

# DMG Chapter 17: Overlapping benefits

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## Introduction 17001 - 17039

### [Benefits not covered](#) 17004 - 17039

17001 This Chapter contains guidance on the prevention of duplication of payment of benefit where a claimant is entitled to

1. two or more personal benefits **or**
2. an increase of two or more benefits for the same dependant **or**
3. an increase of benefit for a dependant who is entitled to a personal benefit **or**
4. OPB and CDI.

**Note:** Personal benefit means<sup>1</sup> any benefit, pension or allowance except a SAP whether under certain legislation<sup>2</sup> or not, which is not a dependency benefit, or UC under specified legislation<sup>3</sup> and includes JSA(Cont) and ESA(Cont).

1 SS (OB) Regs, reg 2(1); 2 SS CB Act 1992; 3 WR Act 12, Pt 1

17002 Guidance also covers the situation where two or more claimants are entitled to an increase of the same or different benefits for the same dependant.

17003 Guidance covering the adjustment of Invalidity Addition on account of AP and GMP is in DMG Chapter 75.

### **Benefits not covered**

17004 Not all benefits overlap. Benefits that do not overlap are those that are incompatible - see DMG 17005 - and those not payable out of public funds - see DMG 17006.

### **Incompatible benefits**

17005 Benefits can only overlap where there is entitlement to both or all of those benefits. There can be no overlap where entitlement to one benefit is prevented by entitlement to another benefit. These benefits are referred to as being incompatible. See Appendix 1 for a list of incompatible benefits.

### **Benefits not payable out of public funds**

17006 The overlapping benefit rules apply only to pensions, allowances or benefits payable out of public

funds<sup>1</sup>. Public funds means funds controlled by the United Kingdom Government and does not include payments made

**1.** by any non-United Kingdom government including European Community Member States<sup>2</sup>. Guidance on the effect of European Community benefits on United Kingdom benefits is in DMG Volume 2, - International Subjects, but see DMG 17119 for training allowances from the European Social Fund

**2.** by the United Kingdom Government on behalf of any other government

**3.** from any fund controlled by a Local Authority even if the fund comes from government grants, for example a police pension paid from a general county account of a county council controlling a police force<sup>3</sup>

**4.** by a nationalized industry<sup>3</sup>.

**Note:** An allowance paid directly or indirectly by the European Social Fund is paid out of public funds<sup>4</sup>.

1 R(P) 13/56; R(P) 5/56; 2 R(P) 5/56; 3 R(P) 13/56; 4 R(IS) 10/98

17007 - 17039

# Adjustment between different personal Act benefits 17040 - 17084

[Method of adjustment](#) 17050 - 17061

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17040 In this Part the term Act benefit refers to benefits provided for under specific legislation<sup>1</sup> and includes

**1.** JSA(Cont)

**2.** IB

**3.** MA

**4.** BB

**5.** RP

**6.** AP and GRB. These benefits are treated as separate personal benefits and overlap in certain situations (See DMG 17064)

**7.** SDA and CA, subject to DMG 17180

**8.** age addition, subject to DMG 17063

**9.** ESA(Cont)

**10.** SP.

**Note:** In **1.** and **9.**, references to JSA(Cont) and ESA (Cont) include new style JSA and new style ESA. See ADM Chapter M5 for the meaning of new style JSA and new style ESA.

<sup>1</sup> SS CB Act 92, Parts II & III; JS Act 95; WR Act 07; Pensions Act 14

17041 Except for those benefits referred to in DMG 17042, all personal Act benefits are subject to the rules described in DMG 17050 to 17061 concerning adjustment when more than one personal Act benefit is payable.

17042 The excepted benefits and payments which are not adjusted and do not require another personal Act benefit to be adjusted on account of them being payable<sup>1</sup> are

1. WPT

2. BPT

3. any other sum which is not paid for a period

4. AA

5. DLA.

**Note:** SAP is not a personal Act benefit<sup>2</sup>.

1 SS (OB) Regs, reg 4(2); 2 reg 2(1) definition of “personal benefit”

17043 - 17049

## Method of adjustment

17050 Where a claimant is entitled to two or more personal Act benefits the DM should follow the steps in DMG 17051 - 17061 to identify which benefit takes precedence and how to make the adjustment to the other.

### First step

17051 If one of the benefits is a contributory benefit and the other is not, the contributory benefit takes precedence and the non-contributory benefit is the one to be adjusted. This is done by deducting the amount of the contributory benefit from the amount of the non-contributory benefit<sup>1</sup>. The amount of the contributory benefit is payable in full but only the balance of the non-contributory benefit, if any, is payable.

1 SS (OB) Regs, reg 4(5)(a)

### Example

A claimant in receipt of SDA at the rate of £59.45 becomes entitled to reduced basic Category A RP at £48.83. RP is a contributory benefit while SDA is non-contributory, therefore RP is paid in full together with a balance of £10.62 SDA.

