

# STATE PENSION ENTITLEMENTS DERIVED FROM A CURRENT OR FORMER SPOUSE'S OR CIVIL PARTNER'S NATIONAL INSURANCE CONTRIBUTIONS

## Foreword

1. The White Paper *The single-tier pension: a simple foundation for saving*,<sup>1</sup> published on 14 January 2013, sets out the Government's proposals for radical reform of the State Pension scheme to provide a simple flat-rate amount that provides clarity and confidence to better support saving for retirement.
2. A key aspect of the proposals is that the single-tier pension should be based on individual qualification, without the facility to inherit or derive entitlement to the State Pension from a spouse or civil partner. Section D of Annex 3 to the White Paper outlines the Government's proposals in this regard.
3. The purpose of this paper is to expand on the White Paper and explain this aspect of the Government's proposed reforms in greater detail.

## Summary of key terms:

### Category B(L) pension for married persons or civil partners:

- Basic State Pension only, payable at a maximum of around 60% of the Contributor's basic category A pension (£64.40 per week in 2012/13).
- Entitlement arises once both members have reached SPa, provided that they are married / in a civil partnership.
- Dependant can combine their own Cat A pension with a Cat B pension to increase their own pension up to the full rate of Cat B(L) pension.

### Category B pension for surviving spouses and civil partners:

- Basic State Pension (if bereavement over SPa or, if under SPa, entitled to widow's pension or widowed parent's allowance up to SPa) and additional State Pension.
- No entitlement if survivor was under 45 either when bereaved or when they ceased to receive child benefit for youngest child.
- Dependant will not receive if they remarry before reaching State Pension age.
- Amount of inheritable additional State Pension is dependant on when the Contributor died: For deaths after October 2002; 50% of the Contributor's SERPS and S2P is inheritable.

### Category A pension (substituted):

- Dependant can substitute, in part or entirely, a former spouse/civil partner's NICs record up to the point of divorce/ending of partnership in order to qualify for basic State Pension.
- Marriage / Civil partnership must have ended: divorce, legal separation, or death.
- Not applicable when Dependant subsequently remarries / enters civil partnership before reaching SPa.

<sup>1</sup> Available online at: <http://www.dwp.gov.uk/docs/single-tier-pension.pdf>

## **SECTION 1: EVOLUTION OF THE CURRENT SYSTEM OF DERIVED AND INHERITED ENTITLEMENT**

4. The origins of the current system of derived and inherited entitlement go back to the 1920s, when the first contributory pensions for manual workers were introduced under the Widows', Orphans' and Contributory Pensions Act 1925. At that time there was a strong likelihood that a woman would have been widowed by the time she reached pension age, and only a remote chance that she would have entitlement to a pension in her own right.
5. The National Insurance Act 1946 scheme was designed to cater for the immediate post-war norm of the 'male breadwinner' household. Married women were effectively excluded from National Insurance: they could opt out of paying National Insurance contributions if they were working. If they didn't opt out of National Insurance, their entitlement to a pension was subject to an additional condition known as the 'married woman's half-test', which required a woman to have paid contributions for at least half her married life in order to qualify for any pension in her own right. The scheme therefore provided a fall-back for married women in the form of a pension based on their husbands' contributions. Such pensions were paid at around 60% of the full-rate whilst the husband was alive and only increased to the full-rate when he died and the woman became a widow.
6. Although the 1950s and 1960s saw significant changes in society, particularly in terms of the role of women in the workplace, the basic structure of the contributory pension scheme remained largely unchanged until the mid-1970s. From the perspective of women's future pension entitlements, the key changes were:
  - the ending of the married woman's half-test for women reaching State Pension age from 1975 onwards.
  - from 1977 married women and some widows could no longer 'opt-out' of National Insurance: those women who had already taken up the option could pay National Insurance contributions at a reduced-rate on the proviso that they remained in work. This option lapsed if a woman did not pay contributions in two consecutive tax years – over time the number of women paying the reduced-rate contributions has dropped from around 3.5 million in 1977 to around 3,000 in 2010/11.
  - from 1978, the introduction of Home Responsibilities Protection (HRP), which covered people caring for a severely disabled person or a child under the age of 16. HRP did not credit National Insurance contributions; instead, it provided cover by reducing the number of years of paid or credited contributions required for a full basic State Pension.

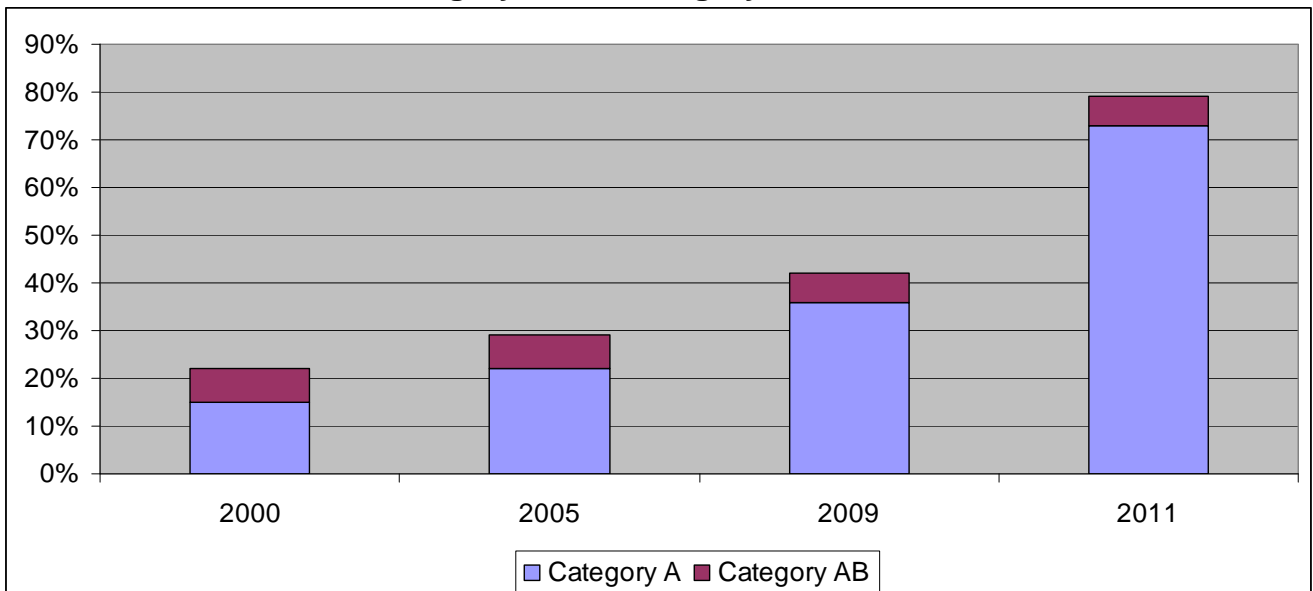
7. In terms of derived and inherited entitlement to contributory pensions, the main change was the limited extension of cover to widowers and divorced men from 1979 – the former on a restricted basis, providing cover only in respect of deaths after both members of the couple had reached State Pension age. Access to the Category B married person's pension and to pre-pension age bereavement benefits remained restricted to women.
8. The process of equalising access to derived and inherited entitlement between men and women has only recently been completed. In 1995 the then Government legislated to provide men born on or after 6<sup>th</sup> April 1945 with access to Category B survivor's pensions on the same terms as women and for men married to women born on or after 6<sup>th</sup> April 1950 to have access to married person's pensions on the same terms as married women, in order to comply with the requirement under EC law to remove gender inequalities in the field of social security.
9. The earliest point at which men and women had equal access to derived and inherited entitlement to contributory pensions was 2010. However, unequal access remains in the case of cohorts whose spouses were born before 1950 (in respect of the 'married person's pension'), or who reached State Pension age themselves before 2010 (in respect of survivor's pensions where the survivor is widowed over State Pension age, but the deceased died while under State Pension age). Access to pre-State Pension age bereavement benefits was extended to men from 2001.
10. Access to derived and inherited pension entitlement was extended to people in civil partnerships from 2005, when it first became possible for a same sex couple to form a civil partnership. However, because of the pre-existing gender inequalities in the provisions, the then Government decided that, regardless of their gender, people in civil partnerships should have access on the same terms and conditions as married men.
11. This means that the earliest point a married person's pension will become payable to a man in a civil partnership is 2015, when both he and his partner (born on or after 6<sup>th</sup> April 1950) will reach State Pension age. The Government proposes to adopt the same approach in extending Category B pension entitlement to same-sex spouses.
12. Although the current system of derived and inherited entitlement has become more complicated as it has evolved, the basic principle underpinning has remained unchanged – namely, that where a couple are in a legal union, the contributions paid by one member give the other member of the couple access to pension entitlement in the event that that he or she has insufficient contributions to qualify for a pension in his or her own right. The fundamental question is whether, nearly a century after it was first established, this principle remains appropriate in a pension system designed for the 21<sup>st</sup> century.

