



# Social Security Act 1975

## 1975 CHAPTER 14

### PART II

#### BENEFIT AND ITS ADMINISTRATION

### CHAPTER IV

#### BENEFIT FOR INDUSTRIAL INJURIES

##### *General provisions as to benefit*

#### **50 Descriptions of industrial injuries benefits**

- (1) Subject to the provisions of this Act, where an employed earner suffers personal injury caused after 4th July 1948 by accident arising out of and in the course of his employment, being employed earner's employment, there shall be payable to or in respect of him the industrial injuries benefits specified below in this section.
- (2) The benefits are—
  - (a) injury benefit, payable to the earner in accordance with section 56 below if during the period specified in subsection (4) of that section he is, as the result of the injury, incapable of work ;
  - (b) disablement benefit (by way of gratuity or pension), payable to the earner in accordance with sections 57 to 63 below if he suffers, as the result of the injury, from loss of physical or mental faculty ;
  - (c) industrial death benefit, payable in accordance with sections 67 to 75 below to the person specified in those sections, if the earner dies as a result of the injury.
- (3) For the purposes of this Chapter, an accident arising in the course of an employed earner's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment.

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- (4) Regulations may provide for treating an employed earner for the purposes of this Chapter as incapable of work as the result of an accident or injury when he would not be so treated apart from the regulations, and may also make provision—
- (a) as to the days which, in the case of an employed earner who at any time is or is to be treated as incapable of work as the result of an accident or injury, are or are not to be treated for the purposes of industrial injuries benefit as days of incapacity for work; and
  - (b) as to the day which, in the case of night workers and other special cases, is to be treated for the purpose of such benefit as the day of the accident.
- (5) Subject to sections 129, 131 and 132 of this Act (mariners, airmen, continental shelf workers and others), industrial injuries benefit shall not be payable in respect of an accident happening while the earner is outside Great Britain.

## **51 Relevant employments**

- (1) In this Chapter and Chapter V below "employed earner's employment" shall be taken to include any employment by virtue of which a person is, or is treated by regulations as being for the purposes of industrial injuries benefit, an employed earner.
- (2) Regulations may provide for any prescribed employment not to be treated for the purposes of industrial injuries benefit as employed earner's employment notwithstanding that it would be so treated apart from the regulations.
- (3) For the purposes of this Chapter an employment shall be an employed earner's employment in relation to an accident if (and only if) it is, or is treated by regulations as being, such an employment when the accident occurs.

## **52 Earner acting in breach of regulations, etc.**

An accident shall be deemed to arise out of and in the course of an employed earner's employment, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employer, if—

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention of any such regulations or orders, or without such instructions, as the case may be ; and
- (b) the act is done for the purposes of and in connection with the employer's trade or business.

## **53 Earner travelling in employer's transport**

- (1) An accident happening while an employed earner is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment if—
  - (a) the accident would have been deemed so to have arisen had he been under such an obligation ; and
  - (b) at the time of the accident, the vehicle—

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- (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and
- (ii) is not being operated in the ordinary course of a public transport service.

(2) In this section references to a vehicle include a ship, vessel, hovercraft or aircraft.

#### **54 Accidents happening while meeting emergency**

An accident happening to an employed earner in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

#### **55 Accident caused by another's misconduct, etc.**

- (1) An accident shall be treated for the purposes of this Chapter, where it would not apart from this section be so treated, as arising out of an employed earner's employment if—
  - (a) the accident arises in the course of the employment; and
  - (b) the accident either is caused by another person's misconduct, skylarking or negligence, or by steps taken in consequence of any such misconduct, skylarking or negligence, or by the behaviour or presence of an animal (including a bird, fish or insect), or is caused by or consists in the employed earner being struck by any object or by lightning ; and
  - (c) the employed earner did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment or by any act not incidental to the employment.
- (2) This section applies only to accidents happening after 19th December 1961.

