Chapter 28 - Income other than earnings

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Appendix 1 - Special war widow’s or widower’s payments

**Appendix 2 - Courses of Higher Education under the Further Education (NI) Order 1997**

Income other than earnings

General

Introduction

Scope of this chapter

28000 This Chapter deals with the calculation of income other than earnings for Income Support and income-based Jobseeker’s Allowance. With the exception of occupational and personal pension payments1, income other than earnings does not affect the calculation of contribution-based Jobseeker’s Allowance.

 **Note :** For guidance on the treatment of pension payments in contribution-based Jobseeker’s Allowance see DMG Chapter 23.

1 JS (NI) Order 95, art 6 (1)(b)

Meaning of claimant

28001 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 JSA (NI) Order 95, art 2(1); IS (Gen) Regs (NI), reg 2(1)*

What is income

28002 Income is not defined in law1. It can normally be separated from capital because a payment of income

**1.** forms part of a series of payments, whether or not they are made regularly **or**

**2.** is made for a period of time **or**

**3.** satisfies both the conditions in **1.** and **2.**.

 **Note :** Where capital2 is being paid by instalments each payment will be capital unless DMG 28530 et seq applies.

1 JS (NI) Order 95; SS C&B (NI) Act 92; 2 Lillystone v Supplementary Benefits Commission (1982) FLR;
Morrell v Secretary of State for Work and Pensions [2003] EWCA Civ 526

How much income should be taken into account

28003 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** The decision maker should take into account the gross amount of any income1. References in this Chapter to income means income other than earnings. When calculating gross income disregard the sums in DMG 28008 - 28010 and 28150 et seq. No disregards should be made for any other expenses or deductions.

1 JSA Regs (NI), reg 103(1); IS (Gen) Regs (NI), reg 40(1)

Deductions from benefits

28004 Where a payment of

**1.** social security benefit **or**

**2.** Child Benefit1

 has a deduction for benefit recovery, the decision maker should take into account the gross amount of benefit.

1 JSA Regs (NI), reg 103(3); IS (Gen) Regs (NI), reg 40(3)

Reduction due to a failure to attend a work-focused interview, participate in work-related activity or comply with a work-related requirement

28005 Where Incapacity Benefit paid to a claimant’s partner has been reduced because the partner has failed to attend a work focused interview, the amount of Incapacity Benefit to be taken into account as income is the full amount that would have been payable before the reduction (see DMG 05380).

28006 For an income-based Jobseeker’s Allowance or Income Support claimant who is a member of a couple where

 **1.** the partner is in receipt of contribution-based Employment and Support Allowance **and**

 **2.** the partner’s contribution-based Employment and Support Allowance is reduced due to a sanction for a failure to take part in

 **2.1** a work-focused interview **or**

 **2.2** a work-related activity

 the amount of contribution-based Employment and Support Allowance to take into account for income-based Jobseeker’s Allowance and Income Support purposes is the amount of contribution-based Employment and Support Allowance before the reduction under **2.** is made1.

1 JSA Regs (NI), reg 103(5B); IS (Gen) Regs (NI), reg 40(6)

28007 For an income-based Jobseeker’s Allowance or Income Support claimant who is a member of a couple where

 **1.** the partner is in receipt of new style Employment and Support Allowance **and**

 **2.** the partner’s Employment and Support Allowance is reduced due to a sanction for a failure to comply with a

 **2.1** work-related requirement **or**

 **2.2** an interview relating to

 **2.2.a** the imposition of work-related requirements **or**

 **2.2.b** verifying a person’s compliance with a work-related requirement **or**

 **2.2.c** assisting a person to comply with a work-related requirement

 the amount of new style Employment and Support Allowance to take into account is the amount before a reduction is made1.

 **Note:** New style Employment and Support Allowance means Employment and Support Allowance as amended from 27.9.17 to remove references to income-related Employment and Support Allowance2.

1 JSA Regs (NI), reg 103(5B); IS (Gen) Regs (NI), reg 40(6)(c); WR Act (NI) 07, sec 11J;
2 Part 1; WR (NI) Order 15, Sch 3 & Sch 12, Part 1; ESA Regs (NI) 08, reg 2(1)

Overpayment recovery from other income

28008 Except where DMG 28004 applies, when income paid to a claimant is reduced because the paying authority is enforcing recovery of an overpayment, the decision maker should take into account the net amount. This is the amount actually received by the claimant, unless the circumstances in DMG 28009 apply. Where a retrospective change creates an overpayment, please see the guidance at DMG 25047.

 **Example**

 Paul is in receipt of income-based Jobseeker’s Allowance. His partner, Lorna, works and is in receipt of Working Tax Credit. Her Majesty’s Revenue and Customs has awarded Working Tax Credit at a rate of £50 per week. However, due to the recovery of an overpayment which occurred on a previous award of Working Tax Credit, the amount Lorna actually receives is £28 per week. When determining the amount of Working Tax Credit to take into account on Paul’s award of income-based Jobseeker’s Allowance, the decision maker takes into account Lorna’s Working Tax Credit of £28 per week.

28009 If the claimant volunteers to repay an overpayment by offering to have deductions made from his income, the decision maker should consider whether the claimant has deprived himself of that income (see DMG 28576 et seq).

Deduction of income tax

28010 Any tax actually paid, or due to be paid1 should be deducted when calculating any income that is to be

**1.** taken fully into account **or**

**2.** disregarded in part2.

 **Note 1:** Where the amount of tax due to be paid has been assessed under the Her Majesty’s Revenue and Customs Tax Self Assessment process the decision maker 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 JSA Regs (NI), Sch 6, para 1; IS (Gen) Regs (NI), Sch 9, para 1; R(IS) 4/05

 **Note 2:** From April 2016 the Scottish Government can set its own rate of income tax1 - decision makers should ensure that the correct tax rate is used.

1 SS (Scottish Rate of Income Tax etc) (Amdts) Regs 2016

 **Example**

 Jack makes a claim for Income Support on 5 June. His partner has been receiving Retirement Pension of £106.50 a week since April. Jack provides a forecast tax liability which estimates that his partner will be liable for £79.00 tax under the Her Majesty’s Revenue and Custom’s Tax Self Assessment process on this year’s Retirement Pension paid to her.

 The decision maker calculates the amount of Retirement Pension to be taken into account as :

 £106.50 a week Retirement Pension being paid less £1.52 a week tax [£79 ÷ 52] = £104.98. The decision maker takes £104.98 Retirement Pension a week into account.

Questions on the treatment of income

28011 The decision maker should direct 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 made before any decision is given.

28012 After deciding whether any disregards apply, the decision maker should calculate

**1.** the period over which the income should be taken into account **and**

**2.** the weekly rate at which the income should be taken into account.

28013 - 28049

Income taken fully into account

Types of income taken fully into account

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28050 **[See DMG Memo Vol 1/109, 3/97, 5/106, 6/91, 7/45, 8/83, 9/35, 10/73, 12/23, 13/69 & 14/63]** The types of income other than earnings listed below should be taken fully into account when calculating income for Income Support and income-based Jobseeker’s Allowance1. They are the most common types of income that decision makers deal with. Note that this list is not exhaustive.

 **1.** annuity income

 **2.** bereavement allowance

 **3.** Carer’s Allowance

 **4.** Child Benefit

 **5.** cash in lieu of concessionary coal

 **6.** Departmental ex gratia incapacity allowances

 **7.** Child Tax Credit

 **8.** contribution-based Employment and Support Allowance

 **9.** Incapacity Benefit

 **10.** industrial injuries disablement benefit

 **11.** contribution-based Jobseeker’s Allowance

 **12.** Maternity Allowance

 **13.** personal pensions

 **14.** pneumoconiosis, byssinosis and miscellaneous diseases benefit scheme

 **15.** refund of income tax

 **16.** Retirement Pension

 **17.** Severe Disablement Allowance

 **18.** war orphan’s pension

 **19.** Working Tax Credit

 **20.** Widow’s Pension

 **21.** workmen’s compensation

 **22.** State Pension

Detailed guidance is given in DMG 28052 et seq.

1 JSA Regs (NI), reg 103(1); IS (Gen) Regs (NI), reg 40(1)

28051 The following types of income are normally taken into account in full

**1.** income from certain disregarded capital

**2.** income from insurance policies

**3.** income from certain sub-lets

**4.** occupational pensions

**5.** payments for people attending court.

Benefits taken fully into account

Bereavement allowance

28052 **[See DMG Memo Vol 1/109, 3/97, 5/106, 6/91, 7/45, 8/83, 9/35, 10/73, 12/23, 13/69 & 14/63]** Bereavement allowance should be taken into account in full. From 9.4.01 it replaced Widow’s Pension for claimants whose spouse or civil partner has died. It is restricted to payment for not more than 52 weeks.

 **Note :** Widow’s Pension may continue to be paid to widows whose husband died before 9.4.01.

Carer’s Allowance

28053 Carer’s Allowance should be taken fully into account. It is payable to people who are unable to work because they are caring for a person receiving Attendance Allowance or Disability Living Allowance.

28054 When Carer’s Allowance is in payment to a young person who is also a dependant on an Income Support claim, Carer’s Allowance should be taken into account up to the amount of the dependant’s personal allowance and any disabled child premium payable for that young person. Any remaining Carer’s Allowance should be disregarded.

Child Benefit

28055 **[See DMG Memo Vol 4/37, 5/30 & 6/23] [See DMG Memo Vol 4/29 & 5/25]** Child Benefit should be taken into account in full. It is payable to people in Northern Ireland who are responsible for a child.

 **Note :** Child Benefit is the income of the adult responsible for a child. It is not the income of the child.

 28056

Child Tax Credit

28057 **[See DMG Memo Vol 4/37, 5/30 & 6/23] [see DMG Memo Vol 4/29 & 5/25]** Child Tax Credit should be taken fully into account. It is paid to the main carer in the family whether they are in or out of work and is paid in arrears, either weekly or four weekly.

 28058

Contribution-based Employment and Support Allowance

28059 Contribution-based Employment and Support Allowance should be taken fully into account. Contribution-based Employment and Support Allowance is paid to people who

 **1.** have limited capability for work **and**

 **2.** satisfy the contribution conditions.

 28060 - 28062

Incapacity Benefit

28063 Incapacity Benefit should be taken fully into account. Incapacity Benefit 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.

28064

Industrial injuries disablement benefit

28065 Industrial injuries disablement benefit should be taken fully into account. The additional allowances

**1.** reduced earnings allowance **and**

**2.** unemployability supplement

 may also be paid with industrial injuries disablement benefit. They should be taken fully into account.

 **Note :** Unemployability supplement was removed from the disablement benefit scheme on 06.04.87 but may continue in payment to people getting it before that date.

28066 See the guidance on attendance allowances for the treatment of exceptionally severe disablement allowance and constant Attendance Allowance paid with industrial injuries disablement benefit (see DMG 28352).

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

 28068 - 28069

Contribution-based Jobseeker’s Allowance

28070 Contribution-based Jobseeker’s Allowance received by a partner should be taken fully into account. It is payable to unemployed people who have paid enough social security contributions1.

 **Note :** Any contribution-based Jobseeker’s Allowance payable to either member of a joint claim couple is an element of the couple’s personal rate2.

1 JS (NI) Order art 2; 2 art 6A(10)

Maternity Allowance

28071 Maternity Allowance should be taken fully into account. It is payable for up to 39 weeks to women who cannot get statutory maternity pay.

 28072 - 28075

Retirement Pension

28076 Retirement Pension should be taken fully into account. It is either

**1.** contributory (Category A or B) **or**

**2.** non contributory (Category C or D).

 **Note:** State Pension replaces Retirement Pension for people reaching pensionable age on or after 6.5.16.

28077 Retirement Pension may be made up of the following elements

**1.** a basic pension

**2.** an increase of basic pension for dependent spouses or civil partners, dependent children or women looking after children (but see DMG 28367 if the dependant is not a member of the family for Income Support or income-based Jobseeker’s Allowance purposes)

**3.** an additional pension for people who were in non contracted out employment

**4.** graduated retirement benefit earned between 1961 and 1975 under the graduated pension scheme

**5.** increments (of Retirement Pension) for deferred retirement

**6.** invalidity and age additions.

28078 A pensioner who has been in employment that was contracted out of state earnings related pension scheme may be entitled to

**1.** guaranteed minimum pension instead of additional pension through an occupational pension scheme **and**

**2.** increments to an occupational pension and guaranteed minimum pension if retirement was deferred.

 The decision maker should take these payments fully into account as an occupational pension.

Severe Disablement Allowance

28079 Severe Disablement Allowance should be taken fully into account. It is a non contributory benefit payable after 6 months of illness. Severe Disablement Allowance was abolished in April 2001 but some claimants may continue to receive it in certain circumstances (see DMG Chapter 57).

State Pension

28080 State Pension replaces Retirement Pension for people reaching pensionable age on or after 6.4.16 and should be taken fully into account.

28081 State Pension does not consist of individual elements like Retirement Pension (basic pension, additional pension & graduated retirement pension etc) and will generally be based only on the claimant’s National Insurance record. Exceptions to this will be where

**1.** the claimant is widowed and inherits a deceased spouse or civil partner’s additional pension, deferred Retirement Pension or deferred graduated retirement benefit

**2.** the claimant receives a transitional rate of State Pension (for women who paid reduced rate National Insurance) **and**

**3.** the claimant is awarded a Shared Additional Pension upon divorce.

28082 State Pension entitlement may be at

**1.** the full rate **or**

**2.** the reduced rate **or**

**3.** the transitional rate.

28083 A pensioner who has been in employment that was contracted out of State Earnings Related Pension Scheme may be entitled to guaranteed minimum pension instead of additional pension through an occupational pension scheme.

 The decision maker should take these payments fully into account as an occupational pension.

 Please see DMG Chapter 74 for full details.

 **Note:** State Pension is payable from the date of entitlement to the date entitlement ends, so there could be part week payments at the beginning and end of awards. This does **not** apply where a change of circumstance (inheritance for example) leads to a change of entitlement during an award.

War orphan’s pension

28084 War orphan’s pension should be taken into account in full.

Widow’s benefit (widow’s payment, widow's pension)

28085 **[See DMG Memo Vol 1/109, 3/97, 5/106, 6/91, 7/45, 8/83, 9/35, 10/73, 12/23, 13/69 & 14/63]** Widow’s payment, which is paid as a lump sum should be treated as capital. In addition widow’s pension claimed prior to 9.4.01 may be paid. The decision maker should take widow’s pension fully into account.

Working Tax Credit

28086 Working Tax Credit should be taken fully into account. It is paid to employees along with their wages or to the self-employed earner direct to their bank account. Where appropriate Working Tax Credit includes an element for childcare paid to the main carer.

 **Note :** DMG Chapter 25 gives guidance about the date on which Working Tax Credit is treated as paid and also on circumstances where Working Tax Credit is incorrectly paid.

Workmen’s compensation (supplementation) scheme

28087 Workmen’s compensation (supplementation) scheme which replaced workmen’s compensation for old cases should be taken fully into account. It is paid for industrial injuries and diseases which were caused by employment before the start of the disablement benefit scheme.

28088 Any attendance allowance paid with workmen’s compensation (supplementation) should be disregarded. See DMG 28352 et seq for guidance on attendance allowances.

 28089

Pension payments taken fully into account for Income Support and income-based Jobseeker's Allowance

Occupational pensions

Treatment of occupational pensions in Income Support and income-based Jobseeker’s Allowance

28090 Payments of income from occupational pensions should be taken fully into account. 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 Industrial Redundant Mineworker’s Payment Scheme

 are included. Occupational pension payments do not include discretionary payments from a fund set up to relieve hardship1. This type of payment is a charitable or voluntary payment.

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

Treatment of occupational pensions in contribution-based Jobseeker’s Allowance

28091 Any occupational pension payments over £50 per week may be taken into account in the calculation of contribution-based Jobseeker’s Allowance1. (See DMG Chapter 23).

1 JSA Regs (NI), reg 81(1)

Personal pensions

Treatment of personal pensions in Income Support and income-based Jobseeker’s Allowance

28092 Income from personal pension schemes should be fully taken into account. Personal pension schemes provide pensions on retirement for

**1.** self-employed people **or**

**2**. employees who are not members of occupational pension schemes.

 Personal pension schemes may also make payments to dependants following the death of the scheme member.

Treatment of personal pensions in contribution-based Jobseeker’s Allowance

28093 Any payments from a personal pension scheme (except one rising on death) above £50 per week shall be taken into account when calculating contribution-based Jobseeker’s Allowance1 (see DMG Chapter 23).

1 JSA Regs (NI), reg 81(2)(c)

28094 - 28099

Other income taken fully into account

Annuity income

28100 An annuity is an annual income. 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 each year until the death of the investor.

28101 **[See DMG Memo Vols 1/115, 5/112, 9/44, 13/73 & 14/68]** Annuity income should be taken fully into account with the following exceptions.

**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 disregard1.

**2.** Gallantry awards. Income payable because of the award of the

**2.1** Victoria Cross **or**

**2.2** George Cross **or**

**2.3** any similar medal (including foreign honours)

should be disregarded in full2.

1 JSA Regs (NI), Sch 6, para 18; IS (Gen) Regs (NI), Sch 9, para 17;
2 JSA Regs (NI), Sch 6, para 11; IS (Gen) Regs (NI), Sch 9, para 10

Cash in lieu of concessionary coal

28102 The decision maker should take into account in full1 cash paid by British Coal in lieu of concessionary coal to a

**1.** former employee **or**

**2.** surviving husband or wife if the employee has died.

 Concessionary coal is coal provided free of charge to former employees and their dependants by British Coal.

 **Note:** The value of any coal provided should be disregarded as income in kind2 unless the claimant or a member of the family is involved in a trade dispute.

1 R (IS) 4/94; 2 IS (Gen) Regs (NI), Sch 9, para 21; JSA Regs (NI), Sch 6, para 22

Departmental ex gratia incapacity allowances

28103 These payments should be taken fully into account. But if they are paid as a lump sum they should be treated as capital. These allowances are paid by the Department to compensate people injured on training or rehabilitation courses.

 28104

Income from an insurance policy

28105 Insurance policy income should be taken fully into account except for income from a mortgage protection policy.

Credit insurance policies

28106 Claimants may receive payments from credit insurance policies. These are policies designed to cover repayments for debts for

**1.** credit cards

**2.** catalogue companies

**3.** personal loans

**4.** other types of credit arrangements.

Disregard for credit insurance policies

28107 A disregard applies to payments under as insurance policy taken out to insure against the risk of being unable to maintain repayments on1

1. a regulated agreement as defined for the Customer Credit Act 1974 **or**
2. a hire purchase agreement as defined for Part III of the Hire-Purchase Act 1964 **or**
3. a conditional sale agreement as defined for Part III of the Hire-Purchase Act 19642.

**Note :** The disregard does not apply to insurance policies for qualifying house costs3. The disregard for these policies is explained at DMG 28240 - 28242.

*1 SS (Misc Amdt) (No.3) Regs 1998;
2 IS (Gen) Regs (NI), Sch 9, para 30ZA; JSA Regs(NI), Sch 6, para 31A;
3 IS (Gen) Regs (NI), Sch 9, para 30ZA(1); JSA Regs (NI), Sch 6, para 31A(1)*

28108 If an agreement is a regulated agreement under the Consumer Credit Act 1974, the creditor is required by law to state this in the agreement1. The decision maker may presume that

1. if the agreement states that it is regulated under the Consumer Credit Act 1974, then DMG 28107 **1.** is satisfied **and**
2. if the agreement **does not** state that it is regulated under the Consumer Credit Act 1974 , then DMG 28107 **1.** is not satisfied.

**Note :** The decision maker may depart from these conclusions where the evidence clearly supports another decision.

*1 Consumer Credit (Agreements) Regulations 1983*

28109 If an agreement is not regulated by the Consumer Credit Act 1974, the decision maker should decide on the facts whether it falls within DMG 28107 2. or 3..

28110 A hire purchase agreement is defined in Part III of the Hire-Purchase Act 1964 as an agreement, other than a conditional sale agreement, under which

1. goods are bailed or (in Scotland) hired to a person in return for periodical payments and
2. ownership of the goods passed to this person if

**2.1** the terms which the agreement are complied with **and**

**2.2** one or more of the following occurs

 **2.2.a** the person exercises an option to buy **or**

 **2.2.b** an act specified in the agreement is carried out **or**

 **2.2.c** an event specified in the agreement happens1.

 **Note :** “Bailment” is the transfer of possessions of goods by the owner to someone else (bailee). The bailor (owner) retains ownership for the time being.

*1 Hire-Purchase Act 1964, sec 29(1)*

28111 A Conditional sale agreement is defined in Part III of the Hire-Purchase Act 1964 as an agreement for the sale of goods under which

1. all or part of the purchase price is payable by instalment and
2. the seller remains the owner of the goods until the conditions of the agreement are fulfilled1.

*1 Hire-Purchase Act 1964, sec 29(1)*

Amount of disregard - Credit insurance payments made direct to the claimant

28112 Payments may be disregarded to the extent that they do not exceed the amounts, calculated on a weekly basis, used to

1. maintain the repayments on the agreements in DMG 28107 **and**
2. meet any amount due by way of premiums on the insurance policy itself1.

*1 IS (Gen) Regs (NI), Sch 9, para 30ZA(2); JSA Regs (NI), Sch 6, para 31A(2)*

Credit insurance payments made to third parties

28113 The disregard may be applied to notional income that the claimant is treated as possessing under DMG 28114 - 281151.

*1 IS (Gen) Regs (NI), reg 42(7); JSA Regs (NI), reg105(14)*

Credit insurance payments made direct to the creditor

28114 Payments that are

**1.** made direct to the creditor **and**

**2.** would become available to the claimant upon application

should be treated as income available upon application. (See DMG 28593 et seq).

28115 Payments that are

**1.** made direct to the creditor **and**

**2.** would not become available to the claimant upon application

 should be treated as income paid to a third party to the extent that they are used for the items listed in DMG 28669. Payments made for items not listed in DMG 28669 should be fully disregarded.

28116 Payments made directly to the claimant that are immediately transferred to the creditor do not fall under the provisions of DMG 28114 - 28115. They should be treated as payments made directly to the claimant.

Income from certain sublets

28117 Income from subletting parts of the home that are not lived in (for example the garage or garden) should be taken fully into account. See DMG 28190 for subletting parts of the home that are lived in.

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

Payments for attending court

28118 Payments from a court to jurors and witnesses for loss of

**1.** earnings **or**

**2.** benefits

 should be taken fully into account1.

1 IS (Gen) Regs (NI), Sch 9, para 43; JSA Regs (NI), Sch 6, para 43

 28119 - 28120

Income tax refunds

28121 Income tax refunds shall be taken fully into account as income if

**1.** in Jobseeker’s Allowance cases, a member of the family **or**

**2.** in Income Support cases, the claimant or a member of the family

 is involved in a trade dispute1.

1 JSA Regs (NI), reg 110(2); IS (Gen) Regs (NI), reg 48(2)

28122 In Income Support cases only, income tax refunds should be taken fully into account as income during the 15 days following the end of a trade dispute1, when Income Support continues in payment despite the claimant being back at work.

1 IS (Gen) Regs (NI), reg 41(4)

28123 Refunds of Schedule D or E income tax payments should be treated as capital if the claimant or members of the family are not involved in a trade dispute. DMG Chapter 32 gives full guidance on when income tax refunds should be taken into account as income because of a trade dispute.

Income from certain disregarded capital

28124 Generally income from capital is not treated as income but as capital and goes towards increasing the amount of a claimant's capital. Decision makers should, however take into account, subject to any appropriate income disregards income derived from the following types of capital for as long as the value of the capital is disregarded1

**1.** trusts set up from money paid because of a personal injury while disregarded (see DMG 28498, 28513 and DMG Chapter 29)

**2.** assets of a business partly or wholly owned by the claimant while disregarded (see DMG Chapter 29)

**3.** the dwelling occupied as the home while disregarded (see DMG Chapter 29) (but not income from boarders or sub-lets which is partially disregarded).

1 JSA Regs (NI), Sch 6, para 23; IS (Gen) Regs (NI), Sch 9, para 22

 28125 - 28149

Income disregarded in part

Income that has £10 a week disregarded

Types of income that have £10 a week disregarded

28150 **[See DMG Memo Vol 5/105, 9/34 & 14/62]** 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.** payments to victims of National Socialist persecution

 **2.** war disablement pension

 **3.** war widow’s pension, widowed mother’s allowance and widowed parent’s allowance

 **4.** certain payments from the Armed Forces and Reserve Forces Compensation Scheme.

 **Note :** War widow’s pension includes a pension paid to a surviving civil partner.

Weekly limit to £5, £10 and £20 disregards

28151 The overall weekly disregard should be limited to £201 for the family when more than one of the following types of income are taken into account in the same benefit week

**1.** more than one payment listed in DMG 28150 **or**

**2.** covenant income **or**

**3.** a student loan1.

Covenant income has the first £5 disregarded. Student loans have the first £10 disregarded.

 **Note :** This rule does not apply where two payments of the same kind are taken into account in the same benefit week2. In these cases each payment has its own disregard.

1 JSA Regs (NI), Sch 6, para 38; IS (Gen) Regs (NI), Sch 9, para 36
2 JSA Regs (NI), Sch 6, para 39; IS (Gen) Regs (NI), Sch 9, para 37

 28152

Payments to victims of National Socialist persecution

28153 **[See DMG Memo Vol 5/105, 9/34 & 14/62]** These payments should have a £10 disregard1. They are made under the laws of Germany or Austria to victims of Hitler’s government.

1 JSA Regs (NI), Sch 6, para 17(f); IS (Gen) Regs (NI), Sch 9, para 16(f)

War disablement pensions

28154 War disablement pension means1 any

 **1.** retired pay **or**

 **2.** pension **or**

 **3.** allowance

 payable to former members of the armed forces or forces nursing services because of medical unfitness prior to 6.4.05 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 war disablement pension is paid.

 **Note :** For those who suffer injury, ill health or death due to service in the Armed Forces from 6.4.05 the war pension scheme is replaced by the Armed Forces and Reserve Forces Compensation Scheme - see DMG 28158.

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

28155 War disablement pension may be made up of1

**1.** wounds pension **and**

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

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

1 R(IS) 3/99

28156 The following payments should have a £10 disregard1

**1.** war disablement pension **and**

**2.** a payment to compensate for non payment of war disablement pension **and**

**3.** a similar payment made by a foreign government.

1 JSA Regs (NI), Sch 6, para 17(a) & (b); IS (Gen) Regs (NI), Sch 9, para 16(a) & (b)

War widow’s or widower’s pension

28157 War widow’s/widower’s pension is paid to a widow, widower or surviving civil partner following a death caused by service or war injury prior to 6.4.05. The decision maker should disregard £10 from

**1.** war widow’s/widower’s pension **or**

**2.** a payment to compensate for non payment of war widow’s/widower’s pension **and**

**3.** similar payments from a foreign government1.

 **Note 1 :** Decision makers should take into account in full pensions paid to war orphans or dependants.

 **Note 2 :** For deaths occurring on or after 6.4.05 war widow’s/widower’s pension is replaced by the Armed Forces and Reserve Forces Compensation Scheme - see DMG 28158.

 **Note 3 :** See Appendix 1 to this Chapter for a definition of war widows or widower’s pension.

1 JSA Regs (NI), Sch 6, para 17(a) & (b); IS (Gen) Regs (NI), Sch 9, para 16(a) & (b)

**Armed Forces and Reserve Forces Compensation Scheme**

28158 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 claim for a War Pensions Scheme payment for injury, ill health or a death due to service in the Armed Forces prior to 6.4.05.

 **Definitions**

28159 The Armed Forces and Reserve Forces Compensation Scheme means1 the scheme established under specified Armed Forces legislation2.

1 JSA Regs (NI), reg 1(2); IS (Gen) Regs (NI), reg 2(1);
2 Armed Forces (Pensions and Compensation) Act 2004, sec 1(2)

28160 A guaranteed income payment means1 a payment made under specified Armed Forces legislation2.

1 JSA Regs (NI), reg 1(2); IS (Gen) Regs (NI), reg 2(1);
2 Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, art 12(1)(b) or 18(1)(a)

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

28161 The following payments should have a £10 disregard

 **1.** a guaranteed income payment1

 **2.** a payment to compensate for the non payment of a guaranteed income payment2 **and**

 **3.** a similar payment made by a foreign government, which is analogous to a guaranteed income payment3.

1 JSA Regs (NI), Sch 6, para 17(aa); IS (Gen) Regs (NI), Sch 9, para 16(cc);
2 JSA Regs (NI), Sch 6, para 17(aa); IS (Gen) Regs (NI) Sch 9, para 16(d);
3 JSA Regs (NI), Sch 6, para 17(b); IS (Gen) Regs (NI), Sch 9, para 16(e)

28162 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 due to a pension from the Armed Forces Pension Scheme or 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 pension1.

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

1 JSA Regs (NI), Sch 6, para 17(d); IS (Gen) Regs (NI), Sch 9, para 16(cc)

 **Example**

 Simon is in receipt of income-based Jobseeker’s Allowance. He also receives a guaranteed income payment of £2.50 per week. This is because the payment has been abated by a pension he receives under the Armed Forces Pension Scheme. The decision maker disregards the guaranteed income payment of £2.50 and also £7.50 of the pension. This gives a total weekly disregard of £10.

 **Widowed mother’s allowance and widowed parent’s allowance**

28163 **[See DMG Memo Vol 1/109, 3/97, 5/106, 6/91, 7/45, 8/83, 9/35, 10/73, 12/23, 13/69 & 14/63]** A £10 disregard applies to widowed mother’s allowance1. For claims from people whose partner died on or after 9.4.01 widowed mother’s allowance has been replaced by widowed parent’s allowance. It is a new benefit paid to bereaved men and women who care for children. A man with dependant children whose partner has died before 9.4.01 can claim widowed parent’s allowance after this date. A £10.00 disregard is applicable to widowed parent’s allowance2.