## SECTION 2: RECENT TRENDS

13. As illustrated in Chart 1 below, over the past decade the proportion of women reaching State Pension age with entitlement to a full basic State Pension has been consistently increasing. This is the result of higher levels of female participation in the labour market coupled with the measures introduced in the 1970s outlined at paragraph 6 above.

14. Chart 1 shows that the number of women receiving a basic State Pension in 2011 was roughly double the number in 2009. This acceleration came about as a result of changes to the contribution conditions introduced by the then Government in response to recommendations made by the Pensions Commission – in particular, the reduction in the number of years of paid or credited contributions required for a full pension and the conversion of HRP into credited contributions.

**Chart 1: Proportion of women reaching State Pension age with a full basic State Pension, based on Category A and Category AB, Great Britain:<sup>2</sup>**



<sup>2</sup> Figures extracted from *DWP Information, Governance and Security, Work and Pensions Longitudinal Study*, 5% sample data at September 2011, 2009, 2005 and 2000. Category AB is the number of women who achieved the full basic State Pension through a combination of their own NICs record and their spouse / civil partner's NICs record. The Category A figure includes women who received the full basic State Pension in their own right; it will also include a number of women who may have achieved the full basic State Pension rate through substitution of part or all of their National Insurance records for their former spouse's or civil partner's. Category A substitution provisions may apply to women whose marriage / civil partnership has ended at the point they reach SPa – either through death of their partner or divorce – and who are able to make use of their former husband's or civil partner's NICs record. However, given that women potentially making use of the Category A substitution provisions are included in the Category A data throughout the period presented (and assuming the proportion of these women needing to use their former spouse's / civil partner's NI record is relatively constant), the trend that increasing numbers of women are receiving the full basic State Pension in their own right is evident.

15. The current system of derived and inherited entitlement to basic State Pension was designed for a world in which the likelihood of a married woman having a full basic State Pension entitlement in her own right was extremely remote; it was therefore essential that women had access to a pension based on their husband's, or former husband's, contributions.
16. Looking at both men and women reaching pension age in Great Britain today and in the future, the likelihood is that they will have entitlement to the equivalent of a full basic State Pension under the current scheme (£107.45 per week in 2012/13) in their own right.
17. The Government estimates that around 90% of individuals reaching State Pension age between now and the introduction of single tier will be entitled to a full basic State Pension in their own right (based on attaining the 30 qualifying years required for a full basic State Pension). The proportion of individuals with at least 30 qualifying years when they reach State Pension age is expected to remain broadly consistent into the long term.
18. This means that the vast majority of individuals, who will have at least 30 qualifying years, would not stand to benefit from deriving entitlement to a state pension based on their spouse's or civil partner's NICs record (although they may have benefited from inheriting additional State Pension). When a single-tier valuation is considered, the amount of qualifying years necessary to receive the equivalent of a full basic State Pension will be 27 (without factoring in any rebate derived amount).<sup>3</sup>

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<sup>3</sup> A single-tier qualifying year is worth 1/35<sup>th</sup> of the full single-tier rate, meaning 27 qualifying years will be worth  $27/35 \times £144 = £111.09$  to the nearest penny (before any rebate derived amount is taken into account); this figure is £3.64 more than the full level of today's basic State Pension.

### SECTION 3: THE SINGLE-TIER PENSION

19. The single-tier pension scheme will not make provision for a spouse or civil partner to access a pension based on a spouse's or civil partner's National Insurance contributions. Around 80% of people living in the UK will have entitlement to a full single-tier pension before any adjustment to take account of contracting-out.
20. This significantly weakens the rationale for continuing to allow both parties to a marriage or civil partnership access to a pension on one of the party's National Insurance contributions, which originated in a time where the likelihood is that 80% or more of married women could only access a pension through their husband's contributions.
21. One area where the take-up of derived entitlement to basic State Pension is increasing is overseas – in cases where men and women emigrate and marry or enter a civil partnership with a foreign national. For example, married men became potentially entitled to a married person's pension from 2010 – the latest available data, from February 2012, suggests that nearly 70% of the awards to date relate to married men living outside the UK.<sup>4</sup>
22. If the current arrangements were left in place, as is already evident in the case of married men, the majority of those benefiting in the future are likely to be people living overseas with little or no connection to the UK who happen to be married or in a civil partnership with someone with a UK contribution record. The Government's view is that this expenditure is better directed at improving the pension outcomes of people – particularly women – in the UK through the single-tier pension.
23. The ability to claim State Pension based on a spouse's or civil partner's National Insurance record will therefore be withdrawn. However, the Government recognises that it would be unfair to completely withdraw this access overnight, which is why it is proposed that transitional arrangements be put in place, as discussed below, in Section 4.

