DLA**

**8. ESA(IR)**

**9. HB**

**10. IS**

**11. JSA(IB)**

**12. SPC**

**13. SF Payments.**

**14. any amount included for the claimant's exceptionally severe disablement in a WDisP or WWP.**

1 SPC Regs, Sch V, para 20(2)

85068 - 85090

# **Income taken fully into account 85091 - 85199**

## **Subpages**

- Types of income taken fully into account 85091 - 85099
- Benefits taken fully into account 85100 - 85129
- Retirement pension income taken fully into account 85130 - 85169
- Other income taken fully into account 85170 - 85199

# Types of income taken fully into account 85091 - 85099

[Foreign social security benefits](#) 85092

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85091 When calculating income other than earnings the DM has to take

1. Annuity income(except those annuities listed at **DMG 85171**)
2. Armed forces death in service awards
3. BA
4. CA
5. ESA(Cont)
6. IB
7. IIDB
8. Certain types of income from capital
9. Inherited royalties/copyright payments
10. JSA(Cont)
11. MA
12. Maintenance payments for the claimant or partner
13. PB and MDB scheme
14. Retirement pension income (including increases for adult dependants) (see DMG 85130 et seq)
15. SDA
16. State Pension
17. War orphan's pension
18. WP

## 19. WTC

## 20. Workmen's Compensation (Supplementation)

fully into account. Detailed guidance is given in **DMG 85100** et seq.

## Foreign social security benefits

85092 All foreign SS benefits similar to those included at DMG 85091 should be taken into account in full<sup>1</sup> including any foreign state retirement pension.

1 SPC Regs, reg 15(2)

## Meaning of foreign social security benefit

85093 Foreign SS benefit means<sup>1</sup> any benefit, allowance or other payment which is paid under the law of a country outside the UK and is in the nature of SS.

1 SPC Act 02, s 17(1)

## Meaning of foreign state retirement pension

85094 A foreign state retirement pension is<sup>1</sup>

1. any retirement pension paid under the law of a country outside the UK **and**
2. in the nature of social security (like a RP paid under UK law).

1 SPC Regs, reg 1(2)

## Deductions from benefits

85095 Where the payment of a SS benefit included at **DMG 85091** has any deduction other than an adjustment as a result of

1. an overlapping benefit **or**
2. hospital down-rating **or**
3. a reduction in IB in respect of pensions and councillor's allowances **or**
4. a reduction in ESA(Cont) in respect of pensions, Pension Protection Fund periodic payments and councillor's allowances **or**

5. a reduction as a result of a pension sharing order<sup>1</sup>

the DM should take the amount of benefit before the deduction into account<sup>2</sup>.

**Note:** DMG 85021 gives guidance about deductions which are allowed for tax and SS contributions.

**Example**

Andrea is in receipt of SP at the rate of £159.55 a week. Andrea is also repaying an overpayment at the rate of £15.00 a week, meaning that she actually receives SP of £144.55 a week. For SPC purposes, Andrea's weekly SP amount is £159.55 – the amount of SP before the deduction was made.

1 The Pensions Act 2014, s 14 & SS CB Act 92, s 45B or 55B; 2 SPC Regs, reg 15(3) & 15(4)

85096 - 85099

## Benefits taken fully into account 85100 - 85129

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[ESA\(Cont\)](#) 85104

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85100 All SS benefits<sup>1</sup>, apart from a few exceptions<sup>2</sup>, and WTC are benefits that are taken fully into account.

1 SS CB Act 92; 2 SPC Regs, reg 15(1)

### Meaning of social security benefits

85101 SS benefits means<sup>1</sup> benefits payable under the enactments relating to SS in any part of the United Kingdom.

1 SPC Act 02, s 17(1)



## **Bereavement allowance**

85102 BA should be taken into account in full. It replaces WP for a person whose spouse died on or after 9.4.01. It may also be paid to a person whose civil partner dies on or after 5.12.05. It is restricted to payment for not more than 52 weeks.

**Note:** Where a claimant receives a bereavement payment it is a one off lump sum payment and is capital.

## **Carer's allowance**

85103 [See [DMG memo 12/23](#)]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.

**Note:** The Scottish carer's allowance supplement<sup>1</sup>, 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.

1 The Scotland Act 2018, s47

## **ESA(Cont)**

85104 ESA(Cont) should be taken fully into account. ESA(Cont) is paid to people who

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

## **Incapacity benefit**

85105 IB should be taken fully into account. IB is paid to people who are incapable of work

- 1.** who are not entitled to statutory sick pay **or**
- 2.** whose statutory sick pay has ended.

85106

## **Industrial injuries disablement benefit**

85107 IIDB should be taken fully into account. The additional allowances

**1. REA or**

**2. RA or**

**3. US**

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

**Note:** US was removed from the disablement benefit scheme on 6.4.87 but may continue in payment to people getting it before that date.

85108 Any increase in IIDB paid for constant attendance or exceptionally severe disablement should be fully disregarded<sup>1</sup> for SPC purposes.

1 SPC Regs, reg 15(1)(c)

## **JSA(Cont)**

85109 JSA(Cont) received by the claimant or partner should be taken fully into account. It is payable to unemployed people who have paid enough SS contributions.

## **Maternity allowance**

85110 MA should be taken fully into account. It is payable to women who cannot get SMP.

85111

## **Pneumoconiosis, byssinosis and miscellaneous diseases benefit scheme**

85112 PB and MDB scheme payments should be fully taken into account<sup>1</sup>. They are made to people who are not entitled to

**1. industrial injuries disablement benefit or**

**2. WC.**

1 SPC Regs, reg 15(5)(c)

85113 The DM should however disregard any CAA or any increase for ESDA<sup>1</sup> paid as a part of PB and MDB scheme award.

1 SPC Regs, reg 15(1)(d) & (e)

## **Severe disablement allowance**

85114 SDA should be taken fully into account. It is a non contributory benefit payable after six months of illness.

**Note:** SDA was abolished from 6.4.01 but may still be payable to people receiving it before that date.

## **War orphan's pension**

85115 War orphan's pension should be taken into account in full.

## **Widow's pension**

85116 The DM should take WP fully into account. It may still be paid where it is claimed in respect of a death prior to 9.4.01.

## **Working tax credit**

85117 WTC<sup>1</sup> should be taken fully into account<sup>2</sup>. It is an income-related benefit payable to people who

- 1.** are working for at least 16 hours a week **and**
- 2.** are responsible for at least one child **or**
- 3.** have an illness or disability that reduces their earning capacity.

1 SPC Act 02, s 17(1); 2 s 15(1)(b)

## **Treatment of WTC income paid incorrectly to the claimant**

85118 If a claimant who has ceased employment confirms that they have notified HMRC of the change in their circumstances, DMs should not treat any payments of WTC paid incorrectly by HMRC as the claimant's income. However, any payments of WTC paid to the claimant prior to any notification by the claimant to HMRC of a change in circumstance should be taken into account as income<sup>1</sup>.

### **Example 1**

Cliff finished work on Thursday 6.3.08 and made a claim for SPC on Monday 10.3.08. He told the DM that he had been receiving WTC but had notified HMRC that his job had now ended.

HMRC did not end the award and continued to pay WTC to Cliff.

Cliff was entitled to the 4 week WTC run on for the period 7.3.08 to 3.4.08.

Although Cliff continued to receive WTC for several weeks after the run on period the DM decides that the WTC paid incorrectly by HMRC should not be taken into account as it was not Cliff's income. WTC should only be taken into account as income for the run on period.

### **Example 2**

Joe finished work on 1.6.09 and made a claim for SPC on 19.6.09. He is in receipt of WTC which the DM takes into account as an income when calculating Joe's entitlement to SPC.

On 19.10.09 Joe informs HMRC that he finished work in June. HMRC end Joe's award of WTC and calculate an overpayment based on the fact that he had finished work in June but had continued to receive WTC.

The DM supersedes the award of SPC and no longer takes the WTC into account. The date of the relevant change for the purposes of the supersession is 19.10.09 which was the date that Joe informed HMRC of his change of circumstance. However the DM does not adjust the award of SPC to take account of that fact that Joe was overpaid WTC for the period prior to the notification to HMRC. This is because at that time, WTC was an income in payment to Joe and there is no disregard for it.

## **Workmen's compensation (supplementation) scheme**

85119 Workmen's compensation (supplementation) which replaced workmen's compensation for old cases, should be taken fully into account. It is paid for industrial injuries and diseases that were caused by employment before the start of the disablement benefit scheme.

85120 Any CAA or increase for ESDA<sup>1</sup> paid with workmen's compensation (supplementation) should be disregarded.

<sup>1</sup> SPC Regs, reg 15(1)(d) & (e)



# Retirement pension income taken fully into account 85130 - 85169

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85130 Retirement pension income<sup>1</sup> includes RP, SP, occupational and personal pensions and certain other pension related income as explained at **DMG 85131** et seq. All retirement pension income should be taken fully into account for SPC.

**Note:** Deemed increases in retirement pensions and annuities income (but not RP) are explained at **DMG 85052 - 85057**.

1 SPC Act 02, s 16(1)

## Retirement pension

85131 RP should be taken fully into account. For SPC purposes this includes either

1. contributory (Category A or B) RP<sup>1</sup> or
2. non-contributory (Category C or D) RP<sup>2</sup>.

1 SPC Act 02, s 16(1)(a); 2 s 16(1)(d)

85132 It also includes the following elements

1. a shared additional pension payable as a result of divorce<sup>1</sup>
2. graduated retirement benefit earned between 1961 and 1975 under the graduated pension scheme<sup>2</sup>
3. age additions<sup>3</sup>.

**Note:** Whilst increases in RP for adult dependants are income for SPC purposes they are not included as retirement pension income.

1 SPC Act 02, s 16(1)(b); 2 s 16(1)(c); 3 s 16(1)(e)

## State Pension

85133 SP replaces RP for people reaching pensionable age on, or after 6.4.16. and should be taken fully into account<sup>1</sup>.

1 SPC Act 02, s 16(1)(za)

85134 SP does not consist of individual elements like RP (BP, AP & GRB etc.) and will generally be based only on the claimant's NI record. Exceptions to this will be where:

1. the claimant is widowed and inherits a deceased spouse or civil partner's AP, deferred RP or deferred GRB, **and**
2. the claimant receives a transitional rate of SP (for women who paid reduced rate NI) **and**
3. the claimant is awarded a Shared Additional Pension (SAP) upon divorce.
4. Increments (of SP) for deferred retirement.

85135 SP entitlement may be at:

1. the full rate **or**
2. the reduced rate **or**
3. the transitional rate.

See **DMG Chapter 74** for more details.

## Occupational pensions

85136 Income from occupational pensions should be taken fully into account<sup>1</sup>. This includes 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 on account of early retirement on grounds of ill health or injury<sup>2</sup>.

1 SPC Act 02, s 16(1)(f); 2 s 16(1)(l)

### Meaning of occupational pension scheme

85137 An occupational pension scheme is a pension scheme defined under specific pensions legislation<sup>1</sup> that provides benefits to, or in respect of, people with service in a particular employment or may provide benefits to, or in respect of, other people.

1 SPC Act 02, s 17; PS Act 93, s 1

85138 Occupational pension schemes are set up by employers to provide pensions for employees and their dependants. Payments under the

1. British Coal Voluntary Employment Redundancy Scheme **or**
2. British Coal Industrial Death and Retirement Scheme **or**
3. British Coal Redundant Mineworker's Pension Scheme **or**
4. Police and Fire-fighters' disablement or special widow's pension schemes **or**
5. Armed Forces Pensions<sup>1</sup>

are included.

