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DMG Annex A: Relevant benefit

Relevant Benefit

- 1.** Attendance allowance (including decisions made before 1.7.92)
- 2.** Bereavement benefits
- 3.** Carer's allowance (formerly Invalid care allowance)
- 4.** Disability living allowance
- 5.** ESA
- 6.** Graduated retirement benefit
- 7.** Incapacity benefit
- 8.** Increases for adult dependants
- 9.** Increases for child dependants
- 10.** Income support
- 11.** Industrial injuries scheme benefits - Disablement benefit, Reduced earnings allowance, Industrial death benefit, Prescribed industrial diseases and the Old cases schemes
- 12.** Invalidity allowance
- 13.** Invalidity pension
- 14.** Jobseeker's allowance
- 15.** Maternity allowance
- 16.** Mobility allowance
- 17.** Regulated Social Fund payments - maternity, funeral, winter fuel and cold weather payments
- 18.** Retirement pension
- 19.** Severe disablement allowance
- 20.** Sickness benefit
- 21.** State pension credit

22. Supplementary benefit

23. Transitional award of short-term or long-term incapacity benefit

24. Unemployment benefit.

DMG Annex B: Electronic Communications

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Definition

1. “Official computer system” means¹ a computer system maintained by or on behalf of the Secretary of State for the sending, receiving, processing or storing of any claim, certificate, notice, information or evidence.

1 SS (C&P) Regs, Sch 9ZC, para 1

Electronic communications

Conditions for the use of electronic communication

2. The Secretary of State may use an electronic communication in connection with

claims for, and awards of—

- (a) carer’s allowance
- (b) attendance allowance
- (c) bereavement support payment
- (d) disability living allowance
- (e) graduated retirement benefit
- (f) a jobseeker’s allowance
- (g) a retirement pension
- (h) state pension under Part 1 of the Pensions Act 2014
- (i) shared additional pension
- (j) industrial injuries benefit

(k) an employment and support allowance

(l) a social fund funeral payment

(m) state pension credit

(n) a social fund payment in respect of maternity expenses

(o) maternity allowance

The Secretary of State may use an electronic communication in connection with

awards of—

(a) incapacity benefit

(b) income support¹.

1 SS (C&P) Regs,
Sch 9ZC, para 2(1)

3. A person other than the Secretary of State may use an electronic communication in connection with the matters referred to in paragraph 2 above if the conditions in paragraphs 4 - 7 below are satisfied¹.

1 SS (C&P) Regs, Sch 9ZC, para 2(2)

4. The first condition is that the person is for the time being permitted to use an electronic communication by authorisation given by means of a direction of the Secretary of State¹ (see Appendix A)

1 Sch 9ZC, para 2(3)

5. The second condition is¹ that the person uses an approved method of

1. authenticating the identity of the sender of the communication

2. electronic communication

3. authenticating any claim, certificate, notice, information or evidence delivered by means of electronic communication

4. submitting any claim, certificate, notice, information or evidence to the Secretary of State.

1 Sch 9ZC, para 2(4)

6. The third condition is that any claim, certificate, notice, information or evidence sent by electronic

communication is in an approved form¹.

1 Sch 9ZC, para 2(5)

7. The fourth condition is that the person keeps such records in written or electronic form as may be specified by the Secretary of State¹ in a direction.

1 Sch 9ZC, para 2(6)

8. Where the person uses any method other than the method approved by the Secretary of State, of submitting any claim, certificate, notice, information or evidence, that claim, certificate, notice, information or evidence shall be treated as not having been submitted¹.

1 Sch 9ZC, para 2(7)

Use of Intermediaries

9. The Secretary of State may use intermediaries in connection with¹

- 1.** the delivery of any claim, certificate, notice, information or evidence by means of an electronic communication
- 2.** the authentication or security of anything transmitted by electronic means and may require other persons to use intermediaries in connection with those matters.

1 SS (C&P) Regs, Sch 9ZC, para 3

Effect of delivering information by electronic means

10. Any claim, certificate, notice, information or evidence which is delivered by electronic means shall be treated as having been delivered, in the manner or form required by any provision of these regulations, on the day the conditions

- 1.** in paragraphs 4 to 7 above **and**
- 2.** by or under any applicable enactment

are satisfied¹.

1 Sch 9ZC, para 4(1)

11. The Secretary of State may make a direction determining that any claim, certificate, notice, information or evidence is to be treated as delivered on a different day (whether earlier or later) from that set out in paragraph 10 above¹.

12. Information shall not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered¹.

Proving the identity of a sender or recipient

13. If, for the purposes of any legal proceedings, it is necessary to prove the identity of

1. a person who sent a claim, certificate, notice, information or evidence delivered by means of an electronic communication to an official computer system **or**

2. the recipient of a claim, certificate, notice, information or evidence from an official computer system

the sender or recipient shall be presumed to be the person whose name is recorded as such on the official computer system¹.

Proof of delivery of information

14. If, for the purposes of any legal proceedings, it is necessary to prove that a claim, certificate, notice, information or evidence sent by electronic means has been delivered, then successful delivery will be presumed to have taken place where

1. It has been recorded on an official computer system **or**

2. It has been delivered by the Secretary of State if the delivery has been recorded on an official computer system¹.

15. If delivery has not been recorded on an official computer system it will be presumed that it has not taken place¹.

16. The time and date of receipt of a claim or evidence shall be presumed to be that recorded on an official computer system¹.

