

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

[SEE MEMO DMG 41/10]

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INTRODUCTION

- 1 This memo gives guidance on changes introduced by the Social Security (Housing Costs Special Arrangements) (Amendment) Regulations 2009 (SI 2009 No. 3257) which takes effect on 5.1.10.
- 2 These amendments update and replace part of the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 (SI 2008 No. 3195). As a consequence of these latest changes the guidance in DMG memo 1/09 is replaced, as explained below.

BACKGROUND

- 3 Under housing cost 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 usually £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

- 4 On 2nd 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 were introduced from 5.1.09, for certain specified IS, JSA and ESA claimants
 1. a shorter waiting period before full housing costs can be met in IS, JSA(IB) and ESA(IR)
 2. increasing the maximum capital limit for qualifying loans
 3. a two year time limit on housing costs for certain JSA(IB) claimants
 4. the standard interest rate is set at a prescribed level
 5. provide for claimants moving from IS, JSA or ESA to SPC to keep entitlement to the higher capital limit
 6. the measures of support for 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 is 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 (ON 4.1.09) IS, JSA AND ESA CLAIMANTS

- 6 The package of measures to support home owners including a shorter qualifying period of 13 weeks and £200,000 maximum capital limit for loans, is 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 or was treated as entitled to IS, JSA(IB) or ESA(IR) for at least 8 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. nil 3 where the claimant has
 - 3.1 existing housing costs (DMG 23651, 23657, 44472, 44476) and has been continuously entitled to or was treated as entitled to IS, JSA(IB) or ESA(IR) for less than 8 weeks **or**
 - 3.2 new housing costs (DMG 23653, 44474) and has not been continuously entitled to or treated as entitled to IS, JSA(IB) or ESA(IR) 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 costs³ (DMG 23653, 23657, 44472, 44476) **and**

4.2 has been entitled to or treated as entitled to IS, JSA(IB) or ESA(IR) for a continuous period of 8 weeks but less than 13 weeks,

5. for claimants who have been entitled to or were treated as entitled to IS, JSA(IB) or ESA(IR) 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(IB) and JSA(C)
- 3.** ESA(IR) and ESA(C).

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 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. By 4.1.09 she has already completed the 8 week waiting period and her applicable amount includes 50% housing costs, 100% would be due after a 26 week waiting period. On 5.1.09 the DM decides Beryl has been in receipt of a relevant benefit for at least 8 weeks and as such she satisfies the criteria for the new shorter waiting period provisions to apply. From 2.2.09 (after the new shorter 13 week qualifying period is applied) 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.

CHANGES FROM 5.1.10

- 11 The measures described in paragraph 4 did not extend to claimants whose income or capital exceeded permitted levels and who were treated as entitled to benefit whilst waiting to qualify for housing costs (EIOR cases as in example 4 above), whereas the

measures unintentionally awarded housing costs under the new rules to claimants who reclaimed a relevant benefit and there was no gap in their benefit entitlements. The package of measures to support home owners is to be changed to rectify these discrepancies by

1. including certain EIOR claimants ensuring they too can benefit from the same support measures **and**
2. by restoring the intention for those claimants whose housing costs fell under the old rules to continue to receive housing costs under those rules where they re-claim a relevant benefit and there is no gap in their benefit entitlement.

MODIFICATIONS FROM 5.1.10 FOR IS, JSA(IB) AND ESA(IR) CLAIMS

- 12 Subject to certain exceptions, the package of measures to support home owners, the 13 week qualifying period and £200,000 maximum capital limit for loans, is made available to new claims from 5.1.10 where the claimant was in a qualifying period, had an excess income over requirements (EIOR) and their excess income was not a relevant benefit. The measures will also benefit existing claimants already in a 26 or 39 week qualifying period on 5.1.10 and it will also extend to certain people who claimed a relevant benefit after 4.1.09 and are getting housing costs having already completed a 26 or 39 week qualifying period. From 5.1.10 the additional support measures will no longer apply to those who re-claim a relevant benefit without a break in entitlement.