1 CE/2265/2017

85139 Occupational pension payments do not include discretionary payments from a fund set up to relieve hardship. This type of payment is a charitable or voluntary payment and is ignored for SPC purposes.

### Example

Jean is a retired nurse and is claiming SPC.

Every three months she receives a payment of £300 from a charitable trust for nurses.

The DM decides that the payment is a charitable payment and should be ignored for SPC purposes.



85140 The DM should take payments fully into account as an occupational pension if a pensioner who has been in employment that was contracted out of S2P is entitled to

1. GMP instead of additional pension through an occupational pension scheme **and**
2. increments to an occupational pension and GMP if retirement was deferred.

## **Personal pensions**

85141 Income from personal pension schemes should be taken fully into account<sup>1</sup>. Personal pension schemes provide pensions on retirement for

1. S/E people **or**
2. employees who are not members of occupational pension schemes.

1 SPC Act 02, s 16(1)(f)

## **Meaning of personal pension scheme**

85142 A personal pension is a pension scheme that<sup>1</sup>

1. is not an occupational pension scheme **and**
2. is established by a person within specified finance legislation<sup>2</sup>.

1 SPC Act 02, s 17; PS Act 93, s 1; 2 Finance Act 2004, s 154(1)

## **Retirement annuity contracts**

85143 Payments from this type of personal pension should be taken fully into account<sup>1</sup>. Before 1.7.88 people could take out retirement annuity contracts. These are similar to a personal pension and were usually taken out by S/E people. People with these pensions are entitled to buy an annuity between the ages of 60 and 75. They are not allowed to take an income from the fund before an annuity is purchased.

1 SPC Act 02, s 16(1)(h)

## **Meaning of retirement annuity contract**

85144 Retirement annuity contract means<sup>1</sup> an approved contract or scheme that allows a person to buy an annuity from the age of 60.

## Retirement annuities purchased on divorce

85145 Income received from an annuity purchased or transferred to meet an ex spouse's liability on divorce<sup>1</sup> should be taken fully into account.

1 SPC Act 02, s 16(1)(j)

## Overseas arrangements

85146 Income from an overseas pension arrangement<sup>1</sup> as in **DMG 85147** should be taken fully into account.

1 SPC Act 02, s 16(1)(g)

## Meaning of overseas arrangement

85147 An overseas arrangement is<sup>1</sup> a scheme or arrangement which

- 1.** has the effect (or is capable of having the effect) of providing benefits to or in respect of employed earners on the termination of employment, death or retirement **and**
- 2.** is administered wholly or primarily outside GB **and**
- 3.** is not included in the description of an appropriate scheme **and**
- 4.** is not an occupational pension scheme.

1 SPC Act 02, s 16(3)

## Foreign annuities or insurance policies

85148 Income from annuities or insurance policies that were bought or transferred to provide income under a personal pension scheme or other overseas pension arrangement<sup>1</sup> should be taken fully into account.

1 SPC Act 02, s 16(1)(i)

## Civil list pensions

85149 Income from a civil list pension<sup>1</sup> should be taken fully into account.

1 SPC Act 02, s 16(1)(k)

85150 A civil list pension is awarded for distinguished service to the nation in the arts, science or literature. It is

1. paid at the discretion of the Queen **and**
2. voted annually by parliament.

## Equity release schemes

85151 Any payment made at regular intervals under an equity release scheme (but not home income plans) should be taken fully into account<sup>1</sup>.

**Note:** Although home income plans are a type of equity release scheme special rules apply to these (see **DMG 85221 - 85224**).

1 SPC Regs, reg 15(5)(j) & 16

## Meaning of equity release scheme

85152 Equity release scheme means<sup>1</sup> a loan made between a person (“the lender”) and the claimant

1. by means of which a sum of money is advanced by the lender to the claimant by way of payments at regular intervals **and**
2. which is secured on a dwelling in which the claimant owns an estate or interest and which he occupies as his home.

1 SPC Regs, reg 1(2)

## Example 1

### AIP not set

John made a claim for SPC on 10.10.04. On his claim form he said that he was receiving £110 a month from his building society under a scheme to release some of the equity in his home.

The DM decided the payments were from an equity release scheme. The £110 a month was therefore retirement pension income and was taken fully into account.

On 1.12.04 John told the DM that he had just taken an additional £1,500 under the terms of the same equity release scheme.

The DM decided the £1,500 was not part of the regular payments and was a one-off lump sum payment. The £1,500 was a payment of capital.

## Example 2

### AIP set

Jackie aged 70 claimed SPC on 6.10.03. An AIP was set for five years. The claimant's AIP ends on 5.10.08.

On 20.11.04 Jackie takes out an equity release scheme. She receives a cash advance of £20,000.

From 20.12.04 Jackie also starts to receive regular monthly payments of £150 a month.

Jackie does not need to report the change in her income or capital until the end of the AIP.

## Financial Assistance Scheme

85153 Income from the Financial Assistance Scheme should be taken fully into account<sup>1</sup> The Financial Assistance Scheme provides financial help to some people who have lost out on their non-state pension because

1. the scheme they were a member of was under-funded when it started to wind- up **and**
2. the employer is insolvent or no longer exists.

1 SPC Act 02, s 16(1)(n)

85154 Awards under the Financial Assistance Scheme, top up the amount payable (subject to a maximum amount) under the qualifying pension scheme to a level broadly equal to 90% of the amount that would have been received had the pension scheme not started to wind-up. Tax will be deducted at source. In most cases Financial Assistance Scheme payments for individuals will commence at age 65. The terminally ill and survivors may qualify for payments earlier.

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## Other income taken fully into account 85170 - 85199

[Annuity income](#) [See Memo DMG 16/18] 85170 - 85171

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### Annuity income

**[See Memo DMG 16/18]**

85170 An annuity is an annual income and should be taken fully into account<sup>1</sup> except for the annuities listed at **DMG 85171**. The most common type of annuity involves a person paying a lump sum of money to an insurance company. In return the insurance company will pay an agreed sum of money at regular intervals each year until the death of the investor.

1 SPC Act 02, s 15(1)(d)

85171 The exceptions are

**1. Home income plans.** These are schemes where an annuity is bought with a loan secured on the home. The income is subject to a partial disregard<sup>1</sup> if certain conditions are satisfied (see **DMG 85221** et seq).

**2. Structured settlements.** This is where compensation relating to a personal injury award is used to buy an annuity for the injured person. The income is fully disregarded for SPC purposes, if the award is made in respect of an injury to the claimant or partner<sup>2</sup>, but not if for a surviving spouse or civil partner (see **DMG 85351 - 85352**).

1 SPC Regs, Sch IV para 10; 2 Sch IV para 14

## Armed forces death in service awards to children

85172 Any income received from such an award should be taken fully into account<sup>1</sup>. An allowance or pension may be paid, or continue to be paid, in respect of a child of a member of the armed forces whose death was due to service, where the child has reached the age of 18<sup>2</sup> **and**

- 1.** is under 19 and is a student (in FTE or within 13 weeks of date FTE ceased) **or**
- 2.** is an apprentice on a low income **or**
- 3.** is incapable of self-support by reason of an infirmity which arose before the child reached the age of 16.

1 SPC Regs, reg 15(5)(a); 2 Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006, Art 12(8)(b) or 30(1)(b)

## Payments from the Armed Forces and Reserve Forces Compensation Scheme

85173 Payments made under specified Armed Forces legislation<sup>1</sup> to, or in respect of, a claimant or partner

- 1.** who is unable to engage in gainful employment because of physical or mental disability which began before the age of 23 **and**
- 2.** whose parent was a deceased member of the Armed Forces

should be taken fully into account<sup>2</sup>.

**Note: DMG 85211 - 85215** gives further information about the Armed Forces and Reserve Forces Compensation Scheme and explains the disregard appropriate to certain payments from the scheme.

1 Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, Art 21(1)(c) & 23(2)(c);  
2 SPC Regs, reg 15(5)(ab)

## Maintenance payments

85174 Maintenance payments for the claimant or partner made by a spouse, civil partner, former spouse or former civil partner<sup>1</sup> should be taken fully into account. This includes payments made

- 1.** under a court order **or**
- 2.** under an agreement for maintenance **or**
- 3.** voluntarily.

**Note 1:** Payments made to former spouses under a pension splitting order in **1.** are taken into account as maintenance<sup>2</sup>.

**Note 2:** Maintenance payments in respect of a child are ignored for SPC purposes.

1 SPC Regs, reg 15(5)(d); 2 CPC/ 389/15

## Income from certain disregarded capital

85175 Any actual income from the following types of disregarded capital<sup>1</sup> should be taken fully into account for as long as the value of the capital is disregarded

**1.** a trust fund (see **DMG 85246** for the disregard appropriate to discretionary trusts)

**2.** the capital value of the **right to receive** -

**2.1** income under a life interest or from life rent

**2.2** any rent if the claimant, or their partner is not the freeholder or leaseholder **and**

**2.3** income from an annuity, or the surrender value (if any) of such an annuity.

**Note:** Income from a trust fund at **1.** does not include a trust set up as a result of a personal injury (see **DMG 85350 - 85352**).

1 SPC Regs, reg 17(8)(b)

## Pension Protection Fund

85176 Periodic payments from the Pension Protection Fund should be taken fully into account<sup>1</sup>. The Pension Protection Fund compensates members of defined benefits (final salary) occupational pension schemes where the employer goes out of business and the scheme is left with insufficient funds. Compensation may be made as regular payments of income and lump sum payments (just as the former pension scheme would have paid), although in some cases members may receive a lower level of income than their pension would have provided.

1 SPC Regs, reg 15(5)(k); SPC Act, s 17(1)

## Royalties, copyright payments and lending right payments

85177 Any royalties or other payments in respect of the use of, or the right to use any

**1.** copyright **or**

**2.** design **or**

**3. patent or**

**4. trade mark**

is income that should be taken fully into account<sup>1</sup>. However, such payments where the claimant is the first owner of the work are subject to a partial earnings disregard (see **DMG 85243**)<sup>2</sup>.

1 SPC Regs, reg 15(5)(f); 2 reg 17(9)(b)

85178 Any payment in respect of any

**1. book registered under the Public Lending Right Scheme 1982 or**

**2. work made under any international public lending right scheme that is similar to the Public Lending Right Scheme 1982**

should be taken fully into account<sup>1</sup>. However, such payments where the claimant is an original contributor to the book or work are subject to a partial earnings disregard (see **DMG 85243**)<sup>2</sup>.

1 SPC Regs, reg 15(5)(g); 2 reg 17(9)(b)

85179 - 85199



# **Income disregarded in part 85200 - 85279**

## **Subpages**

- Income that has a £10 disregard 85200 - 85219
- Income with partial disregards 85220 - 85240
- Other types of income partially disregarded 85241 - 85279

# Income that has a £10 disregard 85200 - 85219

[Types of income with a £10 disregard 85200 - 85219](#)

## Types of income with a £10 disregard

85200 The following types of income have the first £10 a week disregarded. Any remainder is taken fully into account, after any income tax has been disregarded.