*1 IS (Gen) Regs (NI), Sch 9, para 16(g); JSA Regs (NI), Sch 6, para 17(h)
2 IS (Gen) Regs (NI), Sch 9, para 16(h); JSA Regs (NI), Sch 6, para 17(i)*

Child maintenance disregard

28164 For guidance on the child maintenance disregard see the guidance at DMG 28443 et seq.

 28165 - 28169

Income with partial disregards

28170 The following types of income should be disregarded in part

**1.** adoption allowance

**2.** civilian war injury pensions

**3.** home income plans

**4.** income from boarders

**5.** income from sub letting

**6.** living away from home allowances

**7.** income from certain disregarded capital

**8.** national lottery sports award

**9.** occupational pensions when a spouse is in an residential care home or nursing home

**10.** dependant’s income (see DMG 28565 et seq).

Adoption allowances

28171 Adoption agencies, that is Health and Social Services Boards, Health and Social Service Trusts or registered voluntary adoption societies may pay adoption allowances to help people who might otherwise not be able to afford to adopt children. It may be paid where a

 **1.** long-term foster parent wishes to adopt but cannot afford to lose their boarding out allowance **or**

 **2.** child’s prospects of adoption are lowered because of disability.

 Each adoption agency has its own scheme. There is usually a rule that ends the allowance when the adopted child or young person stops living with the adopter.

Adoption allowance paid for members of the family

28172 If adoption allowance is paid for a child or young person who is a member of the family the decision maker should

**1.** disregard adoption allowance in full if the child or young person has capital over £3000 **or**

**2.** if the child or young person has capital below £3000

**2.1** take adoption allowance paid into account up to the level of the child or young person’s applicable amount including any disabled child premium **and**

**2.2** disregard any balance1.

1 JSA Regs (NI), Sch 6, para 26(1)(b); IS (Gen) Regs (NI), Sch 9, para 25(1)(b)

**Example**

Liam claims Income Support. He has adopted a son, Charles.

The Health and Social Services Board pays Liam adoption allowance of £80 a week.

The applicable amount in respect of Charles is £79.80 made up of £38.50 for a child aged under 11 and disabled child premium of £41.30.

The decision maker takes into account £79.80 of the adoption allowance as income. The balance is disregarded.

Adoption allowances paid other than for a child who is a member of the family

28173 Disregard any payment1 made under specific legislation2 in respect of

 **1.** a child who is not a member of the family **or**

 **2.** the claimant or partner.

1 JSA Regs (NI), Sch 6, para 25(1A); IS (Gen) Regs (NI), Sch 9, para 25(1A);
2 Adoption & Children Act 2002, Sch 4, para 3

 28174

Civilian war injury pensions

28175 Civilian war injury pensions have a disregard that is uprated annually1.

1 IS (Gen) Regs (NI), Sch 9, para 55; JSA Regs (NI), Sch 6, para 54

Home income plans

What is a home income plan? [See DMG Memo Vols 1/115, 5/112, 9/44, 13/73 & 14/68]

28176 Retired people who own their 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.

What is an annuitant?

28177 In this guidance an annuitant is a person to whom income from an annuity is payable.

Payments from home income plans

28178 **[See DMG Memo Vols 1/115, 5/112, 9/44, 13/73 & 14/68]** The decision maker 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 annuity1 **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.** the interest on the loan is payable by the person to whom the loan was made or by one of the annuitants **and**

**4.** at the time the loan was made the person to whom it was made and other annuitant was aged at least 65 **and**

**5.** the loan was secured on a dwelling in Northern Ireland and the person to whom the loan was made or one of the annuitants owns an estate interest in that dwelling **and**

**6.** 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.

1 JSA Regs (NI), Sch 6, para 18; IS (Gen) Regs (NI), Sch 9, para 17

28179 If all the conditions in DMG 28178 are satisfied the decision maker should disregard

**1.** the net weekly interest where income tax is deductible **or**

**2.** the gross amount of interest in other cases.

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

Notional annuity income

28180 If the annuity income is

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

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

 the decision maker should consider if the claimant is treated as possessing notional income (see DMG 28568 et seq)1.

1 JSA Regs (NI), reg 105(1), (2), (6) & (10); IS (Gen) Regs (NI), reg 42(1), (2), (3) & (4)

Income from people living in the claimant’s home

28181 The following paragraphs give guidance on the treatment of income from people living in the claimant’s home. Decision makers 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

28182 Where claimants provide board and lodging accommodation within their home the decision maker should

**1.** add together all the payments made for board and lodging for the week

**2.** calculate how much board and lodging income belongs to the claimant (i.e. if the claimant is in partnership only a share of the total payments will be the claimant’s income)

**3.** deduct £20 **and**

**4.** deduct 50% of any excess over £20

 for each person for whom board and lodging is provided1.

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

1 JSA Regs (NI), Sch 6, para 21; IS (Gen) Regs (NI), Sch 9, para 20

 **Example**

Anita, who claims Income Support, 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 decision maker 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 2 £20

**Total income**

From boarder 1 and boarder 2 = £37.50

What is board and lodging accommodation?

28183 Board and lodging accommodation means1

**1.** accommodation provided for a charge that includes

**1.1** providing the accommodation **and**

**1.2** some cooked or prepared meals **or**

**2.** accommodation provided in a hotel, guest house, lodging house (see DMG 28186) or similar establishment.

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

28184 Accommodation provided

**1.** by a close relative (see DMG 28187) **or**

**2.** any other member of the family **or**

**3.** not on a commercial basis

 should not be treated as board and lodging accommodation1.

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

28185 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 premises1.

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

28186 A lodging house

**1.** is not a private house in which rooms are rented, even if services such as the provision and washing of bed linen are provided **and**

**2.** is a place where accommodation is offered on a long-term basis **and**

**3.** is the kind of establishment that may have a sign outside offering accommodation.

What is a close relative

28187 When considering board and lodging accommodation “close relative” means1 a

**1.** parent

**2.** parent in law

**3.** son

**4.** son in law

**5.** daughter

**6.** daughter in law

**7.** step parent

**8.** step son

**9.** step daughter

**10.** brother or sister (including half-brother and half-sister)

**11.** husbands and wives of any of the people mentioned above

**12.** civil partners and those who are living together as civil partners or living together as husband and wife with any of the people mentioned above.

1 JSA Regs (NI), reg 1(2); IS (Gen) Regs (NI), reg 2(1); R(SB) 22/87

28188 For the purposes of DMG 28187, a child who is adopted becomes

**1.** a child of the adoptive parents **and**

**2.** the brother or sister of any other child of those parents.

 The child stops being the child of, or the brother or sister of any children of the natural parents. Whether an adopted person is a close relative of another person depends upon the **legal relationship** and not the blood relationship1.

1 R (SB) 22/87

 28189

Income from subletting

28190 Where a claimant sublets part of the home to another person the decision maker should

**1.** add together all payments made for the week by that subtenant and/or a member of the subtenant’s family **and**

**2.** disregard1

**2.1** £20 **or**

**2.2** the whole of the amount paid where the total is less than £20.

 **Note :** In this guidance “home” means the dwelling occupied as the home.

1 JSA Regs (NI), Sch 6, para 20; IS (Gen) Regs (NI), Sch 9, para 19

**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 decision maker

**1.** adds together the payments in the week £30 + £20 = £50

**2.** and deducts £20

The decision maker takes £30 a week into account.

**Example 2**

Robin has two subtenants in his home. Both subtenants pay £65 a week.

The decision maker

**1.** adds together the payments in the week £65 + £65 = £130

**2.** and deducts £40 (£20 for each sub tenant)

The decision maker takes £90 a week into account.

28191 - 28194

Other types of income partially disregarded

Living away from home allowance

28195 Living away from home allowance is paid by or on behalf of the Department to people attending training courses. The decision maker should disregard the amount of this allowance except any part of it which is equal to rent or rates or both for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as his home1.

1 JSA Regs (NI), Sch 6, para 14; 1S (Gen) Regs (NI), Sch 9, para 13(1)(d)

Income from certain disregarded capital

28196 The decision maker should

**1.** take into account as income any payments (including rent) from premises other than the home while the capital value of the premises is disregarded

**2.** treat as capital any other income received from premises apart from income from the home. This includes rent from a property that has no value because of the liabilities secured on it.

 **Note :** The disregards explained in DMG 28197 do not apply to income from the home.

28197 The decision maker should take income into account in full less

**1.** any mortgage repayments, including

**1.1** both the interest and capital elements of any repayments **and**

**1.2** endowment policy premiums where it is a term of the mortgage that there is an endowment policy. The decision maker should establish the level of endowment required by the lender to cover the mortgage - see DMG 28198 for the calculation of the deduction for the premium **and**

**1.3** insurance premiums where it is a term of the mortgage that such insurance be held **and**

**2.** rates

 paid for the property producing the income during the period that the income was received for1.

1 JSA Regs (NI), Sch 6, para 23(2); IS (Gen) Regs (NI), Sch 9, para 22(2)

28198 Endowments have both an investment and a life insurance element. The endowment may have been chosen to provide

**1.** just the level of investment and life assurance required by the lender to ensure repayment of the mortgage, including in the event of death. If the decision maker establishes that the endowment is this type of endowment, the decision maker should deduct the amount of the premium **or**

**2.** a level of investment and life assurance higher than that required by the lender. The premium for this type of endowment is higher than the endowment in **1.**. If the decision maker establishes that the endowment is this type of endowment the decision maker should

**2.1** establish the level of endowment actually required by the lender to cover the mortgage **and**

**2.2** restrict the amount of the deduction to the amount that would buy the level of endowment actually required by the lender. When deciding this amount, the decision maker may choose to look at the cost of a policy from the same insurance company or a different company.

28199 The disregard applies to income from properties whose capital value is disregarded because they are

**1.** intended to be the claimant’s home but have not yet been occupied (see DMG Chapter 29) **or**

**2.** occupied wholly or partly by a partner or relative of

**2.1** a single claimant **or**

**2.2** any other member of the family

 who is aged at least 60 or incapacitated (see DMG Chapter 29) **or**

**3.** occupied wholly or partly by the claimant’s former partner (see DMG Chapter 29) **or**

**4.** the former marital home (see DMG Chapter 29) **or**

**5.**premises that the claimant is taking reasonable steps to sell (see DMG Chapter 29) **or**

**6.** premises the claimant intends to live in and certain steps are being taken to take possession (see DMG Chapter 29) **or**

**7.** premises the claimant intends making home but cannot move in until essential repairs and improvements have been completed (see DMG Chapter 29).

National Lottery Sports Award

Meaning of sports award

28200 “Sports award” means an award

1. made by one of the sports councils named in the National Lottery legislation **and**
2. out of sums allocated to it under that legisation1.

*1 IS (Gen) Regs (NI), reg 2(1); JSA Regs (NI) reg 1(2); National Lottery Act 1993, sec 23(2)*

28201 The Sports Councils named in the National Lottery legislation1 are the

1. English Sports Council2
2. Scottish Sports Council
3. Sports Council for Wales
4. Sports Council for Northern Ireland
5. UK Sports Council3

*1 National Lottery etc Act 1993, sec 23(2);
2 National Lottery etc Act (Amendment of section 23) Order 1996, art 2; 3 art 2*

Income other than earnings disregard

28202 Any payments of a sports award should be disregarded except to the extent that the award is made for

1. food **or**
2. ordinary clothing or footwear **or**
3. rent for which housing benefit is payable **or**
4. household fuel **or**
5. housing costs covered by Income Support or income-based Jobseeker’s Allowance
6. water rates for which the claimant or a family member is liable1.

**Note 1 :** “Food“ does not include vitamins, minerals of other special dietary supplements intended to enhance the performance of the sport for which the sport award was made2.

**Note 2** “Ordinary clothing and footwear” means clothing or footwear for normal daily use. It does not include school uniforms or clothing used solely for sporting activities3.

*1 IS (Gen) Regs (NI), Sch 9, para 67(1) & (2); JSA Regs (NI), Sch6, para 65 (1) & (2);
2 IS (Gen) Regs (NI), Sch 9 para 67(3); JSA Regs (NI) Sch 6, para 65(3);
3 IS (Gen) Regs (NI), Sch 9 para 67(3); JSA Regs (NI), para 65(3).*

Residence Orders

Northern Ireland Children Order

28203 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** Payments made by an authority1 under specific legislation2 are subject to a disregard3. The amount of the disregard should be calculated as in DMG 28205.

 *1 Children (NI) Order 1995, art 2; 2 art 15 and Sch 1, para 17;
3 IS (Gen) Regs (NI), Sch 9, para 25(1); JSA Regs (NI), Sch6, para 26(1)*

Local Authority payments for children subject to a residence order - Income Support

28204 **[See DMG Memo Vol 1/74, 2/17, 4/89, 5/76, 6/60, 8/15, 9/6 & 14/40][see DMG Memo Vol 4/37, 5/30 & 6/23]** Payments made by a Local Authority under specified legislation1 are disregarded2. The amount of the disregard should be calculated as in DMG 28205.

*1 Children Act 1975, sec 107 & 50; Children Act 1989, sec 15 & Sch 1, para 15;
2 IS (Gen) Regs (NI), Sch 9, para 25(1)*

Disregard

28205 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** If a payment is made under a residence order for a child or young person who is a member of the family the decision maker should

**1.** if the child or young person has capital over £3000 - disregard it in full **or**

**2.** if the child or young person has capital below £3000

**2.1** take into account the equivalent of the child or young person’s applicable amount including any disabled child premium **and**

**2.2** disregard any balance **or**

**3.** if the payment is made as a lump sum - treat it as capital.

 If a payment is made up of more than one element the decision maker should identify the separate amounts and treat them as appropriate in **1.** to **3.**1.

1 JSA Regs (NI), Sch 6, para 26; IS (Gen) Regs (NI), Sch 9, para 25

28206 - 28210

Maternity, paternity, adoption, parental and sick pay

Statutory maternity pay

28211 Statutory maternity pay 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. Women who are not employees are not entitled to statutory maternity pay but may claim Maternity Allowance instead.

Paternity pay and additional paternity pay

28212 Paternity pay is payable to male employees during their paternity leave when they have average weekly earnings of at least the lower earnings limit (see DMG Chapter 27, Appendix 2). It is paid at the same rate as standard statutory maternity pay.

Statutory adoption pay

28213 Statutory adoption pay is payable to adopters during their ordinary adoption leave where they have average weekly earnings at least equal to the lower earnings limit (see DMG Chapter 27, Appendix 2). It is paid at the same rate as standard statutory maternity pay.

Statutory sick pay

28214 Statutory sick pay is payable by employers to employees as part or instead of normal wages for up to 28 weeks in any period of sickness. People who are not employees are not entitled to statutory sick pay but may claim Incapacity Benefit or Employment and Support Allowance instead.

Statutory shared parental pay

28215 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.

Treatment of statutory maternity pay, paternity pay, statutory adoption pay, statutory shared parental pay and statutory sick pay

28216 The amount the decision maker should take into account is the gross amount less

**1.** any income tax paid1 **and**

**2.** any employees’ social security contributions or National Insurance Class 1 contributions paid2 **and**

**3.** one half of any contribution paid by the claimant to an occupational or personal pension scheme3.

1 JSA Regs (NI), Sch 6, para 1; IS (Gen) Regs (NI), Sch 9, para 1;
2 JSA Regs (NI), Sch 6, para 4(a) & 5(a); IS (Gen) Regs (NI), Sch 9, para 4(a) & 4A;
3 JSA Regs (NI), Sch 6, para 4(b) & 5(b); IS (Gen) Regs (NI), Sch 1, para 4(b) & 4A(b)

Employer’s private maternity, paternity, adoption or sick pay

28217 Maternity, paternity, adoption or sick pay from an employer’s private scheme should be treated in the same way as the statutory payments.

Lump sum payments of statutory maternity pay

28218 Some employers may pay statutory maternity pay as a lump sum at the start of the maternity pay period. The decision maker should apply the normal rules when deciding the period statutory maternity pay should be taken into account1.

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

 28219 - 28229

Payments for housing costs and mortgage protection payments

Introduction

28230 The following paragraphs explain disregards on payments for housing costs. The type of disregard depends upon the way a payment is made. Decision makers should make sure that there is sufficient evidence available to decide how to apply the disregards.

Meanings of terms used

28231 In the following paragraphs references to

**1.** “home” means “dwelling occupied as the home” which includes

**1.1** the dwelling and any

**1.1.a** garage

**1.1.b** garden

**1.1.c** outbuildings

normally occupied by the claimant as the home including any part thereof not so occupied which it is unpracticable or unreasonable to sell separately **and**

**1.2** any agricultural land adjoining that dwelling and any land not adjoining it which it is not practicable or reasonable to sell separately.

 **Note :** Rooms that are sublet should be treated as part of the dwelling occupied as the home unless it is practicable or reasonable to sell that part of the house separately.

**2.** “qualifying housing cost" means

**2.1** a loan which qualifies under the Loans for Mortgage Interest Regulaions1 (see Memo ADM 4/18) **or**

**2.2** any other housing costs (for example, service charges) which satisfy the conditions of DMG Chapter 23.

1 The Loans for Mortgage Interest Regs (NI) 2017 (SR 2017/176)

**Note :** From 6.4.18 the regulations which provide for entitlement to owner occupier payments within Universal Credit, Income Support, income-based Jobseeker’s Allowance, income-related Employment and Support Allowance and State Pension Credit are repealed but payment towards certain other housing costs will continue. Support for owner occupier payments will be met by stand-alone loans under new legislation. However, transitional arrangements are in place for existing claimants whose housing costs can continue for a prescribed/limited period - see memo ADM 4/18 for full details.

**3.** “mortgage protection policy” means an insurance policy taken out to insure against the risk of not being able to maintain repayments on a loan or mortgage

**4.** “third party” means a person or organisation to whom the claimant is liable to make payments for housing or accommodation. This could include a

**4.1** landlord

**4.2** building society

**4.3** insurance company

**4.4** residential care home, an Abbeyfield home or independent hospital (see DMG 28283 - 28285 for the meaning of care home and independent hospital)

**5.** capital repayments include repayments of capital on a “repayment” mortgage or loan as well as payments into

**5.1** endowment policies

**5.2** individual savings accounts

**5.3** personal pension plans

**5.4** other investment plans

that have been taken out to repay a mortgage or loan.

Payments made direct to a third party when the claimant could not receive the income direct

28232 Where a claimant receives housing costs within their award as in DMG 28231 **2.2** then the decision maker should take these payments into account but only up to the level of the housing costs included in the applicable amount. Any excess should be ignored1. This disregard applies

**1.** to a payment if the claimant could not successfully apply to receive the income direct **and**

**2.** for any period before the claimant could expect to get a payment in a case where the claimant could successfully apply to receive the income direct.

**Example**

Alan claims income-based Jobseeker’s Allowance. He has a mortgage protection policy that pays £50 a week.

Under the terms of the mortgage protection policy payments must be made direct to the building society. The money is used to meet Alan's service charges.

Alan's applicable amount includes £25 a week for service charges.

The decision maker treats Alan as having income of £25 a week. The balance of £25 is ignored.

**Note :** The disregards in DMG 28233 et seq do not apply to these payments2.

1 JSA Regs (NI), reg 105(10)(a)(ii); IS (Gen) Regs (NI), reg 42(4)(a)(ii);
2 JSA Regs (NI),Sch 6, para 30(2) and 31(2); IS (Gen) Regs (NI), Sch 9, para 29(2) & 30(2)

Payments made direct to a third party when the claimant could receive the income direct

28233 Where a claimant receives housing costs within their award as in DMG 28231 **2.2** the decision maker should treat payments made direct to a third party as the claimant’s income from the date the claimant could expect to get the income1

**1.** if an application was made **and**

**2.** if the claimant could successfully apply to receive the income direct.

 This notional income should be treated as if it is actually received by the claimant2.

1 JSA Regs (NI), reg 105(2); IS (Gen) Regs (NI), reg 42(2);
2 JSA Regs (NI), reg 105(14); IS (Gen) Regs (NI), reg 42(7)

How should the decision maker decide when the claimant could expect to get the income

28234 The decision maker should calculate the date the claimant could expect to receive the income by

**1.** assuming that an application was made on the date the decision maker first becomes aware of the possible income **and**

**2.** adding the estimated time it would take for an application to be processed.

Payments made direct to the claimant

28235 If the claimant

**1.** receives payments **or**

**2.** is treated as receiving payments

 for housing costs direct the decision maker should decide if the income comes from a mortgage protection policy.

28236 Where a payment is made from a mortgage protection policy the decision maker should always apply any disregard for a mortgage protection policy payment before considering any other disregards1.

 **Note :** The Department will not automatically obtain a statement from a claimant's lender about housing costs. The decision maker should normally accept the claimant's own evidence. Corroboration of the claimant's evidence should only be sought if there are grounds to doubt it.

1 JSA Regs (NI), Sch 6, para 30(1); IS (Gen) Regs (NI), Sch 9, para 29(1)

 28237 - 28239

Mortgage protection policy payments

How much mortgage protection policy payment should be disregarded

28240 The decision maker should disregard any payments that are **used** to pay the amount of any loan which

 **1.** qualifies under the Loans for Mortgage Interest Regulations1 (see DMG 28231) **or**

 **2.** would qualify for such a loan if an application was made.

 **Note :** The claimant only has to have a loan which qualifies for a Loan for Mortgage Interest loan, they do not have to be in receipt of an amount of Loan for Mortgage Interest loan for this disregard to apply.

1 JSA Regs (NI), Sch 6, para 30; IS (Gen) Regs (NI), Sch 9, para 29

 **Example 1**

 Arsene receives Income Support and applies for a loan under the new Loans for Mortgage Interest scheme. He also has a mortgage protection policy. Arsene is assessed as requiring a loan of £50 per week under Loans for Mortgage Interest scheme but he does not receive a payment as his mortgage protection policy is equal to the amount of that - £50 per week. As his loan is a qualifying loan and he uses his mortgage protection policy to meet his mortgage repayments, they are disregarded in the weekly calculation of his Income Support award.

 **Example 2**

 Terry receives Income Support and applies for a loan under the new Loans for Mortgage Interest scheme. He also has a mortgage protection policy of £50 per week. Terry is assessed as requiring a loan of £75 per week under the Loans for Mortgage Interest scheme, taking into account the mortgage protection policy of £50 per week. As his loan is a qualifying loan and he uses his mortgage protection policy to meet his mortgage repayments, they are disregarded in the weekly calculation of his Income Support award.

What if only part of a mortgage or loan qualifies as a housing cost

28241 If only part of a mortgage or loan qualifies as a housing cost the decision maker should

**1.**  disregard the amount of the mortgage protection policy payment for that part of the loan included in the claimant’s housing costs **and**

**2.** consider any other disregards that might apply to the balance of the payment, in particular the disregards in DMG 28250 et seq.

28242 If the amount payable from the mortgage protection policy is more than the total the claimant has to pay to the third party, the balance will be ignored. This is because the mortgage protection policy is already taken into account in the calculation of payments under the Loans for Mortgage Interest scheme. See memo ADM 4/18 for full details.

 **Example**

 Meghan receives Jobseeker’s Allowance and applies for a loan under the new Loans for Mortgage Interest scheme. She also has a mortgage protection policy. Meghan is assessed as requiring a loan of £100 per week under the Loans for Mortgage Interest scheme. She does not receive this loan as her mortgage protection policy is £150 per week. As her loan is a qualifying loan and she uses the mortgage protection policy to pay her mortgage repayments, the payment from the mortgage protection policy is completely disregarded for Jobseeker’s Allowance purposes.

 28243 - 28249

Other payments for housing costs

Types of payment disregarded

28250 Payments of income

**1.** intended by the claimant or person making the paymentas a contribution towards certain housing and accommodation costs **and**

**2.** used as a contribution

 towards any of the costs in DMG 28253 should be disregarded1. This disregard does not apply to payments under an insurance policy to which DMG 28107 applies.

1 JSA Regs (NI), Sch 6, para 31(1); IS (Gen) Regs (NI), Sch 9, para 30(1)

28251 If the payment is from a mortgage protection policy the decision maker should consider the disregards explained in DMG 28240 - 28242 before considering this disregard.

28252 If a payment is made from an insurance policy the decision maker should decide if the policy was taken out to meet housing costs1. If the policy was taken out to meet housing costs the decision maker should consider the disregards at DMG 28240 et seq before any other disregards.

*1 R (IS) 13/01*

28253 Payments for the following housing and accommodation costs should be disregarded

**1.** any payment on a loan secured on the claimant’s home which is not a qualifying housing cost. (If only part of the loan is not a qualifying housing cost this disregard only applies to the amount of the payment for that part1)

**2.** interest payments for a loan which is a qualifying housing cost where those payments are not met in the applicable amount or by a loan payment under the new Loans for Mortgage Interest scheme2.

**3.** capital repayments for a loan which is a qualifying housing cost where those payments are not met by a loan payment under the new Loans for Mortgage Interest scheme3.

**4.** insurance policy premiums for

**4.1** mortgage protection policies if the other payments disregarded under this paragraph come from it4 **and**

**4.2** buildings insurance policies for the claimant’s home5

**5.** other housing costs

**5.1** any payment towards

**5.1.a** service charges **and**

**5.1.b** ground rent or rentcharge **and**

**5.2** any payment for a tent

to the extent that they are not met in the applicable amount or by a loan payment under the new Loans for Mortgage Interest scheme6

**6.** rent on the home that is not met by Housing Benefit7.

**7.** accommodation charges8 but only to the extent that the actual charge exceeds the amount payable by Health and Social Services Boards under certain legislation9.

 **Note 1 :** The disregards at **2.** and **3.** only apply to part of the loan that is a qualifying housing cost.

 **Note 2 :** A service charge is a qualifying housing cost if it is payable as a condition of the claimant occupying a property. See DMG Chapter 23 et seq for guidance when a service charge can be met as a housing cost.

1 JSA Regs (NI), Sch 6, para 31(1)(a); IS (Gen) Regs (NI), Sch 9, para 30(1)(a);
2 JSA Regs (NI), Sch 6, para 31(1)(b); IS (Gen) Regs (NI), Sch 9, para 30(1)(b);
3 JSA Regs (NI), Sch 6, para 31(1)(c); IS (Gen) Regs (NI), Sch 9, para 30(1)(c);
4 JSA Regs (NI), Sch 6, para 31(1)(d)(i); IS (Gen) Regs (NI), Sch 9, para 30(1)(d)(i);
5 JSA Regs (NI), Sch 6, para 31(1)(d)(ii); IS (Gen) Regs (NI), Sch 9, para 30(1)(d)(ii)
6 JSA Regs (NI), Sch 6, para 31(1)(b); IS (Gen) Regs (NI), Sch 9, para 30 (1)(b);
7 JSA Regs (NI), Sch 6, para 31(1)(e); IS (Gen) Regs (NI), Sch 9, para 30(1)(e);
8 JSA Regs (NI), Sch 6, para 32(3); IS (Gen) Regs (NI), Sch 9, para 30A(3);
9 HPSS (NI) Order 72, art 36(3)

 **Example 1**

 George receives Income Support and has a loan secured on his home which does not qualify under the new Loans for Mortgage Interest scheme. George’s father meets the loan repayments in full. The payments from George’s father are completely disregarded for the purposes of calculating George’s Income Support award.

 **Example 2**

 Charlotte receives Jobseeker’s Allowance and has a loan which is a qualifying loan under the new Loans for Mortgage Interest scheme but she chooses not to take up the loan offer. This is because Charlotte’s parents are meeting the loan repayments in full for her. These payments are completely disregarded for the purposes of calculating Charlotte’s Jobseeker’s Allowance award.

 **Example 3**

 William receives Income Support and has a loan which is a qualifying loan under the new Loans for Mortgage Interest scheme. However, William’s loan payments are less than the amount he has to pay because the lender’s interest rate is higher than the standard interest rate used to calculate the Loans for Mortgage Interest payments. William’s brother makes a contribution to him for the shortfall and he uses this to meet his mortgage repayments in full. The amount given to William by his brother is completely disregarded for the purposes of calculating his Income Support award.

 **Example 4**

 Kate receives Income Support and a payment for her mortgage under the new Loans for Mortgage Interest scheme. Kate’s sister also gives her the money needed to meet her mortgage repayments each month. The money given to Kate by her sister is taken fully into account for the purposes of calculating her award of Income Support as it does not fall to be disregarded under the provisions described in DMG 28253.

28254 The disregards in DMG 28253 do not apply if the decision maker decides the payment is a liable relative payment1.

1 JSA Regs (NI), reg 89; IS (Gen) Regs (NI), reg 25

28255 If a payment for a housing cost or part of a housing cost has already been disregarded under DMG 28240 - 28242 the payment for the same cost should not be disregarded again under DMG 28253.

How should the decision maker treat payments for housing costs that also attract other disregards

28256 The decision maker should include any other disregard that applies to a payment made for housing costs. This includes any

**1.** income tax deducted from the payment **and**

**2.** disregard that applies to charitable and voluntary payments.

 28257 - 28259

Supersession and payments for housing costs

28260 Different rules on the supersession of disregards of payments for housing costs apply in Jobseeker’s Allowance1 and Income Support cases2. The special rules apply to

**1.** mortgage protection policies **and**

**2.** other payments for housing costs.

1 SS & CS (D&A) Regs (NI), reg 6(2) & 7(19); 2 reg 6(2) & 7(15)

28261 Some disregards on payments for housing costs are based on the interest that is payable on a loan. If the interest payable alters, the disregard has to be revised or superseded.

28262 A supersession caused by a change in interest payable on

**1.** a loan that is a qualifying housing cost **or**

**2.** a loan that is not a qualifying housing cost but is secured on the home

 will not be effective until the next appropriate date is reached1.

1 SS & CS (D&A) Regs (NI), reg 7(15)& 7(19)

28263 The appropriate date in DMG 28262 is the later of

**1.** the date when

**1.1** new or existing housing costs are awarded in full because the claimant or partner is aged at least 60 **or**

**1.2** existing housing costs are awarded at 100% after the claimant has been in continuous receipt of Jobseeker’s Allowance or Income Support for 26 weeks **or**

**1.3** new housing costs are awarded at 100% after the claimant has been in continuous receipt of Jobseeker’s Allowance or Income Support for 39 weeks1 **or**

**2.** the date of the next change in standard interest rate2.

1 SS & CS (D&A) Regs (NI), reg 7(16)(a); reg 7(20)(a); 2 reg 7(16)(b); reg 7(20)(b)

**Example**

Frank claims Jobseeker’s Allowance on 1 April. He has a mortgage on his home which was taken out before 02.10.95. Frank has a mortgage protection policy which pays the interest and capital repayments on his mortgage.

The decision maker calculates the amount of the disregard for Franks mortgage protection policy payments and decides that no income should be taken into account.

