

Assessing previous work

Final payment from employers

1. An employer makes final payments when an employee finishes work because of dismissal, resignation, redundancy or their contract ending.
2. Final payments can include:
 - wages;
 - pay in lieu of notice;
 - holiday pay;
 - redundancy and other payments.

Wages

3. When employment ends, payments may be due for the employed period for services already provided. These payments are owed under the contract of employment and are due because of the employment itself, not because of the end of employment.
4. Such payments include:
 - final earnings;
 - wages held in hand;
 - commission.
5. Payments that are paid in place of a person's normal wage or salary should be treated as wages.
6. Normal wages from remunerative work due for any period up to and including the claimant's or partners last date of employment are ignored.

Holiday pay

7. An employer pays holiday pay if employment ends, and an employee did not take all the holidays legally due to them.
8. Holiday Pay received from an employer can be disregarded as long as:
 - the employment ended before the first day of the claimant's entitlement to JSA; and
 - the holiday pay is paid less than 4 weeks after the employment ended; and
 - the claimant is not involved in a trade dispute.

Employment ended after the start of the claim

9. If the employment ended **on** or **after** the first day of the claimant's entitlement to JSA, the holiday pay should be treated as earnings and taken into account in the normal way.

Holiday pay paid after 4 weeks of employment ending

10. Holiday pay that is payable more than 4 weeks after the employment ended, or was interrupted, should be treated as capital. It is then ignored for JSA(C) but taken into account as capital for JSA(IB), except in the case of a person affected by a trade dispute.

Holiday pay paid on a trade dispute claim

11. Any payment made to a person involved in a trade dispute or any payment a member of the family receives as a result of a trade dispute is taken fully into account as income.

See, Decisions Makers Guide, Volume 5, Chapter 28 Income Other than Earnings, Attribution of income

Pay in lieu of notice

12. An employer pays pay in lieu of notice when they end the employment without giving the agreed notice. The employer makes the payment instead of the employee working notice.

13. Any pay in lieu of notice received from an employer can be disregarded as long as the employment ended before the first day of the claimant's entitlement to JSA.

14. If the employment ended **on** or **after** the first day of the claimant's entitlement to JSA, any pay in lieu of notice received should be treated and attributed as earnings in the normal way.

Redundancy and other payments

15. Listed below are some of the common types of payments made by employers:

- statutory redundancy payments;
- payments in kind;
- Income Tax refunds;
- compensation payments.

Statutory redundancy payments

16. Statutory redundancy payments are treated as capital. They should be ignored for JSA(C) but taken into account as capital for JSA(IB).

Income Tax refunds

17. Any refunds of Income Tax are treated as capital. They should be ignored for JSA(C) but taken into account as capital for JSA(IB).

Compensation payments

18. Any compensation payments received from an employer can be disregarded as long as the employment ended before the first day of the claimant's entitlement to JSA.

19. If the employment ended **on** or **after** the first day of the claimant's entitlement to JSA, the holiday pay should be treated as earnings and attributed as per pay in lieu of notice.

20. **All** retainers will continue to be taken into account in the normal way, as will **all** earnings where employment has been suspended.

Attribution of pay in lieu of notice or compensation payments

21. If pay in lieu of notice (PILON) or a compensation payment has been or is due to be made:

Step	Action
1	establish the: <ul style="list-style-type: none"> • due date; and • amount of notice the claimant is entitled to;
2	if the notice was given on a day that falls: <ul style="list-style-type: none"> • before the first notional benefit week: <ul style="list-style-type: none"> ◦ attribute the period of PILON from the due date until the last day of the notice period; • within the first notional benefit week: <ul style="list-style-type: none"> ◦ attribute the PILON from the first day of the benefit week until the last day of the notice period.

22. If notice is given within the first notional benefit week, the attribution period may be longer than the notice period. However, because regulations stipulate that a person must be treated as in remunerative work for the whole period of PILON, the exclusion must be continued until the actual end date of notice. See Dialogue JA210: Maintain Suspension Details.

23. The period of disallowance is known as the 'remunerative work exclusion period'. The claimant can receive a National Insurance (NI) credit for the period of disallowance.