1. WDisP<sup>1</sup>
2. WWP<sup>2</sup>
3. a guaranteed income payment made under the Armed Forces and Reserve Forces Compensation Scheme<sup>3</sup>
4. pensions paid to victims of National Socialist persecution<sup>4</sup>
5. WPA<sup>5</sup>
6. WMA<sup>6</sup>.

1 SPC Regs, Sch IV, para 1(a); 2 Sch IV, para 1(b); 3 Sch IV, para 1(cc), (d) & (e); 4 Sch IV, para 1(f);  
5 Sch IV, para 7; 6 Sch IV, para 7A

## War disablement pensions

85201 WDisP is paid to former members of

1. the armed forces **or**
2. forces nursing services

because of medical unfitness caused or aggravated by service but not necessarily the result of combat. See Appendix 1 to this Chapter for details of the law under which WDisP is paid.

85202 WDisP may be made up of<sup>1</sup>

1. wounds pension **and**

**2.** disablement pension **and**

**3.** retired pay for a disabled officer.

1 R(IS) 3/99

85203 Payments of

**1.** WDisP<sup>1</sup> **and**

**2.** a payment to compensate for non payment of WDisP<sup>2</sup> **and**

**3.** a similar pension paid by a foreign government<sup>3</sup>

have a £10 disregard.

1 SPC Regs, Sch IV, para 1(a); 2 Sch IV, para 1(d); 3 Sch IV, para 1(e)

85204 A £10 disregard applies to<sup>1</sup>

**1.** any retired pay, pension or allowance in respect of disablement **or**

**2.** any pension or allowance paid to

**2.1** a widow **or**

**2.2** a widower **or**

**2.3** a surviving civil partner

in respect of a death due to military service or war injury under certain legislation<sup>2</sup>.

1 SPC Regs, Sch IV, para. 1(ba) & reg 15(5)(ac); 2 Income Tax (Earnings and Pensions) Act 2003, s 639(2)

85205 - 85209

### **War widow's or widower's pension**

85210 WWP is paid to a widow or widower following a death caused by service or war injury prior to 6.4.05. The DM should disregard £10 from

**1.** WWP<sup>1</sup> **or**

**2.** similar payments from a foreign government<sup>2</sup>.

**Note 1:** DMs should take into account in full pensions paid to war orphans or dependants, see **DMG**

**85115.** See Appendix 1 to this Chapter for details of the law under which WWP's are paid.

**Note 2:** For deaths occurring on or after 6.4.05 WWP is replaced by the Armed Forces and Reserve Forces Compensation Scheme.

1 SPC Regs, Sch IV, para 1(b) & (c); 2 Sch IV, para 1(e)

## **Armed Forces and Reserve Forces Compensation Scheme**

85211 The Armed Forces and Reserve Forces Compensation Scheme replaces the War Pensions Scheme for those who suffer injury, ill health or death due to service in the Armed Forces from 6.4.05.

**Note:** The War Pensions Scheme will continue to run parallel to the new scheme for existing beneficiaries and for those who make a new claim for a War Pension Scheme payment for a date prior to 6.4.05.

## **Definitions**

85212 The Armed Forces and Reserve Forces Compensation Scheme means<sup>1</sup> the scheme established under specified Armed Forces Legislation<sup>2</sup>.

1 SPC Regs, reg 1(2); 2 Armed Forces (Pensions and Compensation) Act 2004, s 1(2)

85213 A guaranteed income payment means<sup>1</sup> a payment made under specified Armed Forces Legislation<sup>2</sup>.

1 SPC Regs, reg 1(2); 2 Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, art 14(1)(b) or 21(1)(a)

## **Guaranteed income payments**

85214 The following payments should have a £10 disregard

- 1.** a guaranteed income payment<sup>1</sup>
- 2.** a payment to compensate for the non payment of a guaranteed income payment<sup>2</sup>**and**
- 3.** a similar payment made by a foreign government, which is analogous to a guaranteed income payment<sup>3</sup>.

**Note:** Certain other payments from the Armed Forces and Reserve Forces Compensation Scheme are taken fully into account (see **DMG 85172 - 85173**).

1 SPC Regs, reg 15(5)(aa); Sch, IV, para 1(cc); 2 Sch IV, para 1(d); 3 Sch IV, para 1(e)

85215 Where

1. a claimant is in receipt of a guaranteed income payment **and**
2. that payment has been reduced to less than £10 a week by abatement
  - 2.1 due to a pension from the Armed Forces Pension Scheme **or**
  - 2.2 a payment under the Armed Forces Early Departure Scheme

the claimant can still have a full £10 disregard on the guaranteed income payment and the pension<sup>1</sup>.

**Note:** The Armed Forces Pension Scheme means either the Armed Forces Pension Scheme of 1975 or of 2005.

1 SPC Regs, Sch IV, para 1(cc)

### **Example**

Sheila is in receipt of SPC. She also receives a guaranteed income payment of £2.50 per week. This is because the payment has been abated by a pension Sheila receives under the Armed Forces Pension Scheme. The DM disregards the guaranteed income payment of £2.50 and also £7.50 from the pension. This gives a total disregard of £10.

### **Pensions paid to victims of National Socialist persecution**

85216 These pensions should have a £10 disregard<sup>1</sup>. They are made by special provision under the law of the relevant country to victims of National Socialist persecution.

**Note:** When considering whether a payment qualifies for this disregard could DMs please contact DMA Leeds with full details of the case.

1 SPC Regs, reg 15(5)(b), Sch IV, para 1(f)

### **Widowed parents allowance**

85217 A £10 disregard applies to WPA<sup>1</sup>. It replaced WMA for people whose spouse died on or after 9 April 2001. It is paid to bereaved men and women who care for children.

1 SPC Regs, Sch IV, para 7

### **Widowed mothers allowance**

85218 A £10 disregard applies to WMA<sup>1</sup>. It was payable to women with responsibility for a child who were widowed prior to 9 April 2001. Payments can continue as long as the entitlement conditions are satisfied.

85219

## Income with partial disregards 85220 - 85240

[Home income plans](#) [See Memo DMG 16/18] 85221 - 85229

[Income from people living in the claimant's home](#) 85230 - 85240

85220 [\[See Memo DMG 16/18\]](#) The following types of income should be disregarded in part<sup>1</sup>

1. home income plans (see **DMG 85221**)
2. income from boarders (see **DMG 85231**)
3. income from subletting (see **DMG 85239**)
4. civilian war injury pensions (see **DMG 85241**)
5. royalty payments (see **DMG 85242**)
6. discretionary trusts (see **DMG 85245**).

1 SPC Regs, Sch IV

### Home income plans

#### What is a home income plan

[\[See Memo DMG 16/18\]](#)

85221 A home income plan is a type of equity release scheme. Retired people who own their own home may take out a loan secured on the home and use the money to buy an annuity which provides an income. The loan may also be for other expenditure such as building an extension. The gross income from the annuity covers the interest on the loan with any balance being used for personal use.

**Note:** For guidance on the treatment of income from other types of equity release schemes see **DMG 85151**.

#### What is an annuitant

85222 In this guidance, an annuitant is a person to whom income from an annuity is payable.

## Payments from home income plans

85223 [\[See Memo DMG 16/18\]](#) The DM should establish if the following conditions are satisfied

1. the loan was taken out under a scheme under which at least 90% of the proceeds of the part of the loan intended to buy an annuity have been used to buy an annuity<sup>1</sup> **and**
2. the annuity ends with
  - 2.1 the life of the person to whom the loan was made **or**
  - 2.2 the life of the survivor of two or more annuitants who include the person to whom the loan was made **and**
3. at the time the loan was made the person to whom it was made and other annuitant was aged at least 65<sup>2</sup> **and**
4. the loan was secured on a dwelling in GB and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling<sup>3</sup> **and**
5. the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as the home at the time the interest was paid<sup>4</sup> **and**
6. the interest on the loan is paid by the person to whom the loan was made or by one of the annuitants<sup>5</sup>.

1 SPC Regs, Sch IV, para 10(a); 2 Sch IV, para 10(b); 3 Sch IV, para 10(c);

4 Sch IV, para 10(d); 5 Sch IV, para 10(e)

85224 If all the conditions in **DMG 85223** are satisfied the DM should disregard

1. the net weekly interest where income tax is deductible<sup>1</sup> **or**
2. the gross amount of interest in other cases<sup>2</sup>.

The balance of the annuity income should be taken fully into account.

1 SPC Regs, Sch IV, para 10(e)(i); 2 Sch IV, para 10(e)(ii)

## Notional annuity income

85225 If the annuity income **is**

1. paid direct to the lender **or**



**2.** not paid to the claimant or the lender

the DM should consider if the claimant is treated as possessing notional income (see **DMG 85400** et seq)<sup>1</sup>.

1 SPC Regs, reg 18(6)

85226 - 85229

## **Income from people living in the claimant's home**

85230 The following paragraphs give guidance on the treatment of income from people living in the claimant's home other than non-dependants. DMs should not apply the disregard for payments from people who normally live with the claimant to

- 1.** payments for board and lodging **or**
- 2.** payments made by a subtenant under a contract.

## **Income from boarders**

85231 Where claimants provide board and lodging accommodation within their home the DM should

- 1.** add together all the payments made for board and lodge for the week **and**
- 2.** deduct £20 **and**
- 3.** deduct 50% of any excess over £20

for each person for whom board and lodge is provided<sup>1</sup>.

**Note:** In this paragraph "home" means the dwelling occupied as the home.

1 SPC Regs, reg 15(5)(e), Sch IV, para 8

## **Example**

Anita, who claims SPC, had two boarders during the week.

- 1.** Boarder 1 paid £55 for a 4 night stay
- 2.** Boarder 2 paid £12 a night for a five night stay

The DM calculated the income to be taken into account as follows

### **Boarder 1**

Payments for the week    £55

Deduct £20                    £20

£35

Deduct 50% of remainder £17.50

Income from boarder 1    £17.50

### **Boarder 2**

Payments for the week    £60

Deduct £20                    £20

£40

Deduct 50% of remainder   £20

Income from boarder 1    £20

### **Total Income**

From boarder 1 and boarder   £37.50 to be taken into account.

2

### **What is board and lodging accommodation**

85232 Board and lodging accommodation means<sup>1</sup> accommodation provided for a charge that includes

**1.** providing the accommodation **and**

**2.** some cooked or prepared meals.

**Note:** But not accommodation provided by a close relative or other than on a commercial basis.

1 SPC Regs, reg 1(2); Black and Morgan v Wilkinson [2013] EWCA Civ 820

85233 Any meals provided

**1.** should not be cooked or prepared by the boarder or member of the boarder's family **and**

**2.** should be eaten in the accommodation or associated premises<sup>1</sup>.

1 SPC Regs, reg 1(2); Black and Morgan v Wilkinson [2013] EWCA Civ 820

### **Adult Placement/Shared Lives schemes**

85234 Adult Placement/Shared Lives schemes allow adults with certain needs to live in the community. The adult is placed with a volunteer carer. In return for providing accommodation and care, the volunteer carer receives payment. This is sometimes referred to as “adult fostering”. The schemes are run by LAs or charities.

85235 The payments received for providing care and support do not fall within the meaning of board and lodging accommodation. This is because the payments are primarily for providing care and are not a commercial board and lodging charge. If a person is temporarily in the claimant’s care then the payments are also not self-employed earnings<sup>1</sup> (see **DMG 86211 4.**).

