

**BEREAVEMENT SUPPORT PAYMENT –
CONSEQUENTIAL AMENDMENTS**

Contents	Paragraphs
Introduction	1
Background	2
Transitional provisions	3 – 6
Benefits for which a claim is not required	7 – 9
Claims at alternative offices	10
Claims made by telephone	11
Claims made electronically	12
Time for claiming	13 – 15
Use of information provided to a Local Authority	16
Notification of a change of circumstances electronically	17
Claims in the addition or alternative	18
Revision	19 – 20
Payment of bereavement support payment	
Definition of long term benefit	21
Definition of working age benefit	22
WMA, WPA, BA and WP pay day	23
Day payment starts and date of change in the amount of benefit	24
Termination of award	25
Abatements – prescribed payments	26
Imprisonment – exceptions to the disqualification provisions	27
Overlapping benefits – adjustment of personal Act benefits by personal industrial injuries and non-Act benefits	28
IS, JSA, SPC and ESA	

Unearned income disregard	29
Capital disregard	30
Payment questions – JSA and IS	31 – 32
Social fund	33
Part week payment – ESA	34
Bereavement benefit	
Bereavement payment	35
Widowed parents allowance	36
Bereavement allowance	37
State pension	
Inherited amount	38 – 39
Survivor's choice of inherited lump sum or state pension	40
Inherited deferral amount	41
Forfeiture Act 1982	42
Annotations	
Contacts	

INTRODUCTION

- 1 This memo gives guidance on changes to decision making and appeals, subjects common to all benefits and SS benefits, as a result of the introduction of BSP. The changes are introduced by
1. the Pensions Act 2014 (Pensions Act 14) **and**
 2. the Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (Pensions Act 14 (Cons, Supp & Inci Amdts) Order) (SI 2017 No. 422) **and**
 3. the Pensions Act 2014 (Commencement No. 10) Order 2017 (Pensions Act 14 (Commencement No. 10) (SI 2017 (No. 297).

The changes take effect on 6.4.17¹.

*1 Pensions Act 14 (Commencement No. 10) Order, art 3(1)(b);
Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 1(2)*

BACKGROUND

- 2 BSP is being introduced for people whose spouse or civil partner dies on or after 6.4.17. It is replacing BB for such people. However, people whose spouse or civil partner died before 6.4.17 will have to make a claim for BB, even if it is made on or after that date. How the introduction of BSP affects changes to decision making and appeals, subjects common to all benefits and other SS benefits, is described in paragraphs 3 – 42 below.

Note: See DMG Chapter 59 for guidance on BSP and DMG Chapter 63 for guidance on BB. See also DMG Chapter 58 for guidance on WB where the death occurred before 9.4.01.

TRANSITIONAL PROVISIONS

- 3 The guidance at paragraphs 7 – 42 below will not apply¹ where a person

1. is entitled to BPT² or BA³ on 5.4.17⁴ **or**
2. would be entitled to BPT or BA on 5.4.17 if they made a claim for it⁵.

1 Pensions Act 14 (Commencement No. 10) Order, art 4(2); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2(1); 2 SS CB Act 92, s 36; Pensions Act 14 (Commencement No.10) Order, art 4(2); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2(2)(a)(i); 3 SS CB Act 92, s 39B; Pensions Act 14 (Commencement No.10) Order, art 4(2); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2(2)(a)(ii); 4 Pensions Act 14 (Commencement No. 10) Order, art 4(2); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2(2); 5 Pensions Act 14 (Commencement No.10) Order, art 4(2); Pensions Act 14 (Cons, Supp & Inci Amdtss) Order, art 2(2)(b)

- 4 Paragraph 3 above will cease to apply if a person

1. is no longer entitled to BPT or BA¹ **and**
2. would no longer be entitled to BPT or BA if they made a claim for it².

Note: When this applies, a person may be entitled to BSP subsequently³ (for example if they remarry and that spouse dies).

1 Pensions Act 14 (Commencement No.10) Order, art 4(3); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2(3)(a); 2 Pensions Act 14 (Commencement No. 10) Order art 4(3); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2(3)(b); 3 Pensions Act 14 (Commencement No.10) Order, art 4(4); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2(4)

- 5 The guidance at paragraphs 7 – 42 below will also apply to a claim for BSP¹ for a person

1. whose spouse or civil partner died in the 12 months before 6.4.17² **and**
2. who would have been entitled to a BPT³ if they had made a claim for it⁴ **and**
3. who remarried or formed a new civil partnership⁵ **and**
4. whose new spouse or civil partner died
 - 4.1 on or after 6.4.17 **and**
 - 4.2 within 12 months of the death of their previous spouse or civil partner⁶.