### Second step

17052 If DMG 17051 does not apply, and one of the benefits is payable weekly the general rule is that the benefit payable on a weekly basis takes precedence and the other benefit is to be adjusted. This is done by deducting the amount of the weekly benefit from the amount of the non-weekly benefit. The amount of the benefit payable on a weekly basis is payable in full but only the balance, if any, of the non-weekly

benefit is payable<sup>1</sup>. See DMG 17053 if the claimant has applied for the benefit payable on a weekly basis to be adjusted.

1 SS (OB) Regs, reg 4(5)(b)(ii)

17053 Where DMG 17051 does not apply and one of the benefits is payable weekly, the beneficiary may make an application to have the weekly benefit adjusted. The application to have the weekly benefit adjusted can be made at any time but only applies to payments due after the application has been made. In this case the benefit not payable on a weekly basis takes precedence and the other benefit is adjusted. This is done by deducting the amount of the benefit not payable on a weekly basis from the amount of the benefit payable on a weekly basis. The amount of the benefit not paid on a weekly basis is payable in full, but only the balance, if any, of the benefit payable on a weekly basis is payable<sup>1</sup>.

1 SS (OB) Regs, reg 4(5)(b)(i)

### **Example**

A woman in receipt of WP of £97.65 is entitled to IB of £91.40 basic rate. WP is a weekly and IB a daily benefit. Before the payment due on 12.5.10 she applies to have her WP adjusted and to keep the whole of her IB. She therefore receives IB from 12.5.10 and only the balance of her WP - £6.25. For the period before 12.5.10 when she made the application, she receives full WP and her IB is extinguished.

17054 - 17059

### **Third step**

17060 If neither DMG 17051 nor DMG 17052 - 17053 apply, the total amount payable is

- 1.** the amount of the highest benefit **or**
- 2.** where the benefits are payable at the same rate, the amount of one of them<sup>1</sup>.

1 SS (OB) Regs, reg 4(5)(c)

17061 Where two or more benefits are still payable after adjustment, the total amount payable cannot be greater than the amount arrived at in DMG 17060<sup>1</sup>.

1 SS (OB) Regs, reg 4(5)(c)

### **Exceptions and modifications**

17062 The guidance in DMG 17050 - 17061 is modified for the benefits in DMG 17063 - 17070.

## Age addition

17063 Age addition is an increase of RP for claimants over age 80<sup>1</sup>. An age addition can only be reduced by another age addition<sup>2</sup>.

1 SS CB Act 92, s 79; 2 SS (OB) Regs, reg 4(3)

## Additional Pension or Graduated Retirement Benefit

17064 Where

1. AP or GRB is payable with two or more of the personal benefits in DMG 17040 **or**
2. the claimant is over pension age and is entitled to one or more benefits which includes AP or GRB **and** IB at the RP rate

the AP or GRB is treated as part of the personal benefit with which it is payable<sup>1</sup>.

1 SS (OB) Regs, reg 4(4)(a)

17065 DMG 17064 does not apply where the claimant is entitled to AP, SP and either WP or WMA. Instead, adjustment of the AP is required.

SS (OB) Regs, reg 4(4A)

17066 Where a further adjustment is necessary against a third benefit the claimant is treated as having a single long-term benefit including the highest amount, before adjustment, of

1. AP **or**
2. GRB **or**
3. the total of AP and GRB payable with one of the benefits<sup>1</sup>

1 SS (OB) Regs, reg 4(4)(c)

## Example

A man is in receipt of SDA at the weekly rate of £59.45. On 12.5.10 he becomes entitled to a Category A RP made up of

Basic Pension	£48.83	(50% of the standard rate due to deficient contribution record)
Additional Pension	£23.50	
Graduated Retirement Benefit	£1.96	

The basic RP rate is paid in full with a balance of £10.62 SDA. As AP and GRB are only payable with one of the benefits, they are unaffected by the overlap provisions and are paid in full.

## **Widows and Incapacity Benefit**

17067 There were special provisions<sup>1</sup> applying to widows who before 13.4.95 were under pension age and entitled to WMA or WP and IB. These provisions do not apply to IB unless the modified savings provisions apply<sup>2</sup>. These benefits should be adjusted as in DMG 17069.

1 SS (OB) Regs, reg 3(3) (revoked); 2 SS (IB) (Conseq & Trans Amendt & Savings) Regs 95, reg 14(9) & (10)

17068 Under the special provisions the total amount of WMA or WP and IB was made up of

- 1.** the sum of the Basic Pensions up to the standard rate of Cat A RP<sup>1</sup>**and**
- 2.** the sum of the AP up to the prescribed maximum<sup>2</sup>.