1 SPC Regs, reg 17B(4)(b)

85236 Payments received by the claimant in respect of providing care in an Adult Placement/Shared Lives scheme do not fall to be taken into account as income.

### **Continuing Care & Kinship Care (Scotland)**

85237 These provisions<sup>1</sup> place a duty on Local Authorities to place a child who is at risk of going into care or who has previously been looked after by the LA with another person. This is known as Kinship care. Any payments made by the LA to the person with care are intended to cover any additional costs normally incurred by a child living at home but do not cover the costs of accommodation and maintenance of the child or provide on-going care and assistance to eligible young people who cease to be ‘looked after’ under relevant legislation. Typically, these young people will be in

foster or residential care. These provisions apply to young people aged 16 and 17 though once in receipt of continuing care they can continue up to the age of 25. These are not prescribed incomes for the purposes of SPC.

1 The Children (Scotland) Act 1995, s 26, s 26A or 29,  
The Children and Young People (Scotland) Act 2014, s 73(1)(b)

85238 Where the young person

**1.** was formerly in the claimant’s care **and**

**2.** is aged 16 or over **and**

**3.** continues to live with the claimant

Any payments received by the claimant in respect of continuing care will be disregarded<sup>1</sup>. These payments also do not fall within the meaning of board and lodging accommodation. This is because the payments are primarily for providing care and are not a commercial board and lodging charge. If a person is temporarily in the claimant's care then the payments are also not self-employed earnings<sup>1</sup> (see **DMG 86211 4.**).

1 SPC Regs, reg 17B(4)(da)

### **Income from subletting**

85239 Income from sub-letting includes<sup>1</sup> any payment made to the claimant who

- 1.** owns the freehold or leasehold interest in any property or is a tenant of any property **and**
- 2.** occupies part of that property **and**
- 3.** has an agreement with another person allowing that person to occupy that property on payment of rent.

1 SPC Regs, reg 15(5)(i)

85240 Where a claimant sublets part of a property the DM should

- 1.** add together all the payments made for the week **and**
- 2.** deduct £20

for each subtenant who is liable under a contract to pay rent to the claimant<sup>1</sup>.

1 SPC Regs, Sch IV, para 9

### **Example 1**

Sally has a subtenant in her home who is liable under a contract to pay her rent. The weekly rent is £50. The subtenant pays £30 on Tuesday and £20 on Saturday. The DM

- 1.** adds together the payments in the week  $£30 + £20 = £50$
- 2.** and deducts £20 = £30 income with £20 disregarded.

### **Example 2**

Robin has two subtenants in his property. Both subtenants pay £65 a week. The DM

**1.** adds together the payments in the week  $\pounds 65 + \pounds 65 = \pounds 130$

**2.** and deducts  $\pounds 20$  for each subtenant  $\pounds 40 = \pounds 90$  income with  $\pounds 40$  disregarded.

# Other types of income partially disregarded 85241 - 85279

[Civilian war injury pensions](#) 85241

[Royalty payments](#) 85242 - 85244

[Discretionary trusts](#) 85245 - 85279

## Civilian war injury pensions

85241 Civilian war injury pensions have a disregard that is updated annually<sup>1</sup>.

1 SPC Regs Sch IV, para 5

## Royalty payments

85242 Royalty payments are treated as income other than earnings and include

1. taking part in radio or television plays, commercials and documentaries
2. repeat showings of plays, commercials and documentaries
3. interviews with press reporters
4. published items.

**Note:** For inherited royalty payments see **DMG 85177**.

85243 However where the claimant

1. receives royalties or other payments in respect of the use of, or the right to use any

**1.1** copyright **or**

**1.2** design **or**

**1.3** patent **or**

**1.4** trade mark **or**

2. receives any payment in respect of any

**2.1** book registered under the Public Lending Right Scheme 1982 **or**

**2.2** work made under any international public lending right scheme that is similar to the Public Lending Right Scheme 1982 **and**

**3.** is

**3.1** the first owner of

**3.1.a** the copyright **or**

**3.1.b** design **or**

**3.1.c** patent **or**

**3.1.d** trade mark **or**

**3.2** an original contributor to the book or work covered by **2.1** or **2.2**

then the DM should apply the appropriate earnings disregard<sup>1</sup> (see **DMG 86110 -86141**).

1 SPC Regs, reg 17(5), (9)(b) & (9A)

85244

## **Discretionary trusts**

### **What is a discretionary trust**

85245 If the claimant is a beneficiary under a discretionary trust he cannot demand payment under the terms of the Trust. The Trustees have an absolute discretion as to whether or not to make payments to the claimant.

### **Disregard**

85246 Disregard<sup>1</sup> the first £20 of a payment made to a claimant from a discretionary trust for one or more of the following items

**1.** food

**2.** ordinary clothing or footwear

**3.** household fuel

**4.** rent

5. CT

6. water charges

7. housing costs met as additional amounts in the AMG.

See **DMG 85345** for details of when payments from a discretionary trust are fully disregarded.

1 SPC Regs, Sch IV, para 11(2) & (3)

85247 For the purposes of **DMG 85246**

**1.** “ordinary clothing and footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities **and**

**2.** “rent” means eligible rent for the purposes of the Housing Benefit (General) Regulations 1987, less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions) of those Regulations<sup>1</sup>.

1 SPC Regs, Sch IV, para 11(4)

85248 - 85249

### **Weekly limit to £10 and £20 disregards**

85250 When one or more of the payments listed in **DMG 85200** and a payment from a discretionary trust, as in **DMG 85246**, are taken into account in the same benefit week, the discretionary trust disregard is limited to a maximum of £10 per week<sup>1</sup>.

1 SPC Regs, Sch IV, para 11(3)(a) & (b)

### **Example**

Anna receives a payment of £30 a week from a discretionary fund to help with fuel bills. She also receives a war widows pension of £20 a week.

Discretionary payment £30

War widows pension £20

Gross income £50



Disregard                    £20

Income for SPC            £30

The total disregard is limited to £20 even though a discretionary payment normally has the first £20 disregarded.

85251 - 85279

## **Income fully disregarded 85280 - 85399**

### **Subpages**

- Types of income fully disregarded 85280 - 85282
- Types of income ignored for state pension credit purposes 85283 - 85284
- Attendance allowances and disability living allowance 85285 - 85293
- Benefits fully disregarded 85294 - 85330
- War widow's or widower's supplementary pensions 85331 - 85334
- Other types of income fully disregarded 85335 - 85399

# Types of income fully disregarded 85280 - 85282

85280 [\[See DMG Memo 11/20\]](#) [\[See Memo DMG 22/20\]](#) When calculating income for SPC

1. AFIP
2. attendance allowances
3. BPT
4. Best Start Grant
5. CDI
6. certain types of capital
7. CHB
8. child special allowance
9. Christmas bonus
10. cost of conversion of foreign money
11. CTB
12. discretionary trust payments
13. DLA
14. GA
15. HB
16. income frozen abroad
17. mobility supplement
18. payments from the Social Fund under SS legislation
19. personal injury payments and structured settlements
20. PIP
21. war widows/widowers/surviving civil partners supplementary pensions

**22.** any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018

**23.** UC

should be fully disregarded<sup>1</sup>.

1 SPC Regs, reg 15

85281 The following are fully disregarded as benefit income<sup>1</sup> but should be taken into account as earnings<sup>2</sup> (see **DMG Chapter 86**).

**1.** statutory adoption pay (see **DMG 85320**)

**2.** SMP (see **DMG 85321**)

**3.** statutory paternity pay (see **DMG 85322**)

**4.** statutory shared parental pay (see **DMG 85324**)

**5.** SSP (see **DMG 85323**).

1 SPC Regs, reg 15; 2 reg 17A(2)

85282 Any benefit similar to those mentioned in **DMG 85280 - 85281** payable under legislation having effect in Northern Ireland is also disregarded when calculating income for SPC<sup>1</sup>.

1 SPC Regs, reg 15(1)(s)

## **Types of income ignored for state pension credit purposes 85283 - 85284**

85283 [[See Memo DMG 18/20](#)] The DM should also ignore any income paid to the claimant or partner if that income does not fall within the definition of income as listed at DMG 85004<sup>1</sup>.

1 SPC Act 02, s 5 & 15(1)

85284

# Attendance allowances and disability living allowance 85285 - 85293

[Attendance allowance 85285](#)

[What constitutes attendance allowance 85286 - 85289](#)

[Disability living allowance 85290](#)

[Personal independence payment 85291](#)

[Armed forces independence payment 85292 - 85293](#)

## Attendance allowances

85285 The DM should disregard in full<sup>1</sup>

1. AA<sup>2</sup>
2. CAA which is paid with a disablement pension because disablement has been assessed at 100%<sup>3</sup>
3. ESDA paid because industrial disablement has been assessed at 100%<sup>4</sup>
4. payments for attendance under the Civilian's Personal Injury Scheme<sup>5</sup> or any similar payment. These payments are made to people who receive a disability pension because of war injuries suffered as civilians or civil defence volunteers
5. any payment for attendance which is part of WDisP. This includes severe disablement occupational allowance paid with CAA<sup>6</sup>
6. any payment for attendance paid as
  - 6.1 any retired pay, pension or allowance in respect of disablement **or**
  - 6.2 any pension or allowance paid to
    - 6.2.a a widow **or**
    - 6.2.b a widower **or**
    - 6.2.c a surviving civil partner

in respect of a death due to military service or war injury under certain legislation<sup>7</sup>.

1 SPC Regs, reg 15(1); 2 SS CB Act 92, s 64; SPC Regs, reg 15(1)(b); 3 SS CB Act 92, s 104 or 105;  
4 s 104 or 105; 5 Personal Injuries (Civilians) Scheme 83, art 14 - 16, 43 & 44; 6 SPC Regs, Sch IV, para 2;  
7 reg 1(2); Income Tax (Earnings and Pensions) Act 2003, s 639(2)

## **What constitutes attendance allowance**

85286 DMs should recognize the difference between

**1.** the term attendance allowance which is commonly used to describe one particular benefit (abbreviation AA) **and**

**2.** “attendance allowance” which is defined in regulations<sup>1</sup> and includes all the benefits listed in **DMG 85285** (abbreviation “AA”).

1 SPC Regs, reg 1(2)

85287 - 85289

## **Disability living allowance**

85290 The DM should fully disregard

**1.** DLA mobility component **and**

**2.** DLA care component<sup>1</sup>.

1 SPC Regs, reg 15(1)(a)

## **Personal independence payment**

85291 The DM should fully disregard

**1.** PIP mobility component **and**

**2.** PIP daily living component<sup>1</sup>.

1 SPC Regs, reg 15(1)(aa)

## **Armed forces independence payment**

85292 Payments of AFIP are fully disregarded<sup>1</sup>.

1 SPC Regs, reg 15(1)(ab)





## **Benefits fully disregarded 85294 - 85330**

[Bereavement payment](#) 85294 - 85295

[Child benefit](#) 85296

[Child dependency increases](#) 85297

[Child's special allowance](#) 85298

[Christmas bonus](#) 85299

[Council tax benefit](#) 85300

[Guardian's allowance](#) 85301

[Housing benefit](#) 85302

[Mobility supplement](#) 85303

[Payments from the Social Fund under social security legislation](#) 85304

[Scottish Carer's Allowance Supplement](#) 85305 - 85319

[Scottish Child Payment](#) 85306

[Statutory adoption pay](#) 85320

[Statutory maternity pay](#) 85321

[Statutory paternity pay](#) 85322

[Statutory sick pay](#) 85323

[Statutory shared parental pay](#) 85324 - 85330

### **Bereavement payment**

**[See DMG Memo 08/20]**

85294 Bereavement payment is a lump sum payment that can be claimed if the spouse or civil partner is under pensionable age and the deceased spouse or civil partner satisfied the requisite contribution

condition. It is fully disregarded<sup>1</sup> in the calculation of SPC.

