

## **April 2008/2009 Part 4, Supplementary Allowances Eligibility and Entitlement Guide Vol 2**

### **Consideration of an award of UNSUPP - Accepted cause of unemployability**

40090 - For an award of UNSUPP, it is necessary for the pensioner to be unemployable, and for the AD to be wholly, or mainly, the accepted cause of their unemployability. Below gives the guidelines to be followed when considering an award:

#### **Pensioner unemployable:**

AD the only cause - Award

AD a serious factor - Award

AD not a serious factor - Reject

#### **Pensioner capable of light or sedentary occupation:**

AD a serious factor - Consider award

AD not a serious factor - Reject.

#### **Limited work**

40091 - In some cases, the pensioner may not be medically capable of following their normal occupation but is capable of following a sedentary or light occupation. They cannot, therefore, be classed as unemployable.

40092 - Even though the pensioner is considered fit for some kind of limited work, however, there may be no realistic prospect in the present employment field of an employer taking them on. In these circumstances, consider an award of the supplement on the grounds of poor placing prospects.

#### **Poor placing prospects - Background**

40093 - Prior to February 1987, Disablement Resettlement Officers (DROs) were approached in cases where poor placing prospects were being considered. It was thought that advice from a DRO would provide a reliable measurement of the pensioner's employment chances, because of their local knowledge and special expertise in placing disabled people.

40094 - They were asked if the AD put the pensioner in a significantly worse position than other individuals of the same age and experience.

40095 - From October 1983, men over 60 years of age were not required to register at the Job Centre and consequently DROs have no records on a pensioner who was over 60. A hypothetical question was put to the DRO based on any available information.

40096 - From February 1987, it was decided that the DROs should only be approached in cases of difficulty.

## **Consideration**

40097 - On deciding whether to award the supplement, each case must be considered on its own merits, taking into account the pensioner's age, assessment, reason for terminating employment, etc.

40098 - Policy Branch advises that it is difficult to decide on a set of criteria relating percentage disablement to potential entitlement to UNSUPP.

40099 - It is sufficient to operate a policy whereby a young age and low assessment reduces the likelihood of unemployability while increasing age and a greater degree of disablement makes a pensioner more likely to be unemployable.

40100 - The following is guidance for considering whether to:

- award the allowance on poor placing prospects or
- take action on an implied claim.

## **Cause of termination of employment**

40101 - The immediate cause of the termination of the pensioner's last employment may be unconnected with their AD. In such a case it is unlikely that an award of UNSUPP will be warranted.

40102 - If the AD, either on its own or with a non-AD, worsens sometime after employment has ceased, but whilst the pensioner is still below retirement age, the chances of an award are increased.

## **Early retirement**

40103 - The pensioner may have been forced to retire below the statutory retirement age because of an age limit imposed on all employees by the employer. In this type of case, they would be unlikely to qualify for the allowance.

40104 - If there is evidence, however, that the pensioner intended to take up other employment to cover the period until they reached retirement age but claims that their inability to do so was due to their AD, then the case should be carefully considered.

## **Redundancy**

40105 - It may not be clear from available information whether redundancy was voluntary or compulsory, or whether the AD had any bearing on this. Enquiries should therefore be made as to the circumstances of the pensioner's redundancy.

40106 - UNSUPP is not appropriate if the pensioner:

- could still perform the full range of duties and/or

- had the opportunity of staying on with their employer.

40107 - If a pensioner takes voluntary redundancy but it can be proved that their AD would have been the cause of them giving up work anyway, then the supplement can be considered.

### **Superannuation**

40108 - The receipt of superannuation is not in itself a reason to disregard an award of the supplement, but it may be an indication that it is the pensioner's age and not their AD, which is the present cause of their unemployability. It is important, therefore, to determine whether the AD was a cause of premature retirement, or whether retirement occurred because of a specific age limit.

Retained on the employer's records

40109 - There may be cases where a pensioner has been absent from work for a considerable time due to sickness and there is no realistic prospect of their being fit enough to resume employment in the future. However, they are still regarded by their employer as an employee. This is usually to enable the pensioner to receive benefits from company insurance schemes which are only available to employees.

### **Employer insurance schemes**

40110 - These schemes are usually cash payments based on the employee's salary and are paid until the pensioner reaches the appropriate retirement age. At this time the benefit paid on account of sickness finishes and the employer's pension becomes payable.

40111 - Payments from the insurance scheme commence when benefit under the employer's ordinary sickness pay scheme ceases, usually after six or twelve months.

40112 - Payments under employer insurance schemes should be regarded as being in respect of sickness and not loss of earnings. The pensioner is therefore eligible to be considered for UNSUPP.

40113-40119

### **Therapeutic work and income - Periods of employment**

40120 - UNSUPP can only be awarded to a pensioner whose AD is so serious as to make them unemployable for a prolonged period. It is acknowledged by SPVA, however, that a pensioner's condition may change and during periods of remission they may be able to undertake short periods of employment on the occasional odd job but be incapable of holding down a job for any length of time.

40121 - Provided the employment is considered to be of a therapeutic nature, and the earnings from this occupation are in accordance with a certain earnings limit, UNSUPP may still be payable.

### **Definition**

40122 The first consideration, when a pensioner in receipt of the supplement takes paid employment (even of a part-time nature) is whether they can still be regarded as unemployable. The type of work undertaken must be compatible with their status of unemployability.

40123 - For a pensioner to still qualify for UNSUPP there can be no question of employment in the ordinary sense of the word. The War Pensions Instruments, however, do not define therapeutic work because there are no guidelines or sanctions imposed on the war pensioner, as is the case for similar National Insurance benefits.

40124 - Each case must therefore be considered individually, after obtaining as much information as possible on the appropriate enquiry form.

### **Consideration**

40125 - To consider whether the work can be classed as therapeutic, bear the following points in mind:

1) UNSUPP may continue in payment if the work is considered to be:

- of a limited nature in time and content
- consistent with the AD

2) UNSUPP must be cancelled if it is clear from the pensioner's statement that they cannot be regarded as unemployable because the following are not compatible with their reported earnings and AD:

- the nature of the work
- the number of hours worked

3) if the original award of UNSUPP was based on poor placing prospects, it is extremely unlikely that the work they are now doing can be classed as therapeutic.

40126 - It is not normally necessary to approach SPVAMS for advice, but they can be consulted in cases of difficulty.

### **Earnings Limit - Background: SPO Article 12(2)**

40127 - If it is determined initially that the work is therapeutic, attention should then be turned to the earnings. When the earnings limit was introduced many years ago, it was set in the light of experience of what could be earned by a pensioner engaged in handicraft work. It is clear, therefore, that the purpose of the earnings limit is to quantify the limited nature of the work which could reasonably be carried out by an unemployable pensioner.

### **Definition**

40128 - The earnings limit is set each year and appears in the general increase in War Pensions charts. Certain items can be deducted from the gross earnings

for essential expenses arising from the employment, and a list of these is shown at Appendix 14.

40129 - If employment is casual or intermittent, weekly earnings may fluctuate. In this type of case, a reasonable estimate should be made of the probable annual earnings, to ensure that the annual earnings limit is not exceeded.

### **Enquiries**

40130 - If enquiries are made about the 'earnings limit', it should be made clear that the Agency's main concern is the nature of the work. reference should be made to 'earnings limit' or 'therapeutic' earnings in any correspondence.

UNSUPP is not intended as a subsidy to low earnings from gainful employment.

### **Restricted earnings**

40131 - If the pensioner is engaged in work with earnings below the earnings limit, it is possible that these earnings mark the limit of their capacity.