24. NI credits for the period of disallowance will be awarded by JSAPS

25. NI credits awarded during the PILON period, where there is no JSAPS claim covering that period, should be notified to NIRS2 using eNIRS, CF201 or CA5481 as appropriate. See Belated Application for Credits.

26. Waiting days, if appropriate, must be served after PILON/compensation payment has ended.

Holiday pay only has been or is due to be paid

27. Holiday pay paid on its own is treated in a different way than it would be if it were paid along with a compensation payment.

28. It is important to work out the correct due date when holiday pay was paid on its own, as this is the date that will determine when any disallowance will start.

29. When the:

- employee leaves and no notice is given:
 - the due date is the date the employer usually pays;
- employee gives agreed notice and notice is worked:
 - the due date is the date agreed in the contract of employment;
- employer terminates the employment and no notice is given:
 - the due date is the last date of employment;
- employer gives notice and notice is worked:
 - the due date is the final pay day according to the contract of employment.

The attribution of holiday pay

30. There have been three Commissioner's decisions regarding the attribution of holiday pay:

- the first attributes holiday pay by using the claimant's normal working week, for example, works 5 days a week and is paid 12 days holiday

pay. This would be attributed for a period of 2 weeks and 2 days (16 calendar days);

- the second decision attributes holiday pay for the period in which it is paid, for example, 12 days holiday pay is attributed for 12 calendar days;
- the third decision confirms the second decision and from 15 June 2005, attribution of holiday pay is on a calendar day basis.

31. Take action as follows:

Step	Action
1	establish the number of days that were in the claimant's working week;
2	attribute holiday pay <ul style="list-style-type: none">• If due date falls within or after the first notional benefit week – attribute from the first day of the benefit week in which it falls; or• due before the notional benefit week – attribute from due date for period actually covered; or• due and payable more than four weeks after termination or interruption of employment (except interruptions due to trade dispute) – ignore for JSA(C) and treat as capital for JSA(IB); or• if paid along with PILON or compensation payment – attribute from the day following the end of remunerative work exclusion period calculated as a result of PILON or compensation payment.

When holiday pay is paid along with pay in lieu of notice/compensation payments

32. The disallowance period for holiday pay must follow the disallowance period for pay in lieu of notice or compensation payment.

33. Waiting days, if appropriate, must be served after holiday pay has ended.

34. The attribution of holiday pay paid to a partner is the same as for the claimant, but it will only affect the JSA(IB) element of the claimant's claim.

Recording previous work on JSAPS

35. Most claims to JSA will be processed on JSAPS. Therefore JSAPS will calculate any periods of attribution once the processor has input the correct dates.

36. When disallowing a claim for pay in lieu of notice using dialogue JA210: Maintain Suspension and Decision Details, dialogue JA210: Maintain Suspension and Decision Details.

37. Input the due date of PILON or compensation payment in the 'Notice Date' field in the MAINTAIN SUSPENSION DETAILS screen JA210211. This enables JSAPS to calculate the correct end date. See para 227 in JA210: Maintain Suspension Details

38. The partner was previously employed input the details in dialogue JA091: Maintain Claim Details, PREVIOUS WORK screen JA091007, checking correct person [02].

Previous work on a clerical claim

39. After attributing the pay in lieu of notice (PILON), compensation payment and/or holiday pay, and considering waiting days, record this on form A6.
40. The date JSA will be paid from is now known. This is noted on the reverse of the JSA14A clerical assessment form in the 'First Effective Date' box.
41. This first effective date is then transferred onto the JSA14P payment record form, which records dates and payments made for JSA.
42. The period of disallowance is also entered on the reverse of JSA14A form and the notes box can be completed with details of why the disallowance has occurred.

