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## DWP REPLY TO QUERY RAISED ON SUBSTITUTION POST APRIL 2016

How is it best to deal with State Pension rights between now and April 2016?

Peter Moore of BDM recently raised this question with Helen Kelly of the DWP and below is her response which is very helpful.

### Current Scheme

Under the current state pension scheme, a person may be entitled to "substitute" their former spouse's or civil partner's National Insurance record for their own for the period up to when the marriage or civil partnership legally ended, if this would give them a higher rate of basic pension than they would achieve on their own contributions.

This entitlement is by way of section 48 of the Social Security Contributions and Benefits Act 1992 and is considered automatically either when a person claims their state pension if at that point in time they are a divorcee (or their civil partnership is dissolved) and they do not qualify for a full basic state pension in their own right, or when their marriage or civil partnership ends, if this occurs after they have reached state pension age.

### Government Proposals

If the Government's proposals for the single-tier pension (as set out in the draft

Pensions Bill) are approved by Parliament, these provisions will not apply to a person who is due to reach state pension age on or after 6 April 2016, irrespective of whether the divorce/dissolution is finalised before or after that date.

These "substitution" provisions preceded, and are entirely separate from, the arrangements which enable the former spouse's or civil partner's additional (earnings-related) State Pension to be the subject of a pension sharing order.

Currently where a pension sharing order is made by a court as part of a divorce (or dissolution) settlement a portion of the additional State Pension entitlement of one party to the divorce is transferred to the other party.

The amount of the reduction is known as a pension debit; the beneficiary receives a pension credit of broadly equal value. At State Pension age the value transferred ('the pension credit') is paid to the beneficiary as a Shared Additional Pension.

### Changes after 6 April 2016

Subject to Parliament's approval of the Government's proposals, for people reaching State Pension age under the proposed reforms it will no longer be possible to share additional State

Pension as this will have been abolished. However, pension sharing orders in place before 6 April 2016 would remain valid and the relevant pension credits and debits would be applied to the single-tier pension entitlement of the beneficiary and the contributor once they reach State Pension age.

The intention is that where a pension sharing order is made after 6 April 2016 it would be restricted to any amount above the maximum value; we call these 'protected payments'.

This would be the case where the calculation of a person's foundation amount was based on current scheme rules.

In the White Paper we use an illustrative maximum value of £144 a week.

Where one member of the couple reached State Pension age before 2016 and the other member was due to reach State Pension age after that date the pension share would be based on the rules relevant to the particular member. So, the share order would be based on the additional State Pension entitlement of the older person or the value of the younger person's 'protected payment'.

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