40132 - Alternatively, if the pensioner has demonstrated an ability to work, it may well follow that their AD is not preventing them from obtaining higher earnings, but that the earnings are being restricted in order to maintain eligibility for the supplement.

40133 - Consider therefore, whether the earnings are realistic in the light of the hours worked and the nature of the employment.

### **Self-employed**

40134 - The problem of restricted earnings may be more evident in the case of a self-employed pensioner, where the declared profit is less than the annual earnings limit, but it may be evident from the amount of work performed that if they offered their services to an employer, they would be worth more than the earnings limit. In cases of difficulty, approach SPVAMS for advice.

### **Boarders and lodger's payments**

40135 - Profit from the letting of rooms with service, e.g., cleaning or answering calls, or the taking in of boarders or lodgers should be regarded as a gainful occupation and taken into account. Income should be averaged over the whole year, unless the business is clearly of a seasonal nature, when the earnings should be related to the period in which they are earned.

40136 - Income from the letting of rooms without service can be disregarded.

### **Business partnership earnings**

40137 - A pensioner who is a partner in a business should be regarded as in continuous gainful employment for as long as the business continues, unless they can produce evidence that the Inland Revenue have accepted a declaration on the partnership tax return that they are a 'sleeping' partner only.

40138 - If they are not a 'sleeping' partner, earnings should include any salary or wages, profits of the business and interest on any capital invested in the business.

### **Consultancy fees**

40139 - A pensioner who enters into a business agreement under which they receive payment in return for services given (or liable to be given) e.g., in an advisory capacity as a specialist, technical or business consultant, is carrying on an employment even though they may not be called upon to render any services.

40140 - Even if there is no agreement, a pensioner who receives a sum described by the firm as a payment or reward for advisory services, which is accepted by the Inland Revenue as earned income, should be regarded as being in gainful employment whether or not such services are given.

### **Council meetings**

40141 - From August 1988, the SOS decided that war pensioners should not be penalised with the loss of UNSUPP because of the level of allowances paid to Local Authority Councillors. The allowances are not classed as earnings under Article 12(2) of the SPO and should be ignored when determining entitlement to the supplement.

### **Employment Services Training Course**

40142 - If the pensioner attends an Employment Services training course, eligibility for UNSUPP depends on the type of course attended. If the course is a vocational one, they are regarded as being capable of work and eligibility for the supplement must cease.

### **Holiday pay or lieu of notice**

40143 - Payment for weeks in lieu of notice or holiday pay does not affect payment of UNSUPP and can be disregarded.

### **Industrial rehabilitation**

40144 - UNSUPP may still be paid if the pensioner attends a course of industrial rehabilitation. Employment Services will adjust their maintenance allowances. If, at the end of the rehabilitation course, the pensioner is found to be suitable for placing in employment, eligibility for the supplement must be carefully reconsidered, in conjunction with SPVAMS if necessary.

### **Occupational therapy**

40145 - If earnings exceed the annual earnings limit due to the sale of homecrafts undertaken as occupational therapy, and the opinion that UNSUPP is not warranted, seek advice from SPVA Policy.

### **Other forms of income**

40146 - Consider any other forms of income, e.g., company director's fees, income from investments, etc.

40147-40169

### **Armed Forces Pension Scheme Medical Discharge (AFPS Med Discharge) - Background**

40170 - The MOD's initial Attributable Pension Scheme was designed to produce a guaranteed minimum income for certain members of the Armed Forces who were invalided on or after 31 March 1973. This scheme, known as AFPS Medical Discharge, can only be considered if SPVA has:

- accepted the invaliding condition for War Pension purposes, as either caused by, or made worse by, service in the Forces

and

- awarded an assessment of 20% or over (it is payable in addition to basic War Pension).

### **Definition**

40171 - The AFPS Medical Discharge Scheme consists of two scale rates of payment, dependent on several factors including length of service. These are:

- Other ranks:
  - SIP Service Invaliding Pension
  - SAP Service Attributable Pension
- Officers:
  - SIRP Service Invaliding Retired Pay
  - SARP Service Attributable Retired Pay.

40172 - When service personnel are invalided from the service, they qualify for SIP or SIRP. If the amount to which they are entitled falls short of a guaranteed minimum rate, the AFPS Med Discharge Scheme will apply and SAP/SARP is awarded.

40173 - The difference between the SIP/SIRP rate and the SAP/SARP rate is known as the MOD supplement.

40174 - SAP can be awarded if the person was invalided before the age of 18 or invalided with less than two years' service.

### **Twelve-month ruling: SPO Article 52**

40175 - If SAP/SARP is in payment, UNSUPP cannot be awarded during the twelve months following discharge. It is only payable from the day following the twelve-month period, e.g.:

- date of discharge – 29 May

- award payable from – 30 May one year later.

40176 - If SIP/SIRP only is in payment, or more than twelve months has elapsed since discharge from the forces, the MOD ARP ruling does not apply and UNSUPP can be considered in the normal way.

40177 - Under MOD rules, SAP/SARP would be permanently adjusted if UNSUPP was awarded during the first twelve months following discharge. SPVA, therefore withhold payment of the supplement for twelve months, so that after this period of time the pensioner can receive both SAP/SARP and UNSUPP.

40178 - If a pensioner would be better off receiving UNSUPP rather than SAP/SARP for the first year after discharge, the supplement should not be awarded. Sickness or Invalidity Benefit should be claimed as this will avoid any permanent reduction in the SAP/SARP rate.

### **Death cases**

40179 - If a pensioner dies during the twelve months following invaliding and would have been eligible for UNSUPP but for the restriction imposed by the MOD award, Temporary Allowance for Widows (TAW) may still be paid.

40180-40199

### **Overlapping benefits: pensioner Social Security (Overlapping Benefits) Regulations 1979**

40200 - Under the Social Security (Overlapping Benefits) Regulations 1979, an NI personal benefit is required to be adjusted in respect of the personal allowance of UNSUPP. If such benefit is payable by the Irish Republic or other overseas authorities, the War Pensions Instruments provide for it to be taken into account when reckoning the amount of UNSUPP.

### **Employer's Statutory Sick Pay - Basic ruling**

40201 - The Employer's Statutory Sick Pay (ESSP) scheme was introduced on 6 April 1983 and made employers responsible for the flat-rate minimum sick pay during the first eight weeks of illness. The scheme was extended to cover the first 28 weeks of illness from 6 April 1986, when it became known as 'Statutory Sick Pay' (SSP).

40202 - To qualify for payment under the scheme, the pensioner must be on the employer's records. SSP is not covered by the Overlapping Benefits Regulations, and therefore UNSUPP cannot be awarded for the same period with a view to adjusting the arrears. If the pensioner's employment is terminated, SSP will cease and the supplement can then be awarded from the day following cessation of employment or removal from the payroll, provided that eligibility is established.

### **Details of incapacity**



40203 - Under the SSP scheme, employers are not required to keep any record of incapacity, nor are they obliged to provide any information for War Pension purposes.

40204 - It is SPVA policy, therefore, that an employer must not be approached to provide details of sickness except as a last resort.

40205 - Even if employers do keep medical certificates, these will not be sent to the local office until SSP is due to finish, and Incapacity Benefit is ready to be put into payment. If the period of SSP has already finished, the local office will be holding the up-to-date medical records.

### **SSP with IB age addition**

40206 - All awards IB age additions are determined by the pensioner's age at the date when the incapacity began and remain at that rate. If the pensioner has no entitlement to SSP, e.g., because they are self-employed, the relevant date for IB age addition purposes is the commencing date of Incapacity Benefit.

