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Appendix 1 – Earnings limit for gainful employment (DMG 60051)

Statutory Rules commonly referred to in Chapter 60

Short description	Full title	Abbreviation
Claims and Payments Regulations	The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 No 1968	SS (C&P) Regs (NI)
Dependency Regulations	The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 No 343	SS Ben (Dep) Regs (NI)
General Benefit Regulations	The Social Security (General Benefit) Regulations (Northern Ireland) 1984 No 92	SS (Gen Ben) Regs (NI)
Invalid Care Regulations	The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976 No 99	SS (ICA) Regs (NI)
Invalid Care (Amendment) Regulations	The Social Security (Invalid Care Allowance) (Amendment) Regulations (Northern Ireland) 1995 No 429	SS (ICA) (Amdt) Regs (NI) 95
Invalid Care (Amendment) Regulations	The Social Security (Invalid Care Allowance) (Amendment) Regulations (Northern Ireland) 1996 No 521	SS (ICA) (Amdt) Regs (NI) 96
Overlapping Benefits Regulations	The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 No 242	SS (OVB) Regs (NI)

Chapter 60 - Carer's Allowance

Introduction

60001 Carer's Allowance is a benefit to help people who are unable to work because they are regularly and substantially engaged in caring for a severely disabled person - see DMG 60033 for the meaning of a severely disabled person.

60002 Increases of Carer's Allowance are payable for

1. children for whom the claimant is entitled or treated as entitled to Child Benefit **and**

2. the claimant's spouse, civil partner or a person having care of the claimant's children.

Note: See DMG Chapter 16 for full guidance on child dependency increases and adult dependency increases. See also DMG 60098 et seq for further guidance on adult dependency increases.

60003 Carer's Allowance is a weekly benefit payable in advance. It is payable on Mondays unless the severely disabled person gets constant attendance allowance when it is payable on Wednesdays[1]. Carer's Allowance is payable at the weekly rate specified[2].

Note: See DMG Chapter 8 for full guidance on payment of benefit.

1 SS (C&P) Regs (NI), reg 22(3) & Sch 6; 2 SS C&B (NI) Act 92, reg 70(9) & Sch 4, Part III, para 4

60004 In addition to the guidance in this Chapter see DMG Chapter 02 for guidance on

1. claims and applications **and**

2. the time limits for claiming **and**

3. the requirement to provide a national insurance number.

60005 – 60024

Conditions for entitlement to Carer's Allowance

Introduction

60025 **[See DMG Memo Vol 4/157, 5/124, 8/107, 10/85, 12/25, 13/128 & 14/80] [See DMG Memo Vol 2/108 & 10/89]** The conditions for entitlement are that the claimant

1. is engaged in caring for a severely disabled person for any day[1] (DMG 60035 - 60042) **and**

2. is regularly and substantially engaged in caring for that person[2] (DMG 60035 - 60042) **and**

3. is not gainfully employed[3] (DMG 60051 - 60052) **and**

4. is aged 16 or over[4] (DMG 60058) **and**

5. is not in full-time education[5] (DMG 60068 - 60083) **and**

6. satisfies prescribed conditions of residence or presence in Northern Ireland[6] (DMG 60082 and DMG Chapter 07).

Note 1: The claimant does not have to be related to the severely disabled person[7].

Note 2: See DMG 60033 for the meaning of severely disabled person.

1 SS C&B (NI) Act 92, sec 70(1); 2 sec 70(1)(a); 3 sec 70(1)(b); 4 sec 70(3); 5 sec 70(3); 6 sec 70(4); 7 SS (ICA) Regs (NI), reg 6

60026 **[See DMG Memo Vol 4/157, 5/124, 8/107, 10/85, 12/25, 13/128 & 14/80]** However, where two or more people are caring for the same severely disabled person, only one of them will be entitled to Carer's Allowance for any day[1]. It will be up to them to choose and elect who will be entitled to Carer's Allowance[2] by giving the decision maker a notice in writing signed by all of them specifying who should be entitled to Carer's Allowance[3]. If there is no election the decision maker should decide who should have entitlement to Carer's Allowance[4].

1 SS C&B (NI) Act 92, sec 70(7); 2 sec 70(7)(a); 3 SS (ICA) Regs (NI), reg 7(1); 4 SS C&B (NI) Act 92, sec 70(7)(b)

Example

Dennis cares for his mother-in-law whilst his wife works, from October to February, a period of 5 months. He then gets a full-time job so he relinquishes the Carer's Allowance as his wage disqualifies him. However, his wife decides to care for her mother, and reduces her hours and income so that she can do this. She then claims

Carer's Allowance for her mother from the date that Dennis relinquished his caring responsibilities.

