

IS, JSA, ESA AND SPC - HOUSING COSTS SPECIAL ARRANGEMENTS

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INTRODUCTION

- 1 This memo gives guidance on changes introduced by the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (SI 2008 No. 3195). The changes first take effect on 5.1.09, as explained below.

BACKGROUND

- 2 Under current rules eligible housing costs for IS, JSA and ESA usually have a qualifying period, the length of the qualifying period before a claimant is eligible for full housing costs being either 26 or 39 weeks. The maximum allowable mortgage capital limit that housing costs can be calculated on is £100,000 and a claimant can retain help towards their eligible housing costs throughout their entitlement to an income related benefit¹.

1 JSA Regs, Sch 2; IS(Gen) Regs, Sch 3; ESA Regs, Sch 6

- 3 On 2 September 2008 the Government announced a package of measures to support home owners and the housing industry. As part of this package the following changes are to be introduced.
- a shorter waiting period before full housing costs can be met in IS, JSA(IB) and ESA(IR)
 - increasing the maximum capital limit for qualifying loans
 - a two year time limit on SMI for certain JSA(IB) claimants.
- 4 The Government also announced that
- the standard interest rate would be set at a prescribed level for an initial period of up to 6 months
 - the measures of support for home owners would be reviewed once housing market conditions improve.

STANDARD INTEREST RATE - IS, JSA(IB), ESA(IR) AND SPC

- 5 The calculation of the standard rate of interest applied to loans which qualify for housing costs will no longer be linked to the Bank of England base rate. On and after 5.1.09 the standard rate of interest¹ to be used in the calculation is fixed at 6.08%.

1 JSA Regs, Sch 2 para 11; IS (Gen) Regs, Sch 3 para 12; ESA Regs, Sch 6 para 13; SPC Regs, Sch II para 9

MODIFICATIONS FOR EXISTING IS, JSA AND ESA CLAIMANTS

- 6 The package of measures to support home owners including the 13 week qualifying period and £200,000 maximum capital limit for loans, is to be made available to certain existing claimants.
- 7 Where the claimant is entitled to a relevant benefit on 4.1.09 **and**
1. the housing costs to be met in the benefit week that includes 4.1.09 would otherwise be nil because the claimant had not yet completed the qualifying period¹ **or**
 2. the claimant qualifies for housing costs at 50% because the person had been entitled to a relevant benefit for at least eight but less than 26 weeks²

then, from the 1st day of the 1st benefit week on or after 5.1.09, the amount of the housing cost award is

3. nil³ where the claimant has
 - 3.1 existing housing costs (DMG 23651, 23657, 44472, 44476) and has been continuously entitled to a relevant benefit for less than eight weeks **or**
 - 3.2 new housing costs (DMG 23653, 44474) and has not been continuously entitled to a relevant benefit for 13 weeks
4. 50% of the amount calculated by applying the standard interest rate to the eligible capital currently owed on eligible loans where the claimant
 - 4.1 has existing housing costs (DMG 23653, 23657, 44472, 44476) **and**
 - 4.2 has been entitled to a relevant benefit for a continuous period of eight weeks but less than 13 weeks,
5. for claimants who have been entitled to a relevant benefit for a continuous period of 13 weeks or more
 - 5.1 100% of the amount calculated by applying the standard interest rate to the eligible capital currently owed on eligible loans **and**
 - 5.2 the amount of any
 - 5.2.a rent or ground rent relating to a long tenancy **and**
 - 5.2.b service charges **and**
 - 5.2.c rent charges⁴.

1 JSA Regs, Sch 2 para 6(1)(a) & 7(1)(a); IS (Gen) Regs, Sch 3 para 6(1)(a) & 8(1)(a); ESA Regs, Sch 6 para 8(1)(a) & 9(1)(a); 2 JSA Regs, Sch 2 para 6(1)(b); IS (Gen) Regs, Sch 3 para 6(1)(b); ESA Regs, Sch 6 para 8(1)(b);

3 JSA Regs, Sch 2 para 6(1)(c); IS (Gen) Regs, Sch 3 para 6(1)(c); ESA Regs, Sch 6 para 8(1)(c)

4 JSA Regs, Sch 2 para 7(1)(a)(ii); IS (Gen) Regs, Sch 3 para 8(1)(a)(ii); ESA Regs, Sch 6 para 9(1)(a)(ii)

- 8 For the calculation at **7.4** the maximum limit of eligible capital for loans is £100,000¹ and for the calculation at **7.5** the maximum limit of eligible capital for loans is £200,000².

1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (SI 2008 No. 3195) Reg 7(b); 2 JSA Regs, Sch 2 para 10(4); IS (Gen) Regs, Sch 3 para 11(5); ESA Regs, Sch 6 para 12(4)

- 9 Claimants who are in a qualifying period but not actually entitled to a relevant benefit on 4.1.09 will not qualify for the new 13 week qualifying period or higher capital loan limit.
- 10 A relevant benefit¹ means
1. IS
 2. JSA
 3. ESA.

