

# DMG Chapter 63: Bereavement Benefit

## Introduction

[Marriage](#) 63004 - 63006

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

## **Subpages**

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- Widowed Parent's Allowance 63017 - 63090
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- Appendix 1 - The Bereavement Benefit (Remedial) Order 2023 - Widowed Parent's Allowance and Higher Rate Bereavement Support Payment

## Bereavement payments 63007 - 60316

[Entitlement to a Category A retirement pension](#) 63010 - 63014

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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 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 - 63090

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

1. the

**1.1** late spouse, civil partner or cohabiting partner died before 6.4.17<sup>1</sup> **and**

**1.2** surviving spouse or civil partner

**1.2.a** did not marry, form a civil partnership or a cohabiting partnership after the date of death and before 6.4.17<sup>2</sup> **and**

**1.2.b** did not form a new cohabiting partnership on or after 9.2.23<sup>3</sup> **or**

**1.3** surviving cohabiting partner did not marry, form a civil partnership or form a cohabiting partnership with another person<sup>4</sup> **and**

**1.4** is under pensionable age on 6.4.17<sup>5</sup> **and**

**2.** their late spouse, civil partner or cohabiting partner

**2.1** satisfied the contributions conditions<sup>6</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>7</sup> **or**

**2.3** was treated as satisfying the first contribution condition by being entitled to ESA(Cont)<sup>8</sup> or ESA(IR)<sup>7</sup> which includes the support component or WRAC<sup>10</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>11</sup> **or**

**2.4** was treated as satisfying contribution conditions as a result of an IA or PD<sup>12</sup> **and**

**3.** the surviving

**3.1** spouse, civil partner or cohabiting partner is entitled to CHB for a child or qualifying young person (see DMG 63020 - 63021) for whom DMG 63026 is satisfied<sup>13</sup> **or**

**3.2** spouse or cohabiting partner is a woman who<sup>14</sup>

**3.2.a** is pregnant by her late husband or late cohabiting partner **or**

**3.2.b** was living with her husband or cohabiting partner immediately before he died and is pregnant by 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 or cohabiting partner is a woman who<sup>15</sup>

**3.3.a** was living with her civil partner or cohabiting 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>16</sup>, following a proper legally recognised ceremony.

**Note 2:** Cohabiting partners are people who are living together as if married or in a civil partnership<sup>17</sup>

**Note 3:** 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 4:** For the purposes of **1.2**, a male to female transgender 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>18</sup>.

**Note 5:** 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(4) & (4A); 4 s39A(4B); 5 s 39A(1)(c); 6 s 39A(2) & Sch 3, Part I, para 5; 7 Sch 3, Part I, para 5(6); 8 WR Act 07, s 2(1)(b); 9 s 4(2)(b); 10 SS CB Act 92, Sch 3, Part 1, para 5(6B); 11 Sch 3, Part 1, para 5(6A); 12 s 60(2) & 60(8); 13 s 39A(2)(a); 14 s 39A(2)(b); 15 s 39A(2)(c); 16 Marr (SSC) Act 13, Sch 3, Part 1, para 1(1); 17 s 39A(7); 18 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 permanently ends<sup>1</sup> when

**1.** the surviving

**1.1** spouse or civil partner

**1.1a** remarries or forms a civil partnership **or**

**1.1b** forms a cohabiting partnership with another person on or after 9.2.23 **or**

**1.2** cohabiting partner marries, forms a civil partnership or forms a subsequent cohabiting partnership **or**

**2.** the surviving spouse, civil partner or cohabiting partner reaches pensionable age.

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

## 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, surviving civil partner or surviving cohabiting 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> or late cohabiting partner.

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, civil partner or cohabiting partner and the deceased spouse, civil partner or cohabiting partner<sup>1</sup> **or**

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

**3.** child or qualifying young person for whom the surviving spouse, civil partner or cohabiting partner was entitled to CHB before the date of death if the surviving spouse, civil partner or cohabiting partner and the deceased spouse, civil partner or cohabiting 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, civil partner or cohabiting 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, civil partner or cohabiting 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, civil partner or cohabiting 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)

