

Chapter 02 - Claims

Contents

Introduction	2001
National insurance credits	2002
Definitions	2003
The relevant law	2007
 Making a claim	
General requirement to make a claim	2008
 Benefits for which a claim is not required	2009
Exemption from claiming Category A or Category B Retirement Pension	2010
Deferment and De-retirement	2015
Dependency increases	2016
 Who can claim benefits?	2038
Change of claimant	
Jobseeker's Allowance	2041
Income Support	2043
Treating another person as the claimant	2044
 How to make a claim	2048
Appropriate offices	2049
Alternative offices	2052
Claimants affected	2053
Persons who have not yet attained qualifying age	2054
Definitions	2055
The procedures	2057
Rights and responsibilities of relevant authorities receiving claims	2059

Date of claim.....	2061
Attendance Allowance and Disability Living Allowance	2064
Use of information provided to authorities administering Housing Benefit.....	2066
Social security information verified by an administering authority	2068
Claims made electronically	2069
Claims for Industrial Injuries Disablement Benefit, Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit, Shared Additional Pension and State Pension made by telephone.....	2073
No trace of claim	2075
Claims made in the prescribed manner	
The prescribed manner for making a claim.....	2080
Written communication - sufficient to constitute a claim for benefit	2085
Claims for Income Support and Jobseeker's Allowance	2092
Procedure on receiving a possible Income Support or Jobseeker's Allowance claim	2095
Claim for Income Support or Jobseeker's Allowance in the prescribed manner.....	2096
Defective Income Support or Jobseeker's Allowance claims.....	2097
After a claim has been disallowed as defective	2104
Notification of an intention to claim Income Support or Jobseeker's Allowance	2106
Claim made after a defective claim or notification of an intention to claim.....	2107
Claims for benefits other than Income Support, Jobseeker's Allowance and State Pension Credit	2108
Procedure on receiving a possible claim for a benefit other than Income Support, Jobseeker's Allowance and State Pension Credit	
Item in writing has been received but it is not a claim.....	2109
Claim in writing received but not on a claim form or in some other sufficient manner	2110

Claim made on an approved form but the form has not been properly completed	2111
After a claim has been disallowed as defective	2112
Dependency increases	2113
Claim for adult dependants	2114
Effect of Child Benefit extension on dependency increases	2117
Claiming State Pension Credit	
In writing	2127
By telephone.....	2131
Making a claim.....	2134
Defective claims - State Pension Credit tele-claims.....	2136
Intention to claim	2140
Defective claims made in writing	2141
Telephone claims for Industrial Injuries Disablement Benefit, Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit and Shared Additional Pension.....	2148
Claiming Employment and Support Allowance	
General	2153
By telephone.....	2155
In writing	2159
Members of a couple	2164
Information, evidence and corroboration	2166
Information relating to personal pensions and retirement annuity contracts	2171
Requirement to attend for medical examination.....	2174
Provision of national insurance numbers	2176
National insurance number exemptions	2183
Date of claim	2200
Jobseeker's Allowance - claimant who is not a member of a joint-claim couple	2205

Jobseeker's Allowance joint-claim couples	2220
Nominated member	2229
Former joint-claim couples	2234
Jobseeker's Allowance - Joint-claim couples	2236
Disability Living Allowance and Attendance Allowance	2242
Income Support	2246
Retirement Pension - Late payment of Class 3 contributions	2248
Date of claim - State Pension Credit tele-claims	2251
Date of claim for State Pension Credit - in writing or in person	2252
Telephone claims for Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit and Shared Additional Pension	2253
Claims for Incapacity Benefit other than in writing	2254
Telephone claims to Employment and Support Allowance	2257
Award of qualifying benefit	
Introduction	2260
Definitions	2261
Transitional Protection - disabled person goes into hospital or similar institution	2266
Benefits except Incapacity Benefit	2267
Reclaim following termination	2269
Incapacity Benefit	2271
Income Support or income-based Jobseeker's Allowance terminated	2273
Claims for Incapacity Benefit or Employment and Support Allowance where there is no entitlement to Statutory Sick Pay	2274
Carer's Allowance	2277
Claims for Maternity Allowance where there is no entitlement to Statutory Maternity Pay	2280
Time for claiming	2330
Mixed-age couple	2331

Bereavement support payment	2339
Bereavement benefits where death difficult to establish	2340
Less than twelve months have elapsed since date of death	2341
More than twelve months have elapsed since date of death	2342
Incapacity Benefit/Severe Disablement Allowance/Industrial Injuries Disablement Benefit/Reduced Earnings Allowance/Employment and Support Allowance	2343
Retirement Pension/Graduated Retirement Benefit/ Shared Additional Pension/State Pension	2364
Income Support/Jobseeker's Allowance	2371
Extending the time for claiming Income Support and Jobseeker's Allowance	2372
One month extension	2374
Three months extension	2376
Special groups	
Persons employed on the continental shelf, mariners and aircrew	2387
Amending claims and withdrawing claims	2400
Amendment and withdrawal of claims	2406
In person	2407
Couples	2408
Period of claims, awards and disallowances	
Period of claims	2420
Awards and disallowances: entitlement and payability	2422
Period of awards and disallowances	2423
Advance awards	2425
Considering the claimant's entitlement down to the date of decision	2428
Staying a decision	2431
Representatives and claims at death	
Appointees	2440
Power of attorney	2441

Controllers/Guardians	2444
Claims at death	2450
Category A and Category B Retirement Pension/Graduated Retirement Benefit/Shared Additional Pensions/State Pension	2465
Automatic payment of arrears of benefit to a spouse or civil partner upon death	2472
Treating a claim for one benefit as a claim for another benefit	2500
Claim for Child Benefit	2503
Claim to be regarded as a claim to Child Benefit	2504
Maternity Allowance claimed before confinement.....	2505
Maternity Allowance claimed after confinement.....	2507
Advance claims	
Attendance Allowance and Disability Living Allowance	2530
Maternity Allowance	2535
Retirement Pension, Shared Additional Pension and State Pension	2537
Incapacity Benefit and Severe Disablement Allowance.....	2539
Incapacity Benefit - failure to satisfy contribution conditions.....	2542
Social Fund funeral and maternity payments.....	2543
State Pension Credit	
Making a claim before attaining qualifying age	2560
Meaning of qualifying age	2564
Advance claims of State Pension Credit	2565
Mixed-age couple	2569
Good cause.....	2600
Application	
Meaning of good cause	2601
Ignorance “of itself”.....	2603
Failure to make enquiries	2605
New legislation	2607
Difficulty with language	2609

Postal delays	2610
Misled by official information	2611
Misled by unofficial information	2614
Advice from a doctor	2616
Advice from a solicitor or accountant	2617
Deliberately does not claim	2618
Carelessness, thoughtlessness or indifference	2620
Health	2621
Claim by appointee.....	2623
Claim by person other than appointee	2625
Youthful claimant.....	2626
Belief that solicitors or trade union would claim	2627
Imprisonment.....	2629
 Provision of national insurance numbers	
Claimants	2700
National insurance number exemptions.....	2710

Legislation used in Chapter 02

Abbreviation	Full Title
GR Act 04	The Gender Recognition Act 2004
IS (Gen) Regs (NI)	The Income Support (General) Regulations (Northern Ireland) 1987 No 459
Interpretation Act (NI) 54	Interpretation Act (Northern Ireland) 1954
JSA Regs (NI)	The Jobseeker's Allowance Regulations (Northern Ireland) 1996 No 198
MH (NI) Order 86	The Mental Health (Northern Ireland) Order 1986
Power of Attorney (NI) Act 71	Power of Attorney (Northern Ireland) Act 1971
SS A (NI) Act 92	The Social Security Administration (Northern Ireland) Act 1992
SF (MFE) (Gen) Regs (NI)	Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987 No 150
SS (CMB) Regs (NI)	The Social Security (Child Maintenance Bonus) Regulations (Northern Ireland) 1996 No 622
SS (C&P) Regs (NI)	The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 No 465
SS C&B (NI) Act 92	The Social Security Contributions and Benefits (Northern Ireland) Act 1992
SS & CS (D&A) Regs (NI)	The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 No 162
SS (DLA) Regs (NI)	The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 No 32
SS (Gen Ben) Regs (NI)	The Social Security (General Benefits) Regulations (Northern Ireland) 1984 No 92

SS (GA) Regs (NI)	The Social Security (Guardians Allowance) Regulations (Northern Ireland) 1975 No 98
SS (IB) Regs (NI)	The Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994 No 461
SS (ICA) Regs (NI)	The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976 No 99
D (CA) Order (NI) 02	The Deregulation (Carer's Allowance) Order (Northern Ireland) 2002 No 321
SS (NI NO: Exemption) Regs (NI)	The Social Security (National Insurance Number Information: Exemption) Regulations (Northern Ireland) 1987 No 483
SS (NI) Order 98	The Social Security (Northern Ireland) Order 1998
SS (SDA) Regs (NI)	The Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984 No 317
SS (WB & RP) Regs (NI)	The Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979 No 243
SPC Act (NI) 02	The State Pension Credit Act (Northern Ireland) 2002
SPC Regs (NI)	The State Pension Credit Regulations (Northern Ireland) 2003 No 28
SS (IBWFI) Regs (NI) 05	The Social Security (Incapacity Benefit Work-Focused Interviews) Regulations (Northern Ireland) 2005 No 414
SS (IBWFI) Regs (NI) 08	The Social Security (Incapacity Benefit Work-Focused Interviews) Regulations (Northern Ireland) 2008 No 465

Chapter 02 - Claims

Introduction

2001 This chapter is about decision making on claims for social security benefits (which includes regulated social fund payments). Procedural guidance should be consulted for

1. Social Fund (discretionary scheme)
2. Vaccine Damage Payments.

National insurance credits

2002 The Department is responsible for making decisions on national insurance credits. Because the method of claiming or applying for them is not the same as it is for benefits, information about them is contained in the relevant operational guides.

Definitions

2003 “Claimant” generally means a person who has claimed benefit. It includes a person who has applied for a declaration that an accident was or not an industrial accident¹.

1 SS A (NI) Act 92, sec 167; SS (NI) Order 98, art 29

2004 “Couple” means¹

1. two people who are married to, or civil partners of, each other and are members of the same household **or**
2. two people who are not married to, or civil partners of, each other but are living together as a married couple.

Note: For guidance on “living together” see DMG Chapter 11.

1 JS (NI) Order, art 2(1); SS C&B (NI) Act 92, sec 133; WR Act (NI) 07, Sch 1, para 6; SPC Act (NI), reg 17(1); IS (Gen) Regs (NI), reg 2(1); SS (C&P) Regs (NI), reg 2(1); ESA Regs (NI), reg 2(1); SPC Regs (NI), reg 1(2); SS & CS (D&A) Regs (NI), reg 1(2); SF WFP Regs (NI), reg 1(2); SF (MFE) (Gen) Regs (NI), reg 2(1); SS Ben (CofE) Regs (NI), reg 2(1); SS Ben (Dep) Regs (NI), Sch 2, para 2C

2005 “Partner” means one of a couple.

2006 In the case of joint-claims to Jobseeker’s Allowance, the definitions of “claimant”, “joint-claim couples” and “joint-claims Jobseeker’s Allowance” should also generally be applied to this Chapter. See DMG Chapter 22.

The relevant law

2007 Two sorts of law apply to claims and applications

1. substantive law dealing with rules on entitlement **and**
2. procedural or administrative law.

Procedural law includes claims and payments provisions. It controls the determining and enforcement of entitlement¹. It is a general principle in procedural law that the decision maker applies which ever procedural rules are in force when the claim or application is made. This applies even though the entitlement arose some time ago and the procedural rules have since changed².

1 R(P) 3/93; 2 The Alexander (1841) 1W Rob 288 Eng Rep Vol 166 p580

Making a claim

General requirement to make a claim

- 2008 In general, it is a condition of entitlement to benefit that a claim is made, or is treated as made, in the time and manner specified for that benefit in the regulations¹. If this condition is not satisfied the claim can be disallowed. It is not necessary for the other conditions of entitlement to be considered. "Claim" includes an application for an industrial accident declaration². There are some benefits and questions that do not require a claim or application³.

1 SS A (NI) Act 92, sec 1(1); 2 SS (C&P) Regs (NI), reg 2(1); 3 reg 3

Benefits for which a claim is not required

2009 A claim is not required for

1. Category A Retirement Pension where a claimant who is already entitled to any category of Retirement Pension other than Category A Retirement Pension becomes divorced or has a civil partnership which is dissolved¹
2. Category B Retirement Pension where
 - 2.1 a claimant is already entitled to
 - 2.1.a Category A Retirement Pension **or**
 - 2.1.b Graduated Retirement Benefit **or**
 - 2.1.c both **and**
 - 2.2 marries or enters a civil partnership with a person who is entitled to Category A Retirement Pension or State Pension in their own right² **or**
 - 2.3 the spouse or civil partner of the claimant becomes entitled to Category A Retirement Pension or State Pension in their own right² **or**
 - 2.4 the spouse or civil partner of the claimant dies and they were entitled to Category A Retirement Pension or State Pension at the date of death²
3. Category A Retirement Pension, Category B Retirement Pension or State Pension³ where the beneficiary is a woman over the age of 65 and is
 - 3.1 entitled to Widowed Mother's Allowance or Widowed Parent's Allowance **or**
 - 3.2 is in receipt of Widow's Pension or Bereavement Allowance on her reaching pensionable age
4. Category C Retirement Pension⁴ where the beneficiary is already in receipt of
 - 4.1 another Retirement Pension **or**
 - 4.2 Widow's Benefit **or**
 - 4.3 benefit corresponding to Widow's Pension or Widowed Mother's Allowance **or**
 - 4.4 Bereavement Benefit
5. Category D Retirement Pension⁵ where the beneficiary
 - 5.1 was ordinarily resident in Northern Ireland on the day on which age 80 was reached **and**

- 5.2** is in receipt of another category of Retirement Pension
- 6.** Age addition for a pensioner attaining age 80⁶
 - 7.** Cold Weather Payment
 - 8.** Retirement Allowance⁷
 - 9.** Dependency increases where entitlement has ended because of earnings (see DMG 2016)
 - 10.** Jobseeker's Allowance where
 - 10.1** Jobseeker's Allowance has previously been awarded **and**
 - 10.2** payment under that award has been suspended⁸ for a definite or indefinite period **and**
 - 10.3** that suspension expires or is cancelled in part only **and**
 - 10.4** the decision maker decides that there was no entitlement to Jobseeker's Allowance during any part of the period of suspension **and**
 - 10.5** the claimant's entitlement is not in doubta new claim is not needed to cover days immediately following the suspension period⁹
 - 11.** Income Support, where the claimant is treated as not being in remunerative work because the claimant is in receipt of Income Support by way of mortgage interest run-on (see DMG 20530)¹⁰
 - 12.** Widowed Parent's Allowance where, immediately before a full gender recognition certificate is issued, a female to male transsexual claimant was in receipt of Widowed Mother's Allowance¹¹
 - 13.** Shared Additional Pension where the beneficiary is in receipt of any category of Retirement Pension¹²
 - 14.** Bereavement Payment where the beneficiary is in receipt of Retirement Pension of any category or State Pension at the date of death of the spouse or civil partner and satisfies the conditions of entitlement¹³
 - 15.** Employment and Support Allowance where the claimant has made and is pursuing an appeal against a relevant decision of the Department and that appeal relates to a decision to terminate or not award a benefit for which a claim was made¹⁴. A relevant decision means a decision that embodies the first determination by the Department that the claimant does not have limited capability for work. It is also a decision that embodies the first determination

by the Department that the claimant does not have limited capability for work. It is also a decision that embodies the first determination by the Department that the claimant does not have limited capability for work since a previous determination by the Department or appellate authority that he does not have limited capability for work. An appellate authority is the Appeal Tribunal, Commissioner, Court of Appeal or the Supreme Court¹⁵

- 16.** a claim for State Pension¹⁶ under specified legislation¹⁷ is not required where the beneficiary is entitled to

16.1 State Pension under a different section of the prescribed legislation¹⁸ or

16.2 another State Pension under the same section of the prescribed legislation.

Note 1: A Category B pension also includes a pension awarded under section 51A of the Social Security Contributions and Benefits Act 1992. This is sometimes known as a Category ABL pension.

Note 2: The award of Employment and Support Allowance will begin on the day after the last day of entitlement of the award which is the subject of the appeal or on the day the medical evidence begins if later.

Note 3: “State Pension” at DMG 2009 2. means State Pension at the transitional rate.

Note 4: The guidance at DMG 2009 3.2 will also apply where a person is entitled to Bereavement Allowance on 5.4.17¹⁹. However, it will cease to apply where a person is no longer entitled to Bereavement Allowance²⁰.

Note 5: The guidance at DMG 2009 4. will also apply where a person is entitled to Bereavement Payment or Bereavement Allowance on 5.4.17²¹. However, it will cease to apply where a person is no longer entitled to Bereavement Payment or Bereavement Allowance²².

Note 6: The guidance at DMG 2009 14. will only apply where a person is entitled to Bereavement Payment 5.4.17²³. However, it will cease to apply where a person is no longer entitled to Bereavement Payment²⁴.

1 SS (C&P) Regs (NI), reg 3(ca); 2 reg 3(cb)(i), (ii) & (iii); 3 reg 3(d); 4 reg 3(a); 5 reg 3(b); 6 reg 3(c); 7 reg 3(e); 8 SS & CS (D&A) Regs (NI), reg 16(2); 9 SS (C&P) Regs (NI), reg 3(g); 10 reg 3(h); 11 GR Act 04, Sch 5, para 3(2); 12 SS (C&P) Regs (NI), reg 3(i); 13 reg 3(da) & SS C&B (NI) Act 92, sec 36(1); 14 SS (C&P) Regs (NI), reg 3(j); 15 reg 3(2); 16 reg 3(1)(ja); 17 & 18 Pensions Act (NI) 15; 19, 20, 21, 22, 23 & 24 Pensions (2015 Act) (Comm No. 5) Order (NI) 17, art 4; Pensions (2015 Act) (Conseq, Supp & Incidental Amdts) Order (NI) 17, art 2

Example 1

Heather’s entitlement to Employment and Support Allowance ends when she fails the work capability assessment. She appeals and Employment and Support Allowance

is awarded from the date of disallowance. No claim is required. Her appeal is dismissed. The Appeal Tribunal decision notice is received on 13.7.10. Heather's benefit week ends on Monday. The decision maker treats her as not having limited capability for work from 20.7.10 and the award of Employment and Support Allowance is superseded and terminated from 20.7.10. Heather makes an appeal against this decision. A further claim though is required to consider entitlement to Employment and Support Allowance.

Example 2

Kathryn is entitled to State Pension at the transitional rate. She is subsequently widowed and becomes entitled to survivor's State Pension based on inheritance of State Pension. No claim is required.

Exemption from claiming Category A or Category B Retirement Pension

- 2010 A claim is not required for Category A or Category B Retirement Pension in the circumstances set out below.
- 2011 No claim¹ is required from a beneficiary who has received written notification to that effect from the Department
1. at least 2 weeks before the day they reach pensionable age² **or**
 2. later if the Department considers that reasonable.
- 1 SS (C&P) Regs (NI), reg 3A(1) & (2); 2 Pensions Act 1995, Sch 4, para 1*
- 2012 The Department can only give a notification in cases where, 8 weeks before the day on which the beneficiary reaches pensionable age they¹
1. are in receipt of an exempt benefit (including those who have been awarded benefit but have not received the first payment)² **or**
 2. would be in receipt of an exempt benefit but for it not being payable because of³
 - 2.1 a sanction (Jobseeker's Allowance and joint-claim Jobseeker's Allowance - DMG Chapter 34)⁴ **or**
 - 2.2 a failure to attend on the date or at the time specified in a notice (Jobseeker's Allowance and joint-claim Jobseeker's Allowance - DMG Chapter 20)⁵ **or**
 - 2.3 a disqualification for misconduct (long-term Incapacity Benefit and Income Support where it is paid on grounds of incapacity - DMG Chapter 13; Employment and Support Allowance - DMG Chapter 53)⁶ **or**

2.4 any provision of the Social Security Fraud Act (NI) 2001⁷ **and**

- 3.** are neither entitled to, nor awaiting the determination of, a claim for a non-exempt benefit⁸.

1 SS (C&P) Regs (NI), reg 3A(3); 2 reg 3A(3) & (5); 3 reg 3A(7); 4 JS (NI) Order 95, art 21 & 22A;

5 art 10(2); 6 SS (IfW) (Gen) Regs (NI), reg 18 & ESA Regs (NI), reg 157;

7 SS (C&P) Regs (NI), reg 3A(7)(ca); 8 reg 3A(3)(b)

Example

Jeremy is in receipt of Employment and Support Allowance. He reaches pensionable age in 8 weeks time, on 5th March 2012. On 20th February he receives a notification that he does not have to make a claim for Category A Retirement Pension.

2013 Exempt benefit¹ means

1. Employment and Support Allowance
2. Income Support
3. Jobseeker's Allowance
4. long-term Incapacity Benefit
5. State Pension Credit.

1 SS (C&P) Regs (NI), reg 3A(6)

2014 Non exempt benefit¹ means

1. Carer's Allowance
2. short-term Incapacity Benefit
3. Severe Disablement Allowance
4. Widowed Mother's Allowance
5. Widow's Pension.

1 SS (C&P) Regs (NI), reg 3A(6)

Deferment and De-retirement

2015 A person who, in accordance with specified legislation

1. before pensionable age, informs the Department that they want their entitlement to Category A or Category B Retirement Pension to be deferred¹
or
2. after reaching pensionable age, elects to de-retire²

must make a claim in order subsequently to be entitled to Category A or Category B Retirement Pension³.

1 SS C&B (NI) Act 92, sec 55(3)(a); 2 SS (WB & RP) Regs (NI), reg 2;

3 SS (C&P) Regs (NI), reg 3A(4)

Dependency increases

2016 For some increases for adult dependants entitlement ends when the earnings of the dependant are more than a certain amount (see DMG Chapter 16). An award of benefit continues, but an increase for a dependant is not payable for the relevant week or weeks affected by those earnings¹ where

1. entitlement to the increase ends only because of the dependant's earnings **and**
2. entitlement would have continued if those earnings were ignored.

In these circumstances a new claim is not needed before the increase can be considered again.

1 SS C&B (NI) Act 92, sec 92

2017 – 2037

Who can claim benefits?

- 2038 Any person can make a claim for benefit but there are rules applying to couples who claim income-related Employment and Support Allowance, Income Support, income-based Jobseeker's Allowance or State Pension Credit. In the case of a couple the claim for income-related Employment and Support Allowance, Income Support, income-based Jobseeker's Allowance or State Pension Credit should be made by whichever partner they agree should claim¹. If there is no agreement the decision maker decides who should claim using benefit specific guidance. There is no right of appeal against such a decision (see DMG Volume 1 Annex E). Claims may also be made by a person appointed by the Department to act on behalf of the claimant, by a person with power of attorney (see DMG 2441) or a controller appointed by the Courts.

1 SS (C&P) Regs (NI), reg 4(3) & (3B)(a), 4H & 4C(7)

- 2039 DMG Chapter 11 describes situations where couples are not treated as living together as a married couple or living together as civil partners because the circumstances are prohibited, illegal or not acceptable. A claim by a person other than the agreed partner is not acceptable as a claim.

- 2040 Where benefit may be claimed by either of two partners the Department may require that one partner consents in writing to the other partner making the claim¹. Such agreement is not normally required.

1 SS (C&P) Regs (NI), reg 7(2)

Change of claimant

Jobseeker's Allowance

- 2041 Where one of a couple claims but is not entitled to contribution based Jobseeker's Allowance and the other partner claims income-based Jobseeker's Allowance that claim will be treated as having been made on the date the contribution based Jobseeker's Allowance claim was made¹. Special guidance on joint-claims Jobseeker's Allowance is given at DMG 20017 et seq.

1 SS (C&P) Regs (NI), reg 4(3B)(b)

- 2042 Where one of a couple becomes entitled to income-based Jobseeker's Allowance immediately following contribution based Jobseeker's Allowance and the other partner makes a claim for Jobseeker's Allowance

1. the claim of the first partner will end **and**

2. the claim of the second partner will be treated as having been made on the day after the last day of contribution based Jobseeker's Allowance¹.

1 SS (C&P) Regs (NI), reg 4(3B)(c)

Income Support

- 2043 Where one of a couple is entitled to Income Support, but the other partner wishes with the claimant's agreement to claim, entitlement to Income Support of the first partner ends on the day before that claim is made or treated as made¹. The second partner must make a new claim. The earliest day on which that claim can be treated as made is the day following that on which the first partner's claim ended². Special provisions apply where the disability premium is involved.

1 SS (C&P) Regs (NI), reg 4(4); 2 SS C&B (NI) Act 92, sec 134(2)

Treating another person as the claimant

- 2044 If a person claims but is not entitled, the claim can be treated as having been made by another person for an increase of that benefit. Where the claim is accepted the date of claim is the date the original claim was received¹. The decision maker should not decide that a claim has been properly made unless the person who will be treated as claiming has stated that they want to claim.

