

SCHEDULES

SCHEDULE 7

Section 106.

INDUSTRIAL INJURIES BENEFITS

PART I

UNEMPLOYABILITY SUPPLEMENT

Availability

- 1 This Part of this Schedule applies only in relation to persons who were beneficiaries in receipt of unemployability supplement under section 58 of the 1975 Act immediately before 6th April 1987.

Rate and duration

- 2 (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 amount specified in Schedule 4, Part V, paragraph 5.
- (2) An increase of pension under this paragraph is referred to in this Act as an “unemployability supplement”.
- (3) For the purposes of this paragraph 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.

Increase of unemployability supplement

- 3 (1) Subject to the following provisions of this paragraph, 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 6.
- (2) Where for any period the beneficiary is entitled to a Category A or Category B retirement pension or an invalidity pension and the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) above, for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under this paragraph and the beneficiary shall be entitled to an

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increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

- (3) In this paragraph “the relevant amount” means an amount equal to the additional pension reduced by the amount of any reduction in the weekly rate of the retirement or invalidity pension made by virtue of section 29 of the Pensions Act.
- (4) In this paragraph references to an additional pension are references to that pension after any increase under section 52(3) above but without any increase under paragraphs 1 and 2 of Schedule 5 to this Act.
- (5) In this paragraph “the qualifying date” means, subject to sub-paragraphs (6) and (7) below, the beginning of the first week for which the beneficiary qualified for unemployability supplement.
- (6) 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 sub-paragraph (5) 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.
- (7) Subject to sub-paragraph (6) 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.
- (8) For the purposes of sub-paragraph (7) above—
 - (a) a break of more than 8 weeks in entitlement to unemployability supplement means that the periods before and after the break are two different periods; and
 - (b) a break of 8 weeks or less is to be disregarded.
- (9) The Secretary of State may by regulations provide that sub-paragraph (8) above shall have effect as if for the references to 8 weeks there were substituted references to a larger number of weeks specified in the regulations.
- (10) In this paragraph “period of interruption of employment” has the same meaning as it has for the purposes of unemployment benefit.
- (11) The provisions of this paragraph are subject to section 29C of the Pensions Act (contracting-out and increases of unemployability supplement).

Increase for beneficiary’s dependent children

- 4 (1) Subject to the provisions of this paragraph and paragraph 5 below, the weekly rate of a disablement pension where the beneficiary is entitled to an unemployability supplement shall be increased for any period during which the beneficiary is entitled to child benefit in respect of a child or children.
- (2) The amount of the increase shall be as specified in Schedule 4, Part V, paragraph 7.
- (3) In any case where—
 - (a) a beneficiary is one of two persons who are—
 - (i) spouses residing together, or
 - (ii) an unmarried couple, and

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- (b) the other person had earnings in any week,
the beneficiary's right to payment of increases for the following week under this paragraph shall be determined in accordance with sub-paragraph (4) below.
- (4) No such increase shall be payable—
- (a) in respect of the first child where the earnings were £110 or more; and
 - (b) in respect of a further child for each complete £14 by which the earnings exceeded £110.
- (5) The Secretary of State may by order substitute larger amounts for the amounts for the time being specified in sub-paragraph (4) above.
- (6) In this paragraph “week” means such period of 7 days as may be prescribed by regulations made for the purposes of this paragraph.

Additional provisions as to increase under paragraph 4

- 5 (1) An increase under paragraph 4 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 beneficiary would be treated for the purposes of Part IX of this Act as having the child living with him; or
 - (b) the requisite contributions are being made to the cost of providing for the child.
- (2) The condition specified in paragraph (b) of sub-paragraph (1) 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 that sub-paragraph—
 - (i) by the beneficiary, or
 - (ii) where the beneficiary is one of two spouses residing together, by them together; and
 - (b) except in prescribed cases, the contributions are over and above those required for the purposes of satisfying section 143(1)(b) above.

Increase for adult dependants

- 6 (1) The weekly rate of a disablement pension where the beneficiary is entitled to an unemployability supplement shall be increased under this paragraph for any period during which—
- (a) the beneficiary is—
 - (i) residing with his spouse, or
 - (ii) contributing to the maintenance of his spouse at the requisite rate; or
 - (b) a person—
 - (i) who is neither the spouse of the beneficiary nor a child, and
 - (ii) in relation to whom such further conditions as may be prescribed are fulfilled,has the care of a child or children in respect of whom the beneficiary is entitled to child benefit.

