Chapter 25 - General rules on income

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Statutes commonly referred to in Chapter 25

 **Full title Abbreviation**

 Jobseeker’s (Northern Ireland) Order 1995 JS (NI) Order 95

 Social Security Administration (Northern Ireland)
Act 1992 SS A (NI) Act 92

 Social Security Contributions and Benefits (Northern
Ireland) Act 1992 SS C&B (NI) Act 92

Statutory Rules commonly referred to in Chapter 25

 **Short description Full title Abbreviation**

 JSA Regulations The Jobseeker’s Allowance JSA Regs (NI)
 Regulations (Northern Ireland) 1996 No 198

 IS General The Income Support IS (Gen) Regs (NI)
Regulations (General) Regulations
 (Northern Ireland) 1987 No 459

 Claims and The Social Security (Claims SS (C&P) Regs (NI)
Payments and Payments) Regulations (NI)
Regulations (Northern Ireland) 1987 No 465

Chapter 25 - General rules on income

Introduction

General rules

Meaning of claimant

25001 Claimant means1 either

1. one person who claims Jobseeker’s Allowance or Income Support **or**
2. in the case of a joint claim for Jobseeker’s Allowance
3. the couple **or**
4. each member of the couple, as the context requires.

*1 JS (NI) Order 95, art 2(2); IS (Gen) Regs (NI), reg 2(1)*

The calculation and treatment of income

25002 This Chapter deals with the calculation and treatment of various types of income and explains

**1.** how to treat the income of other members of the claimant’s family - see DMG 25007 et seq

**2.** how to decide the period over which an income should be taken into account - see DMG 25031 et seq

**3.** how to calculate the weekly amount of an income - see DMG 25063 et seq

**4.** the special rules for modifying the amount taken into account - see DMG 25081 et seq.

25003 Other Chapters deal with other aspects of income, including

**1.** which incomes are fully or partly disregarded - see DMG Chapter 28

**2.** when to treat capital as income - see DMG Chapter 28 (for income treated as capital see DMG Chapter 29)

**3.** when to treat claimants as possessing income they do not possess (known as notional income) - see DMG Chapter 28

**4.** the treatment of various types of income, including

**4.1** earnings of employed earners - see DMG Chapter 26

**4.2** earnings from self employment - see DMG Chapter 27

**4.3** income other than earnings - see DMG Chapter 28

**4.4** liable relative payments - see DMG Chapter 28

**4.5** earnings of share fishermen - see DMG Chapter 27

**4.6** income of young claimants and young partners - see DMG Chapter 30

**4.7** how to treat income if the claimant or any member of the claimant’s family is involved in a trade dispute - see DMG Chapter 32

**4.8** student’s income - see DMG Chapter 30

**4.9** how to treat income when calculating part weeks - see DMG Chapter 33

**4.10** income in urgent cases - see DMG Chapter 31

Income - contribution-based Jobseeker’s Allowance

25004 The decision maker should follow the guidance in this Chapter when deciding the amount of a claimant’s own earnings in a claim for contribution-based Jobseeker’s Allowance. The guidance on other income, and the treatment of income of the members of the claimant’s family does not apply to a claim for contribution-based Jobseeker’s Allowance.

 **Note:** For guidance on the treatment of occupational and personal pensions in contribution-based Jobseeker’s Allowance see DMG Chapter 23.

 25005 - 25006

Income of the claimant’s family - income-based Jobseeker’s Allowance or Income Support

25007 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** In a claim for income-based Jobseeker’s Allowance or Income Support, the decision maker should calculate the income of

**1.** the claimant’s partner **and**

**2.** a child or young person who is a member of the claimant’s family

 in the same way as for the claimant1. This income should then be treated as the claimant’s income2. However decision makers should consider if the circumstances in DMG 25008 or DMG 25009 applies.

**Note:** The decision maker should also consider the special rules on the income of a child or young person (see DMG Chapter 28).

1 JSA Regs (NI), reg 88(1),88ZA; IS (Gen) Regs (NI), reg 23(1);
2 JS (NI) Order 95, art 15(2); SS C&B (NI) Act 92, sec 132(1)

Income of a joint-claim couple - income-based Jobseeker’s Allowance

25008 To calculate the income of a joint-claim couple, the decision maker should1

 **1.** determine the income of each member of the joint-claim couple **and**

 **2.** add together the amount of income calculated for each member.

1 JSA Regs (NI), reg 88ZA(1)

Income of a couple when one member is aged less than 18

25009 Special rules apply1 when

 **1.** at least one member of a couple is aged less than 18 (for Income Support or income-based Jobseeker’s Allowance) **or**

 **2.** one member only of a joint-claim couple is aged less than 18 (income-based Jobseeker’s Allowance only) **and**

 **3.** certain conditions determine the couple’s applicable amount2.

These allow some income of a claimant’s partner or member of a joint-claim couple to be ignored when calculating income.

1 JSA Regs (NI), reg 88(3) or reg 88ZA(2); IS (Gen) Regs (NI), reg 23(4);
2 JSA Regs (NI), Sch 1, paras 1(3)(b), (c), (g) or (h); IS (Gen) Regs (NI), Sch 2, paras 1(3)(b), (c), (f) or (g)

 **Note :** DMG Chapter 30 gives further guidance about applicable amounts and the treatment of resources in these circumstances.

Polygamous marriage or relationship

25010 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** If a claimant or partner is married polygamously to two or more members of the household, the income of

**1.** each of the members **and**

**2.** any child or young person who is a member of their family

 should be treated as the claimant’s income, or in the case of a joint-claim couple the couples income, and should be calculated in the normal way1.

 **Note :** In certain circumstances special rules apply2 to the income of a member of a polygamous marriage who is a partner aged less than 18.

