

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

Decision Makers Guide

Volume 12

Amendment 36 – October 2017

1. This letter provides details on Amendment 36; 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/lg/acileeds/guidance/decision%20makers%20guide/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 36 affects chapter 75. The changes
 - correct a typo at DMG 75471 and clarifies the guidance at DMG 75592
4. The last two amendment packages amending Volume 12 were
Amendment 35 [June 2017]
Amendment 34 [June 2016]
5. **For reference purposes Decision Makers may find it useful to retain deleted pages for a short period after the introduction of this package.**
6. 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

Abbs (5 pages)

Chapter 75

75471 – 75484 (1 page)

75592 – 75603 (1 page)

Insert

Abbs (5 pages)

Chapter 75

75471 – 75484 (1 page)

75592 – 75603 (1 page)

Abbreviations

AA	Attendance Allowance paid under s 64 of the SS (CB) Act 92
"AA"	Attendance Allowance as defined in IS (Gen) Regs, reg 2(1) or JSA, reg 1(3)
ADC	Actual Date of Confinement
ADF	Adviser Discretion Fund
ADI	Adult Dependency Increase
AFIP	Armed Forces Independence Payment
AIP	Assessed Income Period
AMG	Appropriate Minimum Guarantee
AP	Additional Pension
APP	Adoption Pay Period
Art	Article
ASE	Actively seeking employment
AT	Appeal Tribunal
AWT	All Work Test
BA	Bereavement Allowance
BACS	Bankers Automated Clearing System
BB	Bereavement Benefits
BL	Board and Lodging
BP	Basic Pension/Bereavement Premium
BPT	Bereavement Payment
BSP	Bereavement support payments
BTEC	Business and Technology Education Council
BWC	Benefit Week Commencing
BWE	Benefit Week Ending
CA	Carer's Allowance
CAA	Constant Attendance Allowance
Cat	Category
CB	Contributory Benefit
CC	Community Charge
CDI	Child Dependency Increase
CECSC	Council of European Social Charter
CHB	Child Benefit
CHB(LP)	Child Benefit for Lone Parents
CJEU	Court of Justice of the European Union
CMB	Child Maintenance Bonus
CMP	Child Maintenance Premium
CP	Carer Premium
CPen	Civil Penalty
CSM	Child Support Maintenance

CT	Council Tax
CTA	Common Travel Area
CTB	Council Tax Benefit
CTC	Child Tax Credit
CTF	Community Task Force
CTM	Contribution to Maintenance
CWP	Cold Weather Payment
CwP	Community work Placements
DCP	Disabled Child Premium
DCT	Direct Credit Transfer
DH	Department of Health
Dis G	Disablement Gratuity
Dis P	Disablement Pension
DLA	Disability Living Allowance
DM	Decision Maker
DMA	Decision Making and Appeals
DMG	Decision Makers Guide
DO	District Office
DP	Disability premium
DPTC	Disabled Persons Tax Credit
DWA	Disability Working Allowance
DWP	Department for Work and Pensions
EC	European Community
ECHR	European convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECSMA	European Convention on Social & Medical Assistance
EctHR	European Court of Human Rights
EDP	Enhanced Disability Premium
EEA	European Economic Area
EFC	Earnings factor credits
EFTA	European Free Trade Association
ELDS	Eligible loan deduction scheme
Emp O	Employment Officer
EO	Employment Option of New Deal for young people
EO(E)	Employed Employment Option
EO(S/E)	Self-Employed Employment Option of the New Deal for young people
EPP	Enhanced Pensioner Premium
ERC	Employment Rehabilitation Centre

ERA	Employment Retention and Advancement
ESA	Employment and Support Allowance
ESA(Cont)	Employment and Support Allowance (contributory allowance)
ESA(IR)	Employment and Support Allowance (income-related allowance)
ESA(Y)	Employment and Support Allowance for those with limited capability for work in youth
ESDA	Exceptionally Severe Disablement Allowance
ET	Employment Training
ETFO	Environment Task Force Option of New Deal for young people
EU	European Union
EWC	Expected Week of Confinement
EZ	Employment Zone
FamC	Family Credit
FAS	Financial Assistance Scheme
FND	Flexible New Deal
FP	Family Premium
FP(LP)	Family Premium (Lone Parent Rate)
FRIY	Flat Rate Introduction Year
FRM	Flat Rate Maintenance
F/T	Full-Time
FTE	Full-Time Education
FTET	Full-Time Education and Training Option
FtT	First-tier Tribunal
GA	Guardian's Allowance
GB	Great Britain
GC	Guarantee Credit
GCE	General Certificate of Education
GCSE	General Certificate of Secondary Education
GMP	Guaranteed Minimum Pension
GNVQ	General National Vocational Qualification
GP	General Practitioner
GPoW	Genuine Prospect of Work
GRB	Graduated Retirement Benefit
GRC	Gender Recognition Certificate
GRP	Gender Recognition Panel
HA	Health Authority
HB	Housing Benefit
HBS	Housing Benefit Supplement
HCP	Health care professional
HWC	Health and Work Conversation

