

EFFECT OF IMPRISONMENT ON BEREAVEMENT SUPPORT PAYMENT

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INTRODUCTION

- 1 This memo gives guidance on payment of Bereavement Support Payment (BSP) to prisoners following the introduction of [The Bereavement Support Payment Regulations 2017](#) (S.I. 2017/410). These regulations take effect from 6.4.17¹.

1 The Bereavement Support Payment Regulations 2017, reg 1(2)

MEANING OF PRISONER

- 2 For the purposes of BSP a prisoner¹ is a person who
1. in Great Britain or elsewhere is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings **or**
 2. in Great Britain or elsewhere is unlawfully at large **or**
 3. in Great Britain is being detained

1. under provisions to remove prisoners to hospital²; **and**
2. on or before the day which the Secretary of State certifies to be the person's release date (if any)³ **or**
4. a prisoner in Great Britain who is being detained under Scottish provisions⁴ to transfer prisoners for mental health treatment.

1 BSP Regs reg 6(2); 2 MH Act 83, s. 47; 3 s. 50(3); 4 MH (C&T)(Scot) Act 03, s. 136

PRISONERS WHO ARE NOT TO BE PAID BSP

- 3 A person is not to be paid BSP during the period they are a prisoner¹
1. in Great Britain or elsewhere who is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings **or**
 2. in Great Britain or elsewhere who is unlawfully at large **or**
 3. being detained
 1. under provisions to remove prisoners to hospital² **and**
 2. on or before the day which the Secretary of State certifies to be the person's release date (if any)³
 4. in Great Britain who is being detained under Scottish provisions to transfer prisoners for mental health treatment⁴.

1 BSP Regs reg 6(1); 2 MH Act 83, s. 47; 3 s. 50(3); 4 MH (C&T)(Scot) Act 03, s. 136

- 4 A person is not a prisoner in accordance with the above where
1. a person outside Great Britain is a prisoner within paragraph 2.1 or 2.2 above **and**
 2. in similar circumstances in Great Britain, the person would not have been a prisoner¹.

1 BSP Regs reg 6(3)

PAYING BSP TO PERSONS REMANDED IN CUSTODY

- 5 A person who is remanded in custody is not a prisoner as in paragraph 2 above so can be paid BSP¹ unless

1. a sentence of imprisonment or detention in legal custody as a result of criminal proceedings or
2. a sentence of detention under certain provisions² or
3. a suspended sentence of imprisonment

is later imposed on the person for the offence.

1 BSP Regs reg 7(2); 2 MH Act 83, s. 47; MH (C&T)(Scot) Act 03, s. 136

ANNOTATIONS

Please annotate the number of this memo (8/17) against the following DMG paragraphs: 12001.

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 23/16](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: March 2017

The content of the examples in this document (including use of imagery) is for illustrative purposes only