1 SS (C&P) Regs (NI), reg 9(4) & (7)

Example

A claimant is in receipt of Incapacity Benefit. His wife makes a claim for Incapacity Benefit but does not satisfy the contribution conditions. The husband states that he wants to claim an increase for her. Her claim is treated as a claim for an adult dependency increase by her husband. The date of claim is the date of the wife's claim.

- 2045 Where a person claims but is not entitled to an increase of benefit for a child or adult dependant the claim may be treated as made by another person for the same increase for that dependant¹. The additional conditions mentioned in DMG 2044 also apply.

1 SS (C&P) Regs (NI), reg 9(5) & (7)

2046 – 2047

How to make a claim

- 2048 Claims for benefit may be made
1. in writing at an appropriate office (see DMG 2049)
 2. in writing at an alternative office (see DMG 2052)
 3. under the Customer Management System in which a form containing information provided by the claimant over the telephone is sent out to the claimant for signing and returning as a claim form
 4. by electronic means - (see DMG 2069)
 5. by telephone without the need for a written claim form for Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit, Winter Fuel Payment and Shared Additional Pension (see DMG 2073)
 6. by telephone without the need for a written claim for State Pension Credit (see DMG 2131)
 7. by telephone without the need for a written claim for Employment and Support Allowance (see DMG 2155)
 8. by telephone in some instances for Income Support and Jobseeker's Allowance (see DMG 2093).

Appropriate offices

- 2049 Claims for benefit can be made by delivering or sending the form to the appropriate office. The appropriate office is
1. an office of the Department **or**
 2. a postal address specified by the Department where any provision in specified legislation relates to a claim, notice or other document being received, sent, delivered or otherwise furnished in writing to an appropriate office¹.

But see also DMG 2052 et seq.

1 SS (C&P) Regs (NI), reg 2(1)

- 2050 A wide interpretation is given to the requirement to make a claim at an appropriate office.

Example

A claim for a centrally administered benefit, which is received in another office, is accepted as made on the date the claim was received at that office.

- 2051 Conventions with other countries sometimes allow for a claim made to an authority in another country to be accepted as a claim made in the United Kingdom. For Member States of the European Union any claim should be accepted if it should have been submitted to an authority in one Member State within a prescribed time and it is submitted within the same period to a corresponding authority in another Member State¹. For “prescribed time” see DMG 2330. For details about conventions with other countries and European law, see DMG Chapter 07 Part 1.

1 Reg (EEC) No 1408/71, art 86

Alternative offices

- 2052 Certain groups of claimants can make their claim at an alternative office.

Claimants affected

- 2053 The provisions in DMG 2057 apply to persons who have reached **the qualifying age** who claim one of the following benefits¹

1. Attendance Allowance
2. a Bereavement Benefit
3. Carer’s Allowance
4. Disability Living Allowance
5. Incapacity Benefit
6. Retirement Pension of any category for which a claim is required
7. Shared Additional Pension for which a claim is required
8. a Winter Fuel Payment for which a claim is required under specific legislation²
9. State Pension.

Note 1: Similar rules apply to State Pension Credit - see DMG 2129.

Note 2: The guidance at DMG 2053 2. will also apply where a person is entitled to Bereavement Payment or Bereavement Allowance on 5.4.17³. However, it will cease

to apply where a person is no longer entitled to Bereavement Payment or Bereavement Allowance⁴.

1 SS (C&P) Regs (NI), reg 4(6A)(a); 2 SF WFP Regs (NI), reg 2(b); 3 & 4 Pensions (2015 Act) (Comm. No. 5) Order (NI) 17 art 4; Pensions (2015 Act) (Conseq, Supp & Incidental Amdts) Order (NI) 17 art 2

Persons who have not yet attained qualifying age

2054 The provisions in DMG 2057 also apply¹ to a person who has not yet attained the qualifying age but makes a claim for Retirement Pension, State Pension or Shared Additional Pension in advance in accordance with specific legislation². Claims for Carer's Allowance, Disability Living Allowance, Employment and Support Allowance and Incapacity Benefit for persons below qualifying age can also be made at alternative offices³. Income Support claims can similarly be made and are not dependent upon whether the claimant has reached qualifying age or not⁴.

1 SS (C&P) Regs (NI), reg 4(6A)(b); 2 reg 15(1); 3 reg 4(6A)(c) & (d); 4 reg 4(6A)(c)

Definitions

2055 "Bereavement Benefit" means¹

1. Bereavement payment
2. Widowed Parent's Allowance (with increase for child dependants) **and**
3. Bereavement Allowance.

1 SS (C&P) Regs (NI), reg 2(1) & SS C&B (NI) Act 92, sec 20(1)(ea)

2056 Qualifying age means¹

1. in the case of a woman, pensionable age **or**
2. in the case of a man, the age which would be the pensionable age of a woman born on the same date as that man.

1 SS (C&P) Regs (NI), reg 2(1) & SPC Act (NI) 02, sec 1(6)

The procedures

2057 In addition to being able to claim at an appropriate office, persons to whom DMG 2053 and 2054 apply can make their claim by sending or delivering it, or making it in person at¹

1. an office designated by the Department for accepting such claims **or**
2. the offices of
 - 2.1 a relevant authority administering Housing Benefit **or**

2.2 a person providing services relating to Housing Benefit to such a relevant authority

2.3 a person authorised to exercise any function of a relevant authority relating to Housing Benefit

provided the Department has arranged with the relevant authority or person referred to in DMG 2057 **2.2** or **2.3** for them to receive claims.

1 SS (C&P) Regs (NI), reg 4(6B)

Note 1: Decisions about designating offices and making arrangements with relevant authorities are made centrally.

Note 2: For ease of reference the offices listed in DMG 2057 **1.** and **2.** are referred to as “alternative offices” in DMG 2059 to 2065.

2058 A claim made under DMG 2057 must be on a form approved by the Department which has instructions for completing and returning printed on it¹.

1 SS (C&P) Regs (NI), reg 4(6B)

Rights and responsibilities of relevant authorities receiving claims

2059 On receipt of a claim, the relevant authorities or person specified in DMG 2057 **2.2** or **2.3**

- 1.** must forward the claim as soon as reasonably practicable to the Department¹
- 2.** may receive information or evidence relating to the claim supplied by the claimant and/or other persons and must forward it to the Department as soon as reasonably practicable²
- 3.** may obtain information or evidence from the claimant in connection with the claim (but not medical information or evidence except for that which the claimant must provide in accordance with the instructions on the claim form) and must forward it as soon as reasonably practicable to the Department³
- 4.** may verify any non medical evidence or information supplied or obtained and must forward it as soon as possible to the Department⁴
- 5.** may record information or evidence relating to the claim supplied under DMG 2059 **2.** or obtained under DMG 2059 **3.** and hold it for the purpose of forwarding it to the Department⁵
- 6.** may give the claimant information and advice relating to the claim⁶.

Note: The functions at DMG 2059 **2.** to **6.** may be carried out by one of these offices even if the original claim was made at a different office.

*1 SS (C&P) Regs (NI), reg 4(6C)(a); 2 reg 4(6C)(b); 3 reg 4(6C)(c); 4 reg 4(6C)(cc);
5 reg 4(6C)(d); 6 reg 4(6C)(e)*

2060 Where any of the organisations referred to in DMG 2057 has arranged with the Department to receive claims for a specified benefit (DMG 2066) or to obtain information or evidence relating to claims for a specified benefit then the authority may

1. receive information or evidence which relates to an award of that benefit and which is supplied by either
 - 1.1 the person to whom the award has been made **or**
 - 1.2 other persons in connection with the award **and**
2. shall forward it to the Department as soon as reasonably practicable
3. verify any information or evidence supplied **and**
4. record the information or evidence supplied and retain it for the purpose of forwarding it to the Department¹.

1 SS (C&P) Regs (NI), reg 32A

Date of claim

2061 Where a person who has attained the qualifying age makes a valid claim for a benefit listed in DMG 2053 at an alternative office, the date of claim will be the date that the claim is received at that office¹.

1 SS (C&P) Regs (NI), reg 6(1ZA) & reg 6(1)(a)

2062 Where a person who has attained the qualifying age makes a claim at an alternative office and that claim is either

1. defective **or**
2. not on an approved form

the Department may refer the defective claim form to the claimant or supply the claimant with an approved claim form¹.

1 SS (C&P) Regs (NI), reg 4(7)

2063 If the claim form, properly completed, is received within one month (or such longer period as the Department may consider reasonable) from the date it was referred or supplied, then the claim will be treated as properly made on the date it was first received at the alternative office. That date will therefore be the date of claim¹.

1 SS (C&P) Regs (NI), reg 6(1ZA) & reg 6(1)(b)

Attendance Allowance and Disability Living Allowance

2064 Where a person claims Attendance Allowance or Disability Living Allowance at an alternative office then where

1. a request for a claim form is received in an alternative office **and**
2. in response to that request a claim form for Attendance Allowance or Disability Living Allowance is issued to the claimant **and**
3. the claim form, properly completed, is received in an alternative office within six weeks (or such longer period as the Department may consider reasonable) from the date on which the request in DMG 2064 1. was received

the date of claim is¹ the date the request in DMG 2064 1. was received. (See also DMG 2242 et seq.)

1 SS (C&P) Regs (NI), reg 6(8B) & (8)

2065 Where

1. it is not possible to determine the date the request for a claim form made under DMG 2064 1. was received **and**
2. this is because of a failure to record that date or because there is no clear evidence on the case

the claim shall be treated as made on the date six weeks before the properly completed claim form is received in the alternative office¹.

1 SS (C&P) Regs (NI), reg 6(8B) & (8A)

Use of information provided to authorities administering Housing Benefit

2066 When a claimant supplies information to an authority for the purpose of claiming Housing Benefit and this information is supplied to the Department, the Department must use this information without verifying its accuracy¹. This information can be used for the purpose of a claim for, or award of a specified benefit². A specified benefit is one or more of the following benefits³

1. Attendance Allowance
2. Bereavement Allowance
3. Bereavement Payment
4. Carer's Allowance

5. Disability Living Allowance
6. Employment and Support Allowance
7. Incapacity Benefit
8. Income Support
9. Jobseeker's Allowance
10. Retirement Pension
11. State Pension Credit
12. Widowed Parents Allowance
13. Winter Fuel Payment
14. State Pension.

Note: The guidance at DMG 2066 will also apply where a person is entitled to Bereavement Payment or Bereavement Allowance on 5.4.17⁴. However, it will cease to apply where a person is no longer entitled to Bereavement Payment or Bereavement Allowance⁵.

1 SS (C&I) Regs (NI), reg 3(2); SS (C&P) Regs (NI), reg 4(6C); 2 reg 3(1)(b); 3 reg 1(3); 4 & 5 Pensions (2015 Act) (Comm No. 5) Order (NI) 17, art 4; Pensions (2015 Act) (Conseq, Supp & Incidental Amdts) Order (NI) 17, art 2

2067 Information provided as in DMG 2066 above does not have to be used without further checks on its accuracy if

1. it is supplied more than 12 months after it was used by an administering authority for Housing Benefit purposes¹ **or**
2. the information is supplied within 12 months of its use by the administering authority but the Department has reasonable grounds for believing the information has changed in the period between its use by the administering authority and its supply to the Department² **or**
3. the date on which the information was used by the administering authority cannot be determined³.

1 SS (C&I) Regs (NI), reg 3(3)(a); 2 reg 3(3)(b); 3 reg 3(3)(c)

Example

A claimant provides evidence of his savings to support his claim for Housing Benefit. The administering authority verifies that his savings are £10,000 - this includes shares. The information is sent to the Department. Eight months later a claim for Income Support is made. The Department requests that the claimant provides evidence of his savings as it is likely that the amount of savings will have changed.

Social security information verified by an administering authority

- 2068 Where social security information is verified by an administering authority and forwarded to the Department, the Department must use this information without verifying its accuracy for the purpose of a claim for or an award of a specified benefit¹ provided that the Department has arranged with the relevant authority or person referred to in DMG 2057 for them to receive this information. However, information may be checked if either the Department has reasonable grounds for believing the information is inaccurate or the information is received more than four weeks after it was verified by the administering authority². Social Security information means information relating to social security, child support or war pensions or evidence obtained in connection with a claim for or an award of a specified benefit³.

1 SS (C&I) Regs (NI), reg 4(2); SS (C&P) Regs (NI), reg 4(6C); 2 reg 4(3); SS A (NI) Act 92, sec 5B(4)

Claims made electronically

- 2069 The following benefits (together with any dependency increase) may be claimed electronically¹

1. Attendance Allowance
2. Disability Living Allowance
3. Retirement Pension
4. Graduated Retirement Benefit
5. Shared Additional Pension
6. Carer's Allowance
7. Jobseeker's Allowance
8. State Pension
9. Bereavement Support Payment
10. Industrial Injuries Disablement Benefit
11. Employment and Support Allowance
12. State Pension Credit
13. Social Fund Funeral Payments

14. Social Fund**15. Maternity Allowance.**

Detailed guidance on the conditions for the use of electronic communications and the Department's directions authorising the use of such means are set out at Annex B. This means that electronic claims must be made using the claim form and the methods set down on the Social Security Agency website. If any other methods are used then the claim is treated as not having been submitted².

1 SS (C&P) Regs (NI), reg 4ZC; 2 Sch 8D

2070 A claim made electronically is deemed to have been delivered in the manner or form as described at DMG 2080 et seq.

2071 Where a claim is made electronically, the date of claim is the date the claim is recorded as having been received on the Department's computer system (i.e. at the Government Gateway)¹. This might not be the same as the date the claim is received in the appropriate office.

1 SS (C&P) Regs (NI), reg 6(1), Sch 8D, para 4

2072 The following should also be noted (see also Annex B, Appendices A & B)

1. for Attendance Allowance and Disability Living Allowance only - a claim form may be requested electronically
2. for Carer's Allowance only - any certificate, notice, information or evidence in connection with the claim may be provided electronically
3. for Carer's Allowance only - changes of circumstances can be notified electronically
4. for State Pension information, including a change of circumstances can also be given electronically.

Claims for Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit, Shared Additional Pension and State Pension made by telephone

2073 Unless the Department directs that in any particular case a claim must be made in writing, claims to Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit, Winter Fuel Payment, Shared Additional Pension, State Pension, Widowed Parent's Allowance and Bereavement Support Payment may also be made by telephone to a telephone number specified by the Department for the purposes of the benefit for which the claim is made¹. No claim

form is issued and no signature obtained. Claims made in this way cannot be made to alternative offices (see DMG 2052).

Note: This will also apply where a person is entitled to Bereavement Payment or Bereavement Allowance on 5.4.17². However, it will cease to apply where a person is no longer entitled to Bereavement Payment or Bereavement Allowance³.

*1 SS (C&P) Regs (NI), reg 4(11);
2 & 3 Pensions Act 14 (Comm No. 10) Order, art 4;
Pensions (2015 Act) (Conseq, Supp & Incidental Amdts) Order (NI) 17, art 2*

- 2074 A statement of details is incorporated into any outcome decision in these cases so that claimants can check the accuracy of the facts used to determine their entitlement.

No trace of claim

- 2075 It may be contended that a claim has been made but there is no trace of such a document. There may also be situations where other information suggests that a document was received but is no longer available or cannot be found. The decision maker must decide whether a claim was made and if so the date of receipt. The normal information and evidence conditions for establishing a properly made claim must be satisfied (see DMG 2080).

- 2076 A statement that a claim was sent but never received should be considered carefully as there may be many reasons why enquiries were delayed. The decision maker should obtain evidence to support the statement if there are grounds to doubt it¹. Grounds for doubt might exist because, for example, there is a long delay between the date it is said that a claim was sent and the date when enquiries are made. Where there are no grounds for doubt it should be accepted that a claim was made. See DMG 2202 for determination of the date of claim.

1 R(I) 2/51, R(SB) 33/85

2077 – 2079

Claims made in the prescribed manner

The prescribed manner for making a claim

- 2080 A claim made in the prescribed manner is one that
1. is made on the approved form for that benefit or (except for Income Support and Jobseeker's Allowance) in some other written way that is satisfactory to the Department (for example a printed form of words such as a statement with the claimant's signature or mark¹) **and**
 2. is properly completed in accordance with the instructions on the form **and**
 - 2.1 for Income Support and Jobseeker's Allowance satisfies the evidence requirements (see DMG 2086 - 2090)² **or**
 - 2.2 for claims to Retirement Pension, Graduated Retirement Benefit and Shared Additional Pension made by telephone (provided certain requirements are satisfied - see DMG 2068 and 2166).

Note: See DMG 2069 et seq for claims made electronically. See DMG 2073, 2148, 2253 and 2257 for telephone claims. See DMG 2127 et seq for guidance on claims for State Pension Credit.

1 Interpretation Act 78, Sch 1; 2 SS (C&P) Regs (NI), reg 4(1)

- 2081 A form that has been produced under the Customer Management System procedures with the claimant's answers already entered on it and then sent to the claimant to be signed and returned as a claim for benefit is an approved claim form. But a claim in the prescribed manner will not be received until the
1. claimant has completed the form and adopted it by his signature **and**
 2. form has been returned to an appropriate office (together, in the case of Income Support and Jobseeker's Allowance, with the information and evidence it requests).
- 2082 The requirement to complete the form in accordance with instructions on it is satisfied if the relevant information or evidence is provided somewhere on the claim form or in documents that the claimant refers to and submits along with the claim form. The condition is also satisfied when questions about entitlement to or payability of the benefit being claimed are answered. Answering other questions on the form is not necessary for the form to be accepted as properly completed. For example, where a claim form for a personal benefit includes questions about whether the claimant also wishes to claim an increase for a dependant, any failure to answer those questions

will not make the personal benefit claim defective. Nor will failure to provide details about payment arrangements¹.

1 SS (C&P) Regs (NI), reg 4(1), (1A); R(IS) 6/04

2083 An intention to claim can be notified by any means. It does not have to be in writing¹.

1 SS (C&P) Regs (NI), reg 4(5)

2084 An intention to claim stated in a phone conversation is not a claim in the prescribed manner¹ (but see DMG 2073 and 2131 for claims to Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit, shared additional pension and State Pension Credit made by telephone). For Attendance Allowance and Disability Living Allowance there are provisions which allow the date of claim to be backdated to the date of a request for a claim form. This includes oral requests made, for example, using the Benefit Enquiry Line.

1 R(F) 1/92

Written communication - sufficient to constitute a claim for benefit

2085 Regulations¹ provide that claims to benefit (with certain exceptions²) shall be made in writing on an approved form or in such other manner (in writing) as the Department may accept as sufficient in the circumstances of any particular case. The Department has discretion whether to accept that a written request for benefit which is not on the official form is sufficient for establishing a claim to benefit. This discretion **does not** apply to claims for Employment and Support Allowance³, Income Support or Jobseeker's Allowance⁴. Written claims for these benefits must be made on a form approved by the Department. Guidance at DMG 2085 - 2091 therefore does not apply to these benefits.

1 SS (C&P) Regs (NI), reg 4(1), reg 4C; 2 regs 4(10-11B); 3 reg 4G(2); 4 reg 4(1A)(a)

2086 Regulations¹ provide that where a claim is received and is not made in the prescribed manner then the claim is defective. When a defective claim is received² the claim form should be returned to the claimant for completion or the claimant should be supplied with the approved form. If a properly completed claim form is submitted within the timescale provided in regulations it can be backdated to the date of the earlier defective claim. Guidance in DMG 2085 to 2091 addresses the question of when a written communication, which is not made on an approved form and which is also not accepted as "sufficient" under the regulations referred above, is nonetheless capable of being sufficient to amount to a "claim" for a particular benefit, albeit a defective one.

1 SS (C&P) Regs (NI), reg 4(7), 4(7ZA) & reg 4G(6); 2 reg 4(7), 4(7ZA) & reg 4G(7)

2087 In considering whether a written communication from a claimant is capable of amounting to a defective claim then three principles should be applied. These

principles derive from a Court of Appeal judgment which concerned Housing Benefit but affects other benefits as well¹. The first is that it must be clear from the document that the claimant wishes to claim benefit and is not, for example, just asking for information. A general enquiry as to what benefits can be claimed does not constitute a claim. Similarly, for example, a request for a claim form will usually amount only to a notification that a claimant intends to claim benefit in the future, and will not amount to a claim (not even a defective one); the receipt of a medical certificate on its own would not constitute a claim for Disability Living Allowance, for example. In the judgment the claimant had stated that she wanted the benefits to which she was entitled to be backdated, so it was clear that she was not just asking for information about her benefit position. She had also described herself as “applying” for benefits. However, the Court commented that the position would have been different if the claimant had said that she would be claiming at a future date and would be asking for her benefit to be backdated. If that was the case it would be clear that no claim was yet being made.

1 Novitskaya vs London Borough of Brent & S of S for Work and Pensions [2009] EWCA Civ 1260

- 2088 The second principle is that the particular benefit does not necessarily have to be named in the written document. For example, the claimant might not know the correct name of the benefit that they want to claim. However, the Court reached this conclusion on the basis that a reasonable official receiving the document could understand which benefits were being claimed. In this particular case it was clear that the document had been understood to be a claim for Housing Benefit because the word “Housing Benefit” had been written on it by an official. Discretion should be applied when the decision maker is determining such cases, for example if a claimant uses the wrong name for a benefit then this should not necessarily be fatal. If it is reasonably clear what benefit is being claimed then the document should be treated as a defective claim for that benefit. On the other hand, if the information provided is so vague that it is not remotely possible to determine what benefit the claimant wanted then a contrary approach may be taken. Decision makers should consider all the available evidence and the claimant’s circumstances when determining whether the communication can be treated as a defective claim for a particular benefit.
- 2089 The third principle established by the judgment is that, in determining whether a defective claim for benefit was made, the written document should not be looked at in isolation. It must be looked at along with any other information such as other documents provided by the claimant at the time, or statements that they have made in a telephone or face to face conversation.
- 2090 Where such a written notification is received, then the claim will be defective. A claim form should be sent to the claimant to complete. The claimant has one month, or such longer time as is considered reasonable, to return the claim form to the

Department¹. Upon receipt within these timescales the date of claim will be the date of receipt of the original notification.

1 SS (C&P) Regs (NI), reg 4(7), reg 4(7ZA), reg 4(7A), reg 4C(6C, 6D, 6E, 10 & 11), reg 4G(7)

- 2091 In some cases it will be clear what benefit the claimant is referring to. For example a 65 year old man may submit a written notification that they want to claim their pension or a person may write in to say that their spouse or civil partner has recently died. Alternatively, it may be the case that contact will be needed with the claimant to establish what benefits they may be entitled to. Similarly, it may be the case that the claimant's details should be passed to the proper authority to consider a claim for Housing Benefit or Her Majesty's Revenue and Customs to consider tax credits.

Claims for Income Support and Jobseeker's Allowance

- 2092 A claim for Income Support or Jobseeker's Allowance must

1. be made in writing on the official form for the benefit being claimed (but see DMG 2087) **and**
2. be made in accordance with the instructions on the form, unless any of the reasons listed in DMG 2094 applies **and**
3. include any information or evidence in connection with the claim as the claim form may require, unless any of the reasons listed in DMG 2094 applies¹ **and**
4. be delivered or sent to an appropriate office² (if so directed, a Jobseeker's Allowance claimant must attend for interview at a place and time specified and must provide a properly completed claim form on or before that occasion³).

Note: The claimant can be permitted an extension of the time allowed for provision of a fully completed claim form, provided it is done so no later than one month from the date the claimant first notified their intention to make their claim⁴.

1 SS (C&P) Regs (NI), reg 4(1A); 2 reg 4(6)(b); 3 reg 4(6)(a), 6(4AA); 4 reg 6(4AB)

- 2093 The Department also has discretion to accept telephone claims to Income Support and Jobseeker's Allowance¹. Information and evidence required for written claims must similarly be produced if the claim is made by telephone². A claim made by telephone is properly completed if the Department is provided with all the information required to determine the claim and the claim is defective if not so completed³. Information can be required which cannot be provided during the call such as hard copies and original documents. The rules for correcting a defective telephone claim correspond with the rules for correcting a defective written claim⁴. The claimant has one month from the date an intention to claim was notified⁵ this is not capable of being extended by the Department. The date of claim for telephone claim is determined in

the same way as if the claim was made in writing⁶. In some circumstances Income Support claimants who are lone parents may have their work focused interview deferred. A telephone claim made in these circumstances still requires a signed Customer Statement. A telephone call is recorded and retained for up to 14 months following the end of the award.