60027 – 60032

Meaning of severely disabled person

60033 **[See DMG Memo Vol 1/129, 4/159, 7/55, 8/109, 10/86, 12/26 & 13/132]** "Severely disabled person" means a person for whom one of the following is payable

1. Attendance Allowance[1] **or**

2. the care component of Disability Living Allowance at the highest or middle rate[2] **or**

3. an allowance for constant attendance payable as

3.1 an increase of Disablement Benefit[3] **or**

3.2 an increase of an "old scheme" allowance[4] **or**

3.3 an II benefit[5] **or**

3.4 a war disablement pension[6]

4. the daily living component of Personal Independence Payment at the standard rate or enhanced rate[7] **or**

5. Armed Forces Independence Payment[8] **or**

6. the care component of Child Disability Payment at the highest or middle rate[9] **or**

7. the daily living component of adult disability payment at the standard or enhanced rate[10] **or**

8. a prescribed payment out of public funds, provided that the allowance is payable at a weekly rate of at least that specified in the Act[11].

Note: The meaning of war disablement pension is prescribed[12].

1 SS C&B (NI) Act 92, sec 70(2); 2 sec70(2); 3 SS (ICA) Regs (NI), reg 3(1)(a); 4 reg 3(1)(b); 5 reg 3(1)(c); 6 reg 3(1)(d); 7 SS C&B (NI) Act 92, sec 70(2); 8 sec 70(2); 9 sec 70(2); 10 sec 70(2); 11 SS (ICA) Regs (NI), reg 3(1); SS C&B (NI) Act 92, Sch 4, Part V, para 2(a); 12 SS (ICA) Regs (NI), reg 3(2)

60034

The caring condition

60035 For the caring condition to be satisfied in any week, claimants must show that in that week

1. they are **or**

2. are likely to be

engaged and regularly engaged in caring for an severely disabled person for at least 35 hours a week[1] (but see DMG 60045). For Carer's Allowance, a "caring week" means a period of 7 days beginning on a Sunday[2].

1 SS (ICA) Regs (NI), reg 4(1); 2 SS C&B (NI) Act 92, sec 121

60036 As long as the total number of hours spent in caring amounts to 35 or more a week, the claimant does not need to care for the severely disabled person every day of the week. For example, care may be given for 7 hours on 5 days of the week or over a shorter period such as a weekend (but see DMG 60038).

60037 It is not essential for claimants to show that at the date of claim they have already been regularly engaged in caring for a severely disabled person; an intention to care for a severely disabled person should be taken into account in deciding if the condition at DMG 60035 is satisfied.

60038 When a severely disabled person who normally resides in a special school

1. is allowed home for the school holidays **or**

2. returns home for other visits, not necessarily every weekend

the person who provides the care in these periods can satisfy the caring condition at DMG 60035, **provided** that at least 35 hours each week are spent in caring.

60039 Where the severely disabled person does not normally return home for the main holidays and is allowed to make occasional or infrequent visits home, the care condition at DMG 60035 may not be satisfied because the care given is not regular and substantial.

60040 The claimant's statement that the required number of hours are spent in caring should be accepted without further enquiry **unless** there is good reason to doubt it.

Example

Denise and Lesley both claim Carer's Allowance for caring for Mick who is a severely disabled person. The decision maker decides to make further enquiries to establish who is entitled to Carer's Allowance (see DMG 60026).

60041 Although there is no legal definition of "caring", it is reasonable to expect that the severely disabled person and the carer are together for most of the time. There may be occasions when the claimant spends some time apart from the severely disabled person.

Example

Joanne cares for Karen who is a severely disabled person. Before Karen comes to stay with Joanne, Joanne spends four hours preparing for Karen's arrival. The decision maker decides that this is time reasonably spent. The decision maker therefore includes those four hours when deciding the amount of time Joanne cares for Karen.

60042 There may be situations where

1. the severely disabled person is living permanently in a care home or nursing home **and**

2. comes out of the care home for weekends or short stays to stay with the carer.

In this situation the claimant can still satisfy the caring condition provided the disabled person is paid the qualifying benefit for at least two days. The decision maker does not need to consider where the caring takes place, but **who provides that care** and if it is being provided for a severely disabled person.

Caring for two or more severely disabled people

60043 Claims which

1. are from people who are caring for two or more severely disabled persons **and**

2. begin in the period 19.11.92 to 16.8.93 inclusive

can have the hours spent in caring for all the severely disabled persons added together to satisfy the 35 hours a week caring condition[1].

1 R(G) 3/93

60044 From 17.8.93, where a person is caring for two or more severely disabled persons

1. the hours spent in caring are **not** added together **and**

2. there will only be entitlement to Carer's Allowance if a person spends at least 35 hours a week caring for one of the severely disabled persons **and**

3. any time spent in caring for the other severely disabled persons is not taken into account[1].