*1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (SI 2008 No. 3195)
Reg 1(4).*

Example 1

Arthur has been in receipt of JSA since 24.11.08, he has a £70,000 mortgage taken out in 1994. On 4.1.09 his applicable amount does not yet include any housing costs. The DM decides Arthur is in entitled to a relevant benefit and that he has not yet satisfied the qualifying period to receive housing costs. Therefore the new rules apply and Arthur can benefit from the shorter qualifying period and higher loan limit. He is entitled to 50% of his housing costs from 19.1.09 and 100% from 23.2.09.

Example 2

Beryl has been in receipt of JSA since 3.11.08, she has a £110,000 mortgage taken out in 1994. On 4.1.09 her applicable amount includes 50% housing costs. On 5.1.09 the DM decides Beryl has been in receipt of a relevant benefit for at least eight weeks and as such she satisfies the criteria for the new provisions to apply. From 2.2.09 (after 13 week qualifying period) Beryl is awarded full housing costs (100% based on £110,000).

Example 3

Carol has been in receipt of ESA since 27.10.08, she has a £110,000 mortgage taken out in 2004. On 4.1.09 her applicable amount does not yet include any housing costs. The DM decides the new rules apply and Carol should benefit from the shorter qualifying period and higher loan limit. She will be entitled to full housing costs from 26.1.09 (calculated on £110,000).

Example 4

Doug has been in receipt of IB since 20.10.08, he has a £110,000 mortgage taken out in 2004. Until Doug qualifies for housing costs his IB exceeds his IS requirements.

Although on 4.1.09 Doug is not in receipt of housing costs because he had not yet completed the qualifying period his IB is not a relevant benefit. The DM decides that the new rules do not apply and Doug will have to reclaim IS in July 2009 when he satisfies the 39 week qualifying period.

MODIFICATIONS FOR NEW IS, JSA AND ESA CLAIMS

11 The package of measures to support home owners, the 13 week qualifying period and £200,000 maximum capital limit for loans, is also to be made available to some new claims made on or after 5.1.09.

12 Where a claim to a relevant benefit is made on or after 5.1.09 **and**

1. the claimant has had a previous entitlement¹ determined under the new rules (para 7) **or**

2. entitlement to a relevant benefit starts or started on or after 5.1.09 and that entitlement is or was not immediately preceded by a linked period² **or**

3. the

3.1 claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple, was in receipt of SPC³ **and**

3.2 entitlement to a relevant benefit starts or started on or after 5.1.09 **and**

3.3 the entitlement in **3.2** did not begin within⁴

3.3.a 12 weeks of SPC ending (DMG 23708, 44533) **or**

3.3.b 26 weeks of SPC ending because of

3.3.b.i a lower child support maintenance assessment (DMG 23710, 44535)

3.3.b.ii payments from insurance policies against the loss of employment (DMG 23711, 44536).

1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (SI 2008 No. 3195)

Reg 8(2); 2 reg 8(3); 3 reg 8(4)(a); 4 reg 8(4)(b)

13 From 5.1.09, in the circumstances described above, the amount of the award of housing costs is

1. nil where the claimant has not been continuously entitled to a relevant benefit for 13 weeks
2. for claimants who have been entitled to a relevant benefit for a continuous period of 13 weeks or more
 - 2.1 100% of the amount calculated by applying the standard interest rate to the eligible capital currently owed on eligible loans **and**
 - 2.2 the amount of any
 - 2.2.a rent or ground rent relating to a long tenancy **and**
 - 2.2.b service charges **and**
 - 2.2.c rent charges.

- 14 For the calculation at **13.2.1** the maximum limit of eligible capital currently owed is £200,000.¹

1 JSA Regs, Sch 2 para 10(4); IS (Gen) Regs, Sch 3 para 11(5); ESA Regs, Sch 6 para 12(4)

- 15 A relevant benefit means

1. IS
2. JSA
3. ESA.

- 16 A linked period is any period of time, up to 104 weeks, where a claimant can be treated as entitled to JSA, IS or ESA(IR) under special rules. Guidance on the special rules for linking periods of

1. twelve weeks or less is at DMG 23708 and 44533
2. 26 weeks or less is at DMG 23709 and 44534
3. more than 26 weeks is at DMG 23712 and 44537
4. 52 weeks or less is at DMG 23715 and 44546
5. 104 weeks or less is at DMG 23722 and 44550

Example 1

Elaine is a lone parent receiving IS which includes an amount of housing costs towards her £130,000 mortgage (restricted to £100,000). On 7.4.09 she is no longer entitled to IS as a lone parent and is required to claim JSA, Elaine claims JSA immediately. The DM decides that Elaine has entitlement to a relevant benefit and that that entitlement was not immediately preceded by a linked period (no gap between IS ending and start of JSA). She can therefore benefit from the shorter qualifying period under the new rules and the higher loan limit (although having already served a qualifying period within IS she will get housing costs from the outset of her JSA claim).

