DMG Memo Vol 1/107, 2/61, 3/94, 4/133, 5/103, 7/44, 9/32,   
10/67, 12/20, 13/65 & 14/60

state pension – consequential amendments

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introduction

1. This memo gives guidance on changes to decision making and appeals, subjects common to all benefits and Social Security benefits as a result of the introduction of State Pension. The changes are introduced by
2. the Pensions Act (Northern Ireland) 2015 (Pensions Act (NI) 15) **and**
3. the Pensions (2015 Act) (Consequential, Supplementary and Incidental Amendments) Order (Northern Ireland) 2015 (Pensions (2015 Act) (Cons, Supp & Inci Amdts) Order (NI)) (SR 2015, No. 411) **and**
4. the Pensions (2015 Act) (Consequential and Supplementary Amendments) Order (Northern Ireland) 2016 (Pensions (2015 Act) (Cons & Supp Amdts) Order (NI)) (SR 2016, No.78) **and**
5. the Social Security Benefits Up-rating Order (Northern Ireland) 2016 (SS Ben Up-rating Order (NI) 16) (SR 2016, No. 92) **and**
6. the Pensions (2015 Act) (Transitional and Transitory Provisions) Order (Northern Ireland) 2016 (Pensions (2015 Act) (T&T Provs) Order (NI)) (SR 2016 No.195) **and**
7. the Pensions (2015 Act) (Pension Sharing on Divorce etc.) (Transitional Provision) Order (Northern Ireland) 2016 (Pensions 2015 Act (Pens Sharing on Div) (Trans Prov) Order (NI)) (SR 2016, No.99).

The changes, apart from paragraph 80 below, take effect on 6.4.161. The change at paragraph 80 below takes effect on 11.4.162.

1 Pensions Act (NI) 15, sec 53(3); Pensions (2015 Act) (Cons, Supp & Inci Amdts) Order (NI) 15, art 1(b);   
Pensions (2015 Act) (Cons & Supp Amdts) Order (NI) , art 1(1); Pensions (2015 Act) (T&T Provs) Order (NI), art 1(1);   
Pensions (2015 Act) (Pens Sharing on Div) (Trans Prov) Order (NI), art 1(1); 2 SS Ben Up-rating Order (NI) 16, art 1(b)

Background

1. State Pension is being introduced for people who reach pensionable age on or after 6.4.16. It is replacing Retirement Pension for such people. However, people who reach pensionable age before 6.4.16 will have to make a claim for Retirement Pension, even if it is made on or after that date. How the introduction of State Pension affects changes to decision making and appeals, subjects common to all benefits and other Social Security benefits is described in paragraphs 3 – 100 below.

**Note:** See DMG Chapter 74 for guidance on State Pension and DMG Chapter 75 for guidance on Retirement Pension.

**TIME FOR CLAIMING STATE PENSION**

1. The time for claiming State Pension (where a claim is required - see DMG 2036) is any day on which the claimant is entitled to the benefit and the period of twelve months immediately following it1. This means, for example, that for entitlement to arise on 27.11.16, a claim must be made no later than 27.11.17.

1 SS (C&P) Regs (NI), reg 19 & Sch 4, para 13

BENEFITS FOR WHICH A CLAIM IS NOT REQUIRED

1. A claim is not required for Category B Retirement Pension where
2. a claimant is already entitled to
   1. Category A Retirement Pension **or**
   2. Graduated Retirement Benefit **or**
   3. both **and**
3. the claimant marries or enters a civil partnership with a person who is entitled to Category A Retirement Pension or State Pension in their own right1 **or**
4. the spouse or civil partner of the claimant becomes entitled to Category A Retirement Pension or State Pension in their own right1 **or**
5. the spouse or civil partner of the claimant dies and they were entitled to Category A Retirement Pension or State Pension at the date of death1.

**Note:** State Pension means entitlement to State Pension at the transitional rate.

1 SS (C&P) Regs (NI), reg 3(1)(cb)(i, ii & iii); Pensions Act (NI) 15, sec 4

1. A claim is not required for Category A Retirement Pension, Category B Retirement Pension or State Pension where the beneficiary is a woman over the age of 65 and is
2. entitled to Widowed Mother’s Allowance or Widowed Parent’s Allowance on her ceasing to be so entitled1 **or**
3. in receipt of Widow’s Pension or Bereavement Allowance on her reaching pensionable age1.

1 SS (C&P) Regs (NI), reg 3(1)(d)

1. A claim for Bereavement Payment is not required1 where the beneficiary is in receipt of Retirement Pension of any category or State Pension at the date of death of the spouse or civil partner and satisfies the conditions of entitlement.

1 SS (C&P) Regs (NI), reg 3(1)(da); SS C&B (NI) Act 92, sec 36(1)

1. A claim for State Pension1 under specified legislation2 is not required where the beneficiary is entitled to
2. State Pension under a different section of the prescribed legislation3 **or**
3. another State Pension under the same section of the prescribed legislation

1 SS (C&P) Regs (NI), reg 3(1)(ja);   
2 Pensions Act (NI) 15; 3 Pensions Act (NI) 15

**Example**

Kathryn is entitled to State Pension at the transitional rate. She is subsequently widowed and becomes entitled to survivor’s State Pension based on inheritance of Retirement Pension. No claim is needed.

CLAIMS AT ALTERNATIVE OFFICES

1. In addition to being able to claim at an appropriate office, a claimant may make a claim to State Pension at an alternative office1 in the circumstances described at DMG 2052 et seq.

1 SS (C&P) Regs (NI), reg 4(6A)(a)(ii) & reg 4(6A)(b)

CLAIMS BY TELEPHONE

1. Unless the Department directs that in any particular case a claim must be made in writing, claims to State Pension may also be made by telephone to a telephone number specified by the Department for the purpose of the benefit for which the claim is made1. No claim form is issued and no signature obtained. Claims made in this way cannot be made at alternative offices.

1 SS (C&P) Regs (NI), reg 4(11)

Rights and responsibilities of RELEVANT AUTHORITIES RECEIVING CLAIMS

1. DMG 2060 gives guidance on the position where organisations have arranged with the Department to receive claims for a specified benefit or to obtain information or evidence relating to claims for a specified benefit. From 6.4.16 State Pension will be added as a specified benefit1.

