Chapter 17 - Overlapping benefits

Contents

Introduction 17001

Benefits not covered 17004

Incompatible benefits 17005

Benefits not payable out of public funds 17006

Adjustment between different personal Act benefits 17040

Method of adjustment 17050

First step 17051

Second step 17052

Third step 17060

Exceptions and modifications 17062

Age addition 17063

Additional Pension or Graduated Retirement Benefit 17064

Widows and Incapacity Benefit 17067

Adjustment of personal Act benefits by personal industrial injuries

and non-Act benefits 17085

Industrial injuries and non-Act benefits 17086

Armed Forces Compensation Scheme 17087

Service pensions instrument 17092

War pension death benefit 17095

Disablement Pension 17097

Treatment Allowance 17098

Unemployability Supplement 17099

Training allowance 17101

Training premium and training bonus 17115

Training allowances from the European Social Fund 17119

Allowances which are not training allowances for overlapping benefits
purposes 17123

Special provisions where Category A Retirement Pension or transitional
long-term Incapacity Benefit is reduced by Industrial Death Benefit or
War Pension Death Benefit 17130

Adjustment of child dependency increase 17140

Adjustment of child dependency increase involving Industrial Death
Benefit or Guardian’s Allowance 17142

Adjustment of adult dependency increase 17150

Persons having care of children 17153

Adjustment of child or adult dependency increases

by personal benefits 17160

Persons having care of children 17162

Order of adjustment 17170

Special rules for Severe Disablement Allowance and

Carer’s Allowance 17180

Dual claims for increase for same dependant

General 17190

Child dependants 17194

Adult dependants 17196

Child Benefit, Child Benefit (lone parent) and child

dependency increase 17200

Higher rate of Child Benefit for eldest child 17202

Adjustment for part weeks 17210

Miscellaneous provisions

Dependency benefit claimed while claimant entitled to personal training

allowance 17220

Retrospective adjustments of training allowance 17230

Effect of overlap on entitlement 17231

Prevention of double adjustment 17232

Relinquishment 17233

**Appendix 1** – Incompatible personal benefits

Legislation Used in Chapter 17

|  |  |
| --- | --- |
| Full Title | Abbreviation |
| The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 No 465 | SS (C&P) Regs (NI) |
| The Social Security (Incapacity Benefit) (Consequential and Transitional Amendment and Savings) Regulations (Northern Ireland) 1995 No 150 | SS (IB) (Conseq & Trans Amdt & Savings) Regs (NI) 95 |
| The Social Security (Maximum Additional Component) Regulations (Northern Ireland) 1979 No 391 | SS (MAC) Regs (NI) |
| The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 No 242 | SS (OB) Regs (NI) |
| The Social Security (Hospital In-patients) Regulations (Northern Ireland) 1975 No 109 | SS (HIP) Regs (NI) |
| Employment and Training Act (Northern Ireland) 1950 | E & T Act (NI) 50 |
| Polish Resettlement Act 1947 | Polish Resettlement Act 47 |
| Social Security Contributions and Benefits (Northern Ireland) Act 1992 | SS C&B (NI) Act 92 |
| Job Release Act 1977 | Job Release Act 77 |
| Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations (Northern Ireland) 1976 No 223 | CHB & SS (F & AR) Regs (NI) |
| Child Benefit and Social Security (Fixing and Adjustment of Rates) (Amendment) Regulations (Northern Ireland) 1998 No 239 | CHB & SS (F & AR) (Amdt) Regs (NI) |
| The Welfare Reform Act (Northern Ireland) 2007 | WR Act (NI) 07 |
| The Pensions Act (Northern Ireland) 2015 | Pensions Act (NI) 15 |
| The Social Security (Northern Ireland) Act 1975 | SS (NI) Act 75 |

Chapter 17 - Overlapping benefits

Introduction

17001 This Chapter contains guidance on the prevention of duplication of payment of benefit where a claimant is entitled to

**1.** two or more personal benefits **or**

**2.** an increase of two or more benefits for the same dependant **or**

**3.** an increase of benefit for a dependant who is entitled to a personal benefit

**4.** Child Benefit (lone parent) and child dependency increase.

 **Note:** Personal benefit means1 any benefit, pension or allowance except a shared additional pension whether under certain legislation2 or not, which is not a dependency benefit, or Universal Credit under specified legislation and includes contribution-based Jobseeker’s Allowance and contribution-based Employment and Support Allowance.

1 SS (OB) Regs (NI), reg 2(1); 2 SS C&B (NI) Act 92

17002 Guidance also covers the situation where two or more claimants are entitled to an increase of the same or different benefits for the same dependant.

17003 Guidance covering the adjustment of Invalidity Addition on account of Additional Pension and Guaranteed Minimum Pension is in DMG Chapter 75.

Benefits not covered

17004 Not all benefits overlap. Benefits that do not overlap are those that are incompatible - see DMG 17005 - and those not payable out of public funds - see DMG 17006.

Incompatible benefits

17005 Benefits can only overlap where there is entitlement to both or all of those benefits. There can be no overlap where entitlement to one benefit is prevented by entitlement to another benefit. These benefits are referred to as being incompatible. See Appendix 1 for a list of incompatible benefits.

Benefits not payable out of public funds

17006 The overlapping benefit rules apply only to pensions, allowances or benefits payable out of public funds1. Public funds means funds controlled by the United Kingdom Government and does **not** include payments made

1. by any non-United Kingdom government including European Community Member States2. Guidance on the effect of European Community benefits on United Kingdom benefits is in DMG Volume 2, International subjects, but see DMG 17119 for training allowances from the European Social Fund
2. by the United Kingdom Government on behalf of any other government
3. from any fund controlled by a local authority even if the fund comes from government grants, for example a police pension paid from a general county account of a county council controlling a police force3 or a pension paid to a former employee of the Northern Ireland Housing Executive
4. by a nationalised industry4.