DEFINITIONS

- 13 For the purpose of these provisions, a relevant benefit¹ means
1. IS
 2. JSA(C) and JSA(IB)
 3. ESA(C) and ESA(IR).

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

- 14 A linked period is any period of time, up to 104 weeks, where a claimant can be treated as entitled to JSA(IB), 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

GENERAL CONDITION

Claim to a relevant benefit

15 From 5.1.10 to qualify for the shorter qualifying period and higher capital limit for loans the claimant has to satisfy two conditions, an initial general provision common to all claims (paragraph 16) and then any one of the further conditions.

16 The general condition requires that a claim to a relevant benefit has been made after 4.1.09¹.

Note 1: After meeting this initial condition the claimant's circumstances will also need to fall within one of the other further conditions described at paragraph 17, 18, 19 or 20.

Note 2: The claimant may have several claims that meet the general condition criteria of having been made after 4.1.09. Where there is more than one claim for a relevant benefit after 4.1.09, the new rules apply where any claim made after that date meets one of the further conditions described below.

*1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008
(SI 2008 No. 3195) Reg 8(1)(a);*

FURTHER CONDITIONS

1st and 2nd condition - prior award under the new rules

17 A further condition is that:

1. The claimant has had a previous entitlement to a relevant benefit where the new rules were applied¹, either

- 1.1 the 5.1.09 (SI 2008/3195) version of the regulations, as described in paragraph 6 to 10 above, **or**
- 1.2 the 5.1.10 version of the regulations, described in paragraphs 16 to 20.

*1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008
(SI 2008 No. 3195) Reg 8(2) & (3);*

Example

Eileen was in receipt of JSA from 3.11.08, she had a £140,000 mortgage taken out in 1994. On 4.1.09 her applicable amount included 50% housing costs. The DM decided Eileen 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 13 week qualifying period and higher limit rules (5.1.09 version of the new rules). From 3.2.09 Eileen's applicable amount is increased to include housing costs, based on £140,000. On 15.7.09 Eileen goes abroad for 6 months and then reclaims JSA on 25.1.10. The DM examines the new claim to see if Eileen can still benefit from the new housing cost rules.

The DM decides that a claim to a relevant benefit has been made after 4.1.09 (claim made on 25.1.10) and that Eileen had had a previous entitlement that included housing costs under the new rules (from Feb 09 to July 09). Eileen can still benefit from the shorter qualifying period and higher capital limit, her applicable amount is increased after the 13 week qualifying period to include housing costs, based on £140,000.

3rd condition - no prior claim for a relevant benefit

18 A further condition is that:

- 1. neither the claimant or their partner was previously, as the result of an earlier claim
 - 1.1 awarded a relevant benefit **or**
 - 1.2 in receipt of SPC **and**

the claimant does not have a period when they are treated as entitled to a relevant benefit under any of the linking rules that includes 4.1.09 and that ends immediately before the claim for a relevant benefit is made or treated as made¹.

*1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008
(SI 2008 No. 3195) Reg 8(4);*

Example 1

Frank has been receiving SSP since 7.9.09, he claims IS on 5.10.09 but without the inclusion of housing costs Frank's income from his SSP exceeds his requirements (EIOR). At this point EIOR cases do not qualify for the new 13 week qualifying period (because his claim will be immediately preceded by a linked period) and he is told to reclaim in May 2010 when he will have completed the 39 week qualifying period and his requirements can include housing costs.

On 5.1.10 the housing cost regulations are changed, these amendments are such that if Frank was to reclaim at any time on or after 5.1.10 he would qualify under the new rules. He would qualify because

1. the claim would be a claim for a relevant benefit made after 4.1.09 (general condition)
2. the previous claim did not involve an award of a relevant benefit (his claim for the relevant benefit was nil because EIOR), instead he was paid SSP
3. a linking period did not include 4.1.09.

Example 2

Freda has been in receipt of IB since 20.10.08, she has a £140,000 mortgage taken out in 2004. Without the inclusion of housing costs Freda's IB exceeded her IS entitlement and she was advised to reclaim IS in July 2009 (after the 39 week qualifying period). Freda forgets and does not claim until 26.10.09. The DM considers housing costs and in order to satisfy the qualifying period requirements the DM treats part of the 53 week period of IB prior to 26.10.09 as satisfying the 39 week linking criteria and awards IS with housing costs restricted to £100,000.