1 JSA Regs (NI), reg 88(4) & 88ZA(3); IS (Gen) Regs (NI), reg 23(3) & (5)
2 JSA Regs (NI), reg 88(5); IS (Gen) Regs (NI), reg 23(5)

25011 In a polygamous relationship, that is, where there is no marriage, the claimant cannot be treated as living together as husband and wife with any other member of that relationship. The decision maker should treat each member of the relationship as a single claimant or, if appropriate, as a lone parent. Their income should be calculated accordingly.

Disregard of fractions

25012 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 advantage1.

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

1 JSA Regs (NI), reg 92; IS (Gen) Regs (NI), reg 27

Calculating entitlement to income-based Jobseeker’s Allowance or Income Support

25013 The amount of income-based Jobseeker’s Allowance or Income Support a claimant is entitled to is, if there is

**1.** no income, the applicable amount **or**

**2.** income, the difference between the income and the applicable amount1.

 **Note:** If a Jobseeker’s Allowance claimant satisfies the conditions for contribution-based Jobseeker’s Allowance and income-based Jobseeker’s Allowance see DMG Chapter 23 to decide the amount payable.

1 JS (NI) Order 95, art 5(1)(a) & 6(3); SS C&B (NI) Act 92, sec 123(1)(b) & 123(4)

25014 When calculating whether a claimant is entitled1, the decision maker should

**1.** calculate the weekly amount of income following the guidance in this part **and**

**2.** then add any tariff income from capital.

1 JSA Regs (NI), reg 93; IS (Gen) Regs (NI), reg 28

25015 If the claimant’s income in the benefit week is more than the weekly applicable amount, the claimant is not entitled to income-based Jobseeker’s Allowance or Income Support.

 **Note:**  If the date of claim is not the first day of the benefit week, the decision maker does **not** have to consider the special rules for calculating income-based Jobseeker’s Allowance or Income Support for a part week. Because the claimant is not entitled, nothing is payable.

25016 - 25030

Period over which income is taken into account

Calculating the period

25031 To determine the period over which any income other than income from self- employment is taken into account the decision maker needs to establish

**1.** the date of claim

**2.** the first day of the claimant’s benefit week (see DMG 25052 - 25054)

**3.** the date on which the income is due to be paid (see DMG 25034 et seq)

**4.** the date on which the income is treated as paid (see DMG 25043 et seq) **and**

**5.** **either**1

**5.1** the period for which the payment is made **or**

**5.2** the amount of

**5.2.a** Jobseeker’s Allowance or Income Support that would be payable without the income **and**

**5.2.b** any disregard the decision maker would normally make on the weekly amount of the income.

 See DMG Chapter 26 on earnings disregards and DMG Chapter 28 on other income with partial disregards**.**

 **Note 1:** If the income is a payment of earnings when employment ends see DMG 25062 where different kinds of earnings are received for overlapping periods, and DMG Chapter 26 for the period over which the payment is taken into account.

 **Note 2:** The guidance in DMG 25034 to 25087 does not apply to income from self-employment.

1 JSA Regs (NI), reg 94(2); IS (Gen) Regs (NI), reg 29(2)

25032 - 25033

Date on which income is due to be paid

25034 To decide the period over which income should be taken into account, the decision maker needs information on the date a payment is due to be paid. This may be different from the date a payment is actually made or received. But income is often paid on the date it is due.

25035 The decision maker should consider the following when deciding the date a payment is due

**1.** due means legally due, for example under a contract or statutory provision

**2.** if there is not a legal obligation to make the payment on a particular day, the person or body making the payment should be asked when they consider the payment is due

**3.** the date when the payment is received may be assumed to be the due date where

**3.1** the available evidence

**3.1.a** does not give a due date1 **or**

**3.2.b** is not considered credible **and**

**3.2** no further evidence can be obtained.

1 R(SB) 33/83

Income other than earnings

25036 The date when a payment of income is due is a question of fact or law. For example

**1.** a claimant or a claimant’s former employer may be able to say when a payment of occupational pension was due

**2.** a mortgage protection policy would state when payments are due to be made under the policy.

Earnings

25037 The date on which a payment of earnings is due will be the normal pay day agreed in the contract of employment. The terms of a contract

**1.** may be

**1.1** expressed (in writing or verbal) **or**

**1.2** implied (by the actions of or understanding between the two parties) **and**

**2.** may be varied

**2.1** if both parties agree to it (the variation may be expressed or implied) **or**

**2.2** because of certain action taken by either party (such as dismissal or resignation).

Earnings when employment ends

25038 When employment ends the date on which a payment of final earnings is due to be made

**1.** is a mixed question of fact and law, **and**

**2.** depends on the circumstances in which the employment ended and the terms of the contract.

 **Note :** When the due date has been established see DMG 25062 where different kinds of earnings are received for overlapping periods, and DMG Chapter 26 for the treatment and effect of the earnings on Jobseeker’s Allowance or Income Support.

Notice given and worked

25039 Final earnings are payable on the dates agreed in the contract of employment where employment

**1.** has run its full course, for example a fixed period engagement has reached its end **or**

**2.** is terminated by the employer after due notice has been given and worked.

25040 This means that the claimant should receive the following payments on the final pay-day (often the last day of employment)

**1.** the normal week or month's earnings, including any part week or months earnings

**2.** wages held in hand

**3.** holiday pay.

Employment terminated by employer without notice

25041 Employers are legally obliged to pay the following payments on the last day of employment if they terminate employment without due notice1

**1.** wages earned between the end of the employee’s previous pay period and the last day of employment

**2.** wages held in hand

**3.** holiday pay

**4.** a payment in lieu of notice.

 See DMG Chapter 26 if the claimant is due a payment when employment has ended but this has not been paid.

 **Note 1:**  In Jobseeker’s Allowance, pay-in-lieu of notice is included in the definition of a compensation payment (DMG Chapter 26).

 **Note 2:**  The last day of employment is not necessarily the same as the last day the claimant attended work.

1 R(SB) 23/84

Employment terminated by employee without notice

25042 Where employment is terminated by the employee without due notice, employers can rely on the contract of employment to pay

**1.** wages earned between the end of the employee’s previous pay period and the last day of employment

**2.** wages held in hand

**3.** holiday pay

on the day that each payment is due to be paid.