Insolvency Provisions

43. When an employer becomes insolvent, employees who lose their jobs may seek compensation for any loss of holiday or payment in lieu of notice.
44. The Redundancy Payment Office (RPO) will ask any ex-employee making such a claim, whether they have claimed Jobseekers Allowance.
45. Any payments of JSA declared will be deducted from any compensation paid by the RPO. They do not check these amounts with Jobcentre Plus.
46. If an Insolvency Payment is notified by the RPO take the following action:
- Check the period the award is for against any periods of JSA paid;
 - If JSA (C) has been paid for the same period and an equivalent amount has been deducted from the award access dialogue JA110; maintain Notepad, and note the amount and dates
 - adjust the cum tots as appropriate for the JSA that has been deducted from the compensation, transfer to clerical and do the adjustment before re-building to JSAPS using dialogues JA035 and JA086. Also adjust the total and taxable pay by the amount of JSA deducted from the Insolvency Payment.
 - If JSA (IB) has been paid and deducted from the Insolvency Payment take action to adjust the total and taxable pay by the amount of JSA deducted from the Insolvency Payment.
 - If the Insolvency Payment has had no deductions for JSA paid no action is necessary on the claim.

Remainder of the Compensation

47. The remainder of the compensation paid by the RPO should be added to any capital already declared and a re-assessment done.

Seasonal workers

48. Seasonal workers are people whose work regularly stops or reduces at certain times of the year due to the nature of their business.
49. Decide first if the seasonal worker is in remunerative work. If the seasonal worker is not in remunerative work, consider if they are in gainful employment.
50. If the seasonal worker is not in remunerative work and not in gainful employment, treat them in the same way as other claims involving self-employment.

Sub-contractors

51. Sub-contractors often work in the construction industry. They are contracted by another person or company to do a particular job.

52. Claims from sub-contractors must be referred to a Benefit Delivery Expert to decide on whether they are self-employed.

See, Decision Makers Guide, Volume 5, Chapter 27

Absent from work with good cause

53. Good cause is some fact or circumstance that would cause a reasonable person to be absent from work for that period of time.

54. If the claimant cannot show good cause for their absence from work, they are not entitled to JSA, as they are treated as still being in remunerative work.

55. Establish if the claimant or partner is absent from work with good cause. The onus is on the claimant to show that good cause exists. Conditions of entitlement must also be satisfied.

Company Directors

56. Directors:

- are employees of a company;
- are not personally responsible for company debts;
- receive a salary from the company.

57. As a result, directors are not classed as self-employed earners, and therefore should be treated as an employee.

58. The claimant should have annotated their JSA claim form as to whether they are a company director or not.

59. Where the company director is the only or major shareholder of the company, business assets will need to be considered.

Renting out property as a business

60. If a claimant is letting property or properties other than their home, consider whether this is an investment or a business.

Rented property as an investment

61. A property is primarily an investment if the claimant:

- has a single property that is not their home address; and
- lets that property to tenants; and
- collects rent and does repairs.

Rented property as a business

62. A person who joins with others to buy properties to let as flats or offices could be said to be conducting a business. If a case which involves this type of self employment is received, consider the:

- number of properties involved; and
- long term intentions of the person.

63. If it is decided that a claimant is conducting a business from renting out properties, do not treat the rent income as capital because the income is obtained from the person's business.

64. The property is used as a business asset and the rent is a gross receipt of the business. Therefore it is taken into account as income.

See, Decision Makers Guide, Volume 5, Chapter 28 Income other than earnings

Child minders

65. A child minder is a person who engages in a contract for services to care for another person's child in return for payment.

66. To calculate a child minder's normal weekly earnings, use the child minder cash flow proforma to calculate net income.

67. Special rules apply for child minders claiming JSA.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Particular forms of self-employment.

Crofts or small holdings

68. Earnings from a croft or small holding should be decided on the same basis as a small business.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Particular forms of self-employment.

Farmers

69. A farmer in need of financial assistance may first seek advice from a surveyor, land agent, valuer or some other similar professional to ensure they are taking advantage of any schemes or subsidies, such as those administered by Department of Food and Rural Affairs (DEFRA), that may be available.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Particular forms of self-employment.

Hotels, guest houses, and bed and breakfast establishments

70. Apply the remunerative work rules when considering a claim for a claimant or partner who runs a hotel, guesthouse, lodging house or bed and breakfast establishment.

71. Income received from providing board and lodgings accommodation is not earnings. Treat these payments as income other than earnings.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman.

Bars and restaurants in hotels and guest houses

72. Earnings from self-employment include income from bars and restaurants when services are provided that are not included in the board and lodgings charge.

73. Calculate the earnings assessment period and calculate the gross receipts and allowable expenses in the normal way.

Local exchange trading systems

74. Local exchange trading systems (LETS) are associations that allow participants to exchange goods and services with others in the community.