1 SS (C&P) Regs (NI), reg 32A(2)(m)

CLAIMS MADE ELECTRONICALLY

1. A claim for State Pension can be made electronically1. Information, including a change of circumstances can also be given electronically2.

1 SS (C&P) Regs (NI), reg 4ZC; Sch 8D, para 2(1); 2 reg 32ZA

**ADVANCE CLAIMS FOLLOWING DEFERMENT**

1. Where entitlement to State Pension is deferred a claim may be made up to 4 months before the period of deferment ends1.

1 SS (C&P) Regs (NI), reg 15B(2)

claims at death and PAYMENTS OF ARREARS UPON DEATH

1. The guidance at DMG 2468 to 2472 regarding claims at death and automatic payment of arrears of benefit now applies to State Pension1.

1 SS (C&P) Regs (NI), reg 30(4B) & reg 30(5)-(5H)

**TREATING A CLAIM FOR ONE BENEFIT AS A CLAIM FOR ANOTHER BENEFIT**

1. A claim for State Pension can be treated as a claim for any other type of State Pension. Similarly a claim for Bereavement Benefit can be treated as a claim for State Pension1.

1 SS (C&P) Regs (NI), Sch 1, Part 1

REVISION ON CHANGE OF ELECTION – DEFERRED ENTITLEMENT

1. Where
2. a person elects for an increase of State Pension1 **and**
3. the decision maker decides that the person or their partner is entitled to State Pension Credit and takes into account that State Pension in making or superseding that decision **and**
4. the person’s choice of State Pension is subsequently changed in favour of a lump sum2

the decision maker may revise the State Pension Credit decision3.

**Note:** Lump sum relates to claimants whose deceased spouse or civil partner reached pensionable age on or before 5.4.16.

1 Pensions Act (NI) 15, sec 8(2), sec 9 & sec 10; 2 sec 10 & SP Regs (NI), reg 6;

3 SS & CS (D&A) Regs (NI), reg 3(7DA)

REVISION OF STATE PENSION AWARD

1. An award of State Pension may be revised1 where the person
2. chooses either a lump sum or survivor’s pension2 **and**
3. subsequently changes their choice3.

**Note:** Lump sum relates to claimants whose deceased spouse or civil partner reached pensionable age on or before 5.4.16.

1 SS & CS (D&A) Regs (NI), reg 3(7DB); 2 Pensions Act (NI) 15, sec 8(2) & sec 10;

3 SP Regs (NI), reg 6

REVISION OF TERMINATION OF STATE PENSION

1. Where a decision has been made to terminate1 State Pension following a failure to furnish information then the decision may be revised at any time2.

1 SS & CS (D&A) Regs (NI), reg 18(1); 2 reg 3(7EB)

REVISION OF STATE PENSION – NO ELECTION MADE

1. Where a claim to State Pension is made and a choice may be made between1
2. a lump sum **or**
3. a survivor’s pension based on inheritance of deferred Retirement Pension or Graduated Retirement Benefit **and**
4. no choice is made

the decision maker may decide the claim before a choice is made2.

**Note:** Lump sum relates to claimants whose deceased spouse or civil partner reached pensionable age on or before 5.4.16.

1 SS & CS (D&A) Regs (NI), reg 13B(1); 2 reg 13B(2)

1. The decision maker may revise1 the decision when the person2
2. makes a choice **or**
3. becomes entitled to a lump sum.

**Note:** Lump sum relates to claimants whose deceased spouse or civil partner reached pensionable age on or before 5.4.16.

1 SS & CS (D&A) Regs (NI), reg 13B(3); 2 reg 13B(4)

SUPERSESSION ON CHANGE OF ELECTION – DEFERRED ENTITLEMENT

1. The decision maker may supersede1 a decision awarding State Pension Credit where
2. the person chooses to be paid a lump sum or is entitled to a lump sum2 **and**
3. such a lump sum is repaid in consequence of an application to alter that choice or to make a late choice3.

1 SS & CS (D&A) Regs (NI), reg 6(2)(na); 2 Pensions Act (NI) 15, sec 8(2), sec 8(4) & sec 10;   
3 SP Regs (NI), reg 4(4) & reg 6; Pensions Act (NI) 15, sec 10

1. The effective date of the supersession1 is either
2. the day on which the lump sum or payment on account of a lump sum is paid or repaid where that is the payday **or**
3. the following payday.

1 SS & CS (D&A) Regs (NI), reg 7(7A)

decisions WHICH can be appealed to the First-tier Tribunal

1. Annex D to DMG Volume 1 lists decisions and determinations that are appealable. From 6.4.16 that list will include
2. a decision that State Pension is not payable because a person is a prisoner1 **and**
3. a decision that a person is not entitled to uprating increases because they are an overseas resident2.

1 SS (NI) Order 98, Sch 3, para 6C; 2 Sch 3, para 6D

PAYMENT OF STATE PENSION

Date of entitlement for the purposes of payment

1. Except when payable at a daily rate1, a claimant is entitled to State Pension from
2. the first day of the benefit week **or**
3. if it is not the first day of the benefit week, the first day of the next following benefit week2.

1 SS (C&P) Regs (NI), reg 22DA; 2 reg 16(1E)

Effective date of change of rate

1. Except where a change of rate is caused by annual uprating1 any change in the rate of State Pension takes effect
2. from the date of change, if that day is the first day of the benefit week **or**
3. if it is not the first day of the benefit week, from the start of the benefit week in which the change occurs2.

1 SS A (NI) Act 92, sec 132, 132A, 132B; SS (C&P) Regs (NI), reg 16(2H); 2 reg 16(2G)

1. Where a change of rate is caused by annual uprating1 any change in the rate of State Pension takes effect from
2. the first day of the benefit week **or**
3. if it is not the first day of the benefit week, the first day of the next following benefit week2.