Date on which income is treated as paid

25043 The date on which a payment of income is treated as paid may not be the same as the date on which it is due to be paid under DMG 25034 et seq.

 **Note :** There are no longer any special rules for the date on which Working Tax Credit or Child Tax Credit is treated as paid.

Income due before the first benefit week of the claim

25044 **[See DMG Memo Vol 4/26, 5/23, 6/17 & 7/7]** A payment should be treated as paid on the date it was due, if it was due to be paid before the first benefit week of the claim1. But see DMG 25076 if the payment is Universal Credit, Employment and Support Allowance, Jobseeker’s Allowance, Income Support, Maternity Allowance, short-term Incapacity Benefit, long-term Incapacity Benefit or Severe Disablement Allowance.

 **Note :** A payment of income may be due before the date of claim and still be within the first benefit week (see DMG 25051 and DMG 25053 **2.1**).

1 JSA Regs (NI), reg 96(1)(a); IS (Gen) Regs (NI), reg 31(1)(a)

Income due in or after the first benefit week of the claim

25045 If a payment (including Working Tax Credit) was due to be paid in or after the first benefit week of the claim, it should be treated as paid on1 the first day of the benefit week in which it is

**1.** due to be paid **or**

**2.** practicable to take the payment into account (if this rule is used the decision maker should record the reasons for using it).

 But see DMG 25076 if the payment is Employment and Support Allowance, Jobseeker's Allowance, Income Support, Maternity Allowance, short-term Incapacity Benefit, long-term Incapacity Benefit or Severe Disablement Allowance, or DMG Chapter 33 if the period involved is a part week.

 **Note :** A payment of income may be due before the date of claim and still be within the first benefit week (see DMG 25053 and DMG 25054 **2.1**).

1 JSA Regs (NI), reg 96(1)(b); IS (Gen) Regs (NI), reg 31(1)(b)

**Example 1**

Doug receives Income Support in arrears. His benefit week ending day is Wednesday.

On Friday 16 August he advises the Department that he has received his first payment of income from an insurance policy on that day. The payment is made on the day it is due.

The decision maker treats the income as paid on Thursday 15 August which is the first day of the benefit week in which it was due to be paid. The decision maker takes the income into account in the payment of Income Support due for the benefit week ending on Wednesday 21 August.

**Example 2**

Rosemary is unemployed and receives income-based Jobseeker's Allowance fortnightly in arrears. Her benefit week ending day is Thursday. Rosemary signs on Thursday 21 November and receives two weeks benefit for the period 8 November to 21 November on 23 November.

On 22 November, she advises the local office that her partner received his first payment of part-time earnings on the evening of 21 November. The payment is made on the day it is due.

The decision maker determines that it is not practicable to take the partner’s earnings into account for the benefit week 15 November to 21 November, because benefit has already been paid for that week.

The decision maker treats the earnings as paid on 22 November, which is the first day of the first week in which it is practicable to take the payment into account. (See DMG 25082 for guidance on the special rule which applies when two payments are taken into account for the same week because of the impracticability rule).

25046 The practicability rule cannot apply where notification is received in time for the income to be taken into account in the correct benefit week but it is not actioned until after the payment of Income Support or Jobseeker’s Allowance has been made.

Treatment of income paid incorrectly to the claimant

25047 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 arises1. For more information on overpayments, please see DMG Chapter 9.

1 R(IS) 5/99 (Leeves v. CAO)

 **Example**

 Ella has been receiving Retirement Pension since 1.3.10 and State Pension Credit since 4.10.10. Her Majesty’s Revenue and Customs provide an updated National Insurance record on 1.6.16 which shows that Ella’s Retirement Pension award has been incorrectly calculated from the outset. On 7.6.16, a decision maker revises Ella’s Retirement Pension award to a lower amount with effect from 1.3.10. On 27.6.16 a decision maker decides that the overpaid Retirement Pension is a non-recoverable overpayment. For State Pension Credit purposes, the revised Retirement Pension award is taken into account from the next payday - 30.6.16, the effect is not retrospective and there are no arrears of State Pension Credit to be offset against the overpaid Retirement Pension.

Treatment of Working Tax Credit income paid incorrectly to the claimant

25048 If a person who has ceased employment confirms when they claim Income Support or Jobseeker’s Allowance that they have notified Her Majesty’s Revenue and Customs of the change in their circumstances, decision makers should not treat any payments of Working Tax Credit paid incorrectly by Her Majesty’s Revenue and Customs as the claimant’s income. However any payments of Working Tax Credit paid to the claimant prior to any notification by the claimant to Her Majesty’s Revenue and Customs of a change in circumstance should be taken into account as income1.

1 R(IS) 5/99 (Leeves v CAO)

 **Example 1**

Janet finished work on Thursday 6.8.09 and made a claim for Income Support on Friday 7.8.09. Her benefit week ending was a Tuesday. She told the decision maker that she had been receiving Working Tax Credit but had notified Her Majesty’s Revenue and Customs that her job had now ended.

 Her Majesty’s Revenue and Customs did not end the award and continued to pay Working Tax Credit to Janet.

 Janet was entitled to a four week Working Tax Credit run on for the period 7.8.09 to 3.9.09. Working Tax Credit was taken into account until benefit week ending 1.9.09.

 Although Janet continued to receive Working Tax Credit for several weeks after the run on period, the decision maker decided that the Working Tax Credit paid incorrectly by Her Majesty’s Revenue and Customs should not be taken into account as it was not Janet’s income.

 **Example 2**

 Joel finished work on 1.6.09 and made a claim for Jobseeker’s Allowance on 19.6.09. He is in receipt of Working Tax Credit which the decision maker takes into account when calculating Joel’s entitlement to income-based Jobseeker’s Allowance.