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- (2) The amount of the increase under this paragraph shall be that specified in Schedule 4, Part V, paragraph 8 and the requisite rate for the purposes of sub-paragraph (1)(a) above is a weekly rate not less than that amount.
- (3) Regulations may provide that, for any period during which—
 - (a) the beneficiary is contributing to the maintenance of his or her spouse at the requisite rate, and
 - (b) the weekly earnings of the spouse exceed such amount as may be prescribed, there shall be no increase of benefit under this paragraph.
- (4) Regulations may provide that, for any period during which the beneficiary is residing with his or her spouse and the spouse has earnings—
 - (a) the increase of benefit under this paragraph shall be subject to a reduction in respect of the spouse's earnings; or
 - (b) there shall be no increase of benefit under this paragraph.
- (5) Regulations may, in a case within sub-paragraph (1)(b) above in which the person there referred to is residing with the beneficiary and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this paragraph, but subject, taking account of the earnings of the person residing with the beneficiary, other than such of that person's earnings from employment by the beneficiary as may be prescribed, to provisions comparable to those that may be made by virtue of sub-paragraph (4) above.
- (6) Regulations under this paragraph may, in connection with any reduction or extinguishment of an increase in 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 paragraph in respect of more than one person for the same period.

Earnings to include occupational and personal pensions for purposes of disablement pension

- 7 (1) Except as may be prescribed, any reference to earnings in paragraph 4 or 6 above includes a reference to payments by way of occupational or personal pension.
- (2) For the purposes of those paragraphs, the Secretary of State may by regulations provide, in relation to cases where payments by way of occupational or personal pension are made otherwise than weekly, that any necessary apportionment of the payments shall be made in such manner and on such basis as may be prescribed.

Dependency increases: continuation of awards in cases of fluctuating earnings

- 8 (1) Where a beneficiary—
 - (a) has been awarded an increase of benefit under paragraph 4 or 6 above, but
 - (b) ceases to be entitled to the increase by reason only that the weekly earnings of some other person ("the relevant earner") exceed the amount of the increase or, as the case may be, some specified amount,
 then, if and so long as the beneficiary would have continued to be entitled to the increase, disregarding any such excess of earnings, the award shall continue in force but the increase shall not be payable for any week if the earnings relevant to that week exceed the amount of the increase or, as the case may be, the specified amount.

- (2) In this paragraph the earnings which are relevant to any week are those earnings of the relevant earner which, apart from this paragraph, would be taken into account in determining whether the beneficiary is entitled to the increase in question for that week.

PART II

DISABLEMENT GRATUITY

- 9 (1) An employed earner shall be entitled to a disablement gratuity, if—
- (a) he made a claim for disablement benefit before 1st October 1986;
 - (b) he suffered as the result of the relevant accident from loss of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with Schedule 6 to this Act amounts to not less than 1 per cent.; and
 - (c) the extent of the disablement is assessed for the period taken into account as amounting to less than 20 per cent.
- (2) A disablement gratuity shall be—
- (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 9; and
 - (b) payable, if and in such cases as regulations so provide, by instalments.
- (3) A person shall not be entitled to disablement gratuity until after the expiry of the period of 90 days (disregarding Sundays) beginning with the day of the relevant accident.

PART III

INCREASE OF DISABLEMENT PENSION DURING HOSPITAL TREATMENT

- 10 (1) This Part of this Schedule has effect in relation to a period during which a person is receiving medical treatment as an in-patient in a hospital or similar institution and which—
- (a) commenced before 6th April 1987; or
 - (b) commenced after that date but within a period of 28 days from the end of the period during which he last received an increase of benefit under section 62 of the 1975 Act or this paragraph in respect of such treatment for the relevant injury or loss of faculty.
- (2) 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.
- (3) Where the extent of the disablement is assessed for that period at less than 20 per cent., sub-paragraph (2) above shall not affect the assessment; but in the case of a disablement pension payable by virtue of this paragraph to a person awarded a

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disablement gratuity wholly or partly in respect of the same period, the weekly rate of the pension (after allowing for any increase under Part V of this Act) shall be reduced by the amount prescribed as being the weekly value of his gratuity.