75. LETS members list their offers of, and requests for, goods and services in a directory and then trade them using a system of credits.

76. The credits are given many different names, for example:

- Bobbins

- Brads
- Newberries
- Beacons
- Acorns

Participating in a local exchange trading system scheme

77. Regard participation in a LETS scheme as work because the credits obtained are payment for goods or services provided.

78. Decide:

- if a LETS participant is engaged in remunerative work, and/or
- the credit's sterling equivalent so that the credit's value can be added to the:
 - business' income/earnings;
 - claimant's capital.

Factor to consider

79. Participants in a LETS scheme can exchange their credits for goods and services in participating shops and businesses in much the same way as ordinary currency.

80. Her Majesty's Revenue and Customs (HMRC) consider credits as taxable income.

81. For JSA purposes and depending on the circumstances of the case, credits can be treated as:

- capital; or
- earnings.

82. Never treat credits as payment in kind.

83. If a person:

- undertakes occasional, personal transactions for credits, for example, selling an item of furniture, the credits received should be treated as capital; or
- is gainfully employed as a self employed earner and receives credits such as payment for services provided, those credits should be included in the gross receipts of the business and are subject to the appropriate disregard.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman.

Athletes

84. Athletes who receive sponsorship, attendance money or prize money are subject to normal self-employed rules.

Gross income or earnings

85. Income or earnings in self-employed cases may be referred to as gross receipts/ income. See Establishing gross income or earnings.

86. Income from royalties and copyright payments have a different assessment period to other gross receipts/ income. This different rule applies to:

- Royalties or other sums paid as a consideration for the use of, or right to use, any copyright, design, patent or trademark; or
- any payment in respect of any:

- book registered under the Public Lending Right Scheme 1982, or
- work made under any international public lending Right Scheme 1982, where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work concerned.

See, Decision Makers Guide, Chapter 27 Self employed earners and share fishermen, Royalties and copyright payments - para 27073 onwards, for information on the differing assessment period.

Establishing gross income or earnings

87. After calculating the earnings assessment period, work out the self-employed person's gross income or earnings in that period.

See, Decision Makers Guide, Volume 5, Chapter 26 Meaning of gross earnings

Evidence of income or earnings

88. There are many different types of self-employment and not all of them record their income or earnings in the same way.

89. If accounts that have been drawn up by an accountant are provided be aware that:

- the net profit/loss figure may not be appropriate for JSA purposes as the HMRC allow different expenses; and
- some of the income and expenses may not have been received or paid out during the period of the accounts.

90. If there are no accounts drawn up by an accountant, ask the claimant to provide other confirmation such as:

- copies of invoices made out to clients in respect of work done;
- copies of receipts of payments by clients;
- a day to day record of all payments received;
- receipts for goods purchased;
- receipts for transport costs;
- business books, for example, a cash book;
- bank statements;
- HMRC form 715, provided to sub-contractors to show how much the contractor has paid them.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fishermen.

Certified accounts

91. The layout and content of accounts varies but if a professional accountant has prepared them, the accountant usually makes a signed statement on the accounts. The accounts should also be signed by the person or persons they relate to.

92. There are different types of accounts, for example:

- trading account;
- Profit and loss account.

Trading account

93. The trading account shows the gross profit of the business.

94. Gross profit is money received before business expenses have been deducted.

Debit side	Credit side
Opening stock	Total sales
+	+
Total purchases	Closing stock

Profit and loss account

95. The profit and loss account shows the net profit of the business.

96. The net profit is the amount of money the company has made after deductions of all business expenses except personal drawings or wages.

Debit side	Credit side
Gross profit	All bills
+	+
Other income	All expenses

The balance sheet

97. The balance sheet is a financial statement of the business at a given date. It lists the business assets and liabilities.

Establish allowable expenses

98. Different types of self-employment will incur different costs. The Benefit Delivery Expert must consider the type of work or services before considering which expenses are allowable.

Evidence of expenses

99. If the claimant's accounts are drawn up by a professional accountant:

Step	Action
1	accept that the expenses detailed are correct;
2	use form A6 to record all details of the business, income and expenditure;
3	complete a cash flow chart to calculate net income.