Proof of content of information

17. If, for the purpose of any legal proceedings, it is necessary to prove the content of a claim, certificate, notice, information or evidence sent by electronic means, the content will be presumed to be that recorded on an official computer system¹.

1 para 7

Appendix A

The Social Security (Electronic Communications) Consolidation and Amendment Directions 2011 (as amended)

The Secretary of State for Work and Pensions makes the following Directions in exercise of the powers set out in the Schedule:

Citation, commencement and interpretation

1.—(1) These Directions may be cited as the Social Security (Electronic Communications) Consolidation and Amendment Directions 2011 and they come into force on 23rd January 2012, immediately after the coming into force of the Social Security (Electronic Communications) (No.2) Order 2011.

(2) In these Directions—

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987;

“relevant benefit” means—

- (a) attendance allowance;
- (b) disability living allowance;
- (c) council tax benefit;
- (d) an employment and support allowance;
- (e) housing benefit;
- (f) incapacity benefit;
- (g) income support;
- (h) a jobseeker’s allowance;

- (ha) personal independence payment;
- (i) retirement pension;
- (ia) state pension under Part 1 of the Pensions Act 2014;
- (j) state pension credit;
- (k) bereavement support payment.

Authorisation

2. A person who, in accordance with paragraph 2 of Schedule 9ZC to the Claims and Payments Regulations or paragraph 2 of Schedule 2 to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (electronic communication)—

(a) makes a claim, or provides any certificate, notice, information or evidence in connection with a claim, for the following benefits-

- (i) attendance allowance;
- (ii) carer's allowance;
- (iii) disability living allowance;
- (iv) graduated retirement benefit;
- (v) a jobseeker's allowance;
- (vi) a retirement pension;
- (vii) state pension under Part 1 of the Pensions Act 2014
- (viii) shared additional pension;
- (ix) universal credit;
- (x) personal independence payment;
- (xi) industrial injuries benefit;
- (xii) an employment and support allowance;
- (xiii) state pension credit;
- (xiv) a social fund funeral payment;

(xv) a social fund payment in respect of maternity expenses;

(xvi) maternity allowance

(xvii) bereavement support payment.

(b) requests a claim form for attendance allowance or disability living allowance or state pension credit, or a social fund funeral payment, or a social fund payment in respect of maternity expenses, or maternity allowance or bereavement support payment; or

c. gives a notification of a change of circumstances or provides any certificate, notice, information or evidence in relation to carer's allowance, universal credit, industrial injuries benefit, an employment and support allowance, state pension credit, or a social fund funeral payment, or a social fund payment in respect of maternity expenses, or maternity allowance or bereavement support payment or any of the matters mentioned in paragraph 3, is authorised to do so by means of an electronic communication, provided that the person uses a method and form approved by the Secretary of State for Work and Pensions for that purpose.

Information given electronically: permitted matters

3.—(1) The matters are—

(a) in the case of a relevant benefit, a death;

(b) in the case of attendance allowance, disability living allowance, income support or a jobseeker's allowance, a change of address or a change to the bank or other account into which payments of those benefits are made; and

(c) in the case of a jobseeker's allowance, part-time earnings.

Approved method and form

4. The method and form set out on the gov.uk website or, in the case of a state pension under Part 1 of the Pensions Act 2014, set out on any other website if the Secretary of State for Work and Pensions notifies the person of that other website, at the time of, and for the purposes of, making any claim or request, giving any notification or providing any certificate, notice, information or evidence referred to in paragraph 2 are—

(a) the method approved by the Secretary of State for Work and Pensions for—

(i) authenticating the identity of the person making the claim or request, giving the notification or providing the certificate, notice, information or evidence;

(ii) electronic communication;

(iii) authenticating the claim, request, notification, certificate, notice, information or evidence

delivered;

(iv) making the claim or request, giving the notification or providing the certificate, notice, information or evidence; and

(b) the form approved by the Secretary of State for Work and Pensions in which the claim, request, notification, certificate, notice, information or evidence is to be sent.

Electronic Signatures

5. For the purposes of regulation 1(6) of the Jobseeker's Allowance Regulations 1996, any requirement to provide a signed declaration pursuant to regulation 24(6) of those Regulations may be satisfied by means of an electronic signature provided that the person uses a method established for that purpose by the Secretary of State for Work and Pensions.

Revocations

6. All Directions given by the Secretary of State for Work and Pensions in accordance with paragraph 2 of Schedule 9ZC to the Claims and Payments Regulations prior to these Directions are revoked.

Signed by authority of the Secretary of State for Work and Pensions.