1 SS (ICA) Regs (NI), reg 4(1A)

Breaks in care of the severely disabled person
[See DMG Memo Vol 4/147 & 10/75]

60045 A week when a person does not satisfy the "caring condition" is treated as a week in which that condition **is** satisfied, if that person

1. has only temporarily ceased to satisfy the "caring condition" **and**

2. has satisfied the caring condition for at least 14 weeks in a 26 week period. The 26 week period ends with the first week that person no longer satisfied the caring condition **and**

3. would have satisfied it for at least 22 weeks in the 26 week period described in DMG 60045 **2.**, but for the fact that

3.1 either that person **or**

3.2 the severely disabled person

was undergoing medical or other treatment, as an in-patient in a hospital or similar institution[1].

1 SS (ICA) Regs (NI), reg 4(2)

60046 The effect of DMG 60045 is that a temporary break or series of temporary breaks in care may be ignored. Entitlement to Carer's Allowance will continue **provided that** the temporary breaks do not amount in total to more than

1. **12 weeks** - where the claimant or the severely disabled person has spent at least 8 of those weeks undergoing medical or other treatment as an in-patient in a hospital or similar institution **or**

2. **4 weeks** - if the temporary break in care is for any other reason in any period of 26 weeks ending with the first week of the temporary break in care.

60047 Where a break in care

1. is for any reason other than hospital in-patient treatment **and**

2. lasts for more than 4 weeks in the 26 week period

no further breaks in care can be ignored in that 26 week period, even if they are in hospital.

60048

60049 If the temporary break in care began within the first 22 weeks of entitlement the decision maker should consider the care position in the weeks before entitlement to Carer's Allowance began.

Break in care due to severely disabled person in hospital

60050 Where the reason for the temporary break in care is because the severely disabled person is in hospital, entitlement to Carer's Allowance will depend on the continuing payment of

1. Attendance Allowance **or**

2. the care part of Disability Living Allowance at the highest or middle rate **or**

3. constant attendance allowance.

If payment of these benefits ends there can be no entitlement to Carer's Allowance[1]. The severely disabled person in effect is not classed as severely disabled due to the fact that the benefit they are entitled to is no longer payable after a prescribed period of time in hospital. See DMG 60033 for meaning of severely disabled person.

1 SS C&B (NI) Act 92, sec 70(2)

Gainful employment

60051 A person is in gainful employment on every day in a week where the earnings in the week immediately before are greater than the earnings limit (Appendix 1)[1]. Earnings in one week affect entitlement to Carer's Allowance in the following week. It does not matter if the person is still gainfully employed in the following week.

Note: See DMG Chapter 15 for full guidance on earnings and DMG 60057.

1 SS (ICA) Regs (NI), reg 8(1)

60052 When deciding if a person should be treated as being gainfully employed, that person's earnings should be ignored for any week which is classed as a temporary break in care[1] (DMG 60045 - 60050).

1 SS (ICA) Regs (NI), reg 8(2)(a)

The absence disregard before 12.12.95

60053 Before **12.12.95**, if a person was absent from work with the employer's authority, the earnings from that employment were ignored[1]. This was known as "the absence disregard concession", and also applied to people who were off work sick getting Statutory Sick Pay.

1 SS (ICA) Regs (NI), reg 8(2)(b)

Absences from 12.12.95

60054 From **12.12.95**, changes in regulations mean that a person's earnings cannot be ignored when absent from work for whatever reason[1].

1 SS (ICA) Amdt Regs (NI) 95, reg 2

Transitional provisions

60055 Where

1. the period covered by the claim **and**

2. any entitlement to Carer's Allowance

began **before 12.12.95**, any income can still be ignored if the person is absent from work with the employer's authority before **12.12.95**[1].

1 Plewa v CAO (1994) 3 WLR 317

60056 Where DMG 60055 applies, the concession continues to apply until

1. the claim ends **or**

2. the person stops being absent from work with the employer's authority.

Once ended, the concession cannot apply again. If the concession did not already apply at **11.12.95**, it can never apply.

Earnings in the week before the first week of entitlement

60057 Before **25.11.96**, regulations provided that any earnings in the week immediately before the first week of entitlement to Carer's Allowance could be ignored[1]. This regulation was revoked from **25.11.96**. Any claims for a period starting before **25.11.96** can still have any earnings in the week immediately before the first week of entitlement to Carer's Allowance ignored[2].

Note: See DMG Chapter 15 for full guidance on earnings for the purpose of Carer's Allowance.

1 SS (ICA) Regs (NI), reg 8(2)(c); 2 SS (ICA) (Amdt) Regs (NI) 96, reg 3

The age condition

60058 From 28.10.02 the upper age limit is abolished and carers aged 65 or over can qualify for Carer's Allowance. To satisfy the age condition for Carer's Allowance a person must be at least 16 years of age[1].