1 SS CB Act 92, s 44(3)(a); 2 SS (MAP) Regs, reg 3

17069 Under the modified provisions, the total amount of WMA or WP and IBLT is made up of

- 1.** an amount equal to the basic rate of IBLT or the basic rate of WMA or WP or the higher of the two **and**
- 2.** the sum of IB payable at the additional rate and the AP payable with WMA or WP

up to the prescribed maximum.

### **Example**

A woman is entitled to IBLT made up of £61.15 basic rate. She is widowed on 18.11.96 and becomes entitled to WP from 19.11.96 made up of £56.87 Basic Pension and £66.40 AP. As there is no AP with IB, the AP payable with WP is unaffected.

WP is a weekly and IB a daily benefit. Before the payment due on 26.11.96 she applies to have her WP adjusted and to keep the whole of her IB. She therefore receives IB at the rate of £61.15 and WP AP of £66.40 from 26.9.95, her WP Basic Pension is extinguished. From 19.11.96 to 25.11.96 she receives full WP, as this was paid before the data of application, and a balance of IB.

17070 Where the special provisions no longer apply, the DM should adjust IB and WB as in DMG 17064.

### **Example**

A woman is entitled to a transitional award of IBLT made up of



£61.15 basic rate and

£10.00 additional rate.

She is widowed on 18.9.95 and becomes entitled to WP from 19.11.96 made up of

£56.87 Basic Pension and

£66.40 AP

WP is a weekly and IB a daily benefit. Before the payment due on 26.11.96 she applies to have her WP adjusted and to keep the whole of her IB. She therefore receives IB at the rate of £71.15 from 26.11.96 and a balance of £52.12 Widow's Pension. From 19.11.96 to 25.11.96 she receives full WP as this was paid before the date of application, and her IB is extinguished.

17071 - 17084

# Adjustment of personal Act benefits by personal industrial injuries and non-Act benefits 17085 - 17139

[Industrial Injuries and non-Act benefits](#) 17086

[Armed Forces Compensation Scheme](#) 17087 - 17091

[Service pensions instrument](#) 17092 - 17094

[War pension death benefit](#) 17095 - 17096

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[Unemployability supplement](#) 17099 - 17100

[Training allowance](#) 17101 - 17129

[Special provisions where Category A Retirement Pension or transitional Incapacity Benefit \(Long Term\) is reduced by Industrial Death Benefit or War Pension Death Benefit](#) 17130 - 17139

17085 Personal Act benefits are adjusted for personal II and non-Act benefits before any adjustment has been made for other personal Act benefits under DMG 17040. The Act benefits in Column 1 below are reduced by the II and non-Act benefits in Column 2<sup>1</sup>.

1 SS (OB) Regs, reg 6(1) & Sch 1

<b>Column 1 – personal benefit</b>	<b>Column 2 – other personal benefit by reference to which the benefit in column (1) is to be adjusted</b>
JSA (Cont)	US and training allowance
IBST	US and training allowance
MA	training allowance
WA, WPA, and benefit under specific legislation <sup>1</sup> corresponding to WMA and WP	US; IDB or war pension death benefit payable to a widow, widower or surviving civil partner (including TAW); training allowance (except where the column 1 benefit is WA)
RP of any category (excluding age	US (see DMG 17099); IDB or war pension death benefit

addition), AP and GRB, IB, SDA, ESA(Cont) and CA	payable to the claimant as the surviving spouse or civil partner; training allowance (see DMG 17101 - 17123)
AA, DLA care component, PIP daily living component, AFIP up to the value of the daily living component of PIP at the enhanced rate	CAA and any benefit based on need for attendance under any PB and MDB scheme (see DMG Ch 73), WC (Supp) scheme (see DMG Ch 73), service pensions instrument (see DMG 18092) or 1914-1918 War Injuries Scheme (see DMG 17100)
AA, DLA, PIP	AFIP
IVA, or an age increase of IBLT	an age increase to IIDB; US and an additional allowance payable to a person who is entitled to US under any PB and MDB scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme
US	Any other US
Increase of disablement pension (see DMG 17097) during hospital treatment	Treatment allowance (see DMG 17098)
SP	US and training allowance

1 SS CB Act 92, s 78(9)

## Industrial Injuries and non-Act benefits

17086 The II and non-Act benefits referred to in Column 2 of DMG 17085 are

1. US and age related increases
2. CAA awarded under the II scheme<sup>1</sup>
3. any personal injuries scheme<sup>2</sup> payment made under certain legislation<sup>3</sup>
4. any service pensions instrument (see DMG 17092)
5. the PB and MDB (see Benefit Specific Guidance)
6. the WC (Supp) (see Benefit Specific Guidance) the general benefit rules for former constables and firefighters<sup>4</sup>
7. IDB<sup>5</sup>
8. war pension death benefit (see DMG 17095)
9. training allowances (see DMG 17101)

