

Chapter 63 Bereavement Benefit

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Chapter 63 - Bereavement Benefit

Introduction

63001 This Chapter gives guidance on BB, which was introduced on 9.4.01. However, BSP was introduced on 6.4.17 in respect of deaths on or after that date.

Note: See DMG Chapter 59 for guidance on BSP.

63002 No new claims for WB were accepted in respect of deaths on or after 9.4.01. People already receiving WB on that date can continue to receive it for as long as the qualifying conditions apply (see DMG Chapter 58).

63003 In addition to the guidance in this chapter, for guidance on

1. decision making - see DMG Chapter 01
2. claims and payments, the time limits for claiming and the requirement to provide a NINO - see DMG Chapter 02
3. revision - see DMG Chapter 03
4. supersession - see DMG Chapter 04
5. absence from GB - see DMG Chapter 07
6. marriage, death and presumption of death - see DMG Chapter 10
7. LTAMC - see DMG Chapter 11
8. dependency increases - see DMG Chapter 16
9. overlapping benefits - see DMG Chapter 17
10. forfeiture - see DMG Chapter 76.

Marriage

63004 Throughout this Chapter, unless the context otherwise requires, references to

1. marriage includes marriage of a same sex couple
2. a married couple includes a married same sex couple
3. a person who is married includes a person who is married to a person of the same sex¹.

This also applies, for example, to a marriage that has ended or a person whose marriage has ended².

1 Marr (SSC) Act 13, Sch 3, Part 1, para 1(1); 2 Sch 3, Part 1, para 1(2)

63005 For the purpose of DMG 63004, unless the context otherwise requires, it does not matter how a reference is expressed¹. Therefore, for example, a reference to

1. husband includes a man who is married to another man

2. wife includes a woman who is married to another woman
3. widower includes a man whose marriage to another man ended when the other man died
4. widow includes a woman whose marriage to another woman ended when the other woman died.

Note: For the avoidance of doubt, in a marriage between a man and a woman, the terms husband and wife are to be applied as appropriate to the sex.

1 Marr (SSC) Act 13, Sch 3, Part 1, para 1(3)

63006 Same sex couples can marry

1. in England and Wales from 29.3.14¹ **and**
2. in Scotland from 16.12.14².

In Scotland, before 16.12.14, a marriage of a same sex couple under the law of England and Wales was treated as a civil partnership formed under the law of England and Wales. Therefore, the spouses were treated as civil partners.

1 Marr (SSC) Act 13; 2 Marr & CP (Scot) Act 14

Bereavement payments

63007 A person whose spouse dies on or after 9.4.01, but before 6.4.17, or whose civil partner dies on or after 5.12.05, but before 6.4.17, will be entitled to a lump sum BPT if

1. at the date of death
 - 1.1 the surviving spouse or civil partner was under pensionable age **or**
 - 1.2 the late spouse or civil partner was
 - 1.2.a over pensionable age **and**
 - 1.2.b not entitled to a Cat A RP or SP¹ **and**
2. the late spouse or civil partner
 - 2.1 satisfied the contribution condition² **or**
 - 2.2 is treated as satisfying the contribution condition
 - 2.2.a by satisfaction of conditions in early years of contribution³ **or**
 - 2.2.b because the first contribution condition had been satisfied on a previous claim for IBST or MA⁴ **or**
 - 2.2.c as a result of an IA or PD where the late spouse died on or after 11.4.88⁵ or the late civil partner died on or after 5.12.05.

Note 1: A spouse is a person married in the conventional sense to the other spouse, including a same sex spouse⁶, following a proper legally recognised ceremony.

Note 2: See DMG 63010 et seq for guidance on entitlement to a Cat A RP.

Note 3: **2.2** would also apply where there the first contribution condition is satisfied had been satisfied on a previous claim for SB before 13.4.95 or UB before 7.10.96.

Note 4: See DMG Chapter 03 for guidance on revision where there is a late award of contributions or because of changes to Class 2 NI collection.

1 SS CB Act 92, s 36(1)(a); 2 s 36(1)(b) & Sch 3, Part I, para 4; 3 Sch 3, Part II, para 7; 4 Sch 3, Part II, para 9; 5 s 60(2) & 60(8); 6 Marr (SSC) Act 13, Sch 3, Part 1, para 1(1);

63008 The DM should decide that DMG 63007 **2.2.c** applies if the IA or PD caused or materially accelerated the death¹. Advice should be sought from an IIDB DM (see procedural instructions).

1 R(I) 6/85

63009 There is no entitlement to a lump sum BPT where the late spouse or civil partner was receiving a Cat A RP which is increased to the rate of Cat B RP¹.

1 R(G) 1/06

Entitlement to a Category A retirement pension

63010 If a person dies after claiming RP and an award is subsequently made, that person will have been entitled at the date of death. There will not be entitlement if the claim is withdrawn by the person's personal representative before a decision is made.

63011 A person **is entitled** to Cat A RP even though they are

1. disqualified from receiving it because of being in legal custody or absent from GB¹ **or**
2. not receiving it because of the overlapping benefits rules².

1 SS CB Act 92, s 113(1) & (3); 2 SS (Gen Ben) Regs, reg 10(1) & Sch 1

63012 A person who has not made a claim for RP before death is **not entitled** to Cat A RP. However, if a personal representative claims RP for the deceased¹ and a Cat A RP is awarded, the deceased will have been entitled at the date of death (see DMG Chapter 02).