On 1 May the interest payable on Frank's mortgage increases. The decision maker reconsiders the disregard of Frank's mortgage protection policy payments but the supersession is not effective until 1 October, when his existing housing costs have been awarded at 100%.

28264 The special supersession rules only apply to changes in the amount of payments caused by interest rate changes. Normal rules apply to all other changes of circumstances including

**1.** changes in capital repayments on a loan **and**

**2.** changes in premiums for

**2.1** mortgage protection policies **and**

**2.2** policies designed to repay the loan **and**

**2.3** building insurance policies.

 **Note :** The amount of premiums for some mortgage protection policies depends on the amount of interest actually payable. Normal supersession rules apply where a change in interest payable causes mortgage protection policy premiums to change.

 28265 - 28267

28268 When

**1.** a change of interest payable is not effective until the next appropriate date is reached **and**

**2.** a later change occurs that

**2.1** affects the amount of interest disregarded **and**

**2.2** the special supersession rules do not apply

 the amount to be disregarded in respect of interest because of the second change should be based on the actual interest payable.

**Example**

Liam has a mortgage protection policy. The interest payable on his loan is £15 a week. He receives £10 a week interest in his applicable amount.

On 1 January the decision maker disregards £5 a week.

On 1 February the interest payable increases to £16 a week. The decision maker reconsiders the interest payable but the supersession is not effective until the next appropriate date is reached. The disregard remains as £5.

On 1 March the standard interest rate changes. The interest in Liam’s applicable amount increases to £12. The actual interest payable remains at £16.

The decision maker reconsiders and re-calculates the amount of the disregard. The disregard is reduced to £4 (£16 - £12).

28269 When

**1.** a change in interest payable is not effective until the next appropriate date is reached **and**

**2.** a later change occurs that

**2.1** affects disregarded items other than loan interest **and**

**2.2** special supersession rules do not apply

 there will be no grounds to supersede the disregard of interest. The supersession should be restricted to the items directly affected by the change1.

1 R (IS) 15/93

**Example**

Christina receives payments from a mortgage protection policy. The interest payable on her loan is £15 a week. She gets £10 a week in her applicable amount.

From 1 January the decision maker disregards £5 from the mortgage protection policy payment.

On 1 February the interest on the loan increases to £16 a week. The decision maker supersedes the interest payable but the supersession is not effective until the next appropriate date is reached. The disregard remains at £5 a week.

On 1 March mortgage protection policy premiums increase. The decision maker increases the amount of the disregard relating to mortgage protection policy premiums only. The amount of the disregard relating to loan interest is not re-calculated until the next appropriate date is reached.

28270 - 28280

Payments for residential care home, nursing home, Abbeyfield home or independent hospital charges

Introduction

28281 DMG 28282 - 28305 gives guidance on the treatment of payments of income towards accommodation charges for

**1.** a residential care home **or**

**2.** an Abbeyfield home **or**

**3.** a nursing home **or**

**4.** an independent hospital.

28282 The treatment of the income depends on

**1.** the type of payment

**2.** whether the Health and Social Services Trust has sponsored the claimant in their accommodation.

28283 The definition of1

 **1.** a residential care home is an establishment which provides or is intended to provide, whether for reward or not, residential accommodation with both board and personal care for persons in need of personal care by reason of

 **1.1** are or have been ill **or**

 **1.2** have or have had a mental disorder **or**

 **1.3** are disabled or infirm **or**

 **1.4** are or have been dependent on alcohol or drugs

 **2.** a nursing home is any premises used, or intended to be used, for the reception of, and the provision of nursing for, persons suffering from any illness or infirmity

 **3.** an Abbeyfield home is an establishment run by the Abbeyfield Society or any other body affiliated to that society

 **4.** an independent hospital is a hospital which is not vested in the Department or managed by a Health and Social Services trust unless it is of a description excepted by regulations.

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

 28284 - 28285

Types of payment

28286 The payments for accommodation may be

**1.** charitable or voluntary (see DMG 28492 et seq) **or**

**2.** other payments.

 The decision maker should decide what type of payment is being made.

 28287 - 28302

Payments to claimants not in Health and Social Services Trust sponsored accommodation

28303 This disregard applies where a claimant is residing in

 **1.** a residential care home, a nursing home, an Abbeyfield Home or an independent hospital **and**

 **2.** accommodation that has not been provided by a Health and Social Services Board under certain legisalation1.

 **Note :** This disregard does not apply to charitable or voluntary payments which are fully disregarded - see DMG 28513.

1 HPSS (NI) Order 1972, art 15 & 36

28304 The decision maker should disregard from any payment intended and used for accommodation charges the difference between the

 **1.** claimant’s applicable amount **and**

 **2.** actual charge made by the home or hospital1.

1 JSA Regs (NI), Sch 6, para 32; IS (Gen) Regs (NI), Sch 9, para 30A;

 **Example**

 Andrew receives Income Support. He lives in an independent hospital which provides treatment for drug and alcohol dependency. The Health and Social Services Board are not paying for Andrew’s stay. The weekly charge for the hospital is £300. Andrew receives a payment of £250 a week from a Trust Fund towards his accommodation charges.

 The decision maker calculated Andrew’s applicable amount as follows

 personal allowance £54.65

 disability premium £23.30

 £77.95

 The difference between £77.95 and the charge by the hospital is the amount of the disregard

 actual charge £300.00

 less £77.95

 The disregard is £222.05

Other payments towards accommodation costs

28305 Disregard the amount of the payment intended and used for charges not met by the Health and Social Services Board1 under certain legislation2.

 **Note :** This would only happen if the charge was greater than the amount allowed by the Health and Social Services Board but not if the claimant chose a more expensive home than the Health and Social Services Board would allow.

1 JSA Regs (NI), Sch 6, para 31(1)(e); IS (Gen) Regs (NI), Sch 9, para 30(1)(e);
2 HPSS (NI) Order 1972, art 15 & 36

 28306 - 28349

Income fully disregarded

Types of income fully disregarded

 **[See DMG Memo Vol 1/104, 4/123, 5/98, 6/85 & 9/27]**

28350 **[See DMG Memo Vol 4/135, 5/104, 6/89, 8/76, 9/33, 10/68, 12/21, 13/66 & 14/61]** The following incomes should be fully disregarded when calculating income for Income Support and income-based Jobseeker’s Allowance

**1.** any payment from and/or some payments from money that originally came from the

**1.1** Macfarlane Trust

**1.2** Macfarlane (Special Payments) Trust

**1.3** Macfarlane (Special Payments) (No 2) Trust

**1.4** Independent Living Fund (2006)

**1.5** Fund

**1.6** Eileen Trust

**1.7** Skipton Fund

**1.8** MFET Limited

**1.9** the Caxton Foundation

**1.10** the Scottish Infected Blood Support Scheme

**1.11** the London Emergencies Trust

**1.12** the We Love Manchester Emergency Fund

**1.13** Infected Blood Schemes – see **Note 2** at 28351

**1.14** Thalidomide Trust

**2.** any payment for a reduction of council tax or community charge

**3.** attendance allowances

**4.** certain payments due to be paid before the date of claim

**5.** child maintenance

**6.** Christmas Bonus

**7.** compensation for loss of Housing Benefit

**8.** concessionary payments

**9.** dependant’s or non dependant’s contributions to accommodation and living costs

**10.** Disability Living Allowance

**11.** discretionary housing payments

**12.** educational maintenance allowance

**13.** cost of conversion of foreign money

**14.** guardian’s allowance

**15.** gallantry awards

**16.** Housing Benefit

**17.** income frozen abroad

**18.** income in kind

**19.** income tax refunds

**20.** income treated as capital

**21.** increases in social security benefits for absent dependants

**22.** jurors’ or witnesses’ court attendance allowance

**23.** a mandatory top-up grant made under section 1 of the Employment and Training Act (NI) 1950 in respect of a claimant's participation in the intensive activity period of New Deal

**24.** payments for foster children

**25.** payment for a person temporarily in the care of the claimant

**26.** payments from Health and Social Services Board in lieu of community care services

**27.** payment by an employer of employee’s expenses

**28.** payment of expenses to voluntary workers and service users

**29.** payments to help disabled people get or keep employment

**30.** certain payments made under employment and training law

**31.** payments made under the return to work credit scheme

**32.** resettlement benefit

**33.** payments from the Social Fund under social security legislation

**34.** payments from the Supporting People programme

**35.** special guardianship payments

**36.** training premium and expenses

**37.** travelling expenses for training schemes

**38.** vouchers including child care cheques

**39.** war widows/widowers special payments

**40.** war widows/widowers, surviving civil partners supplementary pensions

**41.** welfare foods, National Health Service supplies, travelling expenses and assisted prison visits

**42.** payments made under the Repayment of Teacher’s Student Loans Scheme

**43.** cost of conversion of foreign money

**44.** the Bereavement Support Payment (see DMG 28534)

**45.** Personal Independence Payment

**46.** Armed Forces Independence Payment.

28351 For Income Support only, any income paid to a person to whom DMG 20530 (Mortgage Interest Run-on) applies should be disregarded1.

*1 IS (Gen) Regs (NI), Sch 9, para 70*

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

 **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 Macfarlane Trust, MFET Ltd, The Skipton Fund and the Caxton Foundation) which provided financial support to people infected with Human Immunodeficiency Virus and/or hepatitis C as a result of contaminated National Health Service blood or blood products (see DMG 28450).

Attendance allowances and Disability Living Allowance

Attendance allowances

28352 The decision maker should disregard in full1 the following payments

**1.** Attendance Allowance2

**2.** Constant Attendance Allowance which is paid with a disablement pension because disablement has been assessed at 100%3

**3.** Enhanced Severe Disablement Allowance paid because industrial disablement has been assessed at 100%4

**4.** Constant Attendance Allowance and Enhanced Severe Disablement Allowance paid because the claimant is entitled to workmen’s compensation5

**5.** an attendance allowance paid under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits scheme

**6.** payments for attendance under the Civilian’s Personal Injury Scheme6 or any similar payment. These payments are made to people who receive a disability premium because of war injuries suffered as civilians or civil defence volunteers

**7.** any payment for attendance which is a part of war disablement pension. This includes severe disablement occupational allowance paid with Constant Attendance Allowance.

1 JSA Regs (NI), Sch 6, para 10; IS (Gen) Regs (NI), Sch 9, para 9; 2 SS C&B (NI) Act 92, sec 64;
3 sec 104 or 105; 4 sec 104 or 105; 5 Workmen’s Compensation Acts 25-45;
6 Personal Injuries (Civilians) Scheme 83, article 14 - 16, 43 or 44

The meaning of attendance allowance

28353 Decision makers should recognise 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 regs1 and includes all the benefits in DMG 28352 (abbreviation “AA”).

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

Bereavement Support Payment

28354 The Bereavement Support Payment replaces Bereavement Benefit for people whose spouse or civil partner dies on or after 6.4.171. There are two rates of Bereavement Support Payment; the higher rate and the standard rate. The regular monthly Bereavement Support Payment payment is treated as income other than earnings2 and is disregarded for the period in respect of which it is paid. Any unspent Bereavement Support Payment remaining at the end of the month will become capital (with no disregard applied). The regular monthly payment does not include any arrears or the higher or standard rate of Bereavement Support Payment that may be payable for the first month of the Bereavement Support Payment period3.

1 Pensions (2015 Act)(Commencement No.5) Order (NI) 2017, art 2; BSP Regs (NI), reg 1(2);
IS (Gen) Regs (NI), Sch 9, para 72B; JSA Regs (NI), Sch 6, para 68B; 3 BSP Regs (NI), reg 3(2) & (5)

Disability Living Allowance

28355 The decision maker should fully disregard

**1.** Disability Living Allowance mobility component1 **and**

**2.** Disability Living Allowance care component2.

1 JSA Regs (NI), Sch 6, para 7; IS (Gen) Regs (NI), Sch 9, para 6;
2 JSA Regs (NI), Sch 6, para 10; IS (Gen) Regs (NI), Sch 9, para 9

Personal Independence Payment

28356 The decision maker should fully disregard

1. Personal Independence Payment mobility component1 **and**

 **2.** Personal Independence Payment daily living component2.

1 JSA Regs (NI), Sch 6, para 7; IS (Gen) Regs (NI), Sch 9, para 6;
2 JSA Regs (NI), Sch 6, para 10; IS (Gen) Regs (NI), Sch 9, para 9

Armed Forces Independence Payment

28357 Payments of Armed Forces Independence Payment are fully disregarded1.

1 JSA Regs (NI), Sch 6, para 68A; IS (Gen) Regs (NI), Sch 9, para 72A

28355 - 28357

Benefits fully disregarded

Increase for dependants

28358 Any increase for a dependent child or young person who is a member of the claimant’s family paid with

 **1.** Carer’s Allowance

 **2.** Retirement Pension

 **3.** Incapacity Benefit

 **4.** Severe Disablement Allowance

 **5.** Widowed Mother’s Allowance

 **6.** Widowed Parent’s Allowance

 should be fully disregarded for the purposes of calculating the claimant’s income1.

1 JSA Regs (NI), Sch 6, para 6B(3); IS (Gen) Regs (NI), Sch 9, para 5B(3)

28359 The disregard only applies where the claimant or claimant’s partner has an award of Child Tax Credit1.

1 JSA Regs (NI), Sch 6, para 6B(3)(b); IS (Gen) Regs (NI), Sch 9, para 5B(3)(b)

Christmas bonus

28360 Christmas bonus should be disregarded in full1. It is paid in the week starting with the first Monday in December to people getting the following benefits2

**1.** Retirement Pension

**2.** Incapacity Benefit

**3.** widowed mother’s allowance, widowed parent’s allowance or widow’s pension

**4.** Severe Disablement Allowance

**5.** Carer’s Allowance

**6.** industrial death benefit

**7.** Attendance Allowance/Disability Living Allowance

**8.** Unemployability Supplement

**9.** war disablement pension

**10.** war widow’s pension

**11.** contribution-based Employment and Support Allowance

**12.** State Pension Credit.

1 JSA Regs (NI), Sch 6, para 35; IS (Gen) Regs (NI), Sch 9, para 33; 2 SS C&B (NI) Act 92, sec 144

 28361

Compensation for loss of Housing Benefit

28362 The decision maker should fully disregard any payment made by the Department to compensate for the total or partial loss of Housing Benefit1.

1 JSA Regs (NI), Sch 6, para 42; IS (Gen) Regs (NI), Sch 9, para 40

Council Tax Benefit

28363 The decision maker should fully disregard any payment of Council Tax Benefit1. Council Tax Benefit usually reduces the bill sent by Local Authorities in GB but some claimants may receive cash payments.

1 JSA Regs (NI), Sch 6, para 51; IS (Gen) Regs (NI), Sch 9, para 52

Discretionary housing payments

28364 From 2.7.01 Health and Social Services Boards may make discretionary housing payments to Housing Benefit recipients requiring financial assistance with their rent1. For Income Support/Jobseeker’s Allowance purposes2 discretionary housing payments should be disregarded3.

*1 Discretionary Financial Assistance Regulations (Northern Ireland) 2001 (SR 216/01);
2 SS (DHP Amdt) Regs (NI), reg 2(1); 3 IS (Gen) Regs (NI), Sch 9, para 71; JSA Regs (NI), Sch 6, para 67*

Guardian’s Allowance

28365 The decision maker should fully disregard any guardian’s allowance1. It is payable to a person who is entitled to Child Benefit 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 IS (Gen) Regs (NI), Sch 9, para 5A; JSA Regs (NI), Sch 6, para 6A*

Housing Benefit

28366 The decision maker should fully disregard any payments of Housing Benefit1 to which the claimant is entitled. Housing Benefit may be

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

**2.** paid direct to the landlord **or**

**3.** deducted from the rent payable.

 Housing Benefit is paid by Northern Ireland Housing Executive to help people on low incomes pay their rent.

 **Note :** See DMG 28181 et seq where the claimant is a landlord and receives Housing Benefit.

1 JSA Regs (NI), Sch 6, para 6; IS (Gen) Regs (NI), Sch 9, para 5

Increases in social security benefits for absent dependants

28367 The decision maker should fully disregard any increase in a social security benefit1 or a service pension2 for a

**1.** husband, wife, civil partner or any other adult dependant **or**

**2.** child

 who is not a member of the family for Jobseeker’s Allowance and Income Support purposes.

 **Note :** “Service Pension” in this guidance means a pension or allowance paid in respect of disablement or death due to service in the armed forces.

1 JSA Regs (NI), Sch 6, para 52(1); IS (Gen) Regs (NI), Sch 9, para 53(1)
2 JSA Regs (NI), Sch 6, para 52(2); IS (Gen) Regs (NI), Sch 9, para 53(2);
The Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006, Part 2 or 3

28368 Dependency increases can be paid as part of the following social security benefits

**1.** Maternity Allowance

**2.** Severe Disablement Allowance

**3.** Retirement Pension

**4.** Unemployability Supplement paid with disablement benefit (abolished for new claims in 1987).

 Claimants must pay over an amount at least equal to the dependency increase to continue to receive it.

 **Note :** Child Benefit for a child who is not a member of the family should be taken into account in full as the income of the Child Benefit claimant.

Mobility Allowance and mobility supplements

28369 The decision maker should fully disregard

**1.** mobility supplement **and**

**2.** war pensioner’s mobility supplement1.

 Any payment to compensate for the non-payment of these benefits should also be disregarded in full.

1 JSA Regs (NI), Sch 6, para 7 & 9; IS (Gen) Regs (NI), Sch 9, para 6 & 8

Resettlement benefit

28370 The decision maker should fully disregard any resettlement benefit paid to a claimant who has been discharged from hospital1.

1 JSA Regs (NI), Sch 6, para 40; IS (Gen) Regs (NI), Sch 9, para 38

Payments from the Social Fund under social security legislation

28371 The decision maker should fully disregard any payment made from the Social Fund1.

 **Note :** This disregard does not apply to payments from the European Social Fund.

1 JSA Regs (NI), Sch 6, para 33; IS (Gen) Regs (NI), Sch 9, para 31

Concessionary payments

Types of concessionary payments that should be disregarded

28372 The decision maker should fully disregard concessionary payments1 of

**1.** attendance allowances

**2.** Disability Living Allowance mobility component

**3.** Disability Living Allowance care component

**4.** income-based Jobseeker’s Allowance

**5.** Income Support

**6.** income-related Employment and Support Allowance

**7.** Universal Credit

1 JSA Regs (NI), Sch 6, para 8; IS (Gen) Regs (NI), Sch 9, para 7

What are concessionary payments

28373 Concessionary payments are made by the Department in place of

**1.** social security benefits **or**

**2.** Housing Benefit **or**

**3.** tax credits.

 They are made when the policy intention to pay benefit cannot be achieved because of a fault in the law. They should be treated in the same way as the benefit they represent.

 28374 - 28375

Payments under the Supporting People programme

Disregard

28376 Payments may be made under the Supporting People programme. The decision maker should fully disregard1 any payment made by the Northern Ireland Housing Executive to or on behalf of the claimant or partner relating to a service which is

 **1.** provided to develop **or**

 **2.** sustain the capacity of the claimant or partner to live independently in his accommodation.

1 JSA Regs (NI), Sch 6, para 68; IS (Gen) Regs (NI), Sch 9, para 72

Payments for children and people living temporarily with the claimant

Foster children

28377 The decision maker should fully disregard payments1 made by or on behalf of

**1.** a Health and Social Services Board or Health and Social Services Trust or training school under its duty to provide

**1.1** accommodation **and**

**1.2** maintenance

for a child it is looking after2 **or**

**2.** a voluntary organisation under certain legislation3 **or**

**3.** a care authority

 for children who are living with claimants under fostering arrangements.

 **Note :** These allowances should not be treated as earnings.

1 JSA Regs (NI), Sch 6, para 27; IS (Gen) Regs (NI), Sch 9, para 26;
2 Children (NI) Order 95, art 27(2)(a); 3 art 75(1)(a)

 28378

Payments for the welfare of children

28379 Certain legislation1 concerning the welfare of children came into force from 1.9.05. Changes apply to certain children who have been looked after by an authority on or after 1.9.05.

*1 Children Leaving Care Act (NI) 2002*

28380 The decision maker should fully disregard payments made by Health and Social Services Boards or Health and Social Services Trusts under child care law1

**1.** to promote the welfare of children **and**

**2.** to prevent people being taken into care

 unless the claimant or a member of the family is involved in a trade dispute2.

*1 Children (Leaving Care) (2002 Act) (Com. No.2 & Cons. Provs.) Order (NI);
Children (NI) Order 95, art 18, 34C, 34D or 35A
2 JSA Regs (NI), Sch 6 para 29; IS (Gen) Regs (NI), Sch 9, para 28*

28381 Where

 **1.** a former child (aged over 18) who was in the claimant’s care still lives with the claimant **and**

 **2.** an authority makes payments under certain child care law1 to the former child in care **and**

 **3.** the former child in care passes the payments on to the claimant

 those payments received by the claimant are disregarded unless the claimant or a member of the family is involved in a trade dispute2.

*1 Children (NI) Order 95, art 18; Children (Scotland) Act 95, sec 29;
2 JSA Regs (NI), Sch 6, para 29(2) & (5); IS (Gen) Regs (NI), Sch 9, para 28(2) & (5)*

28382 The decision maker should take into account the income in full in DMG 28380 or DMG 28381 if

**1.** the claimant **or**

**2.** a member of the family

 is involved in a trade dispute1.

 **Note :** These payments may be made to people who were in Health and Social Services Board or Health and Social Services Trust care.

1 JSA Regs (NI), Sch 6, para 29; IS (Gen) Regs (NI), Sch 9, para 28; JS (NI) Order, art 16 & 17
SS C&B (NI) Act 92, sec 123(1) & 126(b)

Payments for people temporarily in the claimant’s care

28383 The decision maker should fully disregard payments to a claimant or partner for a person who

**1.** is not normally a member of the claimant’s household **and**

**2.** is temporarily in the claimant’s care1

 when payments are made by a Health and Social Services Board, Health and Social Services Trust or a voluntary organisation or the person concerned under specified legislation2.

 **Note 1 :** Payments made by a Health and Social Services Board does not include payments of Housing Benefit made in respect of the person concerned.

 **Note 2 :** This could include payments to a claimant under the Adult Placement or Shared Lives Scheme from a Health and Social Services Board or Health and Social Services Trust’s own resources.

1 JSA Regs (NI), Sch 6, para 28; IS (Gen) Regs (NI), Sch 9, para 27
2 NA Act 48, sec 26 (3A)

28384 This type of payment is often made to people providing “respite care”. This is short-term care provided to give a disabled person’s usual carer a break from their caring responsibilities. People providing respite care should not be treated as

**1.** engaged in remunerative work **or**

**2.** receiving earnings from self-employment1.

1 JSA Regs (NI), reg 100(2)(b); IS (Gen) Regs (NI), reg 37(2)(b)

28385

Payments of expenses

Payment by an employer of employee’s expenses

28386 The decision maker should fully disregard payments made by an employer for expenses which are

**1.** wholly **and**

**2.** exclusively **and**

**3.** necessarily

 incurred by an employee while performing the duties of the employment1.

1 JSA Regs (NI), Sch 6, para 3; IS (Gen) Regs (NI), Sch 9, para 3

28387 The decision maker should treat as earnings any payments of expenses

**1.** above the amount which fits the conditions **or**

**2.** that do not fit the conditions

 described in DMG 28386.

Payment of a voluntary worker’s expenses

28388 The decision maker should fully disregard payments towards expenses incurred and advance payments for expenses to be incurred1 by a person who

**1.** does voluntary work2 for a

**1.1** charity **or**

**1.2** voluntary organisation **or**

**2.** is a volunteer.

 **Note :** Volunteers do not have to be engaged by a charitable or voluntary organisation. A Health and Social Services Board, Heath and Social Services Trust or a public body cannot be a voluntary organisation3.

1 SS Amendment (Volunteers) Reg 2001;
2 JSA Regs (NI), Sch 6, para 2; IS (Gen) Regs (NI), Sch 9, para 2;
3 JSA Regs (NI), reg 1(2); IS (Gen) Regs (NI), reg 2(1)

28389 The expenses may be

**1.** incurred in, or for the performance of the work, for example special clothing or equipment **or**

**2.** for personal incidental expenses resulting from the person being a voluntary worker, for example travelling expenses or child care costs.

28390 This disregard applies provided that the claimant is not

**1.** remunerated for their voluntary activity **or**

**2.** treated as having notional earnings.

See DMG Chapter 26 for guidance on notional earnings.

Time-exchange schemes

28391 Time-exchange schemes are based on the idea that community members donate time to the community. Participants may believe they are volunteers but for Income Support/Jobseeker's Allowance purposes it is not voluntary work (which is done without remuneration or expectation of remuneration). The hours worked by the customer/ partner are “banked” with the organisation and accumulated each time he/she carries out additional work under the “time-exchange” scheme. If exceptionally, expenses are reimbursed they should be treated as other income and taken fully into account.

Service users

28392 People participating in a service user group are often called “service users”. A service user means1

 **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 Department in relation to social security or child support functions under relevant legislation2 **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.** **2.**.

1 JSA Regs (NI), 1(2G); IS (Gen) Regs (NI), reg 2(1B)
2 E&T Act (NI) 50, sec 1

28393 For the purposes of DMG 28392

 **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 **1.** **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.

28394 Any payment of expenses paid to the claimant as a result of participating as a service user is fully disregarded1 whether or not they are paid for their time. Service users may sometimes be described as

 **1.** experts-by-opinion

 **2.** patients

 **3.** potential patients

 **4.** clients

 **5.** carers

 **6.** focus groups.

1 JSA Regs (NI), Sch 6, para 2A; IS (Gen) Regs (NI), Sch 9, para 2A

 **Example 1**

 Alan is an out-patient at his local hospital and attends there on a regular basis for treatment. He is in receipt of income-based Jobseeker’s Allowance. Alan has volunteered to take part in a Patient’s Forum which discusses the services and care provided by the hospital. In order to attend the meetings, Alan needs to get a taxi. The expenses for this transport are paid to him by the local Health Trust. The decision maker decides that the expenses are not earnings and can be disregarded as income when calculating Alan’s entitlement to income-based Jobseeker’s Allowance.

 **Example 2**

 Donna is in receipt of Income Support. She has volunteered to take part in a service user group at her local hospital. In order to attend, Donna needs a carer to take her there. The transport expenses that Donna’s carer incurs taking her to the service user meeting are reimbursed to Donna by the hospital. The decision maker disregards these expenses when calculating Donna’s entitlement to Income Support.

War widow’s, widower’s or surviving civil partner’s supplementary pensions

28395 The decision maker should fully disregard any

**1.** supplementary pension paid to a widow, widower or surviving civil partner for the disablement or death of personnel whose service terminated before 31.3.73 or any similar payment made by the Secretary of State for Defence to a person not entitled to a supplementary pension1 **and**

**2.** supplementary pension paid to a widow, widower or surviving civil partner under the Personal Injuries (Civilians) Scheme2 **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** that service ended before 31.3.73 **and**

 **3.3** the payment is equal to the amount in **1.**3.

**Note :** See DMG 28157 for guidance on war widows or widowers pensions. See Appendix 1 to this Chapter for details of the law under which war widows or widowers supplementary pensions are paid.

1 JSA Regs (NI), Sch 6, para 53; IS (Gen) Regs (NI), Sch 9, para 54; 2 JSA Regs (NI), Sch 6, para 54;
IS (Gen) Regs (NI), Sch 9, para 55; 3 JSA Regs (NI), Sch 6, para 55; IS (Gen) Regs (NI), Sch 9, para 56

Other types of income fully disregarded

Certain payments due before the date of claim

28396 The decision maker should fully disregard any payment of income that

**1.** is due to be paid before the date of claim for Income Support or Jobseeker’s Allowance **and**

**2.** under normal rules would be taken into account in the same benefit week as a payment of the same kind from the same source1.

1 JSA Regs (NI), Sch 6, para 37; IS (Gen) Regs (NI), Sch 9, para 35

Payments for a reduction in rates or council tax

28397 The decision maker should disregard in full1 any payment made because of a reduction of rates or council tax because of transitional relief2 when the tax was introduced.

1 JSA Regs (NI) Sch 6, para 45; IS (Gen) Regs (NI), Sch 9 para 46;
2 Rates (NI) Order 1977, art 30A; Local Government Finance Act 92, sec 13 or 80;

Dependant’s or non dependant’s contributions to accommodation and living costs

28398 The decision maker should fully disregard payments for living and accommodation costs from people who normally live with the claimant who are not

**1.** boarders **or**

**2.** sub tenants1.

1 JSA Regs (NI), Sch 6, para 19; IS (Gen) Regs (NI), Sch 9, para 18

**Example**

Michael is an Income Support claimant. His daughter Katy is a non dependant in his household. She pays him £25 a week as a contribution towards the household bills.

The decision maker disregards this payment fully as Katy is not a boarder or subtenant.

Educational maintenance allowance

28399 The decision maker should fully disregard1 any payment paid under prescribed legislation2 that is

 **1.** education maintenance allowance **or**

 **2.** the same as an education maintenance allowance

made to support a young person who remains in non-advanced education after the age of 16. It can be paid for up to 2 years between the ages of 16 and 19. In some cases it may continue to be paid for up to 3 years until the person reaches the age of 20.

1 JSA Regs (NI), Sch 6, para 12(1) & (2); IS (Gen) Regs (NI), Sch 9, para 11(1) & (2);
2 Education & Libraries (NI) Order 1986

Other payments to assist with non-advanced education

28400 The decision maker should fully disregard1 any payment paid under prescribed legislation2 in respect of a course of study attended by a

 **1.** child or young person **or**

 **2.** person who is in receipt of an allowance as described at DMG 28399 above.

 **Note :** Such payments may include, for example, payments to cover scholarships or school expenses.

1 JSA Regs (NI), Sch 6, para 12(2); IS (Gen) Regs (NI), Sch 9, para 11(2);
2 Education & Libraries (NI) Order 1986

Special guardianship payments

28401 The special guardianship scheme is intended to provide more security for a child than long term fostering but without the complete severance from a child’s birth family that would happen with an adoption order. Financial support by the Health and Social Services Board may be paid to special guardians in certain circumstances. It is expected the support will normally be made as a single payment to meet a one-off cost. However the Health and Social Services Board may make payments in instalments or periodically to meet needs that are likely to be ongoing.