December 2011

Chris Grayling

Minister of State,

Department for Work and Pensions

SCHEDULE

Provisions Conferring Powers Exercised in Making these Directions

regulation 32ZA of, and paragraph 2 of Schedule 9ZC (electronic communication) to, the Claims and Payments Regulations 1987

regulation 1(6) and 24B of the Jobseeker's Allowance Regulations 1996

regulation 74A(2) and (3) of the Council Tax Benefit Regulations 2006

regulation 59A(2) and (3) of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

regulation 88A(2) and (3) of the Housing Benefit Regulations 2006

regulation 69A(2) and (3) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

DMG Annex C: Issues for decision by HM Revenue and Customs

Issues for decision by HM Revenue and Customs

1. whether a person is or was an earner, and if so what category¹
2. whether a person is or was in employed earner's employment for the purposes of IISB²
3. whether a person is liable to pay contributions, and if so the amount³
4. whether a person was entitled to pay contributions that he was not liable to pay, and if so the amount⁴
5. whether contributions have been paid in respect of a period⁵
6. any issues about SSP or SMP, including entitlement⁶
7. liability of directors for company's contributions⁷
8. whether
 - 8.1 a person is or was an employee or an employer
 - 8.2 an employer is or was entitled to make deductions from contributions, and if so the amount
 - 8.3 a payment should be made to an employer, and if so the amount
 - 8.4 two or more employers are treated as onefor the purposes of employment of the long-term unemployed⁸
9. whether to give or withdraw approval⁹
10. whether a person is liable to a penalty, and if so what the penalty should be¹⁰
11. any other contributions issues other than the exceptions below¹¹
12. the amount of a person's GMP¹².

1 SSC (ToF) Act 99, s 8(1)(a); SS CB Act 92 Pts I-V; 2 SSC (ToF) Act 99, s 8(1)(b); SS CB Act 92 Pt V;
3 SSC (ToF) Act 99, s 8(1)(c); 4 s 8(1)(d); 5 s 8(1)(e); 6 s 8(1)(f)&(g); 7 s 8(1)(h); SS A Act 92, s 121C;
8 SSC (ToF) Act 99, s 8(1)(i); JS Act 95, s 27; 9 SSC (ToF) Act 99, s 8(1)(ia); SS CB Act, Sch 1 para 3B(1)(b);
10 SSC (ToF) Act 99, s 8(1)(k)&(l); SS CB Act 92, Sch 1 para 7A(2) and 7B(2)(h);

Exceptions to paragraphs 3 and 11

Any decision about Class 4 contributions except

- 1.** whether a person is excepted from or deferred from liability to pay Class 4 contributions¹.
- 2.** incidental issues relating to calculation of profits and recovery of Class 4 contributions².

1 SSC (ToF) Act 99, s 8(3)(a); SS CB Act 92, s 17(1); 2 SSC (ToF) Act 99, s 8(3)(b); SS CB Act 92,
s 17(3)&(4) and 18

DMG Annex D: Decisions and determinations that are appealable

[Benefit decisions](#)

[Contributions decisions](#)

Benefit decisions

1. All decisions, other than those in Annex E, made on a claim for or award of a relevant benefit¹, including whether there has been a valid claim² or if the claim is defective.

1 SS Act 98, s 12(1)(a); 2 SS (C&P) Regs, reg 4

2. Entitlement to and amount of a benefit for which no claim is required¹.

1 SS (C&P) Regs, Sch 3 para 1 & 2; SS CS (D&A) Regs, reg 26(a); SS (C&P) Regs, reg 3

3. Whether benefit to which a claimant is entitled is not payable because¹

3.1 the claimant is disqualified for receiving benefit²

3.2 the claimant is in certain accommodation for the purposes of DLA care component³

3.3 the claimant is in hospital⁴

3.4 a sanction has been imposed⁵.

1 SS Act 98, Sch 3 para 3; 2 SS CB Act 92; 3 s 67(2) & 72(8); 4 s 113(2); 5 JS Act 95, s 19 & 17A

4. Payments to third parties¹ (but see Annex E for exceptions).

1 SS Act 98, Sch 3 para 4

5. Whether an overpayment of benefit is recoverable, and if so, the amount¹.

1 ESA(IR), para 5 & 6; SS A Act, s 71 & 71A

6. Recoverability of excess amounts of IS, JSA(IB), ESA(IR) or SPC where a prescribed payment is received after the due date¹.

7. Whether an accident was an IA¹.

1 SS Act 98, Sch 3 para 7

8. Decisions about a proposal to make or vary a JSAg¹.

1 SS Act 98, para 8; JS Act 95, s 9 & 10

9. Decisions about the assessment of extent of disablement¹.

1 SS CS (D&A) Regs, reg 26(c); SS CB Act 92, s 103, 106 & Sch 6

10. Where one member of a joint claim couple is working and the DM decides that neither claimant is in remunerative work¹.