On 5.1.10 the housing cost regulations are changed, these amendments are a relevant change and the DM is able to supersede Freda's existing housing cost award. The DM now decides that

1. the 26.10.09 claim is a claim for a relevant benefit made after 4.1.09 (general condition)
2. the previous claim (Oct 08) did not award a relevant benefit (she was EIOR) instead IB was paid
3. a linking period did not include 4.1.09.

Although the linking provisions applied to the 26.10.09 claim the actual linking period that preceded this claim did not include 4.1.09 therefore Freda can benefit from the new rules of a shorter qualifying period and higher loan limit. From 5.1.10 Freda's housing costs are recalculated on the new shorter qualifying period (which she has already served) and higher loan limit and she is now allowed housing costs based on £140,000.

Example 3

Fred has been in receipt of IB since 20.10.08, he has a £140,000 mortgage taken out in 2004. Without the inclusion of housing costs Fred's IB exceeded his IS entitlement (EIOR) and he was advised to reclaim IS in July 2009 (after completing a 39 week qualifying period). Fred claims in July and the DM considers housing costs. To meet the qualifying period the DM treats the period of IB prior to the July claim as satisfying the 39 week linking criteria and awards IS with housing costs restricted to £100,000.

On 5.1.10 the housing cost regulations are changed, these amendments are potentially a relevant change and the DM may be able to supersede Fred's housing cost award. The DM decides that

1. the July claim is a claim for a relevant benefit made after 4.1.09 (general condition)
2. the previous claim (Oct 08) did not award a relevant benefit (he was EIOR) instead of a relevant benefit IB was paid
3. the linking period that immediately preceded the July claim included 4.1.09 (the linking provision covered the period from October 08 to July 09).

Because he does not meet the further condition in full Fred is still not able to benefit from the new rules and his housing costs remain based on £100,000.

Example 4

Fiona has been in receipt of IB since 20.10.08, she has a £140,000 mortgage taken out in 2004. Without the inclusion of housing costs Fiona's IB exceeded her IS requirements (EIOR case) and she was advised to reclaim IS in July 2009 (after completing the housing cost 39 week qualifying period). Fiona forgets and does not reclaim until 26.10.09. The DM considers housing costs and by treating the IB prior to 26.10.09 as satisfying the qualifying period under the linking provisions the DM can award IS with housing costs (the loan limit calculation restricted to £100,000). On 7.12.09 Fiona considers herself available for employment and now claims JSA. Housing costs are paid from the start of the JSA claim but still restricted to £100,000.

On 5.1.10 the housing cost regulations are changed. These amendments are a relevant change and the DM is able to reconsider Fiona's housing requirements in light of the new law.

The general condition requires that the person has claimed a relevant benefit after 4.1.09, in Fiona's case there is a choice of either the IS claim of 26.10.09 or the JSA claim of 7.12.09. The DM looks at each claim to see whether it meets any of the further conditions.

If the 7.12.09 claim is chosen, the DM would establish that Fiona had a prior award of a relevant benefit from an earlier claim and so would fail the test.

The 26.10.09. claim is the most favourable date option for the DM to choose because Fiona

1. was not, as a result of an earlier claim, awarded a relevant benefit (IB is not a relevant benefit)
2. she was not in receipt of SPC
3. the linking period did not include 4.1.09

Fiona qualifies for housing costs under the new rules and from 5.1.10 they are calculated on £140,000.

4th condition - prior claim for a relevant benefit

19 A further condition is that:

1. the claimant is not in receipt of a relevant benefit immediately before the date on which a claim made after 4.1.09 is made or treated as made **and**
2. neither the claimant nor his partner is in receipt of SPC before the date on which that claim made after 4.1.09 is made or treated as made¹
3. the claimant or his partner was previously awarded a relevant benefit as the result of an earlier claim (that is a claim earlier than the one selected to satisfy the condition at 1. above)

4. the claimant does not have, in relation to the claim selected to satisfy the condition at 1., a linking provision which treats the claimant as being in continuous receipt of that relevant benefit throughout a period that falls immediately between the date on which that claim is made or treated as made and the end of the prior receipt of a relevant benefit.