40207 - If the claim for SSP was made before 6 April 1986, the commencing date for IVA is the date on which Sickness Benefit was first paid. The eight weeks' SSP will, however, continue to be included in the cumulative total for Invalidity Benefit (IVB).

40208 - After 6 April 1986, when SSP became payable for 28 weeks, the commencing date for IVA is the first day the pensioner qualified for SSP.

40209 - From 13 April 1995 Incapacity Benefit (IB) replaced SB and IVB as an income maintenance benefit for those incapable of work because of the effects of their medical condition. IVA was then replaced by IB age addition, the commencing date for IB age addition is the first day the pensioner qualified for SSP.

### **Enterprise Allowance**

40210 - This allowance was introduced in some areas from January 1983 but became generally available from 1 August 1983. To qualify for the allowance, the claimant must:

- be in receipt of Unemployment Benefit or IS
- be at least 18 but under retirement age
- have been out of work for at least eight weeks.

40211 - It provides a set weekly payment for up to 52 weeks to help unemployed people set up in business by themselves. A person who applies for Enterprise Allowance must continue to make themselves available for work until they are ready to start the business. They cannot, therefore, be classed as unemployable during this period and UNSUPP is not appropriate.

### **Income Support (IS)**

40212 - IS replaced Supplementary Benefit from 11 April 1988. A war pensioner is entitled to a statutory weekly disregard of £10 when entitlement to IS is being assessed. Prior to April 1990, the weekly disregard was £5. The disregard also applies when entitlement to Housing Benefit, Family Credit or Council Tax Benefit is being assessed.

### **USA cases – UNSUPP overlap with USA Income Support**

40213 - Do not adjust USA cases where USA Income Support is being paid. Any necessary adjustment will be made by the USA authorities.

40214-40219

### **Industrial Injuries Disablement Benefit Scheme**

40220 - The Industrial Injuries Disablement Benefit Scheme (IIDB) is covered by the Social Security Act 1975. It is paid where an employed earner has suffered a personal injury or developed an industrial disease due to their employment. The following allowances may be payable under the scheme:

- Disablement Benefit
- Reduced Earnings Allowance
- Constant Attendance Allowance
- Exceptionally Severe Disablement Allowance
- Hospital Treatment Allowance
- Industrial Death Benefit.

#### **Disablement Benefit**

40221 - This long-term benefit is payable for any residual disablement after the industrial accident or onset of prescribed disease. It is paid on the same basis as a War Pension – the rate depends on the degree of disablement expressed as a percentage. Disablement Benefit does not overlap with UNSUPP but can be paid at the same time.

#### **Reduced Earnings Allowance (REA)**

40222 - REA is awarded to a claimant, who, because of the effects of the loss of faculty resulting from an industrial accident or prescribed disease, is unable to return to normal work or do work of an equivalent standard. Provided that the conditions for an award of UNSUPP are satisfied, it can be paid at the same time.

#### **UNSUPP**

40223 - Industrial Injuries UNSUPP was abolished in April 1987. If the Allowance was already in payment prior to this date, it remains in payment. An award of War Pensions UNSUPP cannot be paid at the same time as the supplement paid under the Industrial Injuries scheme.

### **Other Industrial Injury Allowance**

40224 - The Industrial Injuries CAA and ESDA may be paid in addition to the War Pension UNSUPP. If the pensioner is a hospital inpatient receiving the Industrial Injuries TA, action regarding UNSUPP should be taken as in any hospital case.

### **Carer's Allowance (CA)**

40225 - Carer's Allowance (CA) previously Invalid Care Allowance (ICA) is a non-contributory, non-means-tested, taxable benefit which is payable to those who are unable to work because they need to care for a severely disabled person. The person must be receiving either AA at the lower or higher rate, or a War Pension CAA at the full day rate or above.

40226 The allowance came into effect for men and single women between school leaving age and pension age from 5 July 1976. It was extended to include married women from 22 December 1984. From April 2003 entitlement to CA was extended to customers aged 65 and over. Provision was also given for the Carer's Allowance customer to retain the CA for 8 weeks following death.

40227 - When considering a claim to UNSUPP from someone who is already in receipt of CA or has underlying entitlement to CA, you must not take into account the fact that they originally gave up work to care for someone disabled. If their Accepted Disablements (ADs) render them unemployable at the time the claim to UNSUPP is made and the other criteria for entitlement to UNSUPP are met, then the claim must succeed. You must not reject a claim for UNSUPP purely on the grounds that CA is in payment.

### **Job Release Allowance (JRA)**

40228 - JRA was in operation from January 1977 until January 1988. No new claims were accepted after that date, but any already in payment were allowed to remain.

40229 - JRA was not paid at the same time as UNSUPP.

### **Retirement Pension (RP)**

40230 - Subject to the contribution conditions being fulfilled, an RP is payable from age 65 (men) or age 60 (women). A married woman can receive RP from age 60 based on her husband's contribution record provided that he has reached 65 and is receiving RP.

### **Definitions**

40231 - The following shows the types of RP that may be payable, following the Social Security Pensions Act of 1975:

Category Description –

CATARP based on a person's own contributions

CATBRP based on the husband's contributions, payable to a widow or widower at the higher rate

CATB(L)RP based on the husband's contributions, payable to a married woman, at the lower rate

CATAB(L) the wife has eligibility for reduced pension on her own insurance and this is 'topped up' by virtue of her husband's insurance

CATC non-contributory RP payable to a person over age 60/65

CATD non-contributory RP payable to a person over age 80.

40232-40239

### **Effect on UNSUPP**

40240 - The law prevents payment of both UNSUPP and basic Retirement Pension (RP) at the same time. The war pensioner therefore has to make an informed choice about whether to continue to receive UNSUPP or to give up UNSUPP in favour of receiving RP. However, if the pensioner chooses to receive UNSUPP they can still receive:

- Graduated Retirement Benefit (GRB) under the National Insurance Act 1965
- an Additional Component (AC) under Section 6(I)(b) of the Social Security Pensions Act 1975
- Age Addition under Section 40 of the Social Security Pensions Act 1975
  - Category A or B Retirement Pension as provided by regulation 18 of the Social Security (Widows Benefit, Retirement Pensions and other benefits) (Transitional) Regulations 1979.

40241 - The above rules also apply in the case of the pensioner who resides in Northern Ireland, in relation to corresponding provisions and legislation of Northern Ireland.

### **Graduated Retirement Pension (GRP)**

40242 - GRP is payable as an increase to the weekly rate of Retirement Pension. The scheme was in operation from 6 April 1961 to 5 April 1975, and during this time, contributions paid by an employee earned a certain number of units. For every unit earned, a designated amount accumulated towards their pension. Prior to 1975, GRP was known as GRAD Pension.

### **Prior to 6 April 1979**

40243 - Before this date GRP was classed as an increase of Retirement Pension, and as the whole of the RP (flat-rate, increments and GRP) was subject to the Overlapping Benefits Regulations, GRP was not payable in addition to UNSUPP.

40244 - When the ruling changed, a special exercise was undertaken, in conjunction with Newcastle Benefits Directorate (NBD) to identify relevant cases.

### **From 6 April 1979**

40245 - From this date, a war pensioner in receipt of UNSUPP can receive GRP at the same time, provided that eligibility has been established.

### **Additional Component (AC)**

40246 - AC was first payable from 6 April 1979. It is based on a percentage of a person's earnings from April 1978 and is payable in addition to UNSUPP. Some people are contracted out of the scheme because their employers have a pension scheme, or superannuation, at least equivalent to that of the state scheme. In this type of case the employer's pension is payable instead of the AC. This pension is known as the Guaranteed Minimum Pension (GMP).