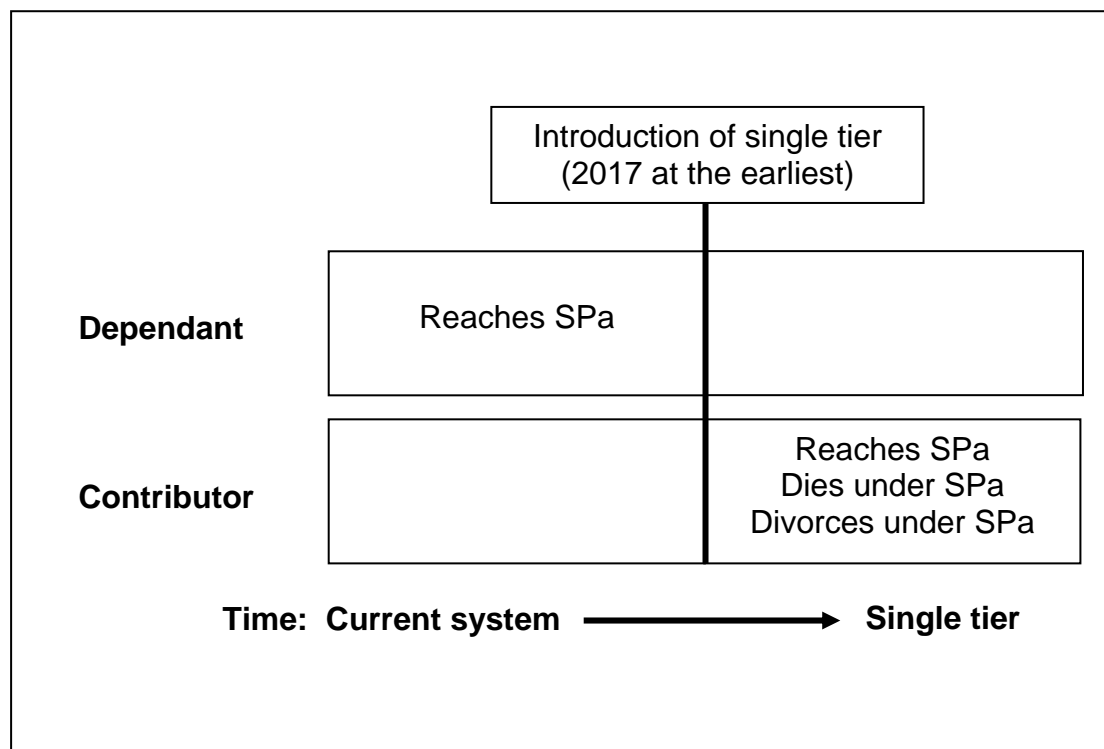
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<sup>4</sup> From *DWP Information, Governance and Security, Work and Pensions Longitudinal Study* (<http://83.244.183.180/100pc/tabtool.html>) for numbers of men receiving Category B(L) and AB(L).

## SECTION 4: TRANSITIONAL ARRANGEMENTS

24. This section outlines the transitional arrangements which will be put in place regarding derived entitlement following the introduction of single-tier.
25. Throughout this section the following terms and assumptions have been used:
- a. **Dependant:** this refers to the individual who is relying on using their spouse or civil partner's National Insurance Contributions record for the purpose of accessing pension entitlement.
  - b. **Contributor:** this refers to the individual whose NICs record is to be used by the Dependant. The Contributor will be either the spouse or civil partner of the Dependant.
  - c. **Single tier start date:** the White Paper modelling assumes an April 2017 start date. Current policy is that single tier will be introduced in April 2017 *at the earliest*. For simplicity, this paper also assumes an April 2017 start date.
  - d. **All figures** are presented in 2012/13 earnings terms.
26. The transitional arrangements outlined below will apply where either member of the couple (either in a marriage or civil partnership) reaches their State Pension age (SPa) under the single-tier pension. Transitional arrangements will also apply to the scenario where both members reach their SPa in single tier and the Contributor has a Protected Payment.
27. In every instance where the Dependant reaches SPa in the current system and the Contributor reaches SPa in the current system as well, then the rules will continue to operate as per the current system, which is detailed in Annex A.
28. The three main transitional scenarios are outlined below, and hinge on when members of the couple reach their State Pension age in relation to the introduction of single tier. The situation for women who had, in the 35 years prior to reaching SPa, opted to pay the Reduced Rate Election, is discussed after the three main scenarios.

- Scenario 1:** a. Dependant reaches State Pension age in the current system  
 b. Contributor reaches State Pension age **OR** dies **OR** divorces under SPa in single tier



**Derived and inherited pension entitlement:**

29. Under the scenario shown above, the Dependant will retain the following access routes to derived entitlement, as per the current system:<sup>5</sup>

- A. **Category B(L) basic pension** for married persons and people in civil partnerships.
- B. **Category B basic pension and additional pension** for widows, widowers, and surviving civil partners.
- C. **Substituted Category A basic pension** for person's whose marriage / civil partnership has ended (either through divorce or death: in the latter case it is used if it is either better than the basic in the Category B or where no Category B basic applies).
- D. **Inherited graduated retirement benefit** for widows, widowers, and surviving civil partners.

30. For the purposes of determining the above categories of pension, the Contributor's National Insurance Contributions (NICs) record up to the introduction of single tier will be considered. The current system valuation<sup>6</sup> will form the basis of the derived entitlement stated in sections A) to D)

<sup>5</sup> See summary on page 1 for an overview of these definitions, and also Annex A for a detailed description of them and how they operate in the current system.

<sup>6</sup> See the document *Single-tier transition – technical note* (<http://www.dwp.gov.uk/docs/single-tier-pension-transition-technical-note.pdf>) for a detailed description of how the transitional calculations will be performed.



above: Any NICs made after implementation will not be considered in the calculations for any relevant Category A or B pensions.

**Example 1.1: Scenario 1, Category B(L) for married persons and people in a civil partnership.**

James and Brian are in a civil partnership.

James (**Dependant**) reaches his SPa in 2014, and has a Category A basic State Pension under the current system of £39.40.

Brian (**Contributor**) reaches SPa in 2018. Brian's Foundation Amount, calculated as at the introduction of single-tier, provides the valuation of his pension based on his NICs record up to April 2017.

For the purposes of assessing James' derived pension entitlement, Brian's current system valuation will be considered.