1 SS CB Act 92, reg 26(d); Welfare Reform and Pensions Act 99, s 59 & Sch 7

11. Whether to specify a period as an AIP¹ made in accordance with specific legislation².

1 SS Act 98, Sch 3, para 8A; 2 SPC Act 02, s 6

12. Decisions as to the length of an AIP¹.

1 SS Act 98, Sch 3, para 8B

13. Decisions to end AIPs¹ made under specific legislation².

1 SS Act 98, para 8C; 2 SPC Act 02, s 9(4) or (5)

14. Where a decision is made under para 12, a decision as to when the AIP ends¹.

1 SS Act 98, Sch 3, para 8D

15. A decision that SP is not payable because a person is a prisoner¹

1 SS Act 98, Sch 3, para 6C

16. A decision that a person is not entitled to uprating increases because they are an overseas resident¹.

1 SS Act 98, Sch 3, para 6D

Contributions decisions

1. Whether a person was precluded from regular employment by home responsibilities¹.

1 SS Act 98, Sch 3 para 16

2. Whether a person should be credited with earnings or contributions¹.

1 SS Act 98, Sch 3 para 17; SS CB Act 92, s 22(5) & s 22(5ZA)

DMG Annex E: Decisions and determinations that are not appealable

1. Whether a person aged 16-17 is in severe hardship¹.

1 SS Act 98, Sch 2, para 1; JS Act 95, s 16 & 17(4)

2. Whether a claimant is entitled to a Christmas bonus¹.

1 SS Act 98, Sch 2, para 2; SS CB Act 92, s 148

3. Priority between claimants entitled to CA¹.

1 SS Act 98, Sch 2, para 3; SS CB Act 92, s 70(7)

4. Whether a person is treated as present in GB¹.

1 SS Act 98, Sch 2 para 5; SS CB Act 92, s 64(1), 71(6), 113(1) or 119

5. The rate of benefit provided for by law¹ including the rate of interest used in calculating a lump sum where a person has deferred entitlement to Cat A or B RP, GRB or shared additional pension².

1 SS Act 98, Sch 2 para 6(a); 2 SS CB Act 92, Sch 5, para 3B(3)

6. Uprating of rates of benefit¹.

1 SS Act 98, Sch 2, para 6(b); SS A Act 92, s 129B(1)(b), 159(1)(b) & 159A(1)(b)

7. Increases of IS or JSA(IB) due to age changes¹.

1 SS Act 98, Sch 2, para 7; SS A Act s 160(2) & 160A(2)

8. Reduction of benefit in accordance with an RBD¹.

1 SS Act 98, Sch 2, para 8; CS Act 91, s 46

9. Which partner should make a claim for IS, JSA(IB), ESA(IR) or SPC where the partners are unable to agree who should be the claimant¹.

1 SS CS (D&A) Regs, Sch 2, para 5(a), (aa) & (bb); SS (C&P) Regs, reg 4(3), (3B), 4D(7) & 4(I)

10. An excluded decision, namely

1. the review of a decision of the FtT made by it on

1.1 whether to review or not review and earlier decision of the FtT²

1.2 whether to take no action or no particular action in light of the review of an earlier decision of the FtT³

1.3 whether to set aside an earlier decision of the FtT⁴

1.4 whether to refer or not refer a matter to the UT⁵

2. a decision of a FtT that is set aside⁶

3. any decision specified by the Lord Chancellor as being excluded⁷.

1 TCE Act 07, s 11(5); 2 s 11(5)(d)(i); 3 s 11(5)(d)(ii); 4 s 11(5)(d)(iii); 5 s 11(5)(d)(iv); 6 s 11(5)(e); 7 s 11(5)(f)

11. Evidence or information required from the claimant/partner¹.

1 SS CS (D&A) Regs, Sch 2 para 5(f); SS (C&P) Regs, reg 7

12. Decisions that a claim for one benefit is to be treated as a claim for another benefit as an alternative or in addition to the benefit originally claimed¹.

1 SS CS (D&A) Regs, Sch 2 para 5(g); SS (C&P) Regs, reg 9 & Sch 1

13. A decision to treat a claim for MA as a claim for IB¹ or ESA¹.

1 SS CS (D&A) Regs, Sch 2 para 5(h); SS (C&P) Regs, reg 11

14. Approving the form in which a person may give particulars for the determination of RP questions in advance of a claim¹.

1 SS CS (D&A) Regs, Sch 2 para 5(i); SS (C&P) Regs, reg 15(7)

15. Time and manner of payment of benefit¹.

1 SS CS (D&A) Regs, Sch 2 para 5(j); SS (C&P) Regs, reg 20 - 24

16. Payment of AA, DLA and CAA at a daily rate when the claimant is expected to return to hospital or certain accommodation¹.

1 SS CS (D&A) Regs, Sch 2 para 5(k); SS (C&P) Regs, reg 25(1)

17. Time and manner of payment of IS¹ (including decisions as to the day on which entitlement to IS is to begin).

1 SS CS (D&A) Regs, Sch 2 para 5(l); SS (C&P) Regs, reg 26

18. Time and intervals of payment of JSA¹ & ESA.

1 SS CS (D&A) Regs, Sch 2 para 5(m) & 5(mn); SS (C&P) Regs, reg 26A & 26C

19. Payment of SPC¹.

1 SS CS (D&A) Regs, Sch 2 para 5(mn); 2 SS (C&P) Regs, reg 26B

20. Claims and payments after the death of the claimant¹.

1 SS CS (D&A) Regs, Sch 2 para 5(o); SS (C&P) Regs, reg 30

21. Payment of arrears of joint-claim JSA where the nominated person can no longer be traced¹.

1 SS CS (D&A) Regs, Sch 2 para 5(p); SS (C&P) Regs, reg 30A

22. Time and manner of payments of II gratuities¹.

1 SS CS (D&A) Regs, Sch 2 para 5(q); SS (C&P) Regs, reg 31

23. Information to be given when obtaining payment of benefit¹.

1 SS CS (D&A) Regs, Sch 2 para 5(r); SS (C&P) Regs, reg 32

24. Decisions about appointees¹.

1 SS CS (D&A) Regs, Sch 2 para 5(s); SS (C&P) Regs, reg 33

25. Decisions about payments to third parties in the claimant's interest¹.

1 SS CS (D&A) Regs, Sch 2 para 5(t); SS (C&P) Regs, reg 34

26. Payments to third parties of SF maternity payments and CWP¹.

1 SS CS (D&A) Regs, Sch 2, para 5(v); SS (C&P) Regs, reg 35(2)

27. Decisions to pay a partner as an alternative payee¹.

1 SS CS (D&A) Regs, Sch 2, para 5(w); SS (C&P) Regs, reg 36

28. Extinguishment of the right to payment of benefit¹ **except** a decision to extend the 12 month period where there is good cause².