28402 Any special guardianship payment made under specific legislation1 in respect of a child or young person who is a member of the family should be fully disregarded2.

1 Children Act 1989, sec 14F; 2 JSA Regs (NI), Sch 6, para 26(1)(f); IS (Gen) Regs (NI), Sch 9, para 25(1)(f)

Repayment of teacher’s student loans scheme

28403 The pilot of the repayment of teacher’s student loans ran for three years until July 2005 although eligible teachers may continue to receive payments under this scheme. It provided financial incentives to newly qualified teachers working in shortage subject areas. In England and Wales student loan debts were waived by gradually reducing the amount of loan outstanding. However, for those who took out student loans while living in Scotland, Northern Ireland or another European Economic Area country and who took up a post teaching shortage subjects in England and Wales - annual payments were made to the teacher to repay their student loan. There is no time restriction on payments, so as long as the teacher remains eligible, repayments will continue to be made until the loan is repaid.

28404 Any payment made to a claimant under specific legislation1 for the repayment of a teacher’s student loan should be fully disregarded.

1 The Education (Teacher Student Loans) (Repayment etc.) Regs, reg 11(2)

 28405 - 28409

Employment retention and advancement scheme

28410 The employment retention and advancement scheme1 involves a study of different methods to help people stay in work and improve their career prospects including financial incentives known as employment retention and advancement payments. People eligible for New Deal 25 and over, New Deal for Lone Parents and people receiving Working Tax Credit can volunteer to participate in the scheme.

1 E&T Act (NI) 50, sec 1

Disregard

28411 The decision maker should fully disregard1 any employment retention and advancement payment.

 **Note :** The disregard for payments made under employment and training law is fully explained at DMG 28425 - 28427.

1 JSA Regs (NI), Sch 6, para 14; IS (Gen) Regs (NI), Sch 9, para 13

 28412 - 28413

Self-employment route

28414 Disregards are available for self-employed participants in the self-employment route. Any payment made to a person who is receiving or who has received assistance under the self-employment route shall be disregarded if it is

1. to meet expenses wholly and necessarily incurred whilst carrying on that activity **or**
2. used or is intended to be used to maintain repayments on a loan taken out by that person to establish or carry on that activity1.

1 IS (Gen) Regs (NI), Sch 9, para 63; JSA Regs (NI), Sch 6, para 61

Cost of conversion of foreign money

28415 The decision maker should fully disregard any

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

**2.** commission

 paid when income paid in foreign currency is converted to sterling1.

1 JSA Regs (NI), Sch 6, para 25; IS (Gen) Regs (NI), Sch 9, para 24

**Example**

Klaus claims Income Support.

He is retired and receives a pension of 500 euros a month from his former employer in Austria.

When Klaus’s bank convert the payment into sterling they charge a commission of £2.

The decision maker disregards £2 commission from the amount that Klaus receives in sterling.

Gallantry awards

28416 The decision maker should fully disregard any gallantry awards1. These are

**1.** Victoria Cross annuity **and**

**2.** George Cross annuity **and**

**3.** any similar award, including

**3.1** equivalent awards from foreign countries **or**

**3.2** British awards of a lower status than the Victoria Cross or George Cross.

 Decision makers should include awards for gallantry below the highest level when considering awards from foreign countries.

1 JSA Regs (NI), Sch 6, para 11; IS (Gen) Regs (NI), Sch 9, para 10

Income frozen abroad

28417 The decision maker should fully disregard any income which is

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

**2.** cannot be transferred to the UK

 for as long as it is frozen abroad1. Income will usually be frozen when the foreign country does not allow its currency to be transferred to the UK.

1 JSA Regs (NI), Sch 6, para 24; IS (Gen) Regs (NI), Sch 9, para 23

Income in kind

28418 The decision maker should fully disregard any income in kind except

**1.** support provided to a claimant under specific immigration and asylum law **and**

**2.** notional income **and**

**3.** income paid to a claimant or member of the family because of involvement in a trade dispute1 **and**

**4.** payments made to a third party in respect of the claimant which are used by the third party to provide benefits in kind to the claimant2.

 **Note 1 :** Credits received from participating in a local exchange trading systems scheme (see DMG Chapter 27) are not income in kind. Credits should be taken into account in the appropriate way.

 **Note 2 :** See DMG 28670 **2.** for the treatment of concessionary coal.

1 JSA Regs (NI), Sch 6, para 22(1); IS (Gen) Regs (NI), Sch 9, para 21(1)
2 JSA Regs (NI), Sch 6, para 22(4); IS (Gen) Regs (NI), Sch 9, para 21(4)

 **Example 1**

 The claimant recently separated from her partner and claimed Jobseeker’s Allowance.

 The claimant’s mother works in a shop and the shop owner gives the mother £10 of groceries each week for the claimant.

 The decision maker decides the £10 a week is income in kind and should be fully disregarded.

 **Example 2**

 The shop owner (in example 1 above) then changes the arrangement and gives the claimant’s mother £10 a week to buy groceries for the claimant. The claimant’s mother uses the £10 to buy food each week for the claimant.

 The decision maker decides the £10 a week cannot be disregarded as income in kind and it should be taken fully into account as notional income.

28419 The exceptions at DMG 28418 do not apply1 when the income in kind comes from

**1.** the MacFarlane Trust

**2.** the MacFarlane (Special Payments) Trust

**3.** the MacFarlane (Special Payments)(No 2) Trust

**4.** the Fund

**5.** the Eileen Trust

**6.** the Independent Living Fund (2006) - see note at DMG 28351

**7.** the Skipton Fund

**8.** the Caxton Foundation

**9.** MFET Limited

**10.** the Scottish Infected Blood Support Scheme

**11.** the London Emergencies Trust

**12.** the We Love Manchester Emergency Fund

**13.** Infected Blood Schemes **or**

**14.** the partner who is subject to immigration control and is receiving support under specific immigration and asylum law and the income in kind is support provided in respect of the essential living needs of the partner of the claimant and his dependants (if any).

1 JSA Regs (NI), Sch 6, para 22(2) & (3); IS (Gen) Regs (NI), Sch 9, para 21(2) & (3)

Income tax refunds

When should tax refunds be treated as capital

28420 The decision maker should treat the following types of income tax refund as capital1

**1.** pay as you earn refunds

**2.** refunds of tax deducted from a student’s income

**3.** refunds of tax on business profits

**4.** refunds on tax on interest received on capital or an annuity.

1 JSA Regs (NI), reg 110(2); IS (Gen) Regs (NI), reg 48(2)

When should tax refunds be treated as income

28421 Income tax refunds may be taken into account in full as income1 if the claimant or a member of the family

**1.** is involved in a trade dispute **or**

**2.** in Income Support cases only has

**2.1** been involved in a trade dispute **and**

**2.2** is entitled to Income Support after returning to work.

(See DMG Chapter 32 for guidance on trade disputes).

 **Note :** The rule in Income Support that allows people who are working to receive Income Support for the first 15 days after a trade dispute does not exist in Jobseeker’s Allowance.

1 JSA Regs (NI), Sch 6, para 34; IS (Gen) Regs (NI), Sch 9, para 32

Income treated as capital

28422 The decision maker should fully disregard as income any income that is treated as capital1.

1 JSA Regs (NI), Sch 6, para 34; IS (Gen) Regs (NI), Sch 9, para 32

Jurors or witnesses court attendance allowance

28423 The decision maker should fully disregard any payment to a

**1.** juror **or**

**2.** witness

 for attending court. But payments for loss of earnings or benefits1 should not be disregarded.

1 JSA Regs (NI), Sch 6, para 43; IS (Gen) Regs (NI), Sch 9, para 43

Payments from Health and Social Services Boards in lieu of community care services

28424 The decision maker should disregard any payments received from Health and Social Services Boards which are in lieu of community care services1.

1 JSA Regs (NI), Sch 6, para 56; IS (Gen) Regs (NI), Sch 9, para 58;
Health & Personal Social Services (NI) Order 72

**Example**

Agnes is in receipt of Income Support. She receives money from the Health and Social Services Board so that she can pay someone to be her home help. The decision maker

**1.** establishes that the money received from the Health and Social Services Board is paid under the correct legislation1 **and**

**2.** decides that the money received from the Health and Social Services Board should be disregarded.

1 Health & Personal Social Services (NI) Order 72

Payments made under employment and training law

28425 Decision makers should disregard1 any payment made under employment and training law2 except any payment3

 **1.** made as a substitute for

 **1.1** Income Support **or**

 **1.2** Jobseeker’s Allowance **or**

 **1.3** Incapacity Benefit **or**

 **1.4** Severe Disablement Allowance

 **1.5** Employment and Support Allowance

 **2.** of a bridging allowance paid under specific legislation4

 **3.** intended to meet the cost of living expenses while a person is participating in

 **3.1** an education **or**

 **3.2** training **or**

 **3.3** other

scheme to enhance employment prospects unless the payment is a Career Development Loan paid under employment and training law and the period of education, training or the scheme, which is supported by the loan, has been completed

 **4.** made in respect of the cost of living away from home to the extent that the payment relates to rent for which Housing Benefit is payable in respect of accommodation which is not normally occupied as the home.

1 JSA Regs (NI), Sch 6, para 14; IS (Gen) Regs (NI), Sch 9, para 13;
2 E & T Act (NI) 1950, sec 1 & 3; 3 JSA Regs (NI), Sch 6, para 14(1);
IS (Gen) Regs (NI), Sch 9, para 13(1); 4 E & T Act (NI) 1950, sec 1 & 3

28426 Payments made under employment and training law1 include

 **1.** training allowances paid to young people in non-waged work based training (see DMG Chapter 26)

 **2.** bridging allowances (see DMG Chapter 30)

 **3.** New Deal allowances (see DMG Chapter 14)

 **4.** training allowances (see DMG 28436 - 28437)

 **5.** employment retention and advancement scheme payments (see DMG 28410)

 **6.** return to work credit scheme (see DMG 28429).

This list is not exhaustive and decision makers should obtain evidence that a payment is made under employment and training law.

1 E & T Act (NI), sec 1 & 3

Living expenses

28427 Living expenses to be taken into account as income are any amount for

 **1.** food

 **2.** ordinary clothing and footwear1 (see DMG 28671 - 28672)

 **3.** fuel for the claimant’s household

 **4.** rent for which Housing Benefit is payable

 **5.** housing costs included in the applicable amount.

1 JSA Regs (NI), Sch 6, para 14(3); IS (Gen) Regs (NI), Sch 9, para 13(3)

Payments to help disabled people get or keep employment

28428 The decision maker should fully disregard payments made under certain legislation1 to help disabled people get or keep employment2. The payments that qualify for this disregard include

**1.** the fares to work scheme operated by the Department for Communities

**2.** the business on their own account scheme operated by the Department for Communities

**3.** the personal reader service administered by the Department for Communities.

1 Disabled Persons (Employment) Act (NI) 45; E & T Act (NI) 50, sec 1(1);
2 JSA Regs (NI), Sch 6, para 50; IS (Gen) Regs (NI), Sch 9, para 51

 **Note :** Payments to assist disabled persons under employment and training law are included within the disregard explained at DMG 28425 - 28427.

Return to work credit scheme

28429 Any payment made under the return to work credit scheme is fully disregarded1. The scheme has been set up under employment and training law2 for people who stop claiming a specified benefit3 because they have

 **1.** found work of at least 16 hours a week **and**

 **2.** earnings which do not exceed £15,000 a year.

 A return to work credit is a non-taxable payment of £40 a week payable for a maximum of 52 weeks following the end of a person’s entitlement to a specified benefit.

 **Note :** The disregard for payments made under employment and training law is fully explained at DMG 28425 - 28427.

1 JSA Regs (NI), Sch 6, para 14; IS (Gen) Regs (NI), Sch 9, para 13; 2 E & T Act (NI) 50, sec 2;
3 SS (Incapacity Benefit Work-focused Interviews) Regs (NI), reg 2

Discretionary payments for special needs

28430 A payment should be disregarded1 if it is

1. discretionary **and**
2. made

**2.1** under employment and training law2 **and**

**2.2** to meet, or help meet, the special needs of a person who is undertaking a qualifying course.

 **Note :** Travelling expenses incurred as a result of the claimant’s attendance on the course should not be disregarded under this paragraph if the same expenses have already been disregarded under DMG 30326 (student income).

*1 IS (Gen) Regs (NI), Sch 9, para 13; JSA Regs (NI), Sch 6, para 14; 2 E & T Act (NI) 50, sec 1*

 28431 - 28439

Vouchers (including child care cheques)

28440 The decision maker should fully disregard in accordance with DMG 28418 any vouchers received by the claimant as income in kind. But decision makers should consider whether

**1.** claimants should be treated as having notional income **or**

**2.** there has been deprivation of income

 before applying the disregard1 (see DMG 26093 for vouchers treated as earnings).

1 JSA Regs (NI), Sch 6, para 22; IS (Gen) Regs (NI), Sch 9, para 21

28441 The types of vouchers that claimants might receive are

**1.** luncheon vouchers

**2.** child care vouchers

**3.** child care cheques

**4.** gift vouchers from shops.

Welfare foods, National Health Service supplies, travelling expenses and assisted prison visits

28442 The decision maker should fully disregard

**1.** payments made under specific legislation1 in place of welfare foods including healthy start vouchers, free milk and vitamins **and**

**2.** refunds for

**2.1** National Health Service glasses **and**

**2.2** dental treatment **and**

**2.3** patients’ travelling expenses **and**

**2.4** any similar payments made by the Department2 **and**

**3.** payments for travel, accommodation and board and lodging costs for assisted prison visits3.

1 JSA Regs (NI), Sch 6, para 48; IS (Gen) Regs (NI), Sch 9, para 49; 2 JSA Regs (NI), Sch 6, para 47;
IS (Gen) Regs (NI), Sch 9, para 48; 3 JSA Regs (NI), Sch 6, para 49; IS (Gen) Regs (NI), Sch 9, para 50

The child maintenance disregard

28443 Any income payment of child maintenance paid by or derived from a liable relative - but not by the claimant or claimant’s partner - falls to be fully disregarded as income1. The payment has to be in respect of a child or young person who is a member of the claimant’s family. Liable relative payments which do not also fall within the meaning of child maintenance should be taken into account as liable relative payments2. DMG 28710 et seq provides guidance on liable relative payments.

1 JSA Regs (NI), Sch 6, para 66; IS (Gen) Regs (NI), Sch 9, para 69; 2 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

Meaning of child maintenance

28444 A payment of child maintenance is1 any payment

 **1.** towards the maintenance of

 **1.1** a child **or**

 **1.2** a young person **and**

 **2.** which is under

 **2.1** a voluntary agreement **or**

 **2.2** child support law2 **or**

 **2.3** a court order **or**

 **2.4** a consent order **or**

 **2.5** a maintenance agreement registered with the Scottish courts3.

1 JSA Regs (NI), Sch 6, para 66(2); IS (Gen) Regs (NI), Sch 9, para 69(2);
2 Child Support Act 1991; Child Support (Northern Ireland) Order 1991;
3 Books of Council and Session; Sheriff Court Books

Applying the disregard

28445 In order for the disregard to apply the payment of child maintenance must be a payment of income

 **1.** made by **or**

 **2.** derived from

 a liable relative1. DMG 28741 provides guidance on who is defined as a liable relative.

 **Note :** For the purposes of the disregard the meaning of a liable relative does not include a person who has sponsored the claimant or the child if the child has also been sponsored as a condition of their immigration2.

1 JSA Regs (NI), Sch 6, para 66(1); IS (Gen) Regs (NI), Sch 9, para 69(1);
2 JSA Regs (NI), Sch 6, para 66(2); IS (Gen) Regs (NI), Sch 9, para 69(2)

 **Example**

 Betty is in receipt of Income Support and has two children who live with her. Dai is Betty’s ex-husband and he has agreed to pay £150 a week towards the maintenance of the children. He pays this money on the last day of each month. The decision maker decides that none of this money paid by Dai will be taken into account when calculating Betty’s entitlement to Income Support. This is because the payment falls within the meaning of child maintenance and so has to be fully disregarded.

28446 - 28449

Infected Blood Schemes, the Fund and other specific trusts

Payments from Infected Blood Schemes, the Fund
and other specific trusts

Infected Blood Schemes

28450 Infected Blood Schemes, approved for such purposes by the Secretary of State, replaced the five existing payment schemes (The Eileen Trust, The Macfarlane Trust, MFET Ltd, The Skipton Fund and the Caxton Foundation - see DMG 28452 - 28459) for England, Northern Ireland and Wales from 2.10.17. These schemes provide financial support to people infected with Human Immunodeficiency Virus and/or hepatitis C as a result of contaminated National Health blood or blood products.

Income from Infected Blood Schemes

28451 Fully disregard1

 **1.** any income from approved Infected Blood Schemes **and**

 **2.** any income from capital that was received from approved Infected Blood Schemes.

 **Note :** Income which remains unspent and becomes capital at the end of the period it was paid for is not disregarded.

1 JSA Regs (NI), Sch 6, para 41(1); IS (Gen) Regs (NI), Sch 9, para 39(1)

The Scottish Infected Blood Support Scheme

28452 The Scottish Infected Blood Support Scheme1 became operational from 1.4.17. It is administered by National Health Service National Services Scotland, legally known as the Common Services Agency. National Services Scotland is a National Health Service Board accountable to Scottish Ministers. The Scottish Infected Blood Support Scheme combined the five existing blood schemes.

Income from the Scottish Infected Blood Support Scheme

28453 Fully disregard1

 **1.** any income from the Scottish Infected Blood Support Scheme **and**

 **2.** any income from capital that was received from the Scottish Infected Blood Support Scheme.

1 JSA Regs (NI), Sch 6, para 41(1); IS (Gen) Regs (NI), Sch 9, para 39(1)

Previous Infected Blood Schemes

28454 Prior to the introduction of the Infected Blood Schemes at DMG 28450 and the Scottish Infected Blood Support Scheme at DMG 28452, five separate schemes provided financial support to people affected by contaminated National Health Service blood or blood products.

The Eileen Trust

28455 The Eileen Trust was a charitable trust set up on 29.3.93 to give further help to people who are not haemophiliacs but who contracted Human Immunodeficiency Virus when receiving National Health Service

 **1.** Blood **or**

 **2.** Tissue or organ transfers **or**

 **3.** Blood products.

The Macfarlane Trusts

28456 The Macfarlane Trusts were set up to provide compensation to haemophiliacs who contracted Human Immunodeficiency Virus when receiving National Health Service

 **1.** Blood **or**

 **2.** Tissue or organ transfers **or**

 **3.** Blood products.

28457 The Macfarlane Trusts are

 **1.** The Macfarlane Trust

 **2.** The Macfarlane (Special Payments) Trust

 **3.** The Macfarlane (Special Payments) (No.2) Trust.

MFET Limited

28458 MFET Limited1 is an organisation funded by the Department. The purpose of MFET Limited is to make payments to people who have acquired Human Immunodeficiency Virus as a result of treatment by the National Health Service with blood or blood products.

The Caxton Foundation

28459 The Caxton Foundation was established on 28.3.11. It administers funds provided for the benefit of certain persons suffering from hepatitis C and other persons eligible for payments1.

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

Income from the Eileen trust (“The Fund”), Macfarlane trusts, MFET and the Caxton Foundation

28460 Fully disregard 1

**1.** any income **and**

**2.** any income from capital that was received from schemes in DMG 28457 - 28461.

1 JSA Regs (NI), Sch 6, para 41(1); IS (Gen) Regs (NI), Sch 9, para 39(1)

The Skipton Fund

28461 The Skipton Fund administers an ex gratia payment scheme for the benefit of people suffering from Hepatitis C. It includes people infected as a result of National Health Service blood products and other people eligible for payment in accordance with the scheme’s provision1.

 **Note :** Payments from the Skipton Fund will be payments of capital (see DMG Chapter 29).

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

The London Emergencies Trust

28462 The London Emergencies Trust1 was set up to alleviate hardship for those who have been bereaved or injured as a result of the terror attacks in London on 22.3.17 and 3.6.17. Beneficiaries of the London Emergency Trust may receive lump sum and/or regular payments.

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

Income from the London Emergencies Trust

28463 Fully disregard1

 **1.** any income from the London Emergencies Trust **and**

 **2.** any income from capital that was received from the London Emergencies Trust.

1 JSA Regs (NI), Sch 6, para 41(1); IS (Gen) Regs (NI), Sch 9, para 39(1)

The We Love Manchester Emergency Fund

28464 The We Love Manchester Emergency Fund1 was set up to alleviate hardship for those who have been bereaved or injured as a result of the terror attack in Manchester on 22.5.17. Beneficiaries of the We Love Manchester Emergency Fund may receive lump sum and/or regular payments.

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

Income from the We Love Manchester Emergency Fund

28465 Fully disregard1

 **1.** any income from the We Love Manchester Emergency Fund **and**

 **2.** any income from capital that was received from the We Love Manchester Emergency Fund.

1 JSA Regs (NI), Sch 6, para 41(1); IS (Gen) Regs (NI), Sch 9, para 39(1)

The London Bombings Relief Charitable Fund

28466 The London Bombings Relief Charitable Fund1 was set up to relieve the needs of victims , including families or dependants of victims of the terrorist attacks in London on 7.7.05. Interim payments were made to relieve the immediate needs of victims followed by further lump sum payments. Recipients may receive more than one lump sum payment.

 **Note :** Payments made from the London Bombings Relief Charitable Fund will be payments of capital (see DMG Chapter 29).

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

The Independent Living Fund (2006)

28467 The original Independent Living Fund ran from 1988 to 1993. It was replaced with the Independent Living Fund (1993) and the Independent Living (Extension) Fund. With effect from 1.10.07 these funds were replaced by the Independent Living Fund (2006). This fund closed permanently on 30.6.15. Any payments made under any of the replacement schemes (see note at DMG 28351) are not covered by this legislation and will therefore be taken fully into account.

Income from the Independent Living Fund (2006)

28468 Fully disregard1 any income from the Independent Living Fund (2006).

 **Note :** Income which remains unspent and becomes capital at the end of the period it was paid for is not disregarded.

1 JSA Regs (NI), Sch 6, para 41(1); IS (Gen) Regs (NI), Sch 9, para 39(1)

 28469 - 28471

Payments from money that came from the Trusts

Meaning of the Trusts

28472 The Trusts1 is the term that describes the

**1.** Macfarlane Trusts **and**

**2.** Fund **and**

**3.** Eileen Trust **and**

**4.** Skipton Fund **and**

**5.** London Bombings Relief Charitable Fund **and**

**6.** MFET Limited **and**

**7.** the Caxton Foundation **and**

**8.** the Scottish Infected Blood Support Scheme **and**

**9.** the London Emergencies Trust **and**

**10.** the We Love Manchester Emergency Fund **and**

**11.** Infected Blood Schemes

1 JSA Regs (NI), Sch 6, para 41(1); IS (Gen) Regs (NI), Sch 9, para 39(7)

What payments should be disregarded

28473 Income passed to another person from money from a Trust payment should be disregarded in the cases described in DMG 28474 - 28487. In these cases, the person receiving the income is not the person who qualified for the Trust payment. In any other circumstances, payments of income from a Trust payment should be treated under normal rules.

Person with Human Immunodeficiency Virus

28474 In this guidance the term “person with Human Immunodeficiency Virus” is used to describe

**1.** people with haemophilia **or**

**2.** other people.

 who qualify for trust payments.

Qualifying person

28475 In this guidance a qualifying person means a person in respect of whom a payment has been made from

 **1.** the Fund **or**

 **2.** the Eileen Trust **or**

 **3.** the Skipton Fund **or**

 **4.** the London Bombings Relief Charitable Fund **or**

 **5.** MFET Limited **or**

 **6.** the Caxton Foundation **or**

 **7.** the Scottish Infected Blood Support Scheme **or**

 **8.** the London Emergencies Trust **or**

 **9.** the We Love Manchester Emergency Fund **or**

 **10.** Infected Blood Schemes.

 **Note :** A person in respect of whom a payment has been made from the Macfarlane Trust is not included above but is included in the definition at DMG 28474.

Payments by a qualifying person or person with Human Immunodeficiency Virus to partners, children and young people

28476 Disregard any payment made by or on behalf of a qualifying person or person with Human Immunodeficiency Virus from money from a Trust payment made to or for the benefit of

**1.** their partner or their former partner if they are **not**

**1.1** estranged **or**

**1.2** divorced **or**

**1.3** former civil partners **or**

**1.4** estranged or divorced or had their civil partnership dissolved at the date of death if the qualifying person or person with Human Immunodeficiency Virus has died1 **or**

**2.** any child or young person who

**2.1** is a member of the family of the qualifying person or person with Human Immunodeficiency Virus **or**

**2.2** was at any time a member of the family of the qualifying person or person with Human Immunodeficiency Virus and is now a member of the claimant’s family2.

**Note :** DMG 28483 - 28484 explains for how long the payment is disregarded.

1 JSA Regs (NI), Sch 6, para 41(2)(a); IS (Gen) Regs (NI), Sch 9, para 39(2)(a);
2 JSA Regs (NI), Sch 6, para 41(2)(b) & (c); IS (Gen) Regs (NI), Sch 9, para 39(2)(b) & (c)

Payments by the partner or former partner of the person with Human Immunodeficiency Virus

28477 Fully disregard any payment from a Trust payment made by or on behalf of a partner or former partner of a person with Human Immunodeficiency Virus, providing the qualifying person or person with Human Immunodeficiency Virus and partner or former partner are **not**

**1.** estranged **or**

**2.** divorced **or**

**3.** former civil partners **or**

**4.** estranged, divorced or had their civil partnership dissolved at the date of death of either

 **4.1** the qualifying person or person with Human Immunodeficiency Virus **or**

 **4.2** the partner or former partner.

28478 This disregard applies if the payment is made to or for the benefit of

**1.** the qualifying person or person with Human Immunodeficiency Virus1 **or**

**2.** any child or young person2 who

**2.1** is a member of the family of the qualifying person or person with Human Immunodeficiency Virus **or**

**2.2** was at any time a member of the family of the qualifying person or person with Human Immunodeficiency Virus and is now a member of the claimant’s family.

**Note :** DMG 28483 - 28484 explains for how long the payment is disregarded.

1 JSA Regs (NI), Sch 6, para 41(3)(a); IS (Gen) Regs (NI), Sch 9, para 39(3)(a);
2 JSA Regs (NI), Sch 6, para 41(3)(b); IS (Gen) Regs, Sch 9, para 39(3)(b)

Payments by a qualifying person or person with Human Immunodeficiency Virus to parents, step parents or guardians

28479 Fully disregard any payment from a Trust payment by a qualifying person or person with Human Immunodeficiency Virus to their

**1.** parent **or**

**2.** step parent1 **or**

**3.** guardian2 if the qualifying person or person with Human Immunodeficiency Virus has no parent or step parent and is a

**3.1** child **or**

**3.2** young person **or**

**3.3** student in full-time education.

1 JSA Regs (NI), Sch 6, para 41(4)(b)(i); IS (Gen) Regs (NI), Sch 9, para 39(4)(b)(i);
2 JSA Regs (NI), Sch 6, para 41(4)(b)(ii); IS (Gen) Regs (NI), Sch 9, para 39(4)(b)(ii)

28480 This disregard applies if the qualifying person or person with Human Immunodeficiency Virus

**1.** has no partner or former partner from whom that person is **not**

**1.1** estranged **or**

**1.2** divorced **or**

**1.3** former civil partners **and**

**2.** has no child or young person in the family **and**

**3.** has never had a child or young person in their family1.

**Note :** DMG 28485 explains for how long the payment is disregarded.

1 JSA Regs (NI), Sch 6, para 41(4)(a); IS (Gen) Regs (NI), Sch 9, para 39(4)(a)

Payments from the estate of a qualifying person or person with Human Immunodeficiency Virus to a parent, step parent or guardian

28481 Fully disregard any payment from the estate of a qualifying person or person with Human Immunodeficiency Virus to

**1.** a parent **or**

**2.** a step parent1 **or**

**3.** a guardian2 if at the date of death the qualifying person or person with Human Immunodeficiency Virus had no parent or step parent and was a

**3.1** child **or**

**3.2** young person **or**

**3.3** student in full-time education.

1 JSA Regs (NI), Sch 6, para 41(5)(b)(i); IS (Gen) Regs (NI), Sch 9, para 39(5)(b)(i);
2 JSA Regs (NI), Sch 6, para 41(5)(b)(ii); IS (Gen) Regs (NI), Sch 9, para 39(5)(b)(ii)

28482 This disregard applies if at the date of death the qualifying person or person with Human Immunodeficiency Virus had

**1.** no partner or former partner from whom that person is **not**

 **1.1** estranged **or**

 **1.2** divorced **or**

 **1.3** former civil partners **or**

**2.** no child or young person in the family **and**

**3.** at no time had a child or young person in the family1.

**Note :** DMG 28486 explains for how long the payment is disregarded.

1 JSA Regs (NI), Sch 6, para 41(5)(a); IS (Gen) Regs (NI), Sch 9, para 39(5)(a)

For how long should the payment be disregarded

Payments to a qualifying person or person with Human Immunodeficiency Virus and partners

28483 Disregard payments made to or for the benefit of

**1.** a qualifying person or person with Human Immunodeficiency Virus1 **or**

**2.** the partner or former partner of a qualifying person or person with Human Immunodeficiency Virus2

 for the lifetime of the person who received the payment. Breaks in entitlement to Income Support or income-based Jobseeker’s Allowance do not alter this disregard.

1 JSA Regs (NI), Sch 6, para 41(3)(a); IS (Gen) Regs (NI), Sch 9, para 39(3)(a);
2 JSA Regs (NI), Sch 6, para 41(2)(a); IS (Gen) Regs (NI), Sch 9, para 39(2)(a)

Payments to children and young people

28484 Disregard payments made to or for the benefit of a child or young person as long as they remain

**1.** a child or young person **and**

**2.** in (or they were in) the family of1

**2.1** the qualifying person or person with Human Immunodeficiency Virus **or**

**2.2** the partner or former partner of the qualifying person or person with Human Immunodeficiency Virus **and**

**3.** a member of the Income Support or income-based Jobseeker’s Allowance claimant’s family.

1 JSA Regs (NI), Sch 6, para 41(2)(b) & (c) and 41(3)(b) & (c);
IS (Gen) Regs (NI), Sch 9, para 39(2)(b) & (c) & 39(3)(b) & (c)

Payments to parents and guardians from a qualifying person or person with Human Immunodeficiency Virus

28485 Disregard payments to a

**1.** parent **or**

**2.** step parent **or**

**3.** guardian

 from the date the payment is made until the end of 2 years after the qualifying person or person with Human Immunodeficiency Virus dies1.