Brian has 28 qualifying years at 6 April 2017.

The calculation performed will be:

(Number of Contributor's qualifying years at 6 April 2017/ 30 (because this is the number of qualifying years required for a full basic State Pension) x Category B(L) Level

In Brian's case this would be:

$(28/30) \times £64.40 = £60.11$  (2012/13 terms)

James can use Brian's NICs record to "top-up" his Category A pension to the full Category B(L) level of £64.40 by using Brian's NICs record, up to a maximum of £60.11.

James only needs £25.00 of the maximum £60.11 to top up his own Category A pension to the full Category B(L) level of £64.40 per week.

If Brian dies before James, or they were to dissolve their civil partnership, James could use either the Category B or Category A substitution rules to increase his basic State Pension.

31. These provisions will interact with the minimum contribution requirement such that if the Contributor has less than the specified minimum number of qualifying years (to be decided, but will be set at between 7 and 10), while they themselves will not be entitled to a single-tier pension, their Dependant will still be able to receive a pension based on the Contributor's NICs record.

***Example 1.2: Contributor does not satisfy the minimum contribution requirement.***

Juliet and Bob are married.

Juliet (**Dependant**) reaches her SPa in 2013, and has 13 qualifying years.

Bob (**Contributor**) reaches his SPa in 2018, at which time he only has 6 qualifying years, and so would not be entitled to a single-tier pension, as he doesn't have the necessary number of qualifying years.

However, Juliet could still use Bob's NICs record up to the introduction of single tier to top up her Category A pension to the Category B(L) level.

***Example 1.3: Category B on death.***

Nigel and Claire are married.

Claire (**Dependant**) reaches her SPa in 2014 with 25 qualifying years, and so receives a Category A basic State Pension of £89.55.

Nigel (**Contributor**) reaches his SPa in 2018, and had 38 qualifying years when the single-tier pension was introduced in 2017. He dies in 2030.

Through relying on Nigel's NICs record up to 2017, Claire can top up her Category A basic State Pension by £17.90 to the full basic State Pension level of £107.45 upon Nigel's death.

**Inheritance of additional State Pension:**

32. For the purposes of determining the inheritable amount of additional State Pension, the NICs record of the Contributor up to the date of the implementation of single tier will be taken into account. This means that the Dependant will be able to inherit 50% of the additional State Pension which the Contributor would have received, had the Contributor reached State Pension age the day before single tier was introduced.

**Example 1.4: Scenario 1, additional State Pension.**

John and Jane are married.

Jane (**Dependant**) reached her SPa in 2015, before the introduction of single-tier.

John (**Contributor**) reaches his SPa in 2019. His Foundation Amount, calculated as at the introduction of single-tier, provides the valuation of his pension based on his NICs record up to 2017. This is the higher of the single-tier valuation or the current system valuation.

His current system valuation is £139. This is made up of £107 in basic State Pension, and £32 in additional State Pension. Regardless of whether his Foundation Amount is based on the single-tier or current system valuation, the current system valuation will form the basis for calculating any inheritable additional State Pension.

When John dies, Jane is able to inherit a maximum of half his additional State Pension (£16), in line with current rules, which would be revalued by earnings from single tier's introduction until in payment to Jane, and CPI thereafter.

**Revaluation and Up-rating:**

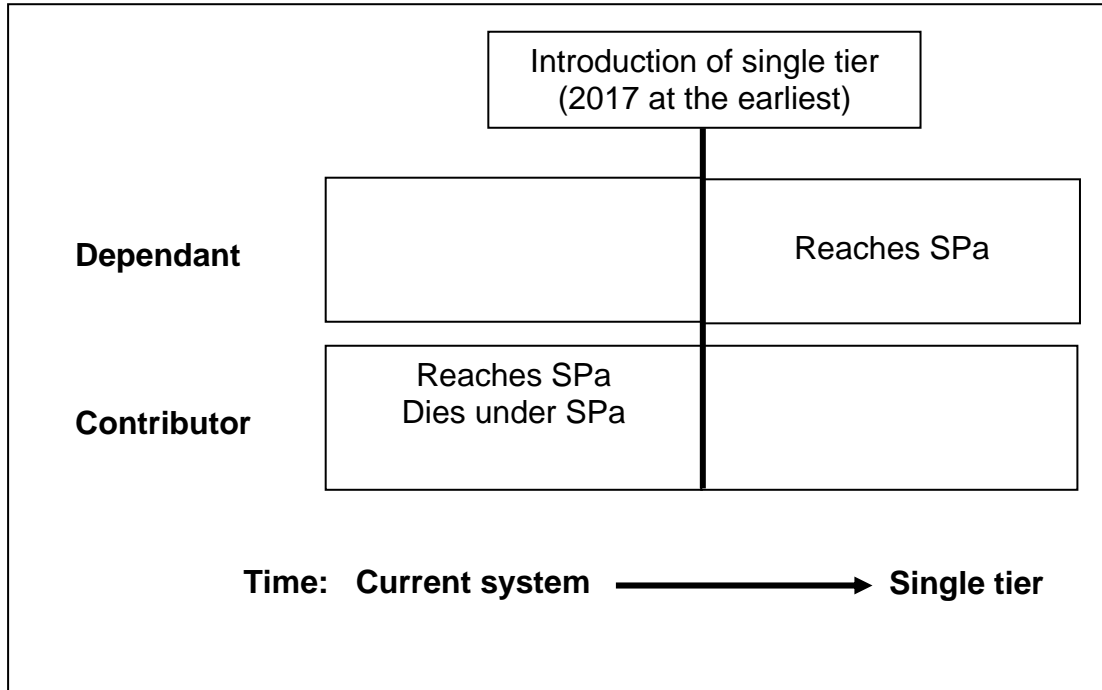
33. The inheritable additional State Pension amount will be revalued in line with earnings from the introduction of single tier until the Contributor dies, or to the Contributor's SPa if later, and thereafter in line with prices (Consumer Prices Index - CPI). This revaluation/up-rating method is as per the current arrangements for additional State Pension.
34. This method for calculating the inheritable amount of additional State Pension will apply even if the Contributor's Foundation Amount is based on the valuation of their NICs record under single-tier rules.

**The maximum additional State Pension cap:**

35. Currently, where a surviving spouse or civil partner has additional State Pension of their own, the combination of their own plus inheritable additional State Pension is subject to a cap. This rule has been in place since 1979, when the first payments of additional State Pension were possible. In 2012/13, the maximum additional State Pension cap was around £162.
36. The cap is based on the maximum possible amount of additional State Pension a hypothetical high-earner could accrue, on the assumption that they reached SPa in the year entitlement to the combined additional State Pension arises. Graduated Retirement Benefit is excluded from the cap. The cap will continue to apply, but will be fixed at the 2016/17 level, revalued by earnings. This will ensure that survivors are not put at a disadvantage when contributors NICs cease to be relevant for additional

State Pension from 2017 onwards, which would reduce the hypothetical maximum.