1 SS (C&P) Regs, reg 30

63013 A person who dies

1. on or after the date on which the right to a Cat A RP starts **but**
2. before the first pension payday

is entitled to a Cat A RP when they died for the purpose of the entitlement of the survivor to BPT¹.

1 CG 98/50 (K.L.)

63014 A person is **not** entitled to a Cat A RP¹ if, given the choice between a

1. Cat A RP **or**
2. Cat B RP

that person chooses to receive Cat B RP.

1 SS CB Act 92, s 43(1), (3), (4) & (5); R(G) 1/06

Payment

63015 The amount of a BPT is the amount current at the date of death¹. There are no increases for dependents.

1 SS CB Act 92, Sch 4, Part II

63016 A BPT is not payable if the surviving spouse or civil partner is LTAMC¹. If a person remarries or forms a subsequent civil partnership this does not affect the BPT.

1 SS CB Act 92, s 36(2)

Widowed Parent's Allowance

63017 A surviving spouse or civil partner is entitled to WPA if

1. the
 - 1.1 late spouse or civil partner died before 6.4.17¹ **and**
 - 1.2 surviving spouse or civil partner
 - 1.2.a did not marry or form a civil partnership after the date of death and before 6.4.17² **and**
 - 1.2.b is under pensionable age on 6.4.17³ **and**
2. their late spouse or civil partner
 - 2.1 satisfied the contributions conditions⁴ **or**
 - 2.2 was treated as satisfying the first contribution condition by being entitled to IBLT at anytime
 - 2.2.a during the year in which he or she reached pensionable age or died under that age **or**
 - 2.2.b immediately before the year in 2.2.a⁵ **or**
 - 2.3 was treated as satisfying the first contribution condition by being entitled to ESA(Cont)⁶ or ESA(IR)⁷ which includes the support component or WRAC⁸ at anytime
 - 2.3.a during the year in which they reached pensionable age or died under that age **or**
 - 2.3.b immediately before the year in 2.3.a⁹ **or**
 - 2.4 was treated as satisfying contribution conditions as a result of an IA or PD¹⁰ **and**
3. the surviving
 - 3.1 spouse or civil partner is entitled to CHB for a child or qualifying young person (see DMG 63020 - 63021) for whom DMG 63026 is satisfied¹¹ **or**
 - 3.2 spouse is a woman who¹²
 - 3.2.a is pregnant by her late husband **or**
 - 3.2.b was living with her husband immediately before he died and is pregnant by¹³ artificial insemination before the date of death with the semen of some person other than her husband or the implantation before the date of death of an egg or embryo **or**
 - 3.3 civil partner is a woman who¹⁴

3.3.a was living with her civil partner immediately before she died
and

3.3.b is pregnant by artificial insemination before the date of death with the semen of some person or the implantation, before the date of death, of an egg or embryo.

Note 1: A spouse is a person married in the conventional sense to the other spouse, including a same sex spouse¹⁵, following a proper legally recognised ceremony.

Note 2: A woman who conceives a child by artificial insemination after her husband's death but with her husband's sperm can satisfy **3.2.a**.

Note 3: For the purposes of **1.2**, a male to female transsexual claimant will continue to be entitled to WPA if a full GRC is issued and immediately before the full GRC is issued the claimant was entitled to WPA or would have been entitled to WPA if a claim had been made¹⁶.

Note 4: See DMG Chapter 03 for guidance on revision where there is a late award of contributions or credits, or because of changes to Class 2 NI collection.

1 SS CB Act 92, s 39A(1)(a); 2 s 39A(1)(b); 3 s 39A(1)(c); 4 s 39A(2) & Sch 3, Part 1, para 5; 5 Sch 3, Part 1, para 5(6); 6 WR Act 07, s 2(1)(b); 7 s 4(2)(b); 8 SS CB Act 92, Sch 3, Part 1, para 5(6B); 9 Sch 3, Part 1, para 5(6A); 10 s 60(2) & 60(8); 11 s 39A(2)(a); 12 s 39A(2)(b); 13 s 37(1)(c); 14 s 39A(2)(c); 15 Marr (SSC) Act 13, Sch 3, Part 1, para 1(1); 16 GR Act 04, Sch 5, paras 1 & 5

63018 The DM should decide that DMG 63017 **2.4** applies if the IA or PD caused or materially accelerated the death¹. Advice should be sought from an IIDB DM (see procedural instructions).

1 R(I) 6/85

63019 WPA entitlement stops¹ when

1. the surviving
 - 1.1 spouse remarries or forms a civil partnership **or**
 - 1.2 civil partner marries or forms a subsequent civil partnership **or**
2. the surviving spouse or civil partner reaches pensionable age.

1 SS CB Act 92, s 39A(4) & (4A)

Meaning of child

63020 A child is a person who has not reached age 16¹.

1 SS CB Act 92, s 122(1) & 142(1)

Meaning of qualifying young person

63021 A qualifying young person is a person, other than a child, who

1. has not reached a prescribed age¹ which is
 - 1.1 age 17² **or**

- 1.2 age 18³ or
- 1.3 age 20⁴ or
- 2. satisfies other conditions⁵.

However, a person who reached age 19 before 10.4.06 cannot be a qualifying young person⁶.

*1 SS CB Act 92, s 122(1) & 142(2)(a); 2 CHB (Gen) Regs, reg 4(1); 3 reg 5(1); 4 reg 3(1), 6(1), 7(1) & 8(1);
5 SS CB Act 92, s 122(1) & 142(2)(b); CHB (Gen) Regs, regs 2 - 8; 6 reg 2(5)*

Pregnancy

- 63022 A widow or surviving civil partner may be entitled to WPA if she is pregnant (see DMG 63017 **3.2** and **3.3**). Entitlement under this provision stops when the pregnancy ends, whether by confinement, miscarriage or abortion.
- 63023 If the pregnancy results in the birth of a child there will be entitlement to WPA on the basis that the child is, or in the case of artificial insemination is treated as, a child of the widow and her late husband¹.