 **Note :** In some cases this disregard may last for the length of the income-based Jobseeker’s Allowance/Income Support claim, because the person with Human Immunodeficiency Virus may not die whilst the claimant is on income-based Jobseeker’s Allowance/Income Support.

1 JSA Regs (NI), Sch 6, para 41(4) & (5); IS (Gen) Regs (NI), Sch 9, para 39(4) & (5)

Payments to parents and guardians from the estate of a qualifying person or person with Human Immunodeficiency Virus

28486 Disregard1 payments to a

 **1.** parent **or**

 **2.** step-parent **or**

 **3.** guardian

for a period of 2 years from the date the qualifying person or person with Human Immunodeficiency Virus died.

 **Note :** This disregard applies from the date of death not the date the estate makes a payment.

1 JSA Regs (NI), Sch 6, para 41(5); 1S (Gen) Regs (NI), Sch 9, para 39(5)

Deciding if a disregard applies

28487 Once the claimant has declared any payments made from one of the Trusts the decision maker should decide

**1.** if the payment qualifies for a disregard **and**

**2.** the length of any disregard.

28488 Seek further evidence if there is doubt about the

**1.** source of the payment **or**

**2.** relationship of the person receiving the payment with the qualifying person or person with Human Immunodeficiency Virus **or**

**3.** extent that money from the Trust has been kept separately.

Trust payments invested with other money

28489 If a Trust payment is invested with other money to produce an income, disregard only the proportion that came from the trust payment1.

1 JSA Regs (NI), Sch 6, para 41(6); 1S (Gen) Regs (NI), Sch 9, para 39(6)

**Example**

Michael bought an annuity for £5000. £4000 came from the Eileen Trust. The balance came from his own savings.

The annuity produces an income of £50 a month.

The decision maker decides to disregard £40 a month. £10 a month is taken into account as income.

Qualifying person or person with Human Immunodeficiency Virus’s relationship with former partners

28490 The decision maker should be satisfied that a former partner or civil partner is not estranged or divorced or had the civil partnership dissolved. Accept the claimant’s statement unless it is considered to be improbable or self-contradictory.

**Example**

Joanne receives a payment from the Macfarlane Trust. She is divorced from her former partner Harold, who is a person with Human Immunodeficiency Virus.

The decision maker decides that the payment should not be disregarded.

Social Fund funeral payments

28491 Trust payments will become part of a person’s estate upon death. Any assets of a dead person including

1. payments of income from the Trusts including Variant Creutzfeldt-Jakob disease payments **and**
2. payments of income from money that originally came from the Trusts of from Variant Creutzfeldt-Jakob disease payments

are not taken into account as assets of the estates if a claim to a Social Fund Funeral Payment is made (see DMG Chapter 39).

Payments with special rules

Charitable and voluntary payments

What are charitable payments?

28492 A charitable payment is a payment made under a charitable trust1. A charitable trust must

**1.** be wholly and exclusively charitable **and**

**2.** promote a public benefit (that is, it must benefit a sufficient section of the public except where the purpose is the relief of poverty).

 Payments from charitable trusts are made at the discretion of the trustees.

1 R(IS) 4/94; R v Doncaster Borough Council, Ex Parte Boulton

28493 Charitable trusts do not have to be

**1.** registered **or**

**2.** administered by a registered charity.

 The decision maker should treat payments from registered charities as charitable payments.

28494 Charitable trusts usually provide for

**1.** the relief of poverty

**2.** advancement of education

**3.** advancement of religion

**4.** other purposes which benefit the community.

What are voluntary payments?

28495 A voluntary payment is a payment that has

**1.** a benevolent purpose **and**

**2.** is given without anything being given in return1.

1 R(IS) 4/94; R(H) 5/05

 **Note :** Voluntary payments should not be confused with payments to volunteers. Guidance on payments to volunteers is given at DMG 26195 - 26196.

28496 A voluntary payment is similar to a charitable payment but it will not usually be made from a charitable trust. Voluntary payments are usually paid for the benefit of an individual. But decision makers should recognise that charitable payments may also be made to individuals

**1.** for the relief of poverty **or**

**2.** because a wider purpose is involved.

28497 The decision maker should consider

**1.** the background to **and**

**2.** reasons for

 the payment when deciding if it is voluntary.

**Example 1**

Jim claims Jobseeker’s Allowance. He declares that he gets a payment of £20 a week from his uncle, Peter, towards the cost of running his car.

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

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

The decision maker decides that the £20 is a voluntary payment.

**Example 2**

Frances claims Income Support. She is retired and receives a payment of £4.50 a week from her former employer in addition to her occupational pension.

The payment of £4.50 is paid to all former employees who worked for the company for over 20 years.

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

The decision maker decides the payment is not voluntary. This is because

**1.** the directors of the company are receiving in return for the payment greater satisfaction from the shareholders

**2.** the company’s image is improved

**3.** the payments are not made to help needy employees. Many of the people receiving payments are quite well off.

Meaning of relevant payment

28498 A relevant payment1 for the purposes of the disregard at DMG 28513 means

**1.** a charitable payment

 **2.** a voluntary payment

 **3.** a payment (other than in **1.** or **2.**) from a trust whose funds derive from a personal injury award to the claimant (this includes a trust whose funds derive from the Children’s Memorial Trust – see DMG 28505)

 **4.** a payment under an annuity purchased as a result of

**4.1** any agreement or court order to make payments to the claimant **or**

**4.2** funds that derive from a payment made as a consequence of a personal injury award to the claimant **or**

 **5.** a payment (other than a payment covered by **1.**-**4.**) received as a result of any agreement or court order to make payments to the claimant as a consequence of a personal injury award.

 **Note :** The agreement referred to in **5.** must be reached **after** the date that the injury occurred2.

1 IS (Gen) Regs (NI), Sch 9 para 15(5A); JSA Regs (NI), Sch 7 para 15 (5A);
2 Malekout v Secretary of State for Work & Pensions [2010] EWCA Civ 162

Certain types of payments

Cash in lieu of concessionary coal

28499 Payments originally made by British Coal to

 **1.** retired miners **and**

 **2.** widows of retired miners

 in lieu of concessionary coal are not voluntary1. The payments were made because of a national agreement between British Coal and the trade unions. The purpose of the agreement was to ensure good labour relations and the willing services of the workforce. Treat these payments as other income with no disregard.

1 R(IS) 4/94

Civil list pensions

28500 Treat civil list pensions as voluntary payments. They are

**1.** paid at the discretion of the Queen **and**

**2.** voted annually by Parliament.

28501 They are awarded for distinguished service to the nation in

**1.** the arts

**2.** science

**3.** literature.

Payments from trust funds

28502 Claimants may receive payments from trust funds. If income from a trust fund is paid at the discretion of the trustees it should be treated as a voluntary payment. Treat a payment from a charitable trust as a charitable payment.

28503 Income from any trust fund set up with money from a personal injury award is treated in the same way. DMG 28513 gives guidance on the disregard appropriate to relevant personal injury trust payments.

Structured settlements

28504 A structured settlement may include a contingency fund that would be treated in the same way as any other personal injury lump sum award. However most of the award is used to provide an annuity making periodical payments to the claimant. Payments from these annuities are capital treated as income1 which fall within the definition of relevant payment at DMG 28498.

1 IS (Gen) Regs (NI), reg 41(6); JSA Regs (NI), reg 104(5)

Children’s Memorial Trust

28505 The Children’s Memorial Trust was set up as a result of court action by the parents’ of deceased children whose organs had been retained by the Alder Hey hospital without parental consent.

28506 Where people can show that they have received a payment from the Children’s Memorial trust under the “Heads of Agreement” in relation to the court action, that payment will be made in consequence of a personal injury to **them**. Income from a trust set up with money that derived from the Children’s Memorial Trust is a relevant payment. DMG 28513 - 28515 gives evidence on the disregards appropriate to relevant personal injury trust payments.

 28507 - 28509

Regular charitable or voluntary payments

What are regular payments?

28510 Regular charitable or voluntary payments are those that are

**1.** made regularly **or**

**2.** due to be made regularly, even if they are not actually made.

**Note :** Voluntary payments should not be confused with payments to volunteers. Guidance on payments to volunteers is given at DMG 26195 - 26196.

28511 Regular payments include those paid or due to be paid at recurring intervals such as

**1.** weekly

**2.** monthly

**3.** annually (for example every Christmas)

**4.** any other pattern.

When is a payment due to be made?

28512 A payment is due to be paid where there is a promise or agreement to make a payment.

Disregards for relevant payments

28513 Fully disregard1 any relevant payment unless one of the exceptions at DMG 28514 - 28515 apply.

1 JSA Regs (NI), Sch 6, para 15(1); IS (Gen) Regs (NI), Sch 9, para 15(1)

Relevant payments that should be taken fully into account

28514 The disregard in DMG 28513 does not apply to

**1.** a person affected by a trade dispute1 **or**

**2.** liable relative payments2 **or**

**3.** maintenance, that is not a liable relative payment, for

**3.1** a member of the family **or**

**3.2** a former partner **or**

**3.3** the children

 of the person making the payment3 **or**

**4.** a student’s covenant or grant income4 **or**

**5.** in Jobseeker’s Allowance cases only, any payment made to a member of the family because another member of the family is involved in a trade dispute5 **or**

**6.** in Income Support cases only, to a person entitled to Income Support during

**6.1** a trade dispute **or**

**6.2** the first 15 days after returning to work after a trade dispute6.

 **Note :** Jobseeker’s Allowance can not be paid to claimants involved in a trade dispute. Special rules apply if a member of the family of a Jobseeker’s Allowance claimant is involved in a trade dispute.

1 JSA Regs (NI), Sch 6, para 15(3)(b)(i); IS (Gen) Regs (NI), Sch 9, para 15(3)(b);
2 JSA Regs (NI), reg 89 & 90; IS (Gen) Regs (NI), reg 25 & 25A; 3 JSA Regs (NI), Sch 6, para 15(3)(a);
IS (Gen) Regs (NI), Sch 9, para 15(3)(a); 4 JSA Regs (NI), reg 134; IS (Gen) Regs (NI), reg 65;
5 JSA Regs (NI), Sch 6, para 15(3)(b)(ii); 6 IS (Gen) Regs (NI), Sch 9, para 15(3)(b)

Relevant payments paid in kind

28515 Fully disregard relevant payments that are paid in kind1 unless one of the exceptions at DMG 28418 applies. The exceptions at DMG 28418 do not apply when the income in kind comes from

 **1.** the Macfarlane Trust

 **2.** the Macfarlane (Special Payments) Trust

 **3.** the Macfarlane (Special Payments)(No 2) Trust

 **4.** the Fund

 **5.** the Eileen Trust

 **6.** the Independent Living Fund (2006)

 **7.** MFET Limited

 **8.** the Caxton Foundation

 **9.** the Skipton Fund

 **10.** the Scottish Infected Blood Support Scheme

 **11.** the London Emergencies Trust

 **12.** the We Love Manchester Emergency Fund **or**

 **13.** Infected Blood Schemes

 as explained in DMG 28419.

1 JSA Regs (NI), Sch 6, para 22; IS (Gen) Regs (NI), Sch 9, para 21

 28516 - 28529

Capital treated as income

Capital payable by instalments

28530 Where capital is payable by instalments the decision maker should decide if the payments should be treated as capital or income. Capital can be payable by instalments in situations where

 **1.** a person lends another person a lump sum of money and the borrower repays that money in regular or irregular payments

 **2.** a person receives payments from an investment bond with a life assurance company.

 The above is not exhaustive.

 **Example**

 Susan has an investment bond with a friendly society. The bond is worth £20,000 but is disregarded by the decision maker because it has a policy of life assurance attached to it (see DMG Chapter 29). The terms of the bond allow Susan to withdraw money on a monthly basis which reduces the surrender value of the bond. The decision maker decides that the money Susan receives is capital payable by instalments.

 28531

Income Support cases

28532 In Income Support cases add1

**1.** the amount of instalments outstanding

**1.1** in the case of a claim - at the earlier of

**1.1.a** the first day for which Income Support is payable **or**

**1.1.b** the date the claim is decided **or**

**1.2** in the case of a supersession - at the date the supersession of the outcome decision is made **and**

**2.** the amount of any other capital held by the claimant or partner.

 If the total is more than £16,000 treat each instalment received as income. If the total is less than £16,000 each instalment is capital.

1 IS (Gen) Regs (NI), reg 41(1); IS (Gen) Regs (NI), reg 41 & 45(aa)

Income-based Jobseeker’s Allowance cases

28533 In income-based Jobseeker’s Allowance cases add1

**1.** the amount of instalments outstanding

**1.1** in the case of a claim - on the first day for which income-based Jobseeker’s Allowance is payable **or**

**1.2** in the case of a supersession - the date the supersession of the outcome decision is made **and**

**2.** the amount of any other capital held by the claimant or partner.

 If the total is more than £16,000 treat each instalment received as income. If the total is less than £16,000 each instalment is capital.

1 JSA Regs (NI), reg 104 (1); IS (Gen) Regs (NI), reg 41 & 45(aa)

Capital instalments payable to children - Income Support cases

28534 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** If capital is payable by instalments to a child or young person add1

**1.** the amount of outstanding instalments

**1.1** in the case of a claim - at the earlier of

**1.1.a** the first day for which Income Support is payable **or**

**1.1.b** the date the claim is decided **or**

**1.2** in the case of a supersession - the date the supersession of the outcome decision is made **and**

**2.** the amount of any other capital held by the child or young person.

 If the total is more than £3,000 treat each instalment received as income. If the total is less than £3,000 each instalment is capital.

1 IS (Gen) Regs (NI), reg 44(1)

Capital instalments payable to children - income-based Jobseeker’s Allowance cases

28535 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** If capital is payable by instalments to a child or young person add1

**1.** the amount of outstanding instalments

**1.1** in the case of a claim - on the first day for which income-based Jobseeker’s Allowance is payable **or**

**1.2** in the case of a revision - the date the revision is made **and**

**2.** the amount of any other capital held by the child or young person.

 If the total is more than £3,000 treat each instalment received as income. If the total is less than £3,000 each instalment is capital.

1 JSA Regs (NI), reg 106(1)

When is an instalment treated as capital?

28536 Decision makers should make the calculations in DMG 28532 - 28535 every time an instalment of capital is paid. Only the outstanding instalments should be treated as income. Any instalments paid before the date of claim or supersession should be taken into account as capital.

Annuity payments

28537 Treat any payment from an annuity as income1. An annuity is an investment which produces an annual sum of money2. Payments may be made monthly or quarterly as well as yearly.

1 JSA Regs (NI), reg 104(2); IS (Gen) Regs (NI), reg 41(2); 2 R(IS) 10/01

Health and Social Services Board or Health and Social Services trust payments

28538In certain circumstances capital payments by a Health and Social Services Board or Health and Social Services trust

**1.** to promote the welfare of children and prevent children being taken into care **or**

**2.** to people who were in their care1

 should be treated as income.

1 Children and Young Persons Act (NI) 68, secs 122, 123 or 164

28539 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** The circumstances in DMG 28538 apply where

**1.** in Income Support cases1 - the claimant or member of the family is

**1.1** involved in a trade dispute **or**

**1.2** has returned to work following a trade dispute **or**

**2.** in income-based Jobseeker’s Allowance cases2 - a member of the claimant’s family is involved in a trade dispute.

1 IS (Gen) Regs (NI), reg 41(3); 2 JSA Regs (NI), reg 104(3)

28540 Payments of income from Health and Social Services Boards or Health and Social Services trusts should be treated as income in the normal way.

 28541 - 28564

Special rules for income of children and young people

28565 Decision makers should follow special rules when calculating the income of children and young people

**1.** do not treat the income of a

**1.1** child **or**

**1.2** young person

 who has capital over £3,000 as the income of the claimant1

**2.** do not treat income of a child or young person that is more than the amount of the child’s or young person’s

**2.1** personal allowance **and**

**2.2** any disabled child premium **and**

**2.3** any enhanced disability premium

 as the income of the claimant2

**3.** disregard any income of a

**3.1** child **or**

**3.2** young person

 in the way most favourable for the claimant3

**4.** some children and young people who attend boarding schools should be treated as having notional income (see DMG 28685 et seq).

1 JSA Regs (NI), reg 106(5); IS (Gen) Regs (NI), reg 44(5); 2 JSA Regs (NI), reg 106(4);IS (Gen) Regs (NI), reg 44(4);
3 JSA Regs (NI), reg 106(7); IS (Gen) Regs (NI), reg 44(7)

Providing the most favourable result for the claimant

28566 Decision makers should apply the appropriate disregard to the income of the claimant or partner rather than to a child‘s or young person’s income if a

**1.** child or young person **and**

**2.** the claimant or partner

 both have income subject to a disregard.

28567 Apply any appropriate disregard in the most favourable way if more than one

**1.** child **or**

**2.** young person

 in the family have incomes subject to a disregard.

**Example**

Alice is an Income Support claimant. She has two children, Sam aged 7 and Sarah aged 13. Sam has income of £45.00 and Sarah has income of £40.00. Both of these incomes qualify for a £20.00 disregard.

 **Child Personal allowance Income**

 Sam aged 7 £38.50 £45.00

 Sarah aged 13 £38.50 £40.00

**Calculation 1**

**1.** £20 disregard applied to Sam’s income leaves £25 to be taken into account.

**2.** Alice receives £33.50 for Sam (£38.50 - £25 = £13.50 + £20 disregard).

**3.** Sarah’s income is £1.50 more than her personal allowance. £1.50 is disregarded.

**4.** The total advantage to Alice is £33.50 + £1.50 = £35.00

**Calculation 2**

**1.** Sam’s income is £6.50 more than his personal allowance. £6.50 is disregarded.

**2.** A £20 disregard applied to Sarah’s income leaves £20 to be taken into account.

**3.** Alice receives £38.50 for Sarah (£38.50 - £20 = £18.50 + £20 disregard = £38.50)

**4.** The total advantage to Alice is £38.50 + £6.50 = £45.00

The decision maker uses Calculation 2 because it is the most favourable for Alice.

Notional income

Notional income - general

What is notional income

28568 A person may be treated as having an income that is not actually received. This type of income is known as notional income and may take a number of different forms.

Types of notional income

28569 Notional income may be calculated because of

 **1.** deprivation of income

**2.** income available if applied for (including special rules for personal pensions)

**3.** income due but not yet paid

**4.** income for a member of the family paid to a third party

**5.** income for a third party made to a member of the family

**6.** a child or young person attending a boarding school.

Actual and notional income

28570 A person may have actual and notional income. Decision makers need not consider notional income if a person’s actual income on its own is greater than the applicable amount. If income is less than the applicable amount the decision maker should consider if there is any notional income.

Treatment of notional income

28571 Calculate notional income in the same way as actual income1. Any notional income of a child or young person should be added to their actual income. The total should then be taken into account using normal rules, including applying any appropriate disregard.

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

Notional Income - tasters

28572 If a claimant does a taster of a New Deal 18-24 option for three days or more in a benefit week notional income is not taken into account1. This is because a taster is an employment or training programme for which no training allowance is payable2.

 **Note :** The notional income rules must be considered if the person is participating in a taster for less than three days in any benefit week.

1 JSA Regs (NI), reg 105(13A) & 19(1)(p); IS (Gen) Regs (NI), reg 42(6A); 2 JSA Regs (NI), reg 19(3)

28573 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** Notional income is no longer taken into account for those claimants or claimants partners on an employment or training programme, regardless of its duration, providing a training allowance is not payable, or where such an allowance is payable, it is for the sole purpose of reimbursement of travelling or meal expenses to the person participating in the programme.

Liable relative payments

28574 The guidance in DMG 28576 to 28709 does not apply to liable relative payments1.

1 JSA Regs (NI), reg 89; IS (Gen) Regs (NI), reg 25

Service users

28575 The rules on notional income do not apply to payments of expenses or earnings paid as a result of a claimant’s participation as a service user1. Where a decision maker might normally consider treating a claimant as possessing income which he doesn’t actually have, such as in cases of

**1.** deprivation of income for the purposes of securing entitlement to benefit or increasing the amount of benefit payable

**2.** income upon application

**3.** income due but not paid

**4.** income paid to or in respect of a third party

**5.** notional earnings

then this will not apply where the possible income in question is payment arising from participation as a service user.

1 JSA Regs (NI), reg 105(15A); IS (Gen) Regs (NI), reg 42(8ZA)

Deprivation of income

28576 Decision makers should treat1 claimants as receiving income that they have deprived themselves of for the purpose of

**1.** securing entitlement to **or**

**2.** increasing the amount of

 **2.1** Income Support **or**

 **2.2** Jobseeker’s Allowance **or**

 **2.3** Employment and Support Allowance

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

28577 Decision makers should bear in mind that a decision that a person has deprived themselves of an income to get or increase Income Support, Jobseeker’s Allowance or Employment and Support Allowance will usually apply to a subsequent Income Support, Jobseeker’s Allowance or Employment and Support Allowance claim. A fresh decision should be made each time there is a new claim.

**Example**

George has taken early retirement from work. He claims Income Support but the decision maker refuses the claim on income grounds because George has an occupational pension.

George claims Income Support again. The decision maker finds out that George has arranged for the occupational pension payments to be transferred to another person.

The decision maker decides that the transfer of the pension was done for the purpose of getting Income Support and to take into account a notional income equal to the amount of the occupational pension.

28578

Meaning of deprive

28579 The word deprive is an ordinary English word. Its meaning is not a question of law. It should be given a normal everyday meaning1.

1 R(SB) 38/85

28580 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 income1.

1 R(SB) 40/85

28581 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.

28582 A deprivation of income may occur where a claimant’s income is reduced to repay an overpaid income. The decision maker should decide if a significant reason for the reduction is to get or increase the amount of income-based Jobseeker’s Allowance, income-related Employment and Support Allowance or Income Support. Decision makers 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 income-based Jobseeker’s Allowance, income-related Employment and Support Allowance or Income Support1.

1 R(SB) 12/91

Questions for consideration

28583 The decision maker should consider the questions in DMG 28584 - 28592 where claimants seem to have deprived themselves of income.

Was it the claimant’s income?

28584 The decision maker must decide if an income belongs to the claimant. If there is evidence that a person has been receiving an income (possibly on a previous claim), the decision maker should presume the income belongs to the claimant.

28585 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 the income belongs to someone else.

Has a deprivation of income happened?

28586 Deprivation will have happened if a person

**1.** gives up **or**

**2.** transfers to another person

 an income due to be received.

**Example**

Suzanne receives income-based Jobseeker's Allowance. She arranges by a deed of gift to transfer income from an occupational pension to her adult daughter. The decision maker decides that Suzanne has deprived herself of the income from the occupational pension.

28587 The claimant has to prove that an income is no longer received. Once the decision maker has shown that a claimant was receiving an income it is up to the claimant to prove it is no longer paid. If the claimant cannot do this the decision maker should decide that the income is still being received. The income should be taken into account as **actual** income1.

1 R(SB) 38/85

Was the purpose of the deprivation to get or increase the amount of Income Support or income-based Jobseeker's Allowance or income-related Employment and Support Allowance

28588 There may be more than one reason for a person disposing of an income. Only one of those reasons might be getting or increasing Income Support or income-based Jobseeker's Allowance or income-related Employment and Support Allowance1.

1 R(SB) 38/85

28589 Getting or increasing Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance need not be the most important reason for disposing of an income but it must a significant reason1.

1 R(SB) 40/85

28590 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.

28591 When considering claimants’ intentions in depriving themselves of income the decision maker 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 income-based Jobseeker's Allowance, Income Support or income-related Employment and Support Allowance the decision maker should calculate a notional income.

Timing of the disposal of income

28592 Decision makers should carefully consider the timing of a disposal of income as

**1.** a claim for Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance made shortly after the disposal of an income may indicate that getting or increasing Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance was a significant reason for the disposal

**2.** a claim for Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance made a long time after the disposal of an income is less likely to indicate that getting or increasing Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance was a significant reason for the disposal. But if there is evidence that a claimant was considering claiming Jobseeker's Allowance, Income Support or income-related Employment and Support Allowance 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 residential care home 9 months later and claims Income Support.

The decision maker decides that

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

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

Income available on application

General

28593 Decision makers should treat an income that

**1.** would be paid to a member of the family if applied for **and**

**2.** has not been applied for1

 as notional income.

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

What types of income should not be treated as notional income available on application

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28594 The following payments should not be taken into account as notional income available on application

**1.** income payable under a discretionary trust fund1

**2.** income from a trust set up using money paid because of a personal injury2

**3.** Jobseeker’s Allowance3

**4.** the increase in Child Benefit that lone parents can receive for their only, elder or eldest child4

**5.** Working Tax Credit5

**6.** Child Tax Credit6

**7.** payments from a personal pension, occupational pension, retirement annuity contract or the Pension Protection Fund when the person is under the qualifying age for State Pension Credit (see DMG 77032)7

**8.** an award of damages for personal injury which is administered by the court8.

1 JSA Regs (NI), reg 105(2)(a); IS (Gen) Regs (NI), reg 42(2)(a);
2 JSA Regs (NI), reg 105(2)(b); IS (Gen) Regs (NI), reg 42(2)(b);
3 JSA Regs (NI), reg 105(2)(e); IS (Gen) Regs (NI), reg 42(2)(c);
4 JSA Regs (NI), reg 105 (2)(c) & (2A); IS (Gen) Regs (NI), reg 42(2)(d) & (2D)
5 JSA Regs (NI), reg 105(2)(d); IS (Gen) Regs (NI), reg 42(2)(e);
6 JSA Regs (NI), reg 105(2)(d); IS (Gen) Regs (NI), reg 42(2)(f);
7 JSA Regs (NI), reg 105(2)(g); IS (Gen) Regs (NI), reg 42(2)(g);
8 JSA Regs (NI), reg 105(2)(h); Sch 7, para 41(a);
IS (Gen) Regs (NI), reg 42(2)(h); Sch 10, para 43(a);

28595 Apply any appropriate disregards to notional income1. Do not take into account any income that would be fully disregarded but has not been applied for.

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

28596 Only take an income into account if it can be shown beyond doubt that an application or claim for it would succeed. The decision maker should

**1.** gather evidence **and**

**2.** consider all the qualifying conditions for the income.

 It should not be assumed that one or more qualifying conditions are satisfied.

**Example**

Claudette claims Income Support. She is sick but has not claimed Severe Disablement Allowance.

The decision maker decides that there are doubts about whether Claudette satisfies the medical conditions for claiming Severe Disablement Allowance.

Severe Disablement Allowance is not taken into account as income available upon application.

What types of income should be taken into account

28597 All types of income, except those mentioned in DMG 28594, may be taken into account. Examples of incomes that might be available upon application are

**1.** social security benefits

**2.** councillors’ attendance allowance

**3.** personal pensions and occupational pensions for people who are of the qualifying age for State Pension Credit.

Date from which income should be taken into account

28598 Take into account income available on application from the date it could be expected to be received if an application was made1.

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

28599 Calculate the date on which income could be expected to be received by

**1.** assuming an application was made on the date the decision maker first became aware of the notional income **and**

**2.** adding the estimated time it would take for an application to be processed once made.

**Example 1**

Michael receives income-based Jobseeker’s Allowance and has a mortgage protection policy. The decision maker discovers on 1 November that he has a voluntary arrangement to have payments made direct to the building society.

The insurance company tell the decision maker that it would take about a month for the payment to be redirected from the building society to Michael.

The decision maker decides to take into account notional income from the mortgage protection policy from 1 December.

**Example 2**

Alastair is aged 61 and receives income-based Jobseeker’s Allowance. On 1 November the decision maker discovers that Alastair could apply for his occupational pension from a former employer. He has not yet applied because he would get a bigger pension at the age of 65.

Alastair’s former employer tells the decision maker that payment of a pension of £230 a calendar month would have started on 1 December if an application had been made on 1 November.

The decision maker decides to take into account a weekly notional income of £53.07 from 1 December.

Income from an unadministered estate

28600 The decision maker may decide that a person should be treated as receiving notional income from the estate of a dead person.

28601 A person who is entitled to income from an unadministered estate can

**1.** enforce their right to the income through the courts if there is a will **or**

**2.** take out letters of administration if there was no will.

28602 Delays in paying income from an estate are often caused by legal action over debts or problems with the will. The decision maker must consider this when deciding if

**1.** an income will become available **and**

**2.** when it would be paid if an application was made.

28603 If the decision maker knows that the claimant or a member of the family might receive income from a dead person’s estate the case should be referred to Decision Making Services for advice if there is a long delay.

28604 Usually the decision maker should wait for a year after the

**1.** granting of probate or letters of administration **or**

**2.** the deceased person’s death if a grant of probate or administration has not been made

 before referring the case to Decision Making Services.

28605 If the only reason for the delay in receiving income is a failure of the person to apply for it promptly the decision maker should calculate notional income.

 28606 - 28607

Notional income - Carer's Allowance

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

**1.** where

**1.1** severe disability premium has been withdrawn or reduced because Carer’s Allowance is in payment to the carer **and**

**1.2** the carer then chooses to give up Carer’s Allowance **and**

**2.** where it appears that a carer may be entitled to Carer’s Allowance but Carer’s Allowance is not in payment.

Deprivation of income

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

**1.** telling the Department they no longer wish Carer’s Allowance to be paid to them **or**

**2.** changing their circumstances so they no longer qualify for Carer’s Allowance.

 Where there has been a deprivation of Carer’s Allowance, the **purpose** of the deprivation should then be considered2.

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

28610 A carer should be treated as possessing income where Carer’s Allowance has been given up for the purpose of

**1.** in Jobseeker’s Allowance cases, gaining entitlement to, or increasing the amount of income-based Jobseeker’s Allowance1 **or**

**2.** in Income Support cases, gaining entitlement to, or increasing the amount of Income Support2

 for the carer, the carer's partner or any other member of the carer's income-based Jobseeker’s Allowance or Income Support family (see DMG Chapter 22).