1 SPC Regs, reg 15(1)(n)

## **Bereavement support payment**

85295 The BSP replaces BB for people whose spouse or civil partner dies on or after 6.4.17<sup>1</sup>. There are two rates of BSP; the higher rate and the standard rate. The regular monthly BSP payment is treated as income other than earnings<sup>2</sup> and is disregarded for the period in respect of which it is paid. Any unspent BSP remaining at the end of this month will become capital (with no disregard applied). The regular monthly payment does not include any arrears or the higher or standard rate of BSP that may be payable for the first month of the BSP period<sup>3</sup>.

**Note:** See **DMG chapter 84** for how BSP affects capital and DMG chapter 59 for more information on BSP.

1 Pensions Act 14 (Commencement No. 10) Order, art 2(1)(b); BSP Regs, reg 1(2);

2 SPC Regs, reg 15(1)(n); 3 BSP Regs, reg 3(2) & (5)

## **Child benefit**

85296 CHB should be fully disregarded<sup>1</sup> in the calculation of SPC. It is payable to people in GB who are responsible for a child.

1 SPC Regs, reg 15(1)(j)

## **Child dependency increases**

85297 Any increase for a dependant, other than the claimant's partner, paid in accordance with specified legislation<sup>1</sup> is disregarded in full<sup>2</sup>.

**Note:** To be gradually abolished under tax credits.

1 Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006, Part 2 or 3;

2 SPC Regs, reg 15(1)(h), Sch IV para 12

## **Child's special allowance**

85298 Child's special allowance should be fully disregarded<sup>1</sup>. It is payable to a divorced woman on the death of her former husband if she has

**1.** a child whom her former husband was helping to support or was liable to support **and**

**2.** not remarried.

**Note:** Child's special allowance was abolished from 6.4.87. Where it was in payment before that date claimants could continue to receive it<sup>2</sup>.

1 SPC Regs, reg 15(1)(f); 2 SS CB Act 92 s 56(6)

## **Christmas bonus**

85299 Christmas bonus should be disregarded in full<sup>1</sup>. It is paid in the week starting with the first Monday in December to people getting the following benefits<sup>2</sup>

- 1.** RP & SP
- 2.** IB
- 3.** WMA, WPA or WP
- 4.** SDA
- 5.** CA
- 6.** IDB
- 7.** AA/DLA
- 8.** US
- 9.** WDisP
- 10.** WWP
- 11.** SPC
- 12.** ESA(Cont).

1 SPC Regs, reg 15(1)(k); 2 SS CB Act 92, s 148

## **Council tax benefit**

85300 The DM should fully disregard any payment of CTB<sup>1</sup>. CTB usually reduces the bill sent by LAs but some claimants may receive cash payments.

1 SPC Regs, reg 15(1)(m)

## Guardian's allowance

85301 GA should be fully disregarded<sup>1</sup>. It is payable to a person who is entitled to CHB for a child

1. whose natural parents are dead **or**
2. where one of the natural parents is dead and the other cannot be traced or is serving a long prison sentence.

1 SPC Regs, reg 15(1)(g)

## Housing benefit

85302 The DM should fully disregard any payments of HB<sup>1</sup>. HB may be

1. paid direct to the claimant **or**
2. paid direct to the landlord **or**
3. deducted from the rent payable.

HB is paid by LAs to help people on low incomes pay their rent.

**Note:** See **DMG 85230** et seq where the claimant is a landlord and receives HB for people living in his home.

1 SPC Regs, reg 15(1)(l)

## Mobility supplement

85303 The DM should fully disregard<sup>1</sup>

1. any mobility supplement paid under relevant legislation<sup>2</sup>
2. any payment to compensate for the non-payment of the supplement in **1.**

1 SPC Regs, Sch IV, para 3;  
2 Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, art 20 or  
Personal Injuries (Civilians) Scheme 1983, art 25A

## Payments from the Social Fund under social security legislation

85304 The DM should fully disregard any payment from the SF<sup>1</sup>.

1 SPC Regs, reg 15(1)(i)

## Scottish carer's allowance supplement

85305 The Scottish carer's allowance supplement<sup>1</sup>, 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.

1 The Scotland Act 2018, s47

## Scottish Child Payment

85306 Scottish child payments should be disregarded in full<sup>1</sup>. The payments are made by the Scottish government to eligible families and carers to help with the costs of raising a child.

1 SPC Regs, reg 15(1)(rd)

85307 - 85319

## Statutory adoption pay

85320 Employees who adopt a child under the age of 18 have the right to 26 weeks adoption leave. Statutory adoption pay will be payable to adopters during their ordinary adoption leave where they have average weekly earnings at least equal to the LEL. The DM should take any payment of statutory adoption pay<sup>1</sup> into account as earnings (see **DMG 86033**).

1 SPC Regs, reg 15(1)(r); reg 17A(2)(j)

## Statutory maternity pay

85321 SMP is payable by employers to female employees as part of or instead of normal earnings when they have given up work to have a baby. The DM should take any payment of SMP<sup>1</sup> into account as earnings (see **DMG 86033**).

1 SPC Regs, reg 15(1)(p); reg 17A(2)(h)

## Statutory paternity pay

85322 Statutory paternity pay is payable to male employees during their paternity leave when they have average weekly earnings of at least the LEL. The DM should take any payment of statutory paternity pay<sup>1</sup> into account as earnings (see **DMG 86033**).

1 SPC Regs, reg 15(1)(q); reg 17A(2)(i)

## Statutory sick pay

85323 SSP is payable by employers to employees as part of or instead of normal wages for up to 28

weeks in any period of sickness. The DM should take any payment of SSP<sup>1</sup> into account as earnings (see **DMG 86033**).

1 SPC Regs, reg 15(1)(o); reg 17A(2)(h)

### **Statutory shared parental pay**

85324 Employees and workers may be entitled to shared parental leave and shared parental pay in respect of babies born or adopted on or after 5.4.15. The DM should take any payment of statutory shared parental pay<sup>1</sup> into account as earnings (see **DMG 86033**).

1 SPC Regs, reg 15(1)(qb); reg 17A(2)(ib)

85325 - 85330

## War widow's or widower's supplementary pensions 85331 - 85334

85331 The DM should fully disregard any

- 1.** supplementary pension paid to a widow, widower or surviving civil partner for the disablement or death of service personnel before 1973<sup>1</sup> **and**
- 2.** supplementary pension paid to a widow, widower or surviving civil partner under the Personal Injuries (Civilians) Scheme<sup>2</sup> **and**
- 3.** supplementary pension paid to the widow, widower or surviving civil partner of a person
  - 3.1** whose death was caused by service similar to being in the armed forces **and**
  - 3.2** whose service ended before 31 March 1973 **and**
  - 3.3** that payment is equal to the amount in **1**<sup>3</sup>.

**Note:** See **DMG 85210** for guidance on WWP. See Appendix 1 to this Chapter for details of the law under which war widow's, widower's or surviving civil partner's supplementary pensions are paid.

1 SPC Regs, Sch IV, para 4; 2 Sch IV, para 5; 3 Sch IV, para 6

85332 - 85334

## Other types of income fully disregarded 85335 - 85399

[Cost of conversion of foreign money](#) 85335 - 85339

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### Cost of conversion of foreign money

85335 The DM should fully disregard any

**1.** bank charges **or**

**2.** commission

paid when income paid in foreign currency is converted to sterling<sup>1</sup>.

1 SPC Regs, Sch IV, para 16

### Example

Klaus claims SPC

He is retired and receives a pension of 500 Euros a month from his former employer in Germany. When Klaus's bank convert the payment into sterling they charge a commission of £2. The DM disregards the £2 commission from the amount that Klaus receives in sterling.

85336 - 85339

### Income frozen abroad

85340 The DM should fully disregard income which is

**1.** payable in a foreign country **and**



2. cannot be transferred to the UK

for as long as it is frozen abroad<sup>1</sup>. Income will usually be frozen when the foreign country does not allow its currency to be transferred to the UK.

1 SPC Regs, Sch IV, para 15

85341 - 85344

## Discretionary trust payments

85345 Any payment from a discretionary trust apart from payments made for one or more of the purposes specified in **DMG 85246** should be fully disregarded<sup>1</sup>. If the trust was set up to compensate the claimant or their partner for a personal injury, payments are fully disregarded in the calculation of income for SPC.

1 SPC Regs, Sch IV, para 11(1)

85346 - 85349

## Personal Injury payments and structured settlements

85350 The DM should disregard any payment ordered by the court to be made to the claimant or claimant's partner as a result of any personal injury suffered by them<sup>1</sup>.

1 SPC Regs, Sch IV, para 13

85351 A structured settlement may include a contingency fund that would be treated in the same way as any other personal injury lump sum award, but most of the award is used to provide an annuity making periodical payments to the claimant.

85352 The DM should disregard periodic payments made to the claimant or partner in settlement of a personal injury claim<sup>1</sup>, including interim payments.

1 SPC Regs, Sch IV, para 14

85353 - 85369

## Income from capital

85370 [[See Memo DMG 15/21](#)] [[See Memo DMG 07-23](#)][[See Memo DMG 04-25](#)] The DM should

disregard<sup>1</sup> any income generated from the following capital assets.

**1.** The dwelling occupied as the home<sup>2</sup> (but only one home - see **DMG 84395**)

**2.** Income from properties whose capital value is disregarded because they are

**2.1** intended to be the claimant's home but have not yet been occupied (see **DMG Chapter 84**)

**2.2** premises the claimant intends to live in and certain steps are being taken to take possession (see **DMG Chapter 84**)

**2.3** premises the claimant intends making their home but cannot move in until essential repairs and improvements have been completed (see **DMG Chapter 84**)

**2.4** premises occupied wholly or partly by a partner or close relative of a single claimant where that person is either aged at least 60 or incapacitated (see **DMG Chapter 84**)

**2.5** premises occupied wholly or partly by the claimant's former partner (see **DMG Chapter 84**)

**2.6** the former marital home (see **DMG Chapter 84**)

**2.7** premises that the claimant is taking reasonable steps to sell (see **DMG Chapter 84**)

**3.** any future interest in property of any kind apart from land or premises in respect of which the claimant has granted a subsisting lease or tenancy

**4.** personal possessions

**5.** assets of any business owned in whole or in part by the claimant for the purposes of which he is engaged as a S/E earner or, if he has ceased to be engaged, for a reasonable period to allow for disposal of those assets

**6.** assets of any business owned in whole or in part by the claimant if he is not engaged as a S/E earner by reason of some disease or disablement but he intends to return to work as a S/E earner as soon as he recovers

**7.** surrender value of any life insurance policy

**8.** value of any funeral plan contract

**9.** amount of any ex-gratia payment made in consequence of imprisonment or internment by the Japanese during the second World War

**10.** amount of any trust payment made to a claimant or claimant's partner due to suffering from variant Creutzfeld-Jakob disease (see **DMG Chapter 84**)

- 11.** amount of any compensation payment due to being a slave labourer, suffering property loss or personal injury or the loss of a child during second World War
- 12.** any payment made from the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Eileen Trust (“The Fund”), MFET Limited or the Independent Living Fund (2006) (- but see note below), the Skipton Fund, the London Bombings Relief Charitable Fund (see DMG Chapter 84), the Scottish Infected Blood Support Scheme (SIBSS), the London Emergencies Trust (LET), the We Love Manchester Emergency Fund (WLMEF), Infected Blood Schemes.
- 13.** the amount of any payment made in consequence of personal injury to the claimant or partner
- 14.** amounts paid under an insurance policy in respect of loss or damage to the property occupied as the home or personal possessions
- 15.** amounts paid or deposited in the claimant’s name for the purpose of purchasing a home or making repairs to the property occupied as the home
- 16.** any amount paid by way of arrears of benefit, by way of compensation for late payment of benefit, in lieu of payment of benefit or by a LA out of money provided by the Supporting People scheme under certain legislation
- 17.** any banking charge or commission payable in converting capital into sterling
- 18.** value of the right to receive income from an occupational or personal pension scheme
- 19.** value of the right to receive income under a retirement annuity contract.