*1 SS (C&P) Regs (NI), reg 4(11A); 2 reg 4(12); 3 reg 4(12); 4 reg 4(13); 5 reg 4(7A) & 4(7B);
6 reg 6(1A), 6(4ZC) & 6(4A)*

2094 The reasons referred to in DMG 2092 **2.** and **3.** are¹

1. because of a physical, learning, mental or communication difficulty
 - 1.1 the claimant is unable to complete the form in accordance with the instructions **or**
 - 1.2 the claimant is unable to obtain the required information or evidence **and**
 - 1.3 it is not reasonably practicable for the claimant to get help from someone else to complete the form or obtain the information or evidence within the one month deadline in DMG 2098 **or**
2. the information or evidence required
 - 2.1 does not exist **or**
 - 2.2 can only be obtained at serious risk of physical or mental harm to the claimant, and it is not reasonably practicable for the claimant to obtain the information or evidence within the one month deadline in DMG 2098 in some other way **or**
 - 2.3 can only be obtained from a third party, and it is not reasonably practicable for the claimant to obtain the information or evidence from them within the one month deadline in DMG 2098 **or**
3. the claim is not by a joint-claim couple and the Department considers that the person making the claim has provided enough information or evidence to show that there is no entitlement to benefit, and there is nothing to be gained by asking for anything further **or**
4. the claim is by a joint-claim couple and the Department considers that either member of the couple has provided enough information or evidence to show that there is no entitlement to benefit, and there is nothing to be gained by asking for anything further.

If a person making a claim is unable to complete the claim form, or supply the information or evidence, because any of the above reasons applies, the person may notify the appropriate office as in DMG 2049 by any means, for example, by phone, in person, in writing, or by a third party.

Note: 1.1 - 1.3 does not apply to a joint-claim couple to the extent that the member of the couple who is unable to complete the form or obtain the information in question can obtain assistance from the other member of the couple².

1 SS (C&P) Regs (NI), reg 4(1B); 2 reg 4(1BA)

Procedure on receiving a possible Income Support or Jobseeker's Allowance claim

2095 Whenever a communication that is possibly related to claiming Income Support or Jobseeker's Allowance is received from a person who is not already receiving that benefit, the decision maker must consider whether it is

1. a claim in the prescribed manner **or**
2. a defective claim **or**
3. a notification of intention to claim.

Claim for Income Support or Jobseeker's Allowance in the prescribed manner

2096 A claim in the prescribed manner is one that satisfies DMG 2086. Once such a claim has been made, the decision maker must investigate and decide whether the claimant satisfies all of the conditions of entitlement.

Defective Income Support or Jobseeker's Allowance claims

2097 A defective claim is something that

1. expressly states that a claim is being made¹ **but**
2. does not satisfy DMG 2086².

1 R(S) 1/63; 2 SS (C&P) Regs (NI), reg 4(9)

2098 If a claim is defective when it is made the claimant or each member of a Jobseeker's Allowance joint-claim couple should be told

1. why the claim is defective **and**
2. that there is one month to submit a corrected claim starting from the date
 - 2.1 the defective claim was made **or**
 - 2.2 the claimant first notified an intention to claim benefit (if that was earlier) **and**
3. that a properly completed claim that is made within the one month deadline will be treated as made on the relevant date in 2.1 or 2.2 **and**

4. the date of claim will be the date the properly completed claim is received if the one month deadline is missed¹.

1 SS (C&P) Regs (NI), reg 4(7A) & (7B), 6(4ZA), 6(4A)

- 2099 No decision on the claim should be made until the claimant has been given an opportunity to correct the defects in it. The decision should be deferred until the date by which the defect must be rectified in order for the claim to be treated as made on the date on which the initial defective claim was made, namely one month from the date on which an intention to claim was first notified¹.

1 SS (C&P) Regs (NI), reg 6(1A)(b)

- 2100 If the defects in the claim have not been corrected by the time allowed in DMG 2099 the decision maker should consider whether it is appropriate to delay making an outcome decision on the claim. If it appears that the required information or evidence can be provided very shortly the outcome decision may be deferred so as to avoid the need for a new claim. Failing this, a decision should be given without delay to disallow the claim.

- 2101 Should a claimant contact the Department and say that they wish to claim Income Support or Jobseeker's Allowance then it should be accepted that the process of making a claim has been started. If that claim is not completed then it is defective and the claimant must be given an opportunity to complete the process¹.

1 SS (C&P) Regs (NI), reg 4(7A) & 7(1B)

- 2102 In circumstances where the process of making a claim has been started but not all the information and supporting evidence has been supplied, or the claimant has not attended a mandatory interview, by one month after the initial date of contact, an outcome decision should be issued. This decision will disallow Income Support or Jobseeker's Allowance on the basis that the claim is defective.

- 2103 If a person other than the claimant contacts the Department and says that the claimant wishes to claim Income Support or Jobseeker's Allowance then there is, as yet, no claim. Instead the claimant has merely notified an intention to claim¹.

1 SS (C&P) Regs (NI), reg 4(5)

After a claim has been disallowed as defective

- 2104 If the claimant disputes the decision that the claim was defective because there was no need to provide the information the decision maker should

1. consider all of the available evidence, including any provided since the decision was given **and**
2. determine whether
 - 2.1 the claimant's circumstances on or before the date of the defective claim decision fell within one of the exceptions in DMG 2094 **and**

- 2.2** there are grounds to revise the defective claim decision under normal rules.

Note: To benefit from one of the exceptions in DMG 2094 the claimant does not have to show that an exception applies within the one month period in DMG 2098 2.. The decision maker should not refuse to revise merely because evidence that one of the exceptions applied was submitted after the one month period. The normal time limits for revision apply (see DMG Chapter 03).

2105 If a claim has been disallowed as defective because information or evidence was not submitted but the claimant later provides that information or evidence, the decision maker should

1. consider whether the decision can be revised because an exception applies (see DMG 2094) **and**

2. if no exception applies

- 2.1** decide that the defective claim

- 2.1.a** cannot be revised because the submission of the missing material is a change of circumstances¹ **and**

- 2.1.b** cannot be superseded because the change of circumstances occurred after the claim was decided and that a new claim is required² **and**

- 2.2** consider whether DMG 2095 1. now applies to the new communication.

1 SS & CS (D&A) Regs (NI), reg 3(9)(a); 2 SS (NI) Order 98, art 9(2)(b)

Notification of an intention to claim Income Support or Jobseeker's Allowance

2106 If a notification of an intention to claim is received, the claimant should be provided with a claim form¹. The claimant should be told the date by which a properly completed claim form must be received in order for the claim to be treated as made on the date the claimant first notified their intention to claim. Such a notification is not an outcome decision and does not carry a right of appeal. No outcome decision is required until a claim has been made.

1 SS (C&P) Regs (NI), reg 4(5)

Claim made after a defective claim or notification of an intention to claim

2107 When a claim is made that satisfies the conditions in DMG 2092, the decision maker should determine whether the claim is one made within one month of the earliest defective claim or notification of intention to claim. If the claimant's attempt to claim

has involved more than one notification or defective claim, the month starts on the date on which the earliest defective claim or notification was received, then

1. if the claim is made at an appropriate office within the one month period, the new claim should be treated as made on the date of the earliest defective claim or notification of intention to claim¹
2. if the claim was made outside the one month period, the decision maker should consider whether there are any grounds on which the claim can be treated as made earlier than the date on which it was received. If the claim cannot be backdated in this way, the date of claim is the date that the claim that satisfies the conditions in DMG 2086 was received at an appropriate office². The one month period cannot be extended under any circumstances.

1 SS (C&P) Regs (NI), reg 6(1A)(b); 2 reg 6(1A)(a)

Claims for benefits other than Income Support, Jobseeker's Allowance and State Pension Credit

2108 Except for claims made by telephone (see DMG 2073 and 2131) in order to be made in the prescribed manner, a claim must be made

1. in writing **and**
2. either
 - 2.1 on a claim form that has been
 - 2.1.a approved by the Department for the purpose of claiming the benefit in question **and**
 - 2.1.b properly completed in accordance with the instructions on the form **or**
 - 2.2 in some other manner, in writing, that the Department accepts as sufficient in the circumstances¹.

Note: See DMG 2069 et seq for claims made electronically.

1 SS (C&P) Regs (NI), reg 4(1)

Procedure on receiving a possible claim for a benefit other than Income Support, Jobseeker's Allowance and State Pension Credit

Item in writing has been received but it is not a claim

2109 If the claimant implies in writing that a claim is intended but does not say so expressly, a claim form should be sent for the claimant to complete¹. Then if the claim form

1. is returned properly completed, the date of claim will be the date the form was received at an appropriate or alternative office² (but see also DMG 2242 for Disability Living Allowance or Attendance Allowance) **or**
2. is returned but has not been properly completed, see DMG 2111 **or**
3. is not returned and there is no other communication from the claimant, no decision on the claim or further action is required.

1 SS (C&P) Regs (NI), reg 4(5); 2 reg 6(1), (8), (8A), (8B)

Claim in writing received but not on a claim form or in some other sufficient manner

2110 If the claimant states expressly in writing that a claim is intended but the claim is not made on a claim form or in a manner that is sufficient in the circumstances, a claim form should be sent to the claimant¹. If the claim form

1. is returned properly completed within one month of the date it was sent to the claimant or such longer period as the Department considers reasonable, the claim should be treated as made on the date the initial written claim was received² **or**
2. is not returned at all after one month or such longer period as the Department considers reasonable the claim should be disallowed on the ground that it is defective and thus does not satisfy the condition of entitlement that a claim is to be made in the manner prescribed by regulations³ **or**
3. is returned more than one month after the date it was sent to the claimant or such longer period as the Department considers reasonable, and no decision has yet been given on the claim, the claim should be treated as made on the date the properly completed claim was finally received⁴ **or**
4. is returned more than one month after the date it was sent to the claimant or such longer period as the Department considers reasonable, but the initial claim has already been disallowed, the decision maker should

- 4.1** consider whether there are grounds to revise or supersede the disallowance **and**
- 4.2** treat the claim as made on the date a properly completed claim was received⁵.

Note: Where a Disability Living Allowance or Attendance Allowance claim form has been requested from an appropriate office, the claimant should be given six weeks from the date the request was received (or such longer period as the Department may consider reasonable) to return the form before a decision is made (see DMG 2242) for guidance on the date of claim in these circumstances.

*1 SS (C&P) Regs (NI), reg 4(5); 2 reg 4(7) & 6(1)(b);
3 regs 4(1) & 4(8); SS A (NI) Act 92, sec 1(1);
4 SS (C&P) Regs (NI), reg 6(1)(a); 5 reg 6(1)(a)*

Claim made on an approved form but the form has not been properly completed

2111 If a claim form has been received but all of the questions relating to entitlement have not been answered, the claim form should be returned to the claimant for completion¹.
If the claim form

- 1.** is received properly completed at an appropriate office within one month of the date it was returned to the claimant or such longer period as the Department considers reasonable, the claim should be treated as made on the date the initial written claim was received² **or**
- 2.** is not returned to an appropriate office at all after one month or such longer period as the Department considers reasonable the claim should be disallowed on the ground that it is defective and thus does not satisfy the condition of entitlement that a claim is made in the manner prescribed by regulations³ **or**
- 3.** is returned more than one month after the date it was returned to the claimant or such longer period as the Department considers reasonable and no decision has yet been given on the claim, the claim should be treated as made on the date the properly completed claim was received⁴ **or**
- 4.** is returned more than one month after the date it was sent to the claimant or such longer period as the Department considers reasonable but the initial claim has already been disallowed the decision maker should
 - 4.1** consider whether there are grounds to revise or supersede the disallowance **and**

- 4.2** treat the claim as made on the date the properly completed claim was received⁵.

*1 SS (C&P) Regs (NI), reg 4(7); 2 reg 4(7) & 6(1)(b); 3 reg 4(1) & 4(8); SS A (NI) Act 92, sec 1(1);
4 SS (C&P) Regs (NI), reg 6(1)(a); 5 reg 6(1)(a)*

After a claim has been disallowed as defective

2112 If a claimant seeks to correct the defects in a claim after it has been disallowed as defective, the decision maker should

1. decide that the disallowance cannot be revised or superseded because the submission of the new information or evidence is a change of circumstances that occurred after the claim was decided¹ **and**
2. consider whether the new communication can now be taken as the start of an attempt to make a new claim. If an intention to claim is accepted, a claim form should be sent².

*1 SS & CS (D&A) Regs (NI), reg 3(9)(a); SS (NI) Order 98, art 9(2)(b);
2 SS (C&P) Regs (NI), reg 4(5)*

Dependency increases

2113 For claim purposes, an increase of benefit for a child, or an adult dependant is treated as a separate benefit¹. A separate claim must be made for a dependency benefit on a form approved by the Department and within the prescribed time².

1 SS (C&P) Regs (NI), reg 2(2); 2 SS (C&P) Regs (NI), reg 19(3)(h)

Claim for adult dependants

2114 A claim for an adult dependant can only be accepted as a valid claim for the person named in the claim form and the particular increase specified. A separate claim will normally be required for an increase for a different person and a different increase for the same person.

2115 Where a decision has been given on a claim for an increase, whether by allowing or disallowing, a further claim is necessary. For example a further claim is necessary where a claim for a dependent wife is disallowed and there is entitlement to an increase for a different person having care of a child.

Note: A fresh claim is not needed for entitlement to be considered again¹ where entitlement to the increase ended because of the dependant's earnings.

1 SS C&B (NI) Act 92, sec 92

2116 Where

1. payments have already been made for one adult dependant **and**
 2. it is found that no entitlement for an increase existed **and**
 3. there was entitlement (subject to claim) to an increase for a second dependant
- the claim for the second dependant cannot be considered as a claim for a person having care of a child.

If it is discovered that entitlement existed for the claimant's partner but not the person having care, the claim cannot be regarded as a claim for the partner.

Note: This applies even where the dependent for whom the increase is claimed is the same person.

Example

A claim is made for an increase of benefit and entitlement is established. At a later date it is discovered that the marriage was not valid, although entitlement could have been established for the dependant as a person having care of children.

The claim originally made for the partner cannot be accepted as a claim for a person having care of children.

Effect of Child Benefit extension on dependency increases

2117 A period of entitlement to Child Benefit can be extended for a person who is

1. under the age of 18 **and**
2. who is not in full-time education¹

if a request is made for the extension.

1 CHB (Gen) Regs, reg 7D

2118 Where the period of entitlement to Child Benefit is extended, there may also be entitlement to an additional period of dependency increase for

1. a dependent child **or**
2. a person caring for a child.

A fresh claim may be necessary to establish entitlement to Child Benefit and to the dependency increases during the extended period because it remains a basic condition of entitlement that a claim is made¹.

1 SS A (NI) Act 92, sec 11(1); SS (C&P) Regs (NI), reg 2(2); CWS 36/50

- 2119 When deciding if a fresh claim for Child Benefit is necessary the decision maker should consider whether the request for the extension was made before or after an award has ended. Where a request¹ is made **before** entitlement to Child Benefit would usually have ended a fresh claim will not be necessary.

1 CHB (Gen) Regs, reg 7D(1)(e)

Example

A child leaves school in July 2000, when she is 16, but is still regarded as a child until the next terminal date, 4.9.00¹. No decision is given fixing the end of the award. On 2.8.00 an extension is requested. As the request is made before the date on which entitlement would ordinarily have ended a fresh claim is not required.

1 CHB (Gen) Regs, reg 7(1) & (2)

- 2120 A fresh claim for the extended period is needed where

1. no request is made before the normal terminal date **and**
2. the Department has stopped payment of benefit.

Although not superseded, the award does not continue in force beyond the date on which it was ended¹.

Example

A child leaves school in July 2000, when he is 16, but is still regarded as a child until the next terminal date, 4.9.00. Child Benefit continues up to 10.9.00 (the last order being 4.9.00) but from 11.9.00 payment of the benefit is stopped.

On 18.9.00 a request for the extension of Child Benefit is received. Although no decision has been given ending the award, payment was stopped by the Department on 10.9.00. Before entitlement can be considered again a fresh claim must be made.

- 2121 A fresh claim is required where a

1. decision maker has made a decision fixing the end of entitlement to Child Benefit **and**
2. request for an extension is made **after** the date fixed the decision maker.

If the request for an extension is made **before** the date fixed, the decision maker can supersede the decision to end entitlement.

- 2122 A fresh claim is needed to establish entitlement to the increase during the extended period if the original award of the increase was for

1. a definite period¹ **or**

2. an indefinite period², but entitlement to the increase had ended when Child Benefit entitlement was extended. This includes claims where payment of the benefit had been stopped by the Department³.

1 SS (C&P) Regs (NI), reg 17(6); 2 reg 17(1); 3 R(F) 8/61

2123 A fresh claim for the increase is not necessary if

1. the original award of the increase was for an indefinite period¹ **and**
2. entitlement to Child Benefit is extended whilst the increase is still payable.

1 SS (C&P) Regs (NI), reg 17(1)

2124 – 2126

Claiming State Pension Credit

In writing

2127 A claim for State Pension Credit may be made in writing, by telephone or in person¹. A claim only has to be in writing if, in a particular case, the Department directs that it must be².

1 SS (C&P) Regs (NI), reg 4C; 2 reg 4C(1)

2128 A claim is made in writing¹ either

1. by completing and returning (in accordance with the instructions printed on it) a claim form provided by or approved by the Department **or**
2. in such other written form as the Department accepts as sufficient in the circumstances of the case.

1 SS (C&P) Regs (NI), reg 4C(2)

2129 Claims in writing may be made

1. to an appropriate office¹ (DMG 2048) **or**
2. to an office designated by the Department for accepting claims for State Pension Credit²
3. at the offices of³
 - 3.1 a relevant authority administering Housing Benefit **or**
 - 3.2 a person providing services relating to Housing Benefit to such a relevant authority **or**
 - 3.3 a person authorised to exercise any function of a relevant authority relating to Housing Benefit

provided the Department has arranged with the relevant authority or person referred to above for them to receive State Pension Credit claims.

1 SS (C&P) Regs (NI), reg 4C(3); 2 reg 4C(3A); 3 reg 4C(4)

2130 Where a claim is made in accordance with DMG 2129 **3.** the relevant authority or person who received the claim

1. must forward the claim to the Department as soon as reasonably practicable¹
2. may receive information or evidence relating to the claim supplied by the claimant and/or other persons and must forward it to the Department as soon as reasonably practicable²
3. may obtain information or evidence relating to the claim from the claimant and must forward it to the Department as soon as reasonably practicable³
4. may verify any non medical evidence or information supplied or obtained and shall forward it to the Department as soon as reasonably practicable⁴
5. may record information or evidence relating to the claim supplied under DMG 2130 **2.** or obtained under DMG 2130 **3.** and hold it for the purpose of forwarding it to the Department⁵
6. may give the claimant information and advice relating to the claim⁶.

*1 SS (C&P) Regs (NI), reg 4C(5)(a); 2 reg 4C(5)(b); 3 reg 4C(5)(c);
4 reg 4C(5)(cc); 5 reg 4C(5)(d); 6 reg 4C(5)(e)*

Note: The functions at DMG 2130 **2.** to **6.** may be carried out by one of these offices even if the original claim was made at a different office.

By telephone

2131 Claims to State Pension Credit may be made entirely by telephone to the Pension Service telephone number specified by the Department¹. No claim form will be issued to the claimant and no signed declaration obtained. Instead the information given over the phone will constitute the claim.

1 SS (C&P) Regs (NI), reg 4C(6A)

2132 It is no longer necessary for claimants to provide a written statement of their circumstances unless

1. the Department so directs in any particular case¹ (see DMG 2127 et seq) **or**
2. during a telephone conversation a person states they wish to claim in writing.

Provision also continues for claims to be made in writing at approved or alternative offices (see DMG 2129) for those claimants who are unable or unwilling to claim by phone. Written claims can also be made to certain offices (see DMG 2129).

On ringing the Pension Service number the claimant will be told how long the call might last and will be given the option of either continuing with the call or arranging for a call back at a more convenient time.

1 SS (C&P) Regs (NI), reg 4C(6B)

- 2133 When a claim made by telephone has been determined a decision notice and a statement of details will be sent out. Claimants will be asked to check the accuracy of the facts contained in the statement of details and notify the Department immediately if there are any inaccuracies, changes or omissions. Claimants will also be reminded of their responsibility to notify future changes in their circumstances.

Making a claim

- 2134 A claim to benefit is made as soon as a claimant gives a clear indication to that effect. This will usually occur towards the start of the telephone conversation when the authentication and validation procedures have been completed. Up to that point the person may simply be expressing an intention to claim benefit, for example, they may be making general enquiries about the benefit or they may want to make a paper claim (see DMG 2136). Once made, the claim is valid but will be defective until the person has provided the Department with all the information necessary to determine the claim¹.

1 SS (C&P) Regs (NI), reg 4C(6C)

- 2135 If all information necessary to determine a claim is provided but further verification is required, the claimant has one month (or such longer reasonable period as allowed) in which to provide it (see DMG 2171)¹. But the claim is not defective.

1 SS (C&P) Regs (NI), reg 7(1)

Defective claims - State Pension Credit tele-claims

- 2136 In most cases it is expected that all the information necessary to determine a claim will be provided during the initial telephone conversation. If the information is not provided during that telephone call (for example, if the conversation is cut short unexpectedly) the claim will be defective¹. In these circumstances the Department must give the claimant the opportunity to provide the missing information². This can be done by the most suitable means i.e. by phone or in writing. A valid claim will also be defective until full information is provided where, following an initial telephone conversation, the claimant asks for a call back to be arranged at a later date.

1 SS (C&P) Regs (NI), reg 4C(6C); 2 reg 4C(6D)

- 2137 If the missing information is provided within one month of a defect being drawn to the claimant's attention (or within such longer period as the Department considers reasonable) the claim will be treated as having been properly made in the first instance. Where the person has been asked for information on more than one

occasion the time limit starts from the date the defect was first drawn to the claimant's attention¹.

1 SS (C&P) Regs (NI), reg 4C(6E)

2138 If the missing information is not supplied within the time allowed

1. the claim should be disallowed on the basis that it is defective and not made in the prescribed manner¹ **and**
2. the claimant should be notified of
 - 2.1 the decision made on the claim² **and**
 - 2.2 the right to request a statement of the reasons for the decision within one month³ **and**
 - 2.3 the right to appeal against the decision⁴.

*1 SS (C&P) Regs (NI), reg 4C(6C), (6D) & (6E); SS A (NI) Act 92, sec 1(1);
2 SS & CS (D&A) Regs (NI), reg 28(1)(a); 3 reg 28(1)(b); 4 reg 28(1)(c)*

2139 If the missing information is supplied outside the one month time limit **and**

1. no decision has yet been made on the claim **and**
 - 1.1 the delay is accepted as reasonable - the date of claim will be the date the claim was first made¹ **or**
 - 1.2 the delay is not accepted as reasonable - the date of claim will be the date the missing information is supplied² **or**
2. the initial claim has been disallowed on the grounds that it was not made in the prescribed manner, the decision maker should
 - 2.1 consider whether the original decision can be revised on the grounds that it was reasonable to extend the one month time limit **or**
 - 2.2 decide that the disallowance cannot be revised or superseded because the submission of the information is a change of circumstances occurring after the claim was decided³.

*1 SS (C&P) Regs (NI), reg 4C(6E); 2 reg 4E(2)(b);
3 SS & CS (D&A) Regs (NI), reg 3(9)(a); SS (NI) Order 98, art 9(2)(b)*

Where DMG 2139 **2.2** above applies the decision maker should consider whether a further claim to benefit has been made.

Intention to claim

2140 If a claimant

1. informs by whatever means (e.g. another person can act on the claimant's behalf)

- 1.1 an appropriate office **or**
 - 1.2 an office designated by the Department for accepting claims for State Pension Credit **or**
 - 1.3 one of the offices described in DMG 2129 3. (provided the Department has arranged with the relevant authority or person providing services to a relevant authority for them to receive State Pension Credit claims) of his intention to claim **and**
2. subsequently makes a claim in accordance with DMG 2127 to 2131 within one month of the date he informs one of the offices in DMG 2129 1. (“an approved office”) of his intention to claim, or within such longer period as the Department may allow, the claim may, where in the circumstances of the case it is appropriate to do so, be treated as made on the day the claimant first informed an approved office of their intention to claim¹.

1 SS (C&P) Regs (NI), reg 4E(3)

Defective claims made in writing

- 2141 If the claim for State Pension Credit is defective when first received, the Department must provide the claimant with an opportunity to correct that defect¹.

1 SS (C&P) Regs (NI), reg 4C(10)

- 2142 If the claimant¹ corrects the defect with the result that the claim is made in accordance with DMG 2128 and does so within one month or such longer period as the Department considers reasonable of the date the Department first drew attention to the defect, the claim shall be treated as made on the date

1. the defective claim was first received by the Department or a person acting on its behalf²
2. if DMG 2140 applied, the claimant informed an appropriate office of an intention to claim State Pension Credit³.

1 SS (C&P) Regs (NI), reg 4C(11); 2 reg 4C(11)(a); 3 reg 4C(11)(b)

Note: Where a defective claim is made during the advance period, it may be corrected at any time during that period.