 **Note :** The carer does **not** have to be the Jobseeker’s Allowance or Income Support claimant.

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

28611 Carers should **not** be treated as possessing Carer’s Allowance which they have given up solely to secure or increase income-based Jobseeker’s Allowance or Income Support for someone who is **not** a member of the income-based Jobseeker’s Allowance or Income Support family. In these circumstances decision makers should consider whether DMG 28613 applies.

28612 Guidance on establishing the purpose of a deprivation is at DMG 28586 et seq. Decision makers should note that it is not enough that securing or increasing income-based Jobseeker’s Allowance or Income Support is a natural consequence of giving up Carer’s Allowance. A positive intention to secure or increase income-based Jobseeker’s Allowance or Income Support has to be shown1.

1 R(SB) 9/91 para 8

Income available on application

28613 If Carer’s Allowance is not to be taken into account under the deprivation rule, the decision maker should also consider the available on application rule (see DMG 28593 et seq)1.

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

28614 Carer’s Allowance may be taken into account using this rule where there is **no doubt** that

**1.** a fresh claim **or**

**2.** an application to the Department for payments to resume

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

Income due but not paid

28615 Carer’s Allowance should not be assumed under this rule1. Carer’s Allowance is an exception (see DMG 28641 **4.1**)2.

1 JSA Regs (NI), reg 105(6); IS (Gen) Regs (NI), reg 42(3)
2 JSA Regs (NI), reg 105(7)(b); IS (Gen) Regs (NI), reg 42(3)(b)

Notional income and changes in circumstances

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

**1.** would have caused Carer’s Allowance to stop, had it really been in payment **and**

**2.** has not been contrived by the carer to secure or increase benefit as in DMG 28610.

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

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

Personal and occupational pensions

General

28617 There are special rules for calculating income that is

**1.** available on application from a personal or occupational pension **or**

**2.** is treated as being available from a personal or occupational pension.

28618 These rules apply to people who have reached the qualifying age for State Pension Credit. The decision maker should ignore potential income from

**1.** personal pension schemes **or**

**2.** occupational pension schemes **or**

**3.** the Board of the Pension Protection Fund

 for people under the qualifying age for State Pension Credit1. The weekly amount of any notional income to be taken into account should be calculated as if it is actual income2.

1 JSA Regs (NI), reg 105(2)(g); IS (Gen) Regs (NI), reg 42(2)(g);
2 JSA Regs (NI), reg 105(14); IS (Gen) Regs (NI), reg 42(7)

What is a personal pension?

28619 Personal pension scheme means1

 **1.** a personal pension scheme as stated in pensioners law2

 **2.** an annuity contract or trust scheme approved under tax law3 **and**

 **3.** a personal pension scheme approved under tax law4.

1 JS (NI) Order 95, art 2; IS (Gen) Regs (NI), reg 2(1);
2 Pensions Schemes (NI) Act 93, sec 1;
3 Income and Corporation Taxes Act 1988, sec 620, sec 621 & sec 622(3); Finance Act 2004, Sch 36
4 Income and Corporation Taxes Act 1988, Part XIV, Chapter IV; Finance Act 2004, Sch 36

What is an occupational pension

28620 An occupational pension1 is any pension or other periodical payment under an occupational pension scheme, but does not include any discretionary payment out of a fund established for relieving hardship in particular cases.

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

Pension Protection Fund

28621 The Pension Protection Fund Board was set up to compensate members of defined benefit (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). Payments from the Pension Protection Fund are treated in the same way as payments from occupational pensions schemes.

What is a pension fund holder

28622 Where reference is made to a pension fund holder, this means the

**1.** trustee **or**

**2.** manager **or**

**3.** administrator

 of a personal or occupational pension scheme1.

1 JSA Regs (NI), reg 105(17); IS (Gen) Regs (NI), reg 2(1)

Who is a person who derives entitlement?

28623 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.

 People such as widows, widowers or surviving civil partners of the person who bought the pension, will only have entitlement to payments at the discretion of the pension fund holder.

Lump sums on retirement

28624 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. Do not take it into account as notional capital available on application1.

1 JSA Regs (NI), reg 113(2)(d); IS (Gen) Regs (NI), reg 51(2)(d)

Pension Flexibilities

28625 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 28101)

 **3.** opt for a drawdown arrangement (where lump sums or regular amounts can be draw 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

28626 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.

28627 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 29).

28628 For the purposes of notional income for claimants, or their partners as appropriate, who have reached the qualifying age for State Pension Credit (see DMG 28631), 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 28632) **or**

 **3.** upon the claimant’s request.

 **Example**

 John is in receipt of State Pension Credit. 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 decision maker 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 28631). The figure £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 decision maker reassesses the notional income figure based on 100% of the rate of annuity that the remaining amount in the fund would generate.

Information and evidence

28629 Pension fund holders must provide the Department 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.

 This information is based on tables prepared by the Government1. Decision makers must consider evidence from pension fund holders when deciding the amount of notional income2. Do not make a decision until the pension fund holder has been given sufficient time to provide evidence.

1 SS (C&P) Regs (NI), reg 7(6); 2 JSA Regs (NI), reg 105(4) & 105(5);
IS (Gen) Regs (NI), regs 42(2B) & 42(2C)

28630 Decision makers must 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.

Notional income - schemes where income withdrawal is allowed

When should a person be treated as having notional income

28631 Treat a claimant who has reached the qualifying age for State Pension Credit as having1

 **1.** any income from an occupational pension scheme, a personal pension scheme or the Board of the Pension Protection Fund which

 **1.1** has not been claimed **and**

 **1.2** he might expect to be entitled to if a claim for it was made

 **2.** income from an occupational pension scheme which the claimant has elected to defer.

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

Amount of notional income

28632 The amount of the notional income is

**1.** where no income is drawn, 100% of the rate of annuity that may be withdrawn from the fund **or**

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

**Example**

Jason and Sarah are a couple in receipt of State Pension Credit. Jason has a pension pot of £50,000 which he doesn’t want to access at the moment but might do at a later stage. The decision maker 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 State Pension Credit. 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 decision maker 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 decision maker take notional income into account

28633 Take notional income into account from the date that the person could expect to get the income if an application was made1. 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 the maximum amount of income.

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

**Example**

Bernard receives income-based Jobseeker’s Allowance. He is 61.

On 1 November the decision maker 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 Government tables, is £23 a week.

Once an application is made it would take the pension fund holder 6 weeks to arrange for the maximum income to be paid.

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

Notional income - schemes where income withdrawal is not allowed

When should a person be treated as having notional income

28634 Treat a claimant who has reached the qualifying age for State Pension Credit as having income when1 entitled to money purchase benefits under an occupational or personal pension scheme and he fails to purchase an annuity with the funds available in that scheme where

 **1.** he defers, in whole or part, the payment of any income which would have been payable to him by his pension fund holder **or**

 **2.** he fails to take any necessary action to secure the whole of the income which would be payable to him by his pension fund holder, if he applied for it **or**

 **3.** income withdrawal is not available to him under that scheme.

 **Note :** Money purchase benefits has the same meaning as in specific pensions law2. This type of scheme does not pay benefits related to a person’s final salary. Contributions paid in are invested and the benefits paid depend on how well the investments perform.

1 JSA Regs (NI), reg 105(3); IS (Gen) Regs (NI), reg 42(2A); 2 Pension Schemes (NI) Act 1993

Amount of notional income

28635 The amount of notional income is the amount that a person could have received, without buying an annuity, if the pension funds were held in a scheme that did allow income withdrawal1.

1 JSA Regs (NI), reg 105(5); IS (Gen) Regs (NI), reg 42(2C)

From what date should the decision maker take notional income into account?

28636 Take notional income into account from the date that the person could expect to get the income if an application was possible1. 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 the maximum amount of income.

1 JSA Regs (NI), reg 105(3); IS (Gen) Regs (NI), reg 42(2A)

**Example**

Mark is an Income Support claimant. His partner Fiona is 61. On 1 November the decision maker receives evidence that Fiona has a personal pension scheme which does not provide an income.

The pension fund holder provides evidence, based on Government tables, that Fiona would receive £30 a week if the fund was invested in a pension fund that paid an income.

The decision maker estimates that it would take 6 weeks for a typical pension fund holder to arrange for the maximum income to be paid from a fund.

The decision maker decides that Fiona should be treated as having a notional income of £30 a week from 13 December.

Actual income

28637 Take into account in full in the normal way any income that is

**1.** paid under an annuity bought with funds from a personal or occupational pension **or**

**2.** withdrawn from a personal or occupational pension scheme.

 28638 - 28639

Income due but not yet paid

28640 Treat income

**1.** that is due to a member of the family **and**

**2.** has not been paid

 as belonging to that person1. This does not apply to the income listed in DMG 28641.

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

Income that should not be taken into account if due but not paid

28641 Do not take

**1.** earnings which are due on termination of employment by reason of redundancy1

**2.** income payable under a discretionary trust fund **or**

**3.** income payable under a trust set up from a payment made because of a personal injury2 **or**

**4.** the payments and benefits listed below including increases for dependants3. These are normally recovered from or reduced by the amount of Income Support or income-based Jobseeker’s Allowance that has been paid because they have not been paid when they were due

**4.1** contribution-based Employment and Support Allowance

**4.2** Incapacity Benefit

**4.3** Maternity Allowance

**4.4** Widow’s/Widower’s Benefit

**4.5** Bereavement Allowance and Widowed Parent’s Allowance

**4.6** Retirement Pension

**4.7** Attendance Allowance

**4.8** Severe Disablement Allowance

**4.9** Carer’s Allowance

**4.10** Disability Living Allowance

**4.11** Industrial Injuries Disablement Benefit

**4.12** Reduced Earnings Allowance

**4.13** War Disablement Pension and War Widow’s/Widower’s Pension that is not paid as a gratuity and any payment that the Department accepts is similar

**4.14** Training allowance

**4.15** European Community benefits **or**

**5.** income from an occupational pension scheme that has not been paid because the trustees or managers of the scheme

**5.1** have suspended or stopped payments because of insufficient resources4 **or**

**5.2** have insufficient resources to meet in full the scheme’s liabilities to its beneficiaries5.

into account as income if these are not paid even if they are due to be paid.

 **Note :** Any benefit in the form of a grant, gratuity or widows payment should not be taken into account if due but not paid6. Thesepayments should normally be treated as capital.

1 JSA Regs (NI), reg 105(7)(d); IS (Gen) Regs (NI), reg42 (3C)
2 JSA Regs (NI), reg 105(7)(c); IS (Gen) Regs (NI), reg 42(3); 3 JSA Regs (NI), reg 105(7)(b);
IS (Gen) Regs (NI), reg 42(3)(b); 4 JSA Regs (NI), reg 105(8); IS (Gen) Regs (NI), reg 42(3A);
5 JSA Regs (NI), reg 105(9); IS (Gen) Regs (NI), reg 42(3B); 6 SS POR Regs (NI), reg 8(1)

 28642 - 28644

28645 "Resources" in DMG 28641 means the funds out of which the benefits of the occupational pension scheme are paid. This includes

**1.** money from an insurance policy **and**

**2.** an annuity contract

 taken out for the purposes of the scheme.

Types of income that may be due but not paid

28646 Examples of income that may be due but not paid include

**1.** pension payments which have stopped because of a strike by a company’s pension section **or**

**2.** payments of income that have been interrupted because of a postal strike.

Evidence required

28647 The decision maker should decide if an income is due but not paid. Ask to see written evidence that income has not been paid even though it may be due. Disallow a new claim if the claimant refuses to

**1.** provide written evidence **or**

**2.** give permission to the Department to obtain written evidence.

 This is because the claimant will have failed to establish entitlement1.

1 R(IS) 4/93

 28648 - 28654

Payments of income to third parties

 **[See DMG Memo Vol 1/104, 4/123, 5/98, 6/85 & 9/27]**

28655 The decision maker should apply special rules to income paid to a third party1. The treatment of third party income2 depends on whether it is

**1.** paid to or paid for a member of the family **and**

**2.** how it is used.

1 JSA Regs (NI), reg 105(10); IS (Gen) Regs (NI), reg 42(4) 2 R(IS) 4/01

28656 The special rules in DMG 28659 - 28682 apply

**1.** when a third party receives a payment for the claimant or a member of the family **or**

**2.** when a claimant receives a payment for a third party.

What is a third party

28657 The term “third party” can include organisations such as Health and Social Services Boards and residential care homes, nursing homes, Abbeyfield Homes and independent hospitals, as well as people. Third parties can be

**1.** people who are not members of the family

**2.** claimants and members of the family.

 28658

Meaning of payment in respect of a person

28659 Payment includes a part of a payment1. A payment can be made “in respect” of a person even if it is not made specifically or solely for that person.

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

**Example**

A company decides to sponsor all the children at a local boarding school by paying £5,000 towards their fees. Half way through the year Simon, whose father receives income-based Jobseeker's Allowance starts attending the school. Even though the payment was not specifically for Simon he is now a member of the group for which it was made. The payment, therefore is made for Simon.

28660 If pension payments are made to a third party such as a trustee in bankruptcy, the payment is made in respect of1 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

**Example**

James is an Income Support claimant. His partner Kathy is 62 and retired. She was previously self-employed but was made bankrupt 3 years ago. Kathy’s pension annuity is being paid to her trustee in bankruptcy under the provisions of the insolvency Act, to reduce her indebtedness. The pension payments are not made in respect of the claimant’s partner because they cannot be used towards her maintenance and do not contribute towards reducing her need for income support.

Income paid to one member for another member of the family

28661 An income paid to one member of the family for another member of the family should be treated as the income of the person it is paid for.

**Example**

Graham receives income-based Jobseeker’s Allowance. His partner Margaret receives a payment from a trust fund for their daughter Abigail.

The decision maker treats the payment as being Abigail’s income. This is because it is paid to Margaret for Abigail.

Income paid to a third party for a member of the family

Benefit paid to a third party

28662 Benefit for a member of the family may be paid to a third party who is not a member of the family. Treat

 **1.** social security benefits

**2.** Statutory Sick Pay

 **3.** Statutory Maternity Pay

 **4.** Child Benefit

 **5.** a benefit under the Workman’s Compensation (Supplementary) Scheme

 **6.** a benefit under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits Scheme

 **7.** War Disablement Pension

 **8.** War Widow/Widower’s Pension or surviving civil partner’s War Pension

 **9.** a pension paid to a forces widow or surviving civil partner under specific provisions1 **or**

 **10.** another pension for persons who have been disabled or died as members of the armed forces made under a prerogative of the Queen

 as income of the member of the family if the third party pays it to or uses it on behalf of any member of the claimant’s family2.

1 Armed Forces (Pensions and Compensation) Act 2004
2 JSA Regs (NI), reg 105(10)(a)(i); IS (Gen) Regs (NI), reg 42(4)(a)(i)

**Example**

Anna claims Income Support for herself and her daughter Janet.

Anna is separated from her husband, David. David claims Retirement Pension, including an increase for Janet.

David pays the Retirement Pension increase for Janet to Anna.

The decision maker treats the Retirement Pension addition as Janet’s income.

Department for Employment and Learning payments to third parties

28663 A payment should not be treated as notional income under the third party payment rule where it is made

1. under certain legislation1 **and**
2. for a person’s participation in

**2.1** an employment programme2 **or**

**2.2** a training scheme3 **or**

**2.3** a qualifying course4 (see DMG 21152).

DMG Chapter 34 provides guidance on training schemes and Employment Programmes.

1 E & T Act (NI) 50, sec 1; 2 IS (Gen) Regs (NI), reg 42 (4ZA)(c)(i); JSA Regs (NI), reg 105(10A)(c)(i);
3 IS (Gen) Regs (NI), reg 42 (4ZA)(c)(ii); JSA Regs (NI), reg 105(10A)(c)(ii)
4 IS (Gen) Regs (NI), reg 42 (4ZA)(c)(iii); JSA Regs (NI), reg 105(10A)(c)(iii)

Income payments to a third party

28664 A claimant should not be treated as possessing notional income where a payment is

1. paid

**1.1** to a third party **and**

**1.2** in respect of the claimant or a member of the claimant’s family **and**

**1.3** under relevant legislation1 **and**

**1.4** in respect of the claimant’s participation in the preparation for employment programme **or**

**2.** Not used for

**2.1** food **or**

**2.2** ordinary clothing and footwear **or**

**2.3** fuel for the household that the claimant normally occupies **or**

**2.4** accommodation costs covered by Income Support or income-based Jobseeker’s Allowance **or**

**2.5** rent or rates for Housing Benefit is payable2

**2.6** water charges for which the claimant or family member is liable.

1 E & T Act (NI) 50 sec 1; 2 IS (Gen) Regs (NI), reg 42 (4ZA); JSA Regs (NI), reg 105(10A)

Other payments to a third party

28665 Except where DMG 28666 to 28668 apply a claimant is treated as possessing certain payments paid to a third party in respect of1 (see DMG 28660) a claimant or a member of the claimant’s family. These payments are

**1.** occupational pensions and payments from the Pension Protection Fund

**2.** pensions of any other periodical payments under a personal pension scheme2.

*1 R(IS) 2/03 2 IS (Gen) Regs (NI), reg 42(4)(a)(ia); JSA Regs (NI), reg 105(10)(a)(ia)*

28666 A claimant is not treated as possessing a payment under DMG 28665 where1

 **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 such pension payments can be treated as income of a person made bankrupt on or after 29.5.00.

1 R(IS) 4/02

28667 A claimant is not treated as possessing a payment under DMG 28665 where

 **1.** the payment is made

 **1.1** for a person in respect of whom a bankruptcy order has been made **and**

 **1.2** to the trustee in bankruptcy or any other person acting on behalf of the creditors **and**

 **2.** neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment1.

1 IS (Gen) Regs (NI), reg 42(4ZA)(d); JSA Regs (NI), reg 105(10A)(d)(i) & (ii)

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28668 A claimant is also not treated as possessing a payment under DMG 28665 where

1. the estate of the person for whom the payment is made
	1. **1.1** is subject to a sequestration **or**
	2. **1.2**  has a judicial factor on it **and**
2. the payment is made to a person acting on behalf of the creditors **and**
3. neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment1.

1 IS (Gen) Regs (NI), reg 42(4ZA)(d); JSA Regs (NI), reg 105(10A)(d)

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28669 Income other than a benefit may be paid to a third party. The decision maker should treat this type of income as the notional income of the person for whom it is payable, to the extent it is used for that person’s1

**1.** food

**2.** ordinary clothing or footwear

**3.** fuel, for the household that the claimant normally occupies

**4.** housing costs covered by Income Support or income-based Jobseeker’s Allowance

**5.** rent or rates for which Housing Benefit is payable

**6.** water charges.

 Ignore any part of the income not used on these items.

 **Note :** If the income paid to the third party in the first instance is a payment in kind it should be excluded from this notional income rule.

1 JSA Regs (NI), reg 105(10)(a)(ii); IS (Gen) Regs (NI), reg 42(4)(a)(ii)

28670 Disregard the payment to the third party1

**1.** whatever it is used for, if it is made from

**1.1** the Macfarlane Trusts **or**

**1.2** the Eileen Trust **or**

**1.3** MFET Limited **or**

**1.4** the Fund **or**

**1.5** the Independent Living Fund (2006) **or**

**1.6** the Skipton Fund **or**

**1.7** the Caxton Foundation **or**

**1.8** the Scottish Infected Blood Support Scheme **or**

**1.9** the London Emergencies Trust **or**

**1.10** the We Love Manchester Emergency Fund

**1.11** Infected Blood Schemes

**2.** if it is for the purchase and supply of concessionary coal under specified legislation2. The Department for the Economy is now responsible for the purchase and supply of concessionary coal. Coal is purchased through contracts and supplied to ex-coal workers and their families. The payment from the Department for the Economy to the contractor is a payment to a third party and is disregarded

**3.** if it is made under section 1 of the Employment and Training Act (NI) 1950 for a person's participation in a qualifying course3.

1 JSA Regs (NI), reg 105(10); IS (Gen) Regs (NI), reg 42(4); 2 The Coal Industry Act 94, sec 19(1)(a);
3 IS (Gen) regs (NI), reg 42(4ZA)(c)(iii); JSA Regs (NI), reg 105(10A)(c)(iii)

Meaning of ordinary clothing or footwear

28671 The expression “ordinary clothing or footwear” means1 clothing or footwear for normal daily use. It does not include

 **1.** school uniforms **or**

 **2.** clothing or footwear used solely for sport, for example football boots.

1 JSA Regs (NI), reg 105(17); IS (Gen) Regs (NI), reg 42(10)

28672 The decision maker should consider the wide needs of all claimants when applying the test of “for normal daily use”.

**Example**

Emma receives Income Support. She has a disabled son, Ben, who needs to wear orthopaedic shoes.

The decision maker decides that orthopaedic shoes may be normal for Ben but are not normal for children in general. The decision maker decides that the orthopaedic shoes are not for normal daily use.

28673 - 28675

Payments by a third party for residential care home, nursing home, Abbeyfield home or independent hospital charges

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28676 Treat payments made by a third party, who is not a member of the family, towards the cost of charges for a

**1.** residential care home **or**

**2.** nursing home **or**

**3.** Abbeyfield home **or**

**4.** independent hospital

 as the income of the claimant1 .

1 JSA Regs (NI), reg 105(11); IS (Gen) Regs (NI), reg 42(4A);

28677 This rule applies when the

**1.** claimant lives in or is temporarily absent from a residential care home, nursing home, Abbeyfield home or independent hospital **and**

**2.** payment is made to the residential care home nursing home, Abbeyfield home or independent hospital.

 The decision maker should calculate the amount of income and treat it as if it was actual income1.

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

Third party payments for residential care home, nursing home, Abbeyfield Home or independent hospital maintenance - Income Support

28678 A payment is disregarded1 if it is

 **1.** made for

 **1.1** after care under specified legislation2 **or**

 **1.2** accommodation or welfare services referred to in specified legislation3 **and**

 **2.** treated as possessed under the notional income rule at DMG 286764.

1 IS (Gen) Regs (NI), Sch 9, para 62; 2 HPSS (NI) Order 72, arts 15 & 36
3 IS (Gen) Regs (NI), reg 42(4A); 4 IS (Gen) Regs (NI), reg 42(4A)

28679 Payments that satisfy DMG 28678 include payments or reimbursements by a Health and Social Services Board for

 **1.** persons who because of age, illness, disability or other circumstances are in need of care and attention which is not otherwise available to them **or**

 **2.** expectant and nursing mothers.

Income paid to a member of the family for a third party

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28680 Take into account in full any income paid to a member of the family for a third party who is not a member of the family if

**1.** the income is kept by **or**

**2.** is not paid over to the third party by

 the person who received it. Ignore any income that is paid over to the third party1.

 **Note :** Child Benefit is the personal income of the Child Benefit claimant. Even if the child for whom the Child Benefit is paid is not part of the claimant’s family for Income Support or Jobseeker’s Allowance it should be taken into account as the claimant’s actual income.

1 JSA Regs (NI), reg 105(10)(b); IS (Gen) Regs (NI), reg 42(4)(b)

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28681 Fully disregard any payment from

**1.** the Macfarlane Trusts

**2.** the Eileen Trust

**3.** MFET Limited

**4.** the Fund

**5.** the Independent Living Fund (2006)

**6.** the Skipton Fund

**7.** the Caxton Foundation

 **8.** the Scottish Infected Blood Support Scheme

 **9.** the London Emergencies Trust

 **10.** the We Love Manchester Emergency Fund

 **11.** Infected Blood Schemes

 regardless of who keeps it or how it is used.

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28682 The decision maker should decide using, available evidence

**1.** whether **and**

**2.** how much

 income has been kept by a member of the family.

 **[See DMG Memo Vol 4/37, 5/30 & 6/23]**

28683 Treat income as having been kept when

**1.** there is no intention of

**1.1** paying it over to **or**

**1.2** using it for

 the third party **or**

**2.** if after having the income for a reasonable period of time the family member has

**2.1** not started paying it over **or**

**2.2** not started using it for the third party **or**

**2.3** hasno plans for paying it over or using it for the third party.

28684 The decision maker should consider

**1.** the type of income **and**

**2.** how often the income is paid **and**

**3.** why the income is paid

 when deciding if a reasonable period of time has passed.

**Example 1**

Rodney is an income-based Jobseeker’s Allowance claimant.

Rodney receives income for his cousin Roland who is a long-term patient in a local hospital.

The income is paid weekly and Rodney has been receiving it for 4 weeks.

Rodney has no good reason for not having passed the money to Roland.

The decision maker decides that in the circumstances 4 weeks was a reasonable period in which to expect that the money would have been handed over to Roland.

Rodney is treated as having the full amount of income.

**Example 2**

Peter receives Income Support. His partner, Rowena receives an income for her aunt.

She has received 3 monthly payments but has not passed any money to her aunt because she has been busy looking after an elderly person.

The decision maker decides that in the circumstances of the case that a reasonable time had passed for Rowena to have handed over the payments.

Rowena is treated as having the full amount of the income.

**Example 3**

Denis claims Income Support. He receives a weekly income on behalf of his sister Daphne.

Denis and Daphne live 20 miles apart. Denis has not paid any money over to Daphne for 10 weeks.

Denis has no private transport. He says he has not been well enough to travel by bus or post the money.

The decision maker decides in the circumstances of the case a reasonable period of time had not passed for Denis to have handed over the money.

He is treated as not having any of the income.

Child or young person attending boarding school

When should notional income be considered?

28685**[See DMG Memo Vol 4/37, 5/30 & 6/23]** A child or young person who

**1.** is a member of the claimant’s family **and**

**2.** is attending boarding school

 must, in certain circumstances, be treated as having a notional income1. Add any notional income to any actual income of the child or young person2.

 **Note :** A person under the age of 18 who is entitled to Income Support or income-based Jobseeker’s Allowance in their own right is not a young person.

1 JSA Regs (NI), reg 106(2) & (3); IS (Gen) Regs (NI), reg 44(2) & (3);
2 JSA Regs (NI), reg 106(8); IS (Gen) Regs (NI), reg 44(8)

28686 If a person who attends a boarding school claims Income Support or Jobseeker’s Allowance any payments made to the school should be considered under normal rules for income paid to a third party.

28687 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** The decision maker needs to know the arrangements for maintaining the child or young person in the boarding school to decide if a notional income should be calculated.

What if the child or young person is maintained in a boarding school by more than one method

28688 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** Guidance on the most common types of arrangements is in DMG 28689 - 28700. If a child or young person is maintained in a boarding school by more than one of the methods described, follow the appropriate guidance for each element.

Fees paid by members of the family from their own money

28689 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** Do not calculate a notional income if school fees are paid entirely from the money of a member of the family (for example, from capital).

28690 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** The decision maker should consider if deprivation of capital has occurred in cases where tariff income is taken into account.

Fees paid by a member of the family with money from a third party who is not an Education and Library Board

Payments made to the claimant to be used for school fees

28691 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** The decision maker must decide if a payment made to

**1.** the claimant **or**

**2.** a member of the family

 by a third party, who is not a member of the family, is intended for school fees1.

1 JSA Regs (NI), reg 106(2)(a); IS (Gen) Regs (NI), reg 44(2)(a)

28692 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** If a payment from a third party is

**1.** not intended to be used on school fees but the claimant chooses to use it on fees, it should be treated in the normal way **or**

**2.** intended to be used and is used on school fees, a notional income should be calculated.

28693 **[See DMG Memo Vol 4/37, 5/30 & 6/23]** Payments may be made by liable relatives. The decision maker should decide if the payment is an liable relative payment. If the payment

**1.** is not an liable relative payment **and**

**2.** is intended and used for school fees a notional income should be calculated.

Calculation of notional income when the person meeting school fees is not the Education and Library Board

Payments made direct to the school other than by an Education and Library Board

28694 If a third party makes payments of fees direct to the school a notional income should be calculated. The amount of weekly notional income is

**1.** the cost of maintenance charged by the school **or**

**2.** the amount of the payment, if the payment is less than the cost of maintenance.

 **Note :** This guidance applies to full time boarders when they are present at the school. It does **not** apply to liable relative payments.

Full time boarders

28695 If the third party is not an Education and Library Board the decision maker should decide the

**1.** amount included in the fees for the pupil’s maintenance **and**

**2.** periods during which the pupil is present at the school.

What is maintenance?

28696 Maintenance is the cost of accommodation and food. It does not include

**1.** tuition fees **or**

**2.** extras, such as fees for riding lessons.

Calculating the maintenance element of fees

28697 Some independent schools produce itemised bills that show tuition fees, boarding fees and extras separately.

28698 If a detailed breakdown of fees is not available the decision maker should estimate the maintenance element of the fees by subtracting from the total fees

**1.** the amount of any extras **and**

**2.** the amount the school would charge a day pupil of the same age.

Scholarship awarded by the school

28699 Some boarding schools award scholarships towards the cost of fees. The decision maker should not calculate a notional income if the child or young person’s school fees are met in full by a scholarship.

28700 If a scholarship only covers part of the fees the decision maker must identify what elements it covers. In particular the decision maker must decide if the balance to be paid includes tuition fees. If a third party is meeting the balance the decision maker needs to know if any maintenance is included. If maintenance is included in the element met by the third party a notional income should be calculated.

**Example 1**

Colin attends a boarding school. His mother receives Income Support.

Colin’s grandmother is paying school fees of £1,350 a term.

A bill from the school shows that the fees include extras of £150. No further breakdown was given on the bill.

The school have stated that a day pupil of the same age would be charged £900 a term for tuition only. The term is 12 weeks long.

The decision maker decides that the fees, not including extras, are £1,200.

£300 is for Colin’s maintenance (£1,200 - £900).

£300 is divided by 12 to give a notional income of £25 a week during term time.

**Example 2**

Angela goes to the same school as Colin. Her mother receives income-based Jobseeker’s Allowance. Angela’s fees are also £1,350 a term.

Angela has been awarded a scholarship of £500 a term. The balance of £850 is paid from a local educational charity.

The school has stated that the scholarship covers some of the cost of tuition fees.

The payment from the charity covers the balance of the tuition fees and extras of £150.

The decision maker decides that the scholarship does not contribute to Angela’s maintenance. £300 of the payment from the charity is for her maintenance.

She is also treated as having a notional income of £25 a week.

**Example 3**

Neal goes to the same school as Colin and Angela. His father receives Income Support. His fees are also £1,350 a term.

Neal has been awarded a scholarship of £720 a term. This is for 60% of the cost of tuition and maintenance.