1 SPC Regs, reg 17(8)(a), Sch V, Part I; 2 Sch V, Part 1, para 1A

**Note 1:** The Independent Living Fund (2006) closed on 30.6.15 with funding responsibilities transferring to Local Authorities in England, the Welsh Independent Living Grant in Wales and the Independent Living Fund Scotland for Northern Ireland and Scotland. The DM should disregard any payments made under any of the replacement schemes.

**Note 2:** From 2.10.17 approved Infected Blood Schemes for England, Wales and Northern Ireland replaced the five existing UK payment schemes (The Eileen Trust (“The Fund”), 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.

**Note 3:** The Scottish Infected Blood Support Scheme (SIBSS) became operational from 1.4.17. It is administered by NHS National Services Scotland (NSS), legally known as the Common Services Agency. NSS is an NHS Board accountable to Scottish Ministers. SIBSS combined the five existing blood support schemes (The Eileen Trust (“The Fund”), The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation – see DMG 28469 - 28473) into one scheme in Scotland.

85371 - 85399

## **Notional income 85400 - 85999**

### **Subpages**

- General 85400 - 85407
- Deprivation of income 85408 - 85439
- Retirement pension income available on application 85440 - 85499
- Payments of income to third parties 85500 - 85999

## General 85400 - 85407

[What is notional income](#) 85400

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[Treatment of notional income](#) 85403 - 85407

### What is notional income

85400 A person may be treated as having an income that he does not actually have<sup>1</sup>. This type of income is known as notional income and may take different forms.

1 SPC Act 02, s 15(6)(a)

### Types of notional income

85401 Notional income may be attributed because of<sup>1</sup>

1. deprivation of income (**DMG 85408 - 85426**)
2. retirement pension income available but not applied for (**DMG 85440 - 85478**) and
3. income for the claimant paid to a third party (**DMG 85500 - 85506**).

1 SPC Regs, reg 18

### Actual and notional income

85402 A person may have both actual and notional income. DMs need not consider notional income if a person's actual income on its own is greater than the claimant's AMG. If actual income is less than the AMG the DM should consider if there is notional income.

### Treatment of notional income

85403 Calculate notional income in the same way that actual income is calculated in this Chapter. Any notional income should be added to any actual income. The total should then be taken into account using

normal rules, including applying any appropriate disregard.

85404 - 85407

## Deprivation of income 85408 - 85439

[Deferral of retirement pension entitlement](#) 85409 - 85410

[Deferral of State Pension entitlement](#) 85411 - 85412

[Deprivation](#) 85413

[Meaning of deprive](#) 85414 - 85417

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85408 DMs should treat claimants as receiving income that they have deprived themselves of for the purpose of gaining entitlement to or increasing the amount of SPC payable<sup>1</sup>, unless the circumstances in **DMG 85409 - 85410** or **85426 - 85434** apply.

1 SPC Regs, reg 18(6)

### Deferral of retirement pension entitlement

85409 From April 2005 pensioners can choose to be paid either an increased pension or a lump sum payment where they have deferred their entitlement to RP, shared additional pension or graduated retirement pension. Deferral has to be for at least twelve months (after 6.4.05) for the lump sum option to be available. Where someone dies whilst deferring, the surviving spouse or civil partner will have the same choice in relation to the inherited increase or lump sum.

85410 The rule regarding deprivation of income at **DMG 85408** shall not apply<sup>1</sup> if a claimant



**1.** elects for an increase in their pension or benefit following deferral under specified pensions legislation<sup>2</sup> **and**

**2.** changes their election in accordance with specific regulations<sup>3</sup> in favour of a lump sum.

**Note:** The deferral referred to at **1.** above applies to the claimant's own deferral or that of their late spouse or civil partner.

1 SPC Regs, reg 18(6) & (7); 2 SS CB Act 92, Sch 5 or 5A; Graduated Retirement Benefit Regulations, Sch 1;  
3 SS CB Act 92, Sch 5 or 5A

## **Deferral of State Pension entitlement**

85411 Pensioners can choose to postpone or suspend (defer) their entitlement to SP<sup>1</sup>. Generally (unlike RP), there is no lump sum payment option, however a lump sum payment under SP can be received in the following circumstances:

**1.** the person's partner has died; **and**

**2.** the deceased had reached pension age before 6.4.16; **and**

**3.** they had deferred their pension and had died whilst deferring.

1 Pensions Act 14, s 16

85412 The rule regarding deprivation of income at DMG 85408 shall not apply<sup>1</sup> if a claimant

**1.** elects for an increase in their pension or benefit following deferral under SP legislation<sup>2</sup> **and**

**2.** changes the election in accordance with specific regulations<sup>3</sup> in favour of a lump sum.

**Note:** The deferral referred to at **1.** applies to the claimant's own deferral or that of their late spouse or civil partner.

1 SPC Regs, reg 18(6), (7ZA) & (7ZB); 2 Pensions Act 14, s 8(2) & (9); SP Regs, reg 15 & 16; 3 reg 6 & 18(7)

## **Deprivation**

85413 The DM must be satisfied that a significant reason for the deprivation was to get or increase SPC.

### **Example**

George is retired. He claims SPC but the DM refuses the claim on income grounds because George has an occupational pension.

George claims SPC again. The DM finds out that George has arranged for his occupational pension payments to be transferred to another person.

The DM decides that the transfer of the pension was done for the purpose of getting SPC and takes into account a notional income equal to the amount of the occupational pension.

## Meaning of deprive

85414 The word deprive is an ordinary English word. Its meaning is not a question of law. It should be given a normal everyday meaning<sup>1</sup>.

1 R(SB) 38/85

85415 Claimants will have deprived themselves of income, if, because of their own actions, they no longer have that income. Claimants will still have deprived themselves of income whether or not another income has replaced the original income<sup>1</sup>.

1 R(SB) 40/85

85416 Claimants cannot deprive themselves of income that they have already received. If a payment of income is received, it is actual income and should be taken into account in the normal way.

85417 A deprivation of income may occur where a claimant's income is reduced to repay an overpaid income. The DM should decide if a significant reason for the reduction is to get or increase the amount of SPC. DMs should bear in mind that the repayment of a

**1. legally enforceable and**

**2. immediately repayable**

debt cannot be for the purpose of increasing or getting SPC<sup>1</sup>.

1 R(SB) 12/91

## Questions for consideration

85418 The DM should consider the questions in **DMG 85419 - 85426** where claimants seem to have deprived themselves of income.

## Was it the claimant's income

85419 The DM must decide if an income belongs to the claimant. If there is evidence that the person has been receiving an income (possibly on a previous claim), the DM should presume the income belongs to the claimant.

85420 There may be supporting evidence, such as a letter or document that shows an income belongs to the claimant. If it is alleged that an income is not the claimant's, the claimant must prove that the income belongs to someone else.

## Has a deprivation of income happened

85421 Deprivation will have happened if a person

1. gives up **or**
2. transfers to another person

an income due to be paid.

### Example

Suzanne received SPC. She arranges by deed of gift to transfer income from an occupational pension to her adult daughter. The DM decides that Suzanne has deprived herself of the income from the occupational pension.

85422 The claimant has to prove that an income is no longer paid to him. Once the DM has shown that a claimant was being paid an income it is up to the claimant to prove it is no longer being paid. If the claimant cannot do this, the DM should decide that the income is still being received. The income should be taken into account as actual income<sup>1</sup>.

1 R(SB) 38/85

## Was the purpose of the deprivation to get or increase the amount of SPC

85423 There may be more than one reason for a person disposing of an income. Only one of those reasons might be getting or increasing SPC<sup>1</sup>.

1 R(SB) 38/85

85424 Getting or increasing SPC need not be the most important reason for disposing of an income but

it must be a significant reason<sup>1</sup>.

85425 It is unlikely that there will be direct evidence that a deprivation was for the purpose of getting benefit. Decide on a person's reasons for disposing of an income after considering all the facts of the case. These may include

1. the person's explanations
2. the timing of the disposal
3. the claimant's knowledge of the benefit system
4. the likelihood of a benefit claim at the time of the deprivation.

85426 When considering claimant's intentions in depriving themselves of income the DM should consider what account of the claimant's intentions best explains the facts of the case. If the best explanation of the deprivation is that a significant reason for the disposal was getting or increasing SPC the DM should calculate a notional income.

## Timing of the disposal

85427 DMs should carefully consider the timing of the disposal of income as

1. a claim for SPC made shortly after the disposal of an income may indicate that getting or increasing SPC was a significant reason for the disposal
2. a claim for SPC made a long time after the disposal of an income is less likely to indicate that getting or increasing SPC was a significant reason for the disposal. But if there is evidence that a claimant was considering claiming SPC at a later date, deprivation may still have been for getting or increasing benefit.

### Example

Rosemary is retired and in poor health.

She transfers a payment from an annuity to her daughter by deed of gift. She goes to live in a care home nine months later and claims SPC.

The DM decides that

1. Rosemary deprived herself of the income **and**

2. that the need to claim SPC at a later date was an important factor in the deprivation.

## Trivial commutation of small pensions

85428 In certain circumstances people who are in receipt of a small private or occupational pension may choose to give up periodical payments in exchange for a lump sum payment. A claimant has not deprived themselves of income<sup>1</sup> where

1. his rights to benefits under a registered pension scheme<sup>2</sup> are extinguished and as a consequence he receives a payment from the scheme **and**

2. that payment is a trivial commutation lump sum as defined in specific legislation<sup>3</sup>.