## **Payment where there is more than one claimant in respect of the same death**

63035 Only one claimant per household can be entitled to WPA<sup>1</sup> in respect of the same death.

1 SSCB Act 92 s39A (3A)

63036 The claimant who was living with the deceased on the date of death will be entitled to WPA<sup>1</sup>.

1 SSCB Act 92 s39A (3C)

63037 Where two potential claimants were living with the deceased on the date of death, the following applies:

- 1.** the claimant who is married or has a civil partnership with the deceased would be entitled (if they are entitled to Child Benefit or were pregnant)<sup>1</sup> **or**
- 2.** if neither were married or in a civil partnership (or the spouse/civil partner did not have dependent children with the deceased), the claimant with entitlement to Child Benefit and/or were pregnant, would be entitled<sup>2</sup> **or**
- 3.** if neither were married or in a civil partnership and more than one claimant has entitlement to Child Benefit and/or were pregnant, the claimant who had lived with the deceased for the longest on the date of death would be entitled<sup>3</sup> **or**
- 4.** If there were two or more potential claimants that may still satisfy entitlement after the eligibility criteria, as set out above is applied, entitlement would be determined by exercise of the Secretary of State's discretion<sup>4</sup>.

1 SSCB Act 92 s39A (3D)(a); 2 SSCB Act 92 s39A (3D)(b); 3 SSCB Act 92 s39A (3D)(c); 4 SSCB Act 92 s39A (3D)(d)

## Payment

63038 WPA is not payable for any period when the surviving spouse or civil partner is in a cohabiting partnership with another person before 9.2.23<sup>1</sup>.

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

63039 A surviving spouse or civil partner who forms a cohabiting partnership before 9.2.23 may retain underlying entitlement to WPA as long as they satisfy the qualifying conditions<sup>1</sup>.

1 Bereavement Benefits (Remedial) Order 2023 art 2(1) & (2)

63040 WPA entitlement permanently ends for a surviving spouse or civil partner who forms a cohabiting partnership on or after 9.2.23<sup>1</sup>.

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

**Note 1:** For retrospective payment periods relating to deaths of cohabiting partners that occurred before 9.2.23 – See Appendix 1 The Bereavement Benefits (Remedial) Order 2023 – Widowed Parent's Allowance and Higher Rate Bereavement Support Payment

## Rate

63041 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, civil partner or cohabiting 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)

63042 When calculating the rate of WPA based on the rate of Cat A RP, the DM should note that where the deceased spouse, civil partner or cohabiting partner was

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

63043 Entitlement to standard rate basic allowance is subject to the late spouse, civil partner or cohabiting partner satisfying two contribution conditions<sup>1</sup>.

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

63044 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, civil partner or cohabiting 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)

63045 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 6.4.87

for 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 I, para 5(3); 2 s 60(1), SS (WB & RP) Regs, reg 6

63046 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 year<sup>1</sup>. This applies to both the first and second contribution condition.

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

63047 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 satisfied<sup>1</sup>.

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

### **Late payment of contributions**

63048 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**

63049 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**

63050 Additional allowance is earnings-related. It is calculated from the late spouse's, civil partner's or cohabiting partner's earnings in complete tax years between 6.4.78 and the late spouse's, civil partner's or cohabiting partners date of death, up to a maximum of 49 years<sup>1</sup>. An AP can be made up of

1. SERPS (see DMG 63051) **or**



**2.** S2P (see DMG 63053) **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 inherited<sup>2</sup>.

**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 63041).

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

### **State earnings related pension scheme**

63052 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-in<sup>1</sup>. Before 6.4.97 a person who was contracted out could continue to receive an AP but it was subject to the normal GMP reduction<sup>2</sup>.

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 60<sup>1</sup>. 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 scheme<sup>2</sup>.

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

### **State second pension**

63053 S2P replaced SERPS from 6.4.02<sup>1</sup>. S2P is based on

**1.** earnings **or**

**2.** deemed earnings factors<sup>2</sup>.

**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

63054 For the purposes of DMG 63053 **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 threshold<sup>1</sup> **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 provisions<sup>2</sup> **or**

**3.** CHB was payable for a child under the age of six<sup>3</sup> **or**

**4.** IBLT or qualifying ESA (see DMG 63056)

**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, scheme<sup>4</sup> **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.

63055 In order to satisfy DMG 63054 **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 life<sup>1</sup>. In addition, that guidance will not apply where the deceased spouse or civil partner reached pensionable age on or after 6.4.10<sup>2</sup>.

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

## Meaning of qualifying ESA

63056 For the purposes of DMG 63054 **4.** qualifying ESA<sup>1</sup> is ESA(Cont) which

**1.** was payable for a continuous period of 52 weeks **or**

**2.** includes the support component<sup>2</sup> **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

63057 In any tax year from 2010/11<sup>1</sup> people have deemed earnings factors<sup>2</sup> if any of the three Conditions A - C at DMG 63058 - 63060 are satisfied. Also, for tax years from 2010/11 the upper accrual point will continue to apply<sup>3</sup>.