#### *Injury benefit*

#### **56 Injury benefit**

- (1) Subject to the provisions of this section, an employed earner shall be entitled to injury benefit in respect of any day during the injury benefit period on which, as the result of the relevant injury, he is incapable of work.
- (2) In this Chapter " work ", in the contexts " incapable of work " and " incapacity for work ", means work which the person in question can reasonably be expected to do.
- (3) Injury benefit shall be an allowance payable at the appropriate weekly rate specified in Schedule 4, Part V, paragraph 1; and the amount payable for any day of incapacity shall be 1 /6th of the weekly rate.
- (4) " The injury benefit period " means, in relation to an accident, the period of 156 days (disregarding Sundays) beginning with the day of the accident, or the part of that period for which, under section 57(4) below, disablement benefit in respect of the accident is not available to the earner.

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- (5) There is no entitlement to injury benefit in respect of any day during the injury benefit period—
  - (a) unless that day forms part of a period of interruption of employment; or
  - (b) where that day is one of the first 3 days of a period of interruption of employment.
- (6) Section 17(1) of this Act (days for which benefit is payable), and any regulations made under section 17(1) or (2), have effect for the purposes of injury benefit as for those of unemployment benefit or sickness benefit.
- (7) A person who has not attained school-leaving age shall not be entitled to injury benefit, except as may be provided by regulations.

### *Disablement benefit*

## **57 Disablement gratuity and pension**

- (1) Subject to the provisions of this section, an employed earner shall be entitled to disablement benefit if he suffers as the result of the relevant accident from loss of physical or mental faculty such that the assessed extent of the resulting disablement amounts to not less than 1 per cent.
- (2) In this Act, references to loss of physical faculty include disfigurement, whether or not accompanied, by any actual loss of faculty.
- (3) " Assessed " means assessed in accordance with Schedule 8 to this Act; and for the purposes of that Schedule there shall be deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to 1 per cent.
- (4) Disablement benefit shall not be available to a person until after the third day of the period of 156 days (disregarding Sundays) beginning with the day of the relevant accident nor until after the last day (if any) of that period on which he is incapable of work as the result of the relevant accident:

Provided that, where he makes a claim for disablement benefit in respect of the accident before the end of that period and does not withdraw it before it is finally determined, then if on any day of that period not earlier than the making of the claim he is not so incapable of work, the fact that he is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subsection.

- (5) Where the extent of the disablement is assessed for the period taken into account as amounting to less than 20 per cent., disablement benefit shall be a disablement gratuity—
  - (a) of an amount fixed, in accordance with the length of the period and the degree of the disablement, by a prescribed scale, but not in any case exceeding the amount specified in Schedule 4, Part V, paragraph 2; and
  - (b) payable, if and in such cases as regulations so provide, by instalments.
- (6) Where the extent of the disablement is assessed for the period taken into account as amounting to 20 per cent. or more, disablement benefit shall be a disablement pension for that period payable at the appropriate weekly rate specified in Schedule 4, Part V, paragraph 3:

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Provided that where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

## **58 Unemployability supplement**

- (1) The weekly rate of a disablement pension shall, if as the result of the relevant loss of faculty the beneficiary is incapable of work and likely to remain so permanently, be increased by the appropriate amount specified in Schedule 4, Part V, paragraph 4.
- (2) An increase of pension under this section is referred to in this Act as an "unemployability supplement".
- (3) For the purposes of this section, a person may be treated as being incapable of work and likely to remain so permanently, notwithstanding that the loss of faculty is not such as to prevent him being capable of work, if it is likely to prevent his earnings in a year exceeding a prescribed amount not less than £104.
- (4) An unemployability supplement shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

## **59 Increase of unemployability supplement**

- (1) If on the qualifying date the beneficiary was—
  - (a) a man under the age of 60, or
  - (b) a woman under the age of 55,the weekly rate of unemployability supplement shall be increased by the appropriate amount specified in Schedule 4, Part V, paragraph 5.
- (2) In this section "the qualifying date" means, subject to subsections (3) and (4) below, the beginning of the first week for which the beneficiary qualified for unemployability supplement.
- (3) If the incapacity for work in respect of which unemployability supplement is payable forms part of a period of interruption of employment which has continued from a date earlier than the date fixed under subsection (2) above, the qualifying date means the first day in that period which is a day of incapacity for work, or such earlier day as may be prescribed.
- (4) Subject to subsection (3) above, if there have been two or more periods for which the beneficiary was entitled to unemployability supplement, the qualifying date shall be, in relation to unemployability supplement for a day in any one of those periods, the beginning of the first week of that period.