### **NI Age 80 Addition**

40247 - The National Insurance (Age Addition) Act of 1971 makes provision for an allowance of 25p a week (other ranks) of £13 per annum (officers) payable on reaching age 80. It is paid in addition to any RP, GRP or AC.

40248 - A scan on WPCS will identify pensioners within 6 months of them becoming 80 years old, who may be entitled to this addition.

40249 - The Age 80 Addition is usually paid by Pensions and Overseas Benefit Directorate (POBD), along with the RP, although the District Offices deal with any paperwork.

40250 - If payment of UNSUPP/AASP means that RP is withheld, and no GRP or AC is in payment, the addition is paid with UNSUPP/AASP.

40251 - Prior to 6 April 1979, GRP was not payable at the same time as UNSUPP.

### **Overseas cases**

40252 - In overseas cases NI Age 80 Addition is also payable, providing there is underlying entitlement to a Retirement Pension in countries where UK pensioners would be eligible to receive the full rate of Retirement Pension.

40253 - A list of countries affected by this NI Age 80 Addition is shown at Appendix 24.

### **Severe Disablement Allowance (SDA)**

40254 - SDA was introduced on 22 November 1984, to replace NonContributory Invalidity Pension (NCIP). It is a non-contributory, non-means tested benefit payable to persons who:

- are incapable of work
- satisfy age and residence conditions

- do not normally qualify for Sickness or Invalidity Benefit at an amount equal to or higher than the SDA rate
- from 13 April 1995 do not qualify for IB at an amount equal to or higher than the SDA rate.

40255 - If incapacity arose under age 20, the primary condition for the benefit is incapacity for work. For those over age 20 when incapacity arose, there is a dual test – incapacity for work and disablement assessed at 80% or more.

### **With UNSUPP**

40256 - The disablement condition is accepted as satisfied if the claimant is in receipt of a War Pension assessed at 80% or more. However, if UNSUPP is in payment, SDA cannot be paid as it is an overlapping benefit.

40257 - SDA replaced Non-Contributory Invalidity Pension (NCIP) which was payable to men and women (other than married women or a woman living with a man as his wife).

40258 - In November 1977, NCIP was extended to include married women, and any woman living with a man as his wife, provided that she was incapable of performing normal household duties. It was known as Housewives Non-Contributory Invalidity Pension (HNCIP). Both were overlapping benefits with UNSUPP.

### **Incapacity Benefit**

40259 - There are three rates of Incapacity Benefit. These are:

- Short Term Low Rate (first 28 weeks)
- Short Term High Rate (29 – 52 weeks)
- Long Term Rate (over 52 weeks).

#### **Incapacity Benefit – Short Term**

40260 - Incapacity Benefit – Short Term has replaced Sickness Benefit.

40261 - The first 28 weeks of incapacity is the responsibility of the employer, and benefit is paid in the form of Statutory Sick Pay (SSP). However, anyone who does not qualify for SSP because they haven't an employer, e.g., self-employed or unemployed will receive Short Term Rate straight away.

40262 - From 29 weeks – Short Term High Rate becomes payable.

#### **Incapacity Benefit – Long Term**

40263 - Incapacity Benefit – Long Term has replaced Invalidity Benefit.

40264 - Incapacity Benefit – Long Term replaces Incapacity Benefit – Short Term once a person has been incapable of work due to illness or disability over 52 weeks.

### **With UNSUPP**

40265 - All rates of Sickness and Incapacity Benefit are overlapping benefits and cannot be paid with UNSUPP. As the supplement is generally more beneficial, it is paid instead of IB. Age related addition (ARA) payable with Incapacity Benefit (IB)

40266 - If a pensioner claimed Invalidity Benefit (IVB) before 13 April 1995 he will continue to receive Invalidity Allowance (IVA).

40267 If a pensioner claimed Incapacity Benefit (IB) on or after 13 April 1995 he will receive ARA instead of IVA.

40268 If the DO are paying ARA, it will overlap with War Pension IVA.

40269 ARA must be included as a separate allowance.

### **Statutory Maternity Pay (SMP)**

40270 SMP was introduced on 6 April 1987 and is paid by the employer for a period not exceeding 26 weeks. The state Maternity Allowance scheme which was in payment prior to this date was revised and is paid to those women who do not qualify for SMP.

40271 It is highly unlikely that a female war pensioner in receipt of SMP would qualify for UNSUPP as her AD would not be the cause of her terminating her employment.

40272 However, if the allowance was awarded in an exceptional case, it does not overlap with SMP or Maternity Allowance.

### **Statutory Adoption Pay (SADP)**

40273 SADP was introduced on 6 April 2003 and is paid by the employer for a period not exceeding 26 weeks. Other benefits refer to Statutory Adoption Pay as SAP, but this must not be confused with Service Attributable Pay. Therefore, SPVA will refer to Statutory Adoption Pay as SADP.

40274 It is highly unlikely that a war pensioner in receipt of SADP would qualify for UNSUPP as the AD would not be the cause of their terminating their employment.

40275 However, if the allowance was awarded in an exceptional case, it does not overlap with SADP.

### **Job Seekers Allowance (JSA)**

40276 Job Seekers Allowance replaces Unemployment Benefit and Income Support, for unemployed people, from 7 October 1996.

40277 To be eligible for JSA a person must be capable of work, so it is unlikely that they would qualify for UNSUPP. However, if a claim is made, it should be considered in the usual way. If it is decided that the pensioner is unemployable,

it is likely that UNSUPP is the more appropriate allowance, so consider substitution for JSA.

40278 For the time being JSA will be dealt with by both DOs and Job Centres.

40279 SPVA will continue to send overlapping benefit forms to the DOs, and these will be couriered to the relevant Job Centre, if applicable.

40280 Eventually JSA will be dealt with by the Job Centres. We will then receive a directory of their addresses and telephone numbers.

### **Contribution-based and/or Income-based element**

40281 JSA consists of both a contribution-based and/or income-based element. Those who have paid sufficient National Insurance contributions will receive a personal rate of JSA irrespective of capital, or of partner's earnings, payable for up to 182 days.

40282 The additional benefit currently payable for a dependant will no longer exist within contribution based JSA.

### **7 Day period**

40283 JSA is payable over a 7-day period, UB was paid over 6 days.

40284 For details affecting payment, see the PRAM guide, Part one, Awarding and rejections.

### **War Widows Pension**

40285 War Widows Pension is not payable at the same time as UNSUPP.

40286 If War Widows Pension is in payment and UNSUPP is claimed, the supplement should be withdrawn in favour of War Widows Pension.

40287 In the past, cases have been discovered where both UNSUPP and War Widows Pension were in payment. If any further cases come to light, no action should be taken to withdraw UNSUPP or raise an overpayment. This decision was taken in August 1988.

### **Widow's Benefit**

40288 It is rare for a female war pensioner to have concurrent eligibility for UNSUPP and any of the National Insurance (NI) Widows' Benefits. There are three types of NI Widows' Benefits, which are all adjustable with UNSUPP. These are:

#### **Benefit Description**

Widow's Payment - This is a lump sum payment of £1,000 paid immediately on bereavement. A childless widow under 45 years of age does not qualify for any further Widow's Benefits.



Widowed Mother's Allowance - This is a weekly allowance payable immediately on bereavement to a widow who has a child for whom she received Child Benefit.

Widow's Pension - This is payable immediately on bereavement or following cessation of Widowed Mother's Allowance, to widows aged 45 and over.