1 SS A (NI) Act 92, sec 132, 132A, 132B; 2 SS (C&P) Regs (NI), reg 16(2H)

Pay day

1. A State Pension claimant’s pay day is determined by the last two digits of their National Insurance Number either
2. as is shown in the following table1

|  |  |
| --- | --- |
| **NINO** | **Pay day** |
| 00 to 19 | Monday |
| 20 to 39 | Tuesday |
| 40 to 59 | Wednesday |
| 60 to 79 | Thursday |
| 80 to 99 | Friday |

**or**

1. on any other day that the Department may choose2.

1 SS (C&P) Regs (NI), reg 22CA(4)(a); 2 reg 22CA(4)(b)

Payment of State Pension Credit (“old” cases) with State Pension

1. DMG 8114 gives guidance on the pay day for “old” case State Pension Credit claimants who are also paid Retirement Pension. This guidance applies to State Pension Credit claimants who are also paid State Pension1.

1 SS (C&P) Regs (NI), reg 26B(2)

Interval of payment

1. State Pension is paid in arrears1. The Department may arrange to pay State Pension at intervals of
2. one week2
3. two weeks, if the claimant was in receipt of a working age benefit immediately before becoming entitled to State Pension which was paid fortnightly3
4. four weeks4
5. thirteen weeks, if the claimant agrees5 **or**
6. such length not exceeding twelve months as the Department may choose6, if
   1. the Department makes a direction specifying that length **and**
   2. the amount of State Pension payable is less than £5 per week.

1 SS (C&P) Regs (NI), reg 22CA(2); 2 reg 22CA(3)(a); 3 reg 22CA(3)(b);   
4 reg 22CA(3)(c); 5 reg 22CA(3)(d); 6 reg 22CA(3)(e)(i) & (ii)

Payment at a daily rate

1. State Pension is paid at a daily rate where1
2. the day on which the claimant’s first benefit week begins is after
   1. the day on which the claimant reaches pensionable age2 **or**
   2. where the claimant has deferred their State Pension under specified legislation3, the first day in respect of which the claimant makes a claim for their State Pension4 **or**
3. the day on which the claimant’s last benefit week begins is before the day on which the claimant dies5.

1 SS (C&P) Regs (NI), reg 22DA(1); 2 reg 22DA(1)(a)(i);   
3 Pensions Act (NI) 15, sec 16 & 17; 4 reg 22DA(1)(a)(ii); 5 reg 22DA(1)(b)

1. The period for which a daily rate is to be paid is1
2. where paragraph 29 **1.1** or 29 **1.2** above applies, the period
   1. beginning on the day on which the claimant reaches pensionable age or the first day in respect of which the claimant makes a claim for State Pension2 **and**
   2. ending on the day before the day on which the claimant’s first benefit week begins3 **or**
3. where paragraph 29 **2.** above applies, the period beginning on the day on which the claimant’s last benefit week begins and ending on the day on which the claimant dies4.

1 SS (C&P) Regs (NI), reg 22DA(2); 2 reg 22DA(2)(a)(i); 3 reg 22DA(2)(a)(ii); 4 reg 22DA(2)(b)

Amount of daily rate

1. The daily rate at which State Pension is payable is 1/7th of the claimant’s weekly rate which would have had effect on the day if a weekly rate had been payable1.

1 SS (C&P) Regs (NI), reg 22DA(3)

Benefit week

1. A “benefit week”1 means the period of 7 days ending on the day on which the claimant’s State Pension is payable in accordance with specified legislation2.

1 SS (C&P) Regs (NI), reg 22DA(4); 2 reg 22CA(4)

Payment of arrears of State Pension on death

1. DMG 8352 gives guidance on the payment of arrears of benefit to a spouse or civil partner in the event of the claimant’s death. State Pension is added to the list of benefits to which this guidance applies1.

1 SS (C&P) Regs (NI), reg 30(4B)

RECOVERY OF OVERPAYMENTS

General principles

1. DMG 9161 et seq gives guidance on the principles governing the recovery of overpayments. State Pension is added to the list of benefits at DMG 9161 covered by this guidance1.

1 SS A (NI) Act 92, sec 69(11)

Offsetting

1. DMG 9343 gives guidance on the offsetting of arrears of benefit arising from an appeal, revision or supersession. This guidance also applies to shared additional pension in relation to State Pension1.

1 SS (POR) Regs (NI), reg 5(1); (2) & Case 1

Abatement

1. DMG 9373 gives a list of prescribed payments for the purposes of abatement. State Pension is added to this list1.

1 SS (POR) Regs (NI), reg 8(1)(za)

OVERLAPPING BENEFITS

General

1. State Pension is added to the list of benefits at DMG 17040 which are affected by the overlapping benefit rules1.

1 SS A (NI) Act 92 sec 71

Exceptions and modifications

1. DMG 17064 gives guidance on the treatment of Additional Pension or Graduated Retirement Benefit under the overlapping benefit rules1. An exception to this guidance is that where a claimant is entitled to Additional Pension, State Pension and either Widow’s Pension or Widowed Mother’s Allowance, adjustment of the Additional Pension is required2.

1 SS (OB) Regs (NI), reg 4(4)(a); 2 reg 4(4A)

Personal benefits requiring adjustment by certain benefits

1. DMG 17085 contains a table of adjustments1. State Pension is added to column 1 (personal benefit) of that table and Unemployability Supplement and training allowance added to column 2 (other personal benefit by reference to which the benefit in column (1) is to be adjusted) of that table directly opposite.

1 SS (OB) Regs (NI), reg 6 & Sch 1

INCOME SUPPORT – PREMIUMS

1. DMG 23111 and 23128 describes the effect on certain disability premiums1 when Retirement Pension becomes payable. With effect from 6.4.16, State Pension is treated the same way as Retirement Pension.

1 IS (Gen) Regs (NI), Sch 2, para 12(1)(c)

JobSeeker’s Allowance earnings disregard – remunerative work

1. If the remunerative work of the claimant’s partner has ended because of retirement, disregard any earnings due to be paid for that employment if on retirement the partner
2. is entitled to State Pension **or**
3. would be entitled if they had at least 10 qualifying years1.

1 JSA Regs (NI), Sch 5, para 1B

Social fund

1. From 6.4.16, State Pension is added to the list of excluded benefits at DMG Chapter 39, Appendix 71. These are benefits payable to the deceased, on or after the date of death, which are excluded from being treated as assets of the deceased (see DMG 39408).