- Scenario 2:**
- a. Dependant reaches State Pension age in single tier
  - b. Contributor reaches State Pension age **OR** dies in the current system



**Derived pension entitlement:**

37. Individuals in the scenario above, where the Dependant reaches SPa in single tier but the Contributor reaches SPa or dies in the current system, will not be able to derive entitlement to Category A or B basic pensions (but see also pages 17-20, which discuss women with a current or past reduced-rate election).

**Inheritance of additional State Pension:**

38. The basic principle is that the Dependant will be entitled to an inherited amount, equivalent to the additional State Pension in the Category B pension they would have been entitled to, had the current system continued. The Dependant will also inherit half the deceased's Graduated Retirement Benefit.

39. The inheritable additional State Pension in the Category B pension comprises:

- up to 50% of additional State Pension accrued since 2002 (under S2P).
- up to between 50% and 100% of additional State Pension accrued before 2002 (under SERPS) depending on when the Contributor reached, or would have reached, State Pension age.

40. As now, where bereavement is before the Dependant reaches SPa, the Dependant will not be able to inherit if they remarry or form another civil partnership before State Pension age. Additionally, there will be no inherited amount if the marriage or civil partnership was formed on or after the date single tier is introduced.

**A. Contributor dies before single tier introduction (Dependant is under SPa):**

- as now, entitlement will be contingent on entitlement to Widow's Pension, widowed parent's allowance or bereavement allowance prior to SPa.
- In this scenario, the inherited additional State Pension in the Category B pension is subject to an age-related reduction if the Dependant was under age 55 when either widowed or entitlement to CHB ceased. This will also apply to the inherited amount under single tier.

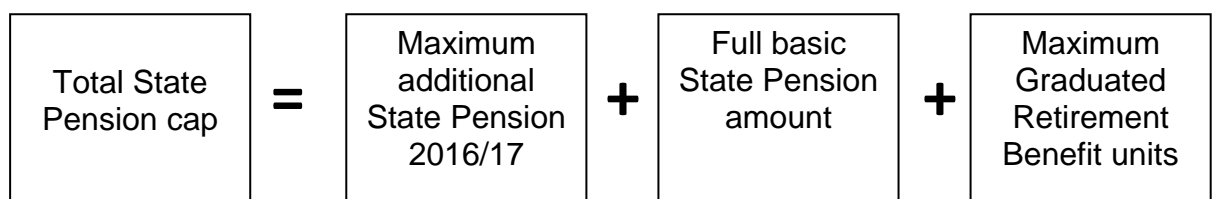
**B. Contributor (over SPa before single tier introduction) dies after introduction: Dependant is under SPa and was entitled to bereavement support payment:**

- In this scenario, no age-related reduction will be applied to the inherited amount irrespective of the Dependant's age when bereaved or Child Benefit (CHB) ceases.

**C. Contributor (over SPa) dies when Dependant is over SPa:**

- the inheritable amount will comprise 50% of the Contributor's graduated retirement benefit plus the inheritable additional State Pension in the Category B pension as above.
- There will be a modified additional State Pension cap in place for people in this scenario which will, in effect, limit an individual's *total* State Pension. The total State Pension which an individual can have will be set at: the maximum level of additional State Pension, plus the full level of basic State Pension as at 2016/17, plus the maximum Graduated Retirement Benefit units. This mirrors the current rules where the maximum state pension a survivor can receive is the maximum a hypothetical person could achieve on their own contribution record. This is given in the calculation box, below:

**Calculation Box 1: Total State Pension cap**



*All amounts will be revalued from the introduction of single tier in line with prices (CPI) up to the individual's State Pension age*

**Example 2.1: Total State Pension Cap.**

Alfred and Barbara are married.

Alfred (**Contributor**) reaches SPa in 2000, and receives a full basic State Pension of £107.45, additional State Pension of £150, and £5 in Graduated Retirement Benefit.

Barbara (**Dependant**) reaches SPa in 2020, receiving a full single-tier pension of £144 plus a protected payment of £25, taking her state pension to £169.

Because Alfred reached SPa before 2002, Barbara will inherit all of his additional State Pension plus £2.50 of his GRB, taking her total state pension to £321.50 per week.

Because the total state pension cap is in place, the maximum which Barbara's State Pension can be is (full basic State Pension + £162 in additional State Pension + 100% inheritable GRB = £107.45 + £162 + £10 = £279.45).

Therefore, Barbara's inheritance is restricted to £110.45.

**Example 2.2: Total State Pension Cap.**

William and Joanna are married

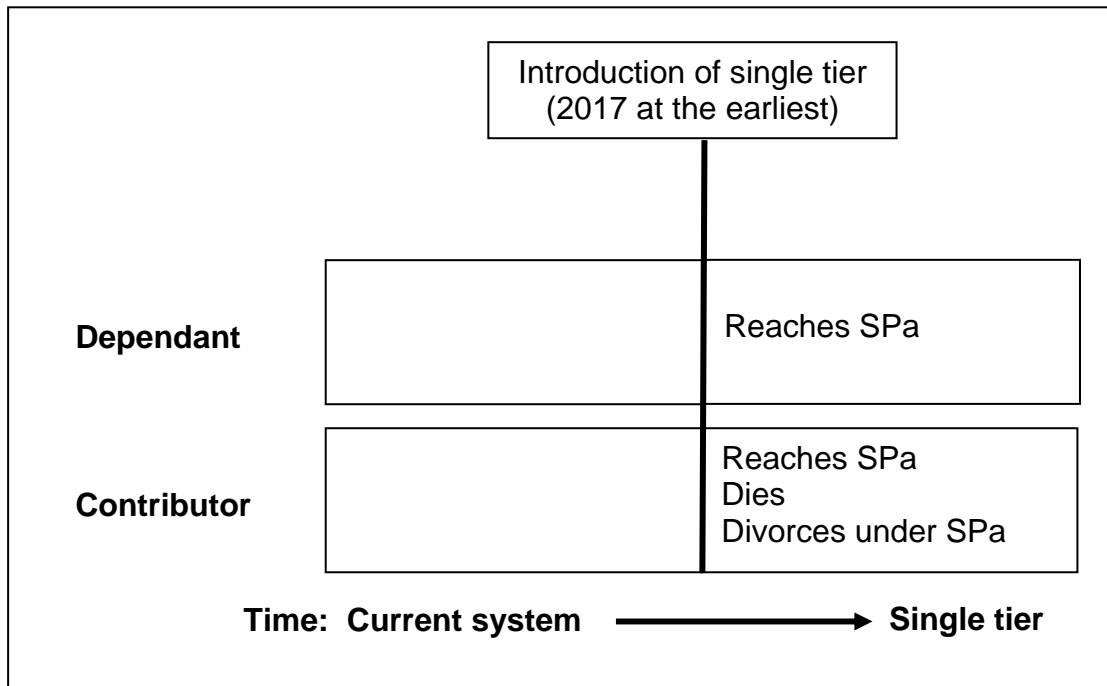
William (**Contributor**) reaches his SPa in 2016, and receives a full basic State Pension plus £50 in additional State Pension, as well as £1 in GRB. He dies in 2040.