40289-40299

### **Allowances for dependants - General**

40300 Under Article 12(5) of the Naval, Military and Air Forces etc (Disablement and Death) SPO 1983, an additional allowance may be awarded for the wife, husband or unmarried dependant living

as spouse, provided that:

- the pensioner is in receipt of UNSUPP; or
- there is entitlement to basic Dependency Allowance under Article 12 of the Naval, Military and Air Forces, etc (Disablement and Death) SPO 1983. This only applies to claims prior to 6 April 1992; or
- the circumstances of the individual case merit an award.

40301 Any income received by the dependant in the form of earnings or NI benefits/RP (with the exception of DLA/AA) must be taken into account when considering an award.

40302 In 1991 a change in policy stated that AASP was not reduced by a GRP or AC paid to the wife. On review, where AASP is in payment and GRP and AC were previously disregarded, it will continue to be disregarded on subsequent reviews.

40303 With effect from 31 January 1994, GRP and AC must be taken into account when considering AASP. If a spouse is receiving or is entitled to RP plus GRP and AC, they must normally relinquish the whole or their entitlement if the pensioner wishes to receive AASP.

40304 In 2001 a change in policy stated that AASP/AADP was to be withdrawn if the income of the dependant is more than the personal rate of Jobseeker's Allowance (JSA). The type of income that can be taken into account when assessing entitlement to AASP/AADP includes:

- earnings; and
- Social Security benefits (including State Retirement Pension); and
- occupational pensions.

40305 Where UNSUPP has been awarded on or after 9 October 2001, you must take any occupational pension from the dependant into account when considering entitlement to AASP/AADP.

40306 Where UNSUPP and AASP/AADP are already in payment prior to 9 October 2001 and an occupational pension for the dependant has been in

payment prior to 9 October 2001, you must disregard the occupational pension when considering whether AASP/AADP is still appropriate.

40307 However, where UNSUPP and AASP/AADP are already in payment and the dependant becomes entitled to an occupational pension on or after 9 October 2001, you must take the occupational pension into account when considering whether AASP/AADP is still appropriate.

40308 If the occupational pension is more than the current personal rate of JSA, then an award of AASP/AADP is not merited.

40309 If the occupational pension is less than the current personal rate of JSA, you must disregard the occupational pension and consider the full rate of AASP/AADP.

### **Additional Allowance for Husband (AAH)**

40310 From 26 November 1984, a female war pensioner could claim a basic Dependency Allowance, and subsequently AAH with her UNSUPP. AAH is considered on the same basis as AAW.

40311 A special exercise was undertaken by Supplementary Allowance Group to identify existing female war pensioners in receipt of UNSUPP and invite them to claim AAH.

### **Unmarried dependant living as a spouse (AASP)**

40312 In cases where the unmarried dependant is living as a spouse, and not receiving benefit in their own right, we can pay an adult dependant increase with UNSUPP, providing the following criteria is fulfilled:

- the unmarried dependant must have been wholly or substantially maintained by the pensioner on a permanent bona fide basis throughout the period beginning 6 months prior to the commencement of his service.

Any earnings or NI Benefits must be taken into account when considering an award of AASP.

### **Adult dependant (AADP)**

40313 To qualify for an allowance as an adult dependant, the person concerned must, in the first instance, live in the home of the pensioner, and be one of the following:

1) grandparent, parent or stepparent who is:

- widowed; or
- has never been married; or
- is married to someone incapable of self-support

2) child, stepchild, adopted or illegitimate child who has attained the child's age limit and:

- has never been married; or
- is widowed; or
- is married to someone incapable of self-support

3) sister, brother, stepsister/brother or half-sister/brother who has attained the age of 16 years and:

- is widowed; or
- has never been married; or
- is married to someone incapable of self-support

4) an adult female person who, in the home of the pensioner, looks after any child of the pensioner, without necessarily living there herself. The child must be in receipt of a Child Allowance under UNSUPP.

40314 In addition, the adult dependant must be in receipt of regular and substantial support from the pensioner and any earnings or NI benefits must be taken into account, when considering an award.

### **Incapable of self-support**

40315 If it is a condition for an award to be incapable of self-support, the incapacity must arise from physical or mental infirmity of a permanent or prolonged nature, or old age.

### **Adult Dependency Addition (DA) - Previously in payment**

40316 If, prior to the award of UNSUPP, the pensioner was eligible for an NI Adult Dependency Addition (ADA) in respect of the same person for whom they now claim, the conditions for an award may be regarded as satisfied, subject to the earnings rules.

### **Not previously in payment**

40317 The following rules must be applied where there is not underlying title to an NIADA:

- pensioner alone maintaining members of the household – Allowance for Adult Dependant should be awarded
- household comprises of only pensioner and dependant – Allowance for Adult Dependant should be awarded at the NI dependency rate provided that:
  - no person outside the household is contributing towards their maintenance and
  - dependants' earnings or benefits do not exceed the current rate of AAW
- persons other than pensioner and dependant contribute towards maintenance of the household, decide whether the pensioner can be regarded as maintaining the dependant.

### **Article 53 of the SPO**

40318 If a War Pension has been reduced because of the pensioner's serious negligence or misconduct there should be no corresponding reduction of Additional Allowances for dependants.

40319-40329

### **Additional Allowance for a child**

40330 A pensioner in receipt of UNSUPP can receive an additional allowance for each eligible child up to the age of 16 years, provided that the child is supported by the pensioner. The allowance normally ceases from the end of term after the child's 16th birthday.

#### **Child is not the pensioner's**

40331 A child who is not the the child of the pensioner may be eligible for the allowance. Factors to consider may be:

- the length of time the child has lived with the ex-serviceman as part of his family unit, i.e. how permanent the arrangement

is

- whether the pensioner is maintaining the child in whole or in part
- whether some other person is paying maintenance for the child.

40332 As usual, with the exercise of discretion we cannot lay down hard and fast rules. It is necessary to show that all the circumstances have been carefully weighed in arriving at the decision.

#### **Maintenance rule**

40333 AAC cannot be awarded where maintenance is being paid for the child by some other person, and it amounts to more than two thirds of the rate of AAC. This maintenance rule overrides the usual practice of awarding for a dependant provided that the dependant has been accepted by the local office for IVB purposes.

40334 In this type of case, the local office would have paid an IVB increase for the child regardless of any other maintenance payments, as long as the mother and her child were living with the pensioner.

#### **Guardian's Allowance**

40335 If one or both of the child's parents are dead, Guardians Allowance may be in payment to the pensioner's wife or other member of the household. This is not an NI benefit but a tax-free allowance payable in certain circumstances when a child has been taken into the family.

40336 If AAC was awarded, the Guardian's Allowance would have to be cancelled; therefore, an award of AAC in these circumstances would not be of any financial advantage to the household.

#### **Child over age 16**

40337 An Additional Child Allowance may be continued beyond the age of 16, for a child who is a student receiving full-time education, an apprentice or a child incapable of self-support.

### **Students**

40338 The child must be receiving full-time education at any of the following:

- university
- college
- secondary school
- technical school
- any other comparable educational establishment.

40339 Attendance should be for at least 25 hours a week. If attendance is for less than 25 hours, the reason for this must be established.

40340 Eligibility for an over age 16 award is not affected by any scholarship or grant in payment to the child, provided that it is assessed on parental income.

40341 The amount of a grant, assessed on parental income, must not be taken into account when considering an award.

40343-40349

40350 If the scholarship or grant is not assessed on parental income but is aimed at making the child financially independent, then the allowance cannot be awarded.

40351 See Volume 1, Part 3, Widows for further details about students.

### **Apprenticeship**

40352 The SPO defines an apprentice as a person undergoing full-time training for any of the following:

- trade or profession
- business
- employment or vacation
- office.

