

08-25: ESA, JSA, IS & SPC - Income & Capital Disregard for Miscarriage of Justice Compensation Payments

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INTRODUCTION

1. This memo gives guidance on the Social Security (Income and Capital Disregards) (Amendment) (No. 2) Regulations 2025¹ [SS (I&C) (Amdt) Regs 2025], SI 2025/778. These changes take effect from 22.07.25. The changes extend to England, Wales and Scotland.

¹ [SI 2025/778](#)

BACKGROUND

2. Existing regulations¹ are amended to include payments of miscarriage of justice compensation as payments which are to be disregarded as income and capital for the purposes of calculating entitlement to income-related benefits.

DEFINITIONS

3. These regulations¹ insert new definitions for

1. miscarriage of justice compensation payments (see paragraph 4) **and**
2. qualifying person (see paragraph 5).

Miscarriage of justice

4. A miscarriage of justice compensation payment means a payment made under relevant legislation¹ or any other payment made by the Secretary of State, the Scottish Ministers or, in Northern Ireland, the Department of Justice for the purpose of compensating a person for

1. a miscarriage of justice in criminal proceedings **or**
2. being wrongfully charged with a criminal offence².

Qualifying person

5. For the definition of qualifying person, a miscarriage of justice compensation payment is inserted into relevant legislation¹. This means any person that receives a payment from these schemes is added to the definition of a qualifying person.

CAPITAL DISREGARDS

6. Regulations are amended to provide that for

1. IS¹
2. JSA(IB)²
3. ESA(IR)³ **and**
4. SPC⁴

any miscarriage of justice compensation payment will be disregarded indefinitely from a person's capital (see guidance at paragraphs 7, 8 and 9).

1 IS (Gen) Regs 1978, Sch 10, para 22(6); 2 JSA Regs 1996, Sch 8, para 27(6);

3 ESA Regs 2008, Sch 9, para 27(6); 4 SPC Regs 2002, Sch 5, para 15(1A) & para 15(6)

7. For IS, JSA(IB), ESA(IR) and SPC any miscarriage of justice compensation payment is disregarded indefinitely if the payment is made

1. by or on behalf of the person who got the money from the scheme and that person

1.1 is a qualifying person **or**

1.2. was a qualifying person if the person has died **and**

2. to or for the benefit of

2.1. a partner or former partner of the person who got the money from the schemes and they are not estranged, divorced or part of a dissolved civil partnership or were not if the person has died¹ **or**

2.2. a child or young person who

2.2a. is a member of the family of the person who got the money from the schemes **or**

2.2b. was a member of that person's family and is a member of the claimant's family².

1 IS (Gen) Regs 1987, Sch 10, para 22(2); JSA Regs 1996, Sch 8, para 27(2);

ESA Regs 2008, Sch 9, para 27(2); SPC Regs 2002, Sch 5, para 15(2)

2 IS (Gen) Regs 1978, Sch 10, para 22(2); JSA Regs 1996, Sch 8, para 27(2);

ESA Regs 2008, Sch 9, para 27(2);

8. A payment from money which a partner or former partner gets from the scheme is disregarded indefinitely if the payment is made

1. by or on behalf of a partner or former partner of a person who

1.1. is a qualifying person **or**

1.2. was a qualifying person if the person has died and they are not estranged, divorced or part of a dissolved civil

partnership or were not if the person has died¹ **and**

2. to or for the benefit of a

2.1. partner of former partner of the person who got the money from the schemes and they are not estranged, divorced or part of a dissolved civil partnership or were not if the person has died¹ **or**

2.2 child or young person who

2.2a is a member of the family of the person who got the money from the schemes **or**

2.2b was a member of that person's family member of the claimant's family².