For the purposes of this subsection a break of more than 13 weeks in entitlement to unemployability supplement means that the periods before and after the break are different periods, and a break of 13 weeks or less is to be disregarded.
- (5) In this section "period of interruption of employment" has the same meaning as it has for the purposes of unemployment benefit.

## **60 Increase of disablement pension for special hardship**

- (1) The weekly rate of a disablement pension shall, subject to the following provisions of this section, be increased by an amount not exceeding the appropriate amount specified

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in Schedule 4, Part V, paragraph 6, if as the result of the relevant loss of faculty the beneficiary—

- (a) is incapable, and likely to remain permanently incapable, of following his regular occupation ; and
- (b) is incapable of following employment of an equivalent standard which is suitable in his case,

or if as the result of the relevant loss of faculty the beneficiary is, and has at all times since the end of the injury benefit period been, incapable of following that occupation or any such employment.

(2) In subsection (1) above—

- (a) the reference to a person's regular occupation is to be taken as not including any subsidiary occupation of his;
- (b) the reference to employment of an equivalent standard is to be taken as not including employment other than employed earner's employment;

and in assessing the standard of remuneration in any employment, including a person's regular occupation, regard is to be had to his reasonable prospects of advancement.

(3) For the purposes of this section, a person's regular occupation is to be treated as extending to and including employment in the capacities to which the persons in that occupation (or a class or description of them to which he belonged at the time of the relevant accident) are in the normal course advanced, and to which, if he had continued to follow that occupation without having suffered the relevant loss of faculty, he would have had at least the normal prospects of advancement; and so long as he is, as a result of the relevant loss of faculty, deprived in whole or in part of those prospects, he is to be treated as incapable of following that occupation.

(4) Regulations may for the purposes of this section provide that a person is not to be treated as capable of following an occupation or employment merely because of his working thereat during a period of trial or for purposes of rehabilitation or training or in other prescribed circumstances.

(5) An unemployability supplement and an increase of pension under this section shall not be payable for the same period.

(6) Subject to subsection (5) above, an increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time, and the amount of the increase shall be determined by reference to the beneficiary's probable standard of remuneration during the period for which it is granted in the employed earner's employments, if any, which are suitable in his case and which he is likely to be capable of following as compared with that in his regular occupation within the meaning of subsection (1) above.

(7) Regulations may make as respects a disablement gratuity provision corresponding to that made by this section as respects a disablement pension, and may include provision for payment of a pension in lieu of a gratuity.

## **61 Increase where constant attendance needed**

(1) Where a disablement pension is payable in respect of an assessment of 100 per cent., then, if as the result of the relevant loss of faculty the beneficiary requires constant attendance, the weekly rate of the pension shall be increased by an amount, not exceeding the appropriate amount specified in Schedule 4, Part V, paragraph 7,

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determined in accordance with regulations by reference to the extent and nature of the attendance required by the beneficiary.

- (2) An increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

## **62 Increase during hospital treatment**

- (1) Where a person is awarded disablement benefit but the extent of his disablement is assessed for the period taken into account by the assessment at less than 100 per cent., it shall be treated as assessed at 100 per cent. for any part of that period, whether before or after the making of the assessment or the award of benefit, during which he receives, as an in-patient in a hospital or similar institution, medical treatment for the relevant injury or loss of faculty.
- (2) Where the extent of the disablement is assessed for that period at less than 20 per cent., subsection (1) above shall not affect the operation of section 57(5) of this Act; but, in the case of a disablement pension payable by virtue of this section to a person awarded a disablement gratuity wholly or partly in respect of the same period, the weekly rate of the pension (after allowing for any increase under this Chapter) shall be reduced by the amount prescribed as being the weekly value of his gratuity.