1 SF (M&FE) Regs (NI), reg 10(1A)

employment and Support Allowance EARNINGS DISREGARD – REMUNERATIVE WORK

1. Any earnings paid or due to be paid to the claimant’s partner should be disregarded where1 the partner
2. was engaged in remunerative work as an employed earner (or would have been if the employment had been in Northern Ireland) **and**
3. is entitled to State Pension or would be entitled if they had at least 10 qualifying years.

1 ESA Regs (NI), Sch 7, para 3A

BEREAVEMENT PAYMENT

1. DMG 63007 gives guidance that a person whose spouse or civil partner dies will be entitled to a lump sum Bereavement Payment if the late spouse or civil partner was **not** entitled to a Category A Retirement Pension. A change means that, from 6.4.16, such a person will be entitled to a lump sum Bereavement Payment if the late spouse or civil partner was **not** entitled to
2. Category A Retirement Pension **or**
3. State Pension1.

**Note:** The change will only apply until Bereavement Support Payment (“BSP”) is introduced2.

1 SS C&B (NI) Act 92, sec 36(1)(a); 2 Pensions (2015 Act) (T&T Provs) Order (NI), art 1(2)

STATE PENSION – INHERITED AMOUNT

1. DMG 74318 and 74319 give guidance on when a person whose spouse or civil partner has died is entitled to the inherited amount of State Pension. That guidance reflects the legislation1 as modified2. That modification will apply where the spouse or civil partner died
2. on or after 6.4.163 **and**
3. before the day on which Bereavement Support Payment is introduced4.

1 Pensions Act (NI) 15, Sch 3. para 3(1)(d) & (2); 2 Pensions (2015 Act)   
(T&T Provs) Order (NI), art 3(2); 3 art 3(1)(a); 4 art 3(1)(b)

Category A retirement pension

Conditions of entitlement

1. DMG 75010 gives guidance on the conditions of entitlement to Category A Retirement Pension. A change means that the first of those conditions of entitlement is that the claimant has reached pensionable age before 6.4.161.

1 SS C&B (NI) Act 92, sec 44(1)(a)

Substitution

1. A change means that the guidance on substitution at DMG 75060 et seq will only apply to people who reach pensionable age before 6.4.161.

1 SS C&B (NI) Act 92, sec 48(1)

Extent of substitution

1. DMG 75067 gives guidance on when, for the purposes of DMG 75066, people will be treated as satisfying the first contribution condition1. A change means that the guidance at DMG 75067 will also apply where a former spouse or civil partner would have satisfied that condition, if they had reached pensionable age before 6.4.16, for any year of their working life up to and including the year ending 5.4.162.

1 SS C&B (NI) Act 92, Sch 3, para 5; 2 SS (WB & RP) Regs (NI), reg 8(3A)

1. When considering the prescribed method in accordance with DMG 75069, Decision makers should note that another change means that a year cannot be a qualifying year after 5.4.162.

1 SS (WB & RP) Regs (NI), reg 8(4) & Sch 1; 2 Sch 1, para 1(a)

1. A further change means that where people do not satisfy the single contribution condition1 they are treated as satisfying it by virtue of their former spouse’s or civil partner’s contributions if
2. DMG 75070 **1.** – **3.** are satisfied **and**
3. the former spouse or civil partner
   1. fully satisfied the single contribution condition by having 30 qualifying years2 **or**
   2. would have satisfied that condition, if they had reached pensionable age before 6.4.16, in respect of National Insurance contributions paid before 6.4.163.

1 SS C&B (NI) Act 92, Sch 3, para 5A(2); 2 SS (WB & RP) Regs (NI), reg 8A(1)(e)(i); 3 reg 8A(1)(e)(ii)

category b retirement pension

1. DMG 75101 et seq gives guidance on Category B Retirement Pension. Decision makers should consider that guidance in conjunction with the guidance in paragraphs 53 – 82 below. The provisions in the legislation1 restructure and consolidate the Category B Retirement Pension provisions2 with effect from 6.4.16 but do not change the conditions of entitlement except to
2. restrict entitlement under the Category B Retirement Pension provisions to persons reaching pensionable age before 6.4.16 **and**
3. exclude any contributions of the
   1. spouse or civil partner **or**
   2. late or former spouse **or**
   3. late or former civil partner

made for tax years from 6.4.16 onwards from the calculation of Category B Retirement Pension.

1 Pensions Act (NI) 15; 2 SS C&B (NI) Act 92, sec 48A - 51

Married person

1. A married person is entitled to a Category B Retirement Pension by virtue of the contribution record of their spouse if
2. they reached pensionable age before 6.4.161 **and**
3. their spouse
   1. has reached pensionable age2 **and**
   2. satisfies
      1. the first and second contribution conditions if they were born before 6.4.453 **or**
      2. the single contribution condition if they were born on or after 6.4.454.

**Note 1:** For the purposes of **2.2** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included5.

Note 2: See paragraphs 57 – 63 below for guidance where a marriage or civil partnership is dissolved and paragraphs 64 – 68 below for guidance where a person’s spouse or civil partner has died.

Note 3: See DMG 75005 for guidance on pensionable age, Appendix 5 to DMG Chapter 75 for guidance on the first and second contribution conditions and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 48A(1)(a); 2 sec 48A(1)(b)(i); 3 sec 48A(1)(b)(ii) & 48A(6)   
& Sch 3, para 5; 4 sec 48A(1)(b)(ii) & 48A(6) & Sch 3, para 5A; 5 sec 48A(7)

1. However, a person is not entitled to a Category B Retirement Pension in accordance with paragraph 52 above if they are
2. a man whose spouse **or**
3. a woman whose wife

was born before 6.4.501.

1 SS C&B (NI) Act 92, sec 48A(2)

1. Where paragraph 52 above applies, the weekly rate of Category B Retirement Pension is that stated in legislation1. However, this may be reduced if
2. the second contribution condition **or**
3. the single contribution condition

is not fully satisfied2.