Hep C	Hepatitis C
HIV	Human Immunodeficiency Virus
HM	Her Majesty
HMF	Her Majesty's Forces
HMRC	Her Majesty's Revenue and Customs
HO	Home Office
HPP	Higher Pensioner Premium
HRP	Home Responsibilities Protection
IA	Industrial Accident
IAP	Intensive Activity Period for those aged 25 and over and under 50
IAP for 50+	Intensive Activity Period for those aged 50 or over
IB	Incapacity Benefit
IBLT	Long-term Incapacity Benefit
IBS	Infected Blood Schemes
IBST	Short-term Incapacity Benefit
IBST(H)	Higher rate of short-term Incapacity Benefit
IBST(L)	Lower rate of short-term Incapacity Benefit
IB(Y)	Incapacity Benefit for those incapacitated in youth
IC	Intermittent Custody
IDB	Industrial Death Benefit
IFM	Immediate Family Member
IfW	Incapacity for Work
II	Industrial Injury(ies)
IIDB	Industrial Injuries Disablement Benefit
Incs	Increments (of Retirement Pension)
IND	Immigration and Nationality Department
IPC	International Pension Centre
IPPIW	Immediate Past Period of Incapacity for Work
IS	Income Support
IT	Industrial Tribunal (now Employment Tribunal)
IVA	Invalidity Allowance
IVB	Invalidity Benefit
IVP	Invalidity Pension
IVS	Invalid Vehicle Scheme
JSA	Jobseeker's Allowance
JSA 18-21 Pilot Scheme	Jobseeker's Allowance 18-21 Work Skills Pilot Scheme
JSA(Cont)	Contribution based JSA
JSAg	Jobseeker's Agreement
JSA(IB)	Income based JSA
JSD	Jobseeker's Direction

JSP	Jobseeking Period
LA	Local Authority
LCW	Limited capability for work
LCWA	Limited capability for work assessment
LCWRA	Limited capability for work related activity
LEA	Local Education Authority
LEC	Local Enterprise Council
LEL	Lower Earnings Limit
LETS	Local Exchange Trading System
LPP	Lone Parent Premium
LPRO	Lone Parent run-on
LQPM	Legally Qualified Panel Member
LRP	Liable Relative Payment
LSC	Learning and Skills Council
LT	Linking Term
LTACP	Living Together as Civil Partners
LTAMC	Living Together as Married Couple
LTAHAW	Living Together as Husband And Wife
MA	Maternity Allowance
MAP	Maternity Allowance Period
MB	Maternity Benefit
MG	Maternity Grant
MID	Mortgage Interest Direct
MIRO	Mortgage Interest run-on
MP	Member of Parliament
MPP	Maternity Pay Period
MSC	Maximum Savings Credit
MSP	Member of the Scottish Parliament
NASS	National Asylum Support Service
NCET	National Council for Education and Training
NCIP	Non-Contributory Invalidity Pension
ND	New Deal
NDLP	New Deal for Lone Parents
NDP	New Deal for Partners
NDYP	New Deal for Young People
ND18-24	New Deal for 18-24 year olds
ND25+	New Deal for claimants aged 25 years and over
NHS	National Health Service
NI	National Insurance
NINO	National Insurance Number