## **63 Increase for exceptionally severe disablement**

- (1) Where a disablement pension is payable to a person under section 57(6) above, and—
- (a) the person is or, but for having received medical or other treatment as an in-patient in a hospital or similar institution, would be entitled to an increase of the weekly rate of the pension under section 61, and the weekly rate of the increase exceeds the amount specified in Schedule 4, Part V, paragraph 7(a); and
  - (b) his need for constant attendance of an extent and nature qualifying him for such an increase at a weekly rate in excess of that amount is likely to be permanent,
- the weekly rate of the pension shall, in addition to any increase under section 61, be further increased by the amount specified in Schedule 4, Part V, paragraph 8.
- (2) An increase under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

### *Increases for dependants*

## **64 Beneficiary's dependent children**

- (1) Subject to the provisions of this section and section 62 below, the weekly rate—
- (a) of injury benefit; or
  - (b) of a disablement pension where the beneficiary is entitled to an unemployment supplement,
- shall be increased for any period during which the beneficiary has a family which includes a child or children.
- (2) The amount or amounts of the increase shall be—

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- (a) in the case of injury benefit, as specified in Schedule 4, Part V, paragraph 9 ;  
and
  - (b) in the case of a disablement pension, as specified in Schedule 4, Part V, paragraph 10.
- (3) A child of the family of a woman for the time being residing with the beneficiary is to be treated for the purposes of this section as a child of the beneficiary's family if the child either—
- (a) is an illegitimate son or daughter of theirs ; or
  - (b) was born not less than 6 months before the day for which the increase under this section is claimed and was wholly or mainly maintained by the beneficiary throughout the 6 months ending immediately before that day.
- (4) Subject to section 65 below, where a man is entitled to injury benefit or a disablement pension, there is to be treated as included in the beneficiary's family for the purposes of this section—
- (a) a child who, on the day for which the increase provided by subsection (1) above is claimed, could (though not otherwise included in the beneficiary's family) have been treated as so included by virtue of paragraph 3 of the Schedule to the Family Allowances Act; and
  - (b) a child who could have been so treated but for the fact that the beneficiary is contributing at the appropriate rate to the cost of providing for the child;
- and " the appropriate rate" means a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of section 3(2) of that Act.

## **65 Additional provisions as to increase under s.64**

- (1) An increase under section 64 above of any amount in respect of a particular child shall for any period be payable only if during that period one or other of the following conditions is satisfied with respect to the child—
- (a) the child is living with the beneficiary; or
  - (b) the requisite contributions are being made to the cost of providing for the child.
- (2) The condition specified in subsection (2)(b) above is to be treated as satisfied if, and only if—
- (a) such contributions are being made at a weekly rate not less than the amount referred to in subsection (1)—
    - (i) by the beneficiary, or
    - (ii) where the beneficiary is one of two spouses living together, by them together; and
  - (b) where an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, the contributions are over and above those required for the purposes of satisfying section 3(2) of that Act or (as the case may be) the Schedule to that Act, paragraph 1(1), proviso.
- (3) Where a person is entitled in respect of a child to a guardian's allowance (section 38), the amount (if any) payable to that or any other person by way of an increase under section 64 of any benefit shall be such, and such only, as would be payable if that child were not included or treated as included in any family.



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- (4) A married woman shall not be entitled to an increase under section 64 of the weekly rate of injury benefit or a disablement pension for any period during which she is residing with her husband and he is not incapable of self-support.

## 66 Adult dependants

- (1) The weekly rate of injury benefit, and of a disablement pension where the beneficiary is entitled to an unemployability supplement, shall be increased under this section for any period during which—
- (a) the beneficiary is—
    - (i) residing with his wife, or
    - (ii) contributing to the maintenance of his wife at the requisite rate ; or
  - (b) the beneficiary's husband is incapable of self-support, and either they are residing together or she is contributing to his maintenance at the requisite rate ; or
  - (c) the beneficiary has residing with him and is wholly or mainly maintaining any such other relative as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled; or
  - (d) some female person (not a child) has the care of a child or children of the beneficiary's family, or of a child or children treated as such for the purposes of section 64 above, being a person in relation to whom such further conditions as may be prescribed are fulfilled.
- (2) The amount of the increase under this section shall be—
- (a) in the case of injury benefit, that specified in Schedule 4, Part V, paragraph 11;
  - (b) in the case of a disablement pension, that specified in Schedule 4, Part V, paragraph 12 ;
- and the requisite rate for the purposes of subsection (1)(a) and (b) above is a weekly rate not less than that amount.
- (3) Regulations may provide that a beneficiary is not to be entitled to an increase of benefit under this section in respect of a wife or husband where the earnings of the wife or husband (calculated or estimated in the prescribed manner and on the prescribed basis) exceed the prescribed amount.
- (4) Where the beneficiary is entitled to an unemployability supplement and is residing with his wife, and the earnings of his wife for the calendar week ending last before any week for which he is entitled to benefit under this section exceeded £20, the weekly rate of benefit under this section shall for the last-mentioned week be reduced—
- (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess ; and
  - (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess.
- (5) With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, subsection (4) above shall have effect with the substitution for " £20 " of the amount specified in relation to that year in the second column below—