40353 In cases where the child is an apprentice and is in receipt of a wage, training allowance or Income Support, an additional allowance cannot be paid.

40354 The Earnings Limits, however, have never increased so, in cases where the child is an apprentice and receives what the pensioner regards as a 'nominal wage', you must refer the case to Procedural and Legislative Guidance (PLG) who will refer it to WII.

### **Infirm children**

40355 An allowance may be continued beyond the age of 16 years on the grounds of infirmity. Evidence must be received from the child's doctor that the infirmity. Evidence must be received from the child's doctor that the infirmity is not temporary but is likely to prevent the child from earning either permanently or for a prolonged period. The infirmity must have arisen before the age of 16.

### **Restricted award**

40356 If an infirm child over age 16 years is in receipt of IS or SDA the AAC should be restricted to £1 a week.

40357 If neither IS nor SDA are in payment and the child has no other income, the AAC should be awarded at £1 a week and the pensioner should be advised that the child should claim IS or SDA. Circumstances when an allowance for infirmity is payable

40358 An Over Age 16 Allowance can be awarded provided that the details obtained from the child's own GP confirm the:

- ailment is of a nature which is likely to prevent the child from earning either permanently or for a prolonged period
- infirmity commenced before the age of 16.

40359 SDA, which replaced Non-Contributory Invalidity Benefit (NCIP) on 22 November 1984 is, broadly speaking, payable to infirm persons between age 16 and 65 (man or 60 (women) who do not qualify for National Insurance Sickness Benefit. SDA can continue beyond pensionable age until it is replaced by Retirement Pension which is equal to or at a higher rate. When SDA is in payment, it can be assumed that the person is infirm.

### **Circumstances when the allowance is not payable**

40360 There are no grounds for an award of Over Age 16 Allowance when either of the following are in payment:

- Sickness Benefit
- Income Support (from 10 April 1988).

### **Infirm dependant's income**

40361 If the dependant is under age 21 any private income can be ignored.

40362 If the dependant is over age 21 an allowance may be awarded provided that the allowance plus any other income does not exceed the set limit. In assessing the total income, Attendance Allowance can be disregarded. If this total is exceeded, an award should not be made unless the total income is very close to the means limit or there are exceptional circumstances.

### **Compensation from other sources**

40363 If any compensation/allowances are being paid to the Over Age Infirm Child because of their infirmity, i.e., they are paid an allowance because they are

infirm and cannot earn a normal living, take any payments into account when calculating an award of Over Age Infirm Child Allowance.

40364-40379

### **Overlapping Benefits: Dependants**

40380 A pensioner in receipt of UNSUPP is not eligible for AAW in respect of a wife who is in receipt of a personal NI benefit of at least equivalent value.

40381 If a pensioner is already in receipt of AAW for his wife and she starts to receive a short term benefit on her own insurance, e.g.: Sickness Benefit or Job Seekers Allowance, the AAW must cease.

40382 If, however, owing to a deficiency in contributions, the NI benefit is at a rate lower than the AAW rate, the AAW should be reduced by the amount of NI benefit and the balance only should be paid.

40383 If these rules are applied and a complaint is received from the pensioner regarding loss of income, the case should be referred to Policy Branch via SPVA policy.

### **Temporary periods of unemployment**

40384 A wife who is normally in employment and because of her earnings does not qualify for AAW, may be temporarily unemployed or incapacitated for work. If she is not entitled to Job Seekers Allowance or Sickness Benefit in her own right, the pensioner may claim AAW. AAW cannot be awarded for short periods of incapacity, but provided that the pensioner has underlying title to Sickness or Invalidity Benefit, the pensioner should be advised to claim a dependency increase at the District Office.

### **Industrial Injuries Disablement Benefit**

40385 Industrial Injuries Disablement Benefit (IIDB) is payable for any residual disablement after the industrial accident or onset of prescribed disease. It is paid on a similar basis to a War Pension and the rate depends on the degree of disablement expressed as a percentage. Disablement Benefit does not overlap with AAW but can be paid at the same time.

### **Reduced Earnings Allowance**

40386 REA is awarded to a claimant who, because of the effects of the loss of faculty resulting from an industrial accident or prescribed disease, is unable to return to normal work or do work of an equivalent standard. AAW may be paid at the same time, but any reduced earnings the wife may have are subject to the normal earnings rules.

### **Carer's Allowance (CA)**

40387 CA cannot be paid at the same time as AAW. A pensioner cannot claim AAW for his wife if she is in receipt of CA, even if the CA is for looking after someone else, e.g.: a child in receipt of AA. The basic rate of CA can be

increased to include payments for an adult dependant and children. These additions overlap with the Additional Allowance for Child and Adult Dependant payable with UNSUPP.

40388 Social Security Regulations do not allow personal benefits to be withheld when another benefit or pension is in payment. Therefore, where AASP is already in payment and CA is subsequently awarded and payment made retrospectively, payment for the retrospective period cannot be regarded as a SPVA overpayment, under Social Security Regulations.

40389 Where CA is awarded, AASP must be cancelled from the date of review.

### **Important**

40390 Where the AASP award is withdrawn after the CA award is put into payment any period where both were being paid concurrently must NOT be recorded an overpayment or recovery considered by SPVA. It is for the CA Unit to consider any overpayment action. You must:

- 1) notify CA Unit by telephone and
- 2) confirm in writing on form WPA0882 that SPVA are going to

cancel AASP and that CA appears to have been overpaid.

### **Job Release Allowance (JRA)**

40391 JRA was abolished in January 1988. No new claims were accepted after that date, but any already in payment were allowed to remain. AAW is not payable in respect of a wife who is receiving an allowance under the Job Release Scheme.

40392-40399

### **Retirement Pension - Basic Ruling**

40400 A pensioner in receipt of UNSUPP is not eligible for AAW in respect of a wife if she is in receipt of Retirement Pension of at least equivalent value.

40401 GRP and Additional Component (AC) are also overlapping benefits and cannot be paid at the same time as the full rate of AAW.

40402 Social Security Regulations do not allow personal benefits to be withheld when another benefit or pension is in payment. Therefore, where ASAP is already in payment and RP is subsequently awarded and payment made retrospectively, payment for the retrospective period cannot be regarded as a SPVA overpayment, under Social Security Regulations.

40403 Where RP is awarded, AASP must be cancelled or adjusted from the date of review as follows:

- payment of AASP must cease, unless the RP is payable at a rate lower than the current rate of AASP. In such cases, the AASP should be reduced by the amount of the RP and the balance only should be paid



## **Important**

Where the AASP award is revised or withdrawn after the RP is put into payment any period where both were being paid concurrently must NOT be recorded as an overpayment or recovery considered by SPVA. It is for the RP Unit to consider any overpayment action. You must:

- notify RP Unit by telephone and
- confirm in writing on form WPA0882 that SPVA are going to

cancel/reduce AASP and that RP appears to have been overpaid.

### **The 'topping up' principle**

40404 A reduced Retirement Pension (RP) may be in payment to a wife due to her deficient NI contributions. In this type of case, a reduced award of AAW may be made to 'top up' her RP to the full dependency rate.

40405 If the AAW is to be a 'topping up' award, any of the wife's GRP or AC must be taken into account when calculating the amount of AAW.

### **RP with GRP and AC**

40406 Prior to April 1979, GRP and AC were not adjustable with AAW but could be paid concurrently. Only basic Retirement Pension was taken into account.

40407 From April 1979, any GRP or AC in payment to the wife was treated as overlapping benefits with AAW. This means that a wife who is receiving RP, GRP and AC must relinquish the whole of her entitlement if the pensioner wishes to receive AAW instead.