1 Human Fertilisation and Embryology Act 1990, s 28(2)

- 63024 The DM should note that there is a presumption in law that a child or qualifying young person born in wedlock to a married woman is a child or qualifying young person of the husband. Evidence which shows that it is more probable that the child or qualifying young person is not the child or qualifying young person of the husband¹ needs to be strong for the DM to disallow.

1 R(G) 1/92

63025

Entitlement to child benefit for a child or qualifying young person

- 63026 For the purposes of DMG 63017 **3.1** a child or qualifying young person is a
- 1. son or daughter of the surviving spouse or civil partner and the deceased spouse or civil partner¹ or
 - 2. child or qualifying young person in respect of whom the deceased spouse or civil partner was immediately before their death entitled to CHB² or
 - 3. child or qualifying young person for whom the surviving spouse or civil partner was entitled to CHB before the date of death if the surviving spouse or civil partner and the deceased spouse or civil partner were living together immediately before the deceased's death³.

Note 1: Before 7.10.08 a person entitled to CHB for a child who did not live with them was not entitled to WPA unless they also made additional contributions for the cost of providing for that child at a rate not less than the rate of GA.

Note 2: 3. is satisfied if a claim for CHB is decided after the death of the spouse or civil partner and entitlement starts from a date before the date of death.

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

63027 For the purposes of DMG 63026 **2.** where fertilization occurs after the deceased husband's death using the husband's sperm and he consented the child is that of the deceased spouse and the surviving spouse¹. If the sperm is that of a third party, the deceased husband is regarded as the father or parent of the child where he had consented to the process. Where he did not consent, he is not the father².

1 Human Fertilization and Embryology Act 1990, s 28(5A); 2 s 28(5C)

Decisions on entitlement to child benefit

63028 WPA (except pregnancy cases) and the increase of WPA for a child depend on the claimant being entitled to CHB.

63029 Decisions on entitlement to CHB are now given by HMRC. DMs should seek evidence from HMRC about entitlement to CHB.

Child or qualifying young person absent from Great Britain

63030 For the purposes of the conditions in DMG 63026 **2.**, a person is treated as entitled to CHB for a child or qualifying young person where there would have been entitlement if¹

1. the child or qualifying young person had not been absent from GB **and**
2. a claim for CHB had been made.

These conditions enable the surviving or deceased spouse or civil partner to be treated as entitled to CHB before the latter's death for the purposes of deciding whether DMG 63026 is satisfied. When this is the case the surviving spouse or civil partner is treated as entitled to CHB for the purposes of DMG 63017 **3.1.**

1 SS (WB & RP) Regs, reg 16ZA(1)

63031 - 63032

Treated as entitled to child benefit where married more than once or in more than one civil partnership

63033 DMG 63034 applies where the

1. surviving spouse has been married more than once or has been married and in a civil partnership **or**
2. surviving civil partner has been in more than one civil partnership or been in a civil partnership and married **and**

they were not residing with the deceased spouse or civil partner immediately before their death.

63034 For the purposes of DMG 63026 2., the deceased spouse or civil partner is treated as entitled to CHB in respect of any child or qualifying young person where¹

1. the surviving spouse or civil partner has a child or qualifying young person by a previous marriage or civil partnership **and**
2. the previous marriage or civil partnership ended by the death of the other spouse or civil partner **and**
3. that other spouse or civil partner was entitled or treated as entitled to CHB for the child or qualifying young person immediately before death **and**
4. the surviving spouse or civil partner was entitled or treated as entitled to CHB at the time of death of the recently deceased spouse or civil partner.

1 SS (WB & RP) Regs, reg 16ZA(2)

63035 - 63036

Payment

63037 WPA is not payable for any period when the surviving spouse or civil partner is LTAMC¹.

1 SS CB Act 92, s 39A(5)(b)

Rate

63038 As from 1.1.11 the weekly rate of WPA is no longer linked automatically to the weekly rate of RP. Instead the weekly rate of WPA will be prescribed¹. The rate calculated can include a basic allowance (equivalent to a BP) and an additional allowance (equivalent to an AP)².

Note 1: Before 1.1.11 the weekly rate of WPA was worked out in the same way as a Cat A RP, based on the deceased spouse's or civil partner's contributions.

Note 2: There are to be changes in the calculation of AP for RP from the introduction of the FRIY. The FRIY is the tax year beginning 6.4.12³. However, those changes will **not** apply to the additional allowance for WPA where the deceased spouse or civil partner died under pensionable age⁴.

*1 SS CB Act 92, s 39C(1A); 2 s 39C(1), s 44-45AA & Sch. 4A-4B;
3 s 122(1); Social Security Pensions (Flat Rate Introduction Year) Order, art 2; 4 SS CB Act 92, s 46(4)*

63039 When calculating the rate of WPA based on the rate of Cat A RP, the DM should note that where the deceased spouse or civil partner was

1. over pensionable age at the time of their death, references to pensioner were to the deceased spouse or civil partner¹ **or**

2. under pensionable age at the time of their death, references to pensioner and the tax year in which pensionable age was reached, were to the deceased spouse or civil partner and the tax year in which they died².