29. Decisions¹ about

- 1.** where the mobility component of DLA is not payable².
- 2.** appointment of a person to act on behalf of a child for whom a claim for DLA is made³.
- 3.** payment of DLA direct where a vehicle is purchased under a hire purchase arrangement⁴.
- 4.** termination of direct payment of DLA in hire purchase cases⁵.
- 5.** ending of direct payment of DLA where hire purchase vehicle returned to the owner⁶.

1 SS CS (D&A) Regs, Sch 2, para 5(y); 2 SS (C&P) Regs, reg 42; 3 reg 43; 4 reg 44; 5 reg 45; 6 reg 46

30. Decisions by the Secretary of State to require that an instrument of payment be returned¹.

1 SS CS (D&A) Regs, Sch 2, para 5(z); SS (C&P) Regs, reg 47(2) & (3)

31. Staying making a decision¹.

1 SS CS (D&A) Regs, Sch 2, para 7; SS Act 98, s 25

32. Deductions of fines from ESA, IS, JSA and SPC **except** a decision on whether there is sufficient benefit to make a deduction¹.

1 SS CS (D&A) Regs, Sch 2, para 8; Fines (Deductions from IS) Regs

33. Deduction of CC or CT from IS, UC, SPC, JSA or ESA **except** a decision

- 1.** whether there is an outstanding sum due of the amount to be deducted
- 2.** whether there is sufficient benefit to make a deduction
- 3.** on the priority to be given to a deduction¹.

1 SS CS (D&A) Regs, Sch 2, para 9; Community Charges (Deductions from IS) (No. 2) Regs; Community Charges (Deductions from IS) (Scotland) Regs; Council Tax (Deductions from IS) Regs

34. Authorization on the application of SS schemes to employed and self-employed people and their families moving within the EC¹.

1 SS CS (D&A) Regs, Sch 2, para 10; Council Reg (EEC) 1408/71, Art 22(1) & 55(1)

35. Whether to pay expenses¹.

1 SS CS (D&A) Regs, SS CS (D&A) Regs, Sch 2, para 11; SS A Act 92, s 180

36. Notice of liability to surviving parent in prison or legal custody¹.

1 SS CS (D&A) Regs, Sch 2, para 12; SS (Guardian's Allowance) Regs, reg 5(8)

37. Adverse assumptions on incomplete evidence for ESA, IS, JSA, SF and SPC¹.

1 SS CS (D&A) Regs, Sch 2, para 13, 13A & 19(3); reg 13 & 15

38. For IISB¹

1. whether an award is increased for constant attendance or exceptionally severe disablement and if so, the period and amount payable²

2. the length of a period of interruption of education to be disregarded³

3. whether to approve a person undertaking work⁴

4. how limitations are to be applied⁵.

1 SS CS (D&A) Regs, Sch 2, para 14-17; 2 SS CB Act 92, s 104 & 105;
3 SS (II) Misc Prov Regs, reg 2(2); 4 SS (Gen Ben) Regs, reg 17; 5 SS CB Act 92, Sch 7, Pt VI

39. Issue of certificate for IVS¹.

1 SS CS (D&A) Regs, Sch 2, para 18; SS (DLA) Regs, reg 13 & Sch 2

40. For JSA¹

1. the day and time a claimant is to attend a Jobcentre Plus office²

2. the day on which a claimant is required to sign a declaration³.

1 SS CS (D&A) Regs, Sch 2, para 19; 2 JSA Regs, Pt II, Chap IV; 3 reg 24(10)

41. Any decision on payments on account, overpayments and recovery **except¹**

1. offset of interim payments²

2. overpayment of interim payment³

3. offset of prior payment against later award⁴

4. whether excess payment credited to bank account⁵

5. deductions when calculating recoverable amount⁶

6. treatment of capital to be reduced⁷

7. determination of protected earnings⁸

8. revision or supersession of determination of protected earnings⁹.