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- (6) Regulations under subsection (3) above—
- (a) shall not restrict the amount of benefit in a case within subsection (4);
  - (b) may, in a case within subsection (1)(d) in which the female person is residing with a beneficiary entitled to unemployability supplement, and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this section, but subject to a reduction in respect of the female person's earnings, other than such of her earnings from employment by the beneficiary as may be prescribed, comparable to the reduction in subsection (4);
  - (c) may, in connection with any reduction of benefit in respect of earnings, prescribe the method of calculating or estimating the earnings.
- (7) A beneficiary shall not be entitled to an increase of benefit under this section in respect of more than one person for the same period.
- (8) In this section "relative" does not include any person who is a child.

*Industrial death benefit*

**67 Widow's benefit (entitlement)**

- (1) The widow of the deceased shall be entitled to death benefit if at his death either—
- (a) she was residing with him, or
  - (b) she was receiving or entitled to receive, or would but for the relevant accident have been receiving or entitled to receive, from him periodical payments for her maintenance of not less than the prescribed amount.
- (2) In the case of a widow, death benefit shall be—
- (a) a pension commencing from the death of the deceased and payable, at the weekly rate for the time being applicable under section 68 below, for life or until she remarries; and
  - (b) a gratuity, payable on the termination of the pension in consequence of her remarriage, of an amount equal to 52 times the weekly rate of the pension to which she was then entitled:

Provided that a pension under this section shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband.

- (3) In this section—
- (a) references to a widow receiving or being entitled to receive payments from the deceased are only to her receiving or being entitled to receive (whether from him or from another) payments provided or procured by the deceased ; and
  - (b) "entitled" means, in relation to any such payments, entitled under any order of a court, trust or agreement which the widow has taken reasonable steps to enforce.

**68 Widow's benefit (rate)**

- (1) The weekly rate of a pension payable under section 67 above shall, for the period of 26 weeks next following the deceased's death, be the initial rate specified in Schedule 4, Part V, paragraph 13(a).

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- (2) The weekly rate of the pension shall, after the end of that period, be the higher permanent rate specified in Schedule 4, Part V, paragraph 13(6)—
  - (a) for any period for which the widow is entitled, or is treated by regulations as entitled, to an allowance under section 70 below in respect of a child of the deceased's family; or
  - (b) where the widow was over the age of 50 at the deceased's death or was over the age of 40 at the end of the period for which she was entitled to such an allowance; or
  - (c) where the widow at the deceased's death was permanently incapable of self-support; or
  - (d) while the widow is pregnant by the deceased.
- (3) After the end of the period of 26 weeks referred to in subsection (1) above, the weekly rate of the pension shall, in any case not within subsection (2), be the lower permanent rate specified in Schedule 4, Part V, paragraph 13(c).

#### **69 Widower's benefit (entitlement and rate)**

- (1) The widower of the deceased shall be entitled to death benefit if at her death he—
  - (a) was being wholly or mainly maintained by her or would but for the relevant accident have been so maintained ; and
  - (b) was permanently incapable of self-support.
- (2) In the case of a widower, death benefit shall be a pension at the weekly rate specified in Schedule 4, Part V, paragraph 14, commencing from the death of the deceased and payable for life.

