

# Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

## Decision Makers Guide

### Volume 10

### Amendment 49 – October 2018

1. This letter provides details on Amendment 49; 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/lg/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 49 affects chapters 59. The changes:
  - clarifies the guidance at DMG 59012 in chapter 59
4. 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).

#### **Remove**

#### **Chapter 59**

59011 – 59030 (1 page)

#### **Insert**

#### **Chapter 59**

59011 – 59030 (1 page)

## Conditions of entitlement

- 59011 A person whose spouse or civil partner dies<sup>1</sup> on or after 6.4.17 will be entitled to BSP if
1. they are under pensionable age<sup>2</sup> when their spouse or civil partner dies<sup>3</sup> **and**
  2. they are ordinarily resident
    - 2.1 in GB **or**
    - 2.2 in any of the Channel Islands where UK law has not been amended as far as is necessary to give effect to the provisions of an agreement<sup>4</sup>
  3. the contribution condition is satisfied<sup>6</sup> (see DMG 59012).

**Note 1:** See DMG Chapter 74 for guidance on pensionable age.

**Note 2:** See DMG Chapter 07 for guidance on ordinary residence and the Channel Islands.

*1 Pensions Act 14, s 30(1)(a); 2 Pensions Act 1995, Sch 4, Part 1, para 1; 3 Pensions Act 14, s 30(1)(b); 4 BSP Regs, reg 8; SS A Act 92, s 179; 5 Pensions Act 14, s 30(1)(c); 6 s 30(1)(d)*

## Contribution condition

- 59012 For the purpose of DMG 59011 **3.**, the contribution condition is satisfied if, for at least one tax year during the deceased's working life
1. they actually paid Class 1 or Class 2 NI contributions<sup>1</sup> **and**
  2. their earnings factor was at least 25 times the LEL for the year<sup>2</sup>.

**Note:** The easement at DMG 75031 does **not** apply to BSP.

*1 Pensions Act 14, s 31(1)(a); 2 s 31(1)(b)*

- 59013 The contribution condition is treated as being satisfied if the deceased
1. was an employed earner<sup>1</sup> **and**
  2. died as the result of
    - 2.1 an IA<sup>2</sup> **or**
    - 2.2 a PD<sup>3</sup>.

*1 Pensions Act 14, s 31(3); 2 s 31(3)(a); SS CB Act 92, s 94(1); 3 Pensions Act 14, s 31(3)(b); SS CB Act 92, s 108(1)*

59014 – 59015

## People not entitled to bereavement support payment

- 59016 There is no entitlement to BSP once a person has reached pensionable age<sup>1</sup>.

**Note:** See DMG Chapter 74 for guidance on pensionable age.

*1 Pensions Act 14, s 30(5)*

**Example**

Ken's spouse Audrey dies on 3.11.17 and he is entitled to BSP. Ken reaches pensionable age on 12.1.18. He has no entitlement to BSP from that date.

59017 There is no entitlement to BSP if the deceased died before 6.4.17<sup>1</sup>.

*1 Pensions Act 14, s 30(6)*

59018 – 59030