## 10. AFIP.

1 SS CB Act 92, Sch 7, Part I, s 104; 2 SS (OB) Regs, reg 2(1);  
3 Personal Injuries (Emergency Provisions) Act 1939; Pensions (Navy, Army, Air Force and  
Mercantile Marine) Act 1939; 4 SS CB Act 92, Sch 8, Part II; 5 Sch 7, Part VI

### Armed Forces Compensation Scheme

17087 The Armed Forces Compensation Scheme is a no fault compensation scheme which covers death, illnesses or injuries attributable to or significantly aggravated by service where the illness first presented or the incident occurred on or after 6.4.05. Under the terms of this scheme a lump sum will be payable to service or ex-service personnel based on a tariff according to the seriousness of the condition. A Guaranteed Income Payment, payable for life, will also be paid where there has been a loss of earning capacity and to surviving partners where the service person's death was caused by service.

17088 Lump sums and income from the Armed Forces Compensation Scheme **do not** overlap with personal act benefits. The scheme was established under specific legislation<sup>1</sup> to which no reference is made in the Overlapping Benefit Regulations.

1 Armed Forces (Pensions and Compensation) Act 2004

17089 The War Pensions Scheme will continue to run parallel to the Armed Forces Compensation Scheme for existing beneficiaries and for those people who claim for illness or injury sustained prior to 6.4.05 during service in the Armed Forces.

17090 - 17091

### Service pensions instrument

17092 A service pensions instrument<sup>1</sup> is any instrument that provides pensions or other benefits for disablement or death due to service

**1.** in the armed forces of the Crown, **or**

**2.** under British command to members of the Polish<sup>2</sup> naval detachment mentioned in the agreement between the UK and Polish governments of 18.11.39 or armed forces organized and employed under British command under the agreement of 5.8.40, **or**

**3.** in a nursing or other auxiliary service of any of the armed forces of the Crown, **or**

**4.** any other organization established under the control of the Defence Council or formerly established under the control of the Admiralty, Army Council or Air Council.

1 SS (OB) Regs, reg 2(1); 2 Polish Resettlement Act 1947, s 1(1)

17093 Disregard any

1. extra statutory payments **and**
2. any part of the payment based on length of service.

17094 Payments under

1. Royal Warrants **or**
2. Dispensing or Allied Instruments

are statutory payments since they cover specified sets of circumstances or are subject to Treasury approval. Payments made in similar circumstances but without Dispensing Instruments in mercantile marine and civilian cases are extra-statutory and should be ignored. If there is any doubt as to whether a payment is statutory the decision maker should direct that further enquiries be made of the paying authority.

## **War pension death benefit**

17095 War pension death benefit<sup>1</sup> is death benefit paid as a pension or allowance under

1. any Personal Injuries Scheme (see DMG 17086 **3.**)
2. any Service Pensions Instrument (see DMG 17092).

1 SS (OB) Regs, reg 2(1)

17096 It does not include

1. a rent allowance
2. a grant payable because the claimant is in receipt of a pension and is 65 or over
3. a pension or allowance calculated on the claimant's needs.

## **Disablement Pension**

17097 A “disablement pension” is defined<sup>1</sup> as including a disablement payment on a pension basis and retired pay or pension in respect of any disablement, wound, injury or disease.

1 SS (OB) Regs, reg 2(1)

## Treatment Allowance

17098 “Treatment Allowance” means<sup>1</sup>

- 1.** an allowance payable under
  - 1.1** any PB and MDP scheme, **or**
  - 1.2** a Service Pensions Instrument **and**
- 2.** payable only to a person undergoing a course of
  - 2.1** medical
  - 2.2** surgical **or**
  - 2.3** rehabilitative treatment

in consequence of a disablement in respect of which a pension may or has been paid, or in respect of which an allowance is payable to a person pending the determination of the question of whether that person is entitled to such a pension.

1 SS (OB) Regs, reg 2(1)

## Unemployability supplement

17099 In this Chapter the term unemployability supplement refers not only to US paid under the Industrial Injuries Benefits Schemes but also to an increase on account of unemployability under

- 1.** any PB and MDP scheme
- 2.** any WC scheme
- 3.** any Service Pensions Instrument<sup>1</sup>.