*1 The SS (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008
(SI 2008 No. 3195) Reg 8(5)*

Example 1

George claims JSA in May 2008 but his partner's earnings from part time employment mean he does not qualify for JSA(IB) (income exceeds). George receives JSA(C) from May to November 2008, he then continues to sign for credits after his JSA(C) has exhausted. In January 2010 George's partner's part time employment ends and he reclaims JSA.

The DM decides that George

1. claimed a relevant benefit after 4.1.09 (general condition)
2. that he was not in receipt of a relevant benefit immediately before that January 2010 claim
3. nor had he or his partner been in receipt of SPC
4. he had a prior award of a relevant benefit
5. a continuous linking period did not apply.

George had been awarded a relevant benefit earlier, in May 2008, and although the linking provision does apply to his latest claim that linking is not applied continuously throughout the whole period between the two relevant benefits, between Nov 2008 and Jan 2010. George therefore qualifies for housing costs under the new rules and can have them added to his JSA straight away because he has completed the qualifying period.

Example 2

Holly is a lone parent receiving IS (since Feb 08) which includes an amount of housing costs towards her £130,000 mortgage (restricted to £100,000). On 18.1.10 she is no longer entitled to IS as a lone parent and is required to claim JSA, Holly claims JSA immediately.

The DM decides Holly's claim to a relevant benefit on 18.1.10 was after 4.1.09 (general condition) but that the previous IS was an award of a relevant benefit of which she was in receipt immediately prior to the 18.1.10 JSA claim. Holly cannot benefit from this provision and her housing costs remain calculated on £100,000.

Example 3

Hugh has been in receipt of JSA since 23.2.08, after completing a 39 week qualifying period his JSA is increased to include housing costs, those costs restricted to £100,000 (Hugh has a £140,000 mortgage taken out in 2004). On 1.12.09 Hugh starts seasonal work as a postman which last for 6 weeks, he reclaims JSA on 11.1.10.

The DM is able to award housing costs from the start of Hugh's claim because the claim links with the previous award (break in entitlement of 12 weeks or less) When awarding housing costs the DM considers whether Hugh satisfies the new housing cost regulations. The DM decides that

1. Hugh claimed a relevant benefit after 4.1.09 (JSA claim 11.1.10)
2. he was not in receipt of a relevant benefit immediately before that 11.1.10 claim
3. he had not been in receipt of SPC
4. he had a prior award of a relevant benefit (JSA claim 23.2.08)
5. however a continuous linking period did apply between the two JSA claims.

Because he does not meet the further condition in full Hugh is not able to benefit from the new rules and his housing costs remain calculated on £100,000. Hugh continues to claim JSA until 24.5.10 when he is offered further postal work. Hugh works until the end of August 2011 and reclaims JSA on 15.9.11.

The DM examines the new claim to see if Hugh can benefit from the new housing cost rules, the DM decides that

1. Hugh claimed a relevant benefit after 4.1.09 (JSA claim 15.9.11)
2. he was not in receipt of a relevant benefit immediately before that 15.9.11 claim
3. he had not been in receipt of SPC
4. he had a prior award of a relevant benefit (JSA claim 11.1.10)
5. a continuous linking period¹ did not apply between these two JSA claims.

Hugh now meets all of the conditions and can benefit from the shorter qualifying period and higher capital limit, his JSA is increased after the 13 week qualifying period to include housing costs, calculated on £140,000.