40408 Cases prior to this date where GRB or AC was already in payment were maintained at the full AAW rate and only adjusted at the November 1980 uprating exercise.

### **Severe Disablement Allowance (SDA)**

40409 AAW cannot be paid for a wife who is in receipt of SDA.

### **Sickness Benefit and Incapacity Benefit**

40410 AAW cannot be paid for a wife who is in receipt of Sickness or Invalidity Benefit.

40411 Prior to 20 September 1971 however, a pensioner whose wife had been in receipt of SB or IVB for more than one year, could receive AAW for her at the same time. Such an award, if already in payment on 20 September 1971, was allowed to continue.

40412 In this type of case, AAW continued in payment to the pensioner even when his wife's Retirement Pension became payable. This was to avoid a substantial drop in income at that time.

40413 At subsequent upratings, AAW was reduced by the total amount of the increase in his wife's RP and IVA until the AAW was completely eroded.

### **Statutory Sick Pay**

40414 SSP in payment to a wife must be treated as earnings when considering an award of AAW.

40415 If SSP is in payment and AAW is claimed from a date prior to 16 September 1985, the £45 tapered earnings rule will apply.

40416 If a wife in receipt of AAW on the tapered earnings scale is sick and claiming SSP, it must be treated as earnings and the AAW adjusted accordingly. If, after 28 weeks, the wife then receives IB at a rate higher than AAW, the AAW must be cancelled. If the rate is lower, then AAW can be adjusted.

40417-40429

### **Statutory Maternity Pay (SMP)**

40430 SMP was introduced on 6 April 1987 and is paid by the employer for a period not exceeding 26 weeks. The state Maternity Allowance scheme that was in payment prior to this date was revised and is paid to those women who do not qualify for SMP.

40431 AASP cannot be paid for a wife who is in receipt of SMP or Maternity Allowance, unless this rate is lower than the current AASP rate.

### **Statutory Adoption Pay (SADP)**

40432 SADP was introduced on 6 April 2003 and is paid by the employer for a period not exceeding 26 weeks.

40433 AASP cannot be paid for a spouse who is in receipt of SADP, unless this rate is lower than the current rate of AASP. In some cases, SADP may reduce the earnings to below the current rate of AASP for a limited 26 week period. If you receive a claim to AASP that is made on this basis you must refer the case to Policy (WPP1) for advice.

### **Job Seekers Allowance (JSA)**

40434 AASP is not paid for a spouse who is in receipt of JSA.

### **UNSUPP**

40435 If a wife is a war pensioner and is in receipt of UNSUPP in her own right, her husband cannot receive AASP for her. The additional allowance is regarded as an overlapping benefit with personal UNSUPP.

40436 The receipt of a basic War Pension has no effect on the payment of additional allowances in respect of UNSUPP.

40437-40449

### **Pensioner in hospital - Hospital reduction**

40450 Hospital reductions in respect of UNSUPP (including AASP and AAD) and IVA were abolished with effect from 12 April 2006. CAA and SDOA remain subject to deduction after 28 days in a hospital or care home.

40451 - 40452

### **Resettlement Benefit**

40453 Prior to 9th April 2001 a single pensioner without dependants, who has been in hospital for more than 52 weeks, was entitled to a Resettlement Grant when they were finally discharged from hospital. The provision to accrue and pay resettlement grants was removed from 9th April 2001.

### **Special Treatment Allowance (STA)**

40454 STA is paid to cover a period of recuperation following hospital inpatient treatment. Treatment Group will approve the allowance for a pensioner who:

- is normally in employment and intends resuming work after recuperation
- has had a period of inpatient treatment
- has incurred a loss of earnings as a result of the treatment.

40455 UNSUPP cannot be paid at the same time as STA, unlike ordinary Treatment Allowance which can be paid at the same time.

### **Pensioner employed while in hospital**

40456 If Treatment Group are advised that a pensioner has commenced outside employment while still in hospital, they will immediately inform the appropriate End to End Section, who will determine whether or not UNSUPP should remain in payment. It may be possible to consider the work as therapeutic.

### **Blind Pensioners: St Dunstan's**

40457 St Dunstan's make recommendations for awards of UNSUPP in cases of war blinded pensioners resident in the British Isles (excluding Scotland).

40458 A definite recommendation from St Dunstan's can be acted upon without reference to SPVA Medical Services (SPVAMS) provided that blindness is the main cause of unemployability.

40459 If non-Ads are involved, or there is any doubt, SPVA is not obliged to accept the recommendation. In this type of case, SPVA Medical Services may be asked for advice.

### **Scottish National Institute for the Blind (SNIB)**

40460 SNIB make recommendations for awards of UNSUPP in cases of war blinded pensioners resident in Scotland. These recommendations should be treated in the same way as those from St Dunstan's.

40461-40469

### **Capitation hospitals or homes**

40470 In some cases, the NHS is unable to provide the care and facilities required by pensioners with very severe disablements. Arrangements are therefore made for their permanent maintenance and treatment in certain hospitals or homes outside the NHS and these are paid an agreed sum by SPVA via Treatment Group. They are known as capitation hospitals, e.g.: Erskine Hospital (formerly Princess Louise Hospital), Chaseley Home, and Tyrwhitt House.

### **Paraplegics**

40471 Paraplegics may appear to have a very good claim to UNSUPP. Experience has shown, however, that once the initial difficulty of mobility has been overcome, especially in getting to and from work, many of these pensioners are able to secure remunerative occupations. Any claim should, however, be referred to SPVA Medical Services (SPVAMS) in the usual way.

### **Lyme Green Settlement**

40472 Lyme Green Settlement is an establishment providing care and accommodation for men and women with spinal injuries and other disabilities.

### **Stoke Mandeville**

40473 Pensioners who are admitted to the National Spinal Injuries Centre at Stoke Mandeville are usually severely disabled and in many cases under 30 years of age. The Department's WM responsible for Stoke Mandeville usually gives advice about the unemployability aspect of pensioners with spinal injuries who have only recently been invalided from service.

40474-40489

### **Invalidity Allowance (IVA) - Definition**

40490 IVA may be paid with UNSUPP, IVB or SDA. The rate depends on the age when unemployability/incapacity began and once it has been put into payment remains at the rate for that age. IVA will not be paid with IB.

### **Authorities: SPO Article 13**

40491 The main authorities for an award of Invalidity Allowance are as follows:

- Members of the Armed Forces Article 13 of the Naval, Military and Air Forces etc (Disablement and Death) SPO 1983
- Mariners 1939 Article 13 of the SPO 1983 by virtue of the War Pensions (Mercantile Marine) Scheme 1964
- GOP civilians or CDVs Article 19 of the PICs 1983
- Members of the Polish Forces Article 13 of the SPO 1983 by virtue of the Pensions Polish Forces) Scheme 1964.

### **Age bands - Prior to April 1979**

40492 Before April 1979, the age bands were as follows:

- Under age 35 Highest rate
- Age 35 to 44 Middle rate
- Age 45 to 59 (man) Lowest rate
- Age 45 to 54 (woman) Lowest rate

40493 The change in age bands from April 1979 did not affect pensioners who had reached retirement age before that date.

#### **From April 1979**

40494 Before April 2001, the age bands were as follows:

- Under age 40 Highest rate
- Age 40 to 49 Middle rate
- Age 50 to 59 (man) Lowest rate
- Age 50 to 54 (woman) Lowest rate.

#### **From April 2001**

40495 There are 3 rates of IVA and these are shown on the general increase in war pensions charts issued every year. The current age bands which determine the rate to be paid are:

- Under age 40 (man and woman) Highest rate
- Age 40 to 49 (man and woman) Middle rate
- Age 50 to 59 (man and woman) Lowest rate.