1 SPC Regs, reg 18(9); 2 Finance Act 2004, s 150(2); 3 s 29, para 7

85429

## Service users

85430 People who participate in a service user group are often called “service users”. A service user means<sup>1</sup>

1. a person who is being consulted by or on behalf of

**1.1** a body which has a statutory duty to provide services in the field of

**1.1.a** health **or**

**1.1.b** social care **or**

**1.1.c** social housing **or**

**1.2** a body which conducts research or undertakes monitoring for the purpose of planning or improving the services in **1.1**

in their capacity as a user, potential user, carer of a user or a person affected by those services **or**

2. a person who is being consulted by or on behalf of

**2.1** the Secretary of State in relation to social security or child support functions under relevant legislation<sup>2</sup> **or**

**2.2** a body which conducts research or monitoring in order to plan or improve the functions in **2.1**

in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person

**3.** the carer of a person consulted under **1.** or **2.**.

1 SPC Regs, reg 1(3A); 2 E & T Act 73, s 2

85431 For the purposes of **85430**

**1.** a service user is a person who

**1.1** has used **or**

**1.2** is using **or**

**1.3** may potentially use **or**

**1.4** is otherwise affected by the services referred to in **2.** **and**

**2.** the services concerned are delivered by a body which has a statutory duty to provide services in the field of

**2.1** health **or**

**2.2** social care **or**

**2.3** social housing **or**

**2.4** social security **or**

**2.5** child support **and**

**3.** a service user is a person who is consulted by the bodies in **2.** or by an alternative body (for example, educational establishments or voluntary and charitable organisations) who conduct

**3.1** research **or**

**3.2** monitoring **or**

**3.3** planning

in order to improve services through user involvement.

85432 Service user may sometimes be described as

1. experts-by-opinion
2. patients
3. potential patients
4. clients
5. carers
6. focus groups.

85433 A body that seeks to improve services through user consultation may describe the process as

1. service user and care user involvement
2. public involvement
3. participation
4. co-operation
5. Local Involvement Networks (LINKs).

### **Example 1**

The General Social Care Council (GSCC) is required under legislation to promote high standards in the training of social care workers. It does this through inspection and regulation. Roger has had the help of a social worker in the past. Roger and other individuals have been invited to attend a training programme for social workers as visitors to monitor and advise on the training policies of the GSCC from the perspective of people who have used social work services. The DM determines that Roger is a service user.

### **Example 2**

The National Institute for Health & Care Excellence (NIHCE) is a statutory body. Its guidance helps support providers and commissioners deliver high quality care in health and care settings. Key to NIHCE's work is its ability to engage with stakeholders, such as NHS patients, social care service users, carers, etc. in order to produce relevant and meaningful guidance.

Helen has a diagnosis of chronic obstructive pulmonary disease (COPD). As part of developing a clinical guideline on COPD, NIHCE has asked Helen to join the guideline development group to ensure that the patient's perspective is taken into account during the development of the guideline. The DM determines that Helen is a service user.

85434 Where the claimant

**1.** is a participant in a service user group **and**

**2.** has possibly deprived him/herself of an income arising from his/her participation in the service user group

the DM cannot treat the claimant as possessing that income<sup>1</sup>.

1 SPC Regs, Reg 18(7A)

### **Example**

Andrew is in receipt of SPC. He attends his local hospital as an out-patient on a regular basis. Andrew has volunteered to take part in a Patients' Forum which discusses the services and care provided by the hospital. As an acknowledgment for attending the Patients' Forum the local Health Trust pay participants £40 each time they attend. Andrew decides to decline this payment because he does not want this to be taken into account when calculating his entitlement to SPC. The DM decides that the deprivation rule in DMG 85408 does not apply to Andrew and so there is no notional income to take into account.

85435 - 85439



# Retirement pension income available on application 85440 - 85499

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## General

85440 There are special rules for treating retirement pension income

**1.** that would be paid to the claimant if he applied for it **and**

**2.** that has not been applied for

as notional income<sup>1</sup>.

## Retirement pension - notional income

85441 A claimant who has reached qualifying age (see **DMG 77032**), but who does not claim RP, has to be treated as possessing the amount of RP which he could expect to receive if he had applied for it<sup>1</sup>, but only from the date it could be expected to be acquired if a claim was made.

1 SPC Regs, reg 18(1)

### Example

On 1 November John who, has reached the qualifying age, made a claim for SPC and confirmed he was not receiving any RP.

On 6 November the Pension Service advised that John would be entitled to £80 a week RP if he made a claim for it.

The DM estimated the time it would take for a typical claim for RP to be dealt with and put into payment.

The DM decided that John should be treated as having a notional income of £80 a week from 13 November.

85442 For SPC purposes RP includes<sup>1</sup>

- 1.** contributory (Category A or B) RP **or**
- 2.** non-contributory (Category C or D) RP **and**
- 3.** a shared additional pension payable as a result of divorce
- 4.** graduated retirement benefit earned between 1961 and 1975 under the graduated pension scheme **or**
- 5.** any age additions.

**Note:** Increases in RP for adult dependants are taken into account as income but they are not included as notional income where state pension has not been claimed. This is because they are not treated as retirement pension income.

1 SPC Act 02, s 16(1)(a)-(e), SPC Regs, reg 18(1)(a)

## State Pension – notional income

85443 A claimant who has reached the qualifying age for SPC but who does not claim SP, has to be treated as possessing the amount of SP which they could expect to receive if they had claimed it<sup>1</sup>. However, this is only from the date it could be expected to be acquired if a claim was made.

85444 SP does not consist of individual elements like RP (BP, AP & GRB etc.) and will generally be based only on the claimant's NI record. For SPC purposes, SP is either

1. contributory (Cat A or B) **or**
2. non-contributory (Cat C) in limited circumstances only.

**Exceptions to this will be where:**

1. the claimant is widowed and inherits a deceased spouse or civil partner's AP, deferred RP or deferred GRB, **and**
2. the claimant receives a transitional rate of SP (for women who paid reduced rate NI) **and**
3. the claimant is awarded a Shared Additional Pension (SAP) upon divorce.
4. Increments (of SP) for deferred retirement.

**Example**

On 9 May Kara, who has reached the qualifying age, makes a claim to SPC. She confirms she is not receiving SP.

On 13 May, the Pension Centre advises that Kara would be entitled to a weekly SP of £155.65 if she claimed it.

The DM estimates the time that it would take for a typical claim to SP to be processed and put into payment.

The DM decides that Kara should be treated as having a notional income of £155.65 a week from 23 May.

## **Deferring retirement pension**

85445 The rules on deferring RP allow people who have deferred claiming their pension for at least twelve months from April 2005 to have the choice between taking extra RP or a lump sum payment for the additional RP accrued.

85446 Where a claimant to whom **DMG 85441** applies

1. has deferred their RP for at least twelve months **and**

2. would have been entitled to make an election under specific RP legislation<sup>1</sup>

he shall be treated as having the amount of RP income<sup>2</sup> which he might expect to be entitled to if he had elected to receive a lump sum.

1 SS CB Act 92, Sch 5 or 5A; Graduated Retirement Benefit Regs, Sch 1; 2 SPC Regs, reg 18(1B)

### Example

Alice has claimed SPC. She has confirmed that she is currently deferring her entitlement to RP.

Alice has deferred her RP for 18 months.

The DM received evidence that Alice would be entitled to £100 RP a week if she opted to take a lump sum payment for the deferral period, instead of additional RP that she would be entitled to.

The DM decided to treat Alice as having a notional income of £100 a week.

## Deferring retirement pension whilst an overlapping benefit is in payment

85447 [See [DMG memo 12/23](#)] Where a claimant to whom **DMG 85441** applies is in receipt of an overlapping benefit or allowance - the amount of RP income he shall be treated as having<sup>1</sup> is the RP he is entitled to minus the amount of the benefit or allowance in payment.

1 SPC Regs, reg 18(1CA)

85448 Where a claimant to whom **DMG 85441** applies is in receipt of an overlapping benefit or allowance - which would result in an adjustment to be made to the amount of RP payable - he shall be treated as having<sup>1</sup> the RP income minus the adjustment which would be made to it.

1 SPC Regs, reg 18(1CB)

### Example

Jack is an SPC claimant. He has been deferring his RP for two years.

Jack receives £46.95 a week CA that is taken fully into account.

The DM receives evidence that Jack would be entitled to £80 a week RP if he claimed it and opted to take a lump sum payment for the period he has deferred.

The DM decided to treat Jack as having notional RP income of £33.05 a week (£80 RP less £46.95 CA).

## Occupational pension schemes - notional income

85453 A claimant who has reached qualifying age for SPC (see **DMG 77032**) and has entitlement to an occupational pension but who has elected to defer payment should be treated as possessing the amount of occupational pension he could expect to receive if he applied for it<sup>1</sup>, but only from the date it could be expected to be acquired if a claim was made.

**Note:** See **DMG 85459** et seq. where a claimant fails to secure money purchase benefits under an occupational pension scheme.

1 SPC Regs, reg 18(1D)

### Example

Asif belongs to an occupational pension scheme. The retirement age for the scheme is 60. However, it is possible to defer drawing the pension for four years after this age in return for receiving a larger income. It is also possible to apply for the occupational pension from the age of 55 but payments would be made at a reduced rate.

Asif decides to take his payments at the age of 60. The DM decides that Asif has not deferred payment of his occupational pension because he has taken the pension at the retirement age for the scheme.

## Personal pensions

### General

85454 A personal pension is a fund that provides an income on retirement for employees<sup>1</sup> or the S/E<sup>2</sup>. This may be done by

1. buying an annuity **or**
2. taking an income from the pension fund.

Taking an income from the pension fund allows the purchase of an annuity to be delayed up to the age of 75. The amount of income paid from the fund is recalculated every three years. At the age of 75 an annuity must be purchased.

## Pension Flexibilities

85455 Since April 2015 people have had greater flexibility in how they access their pension savings, generally known as “pension flexibilities”. These flexibilities allow an individual to be able to choose what they want to do with their defined contribution fund or money purchase benefits scheme (sometimes referred to as a “pension pot”). If they want to, they could

1. draw out all of the funds in the pension pot
2. purchase an annuity (see **DMG 85143**)
3. opt for a drawdown arrangement (where lump sums or regular amounts can be drawn down from the pension pot) without any restriction either in the form of a cap or a minimum income amount
4. do nothing and leave the fund untouched.

## Income and Capital Drawdowns

85456 Whilst a claimant’s pension pot is held by the pension provider then that sum falls to be disregarded as capital. If the claimant has withdrawn money from their pension pot (known as a “drawdown”) then a determination has to be made as to how this is to be treated. Where a claimant chooses to withdraw amounts on a regular basis then those amounts fall to be treated as income and taken into account as such.

85457 Where a claimant chooses to

1. take ad-hoc withdrawals **or**
2. take the whole sum

then the amount withdrawn falls to be treated as capital (see **DMG Chapter 84**).

85458 For the purposes of notional income for claimants, or their partners as appropriate, who have reached the qualifying age for SPC (see **DMG 77032**), the claimant’s pension pot is required to be re-valued

1. after every drawdown of capital
2. after every drawdown of income which exceeds the applicable notional income amount (see **DMG 85460**) **or**
3. upon the claimant’s request.

## Example

John is in receipt of SPC. He has a pension pot of £40,000 which he doesn’t wish to access at the moment but might do at a later stage. The DM calculates that as an annuity income, this would produce

£2,000 per annum or £38.46 per week. This is based on 100% of the rate of annuity that the fund would generate (see **DMG 85456**). The figure of £38.46 is taken into account as notional income. John then decides to draw down £8,000 as capital, leaving £32,000 in his pension pot. The DM reassesses the notional income figure based on 100% of the rate of annuity that the remaining amount in the fund would generate.

## **Personal pensions/occupational pensions where income withdrawal is allowed - notional income**

85459 Treat a person who has reached qualifying age for SPC (see **DMG 77032**) who

**1.** is entitled to money purchase benefits under a personal pension or occupational pension scheme that allows income withdrawal **and**

**2.** has not bought an annuity **and**

**2.1** has deferred taking all or part of the income from the fund **or**

**2.2** has failed to do everything necessary to get all the income from the fund that would be payable if he applied for it

as having a notional income<sup>1</sup>.