 On 19.10.09 Joel informs Her Majesty’s Revenue and Customs that he finished work in June. Her Majesty’s Revenue and Customs ends Joel’s award of Working Tax Credit and calculates an overpayment based on the fact that he had finished work in June but had continued to receive Working Tax Credit.

 The decision maker supersedes the award of income-based Jobseeker’s Allowance and no longer takes the Working Tax Credit into account. The date of the relevant change for the purposes of the supersession is 19.10.09 which was the date that Joel informed Her Majesty’s Revenue and Customs of his change of circumstance. However the decision maker does not adjust the award of income-based Jobseeker’s Allowance to take account of the fact that Joel was overpaid Working Tax Credit for the period prior to the notification to Her Majesty’s Revenue and Customs. This is because at that time, Working Tax Credit was an income in payment to Joel and there is no disregard for it.

Treatment of arrears of income

25049 If the amount of a regular income increases, or the claimant starts to receive a new income, the first payment may include arrears. The treatment of the arrears will depend on whether they were paid on the date on which they were due to be paid (see DMG 25034). But see DMG 25076 if the income is Universal Credit, Employment and Support Allowance, Jobseeker's Allowance, Income Support, Maternity Allowance, short-term Incapacity Benefit, long-term Incapacity Benefit or Severe Disablement Allowance.

Arrears paid on due date

25050 Arrears which are paid on the due date should be

**1.** treated as paid on the first day of the benefit week in which

**1.1** they are paid **or**

**1.2** it is practicable to take them into account1 **and**

**2.** taken into account

**2.1** for a period calculated in the normal way (see DMG 25055 et seq)2 **and**

**2.2** from the date on which they are treated as paid.

1 JSA Regs (NI), reg 96(1)(b); IS (Gen) Regs (NI), reg 31(1)(b);
2 JSA Regs (NI), reg 94(2)(a); IS (Gen) Regs (NI), reg 29(2)(a)

**Example**

The claimant’s partner has part-time earnings of £20 weekly due each Thursday. Income Support is paid in arrears and the claimant’s benefit week ends on Tuesday. The part-time earnings are increased to £25 weekly from 5.7.09, but the agreement says that the increase is not payable until 1.8.09, when payment is made at the new rate with three weeks arrears, a total of £40.

The decision maker treats the payment as made on 29.7.09.

The new rate of £25 is taken into account in the benefit week beginning 29.7.09, and the £15 arrears are taken into account for the period 29.7.09 to 18.8.09.

The total amount of earnings taken into account in the benefit weeks beginning 29.7.09, 5.8.09 and 12.8.09 is £30 (£25 plus £5 arrears).

From benefit week beginning Wednesday 19.8.09, the new weekly rate of £25 is taken into account.

Arrears paid after the due date

25051 Arrears paid after the due date should be treated as paid

 **1.** on the first day of the benefit week in which they were due **or**

 **2.** on the due date if they were due before the first benefit week of the claim1.

 The decision maker should calculate any overpayment and refer the case to the Department to consider recovery2.

1 JSA Regs (NI), reg 96(1); IS (Gen) Regs (NI), reg 31(1); 2 SS A (NI) Act 92, sec 72

**Example**

The claimant normally receives an occupational pension monthly in arrears on the last day of each month.

The pension increases from 1 April each year, first payment at the higher rate being due on 30 April.

Due to administrative problems, the increase is not paid until 30 June, when the claimant receives the new amount for the month of June and arrears for April and May.

The decision maker decides that the arrears for April and May were due to be paid on 30 April and 31 May, and treats them as paid on the first day of the benefit week in which each was due to be paid.

Meaning of benefit week

Jobseeker’s Allowance

25052 In Jobseeker’s Allowance a benefit week1 is a period of 7 days ending with the day determined by the last 2 digits of the claimant’s National Insurance number as shown in the following table unless the Department arranges otherwise.

 National Insurance number Pay day

 00 - 19 Monday

 20 - 39 Tuesday

 40 - 59 Wednesday

 60 - 79 Thursday

 80 - 99 Friday

1 JSA Regs (NI), reg 1(2)

Income Support

25053 In Income Support a benefit week1

**1.** is either

**1.1** the week for which the claimant’s relevant social security benefit is or would be paid if the claimant satisfied the contribution conditions or had not exhausted entitlement **or**

**1.2** in any other case, a period of 7 days beginning or ending with a day which the Department directs2 **and**

**2.** when calculating the amount of income to take into account, is also a period of 7 days ending on

**2.1** the day before the first day of the benefit week following the date of claim **or**

**2.2** the last day on which Income Support is paid if it is in payment for less than a week3.

1 SS (C&P) Regs (NI), Sch 7, para 4; 2 Sch 7, para 4; 3 IS (Gen) Regs (NI), reg 2(1)

25054 “Relevant social security benefit” means1

**1.** Incapacity Benefit

**2.** Bereavement Benefit

**3.** Severe Disablement Allowance

**4.** Retirement Pension

**5.** Widow’s Benefit.

1 SS (C&P) Regs (NI), Sch 7, para 4

Period for which payment is made

Identifiable period [See DMG Memo Vol 4/115 & 5/90]

25055 If the period for which payment is made can be identified, then the length of time for which it is taken into account will depend on whether the payment is monthly or not. Where the period for which the payment is made is

 **1.** a month1, it should be taken into account for a period ending with the date immediately before the next monthly payment would have been treated as paid (whether or not the next monthly payment is actually paid) **or**

 **2.** other than a month2, it should be taken into account for an equivalent period (for example a payment for a week should be taken into account for a week).

 The period begins from the date determined by following the guidance at DMG 25043 et seq.

 **Note :** A capital payment that is treated as income will often not be payable for an identifiable period.

1 JSA Regs (NI), reg 94(2)(a); IS (Gen) Regs (NI), reg 29(2)(a)
2 JSA Regs (NI), reg 94(2)(aa); IS (Gen) Regs (NI), reg 29(2)(aa)

Employer’s pay arrangements

25056 Where an employer has specific pay arrangements, which mean employees are paid at specific intervals, such as monthly, a payment should be taken into account for a period equal to the pay interval1. But see Chapter 26 if the payment is made because the employment has ended.