1 JSA Regs, Sch 2, para 13(13)

5th condition - prior receipt of SPC

20 A further condition is that:

1. the claimant or his partner was in receipt of SPC¹ **and**
2. a claim for a relevant benefit made after 4.1.09 did not begin within²
 - 2.1 12 weeks of SPC ending (DMG 23708, 44533) **or**
 - 2.2 26 weeks of SPC ending because of
 - 2.2.a a lower child support maintenance assessment (DMG 23710, 44535)
 - 2.2.b 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(6)(a); 2 reg 8(6)(b)*

Example

Ivan is in receipt of SPC including housing costs for himself and partner Mary. On 11.1.10 Ivan dies and a week later Mary claims JSA. The DM decides that Mary's claim for JSA on 18.1.10 was a claim for a relevant benefit made after 4.1.09 (general condition) and that Mary's partner had been in receipt of SPC. However the claim for JSA was made within 12 weeks of the SPC award ending so Mary does not meet the criteria and cannot benefit from the new housing cost rules of a higher capital limit or shorter qualifying period.

Note: To benefit from the higher loan limit Mary would have to delay her claim for JSA until at least 12 weeks after the SPC ended, but in doing so she would break the linking application and have to serve a new qualifying period.

AMOUNT OF HOUSING COSTS

- 21 Where the claimant satisfies the general condition at paragraph 16 and one of the other further conditions at paragraphs 17, 18, 19 or 20, in these circumstances, the amount of the award of housing costs is
1. nil where the claimant has not been continuously entitled or treated as entitled to IS, JSA or ESA for 13 weeks
 2. for claimants who have been entitled to or treated as entitled to IS, JSA or ESA 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.
- 22 For the calculation at 21 the maximum limit of eligible capital currently owed is £200,000¹

Note: for exceptions to the maximum amount limit see DMG 23529 and 44343

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

RETROSPECTIVE DECISIONS

- 23 People in the group to whom the package of support has been extended (EIOR cases) cannot have these changes applied retrospectively so that they are awarded any notional arrears of housing costs that they may have been entitled to between 5.1.09 and the date these Regulations come into force. Similarly, those people who were unintentionally awarded housing costs under the new rules because they had reclaimed a relevant benefit and there was no gap in their benefit entitlements cannot now have these changes applied retrospectively so that they have a recoverable housing cost overpayment.

Note: The Department may consider offering extra-statutory payments intended to cover the shortfall of the amount a claimant could have received had the housing

costs been awarded after 13 weeks instead of 39 weeks (separate instructions will be issued to provide guidance on this).

Example

Janet 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. Janet claims JSA immediately. The DM decides that Janet 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 and higher loan limit under the 5.1.09 version of the new rules. Janet's JSA was increased to include housing costs, based on £130,000 from 6.4.09. The regulation amendment of 5.1.10 is a relevant change of circumstance. Under the revised version of the new rules Janet's claim on 6.4.09 would not satisfy the criteria for the new rules to apply (para 16 and 19) and as a consequence her housing costs are now reduced, from 5.1.10, to those based on £100,000. There is no recoverable overpayment of the extra housing costs awarded between 6.4.09 and 5.1.10.

FURTHER MODIFICATIONS FOR JSA(IB)

Limitation applicable to qualifying loans

24 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 & Modification) Regulations 2008 (SI 2008 No. 3195);
Reg 11, JSA Regs, Sch 2 para 4A(1)*

25 The 104 week limitation does not apply were

1. the claimant or his partner or, if the claimant is a member of a joint claim couple, the other member of the couple was previously entitled to IS or ESA **and**
2. there were 12 weeks or less between that previous entitlement and the JSA award¹.

1 JSA Regs, Sch 2 para 4A(6)

Example

Fiona has been in receipt of IB since 20.10.08, she has a £140,000 mortgage taken out in 2004. Without the inclusion of housing costs Fiona's IB exceeded her IS requirements (EIOR case) and she was advised to reclaim IS in July 2009 (after completing the housing cost 39 week qualifying period). Fiona forgets and does not reclaim until 26.10.09. The DM awards IS with housing costs (the loan limit calculation restricted to £100,000). On 7.12.09 Fiona considers herself available for employment and now claims JSA. Housing costs are paid from the start of the JSA claim but still restricted to £100,000.