NMW	National Minimum Wage
NRP	Non-Resident Parent
NVQ	National Vocational Qualification
OOT	Own Occupation Test
OPB	One Parent Benefit
PA	Personal Adviser
PAYE	Pay As You Earn
PB and MDB	Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits scheme
PCA	Personal Capability Assessment
PD	Prescribed Disease
PETA	Personal Expenses Transitional Addition
PFA	Person(s) From Abroad
PIE	Period of Interruption of Employment
PILON	Pay In Lieu Of Notice
PILOR	Pay In Lieu Of Remuneration
PIP	Personal Independence Payment
PIW	Period of Incapacity for Work
PLCW	Period of limited capability for work
PLCWA	Period of limited capability for work assessment
PO	Post Office
POAOB	Payment on Account of Benefit
POA	Power of Attorney
PP	Pensioner Premium
PR	Preserved Right
PSIC	Person Subject to Immigration Control
P/T	Part-Time
PW	Pay-Week
“PW”	Permitted work as defined in ESA Regs, reg 45(4)
PWC	Person With Care
PWHL	Permitted Work Higher Limit
PWHLs	Permitted Work Higher Limit subsequent period
PWK	Permitted Work
PWLL	Permitted Work Lower Limit
PWP	Permitted Work Period
QB	Qualifying Benefit
QBP	Qualifying Benefit or Pension
QD	Qualifying Days
QEF	Qualifying earnings factor
QI	Qualifying Income

QP	Qualifying Period
QRW	Qualifying remunerative work
QW	Qualifying Week
QWfl	Quarterly Work-focused interview
RA	Retirement Allowance
RBD	Reduced Benefit Direction
RCH	Residential Care Home
REA	Reduced Earnings Allowance
Reg(s)	Regulation(s)
Res A	Residential Allowance
RISWR	Redundant Iron and Steel Employees re-adaptation scheme
RMPS	Redundant Mineworkers Payment scheme
RP	Retirement Pension
RQC	Relevant Qualifying Condition
RVU	Relationship Validation Unit
S	Section (of an Act)
S2P	State Second Pension
SAP	Shared Additional Pension
SAYE	Save As You Earn
SB	Sickness Benefit
SC	Savings Credit
Sch	Schedule (as in an Act)
SCT	Savings Credit Threshold
SDA	Severe Disablement Allowance
SDM	Sector Decision Maker
SDP	Severe Disability Premium
S/E	Self-Employed
Sec	Section (of an Act)
SED	Scottish Education Department
SERPS	State Earnings Related Pension Scheme
Sev DP	Severely Disabled Person
SF	Social Fund
SFFP	Social Fund Funeral Payment(s)
SFO	Social Fund Officer
SHA	Special Hardship Allowance
SI	Statutory Instrument
SIR	Standard Interest Rate
SJP	Supervised Jobsearch Pilot Scheme
SMG	Standard Minimum Guarantee
SMP	Statutory Maternity Pay
SP	State Pensions

SPC	State Pension Credit
SpTA	Special Transitional Addition
SPW	Supported Permitted Work
SRPS	Shipbuilding Redundancy Payment Scheme
SS	Social Security
SS benefits	Benefits payable under SS(CB) Act 92
SSMG	Sure Start Maternity Grant
SSP	Statutory Sick Pay
STCP	Skills Training Conditionality Pilot
Supp B	Supplementary Benefit
SVQ	Scottish Vocational Qualification
TA	Transitional Addition
TAW	Temporary Allowance for Widow(ers)
TBI	Total Benefit Income
TD	Trade Dispute
TE	Transitional Element
TEC	Training and Enterprise Council
TFEU	Treaty on the Functioning of the European Union
TS	Tribunals Service
TT	Thalidomide Trust
TU	Trade Union
UB	Unemployment Benefit
UC	Universal Credit
UCP	Urgent Case Payment
UEL	Upper Earnings Limit
UK	United Kingdom
US	Unemployability Supplement
UT	Upper Tribunal
VAT	Value Added Tax
VSO	Voluntary Sector Option of New Deal for young people
WA	Widow's Allowance
WB	Widow's Benefit
WBLA	Work Based Learning for Adults
WBLfYP	Work Based Learning for Young People
WBTfA	Work Based Training for Adults
WBTfYP	Work Based Training for Young People
WC	Workmen's Compensation
WC(S)	The Workmen's Compensation (Supplementation) Scheme
WC (Supp)	Workmen's Compensation (supplementation) scheme

WCA	Work capability assessment
WDisP	War Disablement Pension
WFHRA	Work focused health related assessment
Wfi	Work-focused Interview
WFP	Winter Fuel Payment
WFTC	Working Families Tax Credit
WMA	Widowed Mother's Allowance
WMA(C)	WMA payable where late husband entitled to Cat C retirement pension
WP	Widow's Pension
Wp	Work programme
WPA	Widowed Parent's Allowance
WP(C)	Widow's Pension payable where late husband entitled to Cat C retirement Pension
WPT	Widow's Payment
WRAC	Work-related activity component
WRAG	Work-related activity group
WTB	Work and training beneficiary(ies)
WTC	Working Tax Credit
WtWB	Welfare to Work Beneficiary
WWP	War Widow's Pension/War Widower's Pension
YT	Youth Training

Graduated retirement benefit

Conditions of entitlement

75471 Payment of graduated contributions ceased on 5.4.75. However, any entitlement to GRB under previous legislation¹ is preserved² for people who reached pensionable age before 6.4.16³, including for

1. men and their late husbands **and**
2. women and their late wives⁴.