1 SS CS (D&A) Regs, Sch 2, para 20; 2 SS (POR) Regs, reg 3(1)(a); 3 reg 4(1); 4 reg 5; 5 reg 11(1);
6 reg 13; 7 reg 14(1); 8 reg 19; 9 reg 24

42. Whether disqualifications should apply for persons abroad¹.

1 SS CS (D&A) Regs, Sch 2, para 21, SS CB Act 92, s 113(1);
SS Ben (Persons Abroad) Regs, reg 2(1)(a) & 9(4) & (5)

43. Reciprocal agreements with countries outside the UK¹.

1 SS CS (D&A) Regs, Sch 2, para 22; SS A Act 92, s 179

44. Recovery of SF awards¹.

1 SS CS (D&A) Regs, Sch 2, para 23; SS A Act 92, s 78

45. Suspension of payment of benefit¹.

1 SS CS (D&A) Regs, Sch 2, para 24; Pt III

46. Whether to waive or defer a WfI¹.

1 Sch 2, para 26; SS (Work-focused Interviews) Regs, reg 3

47. Sanctionable benefit not payable or reduced following convictions for benefits offences where the only ground of appeal is that any of the convictions was wrong or that the offender did not commit the benefit offence in respect of which there has been an agreement to pay an administrative penalty or a caution has been accepted¹.

1 SS CS (D&A) Regs, Sch 2, para 27; SS (Loss of Benefit) Regs, reg 21

DMG Annex F: Late application for a Mandatory Reconsideration (MR)

[Appeal rights following MR](#)

[Example 1 - MR requested within 13 months](#)

[Example 2 - MR requested outside of 13 months on "any grounds"](#)

[Example 3 - MR requested outside of 13 months for official error](#)

Appeal rights following MR

Whether there is a right of appeal against an original decision after MR depends on whether the application for MR was made under (a) one of the provisions that allow revision on any grounds or (b) one of the provisions that allow revision at any time¹.

1 PH v SSWP (DLA)[2018] UKUT 404 (AAC);[2019] AACR 14

“Any grounds” application

In “any grounds” applications for MR (for example those where the claimant’s disagreement is simply that the DM got it wrong and there should have been a higher award) the FtT will have no jurisdiction unless an application for MR was submitted within 13 months of the original decision (subject to small extensions where statements of reasons have been requested).

“Any time” application (specific grounds)

In “any time” applications for MR the claimant expressly or by implication relies on one of the provisions that allow a decision to be revised in specific circumstances (for example official error¹). There is no time limit for such applications. In these cases, a FtT may have jurisdiction to hear an appeal even if the request for MR has been made over 13 months after the original decision.

Example 1

MR requested within 13 months of notification of decision on “Any grounds”

- Decision notified on 20.3.18
- MR requested on 29.8.18
- Whether or not the DM accepts lateness, a decision should be made to revise or not revise. A mandatory reconsideration notice (MRN) must be issued. If the application discloses arguable grounds for supersession, a further decision should be made to supersede or not supersede

- There is never a right of appeal against the revision decision itself but there are appeal rights against the original decision as revised or not revised (see DMG 03211)
- The time for bringing an appeal will start when the MRN is issued.

Example 2

MR requested outside of 13 months of notification of decision on “any grounds”

- Decision notified on 21.5.18
- MR requested on 19.8.19 and so approximately 15 months after notification of the decision
- The claimant argues that they should have been entitled to a higher rate of benefit. The claimant has not argued that the decision was based on official error by an officer of the DWP. The reasons given were simply that the decision was wrong on its merits
- Therefore the substance of the request is an “any grounds” request. As the MR request was made after the absolute time limit of 13 months, the request does not constitute an application for revision
- **The DM should refuse to give a decision and there will be no right of appeal to the FtT. A MRN should not be issued** (see point 1 below)
- If the application discloses arguable grounds for supersession, a decision should be made to supersede or not supersede. A MRN must be issued (see point 2 below).

Response to the FtT

1. If the claimant appeals and the FtT waive the requirement to provide a MRN¹ the response should focus on the lateness of the application and request that the appeal is struck out for want of jurisdiction². The appeal writer should ask the FtT to deal with the jurisdictional point as a preliminary issue³. The response should go on to say that if the FtT think otherwise then they should give a direction regarding next steps.

1 Tribunal Procedure(FtT)(SEC)Rules 2008, rule 7(2)(a), 2 rule 8(2)(a), 3 rule 5(3)(e)

2. If a MRN has been issued for a supersession decision, the response should explain why no decision was issued in response to the application for revision and should focus on the decision to supersede or not supersede.

Example 3

MR requested outside of 13 months of notification of decision for official error but the substance of the request is “any grounds”

- Decision notified on 29.5.18

- MR requested on 21.7.19 and so approximately 14 months after notification of the decision
- The claimant argues that they should be entitled to a higher rate of benefit and that the decision was based on official error. However, they fail to identify any matters that might, on proper investigation, constitute an official error. They also fail to identify any other circumstances that might allow an “any time” revision. They simply argue that the decision is wrong
- Therefore the substance of the request is an “any grounds” request. As the MR request was made after the absolute time limit of 13 months, the request does not constitute an application for revision
- **The DM should refuse to give a decision and there will be no right of appeal to the FtT. A MRN should not be issued** (see point 1 below)
- If the application discloses arguable grounds for supersession, a decision should be made to supersede or not supersede. A MRN must be issued. (see point 2 below).

Response to the FtT

1. If the claimant appeals and the FtT waive the requirement to provide a MRN, the response should explain that the claimant has failed to identify official error and should then focus on the lateness of the application and request that the appeal is struck out for want of jurisdiction. The appeal writer should ask the FtT to deal with the jurisdictional point as a preliminary issue. The response should go on to say that if the FtT think otherwise then they should give a direction regarding next steps.
2. If a MRN has been issued for a supersession decision, the response should explain that the claimant has failed to identify official error and why no decision was issued in response to the application for revision. The response should focus on the decision to supersede or not supersede.