The balance of £630 a term, including extras, is paid by a liable relative.

The decision maker decides that the payment by the liable relative is not an liable relative payment.

The decision maker decides the payment includes £360 for tuition fees (that is 40% of the fees for a day pupil) and £150 for extras. The remainder of £120 is for Neal’s maintenance.

The decision maker decides that Neal has a notional income of £10 a week during term time.

Weekly boarders and children returning home during term-time

28701 Special rules apply when a boarder returns home for any part of a benefit week during term-time. This could happen at half term. These special rules also apply to weekly boarders, for example, boarders who return home every weekend1.

1 JSA Regs (NI), reg 106(2)(b); IS (Gen) Regs (NI), reg 44(2)(b)

28702 In these circumstances calculate the child or young person’s notional income by

**1.** multiplying the child’s personal allowance, any disabled child premium and any enhanced disability premium by the number of days that the child is present at the school (excluding any nights the child spends with the claimant) **and**

**2.** dividing the result by 71.

1 JSA Regs (NI), reg 106(2)(b); IS (Gen) Regs (NI), reg 44(2)(b)

Calculation of notional income when the Education and Library Board is meeting school fees or provides a school

28703 The decision maker should disregard any sums payable by the Education and Library Board under certain legislation1 for a child or young person attending a course of study2.

1 Education & Libraries (NI) Order 86, art 6;
2 JSA Regs (NI), Sch 7, para 12; IS (Gen) Regs (NI), Sch 9, para 11

28704 The decision maker should treat a child or young person1 as possessing a notional income where2 the child or young person is

**1.** resident (see DMG 28705) at a boarding school **and**

**2.** wholly or partly maintained at the boarding school by the Education and Library Board under certain legislation (see DMG 28706)3.

1 CA Barton v CAO 96, R(IS)11/96, SSRTF 95/1658/B; 2 JSA Regs (NI), reg 106(3)(b);
IS (Gen) Regs (NI), reg 44(3)(b); 3 Education & Libraries (NI) Order 86, art 6

28705 A child or young person need not be resident at a boarding school for 52 weeks a year for this rule to apply. A child or young person may be both resident at home and at a boarding school1.

1 CA Barton v CAO 96, SSRTF 95/1658/B

28706 Education and Library Boards have a duty1 to provide primary and secondary education for children in their area. The Education and Library Board may arrange for a child or young person to attend a boarding school in another county. In these cases the child or young person is still maintained under Article 6. It does not matter that the Education and Library Board uses a power other than Article 6 to finance its decision2.

1 Education & Libraries (NI) Order 86, art 6; 2 CA Barton v CAO 96, SSRTF 95/1658/B

28707 For each day that the child or young person is resident at a school provided or paid for by an Education and Library Board, take into account a notional income equivalent to one seventh of

**1.** the personal allowance **and**

**2.** any disabled child premium1 **and**

**3.** any enhanced disability premium.

1 JSA Regs (NI), reg 106(3); IS (Gen) Regs (NI), reg 44(3)

28708 The guidance in the paragraph above also applies to cases where the Education and Library Board makes a payment to the claimant that is intended for school fees.

When is a child or young person not present at a boarding school?

28709 Do not treat a child or young person as present at a boarding school on any day when the night is spent with the

**1.** claimant **or**

**2.** a member of the claimant’s household1.

1 JSA Regs (NI), reg 106(9); IS (Gen) Regs (NI), reg 44(9)

**Example**

Alan is a boarder. His mother, Betty, claims Income Support.

Alan stays at Betty's home on a Tuesday and Wednesday night. He goes to Betty's home on Tuesday afternoon. He returns to school on Thursday morning.

The decision maker decides that Alan should not be treated as present at school on Tuesday and Wednesday.

Liable relative payments

Liability to maintain

28710 Certain people are liable to maintain claimants or members of the family under

**1.** Income Support1 **and**

**2.** Jobseeker’s Allowance2

 legislation.

1 SS A (NI) Act 92, sec 74(6) & 100(3); 2 JS (NI) Order 95, art 25

Husbands, wives and civil partners

28711 Under Income Support and Jobseeker’s Allowance legislation

**1.** a man is liable to maintain his wife or civil partner **and**

**2.** a woman is liable to maintain her husband or civil partner.

 These liabilities end on divorce or dissolution of a civil partnership.

Children

28712 Under Income Support legislation parents are liable to maintain their children. It does not matter if the parents have never been married. This liability lasts until the child is

**1.** 16 **or**

**2.** 20 if the child is in education.

**Note :** Under child support legislation the upper child age limit for child support maintenance liability purposes is until the child is 19 if they are in education.

Sponsored immigrants

28713 Under Income Support legislation, a person who on or after 23.05.80, either

**1.** alone **or**

**2.** with some other person

 has undertaken to be responsible for the maintenance and accommodation of another person under immigration law1 is liable to maintain that person.

 **Note :** There is no provision in Jobseeker’s Allowance legislation for the maintenance of sponsored immigrants.

1 Immigration Act 71

 28714 - 28719

Action by the Department in the courts

28720 If people who are liable to maintain are not maintaining

**1.** Income Support claimants and members of the family **or**

**2.** income-based Jobseeker’s Allowance claimants

 the Department may apply to a court for a maintenance order1. If liabilities are not met the Department has the power to start criminal proceedings against the person who is not paying2.

1 JS (NI) Order 95, art 25(1); JSA Regs (NI), reg 167(1); SS A (NI) Act 92, sec 101(1);
2 JSA Regs (NI), reg 167(3); SS A (NI) Act 92, sec 100(1)

 28721 - 28723

Liable relative payments - general

Treatment as income

28724 Liable relative payments are payments of income1 which are to be taken into account (but see DMG 28740).

1 JSA Regs (NI), reg 118; IS (Gen) Regs (NI), reg 55

28725 There are special rules for the treatment of liable relative payments1. The normal rules for the treatment of

**1.** income **and**

**2.** notional income (including deprivation of income) **and**

**3.** capital (except for the calculation of the capital limit) **and**

**4.** student’s income

 do not apply to liable relative payments. Follow the guidance in this part when dealing with liable relative payments.

 **Note :** If a payment is not a liable relative payment it should still be considered under the normal income/capital rules.

1 JSA Regs (NI), reg 89; IS (Gen) Regs (NI), reg 25

Meaning of liable relative payment

28726 A liable relative payment1 is a payment that is

**1.** a periodical payment made by a liable relative

**2.** any other payment made by or derived from a liable relative.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

Identification of liable relative payments

28727 A liable relative payment is not restricted to a payment from a person who is liable to maintain under the Acts. In particular a payment to a divorced husband, wife or to a person who has had a civil partnership dissolved is a liable relative payment even though there is no liability to maintain under the Acts. If the decision maker has doubts whether a payment is a liable relative payment details should be requested from

 **1.** the claimant's solicitor **or**

 **2.** the claimant.

28728 Both income and capital payments can be taken into account as liable relative payments. If it is decided that a capital payment is a liable relative payment it is treated as income1. Liable relative payments may be

 **1.** periodical payments **or**

 **2.** non-periodical payments.

1 JSA Regs (NI), reg 118(a); IS (Gen) Regs (NI), reg 55(a)

 28729 - 28730

Liable relative payments from discretionary trusts

28731 Payments from discretionary trusts should be taken into account only if they are actually paid.

Payments made before the date of claim

28732 Decision makers should consider if payments received before the date that Income Support or income-based Jobseeker’s Allowance is payable are liable relative payments. For example, liable relative payments may have been made to

**1.** young claimants before they left the parental home **or**

**2.** people who have separated from their partners.

28733 If a person has recently left their partner or a young claimant has recently left the parental home, decide

**1.** if any payments have been made **and**

**2.** if they are liable relative payments.

28734 If liable relative payments have been made, decide

**1.** the period over which they should be taken into account **and**

**2.** the effect on income-based Jobseeker’s Allowance or Income Support.

 28735 - 28739

When the decision maker should not take payments into account as income

28740 The Department may

**1.** arrange to collect payments if

**1.1** Income Support **or**

**1.2** income-based Jobseeker’s Allowance

 is in payment **and**

**2.** decide not to treat the liable relative payments as the claimant’s income.

 Decision makers should disregard these payments when calculating the claimant's income1.

1 JSA Regs (NI), reg 119; IS (Gen) Regs (NI), reg 55A

Meaning of liable relative

28741 Liable relative is defined as1

**1.** a husband, wife or civil partner of the

**1.1** claimant **or**

**1.2** member of the family

**2.** a former husband, wife or civil partner of the

**2.1** claimant **or**

**2.2** member of the family

**3.** a parent of

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

**3.2** a young claimant

**4.** a person who it is reasonable to treat as the father of a

**4.1** child who is a member of the claimant’s family **or**

**4.2** young person who is a member of the claimant’s family **or**

**4.3** young claimant

 because of contributions towards their maintenance. This applies even though a court has not found the person to be the father

**5.** in Income Support cases only, a person who has, on or after 23.5.80, agreed to maintain

**5.1** the claimant **or**

**5.2** a member of the claimant’s family

 as a condition of their immigration.

 **Note :** Not all liable relatives are people who are liable to maintain under Income Support or Jobseeker’s Allowance law.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

 28742 - 28744

Meaning of parent

28745 In DMG 28741 references to parents include people who are not the

**1.** natural **or**

**2.** adoptive

 parents of a child, young person or young claimant.

People who can be treated as parents

28746 People who have accepted a

**1.** child **or**

**2.** young person **or**

**3.** young claimant

 as a member of their family can be treated as parents. An example of this would be a stepfather or stepmother.

28747 A person who is treated as a parent is not liable to maintain a

**1.** child **or**

**2.** young person **or**

**3.** young claimant.

 If a person in this position is making payments treat them as a liable relative. Treat any payments made as liable relative payments. If payments cease the Department will not be able to seek their reinstatement.

Meaning of young claimant

28748 A young claimant is a person who is aged 16 - 19 years who is an

**1.** Income Support **or**

**2.** income-based Jobseeker’s Allowance

 claimant1.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

 28749

Liable relative payments and income tax

Liable relative payments subject to income tax

28750 The decision maker should take into account the amount of a liable relative payment after any tax has been deducted by Her Majesty's Revenue and Customs.

What should the decision maker do if the claimant receives a tax refund

28751 If the claimant receives a tax refund for a

**1.** periodical liable relative payment **or**

**2.** non-periodical liable relative payment

 it should be treated as a periodical or non periodical liable relative payment as appropriate.

28752 Use the date that the claimant received the tax refund when deciding the date the liable relative payment was made. The decision maker should

**1.** decide the date the refund was received **and**

**2.** then apply the normal rules for deciding the date on which a

**2.1** non-periodical liable relative payment **or**

**2.2** periodical liable relative payment

 is paid.

 28753 - 28759

Payments not treated as liable relative payments

What payments should not be treated as liable relative payments

28760 When calculating income decision makers should not treat

**1.** certain payments made because of separation, divorce or the dissolution of a civil partnership

**2.** payments made after the death of a liable relative

**3.** certain gifts

**4.** certain payments to or for third parties

**5.** payments in kind

**6.** payments for children and young people who are not members of the family

**7.** certain payments that have already been taken into account

**8.** certain payments that have been recovered under prevention of duplication of payments rules

**9.** certain payments that have already been used

**10.** payments of disregarded child maintenance

 as liable relative payments1. Further guidance is given in DMG 28761 et seq.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

Payments made because of divorce or separation

28761 Do not treat as a liable relative payment any payment made because of the rearrangement of the family’s property to give each partner a share of assets. For this rule to apply the payment must be made because of

**1.** an agreement to separate **or**

**2.** proceedings for judicial separation, divorce, nullity of marriage or dissolution of a civil partnership.

28762 It does not matter if the payment was made before or after the agreement to separate or the court proceedings to end a marriage or civil partnership.

28763 The payment must be part of a chain of events leading from the rearrangement of property1. The payment itself must not be the property rearrangement.

1 R(SB) 1/89

28764 It is not necessary for an asset to have been sold before the payment is made. Examples of this include

**1.** the setting up of a trust **or**

**2.** transfer of property, such as a house1.

1 R(SB) 1/89

28765 If it is decided a payment made because of the rearrangement of property is not a liable relative payment it should be treated as capital or income as appropriate.

 28766 - 28769

Payments made after the death of a liable relative

28770 Do not treat as a liable relative payment any payment made after the death of the liable relative. These payments should be treated as

**1.** other income **or**

**2.** capital

 as appropriate.

Gifts made by liable relatives

28771 Do not treat as a liable relevant payment the first £250 of a payment made as a gift. These payments should be treated as

**1.** other income **or**

**2.** capital

 as appropriate.

 **Example**

 Rachel is separated from her husband and is in receipt of Income Support. Her son David receives a gift of money from his father. The gift is less than £250 and is to celebrate David’s birthday.

 The decision maker decides that the payment is not a liable relative payment and goes on to consider how to treat the payment under the normal income and capital rules.

More than one gift made during a 52 week period

28772 If two or more gifts are received during a 52 week period starting on the date that the first payment was made

**1.** do not treat the first £250 of the total gifts as a liable relevant payment **and**

**2**. treat the excess over £250 as a liable relevant payment.

28773 The start of the 52 week period can be before the start of entitlement to Income Support or income-based Jobseeker’s Allowance. When a 52 week period ends a further 52 week period will begin on the first day of the benefit week in which the next gift payment is made.

 28774 - 28775

Payments made to or for third parties

28776 A payment made

 **1.** to a third party in respect of the claimant or the claimant’s partner or made or derived from a person falling within DMG 28741 **5.** (agreement to maintain as a condition of immigration) **or**

 **2.** to the claimant or claimant’s partner in respect of a third party or made or derived from a person falling within DMG 28741 **5.** (agreement to maintain as a condition of immigration)

 is not to be treated as a liable relative payment unless DMG 28777 applies1.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

 **[See DMG Memo Vol 1/100, 5/93, 6/80, 9/23 & 14/51]**

28777 If the payment is in respect of

 **1.** food

 **2.** ordinary clothing or footwear

 **3.** fuel

 **4.** rent and rates for which Housing Benefit is payable

 **5.** housing costs

 **6.** water charges

 then the payment made to, or in respect of, a third party should be treated as being child maintenance or a liable relative payment.

 **Note :** Ordinary clothing and footwear means that worn for normal daily use but does not include school uniform. Housing costs means those costs which are

 included as part of the claimant’s applicable amount (see DMG Chapter 23)1.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

 **Example 1**

 Anna is in receipt of Income Support. Her ex-partner has agreed to pay £85 a month to the electricity supplier in respect of Anna’s fuel bills. This monthly payment is paid direct to the company. The decision maker decides that the payment is a liable relative payment and takes it into account against Anna’s Income Support entitlement.

 **Example 2**

 Gill is in receipt of income-based Jobseeker’s Allowance. Her young son attends a stage school every Saturday. Gill’s ex-husband pays the stage school fees directly to the stage school. The decision maker decides that the payment is not a liable relative payment.

Types of payments made to third parties

28778 Liable relatives may make payments direct to a third party rather than to the claimant. The most common types of these payments are

**1.** payments made direct to a fuel company for the claimant’s fuel bills **and**

**2.** payments for housing costs made direct to

**2.1** a building society **or**

**2.2** a landlord **and**

**3.** payments of school fees direct to a school that is not a boarding school **and**

**4.** payments towards

**4.1** hire purchase commitments **or**

**4.2** loans.

What is a third party

28779 A third party is

**1.** a person **or**

**2.** a group of people such as a company or some other organisation.

 Any third party payment must be made to a person or organisation.

 **Example**

 Colin is separated from his wife. He receives income-based Jobseeker’s Allowance.

 His wife makes payments to Colin of £5 a week. She states the payment is to buy food for Colin’s dog.

 The decision maker decides that the payment is made to Colin and is not a payment to a third party as the dog is not a person or organisation.

 28780 - 28785

What should the decision maker do if a payment to a third party is treated as a liable relative payment

28786 If the decision maker decides that a third party payment is a liable relative payment it should be taken into account as a

**1.** periodical payment **or**

**2.** non-periodical payment

 as appropriate.

What should the decision maker do if a payment to a third party is not treated as a liable relative payment

28787 If the decision maker decides that a third party payment is not a liable relative payment the normal rules for payments of income and capital to third parties should be considered.

 28788 - 28789

Liable relative payments made for a third party

Types of payments made for third parties

28790 Payments may be made to

**1.** the claimant **or**

**2.** a member of the family

 for a third party. This may happen when a liable relative continues to pay maintenance to a parent for a child or young person who is no longer a member of the family.

Should the decision maker treat a payment for a third party as a liable relative payment

28791 The decision maker must decide if a payment received by the claimant or member of the family for someone else should be treated as

**1.** a payment for the claimant **or**

**2.** a payment for the third party.

 **Note :** Payments for children or young people who are treated as not being members of the claimant’s household should not be treated as liable relative payments1.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

 28792

What should the decision maker do if the payment is not treated as a liable relative payment

28793 If the decision maker decides that the payment should not be treated as a liable relative payment the payment should be considered under normal income and capital rules for payments for third parties.

28794 If the person for whom the claimant receives a payment claims

**1.** Income Support **or**

**2.** income-based Jobseeker’s Allowance

 the decision maker should not take the payment into account in both assessments.

 28795 - 28797

Payments in kind

28798 Do not treat any payment in kind as a liable relative payment. Consider any payment in kind under the normal rules for income and capital.

Payments for people who are not members of the household

28799 Do not treat as a liable relative payment any payment to or for a

**1.** child **or**

**2.** young person

 who is treated as not being a member of the claimant’s household. Consider the guidance for payments of income or capital for third parties (see DMG 28680).

Payments already taken into account

28800 Do not treat as a liable relative payment non-periodical payments that have already been taken into account as income or capital under a previous award or decision for the benefit now being considered.

28801 Non-periodical payments that have been taken into account under a previous

**1.** Income Support decision can be treated as liable relative payments if Jobseeker’s Allowance is being considered **and**

**2.** Jobseeker’s Allowance decision can be treated as liable relative payments if Income Support is being considered.

Payments being recovered

28802 Do not treat as liable relative payments non-periodical payments that

**1.** have been **or**

**2.** are being

 recovered under prevention of duplication of payment rules1.

1 SS A (NI) Act 92, sec 72(1)

Payments that have been used

28803 Do not treat as liable relative payments non-periodical payments that have been used by the claimant at the time that the decision maker’s decision on the payment is made. This rule does not apply to claimants who have deprived themselves of money from payments to get or increase the amount of the benefit now being considered.

28804 Deprivation for the purposes of getting or increasing

**1.** Income Support should not be considered if Jobseeker’s Allowance is the benefit under consideration **or**

**2.** Jobseeker’s Allowance should not be considered if Income Support is the benefit under consideration.

Child maintenance

28805 Do not treat as liable relative payments, payments of child maintenance that have been disregarded1 (see DMG 28443).

1 JSA Regs (NI), reg 117(i); IS (Gen) Regs (NI), reg 54(i)

 28806 - 28809

Liable relative payments - periodical payments

Introduction

28810 The way in which a liable relative payment is taken into account depends upon whether it is a periodical payment or a non-periodical payment.

What is a periodical payment?

28811 A periodical liable relative payment is

**1.** a payment made or due to be made at regular intervals **or**

**2.** a payment that forms part of an established pattern **or**

**3.** a payment that substitutes or replaces a payment in **1.** and **2.** whether or not it is

**3.1** a complete multiple of those payments **or**

**3.2** made in advance or arrears **or**

**4.** any payment that is less than the rate of Income Support or Jobseeker’s Allowance that would have been payable if it had not been made1.

 **Note :** Decision makers must consider entitlement to contribution-based Jobseeker’s Allowance when considering the amount of Jobseeker’s Allowance that would have been payable if the payment had not been made.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

28812 A payment that was due to be paid before the first benefit week of the claim but was paid after that benefit week is not a periodical payment.

28813 Periodical payments are usually made at weekly or monthly intervals under

**1.** a court order **or**

**2.** an agreement between the claimant and the person making the payment.

Calculation of weekly amount

Periodical payment made at weekly intervals

28814 If a periodical payment is

**1.** made **or**

**2.** due to be made

 at weekly intervals the weekly amount to be taken into account is the amount of each of the payments1.

1 JSA Regs (NI), reg 122(1); IS (Gen) Regs (NI), reg 58(1)

Periodical payment made at monthly intervals

28815 If a periodical payment is made or due to be made at monthly intervals the weekly amount is calculated by

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

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

1 JSA Regs (NI), reg 122(2); IS (Gen) Regs (NI), reg 58(2)

**Example**

Donna receives Income Support. She receives liable relative payments of £120 a month.

The decision maker calculates the weekly amount by multiplying £120 by 12 and dividing the result by 52.

Calculation

£120 x 12 = £27.69

 52

 28816 - 28819

Periodical payment made other than weekly or monthly

28820 If a periodical payment is made or is due to be made at intervals other than

**1.** weekly **or**

**2.** monthly

 the weekly amount to be taken into account is calculated by dividing the amount of the payment by the number of weeks (including part weeks) in the interval between the payments1.

1 JSA Regs (NI), reg 122(3); IS (Gen) Regs (NI), reg 58(3)

**Example**

Nigel claims income-based Jobseeker’s Allowance. He receives liable relative payments of £500 on the first day of every third month.

He receives £500 on 01.09.96 and a further £500 on 01.12.96.

The decision maker decides that the payment for 01.09.96 - 30.11.96 is for 13 weeks.

The weekly amount is calculated as follows

£500 = £38.46

 13

The decision maker decides that the payment for 01.12.96 - 28.02.97 is for 12 weeks and 6 days.

The weekly amount is calculated as follows

£500 = £38.88

12 6/7 (twelve weeks and six days)

Payment made up of more than one periodical payment

28821 If a lump sum is received instead of all or part of a series of periodical payments calculate the weekly amount in the same way as the weekly amount of the payments it represents would be calculated1. This applies whether or not

**1.** the payment is a complete multiple of the payments it represents **or**

**2.** the payments are made in advance or arrears.

1 JSA Regs (NI), reg 122(4); IS (Gen) Regs (NI), reg 58(4)

**Example**

Marie is an Income Support claimant. She is due to receive liable relative payments of £10 a week.

Over a 13 week period she receives 2 payments of £40 and 1 payment of £50.

The decision maker decides that the payments made represent a series of liable relative payments.

The weekly amount taken into account is £10.

Period over which a periodical payment should be taken into account

Periodical payments made at regular intervals

28822 If periodical payments are made at regular intervals take each payment into account for a period equal to the length of time between payments1.

1 JSA Regs (NI), reg 120(1)(a); IS (Gen) Regs (NI), reg 56(1)(a)

Periodical payments due to be made regularly but made irregularly

28823 If periodical payments are due to be made at regular intervals but are not being made regularly calculate the number of weeks (including part weeks) by dividing the amount of the payment by the weekly amount of the payment1.

1 JSA Regs (NI), reg 120(1)(b); IS (Gen) Regs (NI), reg 56(1)(b)

**Example**

Martin receives income-based Jobseeker’s Allowance.

He is due to receive payments of £15 a week under a court order.

The payments are not made regularly.

He receives a payment for £100.

£100 = 6 2/3

 £15

It is taken into account over 6 weeks.

 28824 - 28829

Periodical payment not due to be made regularly

28830 If a periodical payment is not

**1.** made **or**

**2.** due to be made

 at regular intervals take it into account for one week1. This applies to cases where a liable relative who is not usually making payments makes an occasional payment.

1 JSA Regs (NI), reg 120(1)(c); IS (Gen) Regs (NI), reg 56(1)(c)

28831 If an occasional payment is more than the amount of Income Support or Jobseeker’s Allowance in payment plus the appropriate child maintenance disregard, treat it as a non-periodical payment1.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

When should the period start over which a periodical payment is taken into account?

28832 The period over which a periodical payment should be taken into account begins on the date the payment is treated as paid1.

1 JSA Regs (NI), reg 120(2); IS (Gen) Regs (NI), reg 56(2)

On what date should a periodical payment be treated as paid?

Periodical payments made before the first benefit week of entitlement to Income Support or income-based Jobseeker’s Allowance

28833 Treat periodical payments made before the first benefit week of the claim as paid on the same weekday as the first day of the benefit week1. The decision maker should decide the claimant’s benefit week before deciding the date from which the payment should be taken into account.

1 JSA Regs (NI), reg 123(1)(a); IS (Gen) Regs (NI), reg 59(1)(a)

**Example**

Catriona claims income-based Jobseeker’s Allowance on 10.12.08. Her benefit week ending day is a Thursday.

She received a payment of £200 for a period of a month on 1.12.08.

The decision maker decides that Catriona’s benefit week starts on a Friday.

The payment is taken into account for a month from 5.12.08, which is the Friday in the week that the payment was received.

Periodical payments made during the course of an award of Income Support or income-based Jobseeker’s Allowance

28834 Treat a periodical payment made during the course of an award as paid on the first day of the benefit week in which it is due to be paid. If it is not practicable to do this it should be taken into account in the next benefit week1. It is not practicable to take a payment into account during the benefit week in which it was received when benefit has already been paid for that week.

1 JSA Regs (NI), reg 123(1)(b); IS (Gen) Regs (NI), reg 59(1)(b)

Payments under agreements or court orders

28835 Where an agreement or court order is in force decide the date that payments are due to be paid by reference to the agreement or order currently in force. This includes cases where the amount due to be paid under the agreement or court order is varied.

**Example 1**

John is due to make payments of child maintenance under a court order of £50 a week to Sue. Sue is in receipt of Income Support.

During 2009 John has fallen into arrears with his court order.

The court has made a new order requiring the arrears to be paid on 1.10.10.

The decision maker decides that the due date for the arrears is now 1.10.10 and not the date the arrears were originally due to be paid.

**Example 2**

Corinne is in receipt of Income Support. Her ex-partner Adam has agreed to pay her £30 a week child maintenance.

Over the last 2 weeks Adam has not made any payments to Corinne.

After a discussion Corinne and Adam come to a new agreement whereby Adam will pay the £60 arrears by increasing his regular payment of £30 a week to £40 a week starting from 1st June.

The decision maker decides that the due date for the arrears is now 1st June and not the date the arrears were originally due to be paid.

28836 - 28839

Liable relative payments - non-periodical payments

What is a non-periodical payment?

28840 Treat any liable relative payment that is not a periodical payment as a non-periodical payment or “other payment”1.

1 JSA Regs (NI), reg 117; IS (Gen) Regs (NI), reg 54

28841 Examples of non-periodical payments include one-off payments for specific items. But if the payment is for less than the amount of the Jobseeker’s Allowance or Income Support that would otherwise be payable it should be treated as a periodical payment.

**Example 1**

Clayton is the father of Alice’s child.

He makes a payment of £120 for a baby buggy.

Alice claims Income Support. The amount of Income Support that is payable without the payment for the baby buggy is £74.

The decision maker decides that the payment is a non-periodical payment.

**Example 2**

Roger is the father of Linda’s child.

He makes a one off payment of £35 for Linda and her child.

Linda claims Income Support. The amount of Income Support that is payable without the payment is £40.

The decision maker decides the payment is a periodical payment.

Should all of a payment be taken into account as a non-periodical payment?

28842 Decision makers should not always take the full amount of a payment into account as a non-periodical payment. In

**1.** Income Support cases take into account the amount of the payment less

**1.1** any amount that has been taken into account under any previous Income Support decision **or**

**1.2** any amount that has been or is currently being recovered by the Department under prevention of duplication of payment rules1 **or**

**1.3** any amount that the claimant has spent unless that amount was spent for the purpose of getting or increasing Income Support2.

**2.** Jobseeker’s Allowance cases take into account the amount of the payment less

**2.1** any amount that has been taken into account under any previous Jobseeker’s Allowance decision **or**

**2.2** any amount that has been or is currently being recovered by the Department under prevention of duplication of payment rules3 **or**

**2.3** any amount that the claimant has spent unless that amount was spent for the purpose of getting or increasing Jobseeker’s Allowance4.

1 SS A (NI) Act 92, sec 72(1); 2 IS (Gen) Regs (NI), reg 54(h)(iii);
3 SS A (NI) Act 92, sec 72(1); 4 JSA Regs (NI), reg 117(h)(iii)

28843 Consider all the circumstances surrounding the payment when calculating the amount of a non-periodical payment. Decision makers should not take into account as a liable relative payment any part of a payment spent

**1.** clearing outstanding debts that occurred during the marriageorrelationship **or**

**2.** paying an amount owed to a solicitor.

 28844 - 28855

Periodical payments and any other payment made by a liable relative

Period over which the non-periodical payment should be taken into account

28856 Where a liable relative makes a periodical payment and at the same time an additional payment then the decision maker has to determine whether the weekly periodical payment as calculated in accordance with DMG 28814 - 28821 is less than the total of1

**1.** £2 **and**

**2.** the amount of Income Support or income-based Jobseeker’s Allowance which would have been paid had the periodical payment not been made.

1 JSA Regs (NI), reg 121(4) & (10); IS (Gen) Regs (NI), reg 57(4) & (10)

28857 If the periodic payment is less than the total in DMG 28856 then the decision maker should take the additional payment into account for a period determined by applying the formula1

 A

 B - C

 Where2

 A = the amount of the non-periodical payment

 B = the total of £2 and the amount of Income Support or income-based Jobseeker’s Allowance which would have been paid had the periodical payment not been made

 C = the weekly amount of the periodical payment.

 Any fraction has to be treated as a fraction of a week3.

1 JSA Regs (NI), reg 121(5); IS (Gen) Regs (NI), reg 57(5); 2 JSA Regs (NI), reg 121(10); IS (Gen) Regs (NI), reg 57(10);
3 JSA Regs (NI), reg 121(9); IS (Gen) Regs (NI), reg 57(9)

 **Example**

 Marie has an applicable amount of £65.45 but receives Income Support of £40.45 a week because she is in receipt of a periodical liable relative payment of £25 a week. She receives a non-periodical liable relative payment of £500 in addition to the periodical liable relative payment of £25 a week.

 The decision maker decides that the periodical payment of £25 is less than £67.45 (the total of £2 + £65.45).