Note: Cases of doubt should be sent to DMA Leeds for advice.

1 Pensions Act 14 (Commencement No. 10) Order, art 5(1); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 3(1); 2 Pensions Act 14 (Commencement No. 10) Order, art 5(2)(a); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 3(2)(a); 3 SS CB Act 92, s 36; 4 Pensions Act 14 (Commencement No. 10) Order, art 5(2)(b); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 3(2)(b); 5 Pensions Act 14 (Commencement No. 10) Order, art 5(2)(c); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 3(2)(c); 6 Pensions Act 14 (Commencement No. 10) Order, art 5(2)(d); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 3(2)(d)

- 6 However, where paragraph 5 above applies, the guidance at paragraphs 7 – 42 below will apply to a BSP claim
 1. at the end of a period of 12 months starting on the date of death of the person's previous spouse or civil partner¹ **and**
 2. on the day the person is entitled to BSP in respect of the death of their new spouse or civil partner².

Note: Cases of doubt should be sent to DMA Leeds for advice.

1 Pensions Act 14 (Commencement No. 10) Order, art 5(3)(a); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 3(3)(a); 2 Pensions Act 14 (Commencement No. 10) Order, art 5(3)(b); Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 3(3)(b);

BENEFITS FOR WHICH A CLAIM IS NOT REQUIRED

- 7 Guidance at DMG 02009 4. is amended as below

A claim is not required for Cat C RP¹ where the beneficiary is already in receipt of

1. another RP **or**
2. WB **or**
3. benefit corresponding to WP or WPA **or**

4. WPA

1 SS (C&P) Regs, reg 3(1)(a)

8 Guidance at DMG 02009 **3.** is amended as below

A claim is not required for Cat A RP, Cat B RP or SP¹ where the beneficiary is a woman

1. over the age of 65 and entitled to WMA or WPA on her ceasing to be so entitled
or
2. under the age of 65 and in receipt of WP on her attaining that age.

1 SS (C&P) Regs, reg 3(1)(d)

9 Guidance at DMG 02009 **14.** should no longer be followed¹.

1 Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 10(3)(c)

CLAIMS AT ALTERNATIVE OFFICES

10 Guidance at DMG 02053 **2.** is amended to read “WPA”. This means that claims to WPA can be made at alternative offices¹.

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

CLAIMS MADE BY TELEPHONE

11 Guidance at DMG 02073 no longer applies to claims to BB. Instead telephone claims can be made to WPA¹ and BSP².

1 SS (C&P) Regs, reg 4(11)(e) & reg 4(11)(ea)

CLAIMS MADE ELECTRONICALLY

12 BSP is added to the list of benefits at DMG 02069 that may be claimed electronically¹.

1 SS (C&P) Regs, reg 4ZC & Sch 9ZC

TIME FOR CLAIMING

13 The guidance at DMG 02341 (Bereavement benefits where death difficult to establish) now is only applicable to claims for WPA¹.

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

- 14 The prescribed time limit for claiming¹ in respect of the additional payment of BSP for the first month (£3,500 or £2,500) is 12 months beginning with the date of death of the claimant's spouse or civil partner.

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

- 15 Guidance at DMG 02340 – the prescribed time for claiming BPT should no longer be followed as the regulation¹ has been revoked.

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

USE OF INFORMATION PROVIDED TO A LOCAL AUTHORITY

- 16 Guidance at DMG 02060 (claims and information in relation to specified benefits provided to certain organisations) no longer applies to BA or BPT¹. Similarly the guidance at 02066 **2.** and **3.** no longer applies to BA and BPT. Instead the guidance now applies to BSP².

1 SS (C&P) Regs, reg 32B; 2 SS (C&I) Regs, reg 1(3)

NOTIFICATION OF A CHANGE OF CIRCUMSTANCES ELECTRONICALLY

- 17 BSP is now added to the list of benefits where a change of circumstances can be notified electronically¹ – see DMG 04152.

1 SS (C&P) Regs, reg 32ZA

CLAIMS IN THE ADDITION OR ALTERNATIVE

- 18 A claim to BB may be treated as a claim to BSP. Similarly a claim to BSP may be treated as a claim to BB¹. BB means a BA², a BPT³ or WPA.

*1 SS (C&P) Regs, Sch 1, Part 1; 2 SS CB Act 92, s 39B & Pensions Act 14, Sch 16, para 13;
3 SS CB Act 92, s 36 & Pensions Act 14, Sch 16, para 8*

REVISION

- 19 BSP is added to the list of benefits which should not be revised¹ for official error in the circumstances described in DMG 03270 – 03271.