1 NI Act 65, s 36 & 37; 2 SS CB Act 92, s 62(1); SS (GRB) (No. 2) Regs, reg 3 & Sch 1; 3 Sch 1; NI Act 65, s 36(7) & (8); 4 SS (GRB) (No. 2) Regs, reg 3(2)(e)

75472 GRB is paid as an increase in the weekly or nominal weekly rate (see DMG 75473) of RP¹ to a person who

1. is over pensionable age **and**
2. has made a claim for RP.

1 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 36(1)

Entitlement to graduated retirement benefit only

75473 People who have reached pensionable age can receive GRB even if they are not entitled to RP. For this purpose they are treated as receiving RP at a nominal weekly rate¹. A person can defer entitlement to GRB only² (see DMG 75511 et seq). However, where there would be entitlement to RP but for disqualification (for example, imprisonment) there is no right to GRB only³.

1 SS (GRB) (No. 2) Regs, Sch 1, NI Act 65, s 36(7); 2 SS (GRB) (No. 2) Regs, Sch 1, NI Act 65, s 36(4A)(b); 3 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 36(7)(a)

Rate of graduated retirement benefit

75474 GRB is a fixed amount for each unit of graduated contributions paid¹. From 6.4.10 a unit is £7.50 for men and women². The DM should decide and award the amount of GRB based upon the number of units paid. GRB is rounded to the nearest penny. An amount of 1/2p is rounded up³. Where the amount of graduated contributions paid does not produce an exact number of units, the incomplete fraction of a unit is treated as a complete unit if it is one-half or more of £7.50⁴.

1 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 36(1); 2 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 36(2); 3 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 36(1); 4 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 36(3)

75475 Before 6.4.10 a unit was £9.00 for a woman¹. That will continue to apply to

1. women who reach pensionable age before 6.4.10² **and**
2. the calculation of inheritable GRB where the deceased was a woman who would have reached pensionable age before 6.4.10³.

1 SS (GRB) Regs, Sch 1; NI Act 65, s 36(2); 2 SS (SP & NIC) Regs, reg 3(2)(a); 3 reg 3(2)(b)

Gender recognition certificate issued

- 75476 The issue of a full GRC does not affect entitlement to GRB. This is because the legislation¹ which allows for recalculation has not been used. However, DMs should refer cases to DMA Leeds for advice where, before 4.4.05, transgender claimants have entitlement to RP based on their acquired gender (see DMG 75041).

1 GR Act 04, Sch 5, para 12

75477 - 75479

Inherited graduated retirement benefit – widows

- 75480 A widow is entitled to receive some of her late spouse's GRB as an increase to her RP if, at the date of his or her death, she is

1. over pensionable age **or**
2. under pensionable age and remains his or her widow until she reaches that age¹.

1 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 37(1) & 37(2)

- 75481 A widow inherits half her late spouse's GRB including any Incs (see DMG 75503) he or she have earned¹. She cannot receive any GRB that her late spouse inherited, but she can receive one half of any Incs earned by him or her on it.

1 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 37(1) & 37(2)

- 75482 Where a widow's late spouse had not claimed RP by the date of his or her death, his or her GRB entitlement is calculated as if he or she had claimed and received RP on the date of his or her death¹.

1 SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 37(1) & (2)

Late female spouse legally changed gender from male to female

- 75483 DMG 75480 et seq will apply where
1. a widow's late female spouse was a woman who legally changed gender from male to female **and**
 2. the marriage existed immediately before the spouse obtained a full GRC¹.

1 SS CB Act 92, s 62(3) & (4); SS (GRB) (No. 2) Regs, Sch 1; NI Act 65, s 36 & 37

Inherited graduated retirement benefit - widowers and surviving civil partners who reach pensionable age on or after 6.4.10

- 75484 Widowers and surviving civil partners who reach pensionable age on or after 6.4.10 will inherit half their spouse's or civil partner's GRB on the same basis that a widow inherits half her late spouse's GRB¹ (see DMG 75480 - 75482).