Joanna (**Dependant**) reaches SPa in 2018, and receives a full single-tier pension of £144 per week. On William's death she inherits £25.50, meaning her total weekly State Pension is £169.50 – well below the cap.

**Deferral:**

41. Where the Contributor reaches SPa in the current scheme, the surviving Dependant will be able to inherit deferred pension under the existing rules even if they are in the single tier. This is because a person reaching SPa in the current system could already have made the decision to defer – and assumed that their surviving spouse or civil partner would be able to inherit.
42. The surviving Dependant will have the same options as now provided they satisfy the qualifying conditions. The deferral amount, if increments, will not be included in the total State Pension cap, so the Dependant will receive that in addition to any additional State Pension. Deferral amounts will be ringfenced and always uprated by CPI even if the rest of their pension is below £144.

- Scenario 3:**
- a. Dependant reaches SPa in single tier
  - b. Contributor reaches SPa / Dies / Divorces under SPa in single tier



**Derived pension entitlement:**

43. Individuals in the scenario above, where both the Dependant and Contributor reach SPa in single tier, will not be able to derive entitlement to Category A or B pensions.

**Inheritance of the Protected Payment**

44. Additional State Pension will cease to exist after the introduction of single tier. The amount of state pension over £144 which will form part of some individuals' Foundation Amount will be known as the 'Protected Payment'. From the introduction of single tier, the Protected Payment will be revalued in line with the Consumer Prices Index (CPI), and also uprated in line with CPI.

45. A Dependant will be able to inherit 50% of the Contributor's Protected Payment. The total State Pension cap, set out in box 1 above, will also apply, such that the Dependant's total state pension (Foundation Amount plus extra pension gained through further qualifying years or protected payment plus any inherited protected payment) cannot be more than the cap.

46. Inheritance of the Protected Payment amount is conditional on the marriage or civil partnership having been existant prior to the introduction of single tier. In cases where a marriage is formed after the introduction of single tier, and where the Contributor has a Protected Payment, there will be no provisions for the Dependant to inherit the Protected Payment.

***Example 3.1: Inheritance of Protected Payment.***

George (**Contributor**) and Linda (**Dependant**) got married in 2002, and both reach State Pension age after the introduction of single tier. George's Foundation Amount is £180, which is made up of the full £144 of single tier, plus a Protected Payment of £36. The Protected Payment will be uprated by CPI annually.

When George dies, Linda can inherit 50% of his Protected Payment.

**Deferral:**

47. Under single tier, there will be no option to inherit any of the Contributor's deferred State Pension. This means that any deferrals which commence after the introduction of single tier will not be inheritable.
48. However, where the Contributor reaches SPa in the current scheme, the surviving Dependant will be able to inherit under the existing rules even if they are in the single tier. The deferral amount, if increments, will not be included in the cap, and so the Dependant will receive that in addition to any additional State Pension.



## **Scenario 4: women with a reduced-rate election under single tier**

49. As explained above, for most people reaching State Pension age in single tier, there will be no equivalent of derived entitlement to basic State Pension.
50. There will be one exception to this general rule. This will apply to married women and widows who, before 1977, exercised the option to pay reduced-rate National Insurance contributions in exchange for relying on their husband's contributions for State Pension entitlement. Self-employed women could opt not to pay the flat-rate self-employed stamp. This option was known as a Reduced Rate Election.
51. Most elections in force when the option to make such an election was ended in 1977 have since lapsed but a very small number of women, estimated to be approximately 3,000 are still paying the 'married woman's stamp' and they will be able to continue to do so after single tier is implemented.
52. Fully removing the potential to derive basic State Pension from a spouse under the single-tier pension would disadvantage women who elected to pay reduced rate National Insurance contributions. They may have few or no qualifying years as a result of their election, which would leave them with potentially no state pension under single-tier rules despite a history of paying National Insurance contributions and engaging with the labour market, and having formed an explicit agreement with the Government to opt out of paying the full rate.

### **Whom the RRE transitional arrangements will apply to:**

53. Women in scope for the RRE transitional arrangements will be those whose reduced rate election was still in force at the start of the tax year beginning 35 years before the tax year in which they reach State Pension age.

### **What the RRE transitional arrangements provide:**

54. Qualifying women will be entitled to the higher of:
- their Foundation Amount plus (if applicable) pension gained post-implementation; **OR**
  - the Safeguard Amount, as defined below;<sup>7</sup>

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<sup>7</sup> Where a woman has no qualifying years in the current system, and therefore no foundation amount, she will be entitled to the higher of the Safeguard Amount or a pension based on any post-implementation qualifying years.

### **The Safeguard Amount:**

55. The Safeguard Amount is based on either i. or ii.:

- i. the standard full rate of Category B(L) pension (currently £64.40); if she is married or in a civil partnership; **or**
- ii. the standard full basic State Pension (currently £107.45) if she is widowed or divorced; **plus**
  - the value attributable to any additional State Pension or graduated retirement benefit in her Foundation Amount.

56. Any qualifying years gained after the introduction of single tier will **not** add further pension on top of this Safeguard Amount. Any inherited amount (as discussed above) would be payable in addition to the Safeguard Amount.

57. For a woman who is married or has a civil partner on reaching State Pension age, the Category B(L) rate will apply only when her spouse or civil partner has also reached State Pension age. She will have access to the higher rate if she is subsequently widowed or divorced and if she is widowed or divorced at State Pension age, she will retain entitlement to the higher rate if she remarries.

58. The revaluation and uprating arrangements for the Safeguard Amount will be:<sup>8</sup>

- Category B(L) or full basic State Pension amount: at least by earnings, as per current legislation for uprating these amounts in the current system.
- Additional State Pension / GRB amounts: revalued by earnings, uprated by prices.

### **Deferral:**

59. Whether the amount to be paid is the final single-tier valuation (ie: Foundation Amount plus further pension gained by getting post-implementation qualifying years) or the Safeguard Amount, then deferral options will be the same as for all other individuals in single tier.