1 SS CS (D&A) Regs, reg 3(5ZB)

- 20 A decision to award BSP may be revised¹ at any time where contributions are repaid or returned to the contributor, where this means the person no longer satisfies the contribution conditions of entitlement to the benefit.

1 SS CS (D&A) Regs, reg 3(8F), 3(8G) & 3(8H)

PAYMENT OF BEREAVEMENT SUPPORT PAYMENT

Definition of long term benefit

- 21 DMG 08014 gives the definition of long term benefit. BA is omitted from the list of long term benefits¹.

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

Definition of working age benefit

- 22 DMG 08015 gives the definition of working age benefit. BA is removed from the list¹.

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

WMA, WPA, BA and WP pay day

- 23 DMG 08080 gives details of pay days. Reference to BA is removed from this paragraph¹.

1 SS (C&P) Regs, reg 22A

Day payment starts and date of change in the amount of benefit

- 24 DMG 08083 and DMG 08084 give guidance on day payment starts and date of change in the amount of benefit. Reference to BA is removed from these paragraphs¹. Also, for the purposes of DMG 08083, BSP has been added.

1 SS (C&P) Regs, reg 16(2A) & (4)

Termination of award

- 25 DMG 08086 gives guidance on termination of award. Reference to BA is removed from this paragraph¹.

1 SS (C&P) Regs, reg 22B

ABATEMENTS – PRESCRIBED PAYMENTS

- 26 DMG 09373 gives a list of prescribed payments. The content of bullet point 7 is amended to read WPA¹.

1 SS (POR) Regs, reg 8(1)

IMPRISONMENT – EXCEPTIONS TO THE DISQUALIFICATION PROVISIONS

- 27 DMG 12052 gives a list of benefits which are exceptions to the disqualification provisions. Bullet point 5 is amended to read WPA¹.

1 SS (Gen Ben) Regs, reg 2(2)

OVERLAPPING BENEFITS - ADJUSTMENT OF PERSONAL ACT BENEFITS BY PERSONAL INDUSTRIAL INJURIES AND NON-ACT BENEFITS

- 28 DMG 17085 gives guidance on adjustment of personal Act benefits by personal industrial injuries and non-Act benefits. The reference in column one to BA is removed¹.

1 SS (OB) Regs, Sch., para 3, column 1.

IS, JSA, SPC AND ESA

Unearned income disregard

- 29 The regular monthly BSP payment is treated as unearned income or income other than earnings¹ in IS, JSA, SPC and ESA. It is disregarded for the period in respect of which it is paid. Any unspent BSP remaining at the end of this month will become capital (with no disregard applied). The regular monthly BSP payment does not include any arrears or the higher or standard rate of BSP payable for the first month of the BSP period².

*1 IS (Gen) Regs, Sch 9, para 80; JSA Regs, Sch 7, para 76; SPC Regs, reg 15(1)(n);
ESA Regs, Sch 8, para 68; 2 BSP Regs reg 3(2) & (5)*

Capital disregard

30 Arrears of BSP and any concessionary payments which are made to compensate for arrears of BSP are disregarded when calculating a person's capital for recipients of

1. IS, JSA and ESA¹, for a period of 52 weeks from the date of receipt of the arrears or compensatory payment **or**

2. SPC²

2.1 either

2.1.a to the end of the AIP if there is an AIP **or**

2.1.b one year from the date of payment

whichever is the longer period **or**

2.2 for one year from the date of receipt of the payment if there is no AIP.

*1 IS (Gen) Regs, Sch 10, para 7(1)(f); JSA Regs, Sch 8, para 12(1)(e);
ESA Regs, Sch 9, para 11(1)(d); 2 SPC Regs, Sch 5, para 20(2)(q)*

31 Where a claimant in receipt of IS, JSA, SPC or ESA

1. makes a claim for BSP 12 months or less after their spouse or civil partner died **and**

2. receives the additional payment of BSP for the first month of their BSP period at either the higher (£3,500) or standard (£2,500) rate¹

that first additional payment is disregarded when calculating that person's capital but only for a period of 52 weeks from the date of receipt².

*1 BSP Regs, reg 3(2) & (5); 2 IS (Gen) Regs, Sch 10, para 72; JSA Regs, Sch 8, para 65;
SPC Regs, Sch 5, para 23E; ESA Regs, Sch 9, para 60*

PAYMENT QUESTIONS – JSA AND IS

32 DMG Chapter 33 covers general payment questions that apply to claims for JSA and IS. From 6.4.17 any reference within this chapter to a BB should be replaced with WPA¹.

1 SS (C&P) Regs, Sch 7

SOCIAL FUND

- 33 Guidance at DMG 39408 provides that arrears of specific benefits payable to the deceased as at the date of death, no longer count as assets of the deceased¹. Specified benefits are listed in Appendix 7 of DMG Chapter 39. From 6.4.17, within that Appendix, BA is replaced by BSP.