1 SS C&B (NI) Act 92, sec 70(3)

People who have reached age 65

60059 New claimants aged 65 or over, making a first claim, will have to satisfy all the conditions of entitlement, including the requirement to care for the disabled person and not being gainfully employed. Carer's Allowance is still subject to the overlapping benefit rules, with Carer's Allowance being offset against other social security benefits (e.g. Retirement Pension).

Transitional protection

60060 Before 28.10.02 a person over age 65 was entitled to Carer's Allowance if

1. they were entitled **or**

2. they could be treated as having been entitled

to Carer's Allowance immediately before reaching 65. They could be treated as having been entitled before reaching the age of 65, if they would have satisfied the conditions of entitlement but for the fact they were in receipt of an overlapping benefit.

60061 People who were entitled to Carer's Allowance immediately before reaching age 65 will still be entitled when 65, even if

1. they are no longer caring for a severely disabled person **or**

2. they are gainfully employed

provided that they became age 65 before 28.10.02 and they continue to satisfy all the other conditions of entitlement[1]. This protection will end when entitlement to Carer's Allowance is lost (e.g. residence and presence conditions not satisfied). The claimant will need to satisfy all the conditions of entitlement on any re-claim. See DMG 60025 for the conditions of entitlement.

1 D(CA) Order (NI) 02, art 4

8 week run on

60062 **[See DMG Memo Vol 2/108 & 10/89]** From 28.10.02 entitlement to Carer's Allowance can continue for up to 8 weeks after the death of the disabled person being cared for[1], provided that all the other conditions are satisfied. Entitlement ceases on

1. the end of the week in which the claimant ceases to satisfy any other requirement as to the allowance **or**

2. the expiry of eight weeks beginning with the Sunday following the death (or the date of death if the death occurred on a Sunday)

whichever occurs first.

1 SS C&B (NI) Act 92, sec 70(1A)

Women aged 65 before 28.10.94

60063 From 28.10.94, women who reached age 65 before 28.10.94 **and**

1. satisfied all the conditions of entitlement for Carer's Allowance immediately before reaching that age **except for**

1.1 the over 60 "pension age" test[1] (DMG 60066) **and**

1.2 the requirement to actually make a claim[2] **and**

2. were previously not entitled to Carer's Allowance because they were over 60 and failed the "pension age" test

are entitled to Carer's Allowance from 28.10.94 even if they are no longer caring for a severely disabled person or are gainfully employed[3], provided that they continue to satisfy all the other conditions of entitlement.

1 SS C&B (NI) Act 92, sec 70(5); 2 SS A (NI) Act 92, sec 1; 3 SS (ICA) Regs (NI), reg 10A

60064 Where a woman

1. reaches age 65 before 28.10.94 **and**

2. claims benefit for a period before 28.10.94

she will have to rely on the provisions for equal treatment between men and women[1] (see DMG Chapter 07 Part 1).

1 CA, HL, ECJ, S of S v Thomas, Cooze, Beard, Murphy & Morley; Directive 79/7/EEC

60065 Where

1. a claim for benefit is made in the circumstances of DMG 60063 **and**

2. the woman is not helped by the Directive

the decision maker should disallow the claim for the period before 28.10.94 and award benefit from 28.10.94 **provided** that all the other conditions of entitlement are satisfied.

The pension age test

60066 Before 28.10.94, people over "pension age" were not entitled to Carer's Allowance **unless** they were entitled immediately before reaching that age[1]. In the case of a woman, the term "pension age" was defined as 60[2].

1 SS C&B (NI) Act 92, sec 70(5); 2 sec 121

Men aged 65 before 28.10.94

60067 Men who

1. reached the age of 65 before 28.10.94 **and**

2. were entitled to Carer's Allowance immediately before reaching that age

continue to be entitled to Carer's Allowance even if they are no longer caring for a severely disabled person, or are in gainful employment provided that they continue to satisfy all the other conditions of entitlement[1].

1 SS (ICA) Regs (NI), reg 11A

Full-time education

60068 If it is clear that a person is in fact receiving full-time education[1] the decision maker does not have to consider whether the claimant is treated as receiving full-time education[2]. If the course on which the claimant is enrolled is a full-time university course there is a presumption that the claimant is in full-time education[3].

1 SS C&B (NI) Act 92, sec 70(3); 2 SS (ICA) Regs (NI), reg 5;
3 CA SSWP v Amanda Deane [2010] EWCA Civ 699

Exceptions

60069 However there can be exceptions to the presumption in DMG 60068[1]. When a student claims and provides evidence that they have already completed parts of the course they should provide proof from the educational establishment that they have been granted exemption. For example, the claimant may have exemptions from part of the course because they

1. do not have to undertake all the modules **or**

2. have availed themselves of an "Accreditation of Prior Learning"[2].