1 SS (OB) Regs, reg 2(1)

17100

## Training allowance

17101 Subject to DMG 17123 training allowance means<sup>1</sup> an allowance payable

- 1.** out of public funds (see DMG 17006) by a government department or by or on behalf of
  - 1.1** Scottish Enterprise

**1.2** Highlands and Islands Enterprise

**1.3** the Chief Executive of Skills Funding

**1.4** Senedd Cymru and Welsh Parliament

**1.5** the Secretary of State

**2.** for a person's or a dependant's maintenance

**3.** for a period during which the person is following a course of training or instruction provided by, or under arrangements made or approved by, or on behalf of the government department in the first point above or approved by

**3.1** Scottish Enterprise

**3.2** Highlands and Islands Enterprise

**3.3** Senedd Cymru and Welsh Parliament

**3.4** Secretary of State.

1 SS (OB) Regs, reg 2(1)

17102 - 17114

### **Training premium and training bonus**

17115 People taking part in the schemes may receive a training allowance made up of

**1.** a basic allowance **and**

**2.** a training premium **and**

**3.** a training bonus.

For overlapping benefit purposes the premium and bonus should be disregarded<sup>1</sup>. The allowance will overlap only on days on which the claimant actually takes part in the programme including days spent on job search.

1 SS (OB) Regs, reg 2(1)

17116 - 17118

### **Training allowances from the European Social Fund**

17119 The European Social Fund provides support for programmes of vocational training and job

creation. It does not run schemes itself but contributes financial assistance to organizations. Expenditure covered includes training costs and payments to trainees and dependants. If a scheme is run by a public authority the Fund can meet up to half the eligible costs. If it is run by a private organization the Fund may match the costs provided by public authority support.

17120 Payments made directly or indirectly by the European Social Fund are payments out of public funds. So, when deciding whether particular payments are a training allowance DMs will need to consider whether the conditions in DMG 17101 **2.** and **3.** are satisfied.

17121 The European Social Fund Division within the DWP has overall accountability for the European Social Fund in England. Regional Government Offices are responsible for managing and making payments from the fund in the regions of England. The Scottish Executive is responsible for delivery of European Social Fund in Scotland.

17122 DMs should therefore accept that, where a course of training or instruction is funded (in whole or in part) by the European Social Fund, it is approved by a Government Department<sup>1</sup>. This includes where the course is run by a private organization.

1 R(IS) 10/98

### **Allowances which are not training allowances for overlapping benefits purposes**

17123 Although they may be known as training allowances the following should be disregarded

- 1.** allowances paid by any government department because a person is following a course of full time education or is training as a teacher<sup>1</sup>
- 2.** scholarships except state scholarships grants for the purchase of books
- 3.** salaries paid under the name of training allowances by health authorities and boards of governors of teaching hospitals
- 4.** training allowances paid under the DWP's Analogous Industrial Injuries scheme during any period in which the claimant is not following a course of training or instruction. This is because a trainee who is incapable is not regarded as following the course.

1 SS (OB) Regs, reg 2(1)

17124 - 17129



## **Special provisions where Category A Retirement Pension or transitional Incapacity Benefit (Long Term) is reduced by Industrial Death Benefit or War Pension Death Benefit**

17130 Special provisions restrict the reduction of Cat A RP<sup>1</sup> and transitional IBLT<sup>2</sup> where IDB or War Pension Death Benefit (including TAW) is payable. Where there is some entitlement to

**1.** a Cat A RP Basic Pension **or**

**2.** transitional IBLT basic rate based on the claimant's own contributions

the amount of Pension or basic rate payable is not reduced below that amount. In effect the IDB or War Pension Death Benefit only reduces that part of Cat A RP or transitional IBLT which has been calculated on the contributions of the late spouse or civil partner.

1 SS (OB) Regs, reg 6(5); 2 SS (IB) (Conseq & Trans Amdt & Savings) Regs 95, reg 14(11)

### **Example**

A woman is in receipt of a War Widow's Pension at the weekly rate of £117.30. She becomes entitled to Cat A RP at the reduced weekly rate of £60.54 (62% of the standard rate). As her husband had a full contribution record she would be entitled to a basic Cat B RP of £97.65. Her Cat A RP is therefore topped up by £37.11 to the standard rate of £97.65<sup>1</sup>. The War Widow's Pension overlaps with her Cat A<sup>2</sup> but does not reduce it below the rate based on her own contributions<sup>3</sup>. She therefore receives War Widow's Pension of £117.30 and Cat A RP of £60.54.

1 SS CB Act 92, s 52(2); 2 SS (OB) Regs, reg 6(1); 3 reg 6(5)

17131 The overlap does not affect RP increments or Invalidity Addition.

17132 - 17139

# Adjustment of Child Dependency Increase 17140 - 17149

## Adjustment of Child Dependency Increase involving Industrial Death Benefit or Guardian's Allowance 17142 - 17149

17140 Many benefits no longer have provision for CDIs but where they do or entitlement is retained through transitional and savings provisions, a CDI is adjusted by any other CDI payable for that same child for the same period irrespective of whether it is payable to the same or different claimants<sup>1</sup>. The method of adjustment is determined by the benefits involved.