1 SS CB Act 92, s 39C(3)(a), s 44-45AA & Sch 4A-4B; 2 s 39C(3)(b), s 44-45AA & Sch 4A-4B

Basic allowance

- 63040 Entitlement to standard rate basic allowance is subject to the late spouse or civil partner satisfying two contribution conditions¹.

1 SS CB Act 92, Sch 3, para 5;

- 63041 The first contribution condition is satisfied by

1. the payment of sufficient class 1, 2 or 3 contributions in any one year¹ **or**
2. being entitled to IBLT at anytime during the year
 - 2.1 in which the late spouse or civil partner died **or**
 - 2.2 immediately before the year in which they died² **or**
3. being entitled to ESA(Cont)³ or ESA(IR)⁴ which includes the support component or WRAC⁵ at anytime during the year
 - 3.1 during the year in which they reached pensionable age or died under that age **or**
 - 3.2 immediately before the year in which they died⁶ **or**
4. the payment of not less than 50 contributions before 6.4.75⁷.

1 SS CB Act 92, Sch 3, para 5(2); 2 Sch 3, para 5(6); 3 WR Act 07, s 2(1)(b); 4 s 4(2)(b); 5 SS CB Act 92, Sch 3, Part 1, para 5(6B); 6 Sch 3, Part 1, para 5(6A); 7 SS (WB, RP & OB) (Trans) Regs, reg 6(1)

- 63042 The second contribution condition is satisfied by

1. the
 - 1.1 payment of, or being credited with, contributions **or**
 - 1.2 crediting of earnings from 6.4.87for a specified number of years **and**
2. having an earnings factor equal to, or greater than, the qualifying earnings factor for each of those years¹.

However, if the second contribution condition is not fully satisfied, there may be entitlement to a BP at a reduced rate as long as at least 25% of the working years are also qualifying years².

1 SS CB Act 92, Sch 3, Part 1, para 5(3); 2 s 60(1), SS (WB & RP) Regs, reg 6

- 63043 Where

1. class 1 contributions have been paid or treated as paid in any tax year from 1987/88 **and**

2. the amount paid, plus any class 2 or class 3 contributions paid or credited, is not enough to make the year a qualifying year by £50 or less

the earnings factor is increased by the amount required to make the year a qualifying year¹. This applies to both the first and second contribution condition.

1 Social Security (Earnings Factor) Regulations 1979, Sch 1, para 4

63044 Where the

1. spouse died on or after 11.4.88 **or**
2. civil partner died on or after 5.12.05

as a result of an IA or PD the contribution conditions are treated as fully satisfied¹.

1 SS CB Act 92, s 60(2) & (8)

Late payment of contributions

63045 Where contributions are paid late it may be necessary to revise or supersede a WPA award. The DM's action is the same as in RP cases (see DMG Chapter 75 for full guidance).

Payment of additional class 3 contributions for past periods

63046 The contribution conditions for WPA include payment of class 3 contributions. Therefore the payment of additional class 3 contributions for past periods may affect entitlement to WPA. The DM's action is the same as in RP cases (see DMG Chapter 75 for full guidance).

Additional allowance

63047 Additional allowance is earnings-related. It is calculated from the late spouse's or civil partner's earnings in complete tax years between 6.4.78 and the late spouse's or civil partner's date of death, up to a maximum of 49 years¹. An AP can be made up of

1. SERPS (see DMG 63048) **or**
2. S2P (see DMG 63050) **or**
3. a combination of SERPS and S2P.

Note 1: For deaths occurring on or after 6.10.02 only half of the late husband's AP can be inherited².

Note 2: There are changes to the calculation of AP from 6.4.09 (see DMG Chapter 75 for full guidance). There will be further changes to AP from the introduction of the FRIY (see DMG 63038).

1 SS CB Act 92, s 39C(1), 45(1) & 46; 2 s 39C(4) & Sch 4A-4B

State earnings related pension scheme

63048 SERPS is based on earnings during the period from 6.4.78 to 5.4.02. From and including 6.4.97 people had to be contracted-in¹. Before 6.4.97 a person who was contracted out could continue to receive an AP but it was subject to the normal GMP reduction².

1 PS Act 93, s 48A; 2 s 46; R(P)1/04

63049 Female pensionable age is changing (see DMG Chapter 75). However, female claimants continue to be entitled to their own GMP at age 60¹. This means that deductions should be made in respect of both

1. personal GMP **and**
2. any inherited GMP

of a female claimant from age 60, unless they are in respect of an appropriate personal pension scheme or a contracted-out money purchase scheme².

1 PS Act 93, s 46(1); 2 s 48

State second pension

63050 S2P replaced SERPS from 6.4.02¹. S2P is based on

1. earnings **or**
2. deemed earnings factors².

Note: There are changes to deemed earnings factors from 6.4.09 (see DMG Chapter 75 for full guidance).

1 Child Support, Pensions and Social Security Act 2000, s 30; 2 SS CB Act 92, s 44A

Tax years before 2010/11

63051 For the purposes of DMG 63050 **2.** people have deemed earnings factors if

1. they have earnings which are
 - 1.1 at or above the QEF **and**
 - 1.2 less than the low earnings threshold¹ **or**
2. CA
 - 2.1 was payable **or**
 - 2.2 would have been payable if it had not been reduced to nil under the overlapping benefit provisions² **or**
3. CHB was payable for a child under the age of six³ **or**

4. IBLT or qualifying ESA (see DMG 63053)
 - 4.1 were payable **or**
 - 4.2 would have been payable if
 - 4.2.a the contribution conditions had been satisfied **or**
 - 4.2.b they had not been reduced to nil under the overlapping benefit provisions or receipt of payments from an occupational pension, or personal pension, scheme⁴ **or**
5. they are entitled to HRP because they are caring for a seriously ill or disabled person who is in receipt of
 - 5.1 AA **or**
 - 5.2 CAA **or**
 - 5.3 DLA at the middle or highest rate of the care component

for complete tax years.