¹ [*IS \(Gen\) Regs 1978, Sch 10, para 22\(3\); JSA Regs 1996, Sch 8, para 27\(3\);*](#)

[*ESA Regs 2008, Sch 9, para 27\(3\); SPC Regs 2002, Sch 5, para 15\(3\)*](#)

² [*IS \(Gen\) Regs 1978, Sch 10, para 22\(3\); JSA Regs 1996, Sch 8, para 27\(3\);*](#)

[*ESA Regs 2008, Sch 9, para 27\(3\)*](#)

9. For IS, JSA(IB), ESA(IR) and SPC any miscarriage of justice compensation payment is disregarded

1. from the date of payment until two years after the date of death of the person if the payment is made by or on behalf of the person who received the payment¹ **or**

2. for two years from the date of death if the payment is made from the estate of that person² where the payment was made to a person who

2.1 is a qualifying person **and**

2.2 has no partner or former partner from whom the person is not estranged, divorced or part of a dissolved civil partnership **or**

2.3 is a child who is or has been a member of the person's household and the payment was made to

2.3a the person's parent or step-parent **or**

2.3b a person standing in place of the parent, if there is no parent or step-parent, and at the date of the payment the person is a child or student who has not finished FTE.

¹ [*IS \(Gen\) Regs 1978, Sch 10, para 22\(4\); JSA Regs 1996, Sch 8, para 27\(4\);*](#)

[*ESA Regs 2008, Sch 9, para 27\(4\); SPC Regs 2002, Sch 5, para 15\(4\)*](#)

² [*IS \(Gen\) Regs 1978, Sch 10, para 22\(5\); JSA Regs 1996, Sch 8, para 27\(5\);*](#)

[*ESA Regs 2008, Sch 9, para 27\(5\); SPC Regs 2002, Sch 5, para 15\(5\)*](#)

NOTIONAL CAPITAL

10. For IS¹, JSA(IB)² & ESA(IR)³, any miscarriage of justice compensation payment paid to

1. a third party for the claimant or their partner **or**

2. the claimant or their partner for a third party

is not to be treated as notional capital.

¹ [IS \(Gen\) Regs 1987, reg 51\(3B\)](#); ² [JSA Regs 1996, reg 113\(3B\)](#);

³ [ESA Regs 2008, reg 115\(5A\)](#)

INCOME DISREGARDS

11. Fully disregard¹ any

1. miscarriage of justice compensation payment in IS, JSA(IB) and ESA(IR) **and**
2. income from capital that was a miscarriage of justice compensation payment in IS, JSA(IB), ESA(IR).

¹ [IS \(Gen\) Regs, Sch 9, paras 39\(1A\) to 39\(6\)](#); [JSA Regs, Sch 7, para 41\(1A\)](#);

[ESA Regs, Sch 8 para 41\(1A\) to 41\(6\)](#)

12. Miscarriage of justice compensation payments are also disregarded for the following purposes

1. payments to a Third Party in respect of a claimant or their partner¹
2. non-dependants' gross weekly income for the purposes of calculating deductions for allowable housing costs²
3. income treated as capital³.

¹ [IS \(Gen\) Regs, reg 42\(4ZB\)](#); [JSA Regs, reg 105\(10A\)](#); [ESA Regs reg 107\(5A\)](#);

² [IS \(Gen\) Regs, Sch 3, para 18\(8\)\(b\)](#) ; [JSA Regs, Sch2, para 17\(8\)\(b\)](#);
[ESA Regs, Sch 6, para 19\(8\)\(b\)](#); [SPC Regs, Sch 2, para 14\(8\)\(b\)](#)

³ [IS \(Gen\) Regs, reg 48\(10\)](#); [JSA Regs, reg 110\(10\)](#); [ESA Regs, reg 112\(8\)\(a\) & \(b\)](#)

Annotations

Please annotate the number of this memo against the following DMG paragraphs [23775](#), [28350](#), [28450](#), [28468](#),
[28472](#), [28477](#), [28479](#), [28515](#), [28670](#), [28681](#), [29418](#), [29447](#), [29448](#), [29450](#), [29861](#), [29862](#), [44611](#), [51210](#),
[51341](#), [51360](#), [51363](#), [51384](#), [51418](#), [51598](#), [51606](#), [52418](#), [52446](#), [52449](#), [52450](#), [52729](#), [52861](#), [52862](#),
[78524](#), [84475](#), [84476](#), [84477](#), [85370](#)

contacts

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [4/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: July 2025

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