#### **70 Children of deceased's family**

- (1) Subject to the provisions of this section and Schedule 9 (limits on benefit payable on death), where at his death the deceased had a family which included a child or children, then, for any period during which a person has a family which includes that child or one or more of those children, the person shall be entitled in respect of that child, or in respect of each respectively of those children, to death benefit by way of an allowance at the appropriate weekly rate specified in Schedule 4, Part V, paragraph 15.
- (2) The higher rate specified in Schedule 4, Part V, paragraph 15(a) shall apply where the person to whom the allowance is payable is the widow of the deceased or such other person as may be prescribed and the widow is entitled to death benefit (other than a gratuity) under sections 67 and 68 of this Act; and the lower rate specified in Schedule 4, Part V, paragraph 15(b), shall apply in any other case.
- (3) Subject to subsection (4) below, where the deceased was a man, any of the following are to be treated under this section as having been children of his family at his death—
  - (a) a legitimate son or daughter of his who—
    - (i) at his death was a child of his wife's, but not of his, family; or
    - (ii) is born to him posthumously ;
  - (b) an illegitimate son or daughter of him and any woman residing with him at his death, being a son or daughter who then was a child of her family and was being, or would but for the relevant accident have been, wholly or mainly maintained by him;

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- (c) a child who at the deceased's death was a child of some other person's family but could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as a child of the deceased's family;
  - (d) subject to such exceptions and conditions as may be prescribed, a child who, having at the death of a previous husband of the wife by a marriage which ended with that husband's death been a child of that husband's family, was at the deceased's death a child of the wife's family.
- (4) Subsections (1) to (3) of section 65 of this Act apply in relation to an allowance under subsection (1) above as they apply in relation to an increase of benefit under section 64.

## 71 Parents

- (1) A parent of the deceased shall be entitled to death benefit if at the deceased's death he or she was being to a substantial extent maintained by the deceased, or would but for the relevant accident have been so maintained.
- (2) In the case of a parent who, at the deceased's death, was being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained, death benefit shall be a pension commencing from the death of the deceased and, subject to subsection (3) below, payable for life,
- (3) A pension payable under subsection (2) above to the deceased's mother—
- (a) shall terminate on her remarriage or marriage; and
  - (b) shall not be payable for any period during which she is cohabiting with a man not her husband,
- unless the man whom she marries or, as the case may be, with whom she is cohabiting is a man with whom she was cohabiting immediately before the deceased's death.
- (4) In the case of a parent entitled to death benefit under subsection (1) above but not to a pension under subsection (2), death benefit shall be a gratuity payable, if and in such cases as regulations so provide, by instalments.
- (5) Subject to section 74 of this Act—
- (a) the weekly rate of a pension payable to a parent under subsection (2) above shall be 75 pence for any period during which the parents are living together and are both entitled to such a pension (whether in respect of the same or another death), and £1 for any other period;
  - (b) the amount of a gratuity payable to a parent under subsection (4) shall be £52, subject to the provisions of Schedule 9 limiting the benefit payable in respect of any death.
- (6) In this section, "parent" includes a step-parent and a parent by adoption and, in a case where the deceased was illegitimate, his mother; and "mother" shall be construed accordingly.

## 72 Relatives

- (1) Subject to Schedule 9, any such relative of the deceased as may be prescribed shall be entitled to death benefit if at the deceased's death—
- (a) the relative was being wholly or mainly maintained by the deceased or would but for the relevant accident have been so maintained ; or

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- (b) the relative was being to a substantial extent maintained by the deceased, or would but for the relevant accident have been so maintained, and—
  - (i) in the case of a man, was permanently incapable of self-support;
  - (ii) in the case of a woman, was herself permanently incapable of self-support or was living with her husband who was permanently so incapable.
- (2) Subject to Schedule 9 and section 74(1)(a), in the case of a relative entitled to death benefit under subsection (1) above, the benefit shall be a pension at the weekly rate of £1 if—
  - (a) the relative fulfils the conditions specified in subsection (1)(a) above; and
  - (b) the relative or, in the case of a married woman living with her husband, she or her husband was at the deceased's death permanently incapable of self-support.
- (3) The pension shall commence from the deceased's death and, subject to subsection (4) below, be payable for such period as may be determined at the time it is granted, but may, if the beneficiary or her husband (as the case may be) continues to be permanently incapable of self-support or, in the husband's case, has died during the continuance of that incapacity, be renewed from time to time.
- (4) The pension shall cease on the death of the beneficiary within the period for which it was granted and, in the case of a woman—
  - (a) shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband; and
  - (b) shall cease on her marriage or remarriage within the period for which it was granted or, where it was granted by virtue of her husband's incapacity, on the termination of their marriage otherwise than by his death or on their ceasing to live together within that period, and shall not thereafter be renewed.
- (5) Subject to Schedule 9 and section 74(1)(b), in the case of a relative entitled to death benefit under subsection (1) above but not to a pension under subsection (2), the benefit shall be—
  - (a) if the relative fulfils the condition specified in subsection (1)(b) but not the condition specified in subsection (1)(a), a gratuity of £52 payable, if and in such cases as regulations so provide, by instalments; and
  - (b) if the relative fulfils the condition specified in subsection (1)(a), an allowance at the weekly rate of £1.80, commencing from the deceased's death and payable for 13 weeks from that death or, if the beneficiary dies within those 13 weeks, until the beneficiary's death.
- (6) In this section " relative " does not include a husband or wife, or a parent within the meaning of section 71 above.
- (7) Notwithstanding subsections (1) to (6) above, a relative who was a child at the deceased's death shall not be entitled to benefit thereunder—
  - (a) until he ceases to be a child ; or
  - (b) unless he was at the deceased's death, and is on ceasing to be a child, permanently incapable of self-support;and a pension payable to such a relative under this section shall commence only from the date on which he ceases to be a child.