2. Cat B RP on their late spouse's or civil partner's contributions or would have been so entitled had neither been deferred¹.

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

Relevant day before 6.4.16

75592 There is a prescribed maximum amount of AP¹ where a claimant, whose relevant day is before 6.4.16², is entitled to inherited AP from their late spouse or civil partner. However, any amount of Cat A AP or Cat B AP attributable to units of AP is not included in the calculation of prescribed maximum amount of RP³.

Note: See DMG 75601 for the meaning of units of AP.

1 SS (MAP) Regs, reg 3; 2 reg 3(A1); 3 SS CB Act 92, s 52(3A), s 52(3B), s 61ZC(3)(b) & s 61ZC(3)(c)

Example

Person A is entitled to Cat A RP which includes AP of £142.17. Person A is widowed on 8.2.16 and is entitled to Cat B RP which includes AP of £53.81 plus £20.00 AP attributable to units of AP. Added together, the amounts of £142.17 and £53.81 exceed the prescribed maximum of £164.36. The DM awards AP of £184.36; the amount of the prescribed maximum plus £20.00 AP attributable to units of AP.

75593 The prescribed maximum amount of AP¹ is the amount of AP to which a person would be entitled where that person

1. has reached pensionable age on the relevant day (see DMG 75594) **and**
2. in each relevant year has a specified earnings factor (see DMG 75552).

Note: A relevant year is any tax year from 1978/79 in the period from the tax year in which a claimant reached age 16 to the tax year before pensionable age is reached².

1 SS (MAP) Regs, reg 3(1); 2 SS CB Act 92, s 44(7)(a)

75594 For the purposes of DMG 75593 1., the relevant day is the day on which a claimant would have become entitled to **both**

1. Cat A RP **and**
2. Cat B RP on their late spouse's or civil partner's contributions or would have been so entitled had neither been deferred¹.

Note 1: The dual entitlement provisions² do not apply.

Note 2: See DMG 75241 for guidance on the dual entitlement provisions.

1 SS (MAP) Regs, reg 3(2); 2 SS CB Act 92, s 43

75595 For the purposes of DMG 75593 2., the specified earnings factor is an earnings factor which is

1. equal to 53 times that year's applicable limit¹ before any increase² **and**

2. derived from earnings on which class 1 contributions were paid³.

Note: Before 6.4.10 the applicable limit is the upper earnings limit and from and including 6.4.10 it is the upper accrual point (see DMG 75579).

1 SS (MAP) Regs, reg 3(3)(a); 2 SSA Act 92, s 148; 3 SS (MAP) Regs, reg 3(3)(b)

Example 1

Carol is entitled to Cat A RP which includes AP of £116.72. She is widowed on 5.5.11 and is entitled to Cat B RP which includes AP of 67.81. There is no entitlement to GMP. Added together these amounts of AP exceed the prescribed maximum. Therefore the DM awards Carol AP of £159.52, the prescribed maximum.

Example 2

Neil is entitled to Cat A RP which includes AP of £160.13. Neil's civil partner Tom dies on 7.10.11. Because Neil's AP is over the prescribed maximum he does not inherit any of Tom's AP. However, Neil's AP is not restricted to the prescribed maximum.

Relevant day on or after 6.4.16

- 75596 The prescribed maximum amount of RP AP for a survivor whose relevant day is on or after 6.4.16 is £165.60¹.

1 SS (MAP) Regs, reg 3A

75597 – 75600

Unit of additional pension

Meaning of unit of additional pension

- 75601 A unit of AP is a unit of AP for which a person has paid a Class 3A contribution¹.

1 SS CB Act 92, s 122(1)

Payment of Class 3A contributions

- 75602 Class 3A contributions are voluntary NI contributions. From 12.10.15 a person who satisfies DMG 75605 or DMG 75606 may pay a class 3A contribution before the cut-off date in order to obtain a unit, or units, of AP¹. Such a person is known as an eligible person. The cut-off date is

1. 5.4.17² or
2. if later, the end of the 30 day period beginning with the day on which the person is sent information about class 3A contributions by HMRC in response to a request made before 6.4.17³.

1 SS CB Act 92, s 14A(1); 2 s 14A(1A)(a); 3 s 14A(1A)(b)

- 75603 A person may pay class 3A contributions on more than one occasion¹. However, the maximum number of units of AP they can obtain is 25². The amount of class 3A