**Note:** No adjustment is required for CHB<sup>2</sup>.

1 SS (OB) Regs, reg 7(1); 2 reg 8(1)

17141 Where the CDI is payable under the Act<sup>1</sup> and any other CDI would be payable for the same child and for the same period they should be adjusted as in DMG 17050 et seq. if they are CDIs payable under

**1.** the Act (but see the **Note** to this paragraph) and includes

**1.1** US

**1.2** IIDB

**1.3** WC

**1.4** IDB

**1.5** another Act benefit where entitlement is retained through transitional and savings provisions (see DMG 16000)

**2.** Personal Injuries Scheme or Service Pensions Instrument

**3.** PB and MDP scheme

**4.** training allowances (see DMG 17101).

**Note:** Where one of the benefits is IDB or GA see DMG 17142, and DMG 17180 where SDA or CA are involved.

1 SS Act 1975; SS CB Act 1992

## **Adjustment of Child Dependency Increase involving Industrial Death Benefit or Guardian's Allowance**

17142 Where one of the CDIs a claimant is entitled to is a CDI under

- 1.** the Act **or**
- 2.** the PB and MDB Scheme

the IDB or GA payable for that child takes precedence and is payable in full<sup>1</sup>. The amount of the IDB or GA CDI is deducted from the amount of the other CDI and only the balance of that CDI, if any, is payable.

1 SS (OB) Regs, reg 7(1); reg 7(4)

17143 Where a claimant is entitled to a CDI under

- 1.** any Personal Injuries Scheme **or**
- 2.** a Service Pensions Instrument **or**
- 3.** any scheme by way of a training allowance

these CDIs take precedence and are payable in full. The amount of these CDIs is deducted from the amount of the IDB or GA CDI and only the balance of IDB or GA, if any, is payable<sup>1</sup>.

1 SS (OB) Regs, reg 7(1); reg 7(5)

17144 - 17149

# Adjustment of Adult Dependency Increase 17150 - 17159

## [Persons having care of children](#) 17153 - 17159

17150 Many benefits no longer have provision for ADIs but where they do or entitlement is retained through transitional or savings provisions, a claimant cannot be entitled to an ADI for the same period for more than one person.

17151 Adjustment will be required<sup>1</sup> where

- 1.** one claimant is entitled to two or more ADIs for the same or different adult dependants **or**
- 2.** different claimants are entitled to an ADI for the same dependant.

1 SS (OB) Regs, reg 9(1)

17152 Where more than one of the following ADIs would be payable for the same dependant they should be adjusted as in DMG 17050 et seq.

- 1.** Act ADIs
- 2.** US increases awarded under the schemes listed at DMG 17086 **1. - 6.** (excluding the general benefit rules for former constables and firefighters)
- 3.** training allowances (See DMG 17101).

See DMG 17180 where SDA or CA are involved.

## **Persons having care of children**

17153 An ADI for a person having care of a child should not be reduced or cause reduction where

- 1.** the claimant employs the dependant to look after a child and does not reside with the dependant
- 2.** another claimant is entitled to an ADI for the same dependant on the same basis<sup>1</sup>.

1 SS (OB) Regs, reg 9(3)

17154 - 17159

# Adjustment of Child or Adult Dependency Increases by personal benefits 17160 - 17169

## [Persons having care of children](#) 17162 - 17169

17160 Where a claimant has entitlement to one of the dependency benefits in DMG 17141 **1.** or DMG 17152 **1.** and that dependant has entitlement to

**1.** one of the personal benefits in DMG 17040 or DMG 17086 **1. - 7. or**

**2.** a training allowance<sup>1</sup> (see DMG 17101)

the amount of dependency benefit payable is reduced or extinguished by the amount of the personal benefit<sup>2</sup>.

1 E & T Act 73, s 1; 2 SS (OB) Regs, reg 10(1)

17161 Where more than one personal benefit is involved, make any adjustments as in DMG 17050 first. Make any adjustment to the personal benefit because of free in-patient treatment before the overlapping benefit adjustment.

## **Persons having care of children**

17162 An ADI for a person having care of a child should not be reduced or cause reduction on account of any personal benefit payable to that person where the claimant

**1.** employs the dependant to look after a child **and**

**2.** does not reside with the dependant<sup>1</sup>.

1 SS (OB) Regs, reg 10(3)

17163 - 17169

## Order of adjustment 17170 - 17179

17170 Before considering adjustment of benefits in the order set out below the DM should check that the benefits in question are not incompatible (see DMG 17005). If they are not incompatible the order of adjustment is as follows

- 1.** make adjustments due for other reasons, for example, earnings and Invalidity Addition/AP adjustments. This is because the overlapping benefits provisions take account of amounts payable. An exception to this is with hospital in-patients where an adjustment for overlapping benefits should be carried out before any hospital in-patient deduction<sup>1</sup>
- 2.** deduct personal Industrial Injuries and non-Act benefits from personal Act benefit<sup>2</sup>
- 3.** deduct personal Act benefit from other personal Act benefit<sup>3</sup>
- 4.** deduct Act and non-Act dependency benefit from other Act dependency benefit<sup>4</sup>
- 5.** deduct Act and non-Act personal benefit payable to dependants in their own right from Act dependency benefit payable for them<sup>5</sup>
- 6.** make any hospital in-patient adjustments<sup>6</sup> (see DMG 17161 for exception).