Note 1: See DMG Chapter 17 for guidance on the overlapping benefit provisions.

Note 2: See DMG Chapter 56 for guidance on the meaning of occupational pension scheme and personal pension scheme for IBLT purposes, DMG Chapter 44 for guidance on the meaning of occupational pension scheme and personal pension scheme for ESA(Cont) purposes.

1 SS CB Act 92, s 44A(2)(a); 2 s 44A(2)(b); 3 s 44A(2)(c); 4 s 39C(3) & s 44A(2)(d)

63052 In order to satisfy DMG 63051 **4.** the deceased spouse or civil partner must for one or more relevant years have paid or been treated as having paid class 1 contributions on earnings equal to or greater than the qualifying earnings factor. Also, the years for which a deceased spouse or civil partner has such a factor must constitute at least one tenth of their working life¹. In addition, that guidance will not apply where the deceased spouse or civil partner reached pensionable age on or after 6.4.10².

1 SS CB Act 92, s 44A(3); 2 s 44A(4A)

Meaning of qualifying ESA

63053 For the purposes of DMG 63051 **4.** qualifying ESA¹ is ESA(Cont) which

1. was payable for a continuous period of 52 weeks **or**
2. includes the support component² **or**
3. for
 - 3.1 a man born between 6.4.44 and 5.4.47 **or**
 - 3.2 a woman born between 6.4.49 and 5.4.51

was payable for a continuous period of 13 weeks immediately following a period throughout which SSP was payable.

1 SS CB Act 92, s 44A(7); 2 WR Act 07, s 2(2)

Tax years from 2010/11

63054 In any tax year from 2010/11¹ people have deemed earnings factors² if any of the three Conditions A - C at DMG 63055 - 63057 are satisfied. Also, for tax years from 2010/11 the upper accrual point will continue to apply³.

Note: See DMG Chapter 75 for guidance on the upper accrual point.

1 SS CB Act 92, s 44B(1); 2 s 44B(2); 3 s 44B(2)(a)

63055 Condition A is satisfied if people have earnings which are

1. at or above the QEF¹ **and**
2. less than the low earnings threshold²

for a tax year.

Note 1: This Condition will not apply for any tax year from the FRIY³. The FRIY is the tax year beginning 6.4.12⁴.

Note 2: The QEF is an earnings factor equal to the LEL for a tax year multiplied by 52⁵.

Note 3: The low earnings threshold is the amount specified⁶ which is subject to revision⁷.

1 SS CB Act 92, s 44B(3)(a); 2 s 44B(3)(b); 3 s 44B(6)(b);

4 s 122(1); Social Security Pensions (Flat Rate Introduction Year) Order 2011, art 2;

5 SS CB Act 92, s 122(1); 6 s 44B(7)(b) & s 44A(5); 7 SS A Act 92, s 148A;

63056 Condition B is satisfied if people have

1. earnings at less than the QEF¹ **and**
2. some EFC² (see DMG 63058) which enable their earnings to reach the QEF³

for a tax year.

1 SS CB Act 92, s 44B(4)(a); 2 s 44C; 3 s 44B(4)(b)

63057 Condition C is satisfied if people are entitled to 52 EFC¹ for a tax year. This is the same as the QEF.

1 SS CB Act 92, s 44B(5) & s 44C;

Earnings factor credits

63058 In any tax year from 2010/11¹ people are entitled to EFC in respect of any week in that year² if

1. they are relevant carers³ (see DMG 63060) **or**
2. CA
 - 2.1 is payable **or**
 - 2.2 would be payable but for the overlapping benefit provisions⁴ **or**
3. SDA is payable⁵ **or**
4. IBLT
 - 4.1 is payable **or**
 - 4.2 would be payable but for
 - 4.2.a a failure to satisfy the contribution conditions⁶ **or**
 - 4.2.b the overlapping benefit provisions or payments from an occupational pension scheme or a personal pension scheme⁷
or
5. ESA
 - 5.1 is payable⁸ **or**
 - 5.2 would be payable but for
 - 5.2.a a failure to satisfy the contribution conditions⁹ **or**
 - 5.2.b the overlapping benefit provisions or payments from an occupational pension scheme or a personal pension scheme¹⁰

and DMG 63059 applies.

Note 1: See DMG Chapter 17 for guidance on the overlapping benefit provisions.

Note 2: See DMG Chapter 56 for guidance on the meaning of occupational pension scheme and personal pension scheme for IBLT purposes, DMG Chapter 44 for guidance on the meaning of occupational pension scheme and personal pension scheme for ESA(Cont) purposes.

1 SS CB Act 92, s 44C(1); 2 s 44C(2); 3 s 44C(3)(a) & s 23A(3); 4 s 44C(3)(b); 5 s 44C(3)(c); 6 s 44C(3)(d)(i) & Sch 3, Part 1, para 2; 7 s 44C(3)(d)(ii); 8 AP & SS Pens (HR) (Amdt) Regs, reg 5A(1)(a); 9 reg 5A(1)(b); WR Act 07, Sch 1, Part 1, para 1 & 2; 10 AP & SS Pens (HR) (Amdt) Regs, reg 5A(1)(c)

63059 DMG 63058 **5.** applies when ESA

1. was payable or would have been payable for a continuous period of 52 weeks¹ or a period of 52 weeks treated as continuous under linking rules² **or**
2. includes or would have included the support component³ **or**

3. for
- 3.1 a man born between 6.4.46 and 5.4.47 **or**
 - 3.2 a woman born between 6.10.50 and 5.4.51

was payable or would have been payable for a continuous period of 13 weeks immediately following a period throughout which SSP was payable⁴.