 **Note:** An allowance paid directly or indirectly by the European Social Fund is paid out of public funds5.

1 R(P) 13/56; R(P) 5/56; 2 R(P) 5/56; 3 R(P) 13/56; 4 R(IS) 13/56; 5 R(IS) 10/98

 17007 – 17039

Adjustment between different personal Act benefits

17040 In this Part the term Act benefit refers to benefits provided for under specific legislation1 and includes

1. contribution-based Jobseeker’s Allowance
2. Incapacity Benefit
3. Maternity Allowance
4. Bereavement Benefits
5. Retirement Pension
6. Additional Pension and Graduated Retirement Benefit. These benefits are treated as separate personal benefits and overlap in certain situations (see DMG 17064)
7. Severe Disablement Allowance and Carer’s Allowance, subject to DMG 17180
8. age addition, subject to DMG 17063
9. contribution-based Employment and Support Allowance
10. State Pension.

**Note:** In **1.** and **9.** references to contribution-based Jobseeker’s Allowance and contribution-based Employment and Support Allowance include new style Jobseeker’s Allowance and new style Employment and Support Allowance. See ADM Chapter M5 for the meaning of new style Jobseeker’s Allowance and new style Employment and Support Allowance.

1 SS C&B (NI) Act 92, Parts II & III; JS (NI) Order 95; WR Act (NI) 07; Pensions Act (NI) 15

17041 Except for those benefits referred to in DMG 17042, all personal Act benefits are subject to the rules described in DMG 17050 to 17061 concerning adjustment when more than one personal Act benefit is payable.

17042 The excepted benefits and payments which are not adjusted and do not require another personal Act benefit to be adjusted on account of them being payable1 are

**1.** Widows Payment

**2.** Bereavement Payment

**3.** any other sum which is not paid for a period

**4.** Attendance Allowance

**5.** Disability Living Allowance.

 **Note:** Standard additional pension is not a personal Act benefit2.

1 SS (OB) Regs (NI), reg 4(2); 2 reg 2(1) definition of “personal benefit”

 17043 – 17049

Method of adjustment

17050 Where a claimant is entitled to two or more personal Act benefits the decision maker should follow the steps in DMG 17051 - 17061 to identify which benefit takes precedence and how to make the adjustment to the other.

First step

17051 If one of the benefits is a contributory benefit and the other is not, the contributory benefit takes precedence and the non-contributory benefit is the one to be adjusted. This is done by deducting the amount of the contributory benefit from the amount of the non-contributory benefit1. The amount of the contributory benefit is payable in full but only the balance of the non-contributory benefit, if any, is payable.

1 SS (OB) Regs (NI), reg 4(5)(a)

 **Example**

 A claimant in receipt of Severe Disablement Allowance at the rate of £59.45 becomes entitled to reduced basic Category A Retirement Pension at £48.83. Retirement Pension is a contributory benefit while Severe Disablement Allowance is non-contributory, therefore Retirement Pension is paid in full together with a balance of £10.62 Severe Disablement Allowance.

Second step

17052 If DMG 17051 does not apply, and one of the benefits is payable weekly the general rule is that the benefit payable on a weekly basis takes precedence and the other benefit is to be adjusted. This is done by deducting the amount of the weekly benefit from the amount of the non-weekly benefit. The amount of the benefit payable on a weekly basis is payable in full but only the balance, if any, of the non-weekly benefit is payable1. See DMG 17053 if the claimant has applied for the benefit payable on a weekly basis to be adjusted.

1 SS (OB) Regs (NI), reg 4(5)(b)(ii)

17053 Where DMG 17051 does not apply and one of the benefits is payable weekly, the beneficiary may make an application to have the weekly benefit adjusted. The application to have the weekly benefit adjusted can be made at any time but only applies to payments due after the application has been made. In this case the benefit not payable on a weekly basis takes precedence and the other benefit is adjusted. This is done by deducting the amount of benefit not payable on a weekly basis from the amount of the benefit payable on a weekly basis. The amount of the benefit not paid on a weekly basis is payable in full, but only the balance, if any, of the benefit payable on a weekly basis is payable1.

1 SS (OB) Regs (NI), reg 4(5)(b)(i)

 **Example**

 A woman in receipt of Widow’s Pension of £97.65 is entitled to Incapacity Benefit of £91.40 basic rate. Widow’s Pension is a weekly and Incapacity Benefit a daily benefit. Before the payment due on 12.5.10 she applies to have her Widow’s Pension adjusted and to keep the whole of her Incapacity Benefit. She therefore receives Incapacity Benefit from 12.5.10 and only the balance of her Widow’s Pension - £6.25. For the period before 12.5.10 when she made the application, she receives full Widow’s Pension and her Incapacity Benefit is extinguished.

 17054 – 17059

Third step

17060 If neither DMG 17051 nor DMG 17052 - 17053 apply, the total amount payable is

1. the amount of the highest benefit **or**
2. where the benefits are payable at the same rate, the amount of one of them1.

1 SS (OB) Regs (NI), reg 4(5)(c)

17061 Where two or more benefits are still payable after adjustment, the total amount payable cannot be greater than the amount arrived at in DMG 17060.