**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)

63058 Condition A is satisfied if people have earnings which are

**1.** at or above the QEF<sup>1</sup> **and**

**2.** less than the low earnings threshold<sup>2</sup>

for a tax year.

**Note 1:** This Condition will not apply for any tax year from the FRIY<sup>3</sup>. The FRIY is the tax year beginning 6.4.12<sup>4</sup>.

**Note 2:** The QEF is an earnings factor equal to the LEL for a tax year multiplied by 52<sup>5</sup>.

**Note 3:** The low earnings threshold is the amount specified<sup>6</sup> which is subject to revision<sup>7</sup>.

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;

63059 Condition B is satisfied if people have

**1.** earnings at less than the QEF<sup>1</sup> **and**

**2.** some EFC<sup>2</sup> (see DMG 63061) which enable their earnings to reach the QEF<sup>3</sup>

for a tax year.

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

63060 Condition C is satisfied if people are entitled to 52 EFC<sup>1</sup> for a tax year. This is the same as the QEF.

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

## Earnings factor credits

63061 In any tax year from 2010/11<sup>1</sup> people are entitled to EFC in respect of any week in that year<sup>2</sup> if

**1.** they are relevant carers<sup>3</sup> (see DMG 63063) **or**

**2.** CA

**2.1** is payable **or**

**2.2** would be payable but for the overlapping benefit provisions<sup>4</sup> **or**

**3.** SDA is payable<sup>5</sup> **or**

**4.** IBLT

**4.1** is payable **or**

**4.2** would be payable but for

**4.2.a** a failure to satisfy the contribution conditions<sup>6</sup> **or**

**4.2.b** the overlapping benefit provisions or payments from an occupational pension scheme or a personal pension scheme<sup>7</sup> **or**

## **5. ESA**

**5.1** is payable<sup>8</sup> **or**

**5.2** would be payable but for

**5.2.a** a failure to satisfy the contribution conditions<sup>9</sup> **or**

**5.2.b** the overlapping benefit provisions or payments from an occupational pension scheme or a personal pension scheme<sup>10</sup>

and DMG 63062 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)

63062 DMG 63061 **5.** applies when ESA

**1.** was payable or would have been payable for a continuous period of 52 weeks<sup>1</sup> or a period of 52 weeks treated as continuous under linking rules<sup>2</sup> **or**

**2.** includes or would have included the support component<sup>3</sup> **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 payable<sup>4</sup>.

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

63063 DMG 63061 **1.** gives guidance that, in any tax year from 2010/11, people are entitled to EFC<sup>1</sup> in respect of any week in that year if they are relevant carers. Unless DMG 63069 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 week<sup>2</sup> **or**

**2.** a foster parent for any part of that week<sup>3</sup> (see DMG 63064) **or**

**3.** engaged in caring in that week<sup>4</sup> (see DMG 63065 et seq).

**Note:** A week is a period of 7 days beginning with Sunday<sup>5</sup>.

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

63064 DMG 63063 **2.** also gives guidance that people are relevant carers if they are a foster parent<sup>1</sup>. DMG 63063 **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 legislation<sup>2</sup>. However, a person is **not** a foster parent where DMG 63069 applies<sup>3</sup>.

**Note:** Applications for credits from foster parents are made to HMRC<sup>4</sup>.

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

63065 DMG 63063 **3.** also gives guidance that people are relevant carers if they are engaged in caring<sup>1</sup>. DMG 63063 **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)

63066 For the purposes of DMG 63063 **3.** people are engaged in caring

**1.** if

**1.1** they are the partner (see DMG 63070 **1.**) of a person who has been awarded CHB for a child under the age of 12<sup>1</sup> **and**

**1.2** DMG 63070 **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 63068) **and**

**2.1** the person or persons being cared for are entitled to a relevant benefit<sup>2</sup> (see DMG 63071) **or**

**2.2** the DM considers that level of care to be appropriate<sup>3</sup> **or**

**3.** if they are entitled to IS because they are regular carers<sup>4</sup>.

People are also engaged in caring if DMG 63067 applies<sup>5</sup>. However, people are **not** engaged in caring where DMG 63069 applies<sup>6</sup>.

**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

63067 People are also engaged in caring for a period of up to 12 weeks

**1.** before they become entitled to CA or CSP<sup>1</sup>

**2.** after they cease to be entitled to CA or CSP<sup>2</sup>

**3.** after a person ceases to satisfy DMG 63066 **2.**<sup>3</sup>.

However, **2.** does not apply if a claimant continues to be entitled to a credit after entitlement to CA or CSP ends<sup>4</sup>.