PART IV

REDUCED EARNINGS ALLOWANCE

- 11 (1) Subject to the provisions of this paragraph, an employed earner shall be entitled to reduced earnings allowance if—
- (a) he is entitled to a disablement pension or would be so entitled if that pension were payable where disablement is assessed at not less than 1 per cent.; and
 - (b) as a result of the relevant loss of faculty, he is either—
 - (i) incapable, and likely to remain permanently incapable, of following his regular occupation; and
 - (ii) incapable of following employment of an equivalent standard which is suitable in his case,
 or is, and has at all times since the end of the period of 90 days referred to in section 103(6) above been, incapable of following that occupation or any such employment;
- but a person shall not be entitled to reduced earnings allowance to the extent that the relevant loss of faculty results from an accident happening on or after 1st October 1990 (the day on which section 3 of the Social Security Act 1990 came into force).
- (2) A person—
- (a) who immediately before that date is entitled to reduced earnings allowance in consequence of the relevant accident; but
 - (b) who subsequently ceases to be entitled to that allowance for one or more days,
- shall not again be entitled to reduced earnings allowance in consequence of that accident; but this sub-paragraph does not prevent the making at any time of a claim for, or an award of, reduced earnings allowance in consequence of that accident for a period which commences not later than the day after that on which the claimant was last entitled to that allowance in consequence of that accident.
- (3) For the purposes of sub-paragraph (2) above—
- (a) a person who, apart from section 103(6) above, would have been entitled to reduced earnings allowance immediately before 1st October 1990 shall be treated as entitled to that allowance on any day (including a Sunday) on which he would have been entitled to it apart from that provision;
 - (b) regulations may prescribe other circumstances in which a person is to be treated as entitled, or as having been entitled, to reduced earnings allowance on any prescribed day.
- (4) The Secretary of State may by regulations provide that in prescribed circumstances employed earner's employment in which a claimant was engaged when the relevant accident took place but which was not his regular occupation is to be treated as if it had been his regular occupation.
- (5) In sub-paragraph (1) above—

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- (a) references to a person's regular occupation are to be taken as not including any subsidiary occupation, except to the extent that they fall to be treated as including such an occupation by virtue of regulations under sub-paragraph (4) above; and
 - (b) 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 prospect of advancement.
- (6) For the purposes of this Part of this Schedule 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.
 - (7) Regulations may for the purposes of this Part of this Schedule 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.
 - (8) Reduced earnings allowance shall be awarded—
 - (a) for such period as may be determined at the time of the award; and
 - (b) if at the end of that period the beneficiary submits a fresh claim for the allowance, for such further period, commencing as mentioned in sub-paragraph (2) above, as may be determined.
 - (9) The award may not be for a period longer than the period to be taken into account under paragraph 4 or 6 of Schedule 6 to this Act.
 - (10) Reduced earnings allowance shall be payable at a rate determined by reference to the beneficiary's probable standard of remuneration during the period for which it is granted in any employed earner's employments which are suitable in his case and which he is likely to be capable of following as compared with that in the relevant occupation, but in no case at a rate higher than 40 per cent. of the maximum rate of a disablement pension or at a rate such that the aggregate of disablement pension (not including increases in disablement pension under any provision of this Act) and reduced earnings allowance awarded to the beneficiary exceeds 140 per cent. of the maximum rate of a disablement pension.
 - (11) Sub-paragraph (10) above shall have effect in the case of a person who retired from regular employment before 6th April 1987 with the substitution for "140 per cent." of "100 per cent."
 - (12) In sub-paragraph (10) above "the relevant occupation" means—
 - (a) in relation to a person who is entitled to reduced earnings allowance by virtue of regulations under sub-paragraph (4) above, the occupation in which he was engaged when the relevant accident took place; and
 - (b) in relation to any other person who is entitled to reduced earnings allowance, his regular occupation within the meaning of sub-paragraph (1) above.

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- (13) On any award except the first the probable standard of his remuneration shall be determined in such manner as may be prescribed; and, without prejudice to the generality of this sub-paragraph, regulations may provide in prescribed circumstances for the probable standard of remuneration to be determined by reference—
- (a) to the standard determined at the time of the last previous award of reduced earnings allowance; and
 - (b) to scales or indices of earnings in a particular industry or description of industries or any other data relating to such earnings.
- (14) In this paragraph “maximum rate of a disablement pension” means the rate specified in the first entry in column (2) of Schedule 4, Part V, paragraph 1 and does not include increases in disablement pension under any provision of this Act.