Therefore, where the claimant is enrolled on a full-time university course but states they study part-time, the decision maker should consider whether there is an exception to the presumption that they are in full-time education.

Note: Cases of doubt should be sent to Decision Making Services for advice.

1 SSWP v Amanda Deane [2010] EWCA Civ 699; 2 SSWP v ZC(CA) [2011] UKUT 2 (AAC)

Example

John is undertaking a 3 year post-graduate course at University. The University state the course is full-time and expect the student to study for 30 hours or more per week. John claims he only attends for lectures 20 hours per week, and therefore he is a part-time student. However, he is not able to provide evidence that he is exempt from any part of the course. Due to the designation of the course by the university, and also the expectations that the student will spend a minimum of 30 hours per week on the course, he is not entitled to Carer's Allowance.

60070 If the claimant is undertaking a course which is not a conventional university course, the exception to the presumption in DMG 60068 above may apply[1]. Where the

claimant is undertaking such a course, the decision maker should consider all relevant evidence in order to decide whether the claimant is in full-time education. This includes evidence regarding the number of hours of study expected by the educational establishment, and consider if this is less or more than 21 hours per week.

Note: See DMG 1300 et seq for guidance on evidence.

1 SSWP v PW(CA) [2011] UKUT 3 (AAC)

Example 1

Linda attends a course at a local college to improve her prospects for work. Although when enquiries are made the college state that the course is full-time, the actual number of hours of attendance at college is only 18 hours per week. There is no expectation from the college that the claimant should be completing any private study outside of the college attendance. This is confirmed by the claimant. The decision maker looks at the relevant legislation for full-time education first and decides that this does not apply. Therefore the further regulations on the calculation of the number of hours have to be considered. As the course is less than 21 hours per week the claimant is entitled to Carer's Allowance.

Example 2

Sarah is undertaking a BTEC National Diploma course at college, and the college states the course is full-time. Also the college expects the claimant to complete 30 hours per week in attendance at college and private study and preparation of written work. Sarah maintains that she only attends college 16 hours per week, and therefore she is part-time. Sarah is unable to supply any evidence from the college that she is exempt from any part of the course and on the evidence available the decision maker decides she is indeed in full-time education. Sarah is therefore disallowed the Carer's Allowance.

60071 If it is decided that the course on which the claimant is enrolled is not full-time, the decision maker should then consider whether the claimant should be treated as receiving full-time education[1] under the relevant regulations (see DMG 60072 et seq).

Note: The information required in all cases should include whether the course is full-time or part-time; the number of hours the claimant is expected to devote to the course to achieve the required standard; the number of hours spent on any of the activities mentioned in DMG 60074; whether there are any exceptions or exemptions to the course.

1 SS (ICA) Regs (NI), reg 5

Treated as receiving full-time education

60072 People are treated as receiving full-time education for any period during which they receive education for 21 hours or more a week, by attending a course of education at

1. university **or**

2. college **or**

3. school **or**

4. other educational establishment[1].

Note: See DMG 60083 for the meaning of university, college, school or other educational establishment.

1 SS (ICA) Regs (NI), reg 5(1)

60073 Attending a course of education means enrolling upon and pursuing a course of education. Some time will be spent attending the educational establishment premises but it is not just confined to physical attendance[1].

1 Fleming v Secretary of State; R(G) 2/02

60074 In calculating the hours of attendance the decision maker should include any time spent on any of the following

1. receiving instruction or tuition

2. supervised study

3. examination or practical work

4. taking part in any

4.1 exercise

4.2 experiment

4.3 project

which forms part of the course[1].

It will usually be sufficient to accept the evidence of the educational establishment rather than actual time spent by the student[2].

Note: Supervised study need not be done in the presence of the tutor, but it must be study directed to the course and the curriculum of the course involved[3].

1 SS (ICA) Regs (NI), reg 5(2)(a); 2 CA SSWP v Amanda Deane {2010} EWCA Civ 699;
3 Fleming v Secretary of State; R(G) 2/02

60075 When considering DMG 60074 the decision maker should not include time spent on

1. meal breaks **or**

2. unsupervised study, whether on or off the educational premises[1].

1 SS (ICA) Regs (NI), reg 5(2)(b)

60076 People who start on a course of education are treated as attending it for the usual number of hours each week during any vacation or temporary interruption as in term time until

1. the course ends **or**

2. they abandon it **or**

3. they are dismissed from it[1] **or**

4. they have an exemption from the full hours required (see DMG 60069).

1 SS (ICA) Regs (NI), reg 5(3)

Meaning of temporary interruption

60077 Temporary interruption means any interruption to the period of study other than a permanent interruption due to abandonment of, or dismissal from, the course (see DMG 60080 - 60082).

