

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF STRATEGIC COMMUNICATIONS)

Decision Makers Guide

Volume 5

Amendment 49 – October 2016

1. This letter provides details on Amendment 49; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer.

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lq/acileeds/guidance/decision%20makers%20guide/dmg%20amendment%20packages/index.asp#>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 49 affects chapter 28. The changes are
 - minor amendments to State Pension references in DMG 28080-83.
4. The last two amendment packages amending Volume 5 were
Amendment 48 [June 2016]
Amendment 47 [January 2015]
5. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Statutory Instruments

SS (LP & Misc Amdts) Regs – WP (Emp O) Des
O 14 (2 pages)

Chapter 28

28076 – 28084 (1 page)

Insert

Statutory Instruments

SS (LP & Misc Amdts) Regs – WP (Emp O) Des
O 14 (2 pages)

Chapter 28

28076 – 28084 (1 page)

Statutory Instruments

The Social Security Lone Parents and Miscellaneous Amendments Regulations 2008 SI 2008 No. 3051	SS (LP & Misc Amdts) Regs
The Social Security (Loss of Benefit) Regulations 2001 No. 4022	SS (Loss of Benefit) Regs
The Social Security (Mariners' Benefits) Regulations 1975 No. 529	SS (Mariners' Ben) Regs
The Social Security (Maternity Allowance) (Work Abroad) Regulations 1987 No. 417	SS (MA) (Work Abroad) Regs
The Social Security (Maternity Allowance) Regulations 1987 No. 416	SS (MA) Regs
The Social Security (Maternity Allowance) (Earnings) Regulations 2000 No. 688	SS (MA) (Earnings) Regs
The Social Security (Maximum Additional Pension) Regulations 2010 No. 426	SS (MAP) Regs
The Social Security (Medical Evidence) Regulations 1976 No. 615	SS (Med Ev) Regs
The Social Security (Miscellaneous Amendments) Regulations 1997 No. 454	SS (Misc Amdts) Regs
The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 No. 652	SS (Misc Amdt) (No. 2) Regs
The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 No. 641	SS (Misc Amdt) (No. 2) Regs 2010
The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 No. 2425	SS (Misc Amdt) (No. 3) Regs 2011
The Social Security (National Insurance Number Information: Exemption) Regulations 1997 No. 2676	SS (NINO: Exemption) Regs
The Social Security (Overlapping Benefits) Regulations 1979 No. 597	SS (OB) Regs
The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 No. 664	SS (POR) Regs
The Social Security (Persons from Abroad) Miscellaneous Amendments Regulations 1996 No. 30	SS (PFA) Misc Amdt Regs 96
The Social Security Benefit (Persons Residing Together) Regulations 1977 No. 956	SS (PRT) Regs

Statutory Instruments

The Social Security (Reciprocal Agreements) Order 1995 No. 767	SS (RA) Order 95
The Social Security (Reciprocal Agreements) Order 1996 No. 1928	SS RA Order
The Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations 2005 No. 469	SS (RP etc) (Trans Provs) Regs
The Social Security (Severe Disablement Allowance) Regulations 1984 No. 1303	SS (SDA) Regs
The Social Security (Savings for Existing Beneficiaries) Regulations 1984 No. 1696	SS (SEB) Regs
The Social Security (State Pension and National Insurance Credits) Regulations 2009 No. 2206	SS (SP & NIC) Regs
The Social Security (Treatment of Postgraduate Master's Degree Loans and Special Support Loans) (Amendment) Regulations 2016 No. 743	SS (Treatment of Postgrad Master's Degree Loans and Special Support Loans) (Amdt) Regs 2016.
The Social Security (Unemployment, Sickness, and Invalidity Benefit) Regulations 1983 No. 1598	SS (U, S, & IVB) Regs
The Social Security (Widow's and Widower's Invalidity Pensions) Regulations 1978 No. 529	SS (W & W IVP) Regs
The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 No. 642	SS (WB & RP) Regs
The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 No. 643	SS (WB, RP & OB) (Trans) Regs
The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 No. 1926	SS (Wfl for lone parents) Regs
The Social Security (Work-focused Interviews) Regulations 2000 No. 897	SS (Wfl) Regs 00
The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendment) Regulations 2003 No. 455	SS (WTC & CTC) (Cons Amdt) Regs
The Statutory Sick Pay Regulations 1982 No. 894	SSP (Gen) Regs

Statutory Instruments

Education (Student Support) Regulations (Northern Ireland) Order SR 1999/192	Support (NI) Order
The Education (Student Support) Regulations	Support Regs
The Tax Credits Act 2002 (Commencement No. 3 and Transitional Provisions and Savings) Order 2003 No. 938	TC Comm No. 3 Order
The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 No. 2885	TP (FtT) (SEC) Rules
The Tribunal Procedure (Upper Tribunal) Rules 2008 No. 2698	TP (UT) Rules
The Workmen's Compensation (Supplementation) Scheme 1982 No. 1489	WC(S) Scheme
Work Programme (Employment Officer) Designation Order 2014	WP (Emp O) Des O 14

Retirement pension

28076 RP should be taken fully into account. It is either

1. contributory (Cat A or B) **or**
2. non-contributory (Cat C or D).

Note: SP replaces RP for people reaching pensionable age on or after 6.4.16.

28077 RP may be made up of the following elements

1. a BP
2. an increase of BP for dependant spouses or civil partners, dependant children or women looking after children (but see DMG 28367 if the dependant is not a member of the family for IS or JSA(IB) purposes)
3. an additional pension for people who were in non-contracted out employment
4. graduated retirement benefit earned between 1961 and 1975 under the graduated pension scheme
5. increments (of RP) for deferred retirement
6. invalidity and age additions.

28078 A pensioner who has been in employment that was contracted out of SERPS may be entitled to

1. GMP instead of additional pension through an occupational pension scheme **and**
2. increments to an occupational pension and guaranteed minimum pension if retirement was deferred.

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

Note: The Pension Act 2014 abolishes contracting out for salary related occupational pension schemes from 6.4.16.

Severe disablement allowance

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

State Pension

28080 SP replaces RP for people reaching pensionable age on or after 6.4.16.and should be taken fully into account.

28081 SP does not consist of individual elements like RP (BP, AP & GRB etc.) and will generally be based only on the claimant's NI record. Exceptions to this will be where:

1. the claimant is widowed and inherits a deceased spouse or civil partner's AP, deferred RP or deferred GRB **and**
2. the claimant receives a transitional rate of SP (for women who paid reduced rate NI) **and**
3. the claimant is awarded a Shared Additional Pension (SAP) upon divorce.

28082 SP entitlement may be at:

1. the full rate **or**
2. the reduced rate **or**
3. the transitional rate.

28083 A pensioner who has been in employment that was contracted out of SERPS may be entitled to GMP through an occupational pension scheme.

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

Please see DMG Chapter 74 for full details.

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

War orphan's pension

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