 The decision maker then has to determine the period for which the additional payment of £500 is to be taken into account. The decision maker applies the formula in DMG 28857 where

 A = £500

 B = £67.45 (£2 + £65.45)

 C = £25

 This gives an answer of 11.77 (£500 ÷ (£67.45- £25)). The decision maker takes the payment into account for 11 weeks at £42.45 and 1 week at £33.05. The weekly amount of the payment in addition to the periodical liable relative payment ends Marie’s entitlement to Income Support.

The weekly amount of the non-periodical payment

28858 The weekly amount of the non-periodical payment is equal to the divisor used to calculate the period for which it is taken into account1. This will be the total of

 **1.** £2 and the amount of Income Support or income-based Jobseeker’s Allowance which would have been paid had the periodical payment not been made **less**

 **2.** the weekly amount of the periodical payment in payment.

1 JSA Regs (NI), reg 122(5); IS (Gen) Regs (NI), reg 58(5)

 **Example**

 Marie has received a non-periodical payment of £500 as described in the example to DMG 28857 in addition to a periodical payment of £25.

 When attributing the non-periodical payment the decision maker takes a weekly amount of £42.45 into account. This is because £42.45 is the total of

 £2 **plus**

£65.45 (the amount of Income Support which would have been paid had non-periodical payment not been paid) **less**

 £25 (the periodical payment).

When should the decision maker start taking a non-periodical payment into account

28859 The period during which the non-periodical payment should be taken into account should begin on the date the payment is treated as paid1.

1 JSA Regs (NI), reg 121(8); IS (Gen) Regs (NI), reg 57(8)

Periodical payments change while a non-periodical payment is being taken into account

28860 If subsequent periodical payments change, the balance (if there is any) of the non-periodical payment has to be taken into account. The number of weeks for which it is taken into account is determined by the formula1

 D

 B - E

 Where2

 B = the total of £2 and the amount of Income Support or income-based Jobseeker’s Allowance which would have been paid had the periodical payment not been made

 D = the balance (if any) of the non-periodical payment

 E = the weekly amount of any subsequent periodical payment.

1 JSA Regs (NI), reg 121(7); IS (Gen) Regs (NI), reg 57(2);
2 JSA Regs (NI), reg 121(10); IS (Gen) Regs (NI), reg 57(10)

 **Example**

 Marie has had her award of Income Support ended in the circumstances explained in the example in DMG 28857. Two weeks later she contacts the Department to say that her regular periodical payment of £25 has now changed to just £5.

 The decision maker has to re-determine the period for which the non-periodical payment is to be taken into account. The decision maker performs the calculation in DMG 28860 where

 B = £67.45 (£2 + £65.45)

 D = £415.10 (£500 - (2 x £42.45))

 E = £5

 This gives a period of 6.64 weeks (£415.10 ÷ (£67.45 - £5)). The decision maker therefore continues to take the non-periodical payment into account but for a period running into 7 weeks not 12 as originally determined.

28861 The period for which a change is said to occur begins on the first day of the benefit week in which the change took place1. However, the day on which the non-periodical payment is treated as paid is still the first day of the benefit week in which it was received (see DMG 28859).

1 JSA Regs (NI), reg 121(8); IS (Gen) Regs (NI), reg 57(8)

Periodical payments cease while a non-periodical payment is being taken into account

28862 Where the liable relative stops making periodical payments, the remaining balance (if there is one) of any non-periodical payment has to be taken into account. In order to determine the number of weeks for which the non-periodical payment is taken into account, the decision maker should divide that remaining balance (if there is one) by1

 **1.** £2 **and**

 **2.** the amount of Income Support or income-based Jobseeker’s Allowance which would have been paid had the liable relative payment or child maintenance not been made.

1 JSA Regs (NI), reg 121(6) & (3); IS (Gen) Regs (NI), reg 57(6) & (3)

28863 The calculation to re-determine the period over which the non-periodical payment is taken into account begins on the first day of the benefit week in which the payment ceased1.

1 JSA Regs (NI), reg 121(8); IS (Gen) Regs (NI), reg 57(8)

 **Example**

 Marie has had her Income Support award ended in the circumstances described in the example to DMG 28857. Two weeks after her award of Income Support has ended, Marie informs the decision maker that she is no longer in receipt of the periodical payment of £25 and reclaims Income Support.

 The decision maker has to determine the period for which the non-periodical payment is to be taken into account. The balance of the payment is £415.10. This figure is divided by the aggregate of

 £2 + £65.45 = £67.45

 then

 £415.10 ÷ £67.45 = 6.15

 The decision maker determines that the non-periodical payment should be taken into account at a rate of £67.45 for a further 6 weeks and the balance of £10.40 (£415.10 - (6 x £67.45)) would be treated as income if Marie reclaims Income Support in week 7.

 28864 - 28865

Periodical payments not being made when a non-periodical payment is received

Weekly amount of non-periodical payment

28866 If a non-periodical payment is made and periodical payments are not being made, the amount that should be taken into account each week is1 the total of

 **1.** £2 **and**

 **2.** the amount of Income Support or income-based Jobseeker’s Allowance which would have been paid had the liable relative payment or child maintenance payment not been made.

1 JSA Regs (NI), reg 122(5) & 121(3); IS (Gen) Regs (NI), reg 58(5) & 57(3)

 28867

Period over which a non-periodical payment is taken into account

28868 If a non-periodical payment is made1 then it is taken into account for the number of weeks obtained by dividing the payment by the total of2

 **1.** £2 **and**

 **2.** the amount of Income Support or income-based Jobseeker’s Allowance which would have been paid had the liable relative payment or child maintenance payment not been made.

 Any fraction is to be treated as a fraction of a week3.

1 JSA Regs (NI), reg 121(1); IS (Gen) Regs (NI), reg 57(1);
2 JSA Regs (NI), 121(2) & (3); IS (Gen) Regs (NI), reg 57(2) & (3)
3 JSA Regs (NI), reg 121(9); IS (Gen) Regs (NI), reg 57(9)

 **Example**

 Jess is currently in receipt of Income Support of £35 a week. She receives a payment from her ex-partner of £120. The decision maker determines that this is a non-periodical payment. To decide the period over which it is taken into account the decision maker divides £120 by

 **1.** £2 plus

 **2.** £35

 The payment of £120 is therefore divided by 37 (£2 + £35).

 This gives 3.24 (£120 ÷ 37). The decision maker takes the payment for the first 3 weeks at a weekly rate of £37.00. The balance of £9 is taken into account in the 4th week. If Jess becomes re-entitled to Income Support in week 4, the decision maker will have to take into account the balance of £9.

 28869

When should the decision maker start to take the non-periodical payment into account

28870 The period over which the non-periodical payment should be taken into account begins on the date the payment is treated as paid1.

1 JSA Regs (NI), reg 121(8); IS (Gen) Regs (NI), reg 57(8)

 28871 - 28874

Date a non-periodical payment is treated as paid

Non-periodical payment made before the first benefit week of the claim

28875 If a non-periodical payment is made before the first benefit week of the claim treat it as paid on the day in the week in which it is paid that corresponds to the first day of the benefit week1. This rule does not apply if the payment is made during a period in which a previous non-periodical payment is being taken into account.

1 JSA Regs (NI), reg 123(2)(a); IS (Gen) Regs (NI), reg 59(2)(a)

Non-periodical payment made during the course of an award of Income Support or income-based Jobseeker’s Allowance

28876 If a non-periodical payment is made during the period of an award it should be treated as paid on the first day of

 **1.** the benefit week in which it was paid **or**

 **2.** a subsequent benefit week if it is not practicable to take the payment into account straight away1.

 Consider the method of payment of Jobseeker’s Allowance or Income Support when deciding if it is not practicable to take a payment into account straight away. See DMG 28834 for examples.

 These rules do not apply if the payment is made during a period in which a previous non-periodical payment is being taken into account.

1 JSA Regs (NI), reg 123(2)(b); IS (Gen) Regs (NI), reg 59(2)(b)

Non-periodical payment made during a period where a previous non-periodical payment is already being taken into account

28877 If a non-periodical payment is made during the period in which a previous non-periodical payment is being taken into account treat it as paid on the first day following that period1.

1 JSA Regs (NI), reg 123(3); IS (Gen) Regs (NI), reg 59(3)

 28878 - 28879

Contribution-based Jobseeker’s Allowance and pension payments

Deductions from contribution-based Jobseeker’s Allowance for pension payments

Introduction

28880 The guidance in DMG 28881 - 28981 refers only to deductions from contribution-based Jobseeker’s Allowance.

General

28881 Pension payments, Pension Protection Fund periodic payments and Financial Assistance Scheme payments that are

**1.** made to a claimant for any week **and**

**2.** more than £50 each week

 are deducted from the claimant’s age-related amount, when calculating the amount of contribution-based Jobseeker’s Allowance payable to the claimant for each benefit week. The amount deducted is the excess over £501.

1 JS (NI) Order 95, art 2(1); JSA Regs (NI), reg 81(1)

**Example**

A woman receives pension payments totalling £83.50 each week.

The pension payments exceed the £50 maximum by £33.50.

So £33.50 is deducted each benefit week from the amount of contribution-based Jobseeker’s Allowance that she is entitled to.

28882 The law provides for

**1.** when pension payments, Pension Protection Fund payments and Financial Assistance Scheme payments are to be taken into account1 (see DMG 28935 - 28936) **and**

**2.** certain payments to be disregarded2 (see DMG 28955) **and**

**3.** the calculation of a weekly amount where pensions are paid for periods other than a week3 (see DMG 28980 - 28981).

1 JSA Regs (NI), reg 81(1A)&(1B); 2 reg 81(2)(c); 3 reg 81(3)

Meaning of pension payments, protection fund and financial assistance scheme payments

Protection fund periodic payments

28883 “Protection fund periodic payments” are defined as1

1. any periodic compensation payments made in relation to a person, payable under the pension compensation provisions set out in specified legislation2

2. any periodic payments made in relation to a person, payable under specific legislation3

other than payments made to a surviving dependant of a person entitled to such payments.

1 JS (NI) Order 95, art 2(2); 2 Pensions (NI) Order 05, art 146(2); 3 art 150

Financial assistance scheme payments

28884 Financial assistance scheme payments provide financial help to some people who have lost out on their occupational pension because

1. the scheme they were a member of was under-funded when it started to wind-up and

2. they are within three years of their normal retirement age (as laid down in their pension scheme rules) or older on 14.5.04.

28885 The Financial Assistance Scheme can pay an award of up to 90% of what a person would have received if the pension scheme had not been wound up. The award is paid on top of any pension the individual receives from the scheme up to an annual limit. A Financial Assistance Scheme award is paid for life at a fixed rate so it will not increase. The award is paid net of tax.

 Example

 The claimant would have received a pension of £18,750 if the scheme had not been wound up. 90% of the amount he would have received is £16,875. In the event the claimant receives a pension of £10,000 a year so this amount is topped up through a Financial Assistance Scheme award by an amount needed to reach the annual ceiling.

Pension payments

28886 Pension payments are1 periodical payments (see DMG 28906) paid to or for a person

**1.** under a personal pension scheme (see DMG 28903) **or**

**2.** in connection with the ending of the person’s employment as an earner (see DMG 28916) under

**2.1** an occupational pension scheme (see DMG 28888) **or**

**2.2** a public service pension scheme (see DMG 28889).

1 JS (NI) Order 95, art 2(1)

28887 Payments as in DMG 28886 **2.** may be, but are not confined to, pensions that the employer has contributed to. The following types of payment are included

**1.** payments made under a scheme arranged by the employer where the money is provided exclusively by the claimant

**2.** payments made by the UK or other Governments where provision is made for them in legislation, for example pensions to former Crown employees

**3.** pensions from employment overseas (see DMG 28973)

**4.** the compensation element of a retired local government officer’s pension1

**5.** payments under the Civil Service Compensation Scheme (see DMG 28894)

**6.** payments under the Civil Service Pension Scheme.

1 Local Government (Compensation for Premature Retirement) Regs (NI)

Occupational pension scheme

28888 An occupational pension scheme is1 any scheme or arrangement that

**1.** is comprised in one or more instruments (for example trust deeds) or agreements (for example informal arrangements) **and**

**2.** has, or is capable of having, effect on one or more types of employment **and**

**3.** provides benefits, for example pensions, payable on

**3.1** termination of service **or**

**3.2** death **or**

**3.3** retirement

 for earners with qualifying service.

1 JS (NI) Order 95, art 2(1); Pension Schemes (NI) Act 93, sec 1; R(JSA) 1/01

Public service pension scheme

28889 A public service pension scheme is1 an occupational pension scheme that is

**1.** established under legislation, by royal prerogative or under a royal charter **and**

**1.1** all its particulars are set out in the legislation, royal warrant or charter **or**

**1.2** it cannot come into force or be amended without the government’s approval **or**

**2.** established with the government’s approval **or**

**3.** prescribed by legislation2.

1 JS (NI) Order 95, art 2(1); Pension Schemes (NI) Act 93, sec 1;
2 Occupational Pension Schemes (Public Service Pension Schemes) Regulations 1978

28890 Pension schemes that are also public service pension schemes include pension schemes for

**1.** civil servants **or**

**2.** employees subject to the Northern Ireland Local Government officers superannuation scheme **or**

**3.** teachers **or**

**4.** the Armed Forces **or**

**5.** police officers.

28891 If decision makers have difficulty in deciding whether a pension scheme is a public service pension scheme they should arrange to get

**1.** the claimant’s consent to contact the manager of the scheme **and**

**2.** a statement from the manager of the scheme as to whether the pension scheme is a public service pension scheme within the meaning of relevant legislation1.

1 Pension Schemes (NI) Act 93, sec 1

28892 If a pension scheme is not a public service pension scheme it may still fall within the definition of an occupational pension scheme (see DMG 28888).

28893 Most public service schemes include provision for injury or contracting a disease (for example Police and Fire Service schemes). Such pensions may be paid on a minimum income guarantee basis. This means that the pension tops up existing income to a certain level. The pension rate may therefore be affected by the amount of contribution-based Jobseeker’s Allowance entitlement. In such cases the decision maker should take into account the gross amount of pension i.e. before any adjustment has been made for contribution-based Jobseeker’s Allowance. This ensures that the gross amount of the pension is offset against any contribution-based Jobseeker’s Allowance and the pension provider takes the subsequent balance of contribution-based Jobseeker’s Allowance payable into account. There is no disadvantage to the claimant, and means that in cases where the amount of pension paid to the claimant is equal to the level of guarantee, the claimant’s total income remains unchanged. The pension provider needs to be informed of the correct amount of contribution-based Jobseeker’s Allowance payable.

 **Example**

 The amount of pension is £120.00 per week, and the amount of guarantee is £120.00 per week. Contribution-based Jobseeker’s Allowance entitlement is £71.70 which is reduced by £35.00 (half the excess over £50.00) to £36.70. The pension is then paid at £83.30 to bring the guaranteed income back to £120.00.

Civil Service Compensation Scheme

28894 Civil servants may be entitled to annual payments as compensation if their employment ends because of

**1.** compulsory redundancy **or**

**2.** voluntary early retirement or severance

 in a redundancy situation.

28895 Until 1996, payments made to civil servants taking early retirement or redundancy were made as part of the Principal Civil Service Pension Scheme (Northern Ireland). The Principal Civil Service Pension Scheme (Northern Ireland) also provided benefits to those who retired at the normal retirement age. But on 01.09.96, a separate scheme, called the Civil Service Compensation Scheme (Northern Ireland) was introduced.

28896 The Civil Service Compensation Scheme (Northern Ireland) provides benefits to civil servants whose employment ends before the normal retirement age. The Principal Civil Service Pension Scheme (Northern Ireland) continues to provide benefits to those who retire at the normal retirement age.

28897 Under the Civil Service Compensation Scheme (Northern Ireland), annual compensation payments may be made to civil servants. The Civil Service Compensation Scheme (Northern Ireland) also allows civil servants to change the mix of their

**1.** lump sum **and**

**2.** annual compensation payments **and**

**3.** preserved pension.

28898 The Civil Service Compensation Scheme is a public service pension scheme1 and annual compensation payments from it are payments from a public service pension scheme. This means that annual compensation payments in excess of the £50 limit (see DMG 28801) are taken into account in contribution-based Jobseeker’s Allowance.

*1 R(JSA) 2/01*

Local government premature retirement scheme

28899 Some pensionable local government employees who

**1.** are made redundant **or**

**2.** volunteer for redundancy **or**

**3.** cease work in the interests of the efficient exercise of the employers’ functions

 receive payments under the local government premature retirement scheme1.

1 Local Government (Compensation for Premature Retirement) Regs (NI)

28900 The scheme entitles employees1 to annual payments as compensation for their employment ending as in DMG 28899. These are calculated on the same basis as their annual retirement pension under the superannuation legislation2. The compensation payment is a payment from a public service pension scheme.

1 Local Government (Compensation for Premature Retirement) Regs (NI), reg 6;
2 Local Government (Superannuation) Regs (NI)

Armed Forces redundancy arrangements

28901 Pensions payable to service personnel who retire from the Armed Forces are paid under a public service pension scheme.

28902 Pensions paid to service personnel who have been made redundant

**1.** are calculated on the length of qualifying service completed, plus an additional number of years **and**

**2.** fall within the definition of public service pension schemes1.

1 Queen’s Regulations

Personal pension scheme

28903 Personal pension scheme1 means a pension scheme that

**1.** is not an occupational pension scheme **and**

**2.** is established by a person within any of the paragraphs of specified legislation2.

**Note :** This includes self-invested personal pensions (see DMG 28908).

1 Pension Schemes (NI) Act 93, sec 1; 2 Finance Act 04, sec 154(1)

28904 If the member of the scheme used the personal pension to contract-out of the state earnings related pension scheme, the part of the pension that

**1.** comes from Department for Communities rebates **and**

**2.** is used to replace the state earnings related pension scheme

can only be drawn from age 60.

28905 The decision maker should refer the case to Decision Making Services if the

**1.** decision maker is unable to decide whether a pension is paid under a personal pension scheme **and**

**2.** pension payment does not satisfy any other part of DMG 28886.

Periodical payments and lump sums

28906 Periodical payments are those that are paid at regular intervals.

28907 A lump sum payment is not a periodical payment. This applies even where the claimant has chosen to receive a lump sum instead of a periodical payment1. But where

**1.** a person is entitled to a lump sum payment **and**

**2.** the rules of the scheme allow the lump sum to be paid in instalments **and**

**3.** the person chooses to receive it in this way

 the instalments are periodical payments.

1 R(U) 5/85

Self-invested personal pensions

28908 Self-invested personal pensions are subject to the normal rules for registered pension schemes1. With self-invested personal pensions, people are able to purchase an annuity or they can receive an income by drawdown or an unsecured pension. Payments from self-invested personal pensions are payments under a personal pension scheme2.

1 Finance Act 2004, sec 154(1); 2 SS C&B (NI) Act 92, sec 30DD(6) & PS (NI) Act 93, sec 1

 28909 - 28915

In connection with the coming to an end of the employment

28916 A pension must be paid in connection with the end of employment of the person who it is paid for, to fall within DMG 28886 **2.**. Occupational or public service pensions that are paid where the employment has not ended do not fall within DMG 28886 **2.**, for example, war pensions paid

**1.** because of disablement **and**

**2.** regardless of whether the employment is continuing.

28917 Employment includes any trade, business, profession, office or vocation1. Employment in the Armed Services falls within this definition.

1 JSA Regs (NI), reg 3(1)

28918 Retired officers who are entitled to a war pension receive it as a disablement addition to their service pension. This disablement addition is

**1.** awarded by the Department for Work and Pensions **and**

**2.** paid by the Paymaster General in the same cheque as the person’s service pension.

28919 If the claimant is a retired officer with a service pension, the decision maker should

**1.** find out the amount of any disablement addition **and**

**2.** deduct it from the total payment received.

 **Note :** Other ranks have their war pension paid direct by the Department for Work and Pensions so there is no difficulty in separating their war pension from their service pension.

28920 Gallantry awards are sometimes paid to former members of the Forces in addition to their service pensions. Payment

**1.** is made from the date of the award **and**

**2.** is a reward for conduct rather than a period of service.

 These awards are not paid in connection with the coming to an end of an employment and are **not** pension payments.

28921 Pension payments may be payable to the claimant from the former employer of a deceased partner or other relative. Such payments should be disregarded (see DMG 28955).

28922 The amount of a service pension may be increased if the claimant has been invalided out of the Forces. The full amount should be taken into account.

28923 Police officers who retire because of permanent disability may be entitled to an ill health award1 in addition to a pension under a public service pension scheme. If they are permanently disabled through an injury received while carrying out their duties, or an injury caused at any other time solely because they were police officers, they are also entitled to an injury pension. It is a condition for the receipt of both payments that the officer ceases to be a member of a police force. The payments are therefore made in connection with the coming to an end of a police officer’s employment and are payments as in DMG 28886 **2.2**.

1 RUC Regs 88

 28924 - 28934

When to take pension payments into account

First payment of a pension

28935 Where

**1.** a claimant is entitled to a pension payment **and**

**2.** the first payment is **paid** to the claimant

 the pension payment should be taken into account from the first day of the benefit week that includes the day for which payment is first made1.

1 JSA Regs (NI), reg 81(1A)

**Example**

Roger claims Jobseeker’s Allowance and is entitled to contribution-based Jobseeker’s Allowance from Thursday 7 November.

His benefit week ends on a Thursday.

He receives a pension payment of £78.00 a week, starting on Monday 11 November.

Only the amount above £50.00 can be deducted from contribution-based Jobseeker’s Allowance.

In the benefit week 08.11.96 - 14.11.96 £28.00 is deducted from his contribution-based Jobseeker’s Allowance.

Payment in arrears

28936 Pension payments are often made in arrears, and can be

**1.** weekly **or**

**2.** monthly **or**

**3.** quarterly **or**

**4.** any other period.

 Any pension payments deducted from contribution-based Jobseeker’s Allowance should start from the **first** day of the benefit week that entitlement to the pension, by way of the first payment has been made to the claimant1.

1 JSA Regs (NI), reg 81

28937 The pension payment **must actually be made** before the decision maker deducts an amount from contribution-based Jobseeker’s Allowance because of a pension payment.

 **Example**

 William claims Jobseeker’s Allowance and is entitled to contribution-based Jobseeker’s Allowance from Thursday 7 November. His benefit week ends on a Thursday. He is entitled to a pension payment of £78 a week from Monday 4 November of which he receives his first payment (£312) on Monday 1 December. Only the weekly pension amount above £50 can be deducted from contribution-based Jobseeker’s Allowance. Contribution-based Jobseeker’s Allowance is awarded at the full rate from 7 November but from the benefit week 29 November to 25 December and thereafter £28 (£78 - £50) is deducted from his contribution-based Jobseeker’s Allowance.

 28938 - 28949

When the pension is uprated

28950 A claimant's rate of pension may change. Any change should be taken into account from the first day of the benefit week that includes the first day for which the increase or decrease is paid1.

1 JSA Regs (NI), reg 81(1B)

 **Example**

Alice claims Jobseeker’s Allowance, her benefit week ends on a Thursday and she is entitled to contribution-based Jobseeker’s Allowance.

She receives a pension payment of £78.00 a week.

Her contribution-based Jobseeker’s Allowance is reduced by £28.00 each benefit week.

She receives an increase of £7.00 a week in her pension starting on Monday 11 November.

The increase in the pension payment is taken into account for the benefit week 8 November to 14 November.

So in the benefit week

**1.** 1 November to 7 November £28.00 is deducted from her contribution-based Jobseeker’s Allowance

**2.** 8 November to 14 November £35.00 is deducted from her contribution-based Jobseeker’s Allowance.

 28951 - 28954

Disregarded payments

28955 Payments may be payable to the claimant

**1.** under

**1.1** a personal pension scheme **or**

**1.2** an occupational pension scheme **or**

**1.3** a public service pension scheme **and**

**2.** because a person who was a member of the scheme has died.

28956 Any payments in DMG 28955 are known as survivors' benefits and should be disregarded in full1.

1 JSA Regs (NI), reg 81(2)(c)

**Example**

Geoff's wife Mildred is a member of an occupational pension scheme. Following Mildred's death a reduced pension payment is paid by the scheme to Geoff. This pension is not taken into account when working out the amount of contribution-based Jobseeker’s Allowance payable to Geoff.

 28957 - 28959

Delay in payment

28960 Sometimes a pension payment is not made on the date it is due, for example because of industrial action by the employees of the paying authority. If the date that the payment will be made cannot be predicted with reasonable certainty, it is not reasonable to wait for as long as 6 months before giving a decision.

28961 If the decision maker considers it unreasonable to defer making a decision until payment is made, a decision should be given on the basis that payment has not been made. If a payment is made later, the decision to award contribution-based Jobseeker’s Allowance without any deductions may be superseded. Where a delay in payment occurs the decision maker should obtain evidence of the reason for the delay and its likely duration.

 28962 - 28969

Calculating the amount of the pension

General

28970 Except for DMG 28972, the amount of the pension payment is the gross amount payable. Where income tax is deducted at source, the amount to be taken into account is the amount before tax is deducted1.

1 R(U) 8/83

28971 Some claimants

**1.** have to make **or**

**2.** choose to make

 certain payments from their pensions. The payments may be to the employer or a third party. With the exception of compulsory payments to buy or repay an element of their current pension, any payments deducted before the pension is paid should be ignored. The claimant’s liability to make the payments is separate from the liability to pay the pension. The deductions at source are simply a convenient method of ensuring that the claimant’s obligations or wishes are met. The amount of pension to be taken into account is the amount after deduction of any compulsory payments towards the current pension and before other deductions are made. Examples of these payments include

 **1.** repaying a debt to a former employer

 **2.** payments to someone because of a court order

 **3.** subscriptions to a trade union or other association

 **4.** payments into a further pension scheme.

28972 Where the rules of the claimant’s pension scheme provide for **compulsory** deductions, the amount deducted should be **disregarded** in calculating the amount of pension. This is because the word “payments” refers to the amount the claimant is actually entitled to receive. So a payment made under a binding obligation, for example to acquire additional pension rights, should be disregarded in calculating the amount of the pension.

 **Example**

Jason is employed by an electricity company for 29 years and 2 months. He retires voluntarily. For superannuation purposes he is treated as having completed 30 years service.

Under the rules of the superannuation scheme, a monthly deduction of £32.23 is made from his gross occupational pension of £232.83 for the purchase of the 10 additional months. He is also paying £20.00 a month to a debt collecting agency under a court order.

Jason cannot avoid the reduction to his pension payments. While he must buy additional pension rights under the rules of the scheme he would normally repay his other debts from any net income he receives. The payments made under the court order are not to be disregarded. The decision maker takes into account a pension payment of £200.60 a month1.

1 R(U) 4/83

28973 Sometimes pension payments are received by the claimant in a currency other than sterling. To work out the sterling equivalent, decision makers should use the selling rate that applies

**1.** on the date on which payment is **due and**

**2.** not the date on which it is actually converted.

 No allowance should be made for commission or other expenses incurred in converting currency1.

1 R(SB) 28/85

28974 Because exchange rates fluctuate, the decision maker will need to give a fresh decision each time a pension payment is made, for the period it covers (subject to DMG 28935 - 28937). For the purpose of working out a sterling equivalent only, it does not matter that the pension is not available in sterling until some time after the pension is due.

 23926 - 23930

 **Calculating the weekly pension rate**

28980 If pension payments are not paid weekly, they should be converted into a weekly amount as follows1

**1.** annual payments should be divided by 52

**2.** quarterly payments (3 monthly) should be divided by 13

**3.** monthly payments should be multiplied by 12 and the result divided by 52. A month means a calendar month2

**4.** payments of 2 or more calendar months (other than **1.** or **2.**) should be

**4.1** divided by the number of months the payment covers **and**

**4.2** the result multiplied by 12 then divided by 52

**5.** payments for any other period should be divided by the number of days covered by the payment and the result multiplied by 7.

1 JSA Regs (NI), reg 81(3); 2 CG 66/49 (KL)

More than one pension

28981 Where a claimant is receiving more than one pension the decision maker should

**1.** calculate the weekly rate of each pension separately **then**

**2.** add the weekly rates together

 before working out the excess over the maximum sum1.

1 JSA Regs (NI), reg 81(3)

 28982 - 28999

Appendix 1

Definitions of war pensions for Income Support and Jobseeker’s Allowance

War widow's, widower’s or surviving civil partner’s supplementary pensions

1 Any

 **1.** supplementary pension paid under article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to widows, widowers or surviving civil partners) **or**

 **2.** similar payment made by the Secretary of State for Defence to a person not entitled to a pension under the Order in **1.**.

2 A pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983

3 Any payment made to a widow, widower or surviving civil partner of a person

 **1.** whose death was connected to service similar to service as a member of the armed forces **and**

 **2.** which is equal to a payment made under article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to widows, widowers or surviving civil partners) **and**

**3.** whose service ended before 31.03.73

 under the following Dispensing Instruments

**3.1** the Order in Council of 19th December 1881

**3.2** the Royal Warrant of 27th October 1884

**3.3** the Order by His Majesty of 14th January 1922.

War disablement pension, war widow’s pension and war widower’s pension

The following instruments are specified1 for the meaning of war disablement pension, war widow’s pension and war widower’s pension.

1 Defence (Local Defence Volunteers) Regulations 1940.

2 War Pensions (Coastguards) Scheme 1944.

3 War Pensions (Naval Auxiliary Personnel) Scheme 1964.

4 Pensions (Polish Forces) Scheme 1964.

5 War Pensions (Mercantile Marine) Scheme 1964.

6 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard.

7 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard after 27.4.52.

8 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Ulster Defence Regiment.

9 Personal Injuries (Civilians) Scheme 1983.

10 Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983.

1 JSA Regs (NI), reg 1(2); IS (Gen) Regs (NI), reg 2(1); Income Tax (Earnings and Pensions) Act 2003, sec 639(2)

Appendix 2 - DMG 28663

Courses of Higher Education under the Further Education (NI) Order 1997

1. The descriptions of courses referred to in the definition of "higher education" in Article 2(2) are the following -

(a) a course for the further training of teachers or youth and community workers;

(b) a course for the Higher National Diploma or Higher National Certificate of the Business & Technology Education Council; or the Diploma in Management Studies;

(c) a course in preparation for a professional examination at higher level;

(d) a course providing education at a higher level (whether or not in preparation for an examination);

(e) a post graduate course (including a higher degree course);

(f) a first degree course;

(g) a course for the Diploma of Higher Education;

(h) a course for the Certificate in Education.