1 SS (HIP) Regs, reg 18; 2 SS (OB) Regs, reg 6(1); 3 reg 4; 4 reg 7, reg 9; 5 reg 10; 6 reg 18

17171 - 17179

## **Special rules for severe disablement allowance and carer's allowance 17180 - 17189**

17180 The special rules for SDA and CA are<sup>1</sup>

- 1.** instead of taking into account separately the payable amounts of personal, ADI and CDI they should be totalled and adjustment made by using this total and the total amount the other benefit involved including dependency increases but excluding AP and GRB
- 2.** the amount of benefit payable after adjustment should not be less than the sum of the amounts which would have been payable by way of SDA or CA as personal and dependency benefit.

1 SS (OB) Regs, reg 12

**Note:** The special rules do not apply where an increase for a dependant would be reduced by a personal benefit payable to, or for, that dependant as in 17160.

17181 - 17189

# Dual claims for increase for same dependant 17190 - 17199

[General](#) 17190 - 17193

[Child dependants](#) 17194 - 17195

[Adult dependants](#) 17196 - 17199

## General

17190 Where there is more than one claimant with entitlement to an increase for a dependant, the claimants may decide amongst themselves who should claim the increase. Where this applies a written notice signed by

1. one of the claimants where there are two competing claims **or**
2. a majority of claimants where there are more than two competing claims

should be sent to the Secretary of State specifying the person to be entitled to the increase. The notice does not apply to any period for which an increase has already been paid<sup>1</sup>. Where a notice is not sent to the Secretary of State priority of entitlement should be decided as in DMG 17195 - 17196.

1 SS (OB) Regs, reg 15(5)

17191 If a person with priority of title receives dependency increase at a lower rate than another person who would be entitled but for that priority, that other person shall receive the difference between the two rates<sup>1</sup>.

1 SS (OB) Regs, reg 15(6)

17192 Any person who has title to a dependency increase but for these provisions should be treated as entitled for the purpose of any other provisions which depend on entitlement<sup>1</sup>.

1 SS (OB) Regs, reg 16

17193

## Child dependants

17194 Where



**1.** a man would be entitled to an increase of Cat A or Cat C RP **and**

**2.** his wife would be entitled to an increase of Cat A or Cat C RP

for the same child or children the man will be entitled to the increase and his wife will not. He is also treated as entitled for the purposes of determining entitlement during any period for which he would be entitled<sup>1</sup> but for the operation of any provision of the Act, except where he is disqualified because of imprisonment or detention in legal custody<sup>2</sup>.

1 SS (OB) Regs, reg 15(2); 2 SS CB Act 92, s 113(1)(b)

17195 Where DMG 17190 does not apply, entitlement should be decided in the following order to the person<sup>1</sup>

**1.** who has been awarded CHB **or**

**2.** who is treated as entitled to CHB on the basis of residence with the spouse **or**

**3.** with whom the child is living **or**

**4.** who is a parent of the child.

1 SS (OB) Regs, reg 15(3)

## **Adult dependants**

17196 Where

**1.** DMG 17190 does not apply **and**

**2.** more than one person would be entitled to an increase of benefit for an adult dependant

**3.** entitlement should be decided in the following order to the person who is<sup>1</sup>

**3.1** the spouse or civil partner of the dependant **or**

**3.2** the person residing with the dependant.

1 SS (OB) Regs, reg 15(4)

17197 - 17199

# Child Benefit, One Parent Benefit and Child Dependency Increase 17200 - 17209

## [Higher rate of Child Benefit for eldest child](#) 17202 - 17209

17200 There is no adjustment between personal Act and dependency Act benefits and basic CHB<sup>1</sup>.

1 SS (OB) Regs, reg 8(1)

17201 There is no entitlement to OPB where there is entitlement to certain specified benefits<sup>1</sup> (see Benefit Specific Guidance). The overlapping benefit provisions only apply where there is entitlement for the same period to

- a CDI with IBST (where the claimant is over pension age or benefit is payable at the higher rate) **or** IBLT or SDA **and**
- OPB in respect of the same child.

Where these conditions are satisfied the weekly rate of the CDI is reduced by the amount of the OPB<sup>2</sup>.