On 5.1.10 the housing cost regulations are changed. These amendments are a relevant change and the DM is able to reconsider Fiona's housing requirements in light of the new law. Fiona qualifies for housing costs under the new rules because

1. she made a claim for a relevant benefit after 4.1.09 (the IS claim 26.10.09)
2. the previous claim did not involve an award of a relevant benefit (Fiona was awarded IB)
3. the linking period did not include 4.1.09

and from 5.1.10 Fiona's housing costs are calculated on £140,000.

Fiona is not subject to the JSA 104 week limitation of housing costs support because she had a prior award of IS within 12 weeks of the date on which she became entitled to JSA.

26 The start of the period of 104 weeks commences from the earliest date those housing costs were first met in a JSA award on or after 5.1.09, and it is calculated disregarding

1. any weeks where the capital limit for loans was based on £100,000¹
2. housing costs (as described in paragraph 24) met as the result of a previous JSA award where the claimant does not have a linked period that begins on the first day of the last period in respect of which the claimant was not in receipt of a jobseeker's allowance and which ends immediately before the claimant's most recent JSA claim is made or is treated as made².

1 JSA Regs, Sch 2 para 4A(3); 2 para 4A(5)

Example 1

Karen 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 Karen satisfies the criteria to have the new rules apply and therefore from 2.2.09 (after the 13 week qualifying period) Karen's housing costs are increased to 100% (based on £110,000). On 24.1.11 Karen 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.

Example 2

Linda was in receipt of JSA from 2.3.09, she qualifies for help with her £12,000 mortgage under the new housing cost rules and Linda's applicable amount is increased after 13 weeks (from 1.6.09) to include housing costs. On 5.10.09 Linda starts 13 months work¹ and reclaims JSA on 15.11.10. The DM examines the new claim to see if Linda can still benefit from the new housing cost rules. The DM decides that a claim to a relevant benefit has been made after 4.1.09 (claim made on 2.3.09 and 15.11.10) and that Linda had had a previous entitlement that included housing costs under the new rules. Linda can therefore still benefit from the shorter 13 week qualifying period under the new rules and her applicable amount is increased to include housing costs after 13 weeks, from 14.2.11. The 104 week limit will be on 14.2.13 having disregarding the 18 weeks from earlier JSA award.

Note: For further guidance on 52 week linking categories see DMG 23715 and 44546

1 JSA Regs, Sch 2 para 13(13)

Example 3

Martin was in receipt of JSA from 2.3.09, he qualifies for help with his £13,000 mortgage under the new housing cost rules and Martin's applicable amount is increased to include housing costs after 13 weeks, from 1.6.09. On 5.10.09 Martin starts 10 weeks work and reclaims JSA on 14.12.09. The DM examines the new claim to see if Martin can still benefit from the new housing cost rules. The DM decides that a claim to a relevant benefit has been made after 4.1.09 (claim made on 2.3.09 and 14.12.09) and that Martin had had a previous entitlement that was based on the housing costs new rules. For this latest claim Martin can still benefit from the new housing cost rules. Because this latest claim is within 12 weeks of the previous claim ending, they link, and Martin will have effectively been entitled and treated as entitled throughout the whole period from 2.3.09. Housing costs are therefore awarded from the outset of this latest claim. The 104 week limit will be on 10.8.11 (104 weeks from 1.6.09 disregarding the 10 weeks when he was not actually in receipt of housing costs).

STATE PENSION CREDIT

- 27 The amount of the maximum limit for qualifying loans is increased to £200,000 for certain claimants who make a new claim to SPC on or after 5.1.09
- 28 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
 2. that person or their partner had a previous entitlement to a relevant benefit where the new rules were applied¹, either
 - 2.1 the 5.1.09 (SI 2008/3195) version of the regulations, as described in paragraph 6 to 10 above, **or**
 - 2.2 the 5.1.10 version of the regulations, described in paragraphs 16 to 20.
 3. the last day on which that person or their partner was entitled to a relevant benefit was within 12 weeks of
 - 3.1 the first day of entitlement to SPC **or**
 - 3.2 the date the actual claim to SPC was made where that claim had been treated as made earlier¹ **and**
 4. immediately before it ended 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.

*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 43/09) 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 (Leeds), Room GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in Memo DMG 26/08.