- 2143 There is no definition of a “defective claim” in the context of State Pension Credit. However it is clear that a claim in writing is defective if it fails to satisfy the conditions in DMG 2128. Thus, if a claim is made on an approved form it is defective if

1. it is not completed in accordance with the instructions printed on it **and**
2. in addition it is not accepted by the Department as being sufficient in the circumstances of the case.

- 2144 There will be cases where a claim is not defective (that is, it satisfies the conditions in DMG 2127 to 2131) but the decision maker still needs further information or evidence for the claim to be decided. Failure by a claimant to provide this information or evidence **does not** render the claim defective. After allowing a reasonable period of time for the claimant to respond the decision maker must proceed to a decision on the claim made on the balance of probabilities (DMG 2169).

2145 – 2147

Telephone claims for Industrial Injuries Disablement Benefit, Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit and Shared Additional Pension

- 2148 A claim for Industrial Injuries Disablement Benefit, Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit or a Shared Additional Pension made by telephone (see DMG 2073) is made in the prescribed manner if the claimant provides the Department with all the information necessary to determine the claim during the initial telephone conversation. Otherwise, (for example if the telephone conversation is cut short unexpectedly) the claim will be regarded as defective¹.

1 SS (C&P) Regs (NI), reg 4(12)

- 2149 Where a claim would otherwise be defective every effort should be made to re-establish contact with the claimant so that missing information can be obtained. Where attempts to contact the claimant by telephone are unsuccessful a partially completed claim form should be sent out and the claimant told what information is required (and the date by which it must be supplied) for the claim to be properly made¹. The information can be supplied by any means (for example by completing the claim form or by telephone).

1 SS (C&P) Regs (NI), reg 4(13)

- 2150 If the claimant corrects the defect within one month (or such longer period as the decision maker considers reasonable) the claim will be treated as having been properly made in the first instance (i.e. the date of the initial telephone conversation)¹.

1 SS (C&P) Regs (NI), reg 4(7)

- 2151 If the missing information is not supplied within the time allowed in DMG 2168
1. the claim should be disallowed on the basis that it is defective and not made in accordance with the legislation¹ **and**
 2. the claimant should be notified accordingly².

*1 SS (C&P) Regs (NI), reg 4(11) & 4(12); SS A (NI) Act 92, sec 1(1);
2 SS & CS (D&A) Regs (NI), reg 28(1)(a), 28(1)(b) & 28(1)(c)*

- 2152 If the missing information is supplied outside the time allowed in DMG 2168 and
1. no decision has yet been made on the claim then the date of claim is the date the missing information was supplied **or**
 2. the initial claim has already been disallowed the decision maker should
 - 2.1 consider whether the original decision was correct **or**
 - 2.2 decide that the disallowed claim cannot be revised or superseded because the submission of the information is a change of circumstance occurring after the claim was decided¹ **and**
 - 2.3 consider whether a further claim to benefit has been made.

1 SS & CS (D&A) Regs (NI), reg 3(9)(a); SS (NI) Order 98, art 9(2)(b)

Claiming Employment and Support Allowance

General

- 2153 When a claim to Employment and Support Allowance is made and there is sufficient information to make an award of contribution-based Employment and Support Allowance but insufficient information to enable an award of income-related Employment and Support Allowance to be made then the decision maker may make an award of contribution-based Employment and Support Allowance. No defective claim decision should be made. The decision maker should request information from the claimant in relation to income-related Employment and Support Allowance. Employment and Support Allowance is a single benefit comprising of two components - contribution-based Employment and Support Allowance and income-related Employment and Support Allowance. The two components do not have to be claimed separately. A claimant who states that they do not wish to “claim” income-related Employment and Support Allowance is merely waiving the need of the decision maker to consider entitlement to that component rather than failing to claim it. A claimant in receipt of contribution-based Employment and Support Allowance whose circumstances change has to request a supersession if they want entitlement to income-related Employment and Support Allowance to be considered (not a new claim)¹. This approach equally applies to Jobseeker’s Allowance. See DMG Chapter 04 for guidance on supersession.

1 LH v SSWP (ESA) [2014] UKUT (AAC)

- 2154 If a claimant says that they wish to “claim” only one element and a decision is made in respect of that element then if the claimant thinks it was a mistake not to ask for both elements an application for revision should be made. A decision can also be revised on the basis of official error if the decision maker does not award one of the

components where there is no evidence that the claimant wishes not to be considered for it. See DMG Chapter 03 for guidance on revision.

By telephone

- 2155 Claims to Employment and Support Allowance may be made entirely by telephone to the telephone number specified by the Department¹. No claim form will be issued to the claimant and no signed declaration obtained. Instead the information given over the phone will constitute the claim. The date of claim is the date of the telephone call or the first day in respect of which the claim is made, if later².

1 SS (C&P) Regs (NI), reg 4F; 2 reg 6(1D)(a)

- 2156 It is not necessary for the claimant to approve a written statement of their circumstances unless

1. the Department so directs in any particular case¹ **or**
2. during a telephone conversation a person states they wish to claim in writing.

1 SS (C&P) Regs (NI), reg 4F(2)

- 2157 In most cases it is expected that all the information necessary to determine a claim will be provided during the initial telephone conversation. If the information is not provided during that telephone call (for example, if the conversation is cut short unexpectedly) the claim will be defective¹. In these circumstances the Department must give the claimant the opportunity to provide the missing information and also tell them what the deadline is if the date of the initial phone call is to be the date on which the claim is treated as made². Information can be sent by the most suitable means i.e. by phone or in writing. A claim will also be defective until full information is provided where, following an initial telephone conversation, the claimant asks for a call back to be arranged at a later date.

1 SS (C&P) Regs (NI), reg 4F(3); 2 reg 4F(4)

- 2158 If the missing information is provided within one month of a defect being drawn to the claimant's attention (or within such longer period as the Department considers reasonable) the claim will be treated as having been properly made in the first instance. Where the person has been asked for information on more than one occasion the time limit starts from the date the defect was first drawn to the claimant's attention¹.

1 SS (C&P) Regs (NI), reg 4F(5)

In writing

- 2159 A claim for Employment and Support Allowance may be made in writing and must be made on an approved form and in accordance with the instructions on the form¹. The date of claim is the date the claim form was received in an appropriate office or office

mentioned in the DMG 2160 below or the first day in respect of the claim, if later². A claim only has to be in writing if, in a particular case, the Department directs that it must be³. Where the claimant notifies the Department (by whatever means) of his intention of making a claim to Employment and Support Allowance and within one month or such longer period that is considered reasonable of first notification then the date of claim made in writing, received in an appropriate office or office mentioned in DMG 2160 below, is the date notification was made or the first day in respect of which the claim is made, if later⁴.

1 SS (C&P) Regs (NI), reg 4G(2); 2 reg 6(1D)(b); 3 reg 4G(1); 4 reg 6(1D)(c)

2160 Claims in writing may also be made

- 1.** at an authority administering Housing Benefit **or**
- 2.** by a person providing to such an authority services relating to Housing Benefit **or**
- 3.** by a person authorised to exercise any function of such an authority relating to Housing Benefit

provided the Department has arranged with the authority or person specified in **2.** or **3.** for them to receive Employment and Support Allowance claims¹.

1 SS (C&P) Regs (NI), reg 4G(3)

2161 Where a written claim is made as above the authority administering Housing Benefit or other person

- 1.** must forward the claim to the Department as soon as reasonably practicable¹
- 2.** may receive information or evidence relating to the claim supplied by the claimant and/or other persons and must forward it to the Department as soon as reasonably practicable²
- 3.** may obtain information or evidence relating to the claim from the person who has made the claim (but not any medical information or evidence except for that which the claimant must provide) and must forward it to the Department as soon as reasonably practicable³
- 4.** may record information or evidence relating to the claim supplied or obtained under **2.** or **3.** and hold it for the purposes of forwarding it to the Department⁴
- 5.** may give information and advice with respect to the claim to the person who makes or who has made the claim⁵.

Note: The functions at **2.** to **5.** may be carried out by one of these offices even if the original claim was made at a different office.

1 SS (C&P) Regs (NI), reg 4G(4)(a); 2 reg 4G(4)(b); 3 reg 4G(4)(c); 4 reg 4G(4)(d); 5 reg 4G(4)(e)

- 2162 If a written claim is defective when first received, the person making the claim is to be advised of the defect and the provisions relating to the date of claim¹.

1 SS (C&P) Regs (NI), reg 4G(6)

- 2163 If the defect is corrected so that the claim satisfies the requirements of DMG 2157 above and this is done within one month, or such longer period as the Department considers reasonable, of the date the Department first drew attention to the defect, the claim must be treated as having been properly made in the first instance.

Members of a couple

- 2164 Where a person who is a member of a couple may be entitled to income-related Employment and Support Allowance, the claim for Employment and Support Allowance must be made by whichever member of the couple they agree should claim or, in default of agreement, by such one of them as the Department may choose¹.

1 SS (C&P) Regs (NI), reg 4H(1)

- 2165 Where one member of a couple ("the former claimant") is entitled to income-related Employment and Support Allowance but a claim for Employment and Support Allowance is made by the other member of the couple and the Department considers that the other member is entitled to income-related Employment and Support Allowance and if both members of the couple confirm in writing that they wish the claimant to be the other member, the former claimant's entitlement terminates on the day the partner's claim is actually made or, if earlier, treated as made¹.

1 SS (C&P) Regs (NI), reg 4H(2)

Information, evidence and corroboration

- 2166 A form or document may meet all the criteria to be a claim made in the prescribed manner but the information and evidence it contains may be insufficient or need corroboration before an outcome decision can be made. The claimant is required to produce any certificates, documents, information and evidence as required by the Department but must be given the opportunity to do so¹. The claimant has a set time to reply as specified for each benefit. State Pension Credit claimants are required to provide information or evidence as to the likelihood of future changes of circumstances so that a decision can be made² on whether an assessed income period should be set and if so of what length. Except where DMG 2563 applies, this must be provided within one month of the date the requirement is notified or such longer period as the decision maker considers reasonable³. If the claimant is unable to produce a document because it has been destroyed see DMG Chapter 03.

1 SS (C&P) Regs (NI), reg 7(1); 2 reg 7(1A); 3 reg 7(1B)

- 2167 Where entitlement to benefit may be affected by the circumstances of the claimant's partner, a written statement from that partner can be obtained confirming that the information given is correct, if required by the Department¹.

1 SS (C&P) Regs (NI), reg 7(2)

- 2168 Where

1. for benefits other than Income Support or Jobseeker's Allowance, a claimant claims in the prescribed manner but fails to provide additional information or evidence required under DMG 2166 **or**
2. for Income Support and Jobseeker's Allowance, a claimant claims in the prescribed manner as described in DMG 2086 but has not provided additional information or evidence required under DMG 2166

an outcome decision has to be made.

- 2169 The decision maker should

1. accept that a claim has been made **and**
2. consider whether on the balance of probability, the evidence that is available shows that the claimant satisfies all the conditions of entitlement **and**
3. if the evidence relating to a condition of entitlement is insufficient, disallow the claim on the ground that, that specific condition of entitlement is not satisfied¹.

Note: Contribution-based Jobseeker's Allowance can be awarded if it is clear that the claimant does not qualify for income-related Jobseeker's Allowance. No further information is required from the claimant.

1 R(IS) 4/93

- 2170 The decision maker should note the following in making the decision

1. the claimant is responsible for showing entitlement to benefit when a claim is made¹
2. a claim should not be disallowed until the claimant has been allowed the specified time to supply the missing information
3. if insufficient information is held then the decision maker should disallow the claim²
4. disallowance should be based upon the specific point that cannot be proved, not on the actual failure to provide the necessary information or evidence.

These decisions are outcome decisions and give the claimant a right of appeal - (see DMG Chapters 01 and 06).

1 R(I) 1/71; 2 R(SB) 29/83; SS (Gen Ben) Regs (NI), reg 38(1)

Information relating to personal pensions and retirement annuity contracts

2171 Where an Income Support, Jobseeker's Allowance, State Pension Credit or Employment and Support Allowance claimant or their partner has attained the qualifying age and is

1. a member of, or a person deriving entitlement to a pension under, a personal pension scheme **or**
2. a party to, or a person deriving entitlement to a pension under, a retirement annuity contract

they must provide information where required to do so by the Department¹.

1 SS (C&P) Regs (NI), reg 7(4)

2172 That information is

1. the name and address of the pension fund holder¹ **and**
2. such other information including any reference or policy number needed to enable the personal pension scheme or retirement annuity contract to be identified².

1 SS (C&P) Regs (NI), reg 7(4)(a); 2 reg 7(4)(b)

2173 Where the pension fund holder receives a request from the Department for details of the personal pension scheme or retirement annuity contract as above then they shall provide the Department with information calculated as specified under regulations¹.

Note: See DMG 2056 for a definition of "qualifying age".

1 SS (C&P) Regs (NI), reg 7(6)

Requirement to attend for medical examination

2174 Before making a decision on a claim for a relevant benefit the claimant can be referred to a medical practitioner¹ by the Department to attend for an examination and report². Referral is made if it is considered necessary for the purpose of providing the information for use in making the decision. Relevant benefits are listed at Annex A to this Volume. The benefits principally affected by this provision are

1. Severe Disablement Allowance
2. Industrial Injuries Disablement Benefit
3. Disability Living Allowance
4. Attendance Allowance³.

This does not apply to Incapacity Benefit and Employment and Support Allowance which have separate provisions. For further information see DMG Chapters 01, 13 and 42.

1 SS (C&P) Regs (NI), reg 2(1); 2 SS (NI) Order 98, art 19; 3 art 9(3)

2175

Provision of national insurance numbers

2176 The provision of sufficient information or evidence to establish the national insurance number is a specific requirement for¹

1. Attendance Allowance
2. Disability Living Allowance
3. Incapacity Benefit (personal benefit and adult dependency increase)
4. Income Support
5. a declaration that an accident was an industrial accident
6. Industrial Injuries Disablement Benefit
7. Carer's Allowance (personal benefit and adult dependency increase)
8. Jobseeker's Allowance
9. Maternity Allowance (personal benefit and adult dependency increase)
10. Retirement Pension (personal benefit and adult dependency increase)
11. Bereavement Benefit
12. State Pension Credit
13. Shared Additional Pension
14. Employment and Support Allowance.

1 SS A (NI) Act 92, sec 1(1A) & (1B); SS (NI NO: Exemption) Regs (NI)

2177 The provision of sufficient information or evidence to establish the national insurance number is not a specific requirement for Disability Living Allowance for a person under 16 years of age¹.

1 SS (DLA) Regs (NI), reg 1A

2178 There is no entitlement to the benefits in DMG 2175 unless the claim is accompanied by sufficient information or evidence

1. to confirm the national insurance number quoted belongs to the claimant and any adult affected by the provisions

2. or enable the national insurance number to be traced where the national insurance number is unknown
3. or enable a national insurance number to be allocated where the claimant or adult does not have a national insurance number and they apply for one¹.

If the claimant does not have a national insurance number (for example as a person who has recently migrated to the United Kingdom), then an application for a national insurance number will be initiated from within the Department if entitlement to benefit is established. The claimant should provide sufficient information and evidence to enable a national insurance number to be traced or allocated.

1 SS (NINO: Exemption) Regs (NI) 97; SS A (NI) Act 92, sec 1(1A) & (1B)

- 2179 The requirements must be satisfied each time a relevant claim to benefit is made. The decision maker should not accept that they are satisfied simply because they were accepted as satisfied on an earlier claim. Conflicts in the evidence from the claimant and departmental records should be resolved before the claim is referred to the decision maker.
- 2180 If the provisions are not satisfied the decision maker decides that there is no entitlement because a condition of entitlement is not met. If the national insurance number is produced after a disallowance or there is a doubt about a number during an award reconsideration may be appropriate - (see DMG Chapter 03 and Chapter 04).
- 2181 Where a claim is made for a personal benefit and an adult dependency increase the national insurance number provisions must be satisfied for the claimant and the adult dependant. If the conditions are not satisfied for either the claimant or the adult the personal benefit and the adult dependency increase should be disallowed. Personal benefit may already be in payment when an adult dependency increase is claimed. If the national insurance number provisions are not satisfied for the adult dependant the award of personal benefit should be reconsidered, (see DMG Chapter 03 and Chapter 04). For non means tested benefits such as Incapacity Benefit or Retirement Pension these conditions only apply to the person in respect of whom an adult dependency increase is claimed. If a claimant does not make a claim to adult dependency increase, but a partner resides in the house then the conditions as outlined at DMG 2182 do not apply.
- 2182 Where Employment and Support Allowance, State Pension Credit, Jobseeker's Allowance or Income Support are claimed the national insurance number provisions must be satisfied by the claimant and any adult included in the claim. If the condition is not satisfied for the claimant or the adult the claim should be disallowed. Employment and Support Allowance, State Pension Credit, Jobseeker's Allowance or Income Support may already be in payment when the claimant claims for another

adult. If the national insurance number provisions are not satisfied for the adult the award of Employment and Support Allowance, State Pension Credit, Jobseeker's Allowance or Income Support should be reconsidered, (see DMG Chapter 03 and Chapter 04). The requirement to provide a national insurance number in respect of either the claimant or a partner in a claim to Jobseeker's Allowance or with respect to a partner in a claim to Income Support does not apply where a claim was made, or treated as made, before 5.10.98¹.

1 IS (Gen) Regs (NI), reg 2A; JSA Regs (NI), reg 2A

National insurance number exemptions

2183 Where a claim to benefit is received a national insurance number is required for both the claimant and any adult included in the claim. In the majority of cases where a national insurance number cannot be allocated to either the claimant or any adult in the claim there are grounds for deciding that the claimant is not entitled to the benefit.

2184 In a small number of cases a national insurance number will not be allocated to an adult dependant or a partner of the claimant where these individuals have no right to be in the UK and do not already have a national insurance number. These claims should not be disallowed. However if the partner or adult dependant already possesses a national insurance number they are required to state this on the claim form.

2185 A national insurance number will not be allocated to an adult dependant who

1. is a person in respect of whom a claim for an increase of Carer's Allowance, Retirement Pension, Maternity Allowance or Incapacity Benefit is made¹ **and**
2. is subject to immigration control and requires leave to enter or remain in the UK but does not have it² **and**
3. has not previously been allocated a national insurance number.

1 SS (ICA) Regs (NI), reg 2A(b); SS (WB & RP) Regs (NI), reg 1A(b); SS (MA) Regs (NI), reg 1A; SS (IB) Regs (NI), reg 1A(b); 2 I & A Act 99 s 115(9)(a)

2186 A national insurance number will not be allocated to a partner who

1. is part of a claim made to Income Support, Jobseeker's Allowance, State Pension Credit or Employment and Support Allowance¹ **and**
2. is subject to immigration control and requires leave to enter or remain in the UK but does not have it² **and**
3. is not entitled to Income Support, Jobseekers' Allowance, State Pension Credit or Employment and Support Allowance **and**

4. has not previously been allocated a national insurance number.

*1 IS (Gen) Regs (NI), reg 2A(b); JSA Regs (NI), reg 2A(b); SPC Regs (NI), reg 1A;
ESA Regs (NI), reg 2A; 2 I & A Act 99, s 115(9)(a)*

2187 – 2199

Date of claim

2200 The date of claim for all benefits is usually the date the claim is received in an office of the Department¹. Exceptions are

1. claims where a different person is treated as claiming - (see DMG 2044 and 2045)
2. claims that could have been received earlier had the office not been closed (see DMG 2201)
3. some claims made abroad (see DMG 2051)
4. claims treated as made on an earlier date than the date of claim when made by an appointee (see DMG 2457)
5. where benefit specific rules allow for the date of claim to be treated as made on a date earlier than the date of receipt
6. claims made at alternative offices (see DMG 2052 et seq)
7. claims made electronically (see DMG 2069)
8. late payment of class 3 contributions in Retirement Pension cases (see DMG 2248 et seq)
9. claims for Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit, Shared Additional Pension or State Pension Credit made by telephone (see DMG 2073, 2251 and 2131)
10. claims for Incapacity Benefit other than in writing (see DMG 2252 et seq)
11. telephone claims to Employment and Support Allowance (see DMG 2257).

1 SS (C&P) Regs (NI), reg 6(1)

2201 If the office is closed, for example at the weekend, and a claim is delivered by hand (or a claim would have been delivered by post if arrangements had not been made that the Post Office would not deliver mail) a different date of claim applies. In such cases the date of claim is the date the claim is delivered by hand or would have been delivered had the office not been closed¹.

Note: This does not apply to Jobseeker's Allowance.

1 R(SB) 8/89

2202 The fact of sending a claim form by post is not an act which is relevant for the purposes of determining the date on which the claim is made or treated as having been made. The date of claim is not determined by reference to the date of posting.

It is not the case that the acceptance that a claim has been sent means that it must also be regarded as having been made. The date which is of relevance is the date on which the claim is made and that is the date on which the claim is received by an appropriate office¹, not the date of sending the claim.

Note: This principle does not apply to claims for lump sum payments for pneumoconiosis² and mesothelioma³. This means that in these cases if the claims were properly addressed and any postage required properly paid, they are deemed to have been received by the Department in the ordinary course of posting, unless there is evidence to the contrary. Therefore, if satisfied, on a balance of probability, that the evidence provided shows that the claims were sent, then it is to be presumed that they were received. In exercising this discretion it is important that any decision is not so unreasonable that no decision maker fully appraised of the facts would have come to it.

1 SS (C&P) Regs (NI), reg 6(1)(a); R(G) 2/06;

2 Pneumoconiosis etc, (Workers' Compensation) (NI) Order 1979;

3 Mesothelioma etc, Act (NI) 2008; Interpretation Act (NI) 1954, s 24

2203 In deciding the date of claim the following are relevant

1. the claimant's statements
2. the date of the letter or form
3. whether the claim was posted or handed in
4. whether extra time has been allowed. If so the claimant will be given a specified time in which to reply. As long as the claim form or information is received within the specified time the original date of claim is unaffected. If it is received outside that time the date of claim is the date that the form or information is received.

Note: This does not apply to Jobseeker's Allowance.

2204 If the evidence is unclear or conflicting the decision maker should

1. decide the date of claim in the claimant's favour
2. take the initiative in deciding whether an earlier date of claim can be accepted.

Note: This does not apply to Jobseeker's Allowance.

Jobseeker's Allowance - claimant who is not a member of a joint-claim couple

2205 Where a person contacts the Jobs and Benefits Office by whatever means with a view to claiming Jobseeker's Allowance an appointment is usually made for them to attend the office and make a claim. If the claimant attends at the time and place notified and

provides a properly completed claim form at or before the interview, the claim is treated as made

1. on the date the claimant originally notified the Jobs and Benefits Office **or**
2. on the first day for which Jobseeker's Allowance is claimed

whichever is the later¹.

If the person fails to attend, without good cause, the claim is treated as having been made on the first day on which they attend at the time and place notified, if they provide a properly completed claim form on or before that date². For "good cause" the decision maker should consider the guidance at DMG 2601 et seq.

1 SS (C&P) Regs (NI), reg 6(4A)(a)(i); 2 reg 6(4A)(a)(ii)

Example 1

A person phones the Jobs and Benefits Office on 8.3.00 and says that he wishes to claim Jobseeker's Allowance from that date. He is given an appointment to attend on 10.3.00. He does not attend and when asked why says that he overslept. He is given a second appointment for 16.3.00. He attends on that day and during the interview his claim form is fully completed. The decision maker decides that he does not have good cause for failing to attend on 10.3.00 and that his claim is treated as made on 16.3.00.

Example 2

A person phones the social security office on 10.2.00 and says that she wishes to claim Jobseeker's Allowance from 9.2.00. She is given an appointment for 11.2.00. She does not attend. On 14.2.00 she calls at the social security office, says that she completely forgot about the appointment until too late and hands in a completed claim form. She is given a second appointment for 17.2.00. She attends on that day. The decision maker decides that she does not have good cause for failing to attend the first interview and that her claim is treated as made on 17.2.00.

Example 3

A person calls at the social security office on 15.8.00 and says he wishes to claim Jobseeker's Allowance from that date. He is given an appointment for 17.8.00. He does not attend because he has a ticket for a cricket match and does not wish to miss it. He is given a second appointment for 21.8.00 which he does attend. At the interview he does not provide information about his occupational pension. None of the circumstances in DMG 2101 applies. The information and the completed claim form are received on 24.8.00. The decision maker decides that he does not have good cause for failure to attend the interview on 17.8.00 and that his claim is treated as made on 24.8.00.

2206 If a Jobseeker's Allowance claimant is not required to attend for interview, the claim is treated as made¹

1. on the date on which a properly completed claim form is received in an appropriate office **or**
2. on the date of the first notification of intention to claim, if a properly completed claim form is received in an appropriate office within one month of that date **or**
3. on the first day for which the claim is made if that is later than the above dates.