60078 It is not deemed a temporary interruption to the period of study if the interruption, by its nature, means a person can no longer fairly be considered in fact to be actively pursuing a full-time course of study[1].

1 SM v SSWP [2016] UKUT 0406 (AAC)

60079 The question of whether the person is actively pursuing a full-time course of study is a factual determination. If there is no agreement between the place of study and the claimant that the claimant need not attend for a period then that should be considered a temporary interruption. If there is an agreement with the university that the claimant need not attend for a period then the nature of that period needs to be examined. Relevant factors may include length of break, whether or not the person can still access funding for their studies, and whether the person can access learning materials. If, on balance of probabilities, they are still deemed to be actively pursuing a course of study then the interruption is a temporary one.

Example

Irina claims Carer's Allowance, informing the decision maker that she has taken time off university in order to look after an ailing parent. No agreement about this time off has been arranged or agreed with the university. Without such an agreement the decision maker decides that she is still actively pursuing a course of education and disallows her claim as the decision maker considers that break to be a temporary interruption. Five weeks later Irina makes a new claim as she has subsequently been able to agree time off with the university and will not have to attend until the following

academic year, six months later (including the three-month summer break). During this period the claimant will not be attending, will not be expected to do any work at home, and will not be assessed in examinations. The decision maker decides it is reasonable to find that this interruption to Irina's studies was not a temporary one, and she is no longer actively pursuing her course of study, and therefore for that six-month period she can receive Carer's Allowance, until the start of the new academic year. The effective date of claim is taken as the date of the agreement with the university as it was not until this point that she could be properly said to be no longer pursuing her course of education.

Meaning of end of the course

60080 The end of the course means the date on which the last day of the final academic term falls for the course on which the student is enrolled.

Meaning of abandons

60081 The term abandons should be given its normal everyday meaning of gives up completely. If the decision maker is uncertain that the course has been abandoned, documentary evidence should be obtained from the educational establishment to the effect that the student is no longer enrolled on that course.

Example

Anjana was disallowed Carer's Allowance as she was a full-time student, even whilst she temporarily interrupted her course to have a baby. Therefore, she had no entitlement from 7.6.10. She makes a new claim on 7.9.10 stating that she has now abandoned her course, and she has confirmation from the University that she last attended the course on 29.3.10. Her new claim can now be allowed and backdated three months to 7.6.10.

Meaning of dismissed

60082 Dismissed means the total, final and permanent ending of a person's participation on a course by the educational authorities. In cases of doubt the decision maker should ask for documentary evidence from the educational establishment.

Meaning of university, college, school or other educational establishment

60083 The legislation does not define university, school, college or other educational establishment. If a person is receiving

1. training **or**

2. instruction **or**

3. schooling

at an organisation, or at an establishment set up for any of these purposes, the decision maker may decide that the person is attending an educational establishment.

Residence and presence in Northern Ireland

60084 The conditions of residence and presence[1] are set out in DMG Chapter 07.

1 SS (ICA) Regs (NI), reg 9

Increase for children

60085 A claimant is entitled to an increase of Carer's Allowance for a child only where the claim to child dependency increase is made in respect of a period that commences before 6.4.03.

60086 Where a claimant is entitled to a child dependency increase on 5.4.03 the child dependency increase entitlement and payability will continue, subject to the pre-existing conditions of entitlement being satisfied (see DMG Chapter 16). One of the following conditions must be satisfied for the increase to be payable

1. the child is treated as living with the claimant for the purposes of the Act[1] **or**

2. the claimant (or the claimant's spouse or civil partner where they are living together) is contributing to the cost of providing for the child at a weekly rate[2]

2.1 not less than the amount of the increase of Carer's Allowance **and**

2.2 above the weekly rate of Child Benefit payable for the child.

1 SS C&B (NI) Act 92, Part IX; SS Ben (Dep) Regs (NI), Sch 2, Part 1, para 3(a); 2 Sch 2, para 3(b) & 4

60087 The increase is not payable where

1. the claimant is living with a spouse, civil partner or another person as man and wife or as civil partners **and**

2. the spouse, civil partner or other person has earnings which are greater than the levels set out in DMG 60089 - 60091.

Allocation of contributions between children

60088 Where the claimant

1. makes a contribution towards the cost of providing for two or more children **and**

2. is entitled to Child Benefit for those children

any sum paid must be allocated between the children to produce the most favourable result for the claimant, that is to secure as large a payment of Carer's Allowance as possible[1].