1 CHB & SS (F & AR) Regs, reg 2(4)(a); 2 reg 8(2)

## Higher rate of Child Benefit for eldest child

17202 Where the higher rate of CHB for the only, elder or eldest child payable under savings provisions to certain lone parents<sup>1</sup> (“the higher lone parent rate”) is in payment then any child’s special allowance or CDI payable for that child is reduced by<sup>2</sup>

**1.** the difference between

**1.1** the higher lone parent rate **and**

**1.2** the rate for a second or subsequent child **less**

**2.** £3.65.

1 CHB & SS (F & AR) Regs, reg 2(1)(a)(ii) & CHB & SS (F & AR) (Amendment) Regs 98;

2 SS (OB) Regs, reg 8(2)

## Example

Marie is a single parent receiving WMA with an increase of £11.35 for a dependent child retained under transitional provisions. The DM calculated that this should be reduced by

$$£17.55 - £11.05 = £6.50 \text{ less } £3.65 = £2.85$$

and the CDI was reduced by £2.85 to £8.50.

17203 Where the rate of CHB for the only elder or eldest child (“the normal only/elder/eldest rate”)<sup>1</sup> is in payment then any child’s special allowance or CDI payable for that child is reduced by<sup>2</sup>

**1.** the difference between

**1.1** the normal only/elder/eldest rate **and**

**1.2** the rate for a second or subsequent child **less**

**2.** £3.65.

1 CHB & SS (F & AR) Regs, reg 2(1)(a)(i); 2 SS (OB) Regs, reg 8(3)

### **Example**

Marjorie receives an increase of IBLT for her only child under transitional provisions. The amount of this CDI is £11.35. The DM decided that this had to be reduced by

$$£16.50 - £11.05 = £5.45 \text{ less } £3.65 = £1.80.$$

and the CDI was reduced by £1.80 to £9.55.

17204 - 17209

## **Adjustment for part weeks 17210 - 17219**

17210 Where a weekly benefit is reduced by an overlapping benefit the reduction takes effect from the date the overlap begins and ends when the overlap ends. The normal provisions where changes of circumstances take effect from the following payday<sup>1</sup> do not apply.

1 SS (C&P) Regs, reg 16

17211 Where an adjustment is made for part of a week all benefits are deemed to be payable at a daily rate of one-seventh of the weekly rate<sup>1</sup>.

1 SS (OB) Regs, reg 14

17212 - 17219

## Miscellaneous provisions 17220 - 17999

[Dependency benefit claimed while claimant entitled to personal training allowance](#) 17220 - 17229

[Retrospective adjustments of training allowance](#) 17230

[Effect of overlap on entitlement](#) 17231

[Prevention of double adjustment](#) 17232

[Relinquishment](#) 17233 - 17999

### **Dependency benefit claimed while claimant entitled to personal training allowance**

17220 Dependency benefit payable under the Act is not payable if the claimant is receiving a personal benefit by way of a training allowance. This provision does not apply where the training allowance has itself been adjusted by reference to any benefit under the Act<sup>1</sup>.

1 SS (OB) Regs, reg 11

17221 - 17229

### **Retrospective adjustments of training allowance**

17230 Any retrospective adjustment to a training allowance should be disregarded unless there is evidence that the claimant agreed to such an adjustment<sup>1</sup>.

1 E & T Act 73

### **Effect of overlap on entitlement**

17231 The principles of overlap affect only the amount of benefit payable. They do not affect entitlement to the benefit or any rights or obligations under the Act which depend upon a person being entitled to the benefit<sup>1</sup>.

1 SS (OB) Regs, reg 16

## **Prevention of double adjustment**

17232 Any benefit under the Act should not be reduced by any Act or non-Act benefit which has already been adjusted by reference to that benefit<sup>1</sup>.

1 SS (OB) Regs, reg 17

## **Relinquishment**

17233 A claimant may try to relinquish entitlement to a benefit by returning the payment to the Secretary of State. This is treated as an application for supersession on the grounds that the claimant no longer consents to receive the award. See DMG Chapter 04 for further guidance.

17234 If the DM refuses to supersede the award so as to end entitlement, the benefit remains payable for overlapping benefit purposes. This is because payable means simply "due and owing" and a sum is due and owing unless and until the claimant has lost the right to enforce it.

17235 - 17999

## Appendix 1 - Incompatible personal benefits - DMG 17005

In the table below, the benefits listed in Column 1 are incompatible with those in Column 2. [[See Memo DMG 10-22](#)]

<b>Column 1</b>	<b>Column 2</b>
WPA	BA
JSA(Cont), RP, SMP, SSP	ESA(Cont)
ESA(Cont), IB, MA, RP, SDA, SMP, SSP	JSA(Cont)
ESA(Cont), IB, JSA(Cont), SSP	RP
ESA(Cont), IB, JSA(Cont), MA, SSP	SMP
ESA(Cont), IB, JSA(Cont), MA, SMP	SSP
REA	US
WMA	WP
AA	DLA
AA	PIP

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