1 AP & SS Pens (HR) (Amdt) Regs, reg 5A(2)(a)(i); 2 reg 5A(2)(a)(ii); ESA Regs, regs 145, 149 & 150; 3 AP & SS Pens (HR) (Amdt) Regs, reg 5A(2)(b); WR Act 07, s 2(2); 4 AP & SS Pens (HR) (Amdt) Regs, reg 5A(2)(c)

Credits for Parents and carers

Relevant carers

- 63060 DMG 63058 **1.** gives guidance that, in any tax year from 2010/11, people are entitled to EFC¹ in respect of any week in that year if they are relevant carers. Unless DMG 63066 applies, people are relevant carers in a week in which they are
- 1. awarded CHB for a child under the age of 12 for any part of that week² **or**
 - 2. a foster parent for any part of that week³ (see DMG 63061) **or**
 - 3. engaged in caring in that week⁴ (see DMG 63062 et seq).

Note: A week is a period of 7 days beginning with Sunday⁵.

1 SS CB Act 92, s 44C; 2 s 23A(3)(a); 3 s 23A(3)(b); 4 s 23A(3)(c); 5 s 122(1)

Foster parents

- 63061 DMG 63060 **2.** also gives guidance that people are relevant carers if they are a foster parent¹. DMG 63060 **2.** is for the purposes of the second contribution condition for BB. A foster parent is a person approved as a foster parent under prescribed legislation². However, a person is **not** a foster parent where DMG 63066 applies³.

Note: Applications for credits from foster parents are made to HMRC⁴.

1 SS CB Act 92, s 23A(3)(b); 2 SS (CC P & C) Regs, reg 4(1); Fostering Services Regulations 2002, Part 4; Looked After Children (Scotland) Regulations 2009, Part 7; 3 SS (CC P & C) Regs, reg 4(2) & reg 8; 4 reg 9(a)

Engaged in caring

- 63062 DMG 63060 **3.** also gives guidance that people are relevant carers if they are engaged in caring¹. DMG 63060 **3.** is for the purposes of the second contribution condition for BB.

1 SS CB Act 92, s 23A(3)(c); 2 s 23A(2)

63063 For the purposes of DMG 63060 **3**, people are engaged in caring

1. if
 - 1.1 they are the partner (see DMG 63067 **1.**) of a person who has been awarded CHB for a child under the age of 12¹ **and**
 - 1.2 DMG 63067 **2.** applies **or**
2. if they are caring for one or more disabled persons for a total of 20 or more hours a week (see DMG 63065) **and**
 - 2.1 the person or persons being cared for are entitled to a relevant benefit² (see DMG 63068) **or**
 - 2.2 the DM considers that level of care to be appropriate³ **or**
3. if they are entitled to IS because they are regular carers⁴.

People are also engaged in caring if DMG 63064 applies⁵. However, people are **not** engaged in caring where DMG 63066 applies⁶.

Note: See DMG Chapter 20 for guidance on people entitled to IS because they are regular carers.

1 SS (CC P & C) Regs, reg 5(1)(a); 2 reg 5(1)(b)(i); 3 reg 5(1)(b)(ii); 4 reg 5(1)(c); IS (Gen) Regs, Sch 1B, para 4 - 6; 5 SS (CC P & C) Regs, reg 7; 6 reg 8

63064 People are also engaged in caring for a period of up to 12 weeks

1. before they become entitled to CA¹
2. after they cease to be entitled to CA²
3. after a person ceases to satisfy DMG 63063 **2.**³.

However, **2.** does not apply if a claimant continues to be entitled to a credit after entitlement to CA ends⁴.

Note 1: Where **1.** applies there is a special rule that applies for the period of 12 weeks from 6.4.10. That special rule is that the period of up to 12 weeks can only be for complete weeks since 6.4.10⁵ (see DMG 63060 for the meaning of week).

Note 2: People continue to be engaged in caring during a break in care of up to 12 weeks.

1 SS (CC P & C) Regs, reg 7(1)(a); 2 reg 7(1)(b); 3 reg 7(1)(c); 4 reg 7(2); 5 reg 3

Example

Karen cares for her father Michael who is entitled to AA. Karen is entitled to CA. Michael dies and Karen remains entitled to CA for eight weeks after his death. She receives a class 1 credit for those eight weeks. Therefore, Karen receives a class 3 credit for a further four weeks.

63065 When considering whether DMG 63063 **2.** above applies, the claimant must provide

1. a declaration that they care for one or more disabled persons for a total of 20 or more hours a week¹ **and**
 2. the name and, where known, the NINO of each person cared for² **and**
 3. either
 - 3.1 details of the relevant benefit where DMG 63063 **2.1** above applies³ **or**
 - 3.2 a declaration that the level of care being provided is required for each person cared for which is signed by a person who is
 - 3.2.a involved in the health or social care of the person cared for⁴ **and**
 - 3.2.b considered by the DM to be an appropriate person to make a declaration as to the level of care required⁵
- where this is requested by the DM⁶.

Note 1: For the purposes of **1.** there does not have to be a signed declaration.