 **Note :** Earnings from holiday pay and compensation payments (see DMG Chapter 26), which are made for part of a day should be taken into account for a day2.

1 R(IS) 10/95; 2 JSA Regs (NI), reg 94(5); IS (Gen) Regs (NI), reg 29(4A)

 **Example**

 John claimed Income Support because he was absent from work due to an illness. His benefit week ending day is Monday.

 John’s employer pays him on the last day of each month. On 31.3.08 John received three weeks Statutory Sick Pay of £217.65 [£72.55 x 3 weeks].

 The decision maker decided that the payment should be taken into account for one month at the weekly rate of £50.22 [£217.65 x 12 ÷ 52].

 The weekly amount is taken into account for the following period

 Benefit week ending 31.3.08 - £50.22

 Benefit week ending 7.4.08 - £50.22

 Benefit week ending 14.4.08 - £50.22

 Benefit week ending 21.4.08 - £50.22

 Benefit week ending 28.4.08 - £50.22

 John’s next monthly payment from his employer would be due to be paid on 30.4.08 (treated as paid on 29.4.08) and the weekly amount would be taken into account for the period benefit week ending 5.5.08 to benefit week ending 26.5.08.

Supply teachers [See DMG Memo Vol 4/115 & 5/90]

25057 A Local Education and Library Board may create a pool or panel of supply teachers. The Local Education and Library Board calls on these teachers as and when needed, but the teachers may refuse work if they wish. In these circumstances the decision maker should note that

**1.** the supply teachers have a separate contract of employment for each period they work1 **but**

**2.** if the Local Education and Library Board pays them at regular intervals for the work they have done, each payment should be taken as paid for a period equal to the pay interval2.

1 R(U) 2/87; 2 R(IS) 10/95

 **Example**

A supply teacher is paid on the 16th of every month for all the work she has done in the previous month.

On 16 October she is paid for the four days she worked during September.

The decision maker takes the payment into account for one month.

Reservists

25058 Earnings which a claimant has derived from being a member of a reserve force

**1.** in respect of a period of annual continuous training for a maximum of 15 days in any calendar year **or**

**2.** in respect of their first year of training for a maximum of 43 days in a year which begins with their first day of training1

 are treated in accordance with DMG 25059.

1 JSA Regs (NI), reg 94(2B)(a); IS (Gen) Regs (NI), reg 29(2B)(a)

25059 The earnings, whether paid to the claimant alone or together with other earnings derived from the same source, have to be taken into account

**1.** in accordance with the table1 below where this is applicable **or**

**2.** in any other case, over a period equal to the number of days of the training period2.

1 JSA Regs (NI), reg 94(2B)(a); IS (Gen) Regs (NI), reg 29(2B)(a);
2 JSA Regs (NI), reg 94(2B)(b); IS (Gen) Regs (NI), reg 29(2B)(b)

 **Period of training in days period of time over which earnings are
 to be taken into account in days**

 8 to 10 7

 15 to 17 14

 22 to 24 21

 29 to 31 28

 36 to 38 35

 43 42

 **Example 1**

 Dylan is in receipt of Jobseeker’s Allowance and has also recently joined the Army Reserve. He takes part in a training exercise as part of his first year in the Reserve. Dylan receives payment in respect of his participation. The payment is for 16 days training. The decision maker takes the payment of earnings into account for a period of 14 days from the date that it is treated as paid (see DMG 25043 et seq) as a weekly amount (se DMG 25063 et seq). The payment is subject to a disregard.

 **Example 2**

 Helen is in receipt of Jobseeker’s Allowance and has also recently joined the Army Reserve. She takes part in a training exercise as part of her first year in the Reserve. Helen receives payment in respect of her participation. The payment is for 13 days training. The decision maker takes the payment of earnings into account for a period of 13 days from the date that it is treated as paid (see DMG 25043 et seq) as a weekly amount (see DMG 25063 et seq). The payment is subject to a disregard.

No identifiable period - Income Support

25060 **[See DMG Memo Vol 5/83 & 9/11]** If the period cannot be identified, the decision maker should calculate the amount to be taken into account1. Where the payment is

**1.** earnings, by dividing the claimant's net earnings (see DMG Chapter 26)2 by the total of the

**1.1** weekly amount of Jobseeker’s Allowance or Income Support to which the claimant would have been entitled had the payment not been made **and**

**1.2** amount of any disregard3 that would have been made on the earnings **or**

**2.** income other than earnings, by deducting any tax paid on the income4, and dividing the result by the total of the

**2.1** weekly amount of Jobseeker’s Allowance or Income Support the claimant would have been entitled to had the payment not been made **and**

**2.2** amount of any disregard5 (other than on tax) that would have been made on the income.

If the calculation does not result in a whole number of weeks, the balance of the payment should be taken into account for a corresponding fraction of a week6.

 **Note :** See DMG Chapter 26 if the payment is made because employment has ended.

1 IS (Gen) Regs (NI), reg 29(2)(b); 2 reg 36(3); 3 Sch 8; 4 Sch 9, para 1; 5 Sch 9; 6 reg 29(2)(b)

 **Example 1**

 Sheila is in receipt of income-based Jobseeker’s Allowance of £40 per week and occasionally works part-time for the local council. She has been offered a payment by her employer to redress historical pay inequalities between female and male employees. Sheila’s employer offers her a payment of £7,200. She can agree to accept this sum as a final and full settlement of any unequal treatment claim that she could have brought against her employer. Alternatively, Sheila can have the option of taking a net payment of £720 but this amount would be deducted from any future settlement won through action at an Employment Tribunal or as part of any negotiated settlement between herself and her employer.