1 SS C&B (NI) Act 92, sec 48A(4) & Sch 4, Part 1, para 5; 2 sec 60A(2);

SS (WB & RP) Regs (NI), reg 6, 6A & 6B

Civil partner

1. A claimant is entitled to a Category B Retirement Pension by virtue of the contribution record of their civil partner if
2. they reached pensionable age before 6.4.161 **and**
3. their civil partner
   1. was born on or after 6.4.502 **and**
   2. has reached pensionable age3 **and**
   3. satisfies the single contribution condition4.

**Note 1:** For the purposes of **2.3** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included5.

**Note 2:** See paragraphs 57– 63 below for guidance where a person’s civil partnership is dissolved and paragraphs 64 – 68 below for guidance where a person’s civil partner has died.

**Note 3:** See DMG 75005 for guidance on pensionable age and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 48A(3)(a); 2 sec 48A(3)(b)(i); 3 sec 48A(3)(b)(ii); 4 sec 48A(3)(b)(iii)   
& Sch 3, para 5A; 5 sec 48A(7)

1. Where paragraph 55 above applies, the weekly rate of Category B Retirement Pension is that stated in legislation1. However, this may be reduced if the single contribution condition is not fully satisfied2.

1 SS C&B (NI) Act 92, sec 48A(4) & Sch 4, Part 1, para 5; 2 sec 60(1) & 60A(2);   
SS (WB & RP) Regs (NI), reg 6A & 6B

Divorcee

1. A person who has been in a marriage which has been dissolved is entitled to a Category B Retirement Pension by virtue of the contribution record of their former spouse if
2. they reached pensionable age before
   1. 6.4.161 **and**
   2. the marriage was dissolved2 **and**
3. their former spouse
   1. reached pensionable age before the marriage was dissolved3 **and**
   2. satisfied
      1. the first and second contribution conditions if they were born before 6.4.454 **or**
      2. the single contribution condition if they were born on or after 6.4.455.

**Note 1:** Before 6.4.16, a divorced person or former civil partner could qualify for Category B Retirement Pension6. However, this is rare as substituted Category A Retirement Pension7 will normally be more beneficial. The Category B Retirement Pension rule for divorcees has not been changed; it has simply been restated separately.

**Note 2:** For the purposes of **2.2** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included8.

**Note 3:** See DMG 75005 for guidance on pensionable age, Appendix 5 to DMG Chapter 75 for guidance on the first and second contribution conditions and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 48AA(1)(a)(i); 2 sec 48AA(1)(b)(ii); 3 sec 48AA(1)(b)(i);

4 sec 48AA(1)(b)(ii)& 48AA(6) & Sch 3, para 5; 5 sec 48AA(1)(b)(ii) & 48AA(6) & Sch 3, para 5A;

6 sec 48AA; 7 sec 48; 8 sec 48AA(7)

1. For the purposes of paragraph 57 above, a voidable marriage which has been annulled is treated as a valid marriage which was dissolved on the day it was annulled1.

1 SS C&B (NI) Act 92, sec 48AA(8)

1. However, a person is not entitled to a Category B Retirement Pension in accordance with paragraph 57 above if they are

**1.** a man whose former spouse **or**

**2.** a woman whose former wife

was born before 6.4.501.

**Note:** See paragraph below for guidance where a woman’s late female spouse had changed gender.

1 SS C&B (NI) Act 92, sec 48AA(2)

1. Where paragraph 57 above applies, the weekly rate of Category B Retirement Pension is that stated in legislation1 if the former spouse is alive. Where the former spouse is deceased, the weekly rate of Category B Retirement Pension is equivalent to Category A Basic Pension2. However, those amounts may be reduced if

**1.** the second contribution condition **or**

**2.** the single contribution condition

is not fully satisfied3.

1 SS C&B (NI) Act 92, sec 48AA(4) & Sch 4, Part 1, para 5; 2 sec 44(4) & 48AA(5);   
3 sec 60(1) & 60A(2); SS (WB & RP) Regs (NI), reg 6, 6A & 6B

Former civil partner

1. A person who has been in a civil partnership which has been dissolved is entitled to a Category B Retirement Pension by virtue of the contribution record of their former civil partner if
2. they reached pensionable age before
   1. 6.4.161 **and**
   2. the civil partnership was dissolved2 **and**
3. their former civil partner
   1. was born on or after 6.4.503 **and**
   2. reached pensionable age before the marriage was dissolved4 **and**
   3. satisfied the single contribution condition5.

**Note 1:** Before 6.4.16, a divorced person or former civil partner could qualify for Category B Retirement Pension6. However, this is rare as substituted Category A Retirement Pension7 will normally be more beneficial. The Category B Retirement Pension rule for divorcees has not been changed; it has simply been restated separately.

**Note 2:** For the purposes of **2.3** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included8.

**Note 3:** See DMG 75005 for guidance on pensionable age and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 48AA(3)(a)(i); 2 sec 48AA(3)(a)(ii); 3 sec 48AA(3)(b)(i);4 sec 48AA(3)(b)(ii);   
5 sec 48AA(3)(b)(iii) & 48AA(6) & Sch 3, para 5A; 6 sec 48AA; 7 sec 48; 8 sec 48AA(7)

1. For the purposes of paragraph 61 above, a voidable marriage which has been annulled is treated as a valid marriage which was dissolved on the day it was annulled1.

1 SS C&B (NI) Act 92, sec 48AA(8)

1. Where paragraph 61 above applies, the weekly rate of Category B Retirement Pension is that stated in legislation1 if the former civil partner is alive. Where the former civil partner is deceased, the weekly rate of Category B Retirement Pension is equivalent to Category A Basic Pension2. However, those amounts may be reduced if
2. the second contribution condition **or**
3. the single contribution condition

is not fully satisfied3.

1 SS C&B (NI) Act 92, sec 48AA(4) & Sch 4, Part 1, para 5; 2 sec 44(4)   
& 48AA(5); 3 sec 60A(2); SS (WB & RP) Regs (NI), reg 6A & 6B

People widowed after reaching pensionable age

1. A change means that a person whose spouse died while they were married is entitled to a Category B Retirement Pension by virtue of the contributions of the deceased1 if
2. the widow or widower reached pensionable age before
   1. 6.4.16 **and**
   2. their spouse died2 **and**
3. the deceased satisfied3
   1. the first and second contribution conditions4 if they died
      1. before 6.4.10 **or**
      2. on or after 6.4.10 if they had reached pensionable age before that date5 **or**
   2. the single contribution condition6 if **2.1** does not apply7.