Exceptions and modifications

17062 The guidance in DMG 17050 - 17061 is modified for the benefits in DMG 17063 - 17070.

Age addition

17063 Age addition is an increase of Retirement Pension for claimants over age 801. An age addition can only be reduced by another age addition2.

1 SS C&B (NI) Act 92, sec 79; 2 SS (OB) Regs (NI), reg 4(3)

Additional Pension or Graduated Retirement Benefit

17064 Where

**1.** Additional Pension or Graduated Retirement Benefit is payable with two or more of the personal benefits in DMG 17040 **or**

**2.** the claimant is over pension age and is entitled to one or more benefits which includes Additional Pension or Graduated Retirement Benefit **and** Incapacity Benefit at the Retirement Pension rate

 the Additional Pension or Graduated Retirement Benefit is treated as part of the personal benefit with which it is payable1.

1 SS (OB) Regs (NI), reg 4(4)(a)

17065 DMG 17064 does not apply where the claimant is entitled to Additional Pension, State Pension and either Widow’s Pension or Widowed Mother’s Allowance instead, adjustment of the Additional Pension is required1.

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

17066 Where a further adjustment is necessary against a third benefit the claimant is treated as having a single long-term benefit including the highest amount, before adjustment, of

**1.** Additional Pension **or**

**2.** Graduated Retirement Benefit **or**

**3.** the total of Additional Pension and Graduated Retirement Benefit payable with one of the benefits1.

1 SS (OB) Regs (NI), reg 4(4)(c)

 **Example**

 A man is in receipt of Severe Disablement Allowance at the weekly rate of £59.45. On 12.5.10 he becomes entitled to a Category A Retirement Pension made up of

 Basic Pension £48.83 (50% of the standard rate due to deficient contribution record)

 Additional Pension £23.50

 Graduated Retirement Benefit £1.96.

 The basic Retirement Pension rate is paid in full with a balance of £10.62 Severe Disablement Allowance. As Additional Pension and Graduated Retirement Benefit are only payable with one of the benefits, they are unaffected by the overlap provisions and are paid in full.

Widows and Incapacity Benefit

17067 There were special provisions1 applying to widows who before 13.4.95 were under pension age and entitled to Widowed Mother’s Allowance or Widow’s Pension and Invalidity Benefit. These provisions do not apply to Incapacity Benefit unless the modified savings provisions apply2. These benefits should be adjusted as in DMG 17069.

1 SS (OB) Regs (NI), reg 3(3) (revoked);
2 SS (IB) (Conseq & Trans Amdt & Savings) Regs (NI) 95, reg 14(9) & (10)

17068 Under the special provisions the total amount of Widowed Mother’s Allowance or Widow’s Pension and Invalidity Benefit was made up of

**1.** the sum of the Basic Pensions up to the standard rate of Category A Retirement Pension1 **and**

**2.** the sum of the Additional Pensions up to the prescribed maximum2.

1 SS C&B (NI) Act 92, sec 44(3)(a); 2 SS (MAC) Regs (NI), reg 2

17069 Under the modified provisions, the total amount of Widowed Mother’s Allowance or Widow’s Pension and long-term Incapacity Benefit is made up of

**1.** an amount equal to the basic rate of long-term Incapacity Benefit **or** the basic rate of Widowed Mother’s Allowance or Widow’s Pension **or** the higher of the two **and**

**2.** the sum of Incapacity Benefit payable at the additional rate **and** the Additional Pension payable with Widowed Mother’s Allowance or Widow’s Pension

up to the prescribed maximum.

 **Example**

 A woman is entitled to long-term Incapacity Benefit made up of £61.15 basic rate. She is widowed on 18.11.96 and becomes entitled to Widow’s Pension from 19.11.96 made up of £56.87 Basic Pension and £66.40 Additional Pension. As there is no Additional Pension with Incapacity Benefit, the Additional Pension payable with Widow’s Pension is unaffected.

 Widow’s Pension is a weekly and Incapacity Benefit a daily benefit. Before the payment due on 26.11.96 she applies to have her Widow’s Pension adjusted and to keep the whole of her Incapacity Benefit. She therefore receives Incapacity Benefit at the rate of £61.15 and Widow’s Pension Additional Pension of £66.40 from 26.9.95, her Widow’s Pension Basic Pension is extinguished. From 19.11.96 to 25.11.96 she receives full Widow’s Pension, as this was paid before the date of application, and a balance of Incapacity Benefit.

17070 Where the special provisions no longer apply, the decision maker should adjust Incapacity Benefit and Widow’s Benefit as in DMG 17064.

 **Example**

 A woman is entitled to a transitional award of long-term Incapacity Benefit made up of

 £61.15 basic rate and

 £10.00 additional rate.

 She is widowed on 18.9.95 and becomes entitled to Widow’s Pension from 19.11.96 made up of

 £56.87 Basic Pension and

 £66.40 Additional Pension.

 Widow’s Pension is a weekly and Incapacity Benefit a daily benefit. Before the payment due on 26.11.96 she applies to have her Widow’s Pension adjusted and to keep the whole of her Incapacity Benefit. She therefore receives Incapacity Benefit at the rate of £71.15 from 26.11.96 and a balance of £52.12 Widow’s Pension. From 19.11.96 to 25.11.96 she receives full Widow’s Pension as this was paid before the date of application, and her Incapacity Benefit is extinguished.

 17071 – 17084

Adjustment of personal Act benefits by personal industrial injuries and non-Act benefits

17085 Personal Act benefits are adjusted for personal Industrial Injuries and non-Act benefits before any adjustment has been made for other personal Act benefits under DMG 17040. The Act benefits in Column 1 below are reduced by the Industrial Injury and non-Act benefits in Column 21.