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<sup>8</sup> Revaluation refers to how the amount increases over time before the individual reaches SPa, while uprating refers to how the amount increases after the individual reaches SPa.

**Example 4.1: Kathie receives the Safeguard Amount at State Pension age.**

Kathie reaches State Pension age in 2019 and is married. She held a RRE until 2000 and so meets the qualifying condition of holding an RRE in the 35 years up to single-tier's introduction. When she reaches State Pension age, her husband has already reached his State Pension age and is still alive.

Her Foundation Amount is worked out as £20.57, which is based on her NICs record of 5 qualifying years (ie: NICs paid at the full relevant rate, and separate to her time spent paying the RRE). Her Safeguard Amount would be the full rate of B(L) pension, £64.40, plus any additional State Pension or GRB she would have had.

Kathie gets two further qualifying years after the introduction of single tier, which would bring her single-tier valuation to £28.80 ( $£20.57 + (2/35 \times £144)$ ).

Therefore, at State Pension age she gets her Safeguard Amount of £64.40 plus any additional State Pension (as this is the higher amount). The two qualifying years gained after the introduction of single tier are not taken into account in the Safeguard Amount.

If Kathie's husband dies before her, or they get divorced, then the Safeguard Amount would increase to £107.45 (full basic State Pension) plus any additional State Pension she would have had.

**Example 4.2: Barbara receives her single-tier valuation at State Pension age.**

Barbara held an RRE up to 1990. She has a total of 20 qualifying years at the implementation of single tier (ie: NICs paid at the full rate at times other than when she was paying the RRE), and no additional State Pension. Her Foundation Amount is £82. She gets two further qualifying years after the introduction of single tier, which takes her final valuation to £90.23 ( $£82 + (2/35 \times £144)$ ).

As her husband is still alive and over State Pension age when she reaches her own State Pension age, her Safeguard Amount is £64.40 (full Category B(L)).

She therefore gets her single-tier valuation of £90.22 when she reaches State Pension age. When her husband dies, this will increase to the full Category B level of £107.45.

60. The option to start paying the RRE ended in 1977, meaning there may be women who started paying the RRE at age 16 in 1977. Some of these women will have a State Pension age of 67 (if the Government's proposals to bring forward the completion of the increase in State Pension age to 67 to 2028 become law), meaning that the last possible cohort who started paying a RRE will reach State Pension age in 2028. However, cases will continue to need to be actioned well after this date, as women become widowed or divorced after reaching their State Pension age.

61. We estimate that approximately 8,000 women will be expected to benefit from these transitional arrangements for women who have paid the RRE.

**Inheritance:**

62. Women who paid the RRE will be entitled to an inherited amount as per Scenarios 1 -3.

## **ANNEX A: Overview of the current system of derived entitlement to State Pension:**

63. Under the current state pension scheme, in addition to qualifying for basic and additional State Pension on his or her own National Insurance contributions, a person may also qualify for one or both components of the State Pension using a spouse's or civil partner's, or former spouse's or civil partner's, National Insurance contributions.
64. Whether a person has access to such a pension and, if so, its value, depends on a range of factors including their age and gender and that of their spouse or civil partner, their marital/civil partnership status at the point they reach pension age and the levels of their own and their spouse's or civil partner's State Pensions. The current arrangements are summarised below.

### **The lower rate category B pension for 'married persons and people in civil partnerships – Category B(L):**

65. This category of pension comprises only basic pension and is payable at around 60% of the other member of the couple's basic category A pension – currently £64.40 per week if the person fully satisfies the contribution condition. It has been available to married women since 1948. It also became available to married men and members of a civil partnership from 2010 on the proviso that the other member of the couple was born on or after 6 April 1950.
66. Entitlement arises once both members of a couple have reached State Pension age provided they are married or in a civil partnership at that point. A married person or person in a civil partnership can combine his or her own basic category A pension (based on own contributions) with a category B pension (based on their spouse's or civil partner's contributions) up to the standard rate of the lower category B pension. Thus where an individual has entitlement to a category A pension at 60% or more of the standard rate in their own right, he or she will not qualify for a category B pension whilst married or in a civil partnership.

#### **Example A.1: Category B(L):**

Mary and William are married

Mary (**Dependant**) is currently aged 62 and William (**Contributor**) is 64. Mary has a full category A basic pension of £107.45 per week so she will not need a category B pension when William reaches pension age next year.

Martha (**Dependant**) and Ernest (**Contributor**) are Mary's parents and are now aged 83 and 84 respectively. Martha only has a small category A basic pension of £31.15 in her own right, because she paid the 'married woman's stamp' until the 1970s, Ernest has a full basic pension of £107.45. Martha's basic pension is therefore topped up to £64.40 by £33.35 of the available category B married person's pension.

67. However, since 2010, when the 'married woman's pension' started to become available to married men and civil partners, where both members of a couple have entitlement to a category A pension at less than 60% of the standard rate it is possible for them both to qualify for a category B pension on the other's contributions.

**Example A.2: Category B(L):**

Susan (**Dependant & Contributor**) and Mark (**Dependant & Contributor**) are now 62 and 65 respectively. They migrated from the UK in the late 1970s. Susan has a category A pension of £39.40 based on 11 qualifying years of UK contributions and Mark has £50.15 based on 14 qualifying years.

Mark's contributions would give Susan a category B pension of around £30, but as she has some category A pension of her own the total is capped at £64.40 – so she has a top-up of £25.

Similarly, Susan's contributions would give Mark a category B pension of around £23.65 but this is capped at £14.25 also giving him a total of £64.40 by way of category A and B basic pensions.

**The substituted category A pension for persons whose marriage has ended:**

68. These provisions allow a person to substitute, either in part or in its entirety, their former spouse's or civil partner's contribution record for their own up to the point the marriage or civil partnership ended in order to qualify for basic pension. The provisions have applied equally to men and women since 1979 and potentially benefit people whose marriage or civil partnership has ended and who do not have a full basic State Pension in their own right.

69. The key criterion in terms of the scope of the provisions is that a legally valid marriage or civil partnership has legally ended – they do not apply in the case of judicial separations. The provisions are also not applicable in the case of a person who, for example, divorces but subsequently remarries or enters a civil partnership before reaching pension age. However any entitlement obtained is not removed if the individual marries or enters a civil partnership after reaching State Pension age.

70. The provisions apply to marriages and civil partnerships which end through divorce or annulment and to those which end on the death of one of the parties, except where both parties are over State Pension age. However in the case of the latter there is a crossover with the category B provisions for widows, widowers and surviving civil partners, outlined below.