1 SS (C&P) Regs (NI), reg 6(4A)(b)

2207 Where

1. a claimant who is normally required to attend a social security office has their entitlement to Jobseeker's Allowance ended because they failed to
 - 1.1 attend the office **or**
 - 1.2 provide a signed declaration **and**
2. the reasons for their failure come within those set out in DMG 20939 **and**
3. the claimant makes another claim for Jobseeker's Allowance on the day immediately following the date on which those reasons cease to apply

the claim shall be treated as having been made on the day following that on which entitlement to Jobseeker's Allowance ended¹.

1 SS (C&P) Regs (NI), reg 6(4B)(a)

2208 – 2214

2215 Where a claimant

1. had not normally been required to attend a social security office in person **and**
2. is then notified to attend **and**
3. loses entitlement to Jobseeker's Allowance because of their failure to attend **and**
4. can show that they did not receive the notice **and**
5. makes a claim immediately

the claim shall be treated as having been made on the day following that on which entitlement to Jobseeker's Allowance ended¹.

1 SS (C&P) Regs (NI), reg 6(4B)(b)

2216 Where a claimant has been warned over failure to attend the social security office on time and attends late on the next occasion, entitlement to Jobseeker's Allowance will

end (see DMG 20921). A new claim made on the day of late attendance is treated as having been made on the following day¹.

1 SS (C&P) Regs (NI), reg 6(4C)

2217 Where

1. a claimant who is not a member of a joint-claim couple but is not entitled to contribution based Jobseeker's Allowance **and**
2. their partner wishes to claim income-based Jobseeker's Allowance

the claim for income-based Jobseeker's Allowance is treated as having been made at the same time as the partner's claim for contribution based Jobseeker's Allowance¹.

1 SS (C&P) Regs (NI), reg 4(3B)(b)(ii)

2218 Where

1. a member of a joint-claim couple claims but is not entitled to contribution-based Jobseeker's Allowance ("claim one") **and**
2. that member later claims a joint-claim Jobseeker's Allowance with the other member of the joint-claim couple ("claim two")

claim two is treated as made on the same date as claim one was made¹.

1 SS (C&P) Regs (NI), reg 4(3B)(b)(i)

2219 Where

1. a claimant becomes entitled to income-based Jobseeker's Allowance immediately after having received the maximum entitlement to contribution-based Jobseeker's Allowance **and**
2. their partner then claims income-based Jobseeker's Allowance

the award of Jobseeker's Allowance will be terminated and the partner's claim for income-based Jobseeker's Allowance is treated as having been made on the day after entitlement to contribution-based Jobseeker's Allowance ended¹.

1 SS (C&P) Regs (NI), reg 4(3B)(c)

Jobseeker's Allowance joint-claim couples

2220 This is an initiative to help into work either or both members of certain couples who have been awarded Jobseeker's Allowance.

2221 Couples to whom it applies are known as joint-claim couples, and are only entitled to Jobseeker's Allowance if they make a claim for it jointly and both members, where required, comply with the requirements of entitlement for that benefit.

- 2222 Joint-claims for Jobseeker's Allowance applies to joint-claim couples.
- 2223 Claimant¹ in relation to a joint-claim couple means the couple, or each member of the couple as the context requires.
- 1 SS (NI) Order 98, art 39(1); JS (NI) Order 95, art 2(2)*
- 2224 A joint-claim couple¹ means a couple
1. who are not members of any family which includes a person in respect of whom a member of the couple is entitled to Child Benefit **and**
 2. where at least one member of the couple was born after 28 October 1947 and is aged at least 18 **and**
 3. neither member of which²
 - 3.1 is treated as responsible for a child or young person **or**
 - 3.2 has a child or young person
 - 3.2.a placed with them by an authority or a voluntary organisation **or**
 - 3.2.b living with either of them in order to attend an educational establishment at which they are receiving relevant education.
- 1 JS (NI) Order 95, art 3(4); 2 JSA Regs (NI), reg 3A(1)*
- 2225 Where a person would be a member of more than one joint-claim couple¹, joint-claim couple means the couple of which they are a member
1. which they have nominated **or**
 2. if they have not made such a nomination, the Department has nominated, to the exclusion of any other couple of which they are a member.
- 1 JSA Regs (NI), reg 3A(2)*
- 2226 Where a claimant is entitled to income-based Jobseeker's Allowance on 24.2.08¹ they can continue to receive income-based Jobseeker's Allowance without having to make a joint-claim with their partner (only until the day their partner is required to attend a place specified by an Employment Officer in a notification given or sent to the partner) if
1. they satisfy the conditions of entitlement for income-based Jobseeker's Allowance² **and**
 2. their partner does not satisfy all the following conditions of entitlement³
 - 2.1 being available
 - 2.2 having a jobseeker's agreement
 - 2.3 actively seeking employment

2.4 not being in remunerative work

2.5 being capable

2.6 not being in relevant education

2.7 being under pension age

2.8 being in Northern Ireland.

1 JSA Regs (NI), reg 3E(2)(a); 2 reg 3E(1)(a); 3 reg 3E(1)(c)

2227 A joint-claim Jobseeker's Allowance¹ means Jobseeker's Allowance to which a joint-claim couple are entitled if

1. a claim for Jobseeker's Allowance is made jointly by the couple **and**
2. each member of the couple satisfies the conditions of entitlement to income-based Jobseeker's Allowance.

1 JS (NI) Order 95, art 3(4)

2228 Certain categories of members of a joint-claim couple are not required to satisfy the normal entitlement conditions¹. This means that income-based Jobseeker's Allowance is paid to some couples who would normally be required to claim jointly, without both members meeting the availability and actively seeking work conditions (see DMG 20023).

1 JSA Regs (NI), Sch A1

Nominated member

2229 The nominated member¹ in relation to a joint-claim couple is the member of the couple who

1. they have nominated Jobseeker's Allowance to be paid to **or**
2. the Department has nominated, where they have not made such a nomination **or**
3. is the other member of the couple, where the one member of the joint-claim couple is sanctioned.

1 JS (NI) Order 95, art 5B(1)

2230 To be entitled to Jobseeker's Allowance, a joint-claim couple must claim Jobseeker's Allowance jointly¹.

1 JS (NI) Order 95, art 3 & 3(2B)(a)

2231 A joint-claim couple may be treated as having claimed Jobseeker's Allowance jointly where they have become a joint-claim couple because the child or all the children for whom they were responsible have

1. died **or**

2. ceased to be a child or children for which the couple are responsible **or**
3. reached the age of 16 and are no longer receiving full-time education for Child Benefit purposes¹.

1 JSA Regs (NI), reg 3C(1)

2232 To be treated as having made a Jobseeker's Allowance claim jointly in these circumstances, the Department must have

1. sufficient evidence to decide whether a new award should be made **and**
2. been told which member of the couple is to be the nominated member for payment purposes¹.

1 JSA Regs (NI), reg 3C(3)

2233 Where these conditions are satisfied

1. any claim made by either member of the joint-claim couple should be treated as made by both members of the couple **and**
2. the joint-claim should be treated as made on the date on which the claim now treated as a joint-claim was itself treated as made **and**
3. any award of income-based Jobseeker's Allowance, or a replacement award, to either member of the couple should be terminated and replaced by a new award to the couple¹.

1 JSA Regs (NI), reg 3C(2) & (4)

Former joint-claim couples

2234 A member of a couple may be treated as having claimed Jobseeker's Allowance where the couple has ceased to be a joint-claim couple because they have become responsible, or treated as responsible, for one or more children¹.

1 JSA Regs (NI), reg 3B(1)

To be treated as having made a Jobseeker's Allowance claim in these circumstances, a member of the couple must

1. provide such evidence as the Department requires confirming that the couple are responsible for one or more children **and**
2. advise the Department which member of the couple is to be a claimant¹.

1 JSA Regs (NI), reg 3B(2)

2235 Where these conditions are satisfied

1. any claim made by both members of the couple should be treated as made by either member of the couple **and**

2. the claim should be treated as made on the date on which the claimant and partner were treated as having made a joint-claim **and**
3. any award of joint-claim jobseeker's Allowance should be terminated and replaced by a new award to the claimant¹.

1 JSA Regs (NI), reg 3B(2) & (3)

Jobseeker's Allowance - Joint-claim couples

2236 Where a member of a joint-claim couple notifies the Department by any means of a wish to claim Jobseeker's Allowance, either one member or each member of the couple will be required to attend the Department for Employment and Learning in connection with the claim.

2237 Where

1. each member of the joint-claim couple is required to attend **and**
2. each member of the couple attends at the time and place notified **and**
3. a properly completed claim form is provided at or before the interview

the claim should be treated as made on the later of the date on which an intention to claim was notified to the Department or the first day for which the claim is made¹.

1 SS (C&P) Regs (NI), reg 6(4ZA) & (4ZB)(a)

2238 Where

1. each member of the joint-claim couple is required to attend **and**
2. without good cause (see DMG 2601), either member fails to attend at the time and place notified or fails to provide a properly completed claim form at or before the interview

the claim should be treated as made on the first day on which a member of the couple attends at a time and place notified and provides a properly completed claim form at or before the interview¹.

1 SS (C&P) Regs (NI), reg 6(4ZA) & (4ZB)(b)

2239 Where only one member of the joint-claim couple is required to attend and that member attends at the time and place notified the claim should be treated as made on

1. the date a properly completed claim form is received at an appropriate office **or**
2. the first day for which the claim is made, if this is later than the date on which the properly completed claim form was received at an appropriate office **or**

3. the date on which an intention to claim was notified to the Department, if a properly completed claim form is received at an appropriate office within one month of the date the intention to claim was notified¹.

I SS (C&P) Regs (NI), reg 6(4ZA), (4ZC)(a) & (4ZA)(b)

2240 Where

1. only one member of the joint-claim couple is required to attend **and**
2. without good cause (see DMG 2601), that member fails to attend at the time and place notified or fails to provide a properly completed claim form at or before the interview

the claim should be treated as made on the first day on which the member of the couple who is required to attend attends at a time and place notified and provides a properly completed claim form at or before the interview¹.

I SS (C&P) Regs (NI), reg 6(4ZA) & (4ZC)(c)

2241 Where

1. one member of a joint-claim couple is temporarily absent from Northern Ireland on the date the other member notifies the Department of an intention to claim **and**
2. DMG 72150 applied on the date the intention to claim was notified

the claim should not be treated as made more than three months before the date on which the date the intention to claim was notified by the member who remained in Northern Ireland¹.

I SS (C&P) Regs (NI), reg 6(4ZA) & (4ZD)

Disability Living Allowance and Attendance Allowance

2242 Where a written claim for Disability Living Allowance or Attendance Allowance is received and

1. has been delayed by postal disruption **and**
2. that disruption was caused by industrial action

the claim should be treated as received on the day it would ordinarily have been delivered¹.

I SS (C&P) Regs (NI), reg 6(5)

2243 The decision maker should not wait for the claimant to suggest that there has been some disruption but should consider from available evidence whether the post may have been disrupted by industrial action.

2244 The decision maker should generally decide that the claim was received the day after posting. The date of posting should normally be accepted as the date on the claim form or letter. In deciding the date of claim the decision maker should also consider the guidance at DMG 2061 - 2063 and DMG 2052 et seq.

2245 The date of claim for Disability Living Allowance or Attendance Allowance is the date on which a request for a claim pack is received in an appropriate office (or the date the claim was accessed on line if made electronically) if the claimant

1. completes the claim form properly **and**
2. returns the form within six weeks of the date the request was received (or such longer period as the Department may consider reasonable)¹.

Where the date a claim form was requested is not known (for example, because there is no clear evidence in the case or the date has not been recorded) the claim is treated as made on the date six weeks before the date of receipt of the properly completed claim form².

Note: See DMG 2052 et seq for advice on where a claim for Disability Living Allowance or Attendance Allowance is made at an alternative office.

1 SS (C&P) Regs (NI), reg 6(8); 2 reg 6(8A)

Income Support

2246 Where a properly completed claim form for Income Support is received in an appropriate office within one month of the first notification of intention to claim, the date of claim is

1. the date the claimant first notifies an intention to make a claim **or**
2. the first day for which benefit is claimed, if later¹.

Note: Notification of intention to make a claim is deemed to be made on the date when an appropriate office receives² a notification, by whatever means, of an intention to claim Income Support or a defective claim.

1 SS (C&P) Regs (NI), reg 6(1A)(b); 2 reg 6(1A)(c)

Example 1

On 6.7.00 a social worker telephones the office to notify that a claimant wishes to claim Income Support from 6.7.00. A claim form is issued. On 12.7.00 a properly completed claim form with all the required information and evidence is received in the office. The date of claim is 6.7.00.

Example 2

On 6.7.00 a claimant telephones the office to claim Income Support from that day. On 12.7.00 the claim form is received in the office but evidence of final earnings has not been provided. The missing evidence is received on 9.8.00. The date of claim is 9.8.00, because the properly completed claim form was not received within one month of the first notification of intention to claim, on 6.7.00.

Example 3

On 6.7.00 a claimant calls at the office, is given a claim form and hands it in partially completed. The claimant is asked to provide the missing information and does so on 18.7.00. The date of claim is 6.7.00.

2247 Where

1. a person has claimed Working Tax Credit **and**
2. the claim is disallowed because the claimant or partner is not in remunerative work **and**
3. a claim for Income Support or Jobseeker's Allowance is made within 14 days of benefit being disallowed

the claim for Income Support or Jobseeker's Allowance can be treated as made on the date of the original claim for Working Tax Credit or a later date specified by the claimant¹.

1 SS (C&P) Regs (NI), reg 6(28)

Retirement Pension - Late payment of Class 3 contributions

2248 Where a claim to a Category A or Category B Retirement Pension is received and the circumstances shown in DMG 2248 apply, the claim may be treated as made on

1. 1.10.98 **or**
2. the date on which the claimant, for a Category A claim, or their spouse or civil partner for a Category B claim reached pensionable age whichever is the later¹.

1 SS (C&P) Regs (NI), reg 6(31)

2249 The circumstances referred to in DMG 2248 are that

1. the claimant (and their spouse or civil partner in a Category B claim) has attained pensionable age but previously made no claim to Retirement Pension
2. Class 3 contributions for the tax years 1996-97 to 2001-02 which have been paid after the due date have been accepted by Her Majesty's Revenue and Customs¹

3. the contributions have been treated by Her Majesty's Revenue and Customs as having been paid at an earlier date² **and**
4. the person has subsequently claimed a Category A or Category B Retirement Pension³.

1 SS (Contributions) Regs 2001, reg 50A; 2 SS (Crediting and Treatment of Contributions and NI Numbers) Regs (NI) 01, reg 6A; 3 SS (C&P) Regs (NI), reg 6(31)

Note: As 1.10.98 is the earliest date on which contributions can be treated as paid there can be no entitlement to Retirement Pension before this date.

2250 DMG 2248 does not apply where entitlement to a

1. Category A or Category B Retirement Pension **and/or**
2. Graduated Retirement Benefit

has been deferred (see DMG Chapter 75)¹. In these circumstances the normal rules for claiming will apply (DMG 2330).

1 SS (C&P) Regs (NI), reg 6(32)

Date of claim - State Pension Credit tele-claims

2251 Where a person claims State Pension Credit after reaching the qualifying age the date of claim made by telephone is

1. where the claim is not defective - the date details of the claimant's circumstances are provided by telephone¹ **or**
2. where the claim is defective but corrected within the time allowed by the Department - the date the claim is treated as made in the first instance² **or**
3. where the claim is made within one month (or such longer permitted period) of the first notification of an intention to claim benefit - the date of that notification³.

1 SS (C&P) Regs (NI), reg 4E(2)(b); 2 reg 4E(2)(c) & 4C(6E); 3 reg 4E(3)

Example

A telephone claim is received on 6.11.06. A call-back interview is arranged for 10.11.06 when all information necessary to determine the claim is provided. Although the claim made on 6.11.06 was defective when made (because information was not provided during that telephone conversation), the defect was corrected within one month. The date of claim is therefore 6.11.06.

Date of claim for State Pension Credit - in writing or in person

2252 Where a person claims State Pension Credit after reaching the qualifying age, the date of claim is

1. where the claim is made in writing and is not defective, the date on which the claim is first received
 - 1.1 by the Department or the person acting on his behalf¹ **or**
 - 1.2 at an office described in DMG 2129 **3**.²
2. where the claim is made in person
 - 2.1 the date details of the claimant's circumstances are provided by the claimant at an appropriate office (see DMG 2129)³.

1 SS (C&P) Regs (NI), reg 4E(2)(a)(i); 2 reg 4E(2)(a)(ii); 3 reg 4E(2)(b)

Telephone claims for Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit or Shared Additional Pension

2253 The date of claim for claims to Social Fund Funeral Payment, Bereavement Benefit, Retirement Pension, Graduated Retirement Benefit or Shared Additional Pension when made by telephone and which are either

1. not defective **or**
2. defective, but corrected within the time limit allowed by the decision maker (see DMG 2166 - 2170)

is the date of the initial telephone call¹.

1 SS (C&P) Regs (NI), reg 6(1)(c) & (d)

Claims for Incapacity Benefit other than in writing

2254 Where a person notifies **by any means** an appropriate office (or an alternative office for someone of qualifying age claiming Incapacity Benefit) of an intention to claim benefit, the date of claim will be the later of

1. the date on which that notification is received **or**
2. the first day in respect of which the claim is made

provided that a properly completed claim is received in an appropriate (or alternative) office within one month of the notification of intention to claim¹. A properly completed claim is a claim that is made on the form approved for the benefit and completed in accordance with the instructions on it². If such a claim is not made within the one month period, the date of claim will be the date the claim is received³. The one month period is fixed and cannot be extended under any circumstances.

Example

A claimant rings to claim Incapacity Benefit on 10.11.06. A claim form is issued on 15.11.06, the claimant is asked to complete the form and return it. The claim form is returned properly completed on 1.12.06. The decision maker determines the date of claim to be 10.11.06.

Similar provisions apply where a person is required to take part in a work-focused interview (see DMG Chapter 05)⁴.

1 SS (C&P) Regs (NI), reg 6(1B); 2 reg 4(8); 3 reg 6(1)(a); 4 reg 6A(2)(d)

2255 A notification to claim benefit is a communication that states or implies that the person concerned wishes to claim benefit. The above applies to an intention to claim benefit notified by any means. An intention to claim benefit may be notified

1. by telephone
2. in person
3. by e-mail **or**
4. by any other means of communication.

Note: A record should be kept of a communication made other than in writing.

2256 The backdating provision above is in addition¹ to the one in DMG 2344 that applies to claims in writing that is

1. a defective claim (i.e. on an approved form that has not been properly completed) **or**
2. not made on an approved claim form or an acceptable alternative².

Example 1

A person rings Incapacity Benefits Branch on 6.7.06 to claim Incapacity Benefit. A claim form is issued on 14.7.06 and the claimant is asked to complete the form and return it. The form is returned signed but incomplete on 20.7.06. The form is again returned to the claimant on 24.7.06 and subsequently received, properly completed on 4.8.06. The decision maker determines that the date of claim is 6.7.06.

Example 2

A person sends a letter to an appropriate office to say she wishes to claim Incapacity Benefit. This is received on 6.7.06. A claim form is issued on 14.7.06 and the claimant is asked to complete the form and return it. The form is returned properly completed on 21.8.06. The delay in returning the form is a result of the claimant's

illness. The decision maker considers the time taken to complete and return the form to be reasonable in the circumstances. The date of claim is determined to be 6.7.06.

1 SS (C&P) Regs (NI), reg 4(8); 2 regs 4(7) & 6(1)(b)

Telephone claims to Employment and Support Allowance

2257 The date on which a claim for Employment and Support Allowance is made or treated as made is the first

1. date on which

1.1 a properly completed telephone claim is made¹ **or**

1.2 a defective claim is made but is treated as properly made in the first instance² **or**

1.3 the Department is notified of an intention to claim and within one month or such period as considered reasonable a claim is properly completed³ **or**

2. the first day in respect of which the claim is made if later.

1 SS (C&P) Regs (NI), reg 6(1D)(a); 2 reg 6(1D)(b); 3 reg 6(1D)(c)

2258 – 2259

Award of qualifying benefit

Introduction

2260 There are special rules for determining the date of claim where entitlement to a benefit depends on entitlement to another benefit. These apply where a further claim is made following

1. disallowance of an earlier claim **or**

2. termination of an earlier award

and a decision on a qualifying benefit is made.

Note: Where a person makes a claim for Carer's Allowance within three months of a decision awarding a qualifying benefit to the disabled person whether on a claim, an application for revision or supersession or an appeal to an Appeal Tribunal, Commissioners or court, the date of the Carer's Allowance claim is the first day for which the qualifying benefit is payable¹.

1 SS (C&P) Regs (NI), reg 6(33)

Definitions

2261 The following definitions apply to DMG 2266 to 2268.

2262 A decision on a qualifying benefit includes a decision in the claimant's or disabled person's favour

1. on revision or supersession by a decision maker **or**
2. on appeal by an Appeal Tribunal, a Commissioner or a Court¹.

1 SS (C&P) Regs (NI), reg 6(26)

2263 "Relevant benefit" means¹

1. any benefit listed in Annex A (except Incapacity Benefit see DMG 2269 et seq)
2. Income Support
3. Jobseeker's Allowance
4. Social Fund Maternity and Funeral Payments and Cold Weather and Winter Fuel Payments
5. Child Benefit
6. State Pension Credit.

1 SS (C&P) Regs (NI), reg 6(22)

2264 "Qualifying benefit" means¹

1. for Severe Disablement Allowance, the highest rate of the carer component of Disability Living Allowance
2. for Carer's Allowance, any of the benefits or payments referred to in DMG Chapter 60
3. for Social Fund Maternity expenses, income-related Employment and Support Allowance, Income Support, income-based Jobseeker's Allowance, State Pension Credit, Working Tax Credit (where the disability or severe disability element is included in the award), Child Tax Credit (payable at a higher rate than the family element)
4. for Social Fund Funeral expenses, income-related Employment and Support Allowance, Income Support, income-based Jobseeker's Allowance, State Pension Credit, Working Tax Credit (where the disability or severe disability element is included in the award), Child Tax Credit (payable at a higher rate than the family element) or Housing Benefit

5. any other relevant benefit that has the effect of making another relevant benefit payable or payable at an increased rate.

1 SS (C&P) Regs (NI), reg 6(22)

- 2265 "Member of the claimant's family" has the same meaning¹ as in DMG Chapter 22. In the case of State Pension Credit "member of his family" means the other member of a couple where the claimant is a member of a couple².

1 SS (C&P) Regs (NI), reg 6(22); SS C&B (NI) Act 92, sec 133(1); JS (NI) Order 95, art 2(2);

2 SS (C&P) Regs (NI), reg 6(22)

Transitional Protection - disabled person goes into hospital or similar institution

- 2266 Benefits transitionally protected¹ are not lost when a person in receipt of a qualifying benefit goes into hospital or similar institution and payability of that benefit is affected by supersession².

1 Tax Credits Act 2002 (Comm No 3 and Trans Provs and Savings Order) 2003, art 3(3)(c);

2 SS (C&P) Regs (NI), reg 6(19) - (21A)

Example

A Disability Living Allowance claimant goes into hospital. Their carer loses entitlement to Carer's Allowance and child dependency increase. Upon discharge from hospital Disability Living Allowance is re-instated. If Carer's Allowance and child dependency increase are re-claimed within 3 months of the date of discharge, the date of claim shall be treated as the day on which Disability Living Allowance became payable again.

Benefits except Incapacity Benefit

- 2267 Where

1. a claim (the original claim) for a relevant benefit has been refused¹ in the case of any relevant benefit, except Incapacity Benefit, because the claimant or a member of the claimant's family had not been awarded a qualifying benefit **and**
2. a further claim for the relevant benefit is made where the circumstances specified in DMG 2268 apply.

Then the further claim will be treated as made on whichever is later² of the date of the original claim, or the first day in respect of which the qualifying benefit was awarded whether or not it is payable.

Note: In the case of Income Support and Jobseeker's Allowance DMG 2267 1. includes where a claim has been refused on the grounds that income exceeds because the lack of qualifying benefit means that an element of the applicable amount (usually a premium) cannot be awarded.

1 SS (C&P) Regs (NI), reg 6(17); 2 reg 6(16)

2268 The circumstances referred to in DMG 2267 2.¹ are that

1. a claim for the qualifying benefit had been made not later than ten working days after the date of the original claim but had not been decided **and**
2. after the original claim had been refused, the claim for the qualifying benefit was decided in the claimant's or family member's or, in the case of Carer's Allowance, the disabled person's favour **and**
3. a further claim to the relevant benefit is made within three months of the date on which the claim for the qualifying benefit was decided.

Note: This does not apply to claims for Carer's Allowance (see DMG 2260).