1 SS (OB) Regs (NI), reg 6(1) & Sch 1

|  |  |
| --- | --- |
| **Column 1 – personal benefit** | **Column 2 – other personal benefit by reference to which the benefit in column (1) is to be adjusted** |
| Contribution-based Jobseeker’s Allowance, short-term Incapacity Benefit | Unemployability Supplement and Training Allowance |
| Maternity Allowance | Training Allowance |
| Widow’s Allowance, Bereavement Allowance, Widowed Parent’s Allowance and benefit under specific legislation1 corresponding to Widowed Mother’s Allowance and Widow’s Pension | Unemployabilty Supplement, Industrial Injuries Death Benefit or War Pension Death Benefit payable to a widow, widower or surviving civil partner (including Temporary Award of Widows); Training Allowance (except where the column 1 benefit is Widow’s Allowance) |
| Retirement Pension (excluding age addition), additional pension and graduated retirement benefit, Incapacity Benefit, Severe Disablement Allowance, contribution-based Employment and Support Allowance and Carer’s Allowance | Unemployability Supplement (see DMG 17099), Industrial Injuries Death Benefit or War Pension Death Benefit payable to the claimant as the surviving spouse or civil partner; training allowance (see DMG 17101 - 17123) |

|  |  |
| --- | --- |
| Attendance Allowance, Disability Living Allowance care component, Personal Independence Payment daily living component, Armed Forces Independence Payment up to the value of the daily living component of Personal Independence Payment at the enhanced rate | Constant Attendance Allowance and any benefit based on the need for attendance under any pneumoconiosis, byssinosis or Miscellaneous Diseases Benefits Scheme (see DMG Chapter 73), Workmen’s Compensation (Supplementation) Scheme (see DMG Chapter 73) Service Pensions Instrument (see DMG 17092) or 1914-1918 War Injuries Scheme (see DMG 17100) |
| Attendance Allowance, Disability Living Allowance, Personal Independence Payment | Armed Forces Independence Payment |
| Invalidity Allowance or an age increase of long-term Incapacity Benefit | An age increase to Industrial Injuries Disablement Benefit; Unemployability Supplement and an additional allowance payable to a person who is entitled to Unemployability Supplement under any pneumoconiosis, byssinosis or Miscellaneous Diseases Benefits Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme |
| Unemployability Supplement | Any other Unemployability Supplement |
| Increase of disablement pension (see DMG 17097) during hospital treatment | Treatment allowance (see DMG 17098) |
| State Pension | Unemployability Supplement and Training Allowance |

1 SS C&B (NI) Act 92, sec 78(9)

Industrial injuries and non-Act benefits

17086 The Industrial Injuries and non-Act benefits referred to in Column 2 of DMG 17085 are

**1.** Unemployment Supplement and age related increases

**2.** constant Attendance Allowance awarded under the Industrial Injuries scheme1

**3.** any Personal Injuries Scheme2 payment made under certain legislation3

**4.** any Service Pensions Instrument (see DMG 17092)

**5.** the Pneumoconiosis Byssinosis and Miscellaneous Benefit Scheme (see Benefit Specific Guidance)

**6.** the Workmen’s Compensation (Supplementation) (see Benefit Specific Guidance) the general benefit rules for former constables and firefighters4

**7.** Industrial Death Benefit5

**8.** war pension death benefit (see DMG 17095)

**9.** training allowances (see DMG 17101).

1 SS C&B (NI) Act 92 Sch 7, Part I, sec 104; 2 SS (OB) Regs (NI), reg 2(1);

3 Personal Injuries (Emergency Provisions) Act 1939;
Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939;
4 SS C&B (NI) Act 92, Sch 8, Part II; 5 Sch 7, Part VI

Armed Forces Compensation Scheme

17087 The Armed Forces Compensation Scheme is a no fault compensation scheme which covers death, illnesses or injuries attributable to or significantly aggravated by service where the illness first presented or the incident occurred on or after 6.4.05. Under the terms of the new scheme a lump sum will be payable to service or ex-service personnel based on a tariff according to the seriousness of the condition. A Guaranteed Income Payment, payable for life, will also be paid where there has been a loss of earning capacity and to surviving partners where the service person’s death was caused by service.

17088 Lump sums and income from the Armed Forces Compensation Scheme **do not** overlap with personal act benefits. The scheme was established under specific legislation1 to which no reference is made in the Overlapping Benefit Regulations.

1 Armed Forces (Pensions and Compensation) Act 2004

17089 The War Pensions scheme will continue to run parallel to the Armed Forces Compensation Scheme for existing beneficiaries and for those people who claim for illness or injury sustained prior to 6.4.05 during service in the Armed Forces.

 17090 – 17091

Service pensions instrument

17092 A service pensions instrument1 is any instrument that provides pensions or other benefits for disablement or death due to service

1. in the armed forces of the Crown **or**
2. under British command to members of the Polish2 naval detachment mentioned in the agreement between the United Kingdom **and** Polish governments of 18.11.39 **or** armed forces organised and employed under British command under the agreement of 5.8.40 **or**
3. in a nursing or other auxiliary service of any of the armed forces of the Crown **or**
4. any other organisation established under the control of the Defence Council **or** formerly established under the control of the Admiralty, Army Council or Air Council.