Note 2: The DM should accept **3.2** as being satisfied where there is a signed declaration from an appropriate Health or Social Care Professional.

1 SS (CC P & C) Regs, reg 11(1)(a); 2 reg 11(1)(b); 3 reg 11(1)(c); 4 reg 11(2)(a); 5 reg 11(2)(b); 6 reg 11(1)(d)

Person not a foster parent or engaged in caring

63066 However, a person is **not** a foster parent or engaged in caring in accordance with DMG 63060, DMG 63061 and DMG 63063 if that person is

1. not ordinarily resident in GB **or**
2. in prison **or**
3. detained in legal custody¹.

Note: See DMG Chapter 07 for guidance on ordinarily resident and DMG Chapter 12 for guidance on imprisonment and detention in legal custody.

1 SS (CC P & C) Regs, reg 8

Meaning of partner

63067 For the purposes of DMG 63063 **1.**

1. partner means a person with whom another person resides and shares responsibility for a child under the age of 12¹ **and**
2. the partner of a person awarded CHB for a child under the age of 12 is **engaged** in caring **only if** the relevant tax year is a qualifying year for AP² for the person in receipt of CHB³.

Note: For the purpose of **2.** any credits awarded to the person in receipt of CHB because that person is a relevant carer (see DMG 63060) are not taken into account when deciding whether the relevant tax year is a qualifying year⁴.

1 SS (CC P & C) Regs, reg 2(1); 2 reg 6(2) & SS CB Act 92, s 45; 3 SS (CC P & C) reg 6(1); 4 reg 6(3)

Meaning of relevant benefit

63068 For the purposes of DMG 63063 **2.1** a relevant benefit¹ is

1. AA² **or**
2. the middle or highest rate of the care component of DLA³ **or**
3. increase of IIDB where constant attention needed⁴ **or**
4. PB and MDB or WC (Supp) payable at 100%⁵ **or**
5. a constant attendance allowance payable under prescribed legislation⁶ **or**
6. the daily living component of PIP⁷ **or**
7. AFIP⁸.

*1 SS (CC P & C) Regs, reg 2(1); 2 SS CB Act 92, s 64; 3, s 72(3); 4 s 104; 5 PB & MDB Scheme; WC(S) Scheme;
6 Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006,
art 12 & Personal Injuries (Civilians) Scheme 1983, art 18; 7 WR Act 12, s 78;
8 Armed Forces and Reserve Forces (Compensation Scheme) Order 2011*

Applications

63069 Applications for credits where DMG 63061 and DMG 63063 **1.** apply are made to HMRC¹. Applications for credits where DMG 63063 **2.** applies are made to the Secretary of State². Applications are not required where the person is a woman who is not entitled to CA credits because of an election to pay reduced rate NI contributions³. Applications must be received

1. before the end of the tax year following the tax year in respect of which the application relates⁴ **or**
2. within such further time which is reasonable in the circumstances⁵.

*1 SS (CC P & C) Regs, reg 9(b); 2 reg 10(1); 3 reg 10(2); SS (Credits) Regs, reg 7A(1) & (2)(b);
SS CB Act 92, s 19(4); 4 SS (CC P & C) Regs, reg 12(a); 5 reg 12(b)*

63070 - 63080

Amount of additional allowance payable

63081 The additional allowance will be payable in full where the spouse dies on or before 5.10.02¹.

1 SS CB Act 92, s 39C(4); Child Support, Pensions and Social Security Act 2000, s 39(1) & (2)

63082 Where the death of the spouse or, from 5.12.05, civil partner occurs thereafter, only half the weekly rate of the additional allowance is payable¹. However, see DMG 63083 - 63086 for guidance on when there can be an increase to the amount of half the weekly rate of the additional allowance.

1 SS CB Act 92, s 39C(4)

63083 In relation to a person

1. who becomes a
 - 1.1 widow or widower on or after 6.10.02 **or**
 - 1.2 surviving civil partner on or after 5.12.05 **and**
2. whose deceased spouse or civil partner had reached pensionable age before 6.10.02

the amount of additional allowance in DMG 63082 will be increased by 100%¹. This means that the additional allowance for such a person is paid in full.

1 SS (Inherited SERPS) Regs, reg 2(1)

63084 In relation to a person

1. who becomes a
 - 1.1 widow or widower on or after 6.10.02 **or**
 - 1.2 surviving civil partner on or after 5.12.05 **and**
 2. whose deceased spouse or civil partner
 - 2.1 reached **or**
 - 2.2 would have reached if they had not died
- pensionable age on or after 6.10.02 but before 6.10.10

the amount of additional allowance in DMG 63082 will be increased in accordance with DMG 63085.

63085 Where DMG 63084 applies, the amount of the increase in the amount of half the weekly rate of additional allowance is¹

1. 80% where the deceased spouse or civil partner reached or, if they had not died, would have reached pensionable age on or after 6.10.02 but before 6.10.04
2. 60% where the deceased spouse or civil partner reached or, if they had not died, would have reached pensionable age on or after 6.10.04 but before 6.10.06
3. 40% where the deceased spouse or civil partner reached or, if they had not died, would have reached pensionable age on or after 6.10.06 but before 6.10.08

4. 20% where the deceased spouse or civil partner reached or, if they had not died, would have reached pensionable age on or after 6.10.08 but before 6.10.10.