**Note 1:** For the purposes of **2.** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included8.

**Note 2:** See DMG 75005 for guidance on pensionable age, Appendix 5 to DMG Chapter 75 for guidance on the first and second contribution conditions and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 48B(1); 2 sec 48B(1)(a); 3 sec 48B(1)(b); 4 Sch 3, Part 1, para 5;   
5 sec 48B(1ZB)(a); 6 Sch 3, Part 1, para 5A; 7 sec 48B(1ZB)(b); 8 sec 48B(3A)

1. However a man who reached pensionable age before 6.4.10 is **not** entitled to a

Category B Retirement Pension in accordance with paragraph 65 above1.

**Note 1:** However, there would be entitlement to a Category B Retirement Pension in accordance with paragraph 71 et seq below if the deceased spouse or civil partner died when over pensionable age2.

1 SS C&B (NI) Act 92, sec 48B(1ZA); 2 sec 51

People becoming surviving civil partners after reaching pensionable age

1. A change means that a person whose civil partner died while they were civil partners of each other is entitled to a Category B Retirement Pension by virtue of the contributions of the deceased1 if
2. the surviving civil partner reached pensionable age
   1. on or after 6.4.10 but before 6.4.16 **and**
   2. before their civil partner died2 **and**
3. the deceased satisfied3
   1. the first and second contribution conditions4 if they reached pensionable age before 6.4.105 **or**
   2. the single contribution condition6 if **2.1** does not apply7.

**Note 1:** For the purposes of **2.** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included8.

**Note 2:** See DMG 75005 for guidance on pensionable age, Appendix 5 to DMG Chapter 75 for guidance on the first and second contribution conditions and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 48B(1A); 2 sec 48B(1A)(a); 3 sec 48B(1A)(b); 4 Sch 3, Part 1, para 5;   
5 sec 48B(1B)(a); 6 Sch 3, Part 1, para 5A; 7 sec 48B(1B)(b); 8 sec 48B(3A)

Women widowed before reaching pensionable age

1. DMG 75142 gives guidance on entitlement to a Category B Retirement Pension for women widowed before
2. 9.4.01 **and**
3. reaching pensionable age.

A change means that guidance will only apply to women who reach pensionable age before 6.4.161.

**Note:** DMG 75142 **1.** and **2.** have to be satisfied2.

1 SS C&B (NI) Act 92, sec 48B(4)(a); 2 sec 48B(4)(b) & (5)

Men widowed before reaching pensionable age

1. DMG 75144 gives guidance on entitlement to a Category B Retirement Pension for men
2. widowed before 9.4.01 **and**
3. who reach pensionable age on or after 6.4.10.

A change means that guidance will only apply to men who reach pensionable age before 6.4.161.

**Note:** DMG 75144 **1.** and **2.** have to be satisfied2.

1 SS C&B (NI) Act 92, sec 48B(4A)(a); 2 sec 48B(4A)(b), (5) & (7)

Entitled to Widowed Parents Allowance at pensionable age

1. DMG 75150 gives guidance on entitlement to a Category B Retirement Pension for people entitled to Widowed Parent’s Allowance immediately before reaching pensionable age. A change means that that guidance will only apply to people who reached pensionable age before 6.4.161.

1 SS C&B (NI)Act 92, sec 48BB(1)

Entitled to Widowed Parents Allowance or Bereavement Allowance before reaching pensionable age

1. DMG 75153 gives guidance on entitlement to a Category B Retirement Pension for people entitled to
2. Bereavement Allowance at any time before reaching pensionable age **or**
3. Widowed Parent’s Allowance at any time over age 45 but not immediately before reaching pensionable age.

A change means that that guidance will only apply to people who reached pensionable age before 6.4.161.

1 SS C&B (NI) Act 92, sec 48BB(3)

Widows and widowers who reached pensionable age before 6.4.10

1. A person whose spouse died while they were married is entitled to a Category B Retirement Pension if
2. they and their spouse were both over pensionable age when their spouse died1 **and**
3. they reached pensionable age before 6.4.102 **and**
4. their spouse satisfied3
   1. the first and second contribution conditions4 if they reached pensionable age before 6.4.105 **or**
   2. the single contribution condition6 if they reached pensionable age on or after 6.4.107.

Entitlement to a Category B Retirement Pension begins on the day the conditions of entitlement are satisfied and continue throughout the person’s life8.

**Note 1:** For the purposes of **3.** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included9.

**Note 2:** See DMG 75005 for guidance on pensionable age, Appendix 5 to DMG Chapter 75 for guidance on the first and second contribution conditions and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 51(1)(a); 2 sec 51(1)(b); 3 sec 51(1)(c); 4 Sch 3, Part 1, para 5;   
5 sec 51(3)(a); 6 Sch 3, Part 1, para 5A; 7 sec 51(3)(b); 8 sec 51(9); 9 sec 51(8)

1. However, a person is not entitled to a Category B Retirement Pension1 in accordance with paragraph 71 above if they are
2. a woman whose husband has died **or**
3. a man whose wife died before 6.4.79.

**Note:** Where **1.** applies, paragraph 67 above will apply instead.

1 SS C&B (NI) Act 92, sec 51(2)

1. Where paragraph 71 above applies, the weekly rate of Category B Retirement Pension is that stated in legislation1. However, that amount may be reduced if
2. the second contribution condition **or**
3. the single contribution condition

is not fully satisfied2.

**Note:** DMG 75581 et seq applies for the calculation of Additional Pension3.

1 SS C&B (NI) Act 92, sec 51(6), 44 – 45AA & Sch 4A; 2 sec 60(1) & 60A(2);   
SS (WB & RP) Regs (NI), reg 6, 6A & 6B; 3 SS C&B (NI) Act 92, sec 51(7)

Surviving civil partner who reached pensionable age before 6.4.10

1. A person whose civil partner died while they were civil partners of each other is entitled to a Category B Retirement Pension if
2. they and their civil partner were both over pensionable age when their civil partner died1 **and**
3. they reached pensionable age before 6.4.102 **and**
4. their civil partner satisfied3
   1. the first and second contribution conditions4 if they reached pensionable age before 6.4.105 **or**
   2. the single contribution condition6 if they reached pensionable age on or after 6.4.107.