1 SS (OB) Regs (NI), reg 2(1); 2 Polish Resettlement Act 47, sec 1(1)

17093 Disregard any

**1.** extra statutory payments **and**

**2.** any part of the payment based on length of service.

17094 Payments under

**1.** Royal Warrants **or**

**2.** Dispensing or Allied Instruments

 are statutory payments since they cover specified sets of circumstances or are subject to Treasury approval. Payments made in similar circumstances but without Dispensing Instruments in mercantile marine and civilian cases are extra-statutory and should be ignored. If there is any doubt as to whether a payment is statutory the decision maker should direct that further enquiries be made of the paying authority.

War pension death benefit

17095 War pension death benefit1 is death benefit paid as a pension or allowance under

**1.** any Personal Injuries Scheme (see DMG 17086 **3.**)

**2.** any Service Pensions Instrument (see DMG 17092)

1 SS (OB) Regs (NI), reg 2(2)

17096 It does not include

**1.** a rent allowance

**2.** a grant payable because the claimant is in receipt of a pension and is 65 or over

**3.** a pension or allowance calculated on the claimant’s needs.

Disablement Pension

17097 A “disablement pension” is defined1 as including a disablement payment on a pension basis and retired pay or pension in respect of any disablement, wound, injury or disease.

1 SS (OB) Regs (NI), reg 2(1)

Treatment Allowance

17098 “Treatment Allowance” means1

**1.** an allowance payable under

**1.1** any pneumoconiosis, byssinosis scheme or Miscellaneous Diseases Benefit Scheme **or**

**1.2** a Service Pensions Instrument **and**

**2.** payable only to a person undergoing a course of

**2.1** medical

**2.2** surgical **or**

**2.3** rehabilitative treatment

 in consequence of a disablement in respect of which a pension may or has been paid, or in respect of which an allowance is payable to a person pending the determination of the question of whether that person is entitled to such a pension.

1 SS (OB) Regs (NI), reg 2(1)

Unemployability Supplement

17099 In this Chapter the term Unemployability Supplement refers not only to Unemployability Supplement paid under the Industrial Injuries Benefits Schemes but also to an increase on account of unemployability under

**1.** any pneumoconiosis, byssinosis or Miscellaneous Diseases Benefits Scheme

**2.** any Workmen’s Compensation scheme

**3.** any Service Pensions Instrument1.

1 SS (OB) Regs (NI), reg 2(1)

 17100

Training allowance

17101 Subject to DMG 17123 training allowance means1 an allowance payable

**1.** out of public funds (see DMG 17006) by a government department **or** by or on behalf of the Department for Employment and Learning

**2.** for a person’s or a dependant’s maintenance

**3.** for a period during which the person is following a course of training or instruction provided by, or under arrangements made or approved by, or on behalf of the government department in the first point above **or** approved by the Department for Employment and Learning.

17102 In practice, courses of vocational training are arranged by Department for Employment and Learning. Payments under these arrangements are training allowances.

1 SS (OB) Regs (NI), reg 2(1)

 17103 – 17114

Training premium and training bonus

17115 People taking part in the schemes may receive a training allowance made up of

**1.** a basic allowance **and**

**2.** a training premium **and**

**3.** a training bonus.

 For overlapping benefit purposes the premium and bonus should be disregarded1. The allowance will overlap only on days which the claimant actually takes part in the programme including days spent on job search.

1 SS (OB) Regs (NI), reg 2(1)

 17116 – 17118

Training allowances from the European Social Fund

17119 The Northern Ireland European Social Fund programme 2007-13 aims to reduce unemployment and economic activity and increase workforce skills. These aims are supported through two main priorities, known as Priority 1 and Priority 2. Funding under Priority 1 is composed of up to 40% European Social Fund, a contribution of 25% from the Department of Education and Learning, with the remaining 35% of costs sourced from other public match - funders. Activities supported may be delivered by public, private, voluntary or community sector organisations. Priority 2 supports government programmes.

17120 Payments made directly or indirectly by the European Social Fund are payments out of public funds. So, when deciding whether particular payments are a training allowance decision makers will need to consider whether the conditions in DMG 17101 **2.** and **3.** are satisfied.

17121 The European Social Fund Managing Authority, within the Department of Education and Learning has overall accountability for the European Social Fund in Northern Ireland.

17122 Decision makers should therefore accept that all projects funded by the Northern Ireland European Social Fund Programme 2007-13 are approved by a Government Department1. This includes where the course is run by a private organisation.

1 R(IS) 10/98

Allowances which are not training allowances for overlapping benefits purposes

17123 Although they may be known as training allowances the following should be disregarded

**1.** allowances paid by any government department because a person is following a course of full time education or is training as a teacher1

**2.** scholarships except state scholarships grants for the purchase of books

**3.** salaries paid under the name of training allowances by a Health and Social Services Board or Health and Social Services trust

**4.** training allowances paid under the Department for Employment and Learning similar industrial injuries scheme during any period in which the claimant is following a course of instruction. This is because a trainee who is incapable is not regarded as following the course.

1 SS (OB) Regs (NI), reg 2(1)

 17124 – 17129

Special provisions where Category A Retirement Pension or transitional long-term Incapacity Benefit is reduced by Industrial Death Benefit or War Pension Death Benefit

17130 Special provisions restrict the reduction of Category A Retirement Pension1 and transitional long-term Incapacity Benefit2 where Industrial Death Benefit or War Pension Death Benefit is payable. Where there is some entitlement to

**1.** a Category A Retirement Pension Basic Pension **or**

**2.** transitional long-term Incapacity Benefit basic rate based on the claimant’s own contributions

 the amount of Basic Pension or basic rate payable is not reduced below that amount. In effect the Industrial Death Benefit or War Pension Death Benefit only reduces that part of Category A Retirement Pension or transitional long-term Incapacity Benefit which has been calculated on the contributions of the late spouse or civil partner.

