

# Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

## Decision Makers Guide

### Volume 10 Amendment 45 – June 2017

1. This letter provides details on Amendment 45; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lq/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 38 affects chapter 63. The changes
  - incorporate DMG memos 25/16 & 4/17 and make minor and consequential changes
4. The last two amendment packages amending Volume 10 were  
Amendment 44 [October 2016]  
Amendment 43 [June 2016]
5. **For reference purposes Decision Makers may find it useful to retain deleted pages for a short period after the introduction of this package.**
6. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

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##### Chapter 63

63001 – 63021 (5 pages)

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#### Insert

##### Chapter 63

63001 – 63021 (5 pages)

63091 – 63999 (2 pages)



# 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 sex<sup>1</sup>.

This also applies, for example, to a marriage that has ended or a person whose marriage has ended<sup>2</sup>.

*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 expressed<sup>1</sup>. 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 29.3.14<sup>1</sup> **and**
2. in Scotland from 16.12.14<sup>2</sup>.

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 SP<sup>1</sup> **and**
2. the late spouse or civil partner
  - 2.1 satisfied the contribution condition<sup>2</sup> **or**
  - 2.2 is treated as satisfying the contribution condition
    - 2.2.a by satisfaction of conditions in early years of contribution<sup>3</sup> **or**
    - 2.2.b because the first contribution condition had been satisfied on a previous claim for IBST or MA<sup>4</sup> **or**
    - 2.2.c as a result of an IA or PD where the late spouse died on or after 11.4.88<sup>5</sup> 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 spouse<sup>6</sup>, 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 death<sup>1</sup>. 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 RP<sup>1</sup>.

*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 GB<sup>1</sup> **or**
2. not receiving it because of the overlapping benefits rules<sup>2</sup>.

*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 deceased<sup>1</sup> 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 BPT<sup>1</sup>.

*1 CG 98/50 (K.L.)*

63014 A person is **not** entitled to a Cat A RP<sup>1</sup> 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 death<sup>1</sup>. 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 LTAMC<sup>1</sup>. 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 6.4.17<sup>1</sup> **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 6.4.17<sup>2</sup> **and**
    - 1.2.b is under pensionable age on 6.4.17<sup>3</sup> **and**
2. their late spouse or civil partner
  - 2.1 satisfied the contributions conditions<sup>4</sup> **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.a<sup>5</sup> **or**
  - 2.3 was treated as satisfying the first contribution condition by being entitled to ESA(Cont)<sup>6</sup> or ESA(IR)<sup>7</sup> which includes the support component or WRAC<sup>8</sup> 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<sup>9</sup> **or**
  - 2.4 was treated as satisfying contribution conditions as a result of an IA or PD<sup>10</sup> **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 satisfied<sup>11</sup> **or**
  - 3.2 spouse is a woman who<sup>12</sup>
    - 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 by<sup>13</sup> 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 who<sup>14</sup>

**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 spouse<sup>15</sup>, 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 made<sup>16</sup>.

**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 death<sup>1</sup>. Advice should be sought from an IIDB DM (see procedural instructions).

*1 R(I) 6/85*

63019 WPA entitlement stops<sup>1</sup> 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 16<sup>1</sup>.

*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 age<sup>1</sup> which is
  - 1.1 age 17<sup>2</sup> **or**

- 1.2 age 18<sup>3</sup> or
- 1.3 age 20<sup>4</sup> or
- 2. satisfies other conditions<sup>5</sup>.

However, a person who reached age 19 before 10.4.06 cannot be a qualifying young person<sup>6</sup>.

*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 husband<sup>1</sup>.

*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 husband<sup>1</sup> 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 partner<sup>1</sup> or
  - 2. child or qualifying young person in respect of whom the deceased spouse or civil partner was immediately before their death entitled to CHB<sup>2</sup> 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 death<sup>3</sup>.

**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 spouse<sup>1</sup>. 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 father<sup>2</sup>.

*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 if<sup>1</sup>

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 where<sup>1</sup>

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 LTAMC<sup>1</sup>.

*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 prescribed<sup>1</sup>. The rate calculated can include a basic allowance (equivalent to a BP) and an additional allowance (equivalent to an AP)<sup>2</sup>.

**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 6.4.12<sup>3</sup>. However, those changes will **not** apply to the additional allowance for WPA where the deceased spouse or civil partner died under pensionable age<sup>4</sup>.

*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 partner<sup>1</sup> **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 died<sup>2</sup>.

*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 conditions<sup>1</sup>.

*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 year<sup>1</sup> **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 died<sup>2</sup> **or**
3. being entitled to ESA(Cont)<sup>3</sup> or ESA(IR)<sup>4</sup> which includes the support component or WRAC<sup>5</sup> 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 died<sup>6</sup> **or**
4. the payment of not less than 50 contributions before 6.4.75<sup>7</sup>.

*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 years<sup>1</sup>.

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 years<sup>2</sup>.

*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**

## Bereavement Allowance

- 63091 A surviving spouse or civil partner is entitled to BA if<sup>1</sup>
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 conditions<sup>2</sup> **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**<sup>3</sup> **or**
    - 2.3 was treated as satisfying the first contribution condition by being entitled to ESA(Cont)<sup>4</sup> or ESA(IR)<sup>5</sup> which includes the support component or WRAC<sup>6</sup> 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**<sup>7</sup> **or**
    - 2.4 was treated as satisfying contribution conditions as a result of an IA or PD<sup>8</sup> **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 died<sup>9</sup>.

**Note 1:** A spouse is a person married in the conventional sense to the other spouse, including a same sex spouse<sup>10</sup>, 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 death<sup>1</sup>. Procedural instructions provide for obtaining advice regarding this.

## Period of entitlement

63093 Entitlement to BA ends on the earliest<sup>1</sup> 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 legislation<sup>2</sup> **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 is<sup>1</sup>

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 WPA<sup>1</sup>. Entitlement to a standard rate basic allowance is subject to the late spouse or civil partner satisfying the contribution conditions<sup>2</sup>. If the contribution conditions are only partly satisfied, there may be entitlement to a basic allowance at a lower rate<sup>3</sup>.

**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 partner<sup>1</sup> **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 died<sup>2</sup>.

*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 year<sup>1</sup>.

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

63104 – 63999

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