40496 IVA cannot be awarded for the first time to a man or woman aged 60 or over.

#### **Commencing date**

40497 If IVA is already in payment to the pensioner together with IB the End-to-End group take over payment of the SPVA, using the age band already established by the Local Office. This will take effect from the commencing date of the UNSUPP award.

40498 If the pensioner is not already receiving IVA from the Local Office, the award of IVA is based on the pensioner's age at one of the following, whichever is earlier:

- the commencing date of the award of UNSUPP or
- the date the pensioner was recorded as being continuously sick by the Local Office, even though IB and IVA were not in payment, e.g.: because contribution conditions were not satisfied.

#### **Period of Interruption of Employment: SPO Article 13(4)**

40499 If a period of sickness has been accepted by the DO as a Period of Interruption of Employment (PIE) for contributory benefits purposes, IVA can be awarded based on the pensioner's age on the first day of this incapacity, even where the first day may be earlier than the commencing date of the UNSUPP award.

40500-40519

### **Two or more periods of incapacity**

40520 If there have been 2 or more periods of incapacity, IVA should be awarded on the basis of the pensioner's age on the first day of the last period. However, where a break between 2 periods does not exceed 56 days, the periods should not be treated as separate.

40521 Interruptions of less than 56 days do not count when considering a claim for IB and the same applies when considering IVA for War Pension purposes.

### **IVA adjustment**

40522 If IVA is in payment with IB and there is entitlement to AC or Guaranteed Minimum Pension (GMP), the DO will not pay IVA if the AC and GMP are in payment at the higher rate. This adjustment only applies to persons receiving previous IVB covered by the transitional rule. A war pensioner in receipt of UNSUPP can receive both IVA and AC in full.

40523 Care must be taken to establish the full rate of IVA awarded by the Local Office before awarding it with UNSUPP.

40524-40539

### **Comforts Allowance**

40540 A pensioner who is awarded UNSUPP is also entitled to a Comforts Allowance. There are 2 rates:

- lower
- higher.

40541 The lower rate only is paid with UNSUPP.

### **Higher rate in payment**

40542 The higher rate of Comforts Allowance may be paid with CAA. Comforts Allowance cannot, however, exceed the higher rate, so, where this is already in payment with CAA, no more can be awarded with UNSUPP. There is, however, an underlying title to the lower rate.

40543 If the higher rate of Comforts Allowance with CAA is reduced, the UNSUPP award will automatically attract the lower rate of Comforts Allowance, thereby still leaving them on the maximum rate.

40544-40559

### **Overseas cases**

40560 The basic conditions of eligibility to UNSUPP for a pensioner living abroad (including the Irish Republic and Channel Islands) are the same as for a pensioner living in the United Kingdom.

### **Overlapping benefits**

40561 A pensioner living abroad may become eligible for a Retirement Pension or other benefit payable out of the public funds of that country. If such benefit is similar to one that the pensioner would be eligible for in the UK (under the Social Security Act 1975) the UNSUPP may be adjusted with that benefit.

### **Overseas benefits**

40562 SP POL decides which overseas benefits are to be treated as similar to the UK benefits and the method of adjustment to be adopted.

40563 Note that the age at which RP becomes payable varies from country to country.

40564 In cases of doubt, seek guidance from SP POL via Procedural and Legislative Guidance.

40565-40579

### **Overlap of UNSUPP cases with Canadian Pension**

40580 See Claims guide, Part 8, para 80870.

40581-40699

### **Allowance for Lowered Standard of Occupation (ALSO) - Background**

40700 ALSO was introduced in 1946 but was known then as 'Special Hardship Allowance'. The general intention of ALSO is to allow for some loss of earning power brought about by the AD. The basic qualifying conditions for ALSO are that:

- for claims made on or after 7 April 1997 they must be 40% disabled or more and under the age of 65 at the date of claim and be permanently incapable of following their regular occupation or an occupation of an equivalent financial standard because of the AD
- for claims made before 7 April 1997 the pensioner must be in receipt of a War Pension at less than 100% rate (or received a gratuity) and again, be permanently incapable of following their regular occupation of an equivalent financial standard because of the AD

### **Important**

In all cases, you must: establish the correct date of claim, See Claims guide, Volume 2, Part 5 of claim and commencing date of award:

- when the commencing date of UNSUPP is on or after 7 April 1997, the pensioner must be under age 65 on that date
  - when considering a NISHL case, if the date of claim for the Supplementary Allowance is:
    - on or after 22 October 1996 use true assessment and not the assessment used for payment purposes
    - before 22 October 1996 use the advisory payment assessment.
- 40701 You must not invite claims for ALSO on any claim to War Pensions.

### **Authorities**

40702 The main authorities for an award of ALSO are as follows:

- Members of the Armed Forces Article 15 of the Naval, Military and Air Forces etc Disablement and Death) SPO 1983
- Mariners 1914 War - The Seamen's War Risk Compensation Scheme
- Mariners 1939 War - Article 15 of the SPO 1983 by virtue of the War Pensions (Mercantile Marine) Scheme 1983
- GOP civilians or CDVs only -Article 21 of the PICs 1983
- Members of the Polish Forces - Article 15 of the SPO 1983 by virtue of the Pensions (Polish Forces) Scheme 1964.

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### **Eligibility**

40710 ALSO is payable when a pensioner is permanently unable to follow their regular occupation because of their AD. They must also be permanently incapable of following any other occupation which is of equivalent financial standard to the regular occupation and is suitable in their case.

#### **EXAMPLE**

A former professional violinist who lost the tip of a finger during war service who is unable to return to their chosen profession may qualify for an award of ALSO if they are unsuccessful after service in finding a suitable occupation of equivalent financial standard.

40711 For the purpose of meeting the terms of eligibility for ALSO, the AD, including greater disablement or disablement included under the paired organs/limbs rules should be mainly, although not necessarily wholly, responsible for loss of earning capacity.

40712 In many cases, taking account of the nature of the regular occupation and the nature and extent of the AD, it should be clear that the AD is responsible for the change of employment.



40713 The terms of eligibility are regarded as met if there is a strong probability that the AD is mainly responsible for the loss of earnings capacity if there are contributory factors such as:

- age
- a non-accepted condition
- a non-accepted worsening of an aggravated disability.

### **Women pensioners**

40714 If the AD prevents the pensioner from following her regular occupation ALSO can be considered in the same way as it is for a man. ALSO may continue to be paid (subject to the normal conditions) after marriage.

### **Date of eligibility**

40715 A pensioner's capability for their regular occupation should be examined at the date of claim. No account should be taken of the years between the end of service and the date of the ALSO claim.

40716 The decision to be made is whether or not the AD prevents the pensioner from carrying out their regular occupation at the date of their claim. Do not take into account factors such as whether the regular occupation became closed to the pensioner from following their regular occupation.

### **Further disability**

40717 If the AD is solely responsible for a change in occupation, it would be immaterial if at some later date another disability arose which would have prevented the pensioner from following their regular occupation.

### **Restricted payment**

40718 Article 15 of the SPO and Article 21 of the PICS 1983, states that an award of pension added together with an award of ALSO should not exceed the 100% rate of pension. This means that ALSO cannot be awarded to a pensioner who is in receipt of pension at 100% rate. Therefore, ALSO is restricted where the award of pension is 70, 80 or 90%.

### **UNSUPP**

40719 Article 15 of the SPO and Article 21 of the PICS 1983, precludes payment of ALSO for any period during which UNSUPP is payable.