1 SS Ben (Dep) Regs (NI), Sch 2, Part 1, para 5

Earnings rule

60089 The claimant's entitlement to the increase of Carer's Allowance is affected where

1. the claimant is one of two persons who are

1.1 spouses or civil partners living together[1] **or**

1.2 an unmarried couple who are living together as husband and wife[2] or a same sex couple who are living together as if they were civil partners **and**

2. the other person has earnings of £230 a week or more in the calendar week before the week in which the increase is to be paid[3] (but see DMG 60088).

1 SS C&B (NI) Act 92, Part IX; SS Ben (Dep) Regs (NI), Sch 2, para 2A(a)(i); 2 Sch 2, Part 1, para 2A(a)(ii); 3 Sch 2, Part 1, para 2A(b) & 2B

60090 Where the earnings of the other person are £230 a week or more

1. no increase of Carer's Allowance will be payable for the first child[1] **and**

2. the increase for a further child will not be payable[2] for every £30 earned over £230.

Note: See Appendix 1 for the current earnings limit.

1 SS Ben (Dep) Regs (NI), Sch 2, Part 1, para 2B(a); 2 Sch 2, Part 1, para 2B(b)

60091 See DMG Chapter 15 for guidance on the calculation of earnings. For Carer's Allowance purposes occupational pensions and personal pensions and pension protection fund periodic payments should be regarded as earnings[1].

1 SS C&B (NI) Act 92, sec 90; SS Ben (Dep) Regs (NI), Sch 2, Part 2, para 9(1)

Earnings rule savings provisions

60092 Where, at 6.4.03, entitlement to child dependency increase exists but is not payable for any reason, e.g. child dependency increase is not payable because of a spouse's or civil partner's earnings, payment of the child dependency increase can be reinstated

1. for any period when payability of the child dependency increase ceases to be affected, e.g. where the spouse's or civil partner's earnings reduce to the point at which they do not affect the child dependency increase **and**

2. provided payment of the child dependency increase can be reinstated no later than 58 days after the date that the child dependency increase was last paid.

If the gap in payability is more than 57 days entitlement to child dependency increase terminates.

60093 – 60097

Increase for adults

60098 An increase for Carer's Allowance may be paid for

1. the claimant's spouse or civil partner **or**

2. a person having the care of a child or children as in DMG 60100 **2.**[1].

Where there is entitlement to an increase for the spouse or civil partner, the claimant cannot be entitled to an increase for a person having care of the children.

Note: Adult dependency increases are abolished from 6.4.10[2]. However, see DMG 60103 - 60104 for guidance on when claimants continue to have entitlement to adult dependency increases.

1 SS C&B (NI) Act 92, sec 90; SS Ben (Dep) Regs (NI), Sch 2, Part 2; 2 WR Act 09, sec 15(1)(b)

Increase for spouse or civil partner

60099 The weekly rate of Carer's Allowance can be increased for any period during which[1]

1. the claimant is living with the spouse or civil partner **and**

2. the spouse or civil partner is not earning more than the amount of the increase.

Note: A claimant cannot also get an increase under DMG 60100[2].

1 SS Ben (Dep) Regs (NI), Sch 2, Part 2, para 6 & 7(a); 2 Sch 2, Part 2, para 8

Increase for person having care of a child

60100 The weekly rate of Carer's Allowance can be increased for a person (other than a child or qualifying young person) who[1]

1. lives with the claimant

2. has care of a child or qualifying young person for whom the claimant is entitled to Child Benefit

3. is not in prison or detained in legal custody

4. is not earning (other than from caring for the claimant's child or children) greater than the amount of the increase

5. is not absent from Northern Ireland, except for any period when the person is living with the claimant outside Northern Ireland and for which the claimant is entitled to Carer's Allowance.

Note 1: See DMG Chapter 11 for the meanings of care of and living with, and DMG Chapter 15 for guidance on earnings.

Note 2: See DMG Chapter 16 for guidance on the meaning of qualifying young person and DMG Chapter 07, Part 2 for guidance on absence from Northern Ireland.

Note 3: A claimant **cannot** also get an increase under DMG 60099[2].

1 SS Ben (Dep) Regs (NI), Sch 2, Part 2, para 6 & 7(b); 2 Sch 2, Part 2, para 8

Occupational and personal pensions and pension protection fund periodic payments

60101 See DMG Chapter 15 for guidance on the calculation of earnings. For Carer's Allowance purposes occupational and personal pensions and pension protection fund periodic payments should be regarded as earnings[1]. However, payment of occupational or personal pension or pension protection fund periodic payments will not affect entitlement to an increase of Carer's Allowance for an adult dependant where the claimant

1. was entitled to receive an increase of Carer's Allowance for that dependant immediately before 6.4.87 **and**

2. would continue to be entitled to the increase but for the payment of occupational or personal pension or pension protection fund periodic payments.

This transitional protection continues to apply until entitlement to the increase stops for some other reason.