I SS (Inherited SERPS) Regs, reg 2(2) & Schedule

63086 This means that where

1. DMG 63085 1. applies survivors will receive 90% of the weekly rate of the additional allowance
2. DMG 63085 2. applies survivors will receive 80% of the weekly rate of the additional allowance
3. DMG 63085 3. applies survivors will receive 70% of the weekly rate of the additional allowance
4. DMG 63085 4. applies survivors will receive 60% of the weekly rate of the additional allowance.

63087 To be entitled to additional allowance the first contribution condition must be satisfied. However, there may be entitlement to additional allowance even if there is no entitlement to basic allowance because of a failure to satisfy the second contribution condition¹.

Note: The first contribution condition can be satisfied by the payment of voluntary class 3 contributions (see DMG 63041).

I SS (WB & RP) Regs, reg 6(2) & (3A)

63088 - 63090

Bereavement Allowance

- 63091 A surviving spouse or civil partner is entitled to BA if¹
1. the late spouse died on or after 9.4.01, but before 6.4.17, or the late civil partner died on or after 5.12.05, but before 6.4.17, **and**
 2. the late spouse or civil partner
 - 2.1 satisfied the contributions conditions² **or**
 - 2.2 was treated as satisfying the first contribution condition by being entitled to IBLT at anytime
 - 2.2.a during the year in which they reached pensionable age or died under that age **or**
 - 2.2.b immediately before the year in **2.2.a**³ **or**
 - 2.3 was treated as satisfying the first contribution condition by being entitled to ESA(Cont)⁴ or ESA(IR)⁵ which includes the support component or WRAC⁶ at anytime
 - 2.3.a during the year in which they reached pensionable age or died under that age **or**
 - 2.3.b immediately before the year in **2.3.a**⁷ **or**
 - 2.4 was treated as satisfying contribution conditions as a result of an IA or PD⁸ **and**
 3. the surviving spouse or civil partner was over the age of 45, but under pensionable age when the late spouse or civil partner died⁹.

Note 1: A spouse is a person married in the conventional sense to the other spouse, including a same sex spouse¹⁰, following a proper legally recognised ceremony.

Note 2: See DMG 63094 for guidance on payment of BA.

Note 3: Cases where the late spouse or civil partner had a GRC should be sent to DMA Leeds for advice.

Note 4: See DMG Chapter 03 for guidance on revision where there is a late award of contributions or credits, or because of changes to Class 2 NI collection.

1 SS CB Act 92, s 39B(1) & s 39B(2); 2 s 39B(2) & Sch 3, Part 1, para 5; 3 Sch 3, Part 1, para 5(6); 4 WR Act 07, s 2(1)(b); 5 s 4(2)(b); 6 SS CB Act 92, Sch 3, Part 1, para 5(6B); 7 Sch 3, Part 1, para 5(6A); 8 s 60(2) & s 60(8); 9 s 39B(1); 10 Marr (SSC) Act 13, Sch 3, Part 1, para 1(1)

- 63092 The DM should decide that DMG 63017 **2.4** applies if the IA or PD caused or materially accelerated the death¹. Procedural instructions provide for obtaining advice regarding this.

Period of entitlement

63093 Entitlement to BA ends on the earliest¹ of the

1. end of the 52 week period beginning with the date
 - 1.1 of the late spouse's or civil partner's death **or**
 - 1.2 on which entitlement begins under certain legislation² **or**
2. date on which the surviving spouse or civil partner reaches pensionable age **or**
3. date of any marriage, remarriage or formation of a civil partnership.

1 SS CB Act 92, s 39B(3), (4) & (4A); 2 SS A Act 92, s 5(1)(k)

Payment

63094 BA is not payable for any period when the surviving spouse or civil partner is¹

1. entitled to WPA **or**
2. LTAMC.

However, BA can be paid for the remainder of the 52 week period if WPA entitlement stops before then.

Note: A person is entitled to WPA (and so is not entitled to BA) even if disqualified (for example because they are in prison).

1 SS CB Act 92, s 39B(5)

63095 - 63100

Rate

63101 As from 1.1.11 the weekly rate of BA is no longer linked automatically to the weekly rate of RP. Instead the weekly rate of BA will be the same as the weekly rate of WPA¹. Entitlement to a standard rate basic allowance is subject to the late spouse or civil partner satisfying the contribution conditions². If the contribution conditions are only partly satisfied, there may be entitlement to a basic allowance at a lower rate³.

Note: Before 1.1.11 BA was worked out in the same way as a Cat A RP, based on the deceased spouse's or civil partner's contributions. But only a basic allowance (equivalent to a BP) was payable.

1 SS CB Act 92, s 39C(2); s 44(3)(a); 2 Sch 3, para 5; 3 s 60; SS (WB & RP) Regs, reg 6;

63102 When calculating the rate of BA based on the rate of basic Cat A RP, the DM should note that where the deceased spouse or civil partner was

1. over pensionable age at death, references to pensioner were to the deceased spouse or civil partner¹ **or**

2. under pensionable age at death, references to pensioner and the tax year in which pensionable age was reached were to the deceased spouse or civil partner and the tax year in which they died².

1 SS CB Act 92, s 39C(3)(a), s 44-45AA & Sch 4A-4B; 2 s 39C(3)(b), s 44-45AA & Sch 4A-4B

63103 The full rate of BA is payable if the surviving spouse or civil partner has reached age 55 at the date when the late spouse or civil partner died. BA is reduced where the surviving spouse or civil partner is under age 55 but over age 45 when the late spouse or civil partner died. The reduction is 7% of the rate the claimant is otherwise entitled to, multiplied by the number of years they were less than 55. Any fraction of a year counts as a year¹.

1 SS CB Act 92, s 39C(5)

63104 – 63999

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