1 SFMFE (Gen) Regs, reg 10(1A)(b)

PART WEEK PAYMENT – ESA

- 34 Part week payments is described in DMG Chapter 46. From 6.4.17 any reference within this chapter to BA should be replaced with BSP¹.

1 ESA Regs, reg 165(3) & 167(d)

BEREAVEMENT BENEFIT

Bereavement payment

- 35 The guidance at DMG 63007 et seq will not apply where the late spouse or civil partner dies on or after 6.4.17¹.

1 Pensions Act 14, Sch 16, para 8

Widowed parent's allowance

- 36 DMG 63017 gives guidance on when a surviving spouse or civil partner is entitled to WPA. From 6.4.17 DMG 63017 **1.** will not apply. Instead, a surviving spouse or civil partner is entitled to WPA if

1. the late spouse or civil partner died before 6.4.17¹ **and**
2. the surviving spouse or civil partner
 - 2.1 did not marry or form a civil partnership after the date of death and before 6.4.17² **and**
 - 2.2 is under pensionable age on 6.4.17³.

Note 1: This does not apply where a woman's husband died before 9.4.01⁴. Instead, DMs should follow the guidance in DMG Chapter 58.

Note 2: For the avoidance of doubt, the rest of the guidance at DMG 63017 has not changed.

1 SS CB Act 92, s 39A(1)(a); 2 s 39A(1)(b); 3 s 39A(1)(c); 4 s 39A(1A)

Bereavement allowance

- 37 The guidance at DMG 63091 et seq will not apply where the late spouse or civil partner dies on or after 6.4.17¹.

1 Pensions Act 14, Sch 16, para 13

STATE PENSION

Inherited amount

- 38 DMG 74318 and 74319 give guidance on when a person whose spouse or civil partner has died is entitled to an inherited amount of SP¹. One of the conditions for people being entitled to an inherited amount is that they would, on reaching pensionable age, have been entitled to a Cat B RP². One of the conditions of entitlement to a Cat B RP for this purpose is that a person was entitled to BA at any time before reaching pensionable age³. From 6.4.17 one of the conditions for an inherited amount is that a person is entitled to BSP at any time before reaching pensionable age⁴.

1 Pensions Act 14, Sch 3, para 3(1); 2 SS CB Act 92, s 48BB; 3 s 48BB(3); 4 Pensions Act 14, Sch 3, para 3(1)(d)

- 39 For the purposes of paragraph 38 above, a person is treated as being entitled to BSP¹ if they failed to make, or delayed making, a claim for BSP² and/or they were not paid BSP because they were a prisoner³.

1 SS (WP & RP) Regs, reg 7B(2); 2 reg 7B(3)(a); 3 reg 7B(3)(b); Pensions Act 14, s 32: BSP Regs, reg 6

Survivor's choice of inherited lump sum or state pension

- 40 DMG 74343 gives guidance on when a person is entitled to make a choice between an inherited lump sum and a SP. From 6.4.17, when determining whether a person would have been entitled to RP if RP had not ceased to apply to people reaching pensionable age after 5.4.16, references to BA¹ should be read as references to BSP².

1 SS CB Act 92, s 48BB; 2 Pensions Act 14, s 8(1)(e)

Inherited deferral amount

- 41 DMG 74365 and DMG 74367 give guidance on when a person whose spouse or civil partner has died is entitled to an inherited deferral amount. From 6.4.17, when determining whether a person would have been entitled to RP if RP had not ceased to apply to people reaching pensionable age after 5.4.16, references to BA¹ should be read as references to BSP².

1 SS CB Act 92, s 48BB; 2 Pensions Act 14, Sch 5, para 2(1)(b) & para 3(1)(b)

FORFEITURE ACT 1982

- 42 The guidance in DMG Chapter 76 will also apply to BSP¹.

1 Forfeiture Act 1982, s 4(5)

ANNOTATIONS

Please annotate the number of this memo (11/17) against DMG paragraphs:

02009; 02053; 02060; 02066; 02069; 02073; 02340; 03270; 04152; 08014; 08015;
08081; 08083; 08084; 08086; 09324; 09373; 12052; 17085; 28050; 28052; 28085;
28163; 29495; 33019; 33025; 39408 (heading); Chapter 39, Appendix 7; 46062;
46072; 46092; 46112; 46121; 51020; 51022; 51044; 51092; 52495; 63007 (heading);
63017; 63091 (heading); 74318; 74319; 74343; 74365; 74367; 76001 (heading);
84566; 85091; 85102; 85116; 85217; 85218 and 85294

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: April 2017

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