1 SS (C&P) Regs (NI), reg 6(18)

Example

A claimant claims Income Support because she is caring for an elderly relative. The relative has been disallowed Attendance Allowance and the Income Support claim is accordingly disallowed. The Attendance Allowance disallowance is overturned on appeal. The claimant claims Income Support again. The second claim is treated as made on the date of the first claim.

Reclaim following termination

2269 Where an award of a relevant benefit is terminated or payment ceases under certain circumstances¹ and a further claim is made then that further claim is treated as made (subject to DMG 2270) on the date of termination of the original award or on the first date in respect of which the qualifying benefit is awarded, re-awarded or becomes payable again².

1 SS (C&P) Regs (NI), reg 6(20); 2 reg 6(19)

2270 In order for the date of claim to be determined in accordance with DMG 2269, the further claim for the relevant benefit must be made within 3 months of the date on which the decision to award, re-award or restart payments of the qualifying benefit on the grounds that either of the following circumstances were satisfied¹

1. that after the original award has been terminated the claim for the qualifying benefit is decided in favour of the claimant, a member of his family or the disabled person **or**
2. the qualifying benefit is re-awarded following revision, supersession or appeal **or**
3. the qualifying benefit is re-awarded on a renewal claim where an award for a fixed period expires **or**

4. the cessation of payment ends when the claimant leaves hospital or similar institution or accommodation.

1 SS (C&P) Regs (NI), reg 6(21)

Note: The date of claim of the relevant benefit is determined by **either** reference to DMG 2269 above **or** by applying the prescribed time for claiming.

Example 1

A claimant is in receipt of Carer's Allowance because he is caring for a severely disabled person who gets Disability Living Allowance. The award of Disability Living Allowance terminates on 1.3.05 because the fixed period award expires. At the same time Carer's Allowance terminates because the qualifying benefit has stopped. A further claim for Disability Living Allowance is made on 1.4.05 which is decided on 1.6.05, effective from 1.4.05. The claimant then makes a further claim for Carer's Allowance on 1.8.05. The claim for Carer's Allowance is treated as made on 1.4.05 because the claim was made within 3 months of the decision to make a fresh award of Disability Living Allowance and so Carer's Allowance is awarded from 1.4.05.

Example 2

A claimant is in receipt of Carer's Allowance. The fixed period award of Disability Living Allowance to the severely disabled person expires on 1.3.05. At the same time Carer's Allowance terminates because the qualifying benefit has stopped. A further claim to Disability Living Allowance is made on 2.5.05 which is decided on 1.6.05, effective from 2.5.05. The claimant then makes a further claim for Carer's Allowance on 11.10.05. Carer's Allowance is awarded from 12.7.05 because the claim was not made within three months of the fresh award of Disability Living Allowance.

Example 3

A claimant is in receipt of Income Support and Incapacity Benefit and makes a claim to Disability Living Allowance on 6 November. The Income Support award is terminated from 20 November because Incapacity Benefit exceeds the Income Support applicable amount. No decision has yet been made on the Disability Living Allowance claim. On 15 December, Disability Living Allowance middle rate care component is subsequently awarded from 6 November. The award of Disability Living Allowance entitles the claimant to Severe Disability Premium as part of the Income Support applicable amount. The award of Income Support would have exceeded Incapacity Benefit if Disability Living Allowance had been decided at the time. The claimant makes a new claim to Income Support on 29 December and this is awarded from the date of termination of his earlier award on 20 November. The decision maker also supersedes the previous Income Support awarding decision to include the Severe Disability Premium for the period 6 - 19 November.

Incapacity Benefit

2271 Where

1. a person has ceased to be entitled to Incapacity Benefit in the following circumstances
 - 1.1 entitlement ceased because the claimant was not incapable of work **and**
 - 1.2 at the date entitlement to Incapacity Benefit ceased, the claimant had claimed a qualifying benefit and that claim had not yet been decided **and**
 - 1.3 after entitlement to Incapacity Benefit ceased the claim for the qualifying benefit was decided in the claimant's favour **and**
 - 1.4 the further claim for Incapacity Benefit was made within three months of the date on which the claim for the qualifying benefit was decided
2. the further claim for Incapacity Benefit will be treated as made on the later¹ of the
 - 2.1 date on which entitlement to Incapacity Benefit ceased **or**
 - 2.2 first day in respect of which the qualifying benefit was payable.

1 SS (C&P) Regs (NI), reg 6(23) & (24)

2272 In DMG 2269 "qualifying benefit" means¹

1. Disability Living Allowance care component at the highest rate
2. an increase of a Disablement Pension for constant attendance which is higher than the lower rate, or is at the higher rate of such an increase
3. Constant Attendance Allowance under the War Pensions or Personal Injury for Civilians Schemes.

1 SS (C&P) Regs (NI), reg 6(25)

Income Support or income-based Jobseeker's Allowance terminated

2273 Where

1. an award of Income Support or income-based Jobseeker's Allowance is terminated **and**
2. a claim for a qualifying benefit is made **and**
3. a further claim for Income Support or income-based Jobseeker's Allowance is made within three months of the date on which the qualifying benefit is decided

the further claim is treated as made on the date the previous award was terminated, or the date from which the qualifying benefit is awarded, whichever is later¹.

1 SS (C&P) Regs (NI), reg 6(30)

Example

A claimant is in receipt of Incapacity Benefit and Income Support when the Incapacity Benefit award is increased to long term Incapacity Benefit, his income exceeds his applicable amount and the award of Income Support is superseded and disallowed from 20.5.07. On 5.8.07 he is awarded the middle rate of the care component of Disability Living Allowance from 31.5.07, the date of the Disability Living Allowance claim. He makes a further claim for Income Support on 28.10.07, which is treated as made on 31.5.07. The new award of Income Support includes the severe disability premium.

Claims for Incapacity Benefit or Employment and Support Allowance where there is no entitlement to Statutory Sick Pay

2274 A claim for Incapacity Benefit or Employment and Support Allowance is treated as made on an earlier date where a person

1. has previously given notice of incapacity to an employer **and**
2. has been notified in writing by the employer that there is no title to Statutory Sick Pay¹.

1 SSP (Gen) Regs (NI), reg 7

2275 The claim is treated as made¹ on the date that the employer accepts as the first day of incapacity provided that the claim is made within three months beginning with the day on which the claimant is notified in writing that there is no title to Statutory Sick Pay².

Example

Colin becomes unable to walk following a road traffic accident on 6 July. On 20 September he is informed by his employer that he is not entitled to Statutory Sick Pay. He makes a claim to Employment and Support Allowance on 15 December. The claim for Employment and Support Allowance is treated as made on 6 July.

1 SS (C&P) Regs (NI), regs 10(1) & (2); 2 reg 10(2)(a) & Sch 4

2276

Carer's Allowance

2277 Where a person makes a claim for Carer's Allowance or an increase for an adult or a child within three months of a decision awarding a qualifying benefit to the disabled

person whether on a claim, an application for revision or supersession or an appeal to an Appeal Tribunal, Commissioner or Court, the date of the Carer's Allowance claim should be treated as the first day of the benefit week in which the qualifying benefit is payable¹. This has the effect that the carer receives benefit for the whole of the week in which the qualifying benefit is first paid. If a renewal award of a qualifying benefit is made then the date of a new claim to Carer's Allowance is treated as the date on which the renewal award of the qualifying benefit came into effect².

1 SS (C&P) Regs (NI), reg 6(33); 2 reg 6(34)

Example

An award of Disability Living Allowance ends on 1.8.07. A repeat claim is made on 1.4.07. Carer's Allowance is claimed on 1.7.07 and is paid from that date rather than 2.8.07.

2078 – 2279

Claims for Maternity Allowance where there is no entitlement to Statutory Maternity Pay

2280 A claim for Maternity Allowance is treated as made on an earlier date where a woman

1. has previously given notice of absence from work to her employer¹ **and**
2. has been notified in writing by her employer that she has no title to Statutory Maternity Pay.

1 SMP (Gen) Regs (NI), reg 23

2281 The claim is treated as made on the later of¹

1. the date notice of absence from work is given to the employer **or**
2. the start of the 14th week before the expected week of confinement.

1 SS (C&P) Regs (NI), reg 10(3) & (4)

2282 The claim for Maternity Allowance must be made within three months of the claimant being notified in writing that she has no title to Statutory Maternity Pay¹.

1 SS (C&P) Regs (NI), reg 10(4)(a)

2283 A claim to Maternity Allowance may be late where

1. a woman has received Statutory Maternity Pay **and**
2. it is later discovered that she was not entitled to it.

In these circumstances the decision maker should treat the claim as made from either of the dates at DMG 2281 so that entitlement to Maternity Allowance for the full Maternity Allowance Period can be considered.

2284 – 2329

Time for claiming

2330 For some benefits the claimant is not entitled for some or all of the period of claim if a claim is not made within the prescribed time. Claims to

1. Carer's Allowance
2. Dependency Increases
3. Maternity Allowance
4. Widow's Benefit
5. Widowed Parent's Allowance
6. Bereavement Allowance
7. State Pension Credit

have an absolute time limit for claiming of three months¹ beginning on any day when the claimant would be entitled to the benefit concerned had a claim been made on time.

In calculating the three months beginning on a particular date that date is **included**. A month means a calendar month². Decision makers will often wish to calculate the earliest date of entitlement working back from the date of claim. The system to use in making such a calculation is: firstly find the appropriate month; secondly find the date in that month that is equivalent to the date of claim (if there is no exact equivalent find the nearest date in the appropriate month); and finally add one day.

1 SS A (NI) Act 92, sec 1; SS (C&P) Regs (NI), reg 19; 2 R(S) 7/51; Inter Act 78

Example 1

A claim is received in an appropriate office on 8.8.05. The appropriate month is May 2005. The equivalent date in May is 8.5.05, adding one day gives 9.5.05. Thus this claimant has claimed in time for 9.5.05 onwards.

Example 2

A claim is received on 28.2.05. The appropriate month is November 2004. The equivalent date is 28.11.04. Adding one day gives 29.11.04. As all the other conditions were satisfied this claimant is entitled to benefit from 29.11.04.

Example 3

A claim is received in an appropriate office on 31.5.05. The appropriate month is February. There is no equivalent to a date of the 31st in February. The decision

maker therefore sought the nearest date to the 31st in February. That was 28.2.05. The decision maker then added on day. Thus in this case the claim can be backdated to 1.3.05.

Example 4

A claim is received on 29.5.03. The appropriate month is February. Again there is no equivalent to the 29th in February 2003 so the decision maker seeks the nearest equivalent in February which is 28.2.03. Adding one day gives 1.3.03. Thus in this case the claimant has claimed in time for 1.3.03 onwards.

Example 5

A claim is received on 28.5.04. The appropriate month is February 2004. The equivalent date is 28.2.04, adding one day in this case gives 29.2.04 (2004 is a leap year). So in this case the claimant has claimed within the prescribed time for 29.2.04 onwards.

Mixed-age couple

- 2331 The normal rules on the 3 month time limit for claiming State Pension Credit applies. This means that claims made on or before 15.5.19 can be backdated to before the rule change applies, provided the claimant meets the entitlement conditions applicable on the earlier date.

Example

A claim is made by the older partner in a mixed-age couple on 15.5.19. The claimant satisfied the conditions of entitlement that applied on 16.2.19.

Therefore, the claim has been made in time for 16.2.19 onwards and State Pension Credit for a mixed-age couple can be awarded.

Note: Please see DMG Chapter 77 for guidance on entitlement to State Pension Credit for mixed-age couples.

2332 – 2338

Bereavement support payment

- 2339 With effect from 1.4.03 the prescribed time for claiming bereavement payment is twelve months beginning on any day when the claimant would be entitled to such a payment¹. However this only has effect for a person who is entitled to a bereavement

payment because of the death of a spouse or civil partner which occurred on or after 1.4.03².

1 SS (C&P) Regs (NI), reg 19(3A); 2 SS (C&P & Misc Amdts No 2) Regs (NI), reg 4

Bereavement benefits where death difficult to establish

2340 The normal time for claiming bereavement benefits (bereavement payment, bereavement allowance and Widowed Parent's Allowance - see DMG 2330 and 2340) may be extended where

1. the dead person's body has not been discovered or identified and death is presumed **or**
2. a surviving partner has been separated for some time from their spouse or civil partner and was unaware of the death or discovery and identification of the body.

Less than twelve months have elapsed since date of death

2341 Where

1. a claimant's spouse or civil partner has died or is presumed to have died **and**
2. less than twelve months have elapsed since the date of death (or presumed death) **and**
 - 2.1 the deceased person's body has not been discovered or identified **or**
 - 2.2 the claimant is unaware of (or only finds out belatedly about) the discovery and identification

the time for claiming is the date of death (or presumed death) and the period of twelve months immediately following that date¹.

1 SS (C&P) Regs (NI), reg 19(3B)

Example

The claimant's spouse disappeared on 26.12.04, feared lost in the Asian tsunami. On 24.8.05 the claimant claims a bereavement payment and allowance saying that her spouse's body had not yet been found and identified. The decision maker decides on the balance of probabilities that the spouse had died on 26.12.04 and the claimant is entitled to a bereavement payment and to a bereavement allowance from 26.12.04.

More than twelve months have elapsed since date of death

2342 Where

1. a claimant's spouse or civil partner has died or is presumed to have died **and**
2. more than twelve months have elapsed since the date of death (or presumed death) **and**
 - 2.1 the deceased person's body has not been discovered or identified (or if it has the claimant was unaware of this)¹ **and**
 - 2.2 the claim is made within twelve months of the date on which the decision maker presumes death² **or**
 - 2.3 the deceased person's body has been discovered and identified and less than twelve months have elapsed since the claimant first knew of this³ **and**
 - 2.4 identification of the body took place not more than twelve months before the claimant became aware of it⁴ **and**
 - 2.5 the claim is made within twelve months of the claimant learning of the discovery and identification of the body⁵

the claimant's entitlement to benefit starts from the date the partner died or is presumed to have died⁶.

1 SS A (NI) Act 92, sec 3(1)(b)(i); 2 sec 3(2)(a); 3 sec 3(1)(b)(ii); 4 sec 3(2)(b); 5 sec 3(2)(b); 6 sec 3(3)

Example

The claimant had been separated from her spouse for a number of years and had lost all contact with him. On 3.7.06 she learned that he had died abroad in a natural disaster on 12.6.05 but it was not until 14.1.06 that his body had been identified. She makes a claim for bereavement benefits on 27.7.06. The decision maker decides that she is entitled to a bereavement payment and to a bereavement allowance from 12.6.05.

Incapacity Benefit/Severe Disablement Allowance/ Industrial Injuries Disablement Benefit/Reduced Earnings Allowance/Employment and Support Allowance

- 2343 The time for claiming Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance is the day for which benefit is claimed and the three months following¹. A month means a calendar month².

1 SS (C&P) Regs (NI), reg 19 & Sch 4, para 2 and 16; 2 CG 66/49 (KL); R(S) 5/63; Inter Act 78

- 2344 The time for claiming Industrial Injuries Disablement Benefit (and increases for Constant Attendance Allowance and exceptionally Severe Disablement Allowance) and Reduced Earnings Allowance is any day of entitlement and the period of three

months immediately following it¹. See DMG Chapter 67 for claims to prescribed diseases A10.

1 SS (C&P) Regs (NI), reg 19 and Sch 4, paras 3, 4 & 5

Example

If the first day of entitlement to a benefit is 4.07.05 the period of three months from that date will end on 4.10.05. To avoid a disallowance the date of claim must be no later than 4.10.05.

2345 – 2363

Retirement Pension/Graduated Retirement Benefit/ Shared Additional Pension/State Pension

- 2364 The time for claiming Retirement Pension/Graduated Retirement Benefit/Shared Additional Pension/State Pension (where a claim is required - see DMG 2009) is any day on which the claimant is entitled to the benefit and the period of twelve months immediately following it¹. This means, for example, that for entitlement to arise on 27.11.06, a claim must be made no later than 27.11.07.

1 SS (C&P) Regs (NI), reg 19 & Sch 4, paras 13, 14 & 15

2365 – 2370

Income Support/Jobseeker's Allowance

- 2371 For Income Support and Jobseeker's Allowance the prescribed time for claiming is the first day of the period claimed for¹. The decision maker has the power to extend the time for claiming in specified circumstances.

1 SS (C&P) Regs (NI), Sch 4, paras 1 & 6

Extending the time for claiming Income Support and Jobseeker's Allowance

- 2372 The time for claiming Income Support or Jobseeker's Allowance may be extended by a period of up to

1. 1 month (see DMG 2374) **or**
2. 3 months (see DMG 2376)

if certain conditions are satisfied¹. But the periods cannot be added together².

1 SS (C&P) Regs (NI), reg 19(4), (5), (6) & (7); 2 R(IS) 3/01

- 2373 In both cases the period of extension is that falling immediately before the date of claim. It does not necessarily run from the first day of the period claimed for¹. In

appropriate circumstances a claim can be taken as including a claim for a period starting with the earliest date which would make the claim in time².

1 R(IS) 3/01; 2 R(IS) 16/04

One month extension

2374 The conditions are that

1. the claim is made late **and**
2. one or more of the circumstances specified in DMG 2375 apply **and**
3. as a result of those circumstances the claimant could not reasonably have been expected to make the claim earlier.

1 SS (C&P) Regs (NI), reg 19(6); R(IS) 16/04

2375 The circumstances are¹

1. the office where the claimant would be expected to make a claim was closed and alternative arrangements had not been made
2. the claimant was unable to attend the appropriate office due to difficulties with the normal mode of transport and there was no reasonable alternative available
3. there were adverse postal conditions
4. the claimant was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to the claimant before the date on which entitlement expired
5. in a claim for **Income Support** or **Jobseeker's Allowance** the claimant had ceased to be a member of a couple within the period of one month before the claim was made
6. during the period of one month before the claim was made, a close relative of the claimant died. "Close relative" means a partner, parent, son, daughter, brother or sister
7. a claim is made by one member of a joint-claim couple and the other member has failed to attend at a time and place specified by the Department for the purpose of claiming a joint-claim Jobseeker's Allowance
8. the claimant's partner was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to the claimant's partner before the date on which entitlement expired

9. the claimant was unable to make telephone contact with the appropriate office because the telephone lines were busy or inoperative.

1 SS (C&P) Regs (NI), reg 19(7)

Three months extension

2376 The conditions are that

1. the claim is made late **and**
2. one or more of the circumstances specified in DMG 2377 apply **and**
3. as a result of those circumstances the claimant could not reasonably be expected to make the claim earlier¹.

1 SS (C&P) Regs (NI), reg 19(4); R(IS) 16/04

2377 The circumstances are¹

1. the claimant has difficulty communicating because of
 - 1.1 learning, language or literacy difficulties **or**
 - 1.2 deafness or blindnessand it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim
2. except in the case of a claim for Jobseeker's Allowance, the claimant was ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim
3. the claimant was caring for a person who was ill or disabled, and it was not reasonably practicable to get help from another person to make the claim
4. the claimant was given information by an officer of the Department which led the claimant to believe that a claim for benefit would not succeed²
5. the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner, a relevant authority, or a person working in a Citizens Advice Bureau or a similar advice agency, which led the claimant to believe that a claim for benefit would not succeed
6. the claimant or partner was given written information about income or capital by an employer or former employer, or by a bank or building society, which led the claimant to believe that a claim for benefit would not succeed
7. the claimant was required to deal with a domestic emergency and it was not reasonably practicable to obtain assistance from another person to make the claim

8. the claimant was prevented by adverse weather conditions from attending the appropriate office.

1 SS (C&P) Regs (NI), reg 19(5); 2 R(IS) 3/01

Example 1

A claimant contacts the Jobs and Benefits Office on 18 January with the intention of making a claim for Jobseeker's Allowance. He is given an appointment on 20 January. At the interview he said that he last worked on 5 January and wished to claim from 6 January. He said that he had not made a claim sooner because he had contacted the secretary of his trade union who has advised him in writing that he should not register as unemployed or claim benefit until the reasons for his dismissal had been fully investigated. The decision maker decides that he had been given written advice by an adviser which led him to believe that a claim for Jobseeker's Allowance would not succeed and extends the time for claiming from 6 January to 18 January.

Example 2

A claimant in receipt of Jobseeker's Allowance, falls sick on 25 January. He contacts the Jobs and Benefits Office on that day and is advised to claim Incapacity Benefit, but is not told anything more. He is informed on 3 January that he does not satisfy the contribution conditions for Incapacity Benefit and he then makes a claim for Income Support. The claimant says that he was under the impression that Incapacity Benefit was all he could claim and did not realise that he could claim Income Support as well as Incapacity Benefit.

The decision maker decides that the claimant has not¹ been given information by an officer of the Department which led him to believe that a claim for benefit would not succeed and does not extend the time for claiming Income Support from 25 January to 3 February.

1 R 1/01 (IS)T

2378 – 2386

Special groups

Persons employed on the continental shelf, mariners and aircrew

2387 Where because of their employment

1. mariners¹
2. aircrew² **or**

3. workers on the continental shelf in British designated areas

are unable to claim benefits other than Income Support or Child Benefit within the prescribed time, the claim is treated as made in time if it is made as soon as reasonably practicable³.

*1 SS (Mariners) Regs (NI), reg 1(2); 2 SS (Airmen) Regs (NI), reg 1(2);
3 reg (3); SS (Mariners) Regs (NI), reg 9; SS Ben (PA) Regs (NI), reg 11(4)*

2388 – 2399

Amending claims and withdrawing claims

2400 A claimant who has made a claim may amend it at any time before a determination has been made¹. An amendment may be made

1. in writing at an appropriate office (see DMG 2049) **or**
2. by telephone call to a telephone number specified by the Department **or**
3. in such other manner as the Department may decide to accept.

Any claim amended as above may be treated as if it had been so amended in the first instance².

1 SS (C&P) Regs (NI), reg 5(1); 2 reg 5(1A)

2401 If a decision maker has decided a claim but has overlooked an amendment made by the claimant, reconsideration of the decision may be appropriate. A claimant may also notify that they wish to amend the claim. This information may allow the decision as to the claimant's entitlement to benefit to be reconsidered. For further details about reconsideration, see DMG Chapter 03 and Chapter 04.

2402 A claim for benefit can be withdrawn at any time before a decision is made on the claim¹. The withdrawal does not need to be made in writing but must be made at an appropriate office. A claim can be withdrawn after a decision has been made only if it is decided that notice of withdrawal was given before the decision was made. This also applies to a claim withdrawn at one office when a decision is made at another office before notification. In such circumstances reconsideration of the decision including revision or supersession may be required. For further details about reconsideration see DMG Chapter 03 and Chapter 04.

Note: A claim for benefit cannot be withdrawn in part.

1 SS (C&P) Regs (NI), reg 5(2); R(H) 2/06

Example

A claim to Jobseeker's Allowance is made. The claimant visits the office and asks to withdraw the income-based Jobseeker's Allowance element of the claim. Because a claim for benefit cannot be withdrawn in part the claimant has to withdraw the whole claim. A fresh claim is made with only the questions relating to contribution-based Jobseeker's Allowance completed - the claimant in effect concedes that they have no entitlement to income-based Jobseeker's Allowance.

2403 The date of a withdrawal is the date a written notice is received or a verbal statement is made. If it is stated that a claim has been withdrawn but there is no record, the decision maker decides whether there has been a withdrawal and the date.

Confirmation of such a contention is necessary only if there are grounds to doubt the claimant's statement¹.

1 R(I) 2/51; R(SB) 33/85

- 2404 If it is contended that a claim was not intended and it is not possible to withdraw the claim, reconsideration procedures may apply. The claimant's intent when making the claim should be considered particularly if the decision resulted in payment of benefit which has been received and retained¹. Further details about reconsideration including revision and supersession are in DMG Chapter 03 and Chapter 04.

1 R(G) 1/82

- 2405 An award of benefit may be surrendered for a future period. Any request to withdraw a claim for a date after the date the award began should be treated as an application for supersession. See DMG Chapter 04 for further guidance.

Amendment and withdrawal of claims

- 2406 A claim that has been made by telephone may be amended or withdrawn either by telephone or in writing at any time before it is determined¹. If a claimant decides therefore during a telephone conversation not to proceed with a claim (for example because it is clear there is no entitlement to benefit) it should be accepted that the claim has been withdrawn. No formal decision is necessary. If the claimant wishes to continue with the claim a formal decision on entitlement should be given.

1 SS (C&P) Regs (NI), reg 5(1) & (2)

In person

- 2407 A claim for State Pension Credit may be made in person to an appropriate office¹. A claim made in person will be defective unless a written statement of the claimant's circumstances is provided². This means signing and returning a completed claim form.

1 SS (C&P) Regs (NI), reg 4C(3); 2 reg 4C(6)

Couples

- 2408 A couple may agree between themselves who is to be the claimant¹. However, in the absence of such an agreement, the Department will decide which partner is to make the claim for State Pension Credit¹. There is no right of appeal against this decision.