Example 2

Beryl was in receipt of JSA from 3.11.08, she had a £110,000 mortgage taken out in 1994. On 4.1.09 her applicable amount included 50% housing costs. Previously the DM decided Beryl was in receipt of a relevant benefit and had been in receipt of that relevant benefit for between 8 and 26 weeks therefore she was able to benefit from the new rules. On 2.2.09 Beryl goes for a two week holiday to America and makes a further JSA claim on 16.2.09. The DM examines the new claim to see if Beryl can still benefit from the new housing cost rules. The DM decides that a claim to a relevant benefit has been made on or after 5.1.09 and that Beryl had had a previous entitlement that included housing costs under the new rules. Beryl can still benefit from the shorter qualifying period and is entitled to full housing costs immediately (having completed a total of 13 (11 + 2) weeks entitlement/treated as entitled to JSA).

Example 3

Fiona has been in receipt of IB since 20.10.08, she has a £110,000 mortgage taken out in 2004. Without the inclusion of housing costs Fiona's IB exceeded her IS entitlement and she was advised to reclaim IS in July 2009 (after 39 weeks). Subsequently Fiona is told that the qualifying period has changed and is now only 13 weeks and on 19.1.09 she attempts to re claim IS. The DM decides that this is a new claim made after 4.1.09 and that Fiona can benefit from the shorter qualifying period if she has entitlement to a relevant benefit that commences after 4.1.09 and that that entitlement was not immediately preceded by a linked period. However Fiona can only have entitlement to a relevant benefit if the award includes housing costs and unfortunately she can only get the housing costs via the shorter qualifying period if she is actually awarded IS. Consequently Fiona cannot establish an entitlement to a relevant benefit, the new rules do not apply and she is reminded to make a further claim in July when she will have completed the 39 week qualifying period.

FURTHER MODIFICATIONS FOR JSA (IB)

17 Where the relevant benefit claimed is JSA, then any help under the new rules with

1. qualifying loans taken out to buy the home, **or**
2. qualifying loans for repairs and improvements, **or**
3. a combination of the two

is limited to a total of 104 weeks¹.

*1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (SI 2008 No. 3195)
Reg 11(b), JSA Regs, Sch 2 para 4A*

18 The period of 104 weeks commences from the earliest date those housing costs were first met and it is calculated disregarding

1. any linked periods
2. any weeks where the capital limit for loans was based on £100,000¹.

1 JSA Regs, Sch 2 para 4A(2)

Example

Beryl has been in receipt of JSA since 3.11.08. She has a £110,000 mortgage taken out in 1994. On 4.1.09 her applicable amount includes 50% housing costs, based on the maximum limit of eligible capital of £100,000. The DM decides Beryl satisfies the criteria to have the new rules apply and therefore from 2.2.09 Beryl's housing costs are increased to 100% (based on £110,000). On 24.1.11 Beryl has completed 104 weeks (disregarding the period 5.1.09 to 1.2.09 when her award was based on £100,000) and her housing costs are withdrawn.

19 The 104 week limitation does not apply were

1. the previous claim was for IS or ESA **and**
2. there were 12 weeks or less between that and the JSA award¹.

1 Sch 2 para 4A(3)

Example

Elaine is a lone parent receiving IS which includes an amount of housing costs towards her £130,000 mortgage (restricted to £100,000). On 6.4.09 she is no longer entitled to IS as a lone parent and is required to claim JSA. Elaine claims JSA immediately. The DM decides that Elaine has entitlement to a relevant benefit and that that entitlement was not preceded by a linked period (no gap between IS and JSA). She can therefore benefit from the shorter qualifying period under the new rules and the higher loan limit. Elaine is not subject to the 104 week limitation of housing costs support because she received IS immediately prior to her JSA award.

STATE PENSION CREDIT

- 20 The amount of the maximum limit for qualifying loans is increased to £200,000 for certain claimants who make a new claim to SPC after 5.1.09.
- 21 The new limit applies where a claimant is entitled to SPC **and**
1. that person or their partner ceased to be entitled to a relevant benefit within 12 weeks of
 - 1.1 the first day of entitlement to SPC **or**
 - 1.2 the date the actual claim to SPC was made where that claim had been treated as made earlier¹ **and**
 2. the previous relevant benefit included interest on qualifying loans taken out to buy the home, or qualifying loans for repairs and improvements, or a combination of the two **and**
 3. the previous relevant benefit included housing costs awarded under the new rules.

1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (SI 2008 No.3195)

Reg 12(1)

ANNOTATIONS

Please annotate the number of this memo (DMG 01/09) against DMG paragraphs:
23519, 23650, 44333, 44471, 44485, 44486, 78345

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 26/08 - Obtaining legal advice and guidance from DMA Leeds](#).

DMA Leeds: January 2009