Example 4

MR requested outside of 13 months of notification of the decision for official error or another “any time” ground

- Decision notified on 14.9.18
- MR requested on 12.12.19 and so 15 months after notification of the decision
- The claimant argues that they were misadvised by an officer of the DWP meaning that an overpayment of benefit occurred
- Therefore the substance of the request is an “any time” request on the grounds of official error and so constitutes an application for revision. If the DM disagrees there was official error, **the DM should give a decision that refuses to revise**. A MRN should be issued. If the application discloses arguable grounds for supersession, a further decision should be made to supersede or not supersede.
- The time for bringing an appeal will start when the MRN is issued.

Response to the FtT

Whether or not the DM has accepted the allegation of official error, the FtT has jurisdiction and the response should effectively be a business as usual response dealing with the decision(s) under appeal.

DMG Annex G: Extracts from the European convention for the protection of human rights and fundamental freedoms

[PART I - Rights and Freedoms](#)

[PART II - The First Protocol](#)

[PART III - The Sixth Protocol](#)

PART I

Rights and Freedoms

Article 2

Right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3

Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4

Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.

2. No one shall be required to perform forced or compulsory labour.

3. For the purpose of this Article the term “forced or compulsory labour” shall not include:

- (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
- (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
- (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
- (d) any work or service which forms part of normal civic obligations.

Article 5

Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by

guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 6

Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7

No punishment without law

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not

constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8

Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9

Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10

Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11

Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12

Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 14

Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 16

Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17

Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18

Limitation on use of restrictions on rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

PART II

The First Protocol

Article 1

Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2

Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 3

Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

PART III

The Sixth Protocol

Article 1

Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2

Death penalty in time of war

A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law.

DMG Annex H: Spare

DMG Annex I: Spare

DMG Annex J: Spare

DMG Annex K: Neutral Citation

[Background](#)

[Reported Upper Tribunal decisions](#)

[Unreported Upper Tribunal decisions](#)

Background

1. Since the introduction of the new appeal tribunal structure on 3.11.08, the Administrative Appeals Chamber (AAC) decided on a new way to report its decisions. From 1.1.2010, the series of reported decisions selected by the AAC which replace the reported Commissioners' decisions, will now be known as the Administrative Appeals Chamber Reports (AACR). These are the decisions of the UT Judges.
2. The new appeal tribunal system encompasses more than just social security cases, these AACR will include decisions from all the AAC's jurisdiction, although inevitably most of the cases will be social security cases. The method of selection for reporting will remain as it is now and decisions will only be reported if they have the broad consent of the AAC as a whole. Reported decisions will therefore continue to carry greater weight than unreported.
3. The new way of numbering UT decisions is called neutral citation and is the format already used by the higher courts, so bringing UT decision in line with other courts of equal standing. It also enables those with internet access to more easily search for such decisions as all decisions published on the AAC website will have a neutral citation.

Reported Upper Tribunal decisions

4. An example of a neutral citation for a reported UT decision is "*KS v Secretary of State for Work and Pensions (JSA)* [2009] UKUT 122 (AAC); [2010] AACR 3". To explain the composition of the citation, it is broken down below into its component parts

- "*KS v Secretary of State for Work and Pensions (JSA)*" - refers to the parties to the appeal and the benefit involved. This part should be in italic font.
- "[2009] UKUT 122 (AAC)" - refers to the year the decision was made, United Kingdom Upper Tribunal and the neutral citation number; i.e. the consecutive number of the case within that year's series and the name of the chamber making the decision.
- "[2010] AACR 3" - refers to the year the decision was reported, the name of the publication it is reported in and the consecutive reporting number within that year's series.

5. The AAC have indicated that names in the citation can be abbreviated, so “KS v SSWP (JSA) [2009] UKUT 122 (AAC); [2010] AACR 3” is acceptable. This format should always be used the first time reference is made in an appeal response to a decision with a neutral citation. Any subsequent references can be in the abbreviated format “KS v SSWP (JSA)”.

6. This format will be used on all decisions reported from 1.1.2010 onwards. Reported decisions numbered under the old “R” format can continue to be cited as before, e.g. R(IS) 1/08.

Unreported Upper Tribunal decisions

7. Some unreported decisions will also have a neutral citation number. This is where the decision has not been reported but it has nonetheless been thought to be of interest to potential parties. The only difference to the form of the citation in an unreported decision is that it will not contain the final segment of the citation and so would just be “KS v SSWP (JSA) [2009] UKUT 122 (AAC)”.

8. All other unreported decisions will retain the AAC reference number in the familiar format “CIS/1234/2010”. It should be rare for DMs to need to cite decisions without neutral citation numbers (other than pre 3.11.08 decisions). However where for example a claimant or claimant’s representative relies on a post 3.11.08 decision that does not have a neutral citation number, this old file number format can still be used. Decisions without neutral citation numbers are not be published on the AAC website, but copies will be provided by the AAC on request.

