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## SCHEDULES

### SCHEDULE 9

Sections 70, 72 and 73.

#### LIMITS OF ENTITLEMENT TO INDUSTRIAL DEATH BENEFIT

- 1 Where two or more persons satisfy the conditions, in respect of the same death, for receipt of an allowance or allowances under section 70 of this Act for any period—
- (a) not more than one of those persons shall be entitled for that period to such an allowance in respect of the same child, nor shall more than one of them be entitled for that period, in respect of different children, to such an allowance at a rate applicable to an only, elder or eldest child ;
  - (b) where one of them is entitled to such an allowance at a rate above mentioned in respect of a child not included in the family of the other or another of them, the rates of any such allowances to which that other is entitled shall be those that would have been appropriate if the child had been the elder or eldest child of that other's family;
  - (c) where the deceased leaves a widow or widower, then for any period for which she or he is entitled to death benefit as the deceased's widow or widower and satisfies the conditions for receipt of such an allowance in respect of a child, she or he shall be entitled to the allowance in respect of that child, and any allowance payable to her or him in respect of the only, elder or eldest child or her or his family shall be payable at a rate applicable to such a child ;
  - (d) subject to sub-paragraph (c) above, regulations may make provision as to the priority in any prescribed circumstances of two or more persons satisfying the said conditions.
- 2 Where two or more persons satisfy the conditions, in respect of the same death, for receipt of—
- (a) a pension under section 72 of this Act; or
  - (b) an allowance under section 73,
- only one of those persons shall be entitled to the pension or allowance, as the case may be.
- 3 No person shall be entitled in respect of the death of a person to a pension under section 72 where any person is entitled in respect of the deceased's death to a pension as the deceased's widow or widower or the deceased's parent.
- 4 (1) Where a person would but for paragraph 2 or 3 above be entitled in respect of another person's death to a pension under section 72, he shall, subject to the following provisions of this Schedule, be entitled in lieu thereof to a gratuity.
- (2) The amount of any gratuity payable by virtue of this paragraph shall, subject to section 74 of this Act and the subsequent provisions of this Schedule, be £104; and any such gratuity shall be payable, if and in such cases as regulations so provide, by instalments.

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- (3) No person shall be entitled in respect of a person's death both to a gratuity under this paragraph and to an allowance under section 72.
- 5       No person shall be entitled in respect of a person's death both to an allowance under section 73 and to a pension or gratuity, or to an allowance both under section 72 and under section 73.
- 6       (1) The death benefit payable in respect of a person's death by way of parents' gratuities shall not exceed £78.
- (2) The death benefit so payable by way of relatives' gratuities shall not exceed £52 except where either—
- (a) no person is entitled in respect of the deceased's death to a pension; or
- (b) some person is entitled in respect thereof to a gratuity in lieu of a pension, and shall not in any case exceed £104.
- (3) The limits imposed by sub-paragraph (2) above may be applied either by excluding from the right to a gratuity some of the persons satisfying the conditions for receipt thereof, or by reducing in any proportions the gratuities payable to those persons, or partly in one way and partly in the other; and regulations may make provision as to the manner in which any of the limits imposed by this paragraph are to be applied in any prescribed circumstances.
- 7       (1) A person shall be treated for the purposes of this Schedule as satisfying the conditions for the receipt of a pension under section 72, notwithstanding that he is a child, if he may satisfy those conditions on ceasing to be a child.
- (2) The provision of this Schedule limiting the number of persons entitled to a pension under section 72 shall not preclude a person from becoming so entitled on ceasing to be a child by reason only of some other person having previously been so entitled.
- (3) For the purposes of paragraph 6(2) above, any pension or gratuity under section 72 to which a person may become entitled on ceasing to be a child shall be disregarded.
- 8       (1) Where a person entitled, or who may become entitled, to any such benefit as is mentioned in this Schedule dies within the prescribed time after the deceased without being awarded that benefit, that person shall be disregarded for the purposes of this Schedule, except in so far as it relates to an allowance under section 70 of this Act:
- Provided that, where an award of benefit in respect of the deceased's death, based on the fact that that person was or might become so entitled, has been made in favour of some other person, the death of the first-mentioned person shall not affect that award so as to deprive that other person of any benefit thereby awarded, except where, by reason of the first-mentioned person's death, a further award of benefit of a different description is made on review in favour of that other person.
- (2) For the purposes of this paragraph, a person shall be treated—
- (a) as having died without being awarded benefit if an award of benefit in his favour in force at his death is thereafter reversed on appeal or review; and
- (b) as not having died without being awarded benefit if an award of benefit is, on a claim made by him before his death, made after his death and not reversed as aforesaid.