Entitlement to a Category B Retirement Pension begins on the day the conditions of entitlement are satisfied and continue throughout the person’s life8.

**Note 1:** For the purposes of **3.** earnings factors for the tax year beginning 6.4.16 and subsequent tax years are not included9.

**Note 2:** See DMG 75005 for guidance on pensionable age, Appendix 5 to DMG Chapter 75 for guidance on the first and second contribution conditions and DMG 75015 et seq for guidance on the single contribution condition.

1 SS C&B (NI) Act 92, sec 51(4)(a); 2 sec 51(4)(b); 3 sec 51(4)(c); 4 Sch 3, Part 1, para 5;   
5 sec 51(5)(a); 6 Sch 3, Part 1, para 5A; 7 sec 51(5)(b); 8 sec 51(9); 9 sec 51(8)

1. Where paragraph 74 above applies, the weekly rate of Category B Retirement Pension is that stated in legislation1. However, that amount may be reduced if
2. the second contribution condition **or**
3. the single contribution condition

is not fully satisfied2.

**Note:** DMG 75581 et seq applies for the calculation of Additional Pension3.

1 SS C&B (NI) Act 92, sec 51(6), 44 – 45AA & Sch 4A; 2 sec 60(1) & 60A(2);   
SS (WB & RP) Regs (NI), reg 6, 6A & 6B; 3 SS C&B (NI) Act 92, sec 51(7)

Additional pension uprating

1. Where a spouse or civil partner
2. reached pensionable age on or after 6.4.161 **and**
3. died after reaching pensionable age2

the claimant’s Additional Pension is revalued in line with earnings for the period before the deceased reached pensionable age and uprated in line with inflation for the period after they reached pensionable age3.

1 SS C&B (NI) Act 92, sec 48B(9)(a) & sec 51(10)(a); 2 sec 48B(9)(b) & sec 51(10)(b);  
3 sec 48B(10), sec 51(11) & Sch 4B; SS A (NI) Act 92, sec 130A & sec 130AA

1. When the spouse or civil partner dies under pensionable age on or after 6.4.16 the Additional Pension will be revalued by earnings for the period before the date of death.

category c retirement pension

1. DMG 75181 et seq gives guidance on Category C Retirement Pension. A change means that that guidance will only apply to
2. a widow whose husband was over pensionable age on 5.7.48 **or**
3. a woman whose marriage to a man, who was over pensionable age on 5.7.48, ended otherwise than by his death1.

1 SS C&B (NI) Act 92, sec 63(f)(i)

1. Another change means that there will be no entitlement to a Category C for people who reach pensionable age on or after 6.4.161.

1 Pensions Act (NI) 15, Sch 12, Part 2, para 67

Weekly rate of Category C Retirement Pension for widows

1. The weekly rate of Category C Retirement Pension for widows is £71.501.

1 SS (WB & RP) Regs (NI), reg 11(3)

category d retirement pension

1. DMG 75221 et seq gives guidance on Category D Retirement Pension. A change means that that guidance will only apply to people who reached pensionable age before 6.4.161

1 SS C&B (NI) Act 92, sec 78(3)

age addition

1. DMG 75281 et seq gives guidance on age addition. A change means that that guidance will only apply to people who reach pensionable age before 6.4.161.

1 SS C&B (NI) Act 92, sec 79(1)

deferral

1. The rules for inherited increments are modified1 where
2. a widow, widower or surviving civil partner became entitled to a Category A or Category B Retirement Pension before 6.4.122 **and**
3. the deceased spouse or civil partner died before 6.4.123.

Note: For the purposes of 1., becoming entitled to a Category A or Category B Retirement Pension before 6.4.12 includes becoming entitled on or after that day to a payment in respect of a period before that day4.

1 SS C&B (NI) Act 92, Sch 5, paras 7ZA(2) – (5); 2 Sch 5, para 7ZA(1)(a);

3 Sch 5, para 7ZA(1)(b); 4 Sch 5, para 7ZA(6)

Graduated retirement benefit

1. DMG 75471 et seq gives guidance on Graduated Retirement Benefit. A change means that that guidance will only apply to people who reach pensionable age before 6.4.161.

1 SS (GRB) (No. 2) Regs (NI), Sch 1; NI Act 66, sec 35(7) & (8)

MAXIMUM ADDITIONAL PENSION

Meaning of relevant day

1. The relevant day is the day on which a survivor would have become entitled to **both**
2. Category A Retirement Pension **and**
3. Category B Retirement Pension on their late spouse’s or civil partner’s contributions

or would have been so entitled had neither been deferred1.

1 SS (MAP) Regs (NI), reg 1(2)

Relevant day before 6.4.16

1. DMG 75589 et seq gives guidance on the prescribed maximum amount of Additional Pension where a claimant is entitled to inherited Additional Pension from their late spouse or civil partner. However, a change means that guidance will only apply to a survivor whose relevant day is before 6.4.161.

Note: References to “the specified day” at DMG 75589 et seq should be read as references to “the relevant day”.

1 SS (MAP) Regs (NI), reg 2A(1)

Relevant day on or after 6.4.16

1. The prescribed maximum amount of Additional Pension for a survivor whose relevant day is on or after 6.4.16 is £165.601.

1 SS (MAP) Regs (NI), reg 2A

Shared additional pension because of an old state scheme pension credit

1. From 6.4.16 the guidance at DMG 75602 et seq will apply to shared additional pension because of an old state scheme pension credit1. Therefore the references to “state scheme pension credit” at DMG 75606 – 75607 and DMG 75612 – 75614 should be read as “old state scheme pension credit”2.

1 SS C&B (NI) Act 92, sec 55A; 2 sec 55A(3) – (5) & (7)

Entitlement

1. DMG 75611 gives guidance on entitlement to a shared additional pension. To be entitled to a shared additional pension because of an old state scheme pension credit a person must
2. have reached pensionable age before 6.4.161 **and**
3. be entitled to an old state scheme pension credit2.