 Sheila decides to accept the sum of £720 and this is duly paid to her with her salary by the employer. The decision maker decides that the payment is a payment of earnings but cannot identify a period in respect of which the payment is made. The decision maker therefore performs the calculation in DMG 25059 **1.** where:

 £720 is divided by £45 (income-based Jobseeker’s Allowance of £40 plus £5 disregard) = 16

 The decision maker takes the payment into account for 16 weeks at the weekly rate of £45.

 If the calculation does not result in a whole number of weeks, the balance of the payment should be taken into account for a corresponding fraction of a week1.

1 JSA Regs (NI), reg 94(2)(b); IS (Gen) Regs (NI), reg 29(2)(b)

**Example 2**

The claimant is paid a one-off bonus of £150. The period for which the payment was made is not identifiable.

£5 of a weekly payment of the income would be disregarded.

The claimant would be entitled to £65 a week without the payment.

The £150 payment is divided by £70 (£65 income-based Jobseeker’s Allowance plus £5 disregard).

The decision maker determines that the claimant’s income is £70 a week for a period of 2 1/7 weeks (two weeks and one day).

No identifiable period - Jobseeker’s Allowance

25061 If the period for which a payment is made cannot be identified (i.e. it’s not in respect of a week, month etc) then the decision maker should determine the number of weeks over which a payment has to be taken into account by applying the formula1

 E

 J + D

 where -

 E is the amount of net earnings (see DMG Chapter 26) or income other than earnings less any disregarded tax and

 J is the amount of Jobseeker’s Allowance which would be payable had the payment not been made and

 D is the amount equal to the total of the sums disregarded from the payment other than the tax.

 After applying the formula, any fraction is to be treated as a corresponding fraction of a week2.

1 JSA Regs (NI), reg 94(2)(b); 2 reg 94(11)

Different kinds of earnings received for overlapping periods

25062 If different kinds of earnings are received from the same source, and the periods over which the earnings would be taken into account overlap, the earnings should be taken into account

**1.** for the total of the periods which apply to each of the different kinds of earnings **and**

**2.** from the earliest date on which any of those earnings would be treated as paid under DMG 25043 et seq1 **and**

**3.** in the following order2

**3.1** in the case of contribution-based Jobseeker’s Allowance or income-based Jobseeker’s Allowance

**3.1.a** normal earnings

**3.1.b** compensation payments

**3.1.c** holiday pay **or**

**3.2** in the case of Income Support

**3.2.a** normal earnings including wages held in hand

**3.2.b** pay-in-lieu of notice or remuneration

**3.2.c** compensation payment

**3.2.d** payment made under the legislation of, or under any scheme operating in the Republic of Ireland which is similar to **3.2.a**-**3.2.c** above

**3.2.e** holiday pay received within four weeks of the date employment ended.

 **Note 1:** Pay in lieu of remuneration is paid in place of a person's normal wages or salary.

 **Note 2:** For Jobseeker’s Allowance, pay-in-lieu of notice or remuneration is included in the definition of a compensation payment (see DMG Chapter 26).

1 JSA Regs (NI), reg 94(3); IS (Gen) Regs (NI), reg 29(3); 2 JSA Regs (NI), reg 94(4);
IS (Gen) Regs (NI), reg 29(4)

**Example**

Sarah is paid Income Support in arrears and her benefit week ends on a Wednesday.

Her husband Gerry’s part-time employment is terminated without notice on 23 August, which is after the date of claim. Gerry receives his normal week’s earnings, one week in hand, four days holiday pay and two weeks in lieu of notice on 23 August.

The decision maker determines that the periods over which the earnings would be taken into account overlap.

The earnings are treated as paid on Thursday 22.8.96, and taken into account as follows for a total of four weeks and four days

**1.** the normal week’s earnings and the week in hand payment for the period 22.8.96 - 4.9.96

**2.** two weeks in lieu of notice for the period 5.9.96 - 18.9.96

**3.** four days holiday pay for the period 19.9.96 - 22.9.96.

Calculation of weekly amount

Period of a week or less

25063 Where the period for which a payment is made is a week or less, the weekly amount will be the amount of the payment1. But see DMG 25071 et seq and DMG 25086.

1 JSA Regs (NI), reg 97(1)(a); IS (Gen) Regs (NI), reg 32(1)(a)

Period of a month

25064 Where the payment is for a month the weekly amount should be worked out by

**1.** multiplying the amount of the payment by 12 **and**

**2.** dividing the result by 521.

1 JSA Regs (NI), reg 97(1)(b)(i); IS (Gen) Regs (NI), reg 32(1)(b)(i)

**Example**

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

Period of three months

25065 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 4 **and**

**2.** dividing the result by 521.

1 JSA Regs (NI), reg 97(1)(b)(ii); IS (Gen) Regs (NI), reg 32(1)(b)(ii)

**Example**

A payment of £100 is made for a period of three months. The decision maker calculates that the weekly amount is £7.69 (£100 x 4/52).

Period of a year

Income which is not Working Tax Credit

25066 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 521.

1 JSA Regs (NI), reg 97(1)(b)(iii); IS (Gen) Regs (NI), reg 32(1)(b)(iii)

Working Tax Credit

25067 Where an award of Working Tax Credit is made in respect of a year then the decision maker should divide the award of Working Tax Credit by the number of days in the year and multiply the result by 71. This means that the divisor will be either 365 days or, in a leap year, 366 days.

1 JSA Regs (NI), reg 97(1)(b)(iii); IS (Gen) Regs (NI), reg 32(1)(b)(iii)

Period of more than a week

25068 Where the payment is for more than a week, and DMG 25063 to 25067 does not apply, the weekly amount should be worked out by

**1.** multiplying the amount of the payment by 7 **and**

**2.** dividing the result by the number of days in the period for which the payment is made1.

1 JSA Regs (NI), reg 97(1)(b)(iv); IS (Gen) Regs (NI), reg 32(1)(b)(iv)

**Example**

A payment of £100 is made for a period of four weeks. The decision maker calculates that the weekly amount is £25 (£100 x 7/28).