1 SPC Regs, reg 18(2)(a)(i) & (ii), *SSWP v Goulding* [2019] EWCA Civ 839

## **Amount of notional income**

85460 The amount of the notional income is

**1.** where no income is drawn, 100% of the rate of the annuity that could be generated by the fund<sup>1</sup> (see **DMG 85469** et seq) **or**

**2.** where some income is drawn, the difference between the rate of annuity and the income actually withdrawn.

1 SPC Regs, reg 18(3)

## **Example**

Jason and Sarah are a couple in receipt of SPC. Jason has a pension pot of £50,000 which he doesn't wish to access at the moment but might do at a later stage. The DM determines that as an annuity income, this would produce £2,500 per annum or £48.07 per week. This is based on 100% of the rate of annuity that the fund would generate. This amount is taken into account as a notional income and is deducted from the award of SPC. Jason and Sarah then later decide to put the £50,000 into a flexi draw

down fund and take an actual income of £50 per week. The DM now decides that the amount of income to take into account each week is £50. There is no notional amount to take into account.

### **From what date should the DM take notional income into account**

85461 Take notional income into account from the date that the person could expect to get the income if an application was made<sup>1</sup>. To calculate this date

- 1.** assume that an application was made on the date that there is sufficient evidence to show that a notional income should be calculated **and**
- 2.** add the estimated time it would take the pension fund holder to process an application for 100% of the rate of annuity that the fund would generate.

1 SPC Regs, reg 18(2)

### **Example**

Bernard receives SPC.

On 1 November the DM receives evidence that Bernard is entitled to a personal pension but has not bought an annuity or drawn an income.

The pension fund holder states that Bernard's scheme can provide an income. In Bernard's case the maximum amount of income, based on the GAD tables, is £23 a week.

Once an application is made it would take the pension fund holder six weeks to arrange for the maximum income to be paid.

The DM decides that Bernard should be treated as having a notional income of £23 a week from 13 December.

### **Personal pensions/occupational pensions where income withdrawal is not allowed - notional income**

85462 Treat a person who has reached qualifying age for SPC (see **DMG 77032**) who

- 1.** is entitled to money purchase benefits under a personal pension or occupational pension scheme that does not allow income withdrawal **or**
- 2.** has a retirement annuity contract

and has not bought an annuity, as having a notional income<sup>1</sup>.



## Amount of notional income

85463 The amount of notional income is the amount that a person could have received without buying an annuity, if the pension funds or retirement annuity contract were held in a scheme that did allow income withdrawal<sup>1</sup> (see **DMG 85459** et seq).

1 SPC Regs, reg 18(4)

## From what date should the DM take notional income into account

85464 Take notional income into account from the date that a person could expect to get the income if an application was possible<sup>1</sup>. To calculate this date

1. assume that an application could be made on the date that there is sufficient evidence to show that a notional income should be calculated **and**
2. add the estimated time it would take a typical pension fund holder who did provide an income from a fund, to process an application for 100% of the rate of annuity that the fund would generate.

1 SPC Regs, reg 18(2)

## Example

Fiona is an SPC claimant. On 1 November the DM receives evidence that Fiona has a retirement annuity contract.

The pension fund holder provides evidence, based on the GAD tables, that Fiona would receive £30 a week if the fund was invested in a pension fund that paid an income.

The DM estimates that it would take six weeks for a typical pension fund holder to arrange for the maximum income to be paid from a fund.

The DM decides that Fiona should be treated as having a notional income of £30 a week from 13 December.

**Note:** where the notional income rules have been applied and the claimant subsequently takes steps to obtain that income, the guidance at **DMG 85464** will no longer apply. The DM should establish the date the claimant begins to take steps to obtain that income and remove the notional income from that date.

## Meaning of money purchase benefits

85465 The term money purchase benefits means<sup>1</sup> where pension benefits are determined by the

amount of the payment or payments made by or on behalf of the member of the pension scheme rather than average salary benefits.

1 SPC Regs, reg 18(5), PS Act 93, s 181(1)

## What is a pension fund holder

85466 A pension fund holder, with respect to an occupational pension scheme, personal pension scheme or retirement annuity contract means<sup>1</sup>

**1. trustees or**

**2. managers or**

**3. administrators**

of the scheme or contract concerned.

1 SPC Regs, reg 1(2)

## Who is a person who derives entitlement

85467 The term person who derives entitlement is used to describe people who may be paid a pension at the discretion of the pension fund holder. When the original pensioner dies the pension fund holder has discretion to decide what to do with the fund.

85468 People such as widows or widowers of the person who bought the pension, will only have entitlement to payments at the discretion of the pension fund holder.

## Information and evidence

85469 Pension fund holders must provide the DM with information about

**1. the rate of annuity available from the pension fund and**

**2. the amount of income that would be available if the funds were held in a scheme that produces an income.**

85470 This information is usually provided by the provider on form PPR1 and is based on tables prepared by the Government Actuary's Department (GAD)<sup>1</sup>. The rate of annuity is 100% of the rate of annuity that could be generated by the fund. DMs should consider evidence from pension fund holders when deciding the amount of notional income. Do not make a decision until the pension fund holder has been given sufficient time to provide evidence.

85471 DMs should consider the evidence of the pension fund holder but are not bound to accept it. Consider all the evidence on the amount of notional income before making a decision. The decision should be based on the most convincing evidence available.

## **Lump sums on retirement**

85472 At the point that

- 1.** an annuity is bought **or**
- 2.** an income is taken

from the personal pension fund, a lump sum of up to 25% of the fund may be taken. Treat this payment as capital.

85473 - 85475

## **Actual income**

85476 Take into account in full in the normal way, any income that is

- 1.** paid under an annuity bought with funds from
  - 1.1** a personal or occupational pension scheme **or**
  - 1.2** a retirement annuity contract **or**
- 2.** withdrawn from a personal or occupational pension scheme.

## **Provision under a retirement annuity contract**

85477 Before 1.7.88 people could buy retirement annuity contracts. People with these pensions are entitled to buy an annuity at any time between the ages of 60 and 75. They are not allowed to take an income from the fund before an annuity is purchased.

**Note: DMG 85144** explains what a retirement annuity contract is.

## Retirement annuity contract - notional income

85478 If a claimant who has reached qualifying age for SPC (see **DMG 77032**) fails to purchase an annuity with the funds available under his retirement annuity contract notional income should be taken into account<sup>1</sup>. **DMG 85463** explains how much income should be taken into account.

1 SPC Regs, reg 18(2)(b)

85479 - 85499

# Payments of income to third parties 85500 - 85999

[What is a third party](#) 85501

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85500 The DM should treat any payment of income that is paid to a third party in respect of the claimant as possessed by the claimant<sup>1</sup>. The exceptions to this rule are in relation to

1. pension payments made to trustees in bankruptcy in certain circumstances (see **DMG 85504 - 85506**) and
2. service users (see **DMG 85507**).

1 SPC Regs, reg 24(1)

## What is a third party

85501 The term third party can include organizations such as LAs and care homes as well as people.

## Meaning of payment in respect of a person

85502 Payment includes a part of a payment. A payment can be made in respect of a person even if it is not made specifically or solely for that person.

85503 If pension payments are made to a third party such as a trustee in bankruptcy, the payment is made in respect of<sup>1</sup> the claimant if it is used to assist in maintaining the claimant and reduce the need for him to be supported by income-related benefits.

1 R(IS) 2/03

## Pension payments made to a trustee in bankruptcy

85504 A claimant is not treated as possessing a payment under **DMG 85500** where<sup>1</sup>

**1.** they have been made bankrupt before 29.5.00 **and**

**2.** pension payments are paid to the claimant's trustee in bankruptcy and not the claimant.

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

**Note:** From 29.5.00 the law changed to exclude from their estate any rights of a person made bankrupt under approved pension arrangements. This means that unless the circumstances in **DMG 85505 - 85506** apply such pension payments can be treated as income of a person made bankrupt on or after 29.5.00.

1 R(IS) 4/02

85505 A claimant is not treated as possessing a payment of income<sup>1</sup> from

**1.** an occupational pension **or**

**2.** a pension or other periodical payment made under a personal pension scheme

in certain circumstances

1 SPC Regs, reg 24(2)

85506 The circumstances are where the pension payment is made<sup>1</sup>

**1.** in respect of a person for whom a bankruptcy order has been made (or in Scotland a person who is subject to a sequestration order or where a judicial factor has been appointed) **and**

**2.** to the trustee in bankruptcy or any other person acting on behalf of the creditors **and**

neither the person for whom the payment is made nor his partner has any other actual or notional income apart from that payment.

1 SPC Regs, reg 24(2)(a)-(c)

## **Service Users**

85507 Any payment of income arising out of a claimant's participation as a service user (see **DMG 85430**) which is paid

**1.** to a third party **and**

**2.** in respect of the claimant

cannot be treated as possessed by the claimant<sup>1</sup>.

85508 - 85999

# Appendix 1 - Definitions of war pensions

[War disablement pension](#)

[War widows' or widowers' pension](#)

[War widows' or widowers' supplementary pensions](#)

[Foreign war disablement pension](#)

[Foreign war widows' or widowers' pension](#)

## War disablement pension

Any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under<sup>1</sup>

1. the Air Force (Constitution) Act 1917
2. the Personal Injuries (Emergency Provisions) Act 1939
3. the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939
4. the Polish Resettlement Act 1947
5. Part 7 or section 151 of the Reserve Forces Act 1980
6. paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003.

1 SPC Act 02, s 17(1)

## War widows' or widowers' pension

1. Any WWP or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment in **1. - 5.** above<sup>1</sup>
2. a pension or allowance for a widow, widower or surviving civil partner granted under any scheme mentioned in paragraphs (e) or (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003<sup>2</sup>.

1 s 17(1); 2 s 17(1)



## War widows' or widowers' supplementary pensions

**1.** Any supplementary pension paid under article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners)<sup>1</sup>.

**2.** A pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983<sup>2</sup>.

**3.** Any payment

**3.1** made to a widow, widower or surviving civil partner of a person whose death was attributable to service in a capacity similar to service as a member of the armed forces **and**

**3.2** whose service in such capacity ended before 31.3.73

**3.3** under the following Dispensing Instruments

**3.3.a.** the Order in Council of 19 December 1881

**3.3.b** the Royal Warrant of 27 October 1984

**3.3.c** the Order by His Majesty of 14 January 1922<sup>3</sup>.

1 SPC Regs, Sch IV, para 4; 2 Sch IV, para 5; 3 Sch IV, para 6

## Foreign war disablement pension

Any<sup>1</sup> retired pay, pension, allowance or similar payment granted by the government of a country outside the UK

**1.** in respect of disablement arising from forces' service or war injury **or**

**2.** corresponding in nature to any retired pay or pension to which section 641 of the Income Tax (Earnings and Pensions) Act 2003 applies.

1 SPC Act, s 17(1)

## Foreign war widows' or widowers' pension

Any<sup>1</sup> pension, allowance or similar payment granted to a widow, widower or surviving civil partner by the government of a country outside the UK

**1.** in respect of a death due to forces' service or war injury **or**

2. corresponding in nature to a pension or allowance for a widow or widower under any scheme mentioned in section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003.

1 s 17(1)

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