**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 6.4.10<sup>5</sup> (see DMG 63063 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.

63068 When considering whether DMG 63066 **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 week<sup>1</sup>  
**and**

**2.** the name and, where known, the NINO of each person cared for<sup>2</sup> **and**

**3.** either

**3.1** details of the relevant benefit where DMG 63063 **2.1** above applies<sup>3</sup> **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 for<sup>4</sup> **and**

**3.2.b** considered by the DM to be an appropriate person to make a declaration as to the level of care required<sup>5</sup>

where this is requested by the DM<sup>6</sup>.

**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**

63069 However, a person is **not** a foster parent or engaged in caring in accordance with DMG 63063, DMG 63064 and DMG 63066 if that person is

**1.** not ordinarily resident in GB **or**

**2.** in prison **or**

**3.** detained in legal custody<sup>1</sup>.

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



## Meaning of partner

63070 For the purposes of DMG 63066 **1.**

**1.** partner means a person with whom another person resides and shares responsibility for a child under the age of 12<sup>1</sup> **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 AP<sup>2</sup> for the person in receipt of CHB<sup>3</sup>.

**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 63063) are not taken into account when deciding whether the relevant tax year is a qualifying year<sup>4</sup>.

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

63071 For the purposes of DMG 63066 **2.1** a relevant benefit<sup>1</sup> is

**1.** AA<sup>2</sup> **or**

**2.** the middle or highest rate of the care component of DLA<sup>3</sup> **or**

**3.** increase of IIDB where constant attention needed<sup>4</sup> **or**

**4.** PB and MDB or WC (Supp) payable at 100%<sup>5</sup> **or**

**5.** a constant attendance allowance payable under prescribed legislation<sup>6</sup> **or**

**6.** the daily living component of PIP<sup>7</sup> **or**

**7.** AFIP<sup>8</sup>.

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

63072 Applications for credits where DMG 63064 and DMG 63066 **1.** apply are made to HMRC<sup>1</sup>.

Applications for credits where DMG 63066 **2.** applies are made to the Secretary of State<sup>2</sup>. Applications are not required where the person is a woman who is not entitled to CA or CSP credits because of an

election to pay reduced rate NI contributions<sup>3</sup>. Applications must be received

- 1.** before the end of the tax year following the tax year in respect of which the application relates<sup>4</sup> **or**
- 2.** within such further time which is reasonable in the circumstances<sup>5</sup>.

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)

63073 - 63080

## **Amount of additional allowance payable**

63081 The additional allowance will be payable in full where the spouse dies on or before 5.10.02<sup>1</sup>.

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 payable<sup>1</sup>. 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%<sup>1</sup>. 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 is<sup>1</sup>

**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.

1 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 condition<sup>1</sup>.

**Note:** The first contribution condition can be satisfied by the payment of voluntary class 3 contributions (see DMG 63044).

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

## **Transitional Provisions following the introduction of The Bereavement Benefits (Remedial) Order 2023**

63088 Claimants that have been in receipt of WPA before 9.2.23 do not lose their entitlement for the duration of their award as a result of the Remedial Order<sup>1</sup>.

1 Bereavement Benefits (Remedial) Order 2023 art 2(1)

63089 A claimant may have been entitled to WPA before the Remedial Order came into force as a result of the death of their spouse or civil partner because they had not divorced. From 9.2.23, the deceased's co-habiting partner may also become entitled for the same period and the Remedial Order enables both claimants to receive WPA

63090 This means that WPA already paid to a claimant, that was still married or in a civil partnership with the deceased at the date of death, can continue to receive payments and it is not recovered as a result of any new entitlement satisfied by a cohabiting partner arising from the Remedial Order<sup>1</sup>.

1 Bereavement Benefits (Remedial) Order 2023 art 2 (2)&(3)

### **Example**

Colin died on 1.10.16. Colin was married to Amanda and they had two dependent children together. They had separated and were living apart. Colin was living with Mary when he died and they had a dependent child together. Amanda made a claim for WPA and was entitled to receive WPA as she had two dependent children with Colin and she was still legally married to Colin as they had not divorced on the date of his death. Mary also satisfies entitlement to WPA as she was cohabiting with Colin and had a child with him on the date of his death. Both Amanda and Mary are entitled to WPA for Colin's death.