100. If there are no accounts, or the accounts have not been drawn up by an accountant:

Step	Action
1	ask the claimant to provide other confirmation where possible, for example: <ul style="list-style-type: none"> • receipts for bills; • receipts for goods purchased; • receipts for transport costs;
2	record all details on form A6 of the business, income and expenditure;
3	if evidence of expenses has been provided, complete a cash flow chart to calculate net income.

Allowable expenses

101. If all the conditions for deducting business expenses are met, all day-to-day expenses of the business are allowable.

102. If a self employed claimant employs their partner in the business:

- allow their partner's wage as a business expense; and
- take their partner's wages into account in the JSA assessment.

103. Never add back wages to accounts to offset losses, even if the business is making a loss.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fishermen.

Non-allowable expenses

104. The following are not allowed as business expenses:

- money used to acquire a capital asset, for example, a vehicle;
- the depreciation of any capital assets, for example, a vehicle or machinery;
- expenses used in providing business entertainment, for example, business lunches;
- any personal drawings on income or capital.

This list is not exhaustive.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fishermen.

Conditions for deducting business expenses

105. Certain expenses should be deducted from gross income of the business if they were:

- actually paid out during the earnings assessment period;
- reasonably incurred; and
- paid out wholly and exclusively for the purpose of the business.

Claimant's partner employed by the business

106. If a self employed claimant employs their partner in the business:

- allow their partner's wage as a business expense; and
- take their partner's wages into account in the JSA assessment.

107. Never add back wages to accounts to offset losses, even if the business is making a loss.

Value Added Tax

108. A business that is registered for Value Added Tax (VAT) is required to submit returns every three months to HM Revenue and Customs.

109. If the business is not registered for VAT, the VAT will appear on the accounts only as an expense.

110. If the business has paid VAT on purchases and other expenses, this is automatically included in the amounts allowed for expenses.

111. If the business receives more VAT from its claimants than it has paid to its suppliers, it must pay the balance to HM Revenue and Customs.

112. An amount that has been paid to HM Revenue and Customs during the earnings assessment period, can be allowed as a business expense.

Chargeable income or earnings

113. The chargeable income or earnings is equal to the gross income or earnings less allowable expenses.

Allowable deductions from chargeable income or earnings

114. After calculating the chargeable income or earnings, an amount can be deducted for:

- Class 2 National Insurance contributions (NICs);
- Class 4 National Insurance contributions (NICs);
- Income Tax or notional Income Tax;
- half of any premium paid:
 - into a personal pension scheme; or
 - for a retirement annuity contract.

Class 2 National Insurance contributions

115. A Class 2 contribution is a flat rate contribution, paid irrespective of the amount of earnings or profits from the person's self employment.

116. A deduction should be made for Class 2 contributions in all cases.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Deduction for notional Class 2 SS contributions

Class 4 National Insurance contributions

117. A Class 4 National Insurance contribution (NIC) is a deduction of a fixed percentage of the annual profits of the business when these profits fall within lower and upper levels.

118. These payments are in addition to Class 2 NICs. Make a notional deduction for this figure.

119. Class 4 contributions are paid in addition to Class 2 contributions when the profits from the self-employment exceed a certain level.

120. Unlike Class 2 NICs, Class 4 NICs are not charged at a fixed rate, and a notional Class 4 NIC should be charged.

121. The calculation is based on the percentage rate and lower and upper levels current at the date of claim only.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Deduction for notional Class 4 SS contributions

Notional Income Tax

122. All earnings are liable for Income Tax. Most employers operate the Pay As You Earn (PAYE) scheme and deduct Income Tax and National Insurance Contributions (NICs) from their employees' wages.

123. Self employed people cannot use PAYE because their earnings depend on factors that may not be immediately apparent, for example, turnover and expenses.

124. Because of this:

- self employed people have their Income Tax assessed once a year retrospectively and may pay it in instalments over the following year;

- the actual amount owed/ paid on the earnings used may not be known when assessing a self employed claim; and
 - a notional Income Tax should be used when assessing JSA.
125. All earners get a personal tax allowance, ie an amount that they do not pay tax on. An additional personal allowance for a child or young person can be allowed in certain circumstances.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Deduction for notional Income Tax

Calculating net income

126. When the appropriate information has been gathered, calculate a weekly net income figure for the JSA assessment.

Calculating a weekly earnings cashflow for a sole trader

127. Use the cash flow proforma to calculate net income.
128. Only net earnings are entered on the system. Convert to a weekly amount after making all deductions.