**Note:** For this to apply the person subject to an old state scheme pension debit must either be a person who reaches pensionable age before 6.4.16 or be a person who reaches pensionable age on or after that day but the legal proceedings relating to the termination of the marriage or civil partnership start before 6.4.163.

1 SS C&B (NI) Act 92, sec 55A(1)(a); 2 sec 55A(1)(b);

3 Pensions (2015 Act) (Pens Sharing on Div) (Trans Prov) Order (NI), art 2(1)

SHARED ADDITIONAL PENSION BECAUSE OF A New STATE SCHEME PENSION CREDIT

Background

1. Changes from 6.4.16 enable a person who reaches pensionable age before that date to receive a shared additional pension in relation to an order made against another person who reaches pensionable age after that date.

Meaning of new state scheme pension credit

1. A new state scheme pension credit is an amount a spouse or civil partner receives from the other spouse or civil partner under a pension sharing court order1.

1 SS C&B (NI) Act 92, sec 55AA(4); WRP (NI) Order 99, art 46A(2)(b)

Entitlement

1. To be entitled to a shared additional pension because of a new state scheme pension credit a person must
2. have reached pensionable age before 6.4.161 **and**
3. be entitled to a new state scheme pension credit2.

A person’s entitlement to a shared additional pension because of a new state scheme pension credit continues throughout their life3.

**Note:** For this to apply the person subject to a new state scheme pension debit must be a person who reaches pensionable age on or after 6.4.16 and the legal proceedings relating to the termination of the marriage or civil partnership must start on or after 6.4.16.

1 SS C&B (NI) Act 92, sec 55AA(1)(a); 2 sec 55AA(1)(b); 3 sec 55AA(2)

Weekly rate

1. The weekly rate of a shared additional pension to which a person is entitled in accordance with paragraph 97 above is the amount of the new state scheme pension credit1. The amount of the new state scheme pension credit is the specified percentage of the excess amount of transitional rate of State Pension2 of the person who has an order made against them3. The specified percentage is determined by the court issuing the pension sharing order4. The excess amount5 is the amount by which the person’s transitional rate of State Pension exceeds their full rate6.

1 SS C&B (NI) Act 92, sec 55AA(3); 2 Pensions Act (NI) 15, sec 4; 3 WRP (NI) Order 99, art 46A(3);  
 4 art 46A(3) & (5); 5 art 44(4); 6 Pensions Act (NI) 15, sec 3

Forfeiture (NI) ORDER 1982

1. The guidance in DMG Chapter 76 will also apply to State Pension1.

1 Forfeiture (NI) Order 1982, art 3(1)

Third party deductions – meaning of specified benefit

1. For the purpose of DMG 79203, State Pension is a specified benefit where
2. in respect of any period, it is paid together with State Pension Credit **and**
3. State Pension Credit alone is insufficient for the purposes of deductions1.

1 SS (C&P) Regs (NI), Sch 8A, para 1(1)

STATE PENSION CREDIT assessed income period – retirement provision

1. Retirement provision **does not** include State Pension1.

1 SPC Act (NI) 02, sec 7(6)(a)

STATE PENSION CREDIT – deferral of STATE PENSION entitlement

Income from capital

1. Where
2. a person elects to be entitled to a lump sum of State Pension under specified legislation1 **or**
3. fails to make an election **and**
4. a lump sum payment has been made, disregard an amount equal to
   1. except where **3.2** applies, the amount of any payment or payments made on account of the lump sum **or**
   2. the amount of the lump sum

but only for as long as the person does not change their election in favour of an increase in their pension2.

1 Pensions Act (NI) 15, sec 8(2) & 10; 2 SPC Regs (NI), Sch 5, para 23ZB

Notional income

1. The rule regarding deprivation of income shall not apply1 if a claimant
2. elects for an increase in their pension or benefit following deferral under State Pension legislation**2** **and**
3. changes the election in accordance with specific regulations3 in favour of a lump sum.

**Note:** The deferral referred to at **1.** applies to the claimant’s own deferral or that of their late spouse or civil partner.

1 SPC Regs (NI), reg 18(6), (7ZA) & (7ZB); 2 Pensions Act (NI) 15, sec (8) & (9);   
SP Regs (NI), reg 15 & 16; 3 reg 6 & 18(7)

STATE PENSION CREDIT – retirement pension income

1. Retirement pension income includes State Pension1. State Pension should be taken fully into account for State Pension Credit.

1 SPC Act (NI) 02, sec 16(1)(za)

Notional income – income available upon application

1. A claimant who has reached the qualifying age for State Pension Credit but who does not claim State Pension, has to be treated as possessing the amount of State Pension which they could expect to receive if they had claimed it1. However, this is only from the date it could be expected to be acquired if a claim was made.

1 SPC Regs (NI), reg 18(1)

annotations

Please annotate the number of this memo (Vol 1/107, 2/61, 3/94, 4/133, 5/103, 7/44, 9/32, 10/66, 12/20, 13/65 & 14/59) against DMG paragraphs:

2009; 2052; 2060; 2069; 2073; 2537; 3360; 3361; 4685; 6040; Volume 1, Annex D (heading); 8114; 8352; 9161; 9343; 9373; 17040; 17062-69; 17085; 23111; 23128; 26642 (heading); 39408, Chapter 39, Appendix 4; 49648 (heading); 63007; 74318; 74319; 75002; 75003; 75005 (heading); 75010; 75060 (heading); 75067; 75069; 75070; 75101 (heading); 75104 (heading); 75110 (heading); 75112; 75130 (heading); 75132 (heading); 75134 (heading); 75139 (heading); 75142 (heading); 75145 (heading); 75149 (heading); 75150 (heading); 75153 (heading); 75181 (main heading); 75221 (main heading); 75281 (main heading); 75375; 75376; 75427; 75471 (main heading); 75534; 75572; 75581 (heading);75587; 75589 (heading); 75602 (heading); 75605; 75606; 75607; 75611; 75612; 75613; 75614; 75615; 75691; Chapter 75, Appendix 5, paragraph 7 (heading); 76001 (heading); 79203; 83065; 84382; 85130; 85409 (heading); 85441

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May 2016

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