1 SS (OB) Regs (NI), reg 6(5); 2 SS (IB) (Conseq & Trans Amdt & Savings) Regs (NI) 95, reg 14(11)

 **Example**

 A woman is in receipt of a War Widow’s Pension at the weekly rate of £117.30. She becomes entitled to Category A Retirement Pension at the reduced weekly rate of £60.54 (62% of the standard rate). As her husband had a full contribution record she would be entitled to a basic Category B Retirement Pension of £97.65. Her Category A Retirement Pension is therefore topped up by £37.11 to the standard rate of £97.651. The War Widow’s Pension overlaps with her Category A2 but does not reduce it below the rate based on her own contributions3. She therefore receives War Widow’s Pension of £117.30 and Category A Retirement Pension of £60.54.

1 SS C&B (NI) Act 92, sec 52(2); 2 SS (OB) Regs (NI), reg 6(1); 3 reg 6(5)

17131 The overlap does not affect Retirement Pension increments or Invalidity Addition.

 17132 – 17139

Adjustment of child dependency increase

17140 Many benefits no longer have provision for child dependency increases but where they do or entitlement is retained through transitional and savings provisions, a child dependency increase is adjusted by any other child dependency increase payable for that same child for the same period irrespective of whether it is payable to the same or different claimants1. The method of adjustment is determined by the benefits involved.

 **Note:** No adjustment is required for Child Benefit2.

1 SS (OB) Regs (NI), reg 7(1); 2 reg 8(1)

17141 Where the child dependency increase is payable under the Act1 and any other child dependency increase would be payable for the same child and for the same period they should be adjusted as in DMG 17050 et seq if they are child dependency increases payable under

**1.** the Act (but see the **Note** to this paragraph) and includes

**1.1** Unemployability Supplement

**1.2** Industrial Injuries Disablement Benefit

**1.3** Workmen’s Compensation

**1.4** Industrial Death Benefit

**1.5** another Act benefit where entitlement is retained through transitional and savings provisions (see DMG 16000)

**2.** Personal Injuries Scheme or Service Pensions Instrument

**3.** Pneumoconiosis Byssinosis and Miscellaneous Disease Benefits scheme

**4.** training allowances (see DMG 17101).

 **Note:** Where one of the benefits is Industrial Death Benefit or Guardian’s Allowance see DMG 17142 and DMG 17180 where Severe Disablement Allowance or Carer’s Allowance are involved.

1 SS (NI) Act 75; SS C&B (NI) Act 92

Adjustment of child dependency increase involving Industrial Death Benefit or Guardian’s Allowance

17142 Where one of the child dependency increases a claimant is entitled to is a child dependency increase under

**1.** the Act **or**

**2.** the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits Scheme

 the Industrial Death Benefit or Guardian’s Allowance payable for that child takes precedence and is payable in full1. The amount of the Industrial Death Benefit or Guardian’s Allowance child dependency increase is deducted from the amount of the other child dependency increase and only the balance of that child dependency increase, if any, is payable.

1 SS (OB) Regs (NI), reg 7(4)

17143 Where a claimant is entitled to a child dependency increase under

1. any Personal Injuries Scheme **or**
2. a Service Pensions Instrument **or**
3. any scheme by way of a training allowance

 these child dependency increases take precedence and are payable in full. The amount of these child dependency increases is deducted from the amount of the Industrial Death Benefit or Guardian’s Allowance child dependency increase and only the balance of Industrial Death Benefit or Guardian’s Allowance, if any, is payable.

1 SS (OB) Regs (NI), reg 7(5)

 17144 – 17149

Adjustment of adult dependency increase

17150 Many benefits no longer have provision for adult dependency increases but where they do or entitlement is retained through transitional or savings provisions, a claimant cannot be entitled to an adult dependency increase for the same period for more than one person.

17151 Adjustment will be required1 where

1. one claimant is entitled to two or more adult dependency increases for the same or different adult dependants **or**
2. different claimants are entitled to an adult dependency increase for the same dependant.

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

17152 Where more than one of the following adult dependency increases would be payable for the same dependant they should be adjusted as in DMG 17050 et seq.

1. Act adult dependency
2. Unemployability Supplement increases awarded under the schemes listed at DMG 17086 **1.** - **6.** (excluding the general benefit rules for former constables and firefighters)
3. training allowances (see DMG 17101).

 See DMG 17180 where Severe Disablement Allowance or Carer’s Allowance are involved.

Persons having care of children

17153 An adult dependency increase for a person having care of a child should not be reduced or cause reduction where

**1.** the claimant employs the dependant to look after a child and does not reside with the dependant

**2.** another claimant is entitled to an adult dependency increase for the same dependant on the same basis1.

1 SS (OB) Regs (NI), reg 9(3)

 17154 – 17159

Adjustment of child or adult dependency increases by personal benefits

17160 Where a claimant has entitlement to one of the dependency benefits in DMG 17141 **1.** **or** DMG 17152 **1.** and that dependant has entitlement to

1. one of the personal benefits in DMG 17040 or DMG 17086 **1.** - **7.** **or**
2. a training allowance1 (see DMG 17101)

 the amount of dependency benefit payable is reduced or extinguished by the amount of the personal benefit2.

1 Job Release Act 77, sec 1; 2 SS (OB) Regs (NI), reg 10(1)

17161 Where more than one personal benefit is involved, make any adjustments as in DMG 17050 first. Make any adjustment to the personal benefit because of free in-patient treatment before the overlapping benefit adjustment.