Calculating a weekly earnings cashflow for a business partner

129. Before considering sharing out the net profit of the business among the partners, make sure the chargeable income or earnings includes the following for all partners:

- any allowances from schemes to help with self employment; and
 - any personal drawings.
130. If the partnership agreement shows that the partners are entitled to equal shares of the profits, divide the chargeable income or earnings into equal parts.
131. If the partnership agreement shows that the partners are entitled to varying proportions of the profits, apportion the chargeable income or earnings according to the percentage due to the claimant or partner.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Partnerships

Calculating income of a salaried partner in a business

132. If a self-employed partner receives a salary from the business in addition to a share of the business profit do not deduct their salary before arriving at the total net profit to be shared between the partners.

See, Decision Makers Guide, Volume 5, Chapter 27 Self employed earners and share fisherman, Salaried Partners

Recording current self employment on JSAPS

133. To record a continuing self employed case on JSAPS:

Step	Action
1	access dialogue JA091: Maintain claim details, screen JA091006 CURRENT WORK;
2	input [Y] in the Self Employed field;
3	access dialogue JA091: Maintain claim details, screen JA091107 -

	CURRENT WORK-EARNINGS
4	input: <ul style="list-style-type: none"> • the weekly net income figure; or • [£0.00] if there is no profit;
5	JSAPS prompts for a decision to be made when dialogue JA200 - Award and Decision is accessed;
6	pass to the Benefit Delivery Expert to adjudicate on the decision;
7	access dialogue JA110: Maintain Notepad and make a note to review the case.

134. JSAPS automatically sets a limited case control date to review the claimant's earnings after 52 weeks.

135. If it is decided to do a review more frequently:

Step	Action
1	access dialogue JA530: Case Controls. Set case control and input an appropriate review date;
2	access dialogue JA110: Maintain Notepad and make a note to review the case.

Recording current self employment clerically

136. The weekly average earnings should be recorded on the JSA14A, at Section 10 for JSA(C), or Section 11 for JSA(IB).

Section	Entry
10 Income for JSA(C)	Only the claimant's income affects the assessment of JSA(C). Enter: <ul style="list-style-type: none"> • the type, for example, self-employment; • paid to – the claimant's name; • the weekly amount; • the appropriate disregard; • the net figure. Copy the net figure into the weekly amounts 'Column A (Cont)'
11 Income for JSA(IB)	Any income the claimant, partner or dependants receives affects the assessment of JSA(IB). Enter: <ul style="list-style-type: none"> • the income type; • to whom the income is payable; • the weekly amount; • the appropriate disregard; • the net figure. Copy the net figures into the weekly amount 'Column C (IB)'

Protected entitlement for certain ex-Income Support claimants

137. There is an exception to the remunerative work rule for claimants, who at the time the Income Support (IS) remunerative work rule was changed on 7 April 1992:

- received IS; and
- were working between 16 and 24 hours per week.

138. These claimants were given protected IS entitlement at the time of the change. Claimants covered by this rule carry the protection forward to JSA.

139. If the claimant satisfies these conditions, note their JSA wallet to identify that:

- protected IS entitlement applies; and
- the claimant can work for up to 24 hours a week without the claim being terminated.

140. The linking period for this protection is eight weeks. If the claimant makes a claim to JSA, you must check whether the protection applies and action the claim accordingly.

141. These cases must be clerically maintained and a credit awarded.

See, Decisions Makers Guide, Volume 4, Chapter 20, JSA and IS Conditions of Entitlement

Protected credits entitlement

142. Claimants who satisfy the protected Income Support conditions and work less than 24 hours in a week are also entitled to a National Insurance (NI) credit because an award of JSA is made.