 25069 – 25070

Calculation of amount where only part of a payment overlaps the benefit week

25071 Where a payment for one week or less is treated as paid before the first benefit week of the claim, it may fall to be taken into account for only some days in the first benefit week. The decision maker should decide the amount to be taken into account by

**1.** multiplying the amount of the payment by the number of days in the period of the overlap **and**

**2.** dividing the result by the number of days in the period for which payment is made1.

 **Note :** If the period the payment overlaps is a part-week see DMG Chapter 33.

1 JSA Regs (NI), reg 97(2); IS (Gen) Regs (NI), reg 32(2)

25072 Where a payment is for one week or more, and is to be taken into account for some days only in a benefit week, the decision maker should decide the amount to be taken into account by

**1.** multiplying the amount of the payment by the number of days in the period of the overlap **and**

**2.** dividing the result by the number of days in the period for which the payment is made1.

**Note :** If the period the payment overlaps is a part-week see DMG Chapter 33.

1 JSA Regs (NI), reg 97(3); IS (Gen) Regs (NI), reg 32(3)

**Example 1**

The claimant receives £400 from a general unemployment insurance policy for a period of four weeks on 8 May.

She claims Jobseeker’s Allowance on 28 May because the payments from the general unemployment insurance policy have stopped. The claimant will be paid weekly in arrears on a Thursday.

The payment is to be treated as paid on 8 May for the period 8 May to 4 June.

The decision maker decides that for benefit week ending 6 June 5/28ths of the payment should be taken into account and deducts £71.42 (£400 x 5 = 2000 = 71.42).

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**Example 2**

The claimant is unemployed. His benefit week ending day is Wednesday and he is paid income-based Jobseeker’s Allowance fortnightly in arrears on a Friday.

His partner is sick and had been receiving employer’s sick pay.

On Monday 7 December the claimant notifies the local office that his partner’s final payment of sick pay has been made on Friday 4 December. This payment is £45 and is for a period of one week and three days.

The decision maker treats the payment as made on Thursday 3.12.09 (the first day of the claimant’s benefit week) for the period 3.12.09 to 12.12.09.

The amount of sick pay taken into account for the period 10.12.09 to 12.12.09 is £13.50 (£45 x 3/10).

25073 Different rules apply if the payment is one of the following benefits

**1.** Income Support

**2.** Jobseeker’s Allowance

**3.** Maternity Allowance

**4.** Incapacity Benefit

**5.** Severe Disablement Allowance

**6.** Employment and Support Allowance

**7.** Universal Credit.

 25074 - 25075

Calculating the amount of Universal Credit, Employment and Support Allowance, Jobseeker’s Allowance, Income Support, Maternity Allowance, short-term Incapacity Benefit, long-term Incapacity Benefit or Severe Disablement Allowance to be taken into account in any benefit week

25076 Special rules apply to payments of Universal Credit, Employment and Support Allowance, Jobseeker’s Allowance, Income Support, Maternity Allowance, short term Incapacity Benefit, long term Incapacity Benefit or Severe Disablement Allowance. If the claimant receives one of these benefits the decision maker should

**1.** treat each day’s benefit as a separate payment **and**

**2.** treat each day’s benefit as paid on the day of the benefit week that it is paid for1 **and**

**3.** take each day’s benefit into account for the day it is paid for2 **and**

**4.** where part of a payment of one of these benefits is to be taken into account as income for some days only (relevant days) in a specific benefit week and the benefit involved is

 **4.1** Maternity Allowance, short-term Incapacity Benefit, long-term Incapacity Benefit or Severe Disablement Allowance - take into account for the relevant days the amount of benefit payable for those days3 **or**

 **4.2** Employment and Support Allowance, Income Support or Jobseeker’s Allowance - take into account for the relevant days an amount calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by seven4.

**Note :** Because payments of Universal Credit, Employment and Support Allowance, Jobseeker’s Allowance, Income Support, Maternity Allowance, short-term Incapacity Benefit, long-term Incapacity Benefit or Severe Disablement Allowance are made for specific days in each benefit week and payment is attributed to those days, the rules on modifying the amount taken into account at DMG 25081 will not apply to these benefits5.

1 JSA Regs (NI), reg 96(2); IS (Gen) Regs (NI), reg 31(2); 2 JSA Regs (NI), reg 94(2)(a);
IS (Gen) Regs (NI), reg 29(2)(a); 3 JSA Regs (NI), reg 97(4)(a); IS (Gen) Regs (NI), reg 32(4)(a);
4 JSA Regs (NI), reg 97(4)(b); IS (Gen) Regs (NI), reg 32(4)(b);
5 JSA Regs (NI), reg 97(5); IS (Gen) Regs (NI), reg 32(5)

**Example 1**

The claimant receives long term Incapacity Benefit of £70 for Tuesday 3.12.96 to Monday 9.12.96. Her benefit week ends on a Monday. The decision maker takes £10 into account for each of the seven days in the benefit week. £70 is taken into account altogether in the benefit week.

**Example 2**

The claimant receives long term Incapacity Benefit of £20 for Tuesday 3.12.96 to Wednesday 4 12.96. His benefit week ends on a Monday. The decision maker takes £10 into account for 3.12.96 and £10 for 4.12.96. £20 is taken into account altogether in the benefit week ending Monday 9.12.96.

 25077 - 25080

Modifying the amount taken into account

Two payments from the same source and of the same kind in the same benefit week

25081 The weekly amount of income taken into account in a benefit week should be restricted where an income

**1.** is or has been paid regularly **and**

**2.** 2 payments

**2.1** from the same source **and**

**2.2** of the same kind

 would be taken into account in the same benefit week following the rules in DMG 250431. The amount should be restricted to the weekly amount which is treated as paid first.

1 JSA Regs (NI), reg 97(5); IS (Gen) Regs (NI), reg 32(5)

 **Example 1**

Liam is sick and receiving Income Support weekly in arrears on a Thursday.