Persons having care of children

17162 An adult dependency increase for a person having care of a child should not be reduced or cause reduction on account of any personal benefit payable to that person where the claimant

1. employs the dependant to look after a child **and**
2. does not reside with the dependant1.

1 SS (OB) Regs (NI), reg 10(3)

 17163 – 17169

Order of adjustment

17170 Before considering adjustment of benefits in the order set out below the decision maker should check that the benefits in question are not incompatible (see DMG 17005). If they are not incompatible the order of adjustment is as follows

1. make adjustments due for other reasons, for example, earnings and Invalidity Addition/Additional Pension adjustments. This is because the overlapping benefits provisions take account of amounts payable. An exception to this is with hospital in-patients where an adjustment for overlapping benefits should be carried out before any hospital in-patient deduction1
2. deduct personal Industrial Injuries and non-Act benefits from personal Act benefit2
3. deduct personal Act benefit from other personal Act benefit3
4. deduct Act and non-Act dependency benefit from other Act dependency benefit4
5. deduct Act and non-Act personal benefit payable to dependants in their own right from Act dependency benefit payable for them5
6. make any hospital in-patient adjustments6 (see DMG 17161 for exception).

1 SS (HIP) Regs (NI), reg 18; 2 SS (OB) Regs (NI), reg 6(1); 3 reg 4;

4 reg 7, reg 9; 5 reg 10; 6 SS (HIP) Regs (NI), reg 18

 17171 – 17179

Special rules for Severe Disablement Allowance and Carer’s Allowance

17180 The special rules for Severe Disablement Allowance and Carer’s Allowance are1

1. instead of taking into account separately the payable amounts of personal, adult dependency increase and child dependency increase they should be totalled and adjustment made by using this total and the total amount the other benefit involved including dependency increases but excluding Additional Pension and Graduated Retirement Benefit
2. the amount of benefit payable after adjustment should not be less than the sum of the amounts which would have been payable by way of Severe Disablement Allowance or Carer’s Allowance as personal and dependency benefit.

1 SS (OB) Regs (NI), reg 12

 **Note:** The special rules do not apply where an increase for a dependant would be reduced by a personal benefit payable to, or for, that dependant as in DMG 17160.

 17181 – 17189

Dual claims for increase for same dependant

General

17190 Where there is more than one claimant with entitlement to an increase for a dependant, the claimants may decide amongst themselves who should claim the increase. Where this applies a written notice signed by

1. one of the claimants where there are two competing claims **or**
2. a majority of claimants where there are more than two competing claims

 should be sent to the Department specifying the person to be entitled to the increase. The notice does not apply to any period for which an increase has already been paid1. Where a notice is not sent to the Department priority of entitlement should be decided as in DMG 17195 - 17196.

1 SS (OB) Regs (NI), reg 15(5)

17191 If a person with priority of title receives dependency increase at a lower rate than another person who would be entitled but for that priority, that other person shall receive the difference between the two rates1.

1 SS (OB) Regs (NI), reg 15(6)

17192 Any person who has title to a dependency increase but for these provisions should be treated as entitled for the purpose of any other provisions which depend on entitlement1.

1 SS (OB) Regs (NI), reg 16

 17193

Child dependants

17194 Where

1. a man would be entitled to an increase of Category A or Category C Retirement Pension **and**
2. his wife would be entitled to an increase of Category A or Category C Retirement Pension

 for the same child or children, the man will be entitled to the increase and his wife will not. He is also treated as entitled for the purposes of determining entitlement during any period for which he would be entitled1 but for the operation of any provision of the Act, except where he is disqualified because of imprisonment or detention in legal custody2.

1 SS (OB) Regs (NI), reg 15(2); 2 SS C&B (NI) Act 92, sec 113(1)(b)

17195 Where DMG 17190 does not apply, entitlement should be decided in the following order to the person1

1. who has been awarded Child Benefit **or**
2. who is treated as entitled to Child Benefit on the basis of residence with the spouse **or**
3. with whom the child is living **or**
4. who is a parent of the child.

1 SS (OB) Regs (NI), reg 15(3)

Adult dependants

17196 Where

1. DMG 17190 does not apply **and**
2. more than one person would be entitled to an increase of benefit for an adult dependant

 entitlement should be decided in the following order to the person who is1

1. the spouse or civil partner of the dependant **or**
2. the person residing with the dependant.

1 SS (OB) Regs (NI), reg 15(4)

 17197 – 17199

Child Benefit, Child Benefit (lone parent) and child dependency increase

17200 There are three rates of Child Benefit from April 1997

**1.** basic rate1 payable for all children other than the only, elder or eldest

**2.** higher rate2 payable for the only, elder or eldest child unless **3.** applies

**3.** lone parent3 payable for the only, elder or eldest child of a lone parent. This is known as Child Benefit (lone parent).

 There is no adjustment between personal Act and dependency Act benefits and basic Child Benefit4.

1 CHB & SS (F & AR) Regs (NI), reg 2(1)(b); 2 reg 2(1)(a)(i);

3 reg 2(1)(a)(ii); 4 SS (OB) Regs (NI), reg 8(1)

17201 There is no entitlement to Child Benefit (lone parent) where there is entitlement to certain specified benefits1 (see Benefit Specific Guidance). The overlapping benefit provisions only apply where there is entitlement for the same period to

**1.** a child dependency increase with short-term Incapacity Benefit (where the claimant is over pension ageorbenefit is payable at the higher rate) **or** long-term Incapacity Benefit or Severe Disablement Allowance **and**

**2.** Child Benefit (lone parent) in respect of the same child.

 Where these conditions are satisfied the weekly rate of the child dependency increase is reduced by the amount of the Child Benefit (lone parent)2.