### **Example A.3: Category A substituted:**

Isobel (**Dependant**) gets divorced from Jack (**Contributor**) and remarries immediately after the decree absolute is granted. However she remarries after she reached SPa, she retains her entitlement to a full basic pension.

James (**Contributor**) and Janet (**Dependant**) divorced last year at age 65 and 60 respectively – James has a full basic pension of £107.45 per week and, prior to the divorce, Janet had potential entitlement to a basic pension of around £85 per week when she reaches her pension age next year. She wouldn't have qualified for a category B pension on James' contributions as her entitlement in her own right was more than £64.40 per week. From the point their divorce becomes absolute, Janet becomes potentially entitled to a full basic State Pension of £107.45 by substituting James' contribution record for her own.

Janet plans to remarry, however if she remarries before she reaches State Pension age next year, she will not be entitled to the enhancement of around £1,000 per annum (£22.45 per week) to her state pension from her ex-husband James' contributions

### **The category B pension for widows, widowers and surviving civil partners:**

71. This category of pension can comprise both basic (paid at the same rate as category A pension – currently £107.45) and additional State Pension or either component paid in isolation. Pensions for widows have been available since 1948 initially on the condition that the woman was aged 50 or over either at the point she was widowed or, if widowed before age 50, when her youngest child ceased to be dependent. The entitlement criteria have been subject to numerous modifications over the intervening 65 years and cover was extended, initially on a limited basis, to widowers in 1979. As they currently stand the key criteria are as follows:

- that a legally valid marriage or civil partnership subsisted up to the point one of the parties died and that the death of the party in question is established;
- if the death occurred before the surviving party reached State Pension age, that the survivor was aged 45 or over either when the deceased party died or when the youngest child of the deceased party ceased to be dependent and that the surviving party has not subsequently entered into a marriage or civil partnership before attaining pension age;
- in the case of widowers and surviving civil partners who reached pension age before 6<sup>th</sup> April 2010 and are bereaved after reaching pension age, that the deceased party had also attained pension age before he or she died.

72. The rate of the category B pension is different according to circumstances, as outlined in the scenarios below:

**A. Where a person was bereaved before reaching State Pension age:**

- whether the death was before 9<sup>th</sup> April 2001 – category B pension payable in respect of deaths before 9<sup>th</sup> April 2001<sup>9</sup> can comprise both basic and additional State Pension. Category B pensions payable in respect of deaths on or after that date generally comprise solely additional State Pension, the exception being where the survivor was receiving widowed parent's allowance<sup>10</sup> immediately before reaching pension age. However, the survivor may qualify for an enhancement to their category A basic pension under the substitution provisions outlined above;
- whether the person was aged under 55 at the point of bereavement or, if later, when the youngest child of the deceased ceased to be dependent – the pension is reduced by 7% for each year the person was under age 55 at the relevant time giving a maximum reduction of 70% in the case of a person who was the minimum qualification age of 45 at the relevant time;

**B. Where the category B pension includes or comprises additional pension:**

- The amount of additional pension the deceased was entitled to – this can vary from as little as a few pence per week to as much as around £175 per week;
- If the deceased died on or after 6<sup>th</sup> October 2002, the proportion of additional pension based on NICs paid or credited between April 1978 and April 2002 (also known as SERPS) which is 'inheritable' under the category B provisions varies between 100% and 50% depending on when he or she reached, or would have reached, pension age – where the deceased died or reached pension age before 6<sup>th</sup> October 2002, up to 100% of the entitlement can be inherited by the survivor, this reduces in steps of 10% to 50% of entitlement where the deceased reached or would have reached pension age on or after 6<sup>th</sup> October 2010 – the proportion of graduated retirement benefit and additional pension accrued from April 2002 onwards (also known as S2P) which is 'inheritable' is fixed at 50%;
- Whether the deceased was contracted-out of SERPS at any point in the tax years 1978-9 to 1996-7 – if the deceased was contracted-out the scheme may be responsible for providing the survivor with 50% of the deceased's Guaranteed Minimum Pension

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<sup>9</sup> The relevance of 9<sup>th</sup> April 2001 is that this was the point at which reforms to bereavement benefits for people of working age came into effect replacing the previous regime of widow's benefits (restricted to women) with gender neutral arrangements

<sup>10</sup> Widowed Parent's Allowance is payable to the survivor up to the point the youngest child of the deceased ceases to be dependent – normally at age 19.



(GMP) in lieu of additional pension – in the case of widowers and surviving civil partners this liability is restricted to GMPs accrued between 1988-9 and 1996-7;

- The survivor's entitlement to category A additional pension in their own right – a survivor's combined entitlement to category A additional pension and any 'inherited' category B additional pension (or GMP paid in lieu of additional State Pension by a contracted-out occupational pensions scheme) is capped at an amount equivalent to the maximum additional pension entitlement that a person reaching pension age in the year in which entitlement to the inherited additional pension arises – currently around £162 per week.

**C. Where the category B pension includes or comprises basic pension:**

- The deceased's level of entitlement, or if he or she died before reaching pension age, underlying entitlement to basic State Pension; and
- The survivor's entitlement to category A basic State Pension - the survivor's combined entitlement to category A basic State Pension and inherited category B pension is capped at the standard rate of category A basic State Pension – currently £107.45 - therefore a person who already has a full basic State Pension in their own right at the point their spouse or civil partner dies is unable to improve their basic pension entitlement through the category B provisions.

**Example A.4: Category B:**

Hannah and Joan are in a civil partnership.

Hannah (**Contributor**) dies in 2013 at age 62, at which point Joan (**Dependant**) was aged 65. Before she died, Hannah was receiving a full basic State Pension of £107.45 plus additional State Pension of £50 (comprising £29.50 in SERPS, £20 in S2P and £0.50 in Graduated Retirement Benefit).

Joan is entitled to a full basic pension of £107.45 (which cannot be increased under the category B provisions) and additional pension of £80 (including £2 in Graduated Retirement Benefit). As Hannah reached State Pension age after 5 October 2010 Joan inherits 50% of all the components of her additional State Pension – ie: £25.

**Example A.5: Category B:**

Stanley and Victoria are married.

Stanley (**Contributor**) died this year at age 82, at which point Victoria (**Dependant**) was aged 79. Before he died, Stanley was receiving a full basic State Pension of £107.45 and additional State Pension of £40 (comprising £38 in SERPS and £2 in Graduated Retirement Benefit). Victoria was receiving a married woman's category B pension of £64.40 as she had paid the married woman's stamp, plus £1.50 in graduated retirement benefit.

On Stanley's death she became entitled to a full category B pension of £107.45 and, as he reached State Pension age before 2002, she inherited his full SERPS pension of £38 and half his Graduated Retirement Benefit, giving her a total pension of £146.45.