1 SS C&B (NI) Act 92; SS Ben (Dep) Regs (NI), Sch 2, Part 2, para 9(1); Sch 2, Part 2, para 9(2)

Meaning of pension protection fund periodic payments

60102 Pension protection fund periodic payments are[1]

1. any periodic compensation payments made in relation to a person, payable under the pension compensation provisions set out in specified legislation[2]

2. any periodic payments made in relation to a person, payable under specific legislation[3].

1 SS C&B (NI) Act 92, sec 121(1); 2 Pensions Act 04, sec 162(2); Pensions (NI) Order 05, art 146(2); 3 Pensions Act 04, sec 166; Pensions (NI) Order 05, art 150

Continuing entitlement to adult dependency increase from 6.4.10

60103 Adult dependency increases are abolished from 6.4.10[1]. However claimants[2] will continue to have entitlement to an adult dependency increase[3] until the earlier date[4] in DMG 60104 where

1. they have applied for an adult dependency increase before 6.4.10 from a date no later than 5.4.10 **and**

2. immediately before 6.4.10 they are

2.1 entitled to an adult dependency increase **or**

2.2 would be entitled to an adult dependency increase if the earnings rule[5] did not apply.

Note 1: 2.1 will apply where the amount of adult dependency increase payable is extinguished under the overlapping benefit provisions[6] (see DMG Chapter 17).

Note 2: 2.2 only applies if entitlement has been established by actual payment of adult dependency increase prior to the earnings extinguishing payability.

1 WR Act (NI) 2010, sec 14(1)(b); 2 sec 14(3); 3 sec 14(2)(b); 4 sec 14(3); 5 SS C&B (NI) Act 92, sec 92; 6 SS (OB) Regs (NI), reg 10

Example

Brian claims Carer's Allowance and has entitlement from 8.3.10. He claims an adult dependency increase for his wife Paula. However, Paula works and has earnings of £100 a week. Therefore the decision maker disallows the increase. Paula stops work on 30.7.10. Brian is not entitled to an adult dependency increase when Paula stops work.

60104 For the purposes of DMG 60103 the date is the earlier of

1. 6.4.10 **and**

2. the date on which entitlement to an adult dependency increase ends[1].

1 WR Act (NI) 2010, sec 14(3)

60105 – 60108

Overlapping benefits

60109 The guidance in DMG Chapter 17 on overlapping benefits applies to Carer's Allowance.

60110 – 60120

Imprisonment or detention in legal custody

General

60121 The guidance in DMG Chapter 12 on imprisonment and detention in legal custody applies to Carer's Allowance. The provisions that apply for Incapacity Benefit with regard to

1. exceptions from disqualification for imprisonment **and**

2. suspension of payment of benefit during imprisonment **and**

3. interim payments **and**

4. payment of benefit and suspension of payments pending a decision on

4.1 appeals and references **and**

4.2 arrears **and**

4.3 repayments

apply equally to Carer's Allowance[1].

Note: See DMG Chapter 56 for guidance on Incapacity Benefit disqualification, DMG Chapter 08 for guidance on payment of benefit and DMG Chapter 04 for guidance on suspension.

1 SS (ICA) Regs (NI), reg 11B

No disqualification imposed

60122 Where a disqualification of Carer's Allowance is not appropriate, the decision maker should consider the "breaks in care of the severely disabled person" provisions before deciding if Carer's Allowance is payable for the period in question (DMG 60045 - 60050).

Disqualification imposed

60123 When

1. the claimant is sentenced to more than four weeks imprisonment or detention in legal custody **and**

2. a disqualification is imposed

the claimant loses entitlement to Carer's Allowance because there has been a break in care for more than four weeks. This applies where it is known that the

imprisonment will last for 4 weeks or more at the outset, so benefit ceases immediately.

60124 – 60999

Appendix 1

Earnings limit for gainful employment (DMG 60051)

5.7.76	-	11.11.82	£6
12.11.82	-	8.4.90	£12
9.4.90	-	7.4.91	£20
8.4.91	-	5.4.92	£30
6.4.92	-	11.4.93	£40
12.4.93	-	8.4.01	£50
6.4.01	-	5.4.02	£72
8.4.02	-	6.4.03	£75
7.4.03	-	11.4.04	£77
12.4.04	-	10.4.05	£79
11.4.05	-	9.4.06	£82
10.4.06	-	8.4.07	£84
9.4.07	-	30.9.07	£87
1.10.07	-	11.4.10	£95
12.4.10	-	19.5.14	£100
20.5.14	-	5.4.15	£102
6.4.15	-	9.4.17	£110
10.4.17	-	8.4.18	£116
9.4.18	-	7.4.19	£120
8.4.19	-	5.4.20	£123
6.4.20	-	10.4.22	£128
11.4.22	-	10.4.23	£132
11.4.23			£139