DMG Annex L: Prefixes to Reported Commissioner's decisions

Prefixes to Reported Commissioner's decisions

Note: This was the style for reporting decisions prior to 2010 – see Annex K for current version

R(A) Attendance Allowance

R(CR) Compensation recovery

R(CS) Child support

R(DLA) Disability living allowance

)

R(DW) Disability working allowance

A)

R(F) Child benefit (formerly family allowance)

R(FC) Family credit

R(FG) Forfeiture - general (bereavement benefit and widow's benefit)

R(FIS) Family income supplement

R(FP) Forfeiture - pension (retirement pension)

R(G) General - (bereavement benefit, carer's allowance (formerly invalid care allowance), child's special allowance, death grant, guardian's allowance, maternity allowance, widow's benefit, including forfeiture cases before 2003)

R(H) Housing benefit and council tax benefit

R(HR) Home responsibilities protection

R(I) Industrial injuries scheme benefits

R(IB) Incapacity benefit and NI credits

R(IS) Income support and social fund

R(JSA) Jobseeker's allowance

R(M) Mobility allowance

R(P) Pension (retirement pension, including forfeiture cases before 2003)

R(PC) Pension credit

R(S) Sickness benefit, invalidity benefit, severe disablement allowance and non-contributory invalidity pension

R(SB) Supplementary benefit

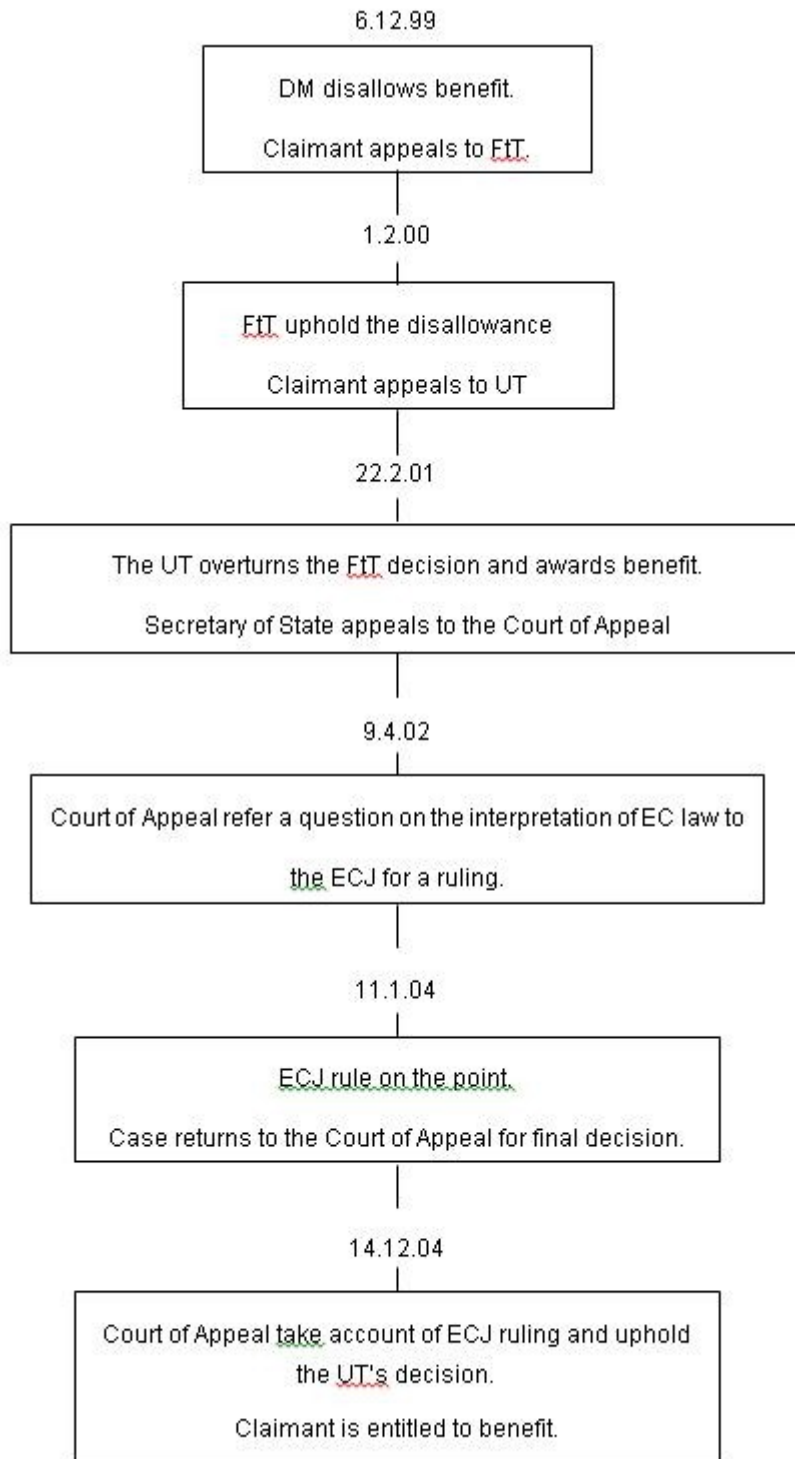
R(SSP) Statutory sick pay

R(TC) Tax credits

R(U) Unemployment Benefit

DMG Annex M: Example of application of s. 27 of SS Act 98

Example of application of s.27 of SS Act 98



The relevant determination is that of the UT dated 22.2.01