# Bereavement Allowance 63091 - 63999

[Period of entitlement](#) 63093

[Payment](#) 63093 - 63100

[Rate](#) 63101 - 63999

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 I, para 5; 3 Sch 3, Part I, 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.

1 R(I) 6/85

## 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**

# Appendix 1 - The Bereavement Benefit (Remedial) Order 2023 - Widowed Parent's Allowance and Higher Rate Bereavement Support Payment

## INTRODUCTION

1. This memo gives guidance on the Bereavement Benefits (Remedial) Order 2023 which comes into force on 9.2.23. It extends to England, Scotland, Wales and Northern Ireland.

1 [Bereavement Benefits \(Remedial\) Order 2023, SI 2023/134\(link is external\)](#)

## BACKGROUND

2. The Supreme Court<sup>1</sup> and the High Court<sup>2</sup> ruled that the legislation governing Widowed Parent's Allowance (WPA) and the higher rate of Bereavement Support Payment (BSP) is incompatible with article 14 of the European Convention on Human Rights. It was found that, in restricting eligibility to people in a legal union, the current legislation discriminates between children on the grounds of the legal status of their parent's relationship.

1 McLaughlin [2018] UKSC 48; 2 Jackson & Ors v SSWP [2020] EWHC 183 (Admin)

3. The Secretary of State decided to use a Remedial Order<sup>1</sup> to amend the Social Security Contributions and Benefits Act 1992, the Social Security Contributions and Benefits Act 1992 (Northern Ireland), the Bereavement Support Payment Regulations 2017, the Bereavement Benefit Support Payment (No.2) Regulations (Northern Ireland), the Pensions Act 2014 and the Pensions Act (Northern Ireland) 2015 to remedy The Declaration of Incompatibility.

1 Human Rights Act 1998, s 10

4. The Remedial Order<sup>1</sup> was made on 8.2.23 and has retrospective effect back to the date of the Supreme Court's ruling on 30.8.18.

1 Bereavement Benefits (Remedial) Order 2023

## THE EFFECT OF THE REMEDIAL ORDER

5. The Remedial Order extends eligibility for WPA and higher rate BSP to surviving cohabiting partners with dependent children, who were not in a legal union with their deceased cohabiting partner on the date of their death.
6. From **30.8.18**, a surviving cohabiting partner is entitled to:

1. WPA<sup>1</sup> if they satisfy the conditions as set out in DMG [63017](#) or



2. Higher rate BSP<sup>2</sup> if they satisfy the conditions as set out in DMG [59011](#) and [59051](#) and will be treated as eligible in the same way as a spouse or civil partner.

**Note 1:** Cohabiting partners are people who are living together as if married or in a civil partnership<sup>3</sup>.

**Note 2:** Entitlement to WPA ends when the surviving spouse, civil partner or cohabiting partner marries, forms a civil partnership or forms a cohabiting partnership with another person<sup>4</sup>.

**Note 3:** Entitlement to WPA and BSP ends when the surviving cohabiting partner reaches pensionable age<sup>5</sup>.

1 SSCB Act 92 s39A (1),(2) & (3); 2 Pensions Act 14 s30 (1) & (6A), BSP Regs, Reg 4; 3 SSCB Act 92 s39A (7), Pensions Act 14 s30 (6B); 4 SSCB Act 92 s39A (4B),(5)(a) & (6); 5 SSCB Act 92 s39A (4B), Pensions Act 14 s30 (5)

## CLAIMING

7. In order to be entitled to either WPA or BSP under the Remedial Order, a claimant must also make a claim for it in the required time and manner<sup>1</sup>. The required manner of claiming is the same as for other claims for WPA or BSP<sup>2</sup>. However, the time within which a claim must be made has been changed.

1 SS A Act 92, s. 1(1); 2 SS (C&P) Regs, regs 4(1) & 4C

### Time for claiming WPA

8. A claim under the Remedial Order for entitlement for any day in the period from 30.08.18 to 9.2.23 must be made within the period of 12 months that begins on 9.2.23<sup>1</sup>.

1 Bereavement Benefits (Remedial) Order 2023 art 3(1) & (2)

### Time for claiming BSP for a death before 9.2.23

9. For a claim made under the Remedial Order for a death that occurs before **9.2.23**:

1. The time for claiming the higher rate payment of £3,500 for the first month (DMG [59033](#)) ends on 8.2.24<sup>1</sup>.
2. The time for claiming for any other period ends on 9.11.24<sup>2</sup>.