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- (8) Where the deceased was a man, this section applies to a posthumous son or daughter of his (whether legitimate or illegitimate) subject to such modifications as may be prescribed.

### **73 Woman having care of deceased's children**

- (1) Subject to Schedule 9, where at the date of the relevant accident and throughout the period between that date and his death—
- (a) the deceased had a family which included a child or children; and
  - (b) a female person (not a child) was residing with the deceased and had the care of the child or one or more of the children,

she shall be entitled to death benefit if she was being wholly or mainly maintained by the deceased at that date and was, or would but for the accident have been, so maintained throughout that period.

- (2) Where the deceased was a man, any illegitimate son or daughter of him and the female person above referred to shall be treated under this section as having been a child of the deceased's family during any part of that period (between the date of the relevant accident and the deceased's death) during which he or she—
- (a) was a child of the female person's family ; and
  - (b) was, or would but for the relevant accident have been, wholly or mainly maintained by the deceased.

- (3) Subject to section 85 below (overlapping benefits), benefit under this section shall be an allowance at the weekly rate of £1 commencing from the death of the deceased and payable for any period during which the beneficiary has the care of the child or one or more of the children:

Provided that the allowance—

- (a) shall cease to be payable upon the marriage or remarriage of the beneficiary ; and
- (b) shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband.

### **74 Beneficiary previously maintained by deceased**

- (1) In the case of industrial death benefit, where the deceased at his death was, or would but for the relevant accident have been, making contributions to the beneficiary's maintenance—

- (a) the weekly rate of any pension payable to the beneficiary—
  - (i) as a parent (within the meaning of section 71 above), or
  - (ii) as a relative prescribed for the purposes of section 72,
 shall not exceed the weekly rate of the contributions which the deceased was (or would but for the relevant accident have been) making ; and
- (b) the amount of any gratuity payable to the beneficiary as such a parent or relative shall not exceed such multiple of the weekly rate of those contributions as may be determined by or in accordance with regulations ;

but this does not apply where the deceased at his death was (or would but for the relevant accident have been) wholly maintaining the beneficiary.

- (2) In the case of a relative who—

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- (a) was at the deceased's death a child, or
  - (b) is a posthumous son or daughter of the deceased,
- references in subsection (1) above to the weekly rate of the deceased's contributions are to that of the contributions which he might have been expected to make to the relative's maintenance when he ceased to be a child.

## **75 Death of person with constant attendance allowance**

- (1) If a person dies at a time when—
- (a) he is entitled to an increase under section 61 above of a disablement pension and the amount of the increase is not less than the amount which at that time is specified in Schedule 4, Part V, paragraph 7(a); or
  - (b) he would have been so entitled but for having received medical or other treatment as an in-patient in a hospital or similar institution,
- he is to be regarded for the purposes of entitlement to industrial death benefit as having died as a result of the injury in respect of which the disablement pension was payable.
- (2) The reference in subsection (1) above to an increase under section 61 includes only a payment by way of increase of a disablement pension, and in particular does not include any payment for constant attendance under section 159(3)(W) below (payments for pre-1948 cases).
- (3) Subsection (1) above does not affect death benefit where the death occurred before 26th July 1971.