143. As these are clerical cases, use form CF201 to award NI credits.

Councillors

144. Members of local councils and other Local Authority (LA) bodies are not treated as in remunerative work whilst carrying out their duties as a councillor. For further information please see the **Decision Makers Guide, Volume 5, Chapter 26, Employed Earners, Local Authority Councillors.**

Councillors working 16 hours or more per week on council duties may still be able to receive JSA.

Whilst performing their duties they may receive attendance allowance and expenses to attend meetings and committees, these allowances can include:

- basic allowance;
- special responsibilities allowance;
- attendance allowance;
- financial loss allowance;
- travel and subsistence allowance.

145. Any allowances should be treated as earnings for JSA purposes.

For the treatment of expenses, please see guidance on volunteer expenses.

Service Users

146. If a claimant declares that they are participating in Service User activity, establish whether they receive payment for their involvement.

147. Claimants who **do not receive payment** (or only receive expenses for attendance costs, should be asked to complete form VOLWORK1JP (**forms A15 and B7 must not be issued**)).

148. Claimants or partners participating as Service Users who **receive payment** for their participation/ involvement should complete forms B7 and A15C.

Recording Service user activity

For further information about Service Users and how to record involvement, payment and expenses see Gathering Evidence.

Assessing payment for Service User Activity

149. When B7's detailing earnings are received, see Current work for information about inputting and assessing part-time earnings.

Teachers and ancillary workers

Teachers

150. Details of how to treat teachers can be found in:

- **The Decision Makers Guide Volume 5, Chapter 26 Employed Earners**

Ancillary workers during holiday periods

151. Consider if a claimant is in remunerative work for all their cycle of work when:

- their hours of work fluctuate;
- they have a recognisable cycle of work, consisting of one year;
- they are employed at:
 - a school or other educational establishment;
 - other place of employment with school holidays or similar vacations;and
- on average they work 16 hours or more per week.

152. This decision applies to the whole of the cycle, including non working weeks.

153. All claims from ancillary workers must be referred to the Benefit Delivery Expert for a formal decision on remunerative work. This is because some ancillary workers may not have established a cycle of work and may qualify for JSA providing all other conditions of entitlement are met.

154. If an ancillary worker enquires about possible entitlement to JSA during school holidays, or other similar vacations, tell them that their claim will be decided by the Benefit Delivery Expert who:

- examines the facts of the case and the claimant's circumstances, and
- makes a decision using the current interpretation of the JSA Regulations and relevant case law - the latest case law on this subject is taken from Commissioner's Decision CJSA/395/98.

155. A claimant who is unsure of their position may wish to claim JSA so that the claim may be decided on and a written decision issued. If the claimant does not agree with this decision, they have the right to appeal against it.

156. The decision to claim JSA must be the claimant's. Do not influence them either way and do not under any circumstances tell ancillary workers they cannot claim JSA.

See Decision Makers Guide chapter 20, para 20316 – JSA yearly cycle with school holidays or similar vacations.

Disabled people (75% rule)

157. The remunerative work rule does not apply to certain disabled workers who have been receiving JSA since before 25 January 2010, that is:

- mentally or physically disabled claimants who earn, or work 75% or less than a person without that disability who is in comparable employment in that area, and
- claimants living in a Care Home (CH) or residential accommodation

158. If there is any break in entitlement on or after 25 January 2010 the remunerative work rule will apply if the claimant makes a further claim for JSA. Linking is not possible.

NOTE: This condition of entitlement was removed for all new and repeat claims from disabled workers from 25 January 2010. There are no linking rules

Non-cash vouchers

159. From 1 July 1999, the amount of any non-cash voucher included as earnings for the purposes of calculating Class 1 National Insurance deductions is included in the earnings assessment when calculating both JSA(C) and JSA(IB).

160. A non-cash voucher is any voucher or token that is redeemable for goods or services. The term non-cash voucher could include:

- luncheon vouchers;
- car parking tokens;
- vouchers redeemable in a local store;
- vouchers redeemable at the place of work, for example, Tesco staff may receive non-cash vouchers for staff purchases at the store.

Elite Athletes Programme - Sports Awards

161. The Elite Athletes Programme is a scheme run by the Sports Councils of England, Wales, Scotland, Northern Ireland and the UK.