1 Bereavement Benefits (Remedial) Order 2023 art 3(4) & (5)(b); 2 art 3(4) & (5)(a)

### Time for claiming BSP for a death after 9.2.23

10. The legislation has not been changed for such claims. The usual times for claiming apply.

## Claims where death difficult to establish

11. The legislation has not been changed for such claims. The rules in DMG [02340-2](#) continue to apply.

## No twelve-month limit on entitlement

12. The rule that there can be no entitlement for a period more than 12 months before the date on which the claim is made or treated as made<sup>1</sup> does not apply to claims under the Remedial Order<sup>2</sup>.

1 SSCB Act 92, s. 1(2); 2 Bereavement Benefits (Remedial) Order 2023 art 3(7)

## PERIOD OF PAYMENT AND AMOUNT PAYABLE

13. For deaths of cohabiting partners that occur after 9.2.23, payments will be made in the normal way. See DMG [59071](#) to [59072](#) for when a payment period starts and when a payment period ends for BSP. This applies to surviving cohabiting partners in the same way as a spouse or civil partner from 9.2.23<sup>1</sup>.

1 BSP Regs, reg 2(2)(a),(b)(i),(b)(ii) & (3)

## Retrospective payment periods

14. For deaths of cohabiting partners that occurred before 9.2.23, the retrospective payment period of WPA and higher rate BSP will depend on when the claim is made and if it is made within the claim time limits. It will also depend on whether the death occurred before, on or after 30.8.18.

## WPA

15. For claimants that satisfy WPA entitlement conditions under the Remedial Order (RO) and their cohabiting partner

**1.** died before 6.4.2017 **and**

**2.** they continue to satisfy entitlement to WPA on 30.8.2018 **and**

**3.** they make a claim within the period of 12 months from 9.2.23 (by 8.2.24)

they will be eligible to the remaining payments of WPA due to them on or after 30.8.2018<sup>1</sup>.

**Note 1:** For WPA, the rate payable will be based on the claimant's late cohabiting partner's National Insurance Contributions<sup>2</sup>. See DMG [63038](#) to [63044](#) that applies to surviving cohabiting partners in the same way as a spouse or civil partner.

1 Bereavement Benefits (Remedial) Order 2023 art 3(1) & (2);

### **BSP (higher rate)**

16. For claimants that satisfy BSP (higher rate) entitlement conditions under the Remedial Order (RO) whose cohabiting partner

**1.** Died on or after 30.8.2018 **and**

**2.** Died before 9.2.23<sup>1</sup> (the date RO comes into force) **and**

**3.** make a claim within the period of 12 months from 9.2.23 (by 8.2.24)

will be paid from the date the RO comes into force, 9.2.23<sup>2</sup>, and the payment period will end on 9.8.24, this being 18 months after the RO comes into force on 9.2.23<sup>3</sup>.

1 BSP Regs, reg 2(4)(a),(b)&(13); 2 BSP Regs, reg 2(5)(a) & (13); 3 BSP Regs, reg 2(6) & (13)

17. For claimants that satisfy BSP (higher rate) entitlement conditions under the Remedial Order (RO) whose cohabiting partner

**1.** Died on or after 30.8.2018 **and**

**2.** Died before 9.2.23<sup>1</sup> (the date RO comes into force) **and**

**3.** make a claim more than 12 months after 9.2.23<sup>2</sup> **and**

**4.** that claim is made no more than 3 months after 9.8.24<sup>3</sup> (by 8.11.24)

will be paid from the beginning of the period of 3 months before the date of their BSP claim<sup>4</sup> and the payment period will end on 9.8.24, this being 18 months after the RO comes into force on 9.2.23<sup>5</sup>.

1 BSP Regs, reg 2(4)(a),(b)&(13); 2 BSP Regs, reg 2(5)(b)(i)&(13); 3 BSP Regs, reg 2(5)(b)(ii) & (13); 4 BSP Regs, reg 2(5)(b) & (13); 5 BSP Regs, reg 2(6)&(13)

18. For claimants that satisfy BSP (higher rate) entitlement conditions under the Remedial Order (RO) whose cohabiting partner

**1.** Died after 6.4.17 **and**

**2.** Died before 30.8.18<sup>1</sup> **and**

**3.** Make a claim within the period of 12 months from 9.2.23 (by 8.2.24)

will be paid from the date the RO comes into force, 9.2.23<sup>2</sup>. The payment period will finish at the end of a

period of 'W' months later<sup>3</sup> (See Note 1).

**Note 1:** 'W' is 18 less 'Y', where 'Y' is number of monthly occurrences of the day of the month the cohabiting partner died beginning with the day after death and ending on 29.8.18<sup>4</sup>. 'Y' represents the number of monthly payments that would have occurred before the date the Remedial Order commenced. This is subtracted from 18 to establish the number of monthly payments due after 30.8.18.