1 CHB & SS (F & AR) Regs (NI), reg 2(4)(a); 2 reg 8(2)

Higher rate of Child Benefit for eldest child

17202 Where the higher rate of Child Benefit for the only, elder or eldest child payable under saving provisions to certain lone parents1 (“the higher lone parent rate”) is in payment then any Child’s Special Allowance or child dependency increase payable for that child is reduced by2

**1.** the difference between

**1.1** the higher lone parent rate (from April 2004, £17.55) **and**

**1.2** the rate for a second or subsequent child (from April 2004, £11.05) **less**

**2.** £3.65.

1 CHB & SS (F & AR) Regs (NI), reg 2(1)(a)(ii) & CHB & SS (F & AR) (Amdt) Regs (NI);
2 SS (OB) Regs (NI), reg 8(2)

 **Example**

 A claimant is a single parent receiving Widowed Mother’s Allowance with an increase of £11.35 for a dependent child retained under transitional provisions. The decision maker calculated that this should be reduced by

 £17.55 - £11.05 = £6.50 less £3.65 = £2.85

 thus the child dependency increase was reduced by £2.85 to £8.50.

17203 Where the rate of Child Benefit for the only elder or eldest child (“the normal only/elder/eldest rate”)1 is in payment then any Child’s Special Allowance or child dependency increase payable for that child is reduced by2

**1.** the difference between

**1.1** the normal only/elder/eldest rate **and**

**1.2** the rate for a second or subsequent child **less**

**2.** £3.65.

1 CHB & SS (F & AR) Regs (NI), reg 2(1)(a)(i); 2 SS (OB) Regs (NI), reg 8(3)

 **Example**

 A claimant receives an increase of long-term Incapacity Benefit for her only child under transitional provisions. The amount of this child dependency increase is £11.35. The decision maker decided that this had to be reduced by

 £16.50 - £11.05 = £5.45 less £3.65 = £1.80

 Thus the child dependency increase was reduced by £1.80 to £9.55.

 17204 – 17209

Adjustment for part weeks

17210 Where a weekly benefit is reduced by an overlapping benefit the reduction takes effect from the date the overlap begins and ends when the overlap ends. The normal provisions where changes of circumstances take effect from the following payday1 do not apply.

1 SS (C&P) Regs (NI), reg 16

17211 Where an adjustment is made for part of a week all benefits, are deemed to be payable at a daily rate of one-seventh of the weekly rate1.

1 SS (OB) Regs (NI), reg 14

 17212 – 17219

Miscellaneous provisions

Dependency benefit claimed while claimant entitled to personal training allowance

17220 Dependency benefit payable under the Act is not payable if the claimant is receiving a personal benefit by way of a training allowance. This provision does not apply where the training allowance has itself been adjusted by reference to any benefit under the Act1.

1 SS (OB) Regs (NI), reg 11

 17221 – 17229

Retrospective adjustments of training allowance

17230 Any retrospective adjustment to a training allowance should be disregarded unless there is evidence that the client agreed to such an adjustment1.

1 E & T Act (NI) 50

Effect of overlap on entitlement

17231 The principles of overlap affect only the amount of benefit payable. They do not affect entitlement to the benefit or any rights or obligations under the Act which depend upon a person being entitled to the benefit1.

1 SS (OB) Regs (NI), reg 16

Prevention of double adjustment

17232 Any benefit under the Act should not be reduced by any Act or non-Act benefit which has already been adjusted by reference to that benefit1.

1 SS (OB) Regs (NI), reg 17

Relinquishment

17233 A claimant may try to relinquish entitlement to a benefit by returning the payment to the Department. This is treated as an application for supersession on the grounds that the claimant no longer consents to receive the award. See DMG Chapter 04 for further guidance.

17234 If the decision maker refuses to supersede the award so as to end entitlement, the benefit remains payable for overlapping benefit purposes. This is because payable means simply “due and owing” and a sum is due and owing unless and until the claimant has lost the right to enforce it.

 17235 – 17999

Appendix 1

Incompatible personal benefits - DMG 17005

 In the table below, the benefits listed in Column 1 are incompatible with those in Column 2.

|  |  |
| --- | --- |
| **Column 1** | **Column 2** |
| Widowed Parents Allowance | Bereavement Allowance |
| Contribution-based Jobseeker’s Allowance, Retirement Pension, Statutory Maternity Pay, Statutory Sick Pay | Contribution-based Employment and Support Allowance |
| Contribution-based Employment and Support Allowance, Incapacity Benefit, Maternity Allowance, Retirement Pension, Severe Disablement Allowance, Statutory Maternity Pay, Statutory Sick Pay | Contribution-based Jobseeker’s Allowance |
| Contribution-based Employment and Support Allowance, Incapacity Benefit, contribution-based Jobseeker’s Allowance, Statutory Sick Pay | Retirement Pension |
| Contribution-based Employment and Support Allowance, Incapacity Benefit, contribution-based Jobseeker’s Allowance, Maternity Allowance, Statutory Sick Pay | Statutory Maternity Pay |
| Contribution-based Employment and Support Allowance, Incapacity Benefit, contribution-based Jobseeker’s Allowance, Maternity Allowance, Retirement Pension, Statutory Maternity Pay | Statutory Sick Pay |
| Reduced Earnings Allowance | Unemployability Supplement |
| Widowed Mother’s Allowance | Widow’s Pension |
| Attendance Allowance | Disability Living Allowance |