162. Awards to athletes receiving JSA(IB) do not include day-to-day living expenses.

163. Under the Social Security Amendment (Sports Awards) Regulations 1999, these sports awards are disregarded. Athletes on the World Class Programme must not be treated as being on training, for example, Work based learning for adults, or in remunerative work.

164. Sports awards are usually made for a year and paid either monthly in arrears or quarterly in advance. Small awards, under £500, may be paid as a lump sum for a year, but should be treated as income.

165. Athletes may sometimes receive a large lump sum for an expensive item of equipment, for example, a disabled athlete receiving help to buy a racing wheelchair. Treat this money as capital.

166. Athletes who receive other sponsorship, attendance or prize money are subject to the normal self-employment rules.

167. If the athlete takes part in team events, the sport's governing body may receive money to pay for team events and costs for example, uniforms. Treat these as third party payments.

168. Claimants will still have to meet all other requirements of JSA to remain entitled to benefit. This means that they must remain available, actively seeking and so on.

169. If a claimant who is on the scheme attends a residential training scheme in Great Britain this would be treated as an absence from home, not a period of temporary unavailability.

170. There is no entitlement to JSA for any period abroad.

The Time Exchange Scheme

171. Participation in the Time Exchange Scheme is considered by community organisations and local government, as a way of involving people in their local communities, as part of a regeneration scheme.

172. Although participants in a Time Exchange Scheme may do so in the belief that they are volunteers, it is not regarded as volunteering for either income related or incapacity benefits, as volunteering is done without reward or expectation of reward.

173. However, work carried out under the Time Exchange Scheme is not classed as remunerative work, so the 16 hour and 24 hour rule does not apply, and it should be entered on JSAPS in exactly the same way as voluntary work.

174. As there is a distinction between work undertaken on a voluntary or remunerative basis and that undertaken under the Time Exchange Scheme, offices need to be aware of what scheme(s) exist in their areas.

175. In a Time Exchange Scheme, time credits cannot be exchanged for goods or converted into alternative currency used by a Local Exchange Trading Scheme (LETS). For benefits purposes, participation in a LETS is self-employment and any activity undertaken will count towards the remunerative work rule.

See, Decision Makers Guide Volume 5, Chapter 26, Notional earnings

Appendix 1

Cash flow proforma for calculating the net income of a self employed business

Claimant's name

NINO

Earnings assessment period .../.../...to .../.../...

Total Gross Receipts	£	A
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Total Expenses	£	B
----------------	---	---

Deduct B from A=chargeable income from the business	£	C1
---	---	----

Share of the business..... % x C1 (if a partnership)	£	C2
--	---	----

Deduct the following from C1 or C2 as appropriate

- Class 2 National Insurance contributions
.....⇒ £

- Class 4 National Insurance contributions
.....
.....
.....
.....⇒ £

- Notional Income Tax

.....

 £
⇒

- Personal pension contributions

.....⇒

Total Deductions

£ ⇒ £ D
 £ E
 £

Deduct **D** from **C**= net income (profit or loss)

Convert to a weekly figure

Signature.....

Date.....

Converting to a weekly figure

To convert net income (profit or loss) to a weekly figure:

- divide the net income at **E** by 365 (or 366 if the earnings assessment period include 29 February);
- multiply the result by 7

Alternatively:

- divide the net income at **E** by the number of days in the earnings assessment period;
- multiply the result by 7

Appendix 2

Cash flow proforma for calculating the net income of a child minder

Claimant's name

NINO

Earnings assessment period .../.../...to.../.../...

Total Gross Receipts £ A

Chargeable income of the business (one third of **A**) £ B

Deduct the following from **B**

- Class 2 National Insurance contributions

.....⇒ £

- Class 4 National Insurance contributions

.....

⇒ £

- Notional Income Tax

.....

⇒ £

- Personal pension contributions

.....⇒

£

⇒

Total Deductions

£

£

C

Deduct **C** from **B**= net income (profit or loss)

£

D

Convert to a weekly figure

£

Signature.....

Date.....

Converting to a weekly figure

To convert net income (profit or loss) to a weekly figure:

- Divide the net income at **D** by 365 (or 366 if the earnings assessment period include 29 February)
- Multiply the result by 7

Alternatively:

- Divide the net income at **D** by the number of days in the earnings assessment period
- multiply the result by 7