1 BSP Regs, reg 2(7)(a),(b)&(13); 2 BSP Regs, reg 2(8)&(13); 3 BSP Regs, reg 2(9)(a) & (13) 4 BSP Regs, reg 2(9)(a),(10),(11),(12)&(13)

### Example 1

- RO comes into force on 9 February 2023
- Claim made on 8 March 2023
- The death occurred on 24 June 2018
- The number of relevant monthly occurrences is 2 = Y (24 Jul, 24 Aug)
- 18-2 is 16 (18 less Y is X)
- Therefore **16** monthly retrospective payments are due, with the last one on 24 December 2019, when the period ends.

### Example 2

- RO comes into force on 9 February 2023
- Claim made on 8 March 2023
- The death occurred on 8 April 2017
- The number of relevant monthly occurrences is 16 = Y (8 May, 8 Jun, 8 Jul, 8 Aug, 8 Sep, 8 Oct, 8 Nov, 8 Dec, 8 Jan, 8 Feb, 8 Mar, 8 Apr, 8 May, 8 Jun, 8 July, 8 Aug)
- 18-16 is 2 (16 less Y is X)
- Therefore **2** monthly retrospective payments are due, on 8 Sep and 8 Oct 2018, when the period ends.

whose cohabiting partner

- 1.** Died after 6.4.17 **and**
- 2.** Died before 30.8.18<sup>1</sup> **and**
- 3.** make a claim more than 12 months after 9.2.23 **and**
- 4.** that claim is made before 9.11.24

will be paid from the date the RO comes into force, 9.2.23<sup>2</sup>. The payment period will finish either

- 1.** at the end of a period of 'W' months later ('W' is 18 less 'Y' see Note 1)<sup>3</sup> **or**
- 2.** at the period of 'X' months later (see Note 2)<sup>4</sup>,

whichever is **shorter**.

**Note 1:** 'W' is 18 less 'Y', where 'Y' is number of monthly occurrences of the day of the month the cohabiting partner died beginning with the day after death and ending on 29.8.18. 'Y' represents the number of monthly payments that would have occurred before the date the RO commenced. This is subtracted from 18 to establish the number of monthly payments due after 30.8.18.

**Note 2:** 'X' is 21 less 'Z', where Z is the number of occurrences of day of the month on which the RO commencement date occurs during the period beginning with day after the RO commencement date (9.2.23) and ending with the date of claim.

1 BSP Regs, reg 2(7)(a),(b)&(13); 2 BSP Regs, reg 2(8)&(13); 3 BSP Regs, reg 2(9)(b)(i)&(13); 4 BSP Regs, reg (9)(a),(b)(ii),(10),(11),(12)&(13)

### Example 1

- RO comes into force on 9 February 2023
- Claim made on 12 April 2024
- The death occurred on 24 June 2018
- For W, the number of relevant monthly occurrences is 2 (24 Jul, 24 Aug)
- 18-2 is 16 so W =16
- For Z, the number of relevant monthly occurrences is 14 (9 Mar, 9 Apr, 9 May, 9 Jun, 9 Jul, 9 Aug, 9 Sep, 9 Oct, 9 Nov, 9 Dec, 9 Jan, 9 Feb, 9 Mar, 9 Apr)

- X is 21 less Z (14), which is 7.
- X is 7 and W is 16. X is less than W, so X applies.
- So there are **7** monthly retrospective payments due.

## Example 2

- RO comes into force on 9 February 2023
- Claim made on 17 September 2024
- The death occurred on 24 June 2018
- For W, the number of relevant monthly occurrences is 2 (24 Jul, 24 Aug)
- $18 - 2$  is 16 so  $W = 16$
- For Z, the number of relevant monthly occurrences is 19 (9 Mar, 9 Apr, 9 May, 9 Jun, 9 Jul, 9 Aug, 9 Sep, 9 Oct, 9 Nov, 9 Dec, 9 Jan, 9 Feb, 9 Mar, 9 Apr, 9 May, 9 Jun, 9 Jul, 9 Aug, 9 Sep)
- X is 21 less Z (19), which is 2
- X is 2 and W is 16. X is less than W, so X applies.
- So there are **2** monthly retrospective payments due.

## BSP (higher rate) payment amounts

20. The higher rate of BSP is £350 for each monthly recurrence of the day of the month on which cohabiting partner died during the period for which BSP is payable<sup>1</sup>.