1 SS (C&P) Regs (NI), reg 4C(7)

- 2409 Where one member of a couple ("partner 1") is entitled to State Pension Credit under an award and a claim is made by the other member of the couple ("partner 2") then, provided both members of the couple confirm in writing that they wish partner 2 to be

the claimant, partner 1's entitlement will terminate on the last day of the benefit week in which partner 2's claim is made or treated as made¹.

1 SS (C&P) Regs (NI), reg 4C(8) & (9)

2410 – 2419

Period of claims, awards and disallowances

Period of claims

2420 **[See DMG Memo Vol 1/131 & 12/27]** The decision maker decides the period of the claim as part of the outcome decision. Normally the period of claim is indefinite (from and including a particular date)¹. In some cases it will be for a definite period (from one date to another date inclusive). A definite period of claim is appropriate where entitlement

1. is related to conditions which are only satisfied for a specific period **or**
2. has ended at the time the decision maker decides the claim² **or**
3. will end in the near future (this should be decided on the basis of what is reasonable or practical)³.

Regulated Social Fund payments are not made for a period of time. They are one-off payments.

*1 SS A (NI) Act 92, sec 1; SS (C&P) Regs (NI), reg 17(1);
2 SS A (NI) Act 92, sec 1; SS (C&P) Regs (NI), reg 17(6); 3 R(S) 1/92*

2421 A claim ceases to exist once it has been decided by the Department¹. If a claim is disallowed it cannot be superseded because of a change in circumstances which occurred after the decision. A further claim may be made as a result of the change of circumstances. Further details about the finality of decisions are in DMG Chapter 01. Further details about supersession are in DMG Chapter 04.

1 SS (NI) Order 98, art 9(2)

Awards and disallowances: entitlement and payability

2422 The whole of the period of a claim is decided by an outcome decision which awards or disallows benefit. The terms “award” and “disallowance” relate to entitlement rather than payability issues which are relevant to some non-income related benefits (such as earnings, hospital adjustments, overlapping benefits). The award made by a decision maker is the full rate of entitlement even though part of that benefit may not be payable. Benefit specific guidance provides further details. A disallowance is a decision that there is no entitlement to the benefit concerned for all or part of the period under consideration.

Example 1

A claimant is awarded an Increase of Retirement Pension for his wife. At a later date his wife works for three weeks and her earnings exceed the relevant limit. The increase is not payable for three weeks but payment can resume afterwards without the need for a further claim because an underlying entitlement to the increase remains.

Example 2

A claimant is awarded Severe Disablement Allowance. Later it is discovered that he satisfies the contribution conditions for Incapacity Benefit and an award is made. The Overlapping regulations are applied and the payable rate of Severe Disablement Allowance is reduced to nil. Although Severe Disablement Allowance is no longer payable the underlying entitlement remains.

Period of awards and disallowances

- 2423 There should usually be consistency between the decisions on the period of claim and the award or disallowance. An indefinite period of claim should be decided by an indefinite award or indefinite disallowance. Similarly a claim for a definite period of time should be decided by an award or disallowance for a definite period. The period of claim may be decided by a combination of an award and a disallowance or vice versa.

Example 1

Income Support is claimed from 5.1.2000. The decision maker decides that the conditions of entitlement are satisfied. There is no evidence of any fact which would limit the duration of the period of claim. The decision maker decides that the period of claim is indefinite. Income Support is awarded for an indefinite period from 5.1.2000. If a disallowance had been appropriate it would have been for an indefinite period from the same date.

Example 2

A claimant dies on 18.11.2000 having claimed Jobseeker's Allowance from 12.11.2000 but before an award is made. An appointee continues the claim. At the date the decision maker considers the claim entitlement can only be up to the date of the claimant's death. The claim is treated as made for the definite period 12.11.2000 to 18.11.2000 and an award of Jobseeker's Allowance is made for the same period.

Example 3

A claimant claims an Increase of Retirement Pension for his wife from 13.12.99. The decision maker considers the claim on 7.2.2000 when it is known that his wife will be awarded Retirement Pension in her own right from 6.3.2000. The decision maker decides that the claim is for a definite period from 13.12.99 to 5.3.2000. The claimant's wife has earnings which exceed the relevant limit. The decision maker disallows the claim from 13.12.99 to 5.3.2000.

Example 4

On 23.10.2000 the decision maker considers a claimant's claim to Incapacity Benefit, made on 20.10.2000. The evidence shows that the claimant became ill and was unable to work on 16.9.2000. The claimant wishes to claim from that date. The claimant returned to work from 24.9.2000 to 30.9.2000 before becoming ill again on 1.10.2000. The decision maker accepts that the incapacity condition is satisfied for the periods of illness. The decision maker decides that the period of claim is indefinite from 16.9.2000. Allowing for 3 waiting days the decision maker makes a definite award for the period 19.9.2000 to 23.9.2000. This is followed by a disallowance for the definite period 24.9.2000 to 30.9.2000 and an indefinite award from 1.10.2000.

- 2424 Benefits such as bereavement payment and Regulated Social Fund Payments are not related to a period of time. Others such as Maternity Allowance, Jobseeker's Allowance (where it has been claimed only on the basis of contributions) are for specified periods. An award for these benefits is for one sum or related directly to the period of entitlement¹.

1 R(SB) 8/89

Advance awards

- 2425 The guidance about advance awards in the following paragraphs does not apply to
1. Maternity Allowance or where it is treated as a claim for Incapacity Benefit or Severe Disablement Allowance
 2. Retirement Pension or an Increase of Retirement Pension
 3. Disability Living Allowance
 4. Attendance Allowance
 5. State Pension Credit
 6. Shared Additional Pension

7. Social Fund funeral and maternity payments.

See DMG 2530 et seq.

- 2426 An advance award may be possible if a claimant does not satisfy the conditions of entitlement on the date on which the claim is made but will satisfy them for a future period. The future period must begin on a day which is no more than three months after the date of claim. The decision maker treats the claim as made for a period beginning with the date from which entitlement will begin. No disallowance is needed for the period from the date claimed to the date entitlement begins¹. The advance award provisions do not apply to Income Support, income-based Jobseeker's Allowance and income-related Employment and Support Allowance claimants from abroad (including claimants who are not habitually resident in the UK).

1 SS (C&P) Regs (NI), reg 13(1); 2 reg 13D(4)

Example

A claimant, who receives Income Support, makes a claim for a Maternity Payment 15 weeks before her expected date of confinement. If the decision maker considers it will be likely that the claimant will still be getting Income Support in four weeks time (the start of the prescribed time for claiming), the claim date can be advanced and an award considered.

- 2427 The claim should only be treated as made in advance if the day on which entitlement would begin is fixed and certain. If it is not, a disallowance should be given and the claimant advised to claim at a later date. If an advance award is made it is subject to the claimant satisfying the conditions for entitlement when the date from which benefit is to be awarded is reached. The decision maker should reconsider an award made in advance if, on the date entitlement would start, the claimant does not satisfy conditions for entitlement because, for example, there has been a change of circumstances in the meantime¹ (see DMG Chapter 04).

1 SS (C&P) Regs (NI), reg 13(2)

Considering the claimant's entitlement down to the date of decision

- 2428 A claim for a future period continues to run until it is decided by the decision maker¹. When giving a decision on the claim, the decision maker must consider the claimant's entitlement for each day in the period starting with the first day claimed for and ending with the date of the decision maker's decision. This may mean that further information should be obtained from the claimant to ensure that there has been no further change of circumstances since the claim was made.

1 SS (NI) Order 98, art 9(2)(a)

- 2429 If the claimant is entitled to benefit for any day in that period, benefit should be awarded. This is so even if the claimant later ceased to be entitled. If the claimant is entitled to benefit on the date of the decision maker's decision, a definite or indefinite period award for the future should be made, as appropriate.

Example

The claimant claims Jobseeker's Allowance on 30.6.06 but on that date she has capital over the statutory limit. On 10.7.06 she reduces her capital below the limit by repaying a loan that legally must be paid immediately. On 14.7.06 the decision maker decides that the claimant is entitled to Jobseeker's Allowance from 10.7.06 and makes an indefinite award from and including that day. Note that in this case the decision maker makes an award at a time when the claimant is entitled to benefit.

- 2430 Where the date of claim is more than three months (or four months for Retirement Pension and State Pension Credit) before the decision maker decides it, it is not necessary to consider the advance award provisions. In such a case, the whole of the advance claim period as well as any period after that will fall to be decided under the principle above.

Staying a decision

- 2431 The decision maker has no power to leave a valid claim or application undecided but in some circumstances the decision maker may stay a decision. Staying means that the decision maker does not have to make a decision (or may make a restricted decision) in cases which would be affected by the outcome of an appeal to the courts in another case which has yet to be decided¹. Further details about staying are in DMG Chapter 06.

1 SS (NI) Order 98, art 25

2432 – 2439

Representatives and claims at death

Appointees

2440 The Department can appoint a person to act on behalf of someone who is or may be entitled to benefit and is unable to act, for example because of senility or mental illness. The decision maker should treat any action of an appointee as if it had been taken by the claimant, noting that

1. appointments are unnecessary if someone has already been legally appointed to act on behalf of the claimant
2. the person must apply in writing. Individual appointees must be at least 18 years old¹
3. an appointee can be a body of people such as a firm of solicitors or a health authority²
4. where someone has been appointed to act for a person unable to act for themselves in respect of a claim to housing benefit under specific legislation³ by a relevant authority administering housing benefit. The Department may, with the person's agreement, treat them as an appointee also for social security purposes⁴.

¹ *SS (C&P) Regs (NI), reg 33*; ² *R(SB) 2/87, R(A) 2/81*; ³ *HB (Gen) Regs (NI), reg 71(3)*;

⁴ *SS (C&P) Regs (NI), reg 33(1A)*

Power of attorney

2441 Power of Attorney (PoA) is a legal document (a deed) by which one person gives another person authority to handle their affairs. The power may be a

1. general power - to handle all the person's affairs
2. specific power - to handle some of the person's affairs
3. power for a limited period - for example, while the person is ill or abroad¹.

¹ *Power of Attorney Act (NI) 71*

2442 – 2443

Controllers/Guardians

- 2444 Where a person is incapable of managing their own affairs and therefore incapable of authorising someone else to act on their behalf, the Office of Care and Protection may appoint a controller to act for the person. A controller who is appointed to act in all matters may make claims to benefit without further authority from the Department.

2445 – 2449

Claims at death

- 2450 Existing appointments end immediately the claimant dies. A new appointment may be made to the same person, or another responsible person. Where a person who has made a claim dies, that claim (or any related issue of revision, supersession or appeal) may continue if the person continuing with the claim is

1. the executor for the grant of probate **or**
2. the administrator from the grant of letters of administration **or**
3. appointed to act on behalf of the estate by the Department **and**
4. the grant or appointment is submitted to the decision maker before any decision is made¹.

1 SS (C&P) Regs (NI), reg 30(1); R(SB) 8/88

- 2451 Where the deceased had left a will naming an executor, that nominated executor can apply to the Department to continue with a claim (or any related issue of revision, supersession or appeal) on behalf of the deceased¹. Alternatively, the person may be appointed to proceed with the claim by the decision maker².

1 R(SB) 8/88; 2 SS (C&P) Regs (NI), reg 30(1)

- 2452 Where a person dies without having claimed benefit, a claim on the deceased's behalf may be made if there would have been entitlement before death had a claim been made in the prescribed manner and within the prescribed time. For the following benefits a posthumous claim cannot be made

1. Income Support
2. Jobseeker's Allowance
3. State Pension Credit
4. Social Fund¹.

1 SS (C&P) Regs (NI), reg 30(5)

2453 For a valid claim to be made after the claimant's death the following conditions must be satisfied

1. a written application to be appointed to act should be made to the Department within six months of the date of death¹ or in Industrial Injury benefits within six months of the date of issue of a death certificate² **and**
2. a person must be appointed by the Department to make the claim³ **and**
3. the claim must be made within six months of the person being appointed⁴.

*1 SS (C&P) Regs (NI), reg 30(6)(a); 2 reg 30(6B)(b);
3 reg 30(6)(b); 4 reg 30(6)(c)*

2454 Where appropriate the time to apply for appointment may be extended by up to six months. Where this is done the time for claiming is reduced by the same amount. Similarly the time for claiming benefit may be extended by up to six months where an application for appointment has been made within six months¹.

1 SS (C&P) Regs (NI), reg 30(6D)(a); SS (CMB) Regs (NI), reg 13(4) & (5)

2455 There is an overriding limitation that a claim cannot be made more than twelve months after the date of death¹. In calculating the period of twelve months, the time between the receipt of the application to be appointed and the authorisation of the appointment is disregarded².

*1 SS (C&P) Regs (NI), reg 30(6D)(b) & (c); SS (CMB) Regs (NI), reg 13(6);
2 SS (C&P) Regs (NI), reg 30(6D)(c)*

2456 For Industrial Injuries Disablement Benefit and Reduced Earnings Allowance "date of death" in DMG 2453 - 2455 should read as "date of issue of death certificate"¹.

1 SS (C&P) Regs (NI), reg 30(6B)

2457 A claim made in time by the appointed person is treated as if it had been made by the deceased on the date of death¹.

1 SS (C&P) Regs (NI), reg 30(7)

2458 – 2464

Category A and Category B Retirement Pension/ Graduated Retirement Benefit/Shared Additional Pensions/State Pension

2465 The following paragraphs describe the special rules that apply to posthumous claims for Category A and Category B Retirement Pension/Graduated Retirement Benefit/Shared Additional Pensions or State Pension. They also describe the claiming provisions where the deceased was deferring entitlement to these benefits at the date of death¹. Full guidance about deferment of benefit can be found in DMG Chapter 75.

1 SS (C&P) Regs (NI), reg 30(5) - (5G)

2466 A claim may be made on behalf of a deceased person to any Category A or Category B Retirement Pension or Graduated Retirement Benefit to which they may have been entitled provided that the deceased was neither

1. married **nor**
2. in a civil partnership

at the date of death. This is because of the normal inheritance provisions for such couples (see DMG Chapter 75)¹.

1 SS (C&P) Regs (NI), reg 30(5A)

2467 However the rule in DMG 2466 creates an anomaly for certain widowers and civil partners who cannot benefit from the main deferral provisions (see DMG Chapter 75). This anomaly will disappear from 6.4.10 when the inheritance provisions between men and women are equalised. Until that time a claim for a Category A or B Retirement Pension or Graduated Retirement Benefit on behalf of a deceased person may also be made by a widower or surviving civil partner who is

1. under pensionable age on the date of their wife's or civil partner's death **and**
2. due to reach pensionable age before 6.4.10¹.

1 SS (C&P) Regs (NI), reg 30(5B)

2468 The amount of benefit that can be claimed under DMG 2466 and DMG 2467 or for a Shared Additional Pension or State Pension is the amount that person would have been entitled to had they claimed it within the prescribed time for claiming. For this purpose the prescribed time is three months beginning with any day of entitlement to the benefit and ending on the date of death¹. The maximum amount that can be claimed is therefore three months benefit.

1 SS (C&P) Regs (NI), reg 30(5C)

2469 Where a deceased person had deferred their entitlement to a Category A or B Retirement Pension, Graduated Retirement Benefit or Shared Additional Pension (see DMG Chapter 75) throughout the period of twelve months before the date of death they will be treated as having made an election in favour of an increase in their weekly pension or benefit. The lump sum payment is not available to a person making a posthumous claim¹.

1 SS (C&P) Regs (NI), reg 30(5D) & (5E)

2470 Where the deceased person was a widow, widower or surviving civil partner

1. whose deceased spouse or civil partner had deferred entitlement to a Category A or B Retirement Pension or Graduated Retirement Benefit throughout the period of twelve months before their date of death **and**
2. the widow, widower or surviving civil partner had made no election in relation to that period of deferment

they will be treated as having made an election in favour of an increase in benefit. The lump sum payment is not available to a person making a posthumous claim¹.

1 SS (C&P) Regs (NI), reg 30(5F) & (5G)

2471 Where a person makes a claim to State Pension¹ as in DMG 2465 then the deceased person shall be treated as having made a choice to be paid State Pension based under

1. survivor's pension based on inheritance of deferred old state pension² **or**
2. prescribed legislation which make corresponding provisions³.

1 SS (C&P) Regs (NI), reg 30(5H); 2 Pensions Act (NI) 15, sec 9 & sec 8(2)(b); 3 sec 8(2)(b), 9 & 10

Automatic payment of arrears of benefit to a spouse or civil partner upon death

2472 If the claimant was in receipt of Retirement Pension, Additional Pension, State Pension or State Pension Credit or any other benefit combined for payment purposes with any of those benefits then any arrears of benefit will be paid automatically to a spouse or civil partner when the claimant dies. No written application is required.

2473 Arrears will only be paid if an executor or administrator has not been appointed and the spouse or civil partner was living with the claimant at the time of death. It also applies if the spouse or civil partner would have been living with the claimant at the time of death but for the fact that one or both of them was in a residential care home, nursing home or hospital¹.

1 SS (C&P) Regs (NI), reg 30(4) & (4B)

2474 – 2499

Treating a claim for one benefit as a claim for another benefit

- 2500 A claim for one benefit may in some circumstances be treated instead as a claim for a different benefit or it may be treated as a claim for an additional benefit¹. The decision maker must consider if the minimum standards of information and evidence for the different or additional benefit are met if the claim is to be valid (see DMG 2080).

1 SS (C&P) Regs (NI), reg 9(1)

- 2501 A claim for the benefit listed in Column 1 of the table below **may** be treated as a claim for the different or additional benefit listed in Column 2¹. This provision is not mandatory and should not be employed if detrimental to the claimant.

Column 1	Column 2
Benefit claimed	Benefit which may be treated as if claimed
Attendance Allowance	Disability Living Allowance or an increase of Industrial Injuries Disablement Benefit where constant attendance is needed
Disability Living Allowance	Attendance Allowance or an increase of Industrial Injuries Disablement Benefit where constant attendance is needed
An increase of Industrial Injuries Disablement Benefit where constant attendance is needed	Attendance Allowance and Disability Living Allowance
Employment and Support Allowance for a woman	Maternity Allowance
Income Support	Carer's Allowance
Incapacity Benefit for a woman	Maternity Allowance
Maternity Allowance (see also DMG 2585 and 2507)	Incapacity Benefit, Severe Disablement Allowance or Employment and Support Allowance

Column 1	Column 2
Retirement Pension (of any category)	Bereavement Benefit, Retirement Pension of any other category, Graduated Retirement Benefit or Shared Additional Pension
Severe Disablement Allowance	Incapacity Benefit
State Pension	Any other type of State Pension
Severe Disablement Allowance for a woman	Maternity Allowance
Bereavement Benefit	Retirement Pension (of any category), Graduated Retirement Benefit or State Pension
Increase of Severe Disablement Allowance	Increase of Incapacity Benefit
Widow's Benefit or Bereavement Benefit	A Retirement Pension of any category or Graduated Retirement Benefit or State Pension

1 SS (C&P) Regs (NI), Sch 1, Part 1

2502 A claim for an increase of benefit can be accepted as

1. a claim for the same increase of a different benefit **or**
2. a claim for a different increase of the same or a different benefit.

Example 1

A claim for an increase of Incapacity Benefit for a partner can be accepted also as a claim for an increase of Severe Disablement Allowance for a partner.

Example 2

Where a valid marriage or civil partnership is not accepted, a claim for an increase of Incapacity Benefit for a partner can be accepted as a claim for an increase for a person having care of children.

Claim for Child Benefit

2503 Where a person who has claimed Child Benefit may be entitled instead or also to

1. Guardian's Allowance
2. Maternity Allowance
3. child dependency increase¹

for the same child, the Department may treat that claim as a claim in the alternative or also to one of those benefits².

1 SS C&B (NI) Act 92, sec 80; 2 SS (C&P) Regs (NI), reg 9(3) & Sch 1, Part II

Claim to be regarded as a claim to Child Benefit

- 2504 Where a claim is made for one of the following benefits and the claimant may be entitled to Child Benefit for the same child the Department may treat the claim as a claim instead or also for Child Benefit or Guardian's Allowance, or Maternity Allowance claimed after confinement or a child dependency increase¹.

1 SS C&B (NI) Act 92, sec 80

Maternity Allowance claimed before confinement

- 2505 Where

1. it has been certified¹ that a woman is expected to be confined **and**
2. she makes a claim for Maternity Allowance before the confinement

that claim may, unless the decision maker decides otherwise, be treated as a claim for Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance².

1 SS (Med Ev) Regs (NI), reg 2(3)(a); 2 SS (C&P) Regs (NI), reg 11(1)

- 2506 The claim for Maternity Allowance can be treated as a claim to Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance

1. from the earlier of
 - 1.1 the beginning of the 6th week before the expected week of confinement **or**
 - 1.2 the actual date of confinement
2. to the 14th day after the actual date of confinement.

Maternity Allowance claimed after confinement

2507 Where

1. it has been certified¹ that a woman has been confined **and**
2. she makes a claim for Maternity Allowance within three months of the date of confinement

that claim may be treated as a claim instead or also for Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance².

1 SS (Med Ev) Regs (NI); 2 SS (C&P) Regs (NI), reg 11(2)

2508 The claim to Maternity Allowance can be treated as a claim for Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance for the period

1. beginning with the actual date of confinement **and**
2. ending 14 days after that date.

2509 – 2529

Advance claims

Attendance Allowance and Disability Living Allowance

2530 A claim for Attendance Allowance or Disability Living Allowance may be made

1. for Attendance Allowance - within the six month qualifying period¹
2. for Disability Living Allowance - within the three month qualifying period²
3. for both benefits - in the six months before a current award ends³.

1 SS C&B (NI) Act 92, sec 65(6)(a); 2 SS (C&P) Regs (NI), reg 13A; 3 reg 13C

2531 Where a claim is decided in advance it must be decided on circumstances obtaining at the date of decision. This excludes any prediction of what a person's circumstances might be at the date of entitlement¹. However, the decision maker can take account of any change that will inevitably occur within three months following the renewal date. A change of circumstances occurring after the claim is decided and before the date of entitlement should be dealt with by way of revision² (see DMG Chapter 03) or supersession³ (see DMG Chapter 04).

*1 R(DLA) 4/05; 2 SS (NI) Order 98, art 10; SS (C&P) Regs (NI), reg 13C(3);
3 SS & CS (D&A) Regs (NI), reg 6(2)(a)*

2532 Where a renewal claim is disallowed the disallowance does not subsist after the date of decision. A further claim may therefore be made between the date of the decision and the renewal date on the basis of changes that have occurred since the decision was given. Any award of benefit will be effective from the renewal date¹.

1 R(DLA) 4/05

2533 Occasionally it might be appropriate to defer making a decision on a renewal claim. This might be when a claimant is particularly relying on an anticipated change of circumstances (for example, an operation to amputate a limb that would considerably increase care needs)¹. But these cases are likely to be few in number and advice should be sought before taking action.

1 R(DLA) 4/05

2534 A decision on a renewal claim (especially where it is to disallow) will always raise the question of whether the existing award should be superseded¹. But it will not always be appropriate to supersede and decision makers should follow existing guidance.

1 R(DLA) 4/05

Maternity Allowance

- 2535 A claim for personal Maternity Allowance, or for an increase of Maternity Allowance for an adult dependant cannot be made earlier than 14 weeks before the expected week of confinement¹.

1 SS (C&P) Regs (NI), reg 14(1)

- 2536 A claim for an increase of Maternity Allowance for an adult dependant cannot be made in advance if the conditions of entitlement for the increase are not satisfied at the date of claim¹.

1 SS (C&P) Regs (NI), reg 14(2)

Example

A claimant, with one child, claims an increase of maternity allowance for a person caring for a child in the 8th week before her expected week of confinement. The claim is from the 6th week before the expected week of confinement when she considers that she will need help with her first child. At the date of claim there is no entitlement to the increase because the person does not have the care of the child. The advance claim for the dependant is not accepted as a valid claim.

Retirement Pension, Shared Additional Pension and State Pension

- 2537 A claim for Retirement Pension of any category, Shared Additional Pension or State Pension can be made up to four months before the date that the claimant will become entitled to the benefit¹ (subject to the conditions of entitlement in DMG Chapter 75). Where entitlement to a Category A or a Category B Retirement Pension (including any increase in that pension e.g. Graduated Retirement Benefit or adult dependency increase), Shared Additional Pension or State Pension is deferred (see DMG Chapter 75) a claim may be made up to four months before the period of deferment ends². Where a claimant is in receipt of Incapacity Benefit while over pensionable age (see DMG Chapter 56) entitlement to Retirement Pension begins on

1. the first day to which the claim relates **or**
2. if that date is not the appropriate pay day for payment of Retirement Pension, the next following pay day³.

1 SS (C&P) Regs (NI), reg 15(1); 2 reg 15B; 3 reg 15(5)

- 2538 The decision maker should not accept that a valid claim has been made, where a claim is made more than four months before the stated day of entitlement. A further claim will be required for entitlement to be considered again.