He is receiving employer’s sick pay fortnightly on a Friday.

Liam receives 2 weeks sick pay on 15.5.09 and the decision maker treats the payment as made on 15.5.09 for the period 15.5.09 to 28.5.09.

As Liam is due to return to work on 1.6.09 his employer pays his final 2 weeks sick pay on 26.5.09.

The decision maker decides that the payment is due to be paid on the date it is actually paid, and treats it as paid on 22.5.09 for the period 22.5.09 to 4.6.09.

As there would be 2 payments of income of the same kind from the same source to be taken into account for the benefit week 22.5.09 to 28.5.09, the decision maker restricts the amount taken into account to the weekly amount of the first payment.

 **Example 2**

On 12.8.08, Sonya claims Income Support. She is a Monday benefit week ending and is in receipt of Carer’s Allowance which is paid every 4 weeks by automatic credit transfer. She receives a payment on 4.8.08, her next payment is due on 1.9.08. The decision maker calculates the weekly amount of Carer’s Allowance to take into account on the Income Support claim.

On claiming Income Support Carer’s Allowance Branch changes the way that Sonya's Carer’s Allowance is paid. On 1.9.08 Sonya receives 4 weeks Carer’s Allowance and on 8.9.08 she receives 1 week's Carer’s Allowance. Further weekly payments of Carer’s Allowance are due each Monday after that date.

The decision maker decides that as there would be 2 payments of income of the same kind and from the same source to be taken into account for benefit week endings 8.9.08 - 22.9.08, the total amount of income to be taken into account is restricted to the weekly amount of Carer’s Allowance paid on 1.9.08.

Two payments to be taken into account for the same week because of the impracticability rule

25082 The special rules in DMG 25081 do not apply if

**1.** it is not practicable to take an income into account in the benefit week in which it was due **and**

**2.** in the next benefit week in which it is practicable to take it into account the claimant receives another payment

**2.1** of the same kind **and**

**2.2** from the same source

which is to be taken into account in the same week1.

 In these circumstances both payments should be taken into account in that week, with a separate disregard on each of the payments, if a disregard is appropriate2.

1 JSA Regs (NI), reg 97(5); IS (Gen) Regs (NI), reg 32(5);
2 JSA Regs (NI), Sch 5, para 13 & Sch 6, para 39; IS (Gen) Regs (NI), Sch 8, para 10 & Sch 9, para 37

Example

Ryan is sick and receives Income Support and short-term Incapacity Benefit weekly in arrears on Mondays.

His payment for 31.8.09 is posted early because that day is a bank holiday.

On 1.9.09 Ryan advises the local office that his partner Jean has started part-time work and has received her first weeks part-time earnings on 27.8.09. Jean is also due to receive another weeks wages on 3.9.09.

The decision maker determines that it is not practicable to treat the first payment of earnings as paid on the first day of the benefit week in which they were due to be paid, because benefit has already been paid for that week.

They are treated as paid on 1.9.09, the first day of the next benefit week in which it is practicable to take them into account.

The decision maker then considers the earnings due to be paid on 3.9.09, and treats them as paid on 1.9.09 because it is practicable to do so.

Both payments are taken into account in the same benefit week, with a separate disregard on each payment.

First of two payments due before the date of claim

25083 Where the first of the 2 payments referred to in DMG 25081 or 25082 was due to be paid before the date of claim the payment should be disregarded1.

1 JSA Regs (NI), Sch 5, para 16 & Sch 6, para 37; IS (Gen) Regs (NI), Sch 8, para 13 & Sch 9, para 35

 **Example**

The claimant claimed Income Support on 5.4.04 and is a Tuesday benefit week ending.

He received four weeks occupational pension from his former employer on 9.3.04, and the next payment is due to be paid on 6.4.04.

The decision maker determines that the payment due on 9.3.04 should be treated as paid on 9.3.04 and should be taken into account for the period 9.3.04 - 5.4.04.

The decision maker determines that the payment due on 6.4.04 should be treated as paid on 31.3.04 which is the first day of the benefit week in which it is due.

The payment due on 9.3.04 is disregarded because it is a payment of the same kind and from the same source as another payment which has to be taken into account in the same benefit week, and the payment of 9.3.04 was due to be paid before the first benefit week of the claim.

 25084 - 25085

Averaging of amounts

25086 The weekly amount of a claimant’s income may be averaged1 if the income varies or the regular pattern of work means that the claimant does not work every week. The decision maker should average over

**1.** a complete cycle if there is a recognisable cycle of work (see DMG Chapter 20 on establishing a recognisable cycle) **or**

**2.** 5 weeks **or**

**3.** another period if this means a more accurate weekly amount can be calculated.

1 JSA Regs (NI), reg 97(6); IS (Gen) Regs (NI), reg 32(6)

25087 The averaging of the weekly amount of income does not change the other rules on the treatment of income such as the date that it is treated as paid. This means that income can only be averaged where the claimant is actually in receipt of it.

**Example 1**

Dermot works 2 weeks on and 1 week off.

In the 2 weeks he actually works he works 15 hours a week and receives earnings of £80 a week.

In the third week, Dermot receives a retainer of £20, and claims income-based Jobseeker’s Allowance.

The decision maker decides that the earnings should be averaged over a period of three weeks because that is the period of the recognisable cycle of work.

The decision maker calculates that the average weekly amount of earnings is £60 that is 80 + 80 + 20,

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and takes that amount into account against Dermot’s entitlement. This average amount is taken into account from the fourth week. For the first three weeks the decision maker used the actual amounts of earnings paid to Dermot before an average figure could be calculated.

**Example 2**

Maggie works at a school term-time only as a classroom assistant. During the school holidays she doesn’t work and receives no earnings.

The decision maker can only average Maggie’s earnings during term-time when she is actually in receipt of an income. During the school holidays Maggie receives no earnings so there is no income to take into account.

25088 - 25999