1 BSP Regs, reg 3(1)

21. Where the BSP claim is made 12 months or less after the cohabiting partner died, the higher rate of BSP is £3,500 for the first month of the period for which it is payable<sup>1</sup>.

1 BSP Regs, reg 3(2)(c)

22. Where the cohabiting partner died

**1.** on or after 30.8.18 **and**

**2.** before 9.2.23 **and**

**3.** the BSP claim is made by 8.2.24

the higher rate of BSP is £3,500 for the first month of the period for which it is payable<sup>1</sup>.

1 BSP Regs, reg 3(2)(b)

## **PAYMENT WHERE THERE IS MORE THAN ONE CLAIMANT IN RESPECT OF THE SAME DEATH**

23. Only one claimant per household can be entitled to WPA<sup>1</sup> or higher rate BSP<sup>2</sup> in respect of the same death.

1 SSCB Act 92 s39A (3A); 2 Pensions Act 14 s 30(1A)

24. The claimant who was living with the deceased on the date of death will be entitled to WPA<sup>1</sup>/BSP<sup>2</sup>.

1 SSCB Act 92 s39A (3C); 2 Pensions Act 14 s 30(1C)

25. Where two potential claimants were living with the deceased on the date of death, the following applies:

- 1.** the claimant who is married or has a civil partnership with the deceased would be entitled (if they are entitled to Child Benefit or were pregnant)<sup>1</sup> **or**
- 2.** if neither were married or in a civil partnership (or the spouse/civil partner did not have dependent children with the deceased), the claimant with entitlement to Child Benefit and/or were pregnant, would be entitled<sup>2</sup> **or**
- 3.** if neither were married or in a civil partnership and more than one claimant has entitlement to Child Benefit and/or were pregnant, the claimant who had lived with the deceased for the longest on the date of death would be entitled<sup>3</sup> **or**
- 4.** If there were two or more potential claimants that may still satisfy entitlement after the eligibility criteria, as set out above is applied, entitlement would be determined by exercise of the Secretary of State's discretion<sup>4</sup>.

1 SSCB Act 92 s39A (3D)(a), Pensions Act 14 s30 (1D)(a); 2 SSCB Act 92 s39A (3D)(b), Pensions Act 14 s30 (1D)(b); 3 SSCB Act 92 s39A (3D)(c), Pensions Act 14 s30 (1D)(c); 4 SSCB Act 92 s39A (3D)(d), Pensions Act 14 s30 (1D)(d)

## TRANSITIONAL PROVISIONS

26.Claimants that have been in receipt of WPA and BSP before 9.2.23 do not lose their entitlement for the duration of their award as a result of the Remedial Order<sup>1</sup>.

27.A claimant may have been entitled to WPA or higher rate BSP before the Remedial Order came into force as a result of the death of their spouse or civil partner because they had not divorced. From 9.2.23, the deceased's co-habiting partner may also become entitled for the same period and the Remedial Order enables both claimants to receive WPA or BSP.

28.This means that WPA/BSP already paid to a claimant, that was still married or in a civil partnership with the deceased at the date of death, can continue to receive payments and it is not recovered as a result of any new entitlement satisfied by a cohabiting partner arising from the Remedial Order<sup>2</sup>.

1 Bereavement Benefits (Remedial) Order 2023 art 2(1); 2 Bereavement Benefits (Remedial) Order 2023 art 2 (2)&(3)

### Example

Colin died on 1.10.16. Colin was married to Amanda and they had two dependent children together. They had separated and were living apart. Colin was living with Mary when he died and they had a dependent child together. Amanda made a claim for WPA and was entitled to receive WPA as she had two dependent children with Colin and she was still legally married to Colin as they had not divorced on the date of his death. Mary also satisfies entitlement to WPA as she was cohabiting with Colin and had a child with him on the date of his death. Both Amanda and Mary are entitled to WPA for Colin's death.

## CAPITAL DISREGARDS

29.The Remedial Order<sup>1</sup> provides that any payment of WPA or BSP in relation to the entitlement conditions set out above will be disregarded for a period of 52 weeks for ESA<sup>2</sup>, JSA<sup>3</sup>, IS<sup>4</sup> and SPC<sup>5</sup>.

1 Bereavement Benefits (Remedial) Order 2023

2 ESA Regs Sch 9 para 11 & 60

3 JSA Regs Sch 8 para 12 & 65

4 IS (Gen) Regs Sch 10 para 7 & 72

5 SPC Regs Sch 5 para 20AA & 23E