

BEREAVEMENT SUPPORT PAYMENT – CONSEQUENTIAL AMENDMENTS

Contents	Paragraphs
Introduction	1
Background	2
Transitional provisions	3 – 6
Restrictions on payment of benefit – benefit offences	7
Adjustments – abatement – what is a prescribed payment	8
Capital disregard	9
Regular monthly payment – UC	10
Social fund	11
Part week payment – ESA	12
Annotations	
Contacts	

INTRODUCTION

- 1 This memo gives guidance on changes to some common subjects, UC, new style ESA and SF 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) Order) (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, as appropriate, even if it is made on or after that date. How the introduction of BSP affects some common subjects, UC, new style ESA and SF is described in paragraphs 3 – 12 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 – 12 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 Amdts) 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 – 12 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 – 12 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);

RESTRICTIONS ON PAYMENT OF BENEFIT – BENEFIT OFFENCES

- 7 Column B of Appendix 1 to ADM Chapter B2 lists benefits which are disqualifying but not sanctionable. Reference to BPT in column B is amended to read BSP¹.

1 SS (LoB) Regs, reg 19(e)

ADJUSTMENTS – ABATEMENT - WHAT IS A PRESCRIBED PAYMENT

- 8 ADM D1247 gives a list of prescribed payments. The content of bullet point 8 is amended to read WPA¹.

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

CAPITAL DISREGARD

- 9 Where a claimant in receipt of UC
1. makes a claim for BSP 12 months or less after their spouse or civil partner died
and
 2. receives an 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 monthly payment is disregarded when calculating that person's capital, where it is made within the previous 12 months².

Note: Where a claimant receives arrears of the regular monthly payment, these are not subject to the capital disregard.

1 BSP Regs, reg 3(2) & (5); 2 UC Regs, Sch 10, para 20

REGULAR MONTHLY PAYMENT - UC

- 10 The regular monthly BSP payment is not a prescribed source of unearned income in UC¹. It is therefore not taken into account in the UC assessment.

1 UC Regs, reg 66

SOCIAL FUND

- 11 Guidance at ADM L3408 provides that arrears of specific benefits payable to the deceased as at the date of death are excluded as assets of the deceased¹. Specified benefits are listed in Appendix 1 of ADM Chapter L3. From 6.4.17, within that Appendix, BA is replaced by BSP.

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

PART WEEK PAYMENT - ESA

- 12 ADM Chapter V1 describes the modification in the calculation of income in ESA. From 6.4.17 any reference to BA within this Chapter should be replaced with BSP¹.

1 ESA Regs 13, reg 100(b)

ANNOTATIONS

Please annotate the number of this memo (adm12/17) against ADM paragraphs:

Appendix, Chapter B2; D1247; H2021; H5065 – 68; L3408 (heading); Appendix 1
Chapter L3 and V1324

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 03/13](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: April 2017

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