Incapacity Benefit and Severe Disablement Allowance

2539 A claim for Maternity Allowance may be treated as a claim for Incapacity Benefit or Severe Disablement Allowance where

1. an expected date of confinement certificate has been issued **and**
2. the woman makes her claim for Maternity Allowance before her confinement¹.

1 SS (C&P) Regs (NI), reg 11(1)

2540 The claim for Maternity Allowance

1. can be made up to fourteen weeks before the expected week of confinement¹
and
2. can be treated as a claim for Incapacity Benefit or Severe Disablement Allowance from the earlier of
 - 2.1 the start of the 6th week before the expected week of confinement **or**
 - 2.2 the actual date of confinement².

1 SS (C&P) Regs (NI), reg 14(1); 2 reg 11(1)

2541 A claim for Maternity Allowance which is

1. made between the 14th week before the expected week of confinement **and**
2. made up to the beginning of the 6th week before the expected week of confinement **and**
3. treated as a claim for Incapacity Benefit or Severe Disablement Allowance

will be a claim in advance for those benefits. The claim can be treated as a claim for Incapacity Benefit up to the 14th day following the actual date of confinement.

Incapacity Benefit - failure to satisfy contribution condition

2542 Where a claim for Incapacity Benefit is made and the decision maker is satisfied that

1. the contribution conditions are not met **and**
2. within three months the conditions would be satisfied for a period of incapacity for work beginning in a later benefit year

the decision maker may treat the claim as made for a period starting with the first day on which the conditions are satisfied and award benefit¹.

1 SS (C&P) Regs (NI), reg 13

Social Fund funeral and maternity payments

2543 An advance claim for a funeral or maternity payment can be made up to three months before the normal time for claiming begins¹. The normal time for claiming is

1. **for maternity payments** - the period beginning
 - 1.1 eleven weeks before the first day of the expected week of confinement and ending six months after the actual date of confinement² **or**
 - 1.2 with the date on which the claimant becomes responsible for the child and ending six months after that date³ **or**
 - 1.3 with the date on which a qualifying order is made and ending six months after that date⁴ **or**
 - 1.4 with the date on which the guardianship takes effect and ending six months after that date⁵ **or**
 - 1.5 with the date on which the child is placed with the claimant or the claimant's partner for adoption and ending six months after that date⁶ **or**
 - 1.6 with the date on which the adoption⁷
 - 1.6.1 takes effect in respect of an adoption under prescribed legislation⁸ **or**
 - 1.6.2 is recognised under prescribed legislation and ending six months after that date⁹
2. **for funeral payments** - the period beginning with the date of death and ending six months from the date of the funeral¹⁰.

¹ SS (C&P) Regs (NI), Sch 4, para 8(a)-(f);

² SF (M&FE) (Gen) Regs (NI), reg 5(3)(a); SS (C&P) Regs (NI), Sch 4, para 8(a);

³ SF (M&FE) (Gen) Regs (NI), reg 5(3)(b); SS (C&P) Regs (NI), Sch 4, para 8(b);

⁴ SF (M&FE) (Gen) Regs (NI), reg 5(3)(c); SS (C&P) Regs (NI), Sch 4, para 8(c);

⁵ SF (M&FE) (Gen) Regs (NI), reg 5(3)(d); SS (C&P) Regs (NI), Sch 4, para 8(d);

⁶ SF (M&FE) (Gen) Regs (NI), reg 5(3)(e); SS (C&P) Regs (NI), Sch 4, para 8(e);

⁷ SF (M&FE) (Gen) Regs (NI), reg 5(3)(f); SS (C&P) Regs (NI), Sch 4, para 8(f);

⁸ Adoption (NI) Order 1987, art 39(1)(cc); SS (C&P) Regs (NI), Sch 4, para 8(f)(ii);

⁹ Adoption (NI) Order 1987, art 39(1)(d); SS (C&P) Regs (NI), Sch 4, para 8(f)(ii);

¹⁰ SS (C&P) Regs (NI), reg 19(1) & Sch 4, para 9

2544 The decision maker should

1. decide whether a claim which has been made too early can be accepted as an advance claim **and**
2. if the claim is not accepted as an advance claim, disallow it because it has been made outside the normal time limits.

2545 The decision maker should accept that an advance claim has been made where the evidence shows that the conditions for entitlement will be satisfied

1. **for maternity payments** - on the first day of the eleventh week before the expected week of confinement
2. **for funeral payments** - on the date of the funeral.

Benefit will be paid on that day, subject to all the conditions for entitlement being satisfied¹.

1 SS (C&P) Regs (NI), reg 13(1)(b)

2546 – 2559

State Pension Credit

Making a claim before attaining qualifying age

- 2560 A claim for State Pension Credit may be made and that claim may be determined, at any time within the advance period¹.

1 SS (C&P) Regs (NI), reg 4D(1)

- 2561 The advance period begins on the date four months before the day on which the claimant attains the qualifying age and ends on the day before the claimant reaches that age¹.

1 SS (C&P) Regs (NI), reg 4D(2)

- 2562 Where a claim made within the advance period is defective, the claimant may correct the defect at any time before the end of the advance period¹.

1 SS (C&P) Regs (NI), reg 4D(3)

- 2563 Where a claim for State Pension Credit is made during the advance period the information or evidence required by the Department in order to decide whether to set an assessed income period or the length of an assessed income period the time within which the claimant **must** provide that information **starts** on the day the claimant reaches qualifying age¹. That time will be one month or such longer period as the decision maker considers reasonable in the claimant's case.

1 SS (C&P) Regs (NI), reg 7(1C)

Meaning of qualifying age

- 2564 "Qualifying age" means¹

1. in the case of a woman, pensionable age **or**
2. in the case of a man, the age which is the pensionable age of a woman born on the same day as that man.

1 SPC Act (NI) 02, sec 1(6)

Advance claims of State Pension Credit

- 2565 An advance claim for State Pension Credit may be made where¹
1. a person does not satisfy the requirements for entitlement to State Pension Credit on the date the claim is made **and**
 2. the decision maker is of the opinion that, unless there is a change of circumstances, the claimant will satisfy those requirements
 - 2.1 where the claim is made in the advance period, when the claimant attains the qualifying age
 - 2.2 in any other case, within four months of the date on which the claim is made.
- 1 SS (C&P) Regs (NI), reg 13D(1)*
- 2566 State Pension Credit claimants who are not treated as being in Northern Ireland are excluded from the advance claims provisions¹.
- 1 SS (C&P) Regs (NI), reg 13D(4)*
- 2567 Where the conditions in DMG 2565 are satisfied, the decision maker can¹
1. treat the claim as made for a period beginning on the day (“the relevant day”) the claimant
 - 1.1 attains the qualifying age, where the claim is made in the advance period **or**
 - 1.2 in any other case is likely to satisfy the requirements for entitlement **and**
 2. if appropriate, award State Pension Credit accordingly, subject to the condition that the claimant satisfies the conditions of entitlement on the relevant day.
- 1 SS (C&P) Regs (NI), reg 13D(2)*
- 2568 An award under DMG 2565 may be revised if the claimant fails to satisfy the conditions of entitlement on the relevant day¹.
- 1 SS (C&P) Regs (NI), reg 13D(3)*

Mixed-age couple

- 2569 Decision makers can decide State Pension Credit claims made in advance for periods starting on or after 16.2.19 based on the changes being made to excluded groups from 16.2.19.

Note: Please see DMG Chapter 77 for guidance on entitlement to State Pension Credit for mixed-age couples.

2570 – 2599

Good cause

- 2600 Good cause used to apply when considering claims for some benefits made before 7.4.97. Good cause remains a consideration in deciding whether the right to payment of benefit is extinguished although with the replacement of cheques with Simple Payments this is less likely. See DMG Chapter 34 for guidance on good cause in the context of Jobseeker's Allowance sanctions.

Application

Meaning of good cause

- 2601 Good cause is not defined in legislation but is dealt with in case law. It includes any facts which would probably have caused a reasonable person to act as the claimant did¹, for example

1. the claimant's age, health, background and knowledge of the Social Security system
2. information the claimant had received or could have obtained.

It is for the claimant to show good cause² unless there is an appointee³. The claimant's explanation for the delay in claiming should be considered in the light of all the facts and circumstances⁴.

1 CS 371/49(KL); R(SB) 6/83; 2 CS 371/49(KL); 3 SS (C&P) Regs (NI), reg 33; 4 R(G) 2/74

- 2602 Some of the conditions which may cause delay, and whether these can be accepted as good cause, are looked at in the following paragraphs.

Ignorance "of itself"

- 2603 Good cause cannot be established by a claimant simply claiming to be ignorant of

1. the right to benefit **or**
2. the time limit for claiming¹.

The question is whether the claimant's ignorance or mistaken belief was **reasonable**².

1 R(SB) 6/83; CS 35/48; 2 CS 371/49 (KL)

- 2604 A plea of ignorance will not necessarily lead to disentitlement¹. The decision maker must always

1. look at the reasons for the ignorance **and**
2. consider if it was reasonable for the claimant not to have enquired, or to think that there was nothing to enquire about².

1 R(S) 5/79; Walls Meat Co Ltd v Khan [1979] 1 CRS; 2 R(P) 1/79

Failure to make enquiries

2605 Claimants are expected to take reasonable steps to find out what their rights and duties are¹. Claimants should

1. realise that they may be entitled to benefit **and**
2. find out how to claim by asking at a Jobs and Benefits Office².

The decision maker must look at the evidence and consider if the person has done what can be reasonably expected.

1 CWG 2/49; R(G) 3/53; R(P) 1/79; R(S) 8/81;

2 CWG 2/40; CSG 9/49; R(I) 82/53; R(U) 35/56; R(P) 5/61; R(SB) 6/83

2606 Failure to make enquiries will not on its own necessarily mean that good cause has not been shown. The decision maker should not expect claimants to make it their top priority to find out about Social Security legislation, on the chance that they might be affected¹.

1 R(S) 3/79

New legislation

2607 New legislation may change the conditions of entitlement or payability of an existing benefit. Claimants who have

1. had a claim for benefit disallowed **or**
2. not claimed because it was clear there was no entitlement

may become entitled under the new legislation.

2608 If the claimant was unaware of a publicity campaign designed to attract claims under the new legislation good cause may be accepted for delay in claiming¹. But if the claimant

1. saw the publicity **or**

2. was aware of the new legislation but **did not** make further enquiries

the decision maker should consider if the delay was reasonable.

1 R(P) 1/79

Difficulty with language

2609 Difficulty with language is not in itself good cause for delay in claiming but difficulty in communication may be¹. For example, a claimant who

1. has little or no understanding of English **and**
2. seeks advice from an interpreter at an office of the Department

will be able to show good cause if the interpreter makes a mistake when passing on that advice.

Claimants are expected to seek help. Good cause should not be accepted unless there was no one who could have enquired on their behalf.

1 R(G) 1/75

Postal delays

2610 Good cause should be accepted if there is

1. normal postal delay, that is the time taken for the delivery of post in normal circumstances **or**
2. unusual postal delay, that is any delay greater than in the 1st point **or**
3. general postal delay brought about by industrial action for example.

Where there has been any postal delay, other than as in the 1st point, the decision maker should consider if it was reasonable for the claimant not to have enquired about the progress of the claim.

Misled by official information

2611 If a claimant

1. enquires at an office **and**
2. makes enquiries at an office of the Department
3. acts on the information or advice given

good cause for the delay in claiming can be accepted from the day the advice was given if that advice was incorrect or misleading.

- 2612 If the claimant tried to carry out official advice but acted wrongly through misunderstanding, good cause may be accepted unless the claimant acted unreasonably¹. The decision maker should consider if the delay in claiming was due to a mistaken belief that was reasonable².

1 R(G) 1/75; 2 R(P) 1/79; R(S) 8/81; R(SB) 6/83

- 2613 A claimant could only reasonably expect advice about benefits which that office deals with. Good cause may be accepted where¹

1. a claimant is
 - 1.1 not given advice **or**
 - 1.2 is given misleading advice **and**
2. it would be reasonable to expect advice to have been given **and**
3. the advice or lack of it contributed to the delay in claiming.

1 R(U) 3/60; CG 184/50

Misled by unofficial information

- 2614 Claimants acting on unofficial advice, for example from colleagues, friends or relatives, will not normally be able to prove good cause. But good cause may be accepted where it was reasonable for the claimant to believe that the advice was either official or reliable.

- 2615 Good cause may be accepted where the delay in claiming was due to the claimant relying on advice or information given by an organisation which makes available claim forms or leaflets, for example

1. Post Offices
2. hospitals
3. welfare rights offices
4. Citizens Advice Bureaux¹.

1 R(U) 9/74

Advice from a doctor

2616 A person whose doctor gives incorrect advice about claiming benefit cannot show good cause **unless**

1. special circumstances, for example the claimant's age, health or experience make it reasonable to rely on the doctor's advice¹ **or**
2. the claimant was acting on advice about a medical issue, for example whether pneumoconiosis could be diagnosed at the outset².

1 R(S) 5/56; 2 R(I) 40/59

Advice from a solicitor or accountant

2617 Good cause may be accepted where a claimant relies on advice given by a solicitor¹ or an accountant, on a legal question regarding claims and entitlement to benefit.

1 CS 50/50

Deliberately does not claim

2618 A person who deliberately does not claim may not be able to show good cause¹.

1 CS 596/49; R(U) 34/51; CS 34/49; R(P) 3/59

2619 Where a claimant deliberately does not claim the decision maker must decide if the delay was reasonable¹. Factors to be considered include

1. the length of the delay
2. the claimant's actions during that period
3. any previous claims for the particular benefit
4. advice the claimant has sought or received.

1 R(U) 2/92

Carelessness, thoughtlessness or indifference

2620 Carelessness, thoughtlessness or indifference do not constitute good cause. For example where the claim form was

1. obtained in time but mislaid¹ **or**
2. signed in time but not sent until the end of the claimant's holiday².

1 CG 15/48 (KL); 2 CSG 6/48

Health

2621 The claimant's health should always be considered when looking at good cause. Claimants who are unable to claim on time because they

1. have a serious illness **and**
2. were unable to ask someone to claim on their behalf

may show good cause while they are ill¹. If, after a serious illness, the delay continues, good cause depends on whether the claimant has done all that could be reasonably expected in the circumstances².

1 CS 51/49; 2 CG 207/49

2622 A claimant who

1. is unable to complete a claim form **or**
2. can complete a claim form but is unable to post or deliver it to an office of the Department

is expected to ask someone to complete, post or deliver it for them. Good cause will not be accepted unless it would be unreasonable for them to do this¹.

1 R(S) 21/54

Claim by appointee

2623 It is the claimant's responsibility to claim unless there is an appointee. Claimants with personal good cause, are not affected by the delay of someone who makes a claim on their behalf, unless that person is the appointee¹. From the date of appointment the actions and inaction of an appointee are treated as those of the claimant and it is the appointee who has to show good cause².

1 R(SB) 17/83; R(SB) 9/84; 2 R(S) 2/51; R(P) 1/56; R(A) 2/81; R(SB) 17/83; R(SB) 9/84; R(P) 2/85

2624 Where someone has been acting for the claimant before being appointed, the actions but **not the inactions** of that person may be taken into account when deciding good cause before the date of appointment¹.

1 R(S) 2/51; R(P) 1/56; R(A) 2/81; R(SB) 17/83; R(SB) 9/84; R(P) 2/85

Claim by person other than appointee

2625 Where a claimant

1. is able to claim personally but for convenience asks someone else to make the claim¹ **or**

2. is unable to claim, for example because of illness, and someone takes on that responsibility²

good cause may be accepted where the claimant has done all that could be reasonably expected in the circumstances to ensure that the claim is made.

1 CU 78/49; CG 1/50; R(S) 25/52; 2 CWG 6/50; CS 100/49

Youthful claimant

- 2626 Whatever their age, claimants are responsible for making their own claims. However the experience of young claimants may be limited and decision makers should bear this in mind when deciding good cause. For example, it may be reasonable for young people to rely on their parents to deal with claims on their behalf¹.

1 R(S) 4/52

Belief that solicitors or trade union would claim

- 2627 If a claimant

1. instructs a solicitor to make a claim **or**
2. hands over documents relating to a claim

good cause for delay may be accepted if the solicitor claims late¹. In these circumstances a claimant is entitled to rely on the solicitor to be aware of, and observe, the time limits for claiming.

1 R(G) 17/52

- 2628 Good cause may be accepted where it was reasonable for a claimant to believe that their trades union or association would make the claim¹.

1 CU 78/49 (KL)

Imprisonment

- 2629 Imprisonment or detention in legal custody may provide good cause, but the decision maker should consider the question of disqualification (DMG Chapter 12).

2630 – 2699

Provision of national insurance numbers

Claimants

2700 The provision of sufficient information or evidence to establish the national insurance number is a specific requirement for¹

1. Attendance Allowance
2. Disability Living Allowance
3. Incapacity Benefit (personal benefit and Adult Dependency Increase)
4. Income Support
5. a declaration that an accident was an industrial accident
6. Industrial Injuries Disablement Benefit
7. Carer's Allowance (personal benefit and Adult Dependency Increase)
8. Jobseeker's Allowance
9. Maternity Allowance (personal benefit and Adult Dependency Increase)
10. Retirement Pension (personal benefit and Adult Dependency Increase)
11. Bereavement Benefit
12. State Pension Credit
13. Shared Additional Pension
14. Employment and Support Allowance.

1 SSA (NI) Act 92, sec 1(1A) & (1B)

2701 The identity of a claimant must be approached by way of the statutory condition of entitlement that relates to national insurance numbers¹. This sets out three alternative requirements:

1. The claimant must provide a statement of their national insurance number and information or evidence that shows that that number has been allocated to them. This means that, as well as stating a national insurance number, the claimant must submit evidence that shows that (a) they are who they say they are and (b) who they are is the person to whom the national insurance number was originally allocated.

2. The claimant must provide information or evidence that enables a national insurance number that has been allocated to them to be traced. This means that (a) the Department must be able to trace a national insurance number that was allocated to the person the claimant says they are and (b) the claimant must submit evidence that shows that they are who they say they are.
3. Where 1. and 2. are not satisfied, the claimant must apply for a national insurance number and provide information or evidence that enables one to be allocated to them. This means the claimant must both (a) submit an application for a national insurance number and (b) submit evidence that shows that they are who they say they are to such a degree of confidence that a national insurance number can properly be allocated to them².

1 SS A (NI) Act 92, sec 1(1A) & (1B); 2 CH/2366/2008 & PHC v SSWP (UC) [2024] UKUT 340 (AAC)

2702 A claim by a person who has failed to prove their identity can only be disallowed when all three conditions are found not to be satisfied¹. If a claimant fails to pass the first test, the second must be considered. If the claimant fails that test as well, then the third must be applied. However, all three tests require the claimant to prove that they are who they say they are. A claimant who has failed to do this necessarily fails all three tests. Whether or not a national insurance number has been provided, traced or applied for is immaterial. The claimant's failure to prove their identity by evidence is in and of itself fatal to entitlement. For this reason, the Department's operational procedures for identity verification may focus on whether the claimant can provide satisfactory evidence of their identity.

1 PHC v SSWP (UC) [2024] UKUT 340 (AAC)

2703 Nothing in the three conditions in DMG 2701 restricts the types of evidence of identity the decision maker may take into account. In particular, an application for a national insurance number made for the purposes of DMG 2701 3. is not subject to the list of acceptable forms of evidence that applies to applications for national insurance numbers made by employed earners, self-employed earners, persons who wish to pay voluntary Class 3 contributions, and student loan applicants¹. A Child Benefit Upper Tribunal decision that said that the list applies to a benefit claim made by an employed earner should not be followed². For a benefit claimant, the obligation to apply for a national insurance number is found in the condition of entitlement that relates to national insurance numbers itself. The application is not made under the regulation that imposes the prescriptive list of acceptable evidence³.

*1 SS (Crediting and Treatment of Contributions, and NI Numbers) Regs (NI) 01, reg 9;
2 OM v H.M. Revenue & Customs [2018] UKUT 50 (AAC); 3 CH/4085/2007*

2704 In relation to each of the conditions in DMG 2701, the decision maker should consider all of the evidence provided by the claimant and decide on the balance of probabilities whether it tends logically to show that they are who they say they are. The decision maker should then decide in the light of that finding whether the particular test the

condition imposes is met. The evidence that has been considered, and the reasons why it has or has not been accepted as proof of identity, should be recorded.

- 2705 The requirements in DMG 2701 must be satisfied every time a relevant claim to benefit is made. Moreover, a finding about the claimant's identity made in relation to one claim is not decisive for the purposes of any other claim¹. The decision maker should not accept that the requirements in DMG 2701 are satisfied simply because they were accepted as satisfied in an earlier claim. The particular evidence that has been provided in connection with the claim now in question must be considered carefully and entirely afresh.

1 SS (NI) Order 98, art 17(2)

- 2706 Where a claim is made jointly by a couple the national insurance number provisions must be satisfied by both claimants. If the conditions are not satisfied by either claimant, the benefit should be disallowed¹. The conditions in DMG 2701 only apply to a person whose entitlement to any benefit depends on their making a claim².

1 Secretary of State for Work and Pensions v Wilson [2006] EWCA Civ 882 (R(H) 7/06);

2 SS A (NI) Act 92, sec 1(1B)

- 2707 If the provisions are not satisfied the decision maker decides that there is no entitlement because a condition of entitlement is not met. If the national insurance number is produced after a disallowance, or there is a doubt about a number during an award, reconsideration may be appropriate (see DMG Chapters 03 and 04).

- 2708 Where a claim is made for a personal benefit and an Adult Dependency Increase the national insurance number provisions must be satisfied for the claimant and the adult dependent. If the conditions are not satisfied for either the claimant or the adult the personal benefit and the Adult Dependency Increase should be disallowed. Personal benefit may already be in payment when an Adult Dependency Increase is claimed. If the national insurance number provisions are not satisfied for the adult dependent the award of personal benefit should be reconsidered (see DMG Chapters 03 and 04). For non means tested benefits such as Incapacity Benefit or Retirement Pension these conditions only apply to the person in respect of whom an Adult Dependency Increase is claimed. If a claimant does not make a claim to Adult Dependency Increase, but a partner resides in the house then the conditions as outlined at DMG 2701 do not apply.

- 2709 Where Employment and Support Allowance, State Pension Credit, Jobseeker's Allowance or Income Support are claimed the national insurance number provisions must be satisfied by the claimant and any adult included in the claim. If the condition is not satisfied for the claimant or the adult the claim should be disallowed. Employment and Support Allowance, State Pension Credit, Jobseeker's Allowance or Income Support may already be in payment when the claimant claims for another adult. If the national insurance number provisions are not satisfied for the adult the

award of Employment and Support Allowance, State Pension Credit, Jobseeker's Allowance or Income Support should be reconsidered (see DMG Chapters 03 and 04). The requirement to provide a national insurance number in respect of either the claimant or a partner in a claim to Jobseeker's Allowance or with respect to a partner in a claim to Income Support does not apply where a claim was made, or treated as made, before 5.10.98¹.

1 IS (Gen) Regs (NI), reg 2A; JSA Regs (NI), reg 2A

National insurance number exemptions

2710 Where a claim to benefit is received a national insurance number is required for both the claimant and any adult included in the claim. In the majority of cases where a national insurance number cannot be allocated to either the claimant or any adult in the claim there are grounds for deciding that the claimant is not entitled to the benefit.

2711 In a small number of cases a national insurance number will not be allocated to an adult dependent or a partner of the claimant where these individuals have no right to be in the United Kingdom and do not already have a national insurance number. These claims should not be disallowed. However if the partner or adult dependent already possesses a national insurance number they are required to state this on the claim form.

2712 A national insurance number will not be allocated to an adult dependent who

1. is a person in respect of whom a claim for an increase of Carer's Allowance, Retirement Pension, Maternity Allowance, or Incapacity Benefit is made¹ **and**
2. is subject to immigration control and requires leave to enter or remain in the United Kingdom but does not have it² **and**
3. has not previously been allocated a national insurance number.

1 SS (ICA) Regs (NI), reg 2A(d); SS (WB & RP) Regs (NI), reg 1A(c); SS (MA) Regs (NI), reg 1A; SS (IB) Regs (NI), reg 1A(c); 2 I & A Act 99; s 115(9)(a)

2713 A national insurance number will not be allocated to a partner who

1. is part of a claim made to Income Support, Jobseeker's Allowance, State Pension Credit or Employment and Support Allowance¹ **and**
2. is subject to immigration control and requires leave to enter or remain in the United Kingdom but does not have it² **and**
3. is not entitled to Income Support, Jobseeker's Allowance, State Pension Credit or Employment and Support Allowance **and**

4. has not previously been allocated a national insurance number.

*1 IS (Gen) Regs (NI), reg 2A(c); JSA Regs (NI), reg 2A(c); SPC Regs (NI), reg 1A; ESA Regs (NI), reg 2A;
2 I & A Act 99; s 115(9)(a)*

2714 – 2999