Supplementary

- 12 (1) A person who on 10th April 1988 or 9th April 1989 satisfies the conditions—
- (a) that he has attained pensionable age;
 - (b) that he has retired from regular employment; and
 - (c) that he is entitled to reduced earnings allowance,
- shall be entitled to that allowance for life.
- (2) In the case of any beneficiary who is entitled to reduced earnings allowance by virtue of sub-paragraph (1) above, the allowance shall be payable, subject to any enactment contained in Part V or VI of this Act or in the Administration Act and to any regulations made under any such enactment, at the weekly rate at which it was payable to the beneficiary on the relevant date or would have been payable to him on that date but for any such enactment or regulations.
- (3) For the purpose of determining under sub-paragraph (2) above the weekly rate of reduced earnings allowance payable in the case of a qualifying beneficiary, it shall be assumed that the weekly rate at which the allowance was payable to him on the relevant date was—
- (a) £25.84, where that date is 10th April 1988, or
 - (b) £26.96, where that date is 9th April 1989.
- (4) In sub-paragraph (3) above “qualifying beneficiary” means a person entitled to reduced earnings allowance by virtue of sub-paragraph (1) above who—
- (a) did not attain pensionable age before 6th April 1987, or
 - (b) did not retire from regular employment before that date,
- and who, on the relevant date, was entitled to the allowance at a rate which was restricted under paragraph 11(10) above by reference to 40 per cent. of the maximum rate of disablement pension.
- (5) For a beneficiary who is entitled to reduced earnings allowance by virtue of satisfying the conditions in sub-paragraph (1) above on 10th April 1988 the relevant date is that date.
- (6) For a beneficiary who is entitled to it by virtue only of satisfying those conditions on 9th April 1989 the relevant date is that date.

PART V

RETIREMENT ALLOWANCE

- 13 (1) Subject to the provisions of this Part of this Schedule, a person who—
- (a) has attained pensionable age; and
 - (b) gives up regular employment on or after 10th April 1989; and
 - (c) was entitled to reduced earnings allowance (by virtue either of one award or of a number of awards) on the day immediately before he gave up such employment,
- shall cease to be entitled to reduced earnings allowance as from the day on which he gives up regular employment.
- (2) If the day before a person ceases under sub-paragraph (1) above to be entitled to reduced earnings allowance he is entitled to the allowance (by virtue either of one award or of a number of awards) at a weekly rate or aggregate weekly rate of not less than £2.00, he shall be entitled to a benefit, to be known as “retirement allowance”.
- (3) Retirement allowance shall be payable to him (subject to any enactment contained in Part V or VI of this Act or in the Administration Act and to any regulations made under any such enactment) for life.
- (4) Subject to sub-paragraph (6) below, the weekly rate of a beneficiary’s retirement allowance shall be—
- (a) 25 per cent. of the weekly rate at which he was last entitled to reduced earnings allowance; or
 - (b) 10 per cent. of the maximum rate of a disablement pension,
- whichever is the less.
- (5) For the purpose of determining under sub-paragraph (4) above the weekly rate of retirement allowance in the case of a beneficiary who—
- (a) retires or is deemed to have retired on 10th April 1989, and
 - (b) on 9th April 1989 was entitled to reduced earnings allowance at a rate which was restricted under paragraph 11(10) above by reference to 40 per cent. of the maximum rate of disablement pension,
- it shall be assumed that the weekly rate of reduced earnings allowance to which he was entitled on 9th April 1989 was £26.96.
- (6) If the weekly rate of the beneficiary’s retirement allowance—
- (a) would not be a whole number of pence; and
 - (b) would exceed the whole number of pence next below it by 1/2p or more,
- the beneficiary shall be entitled to retirement allowance at a rate equal to the next higher whole number of pence.
- (7) The sums falling to be calculated under sub-paragraph (4) above are subject to alteration by orders made by the Secretary of State under section 150 of the Administration Act.
- (8) Regulations may—
- (a) make provision with respect to the meaning of “regular employment” for the purposes of this paragraph; and
 - (b) prescribe circumstances in which, and periods for which, a person is or is not to be regarded for those purposes as having given up such employment.

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- (9) Regulations under sub-paragraph (8) above may, in particular—
- (a) provide for a person to be regarded—
 - (i) as having given up regular employment, notwithstanding that he is or intends to be an earner; or
 - (ii) as not having given up regular employment, notwithstanding that he has or may have one or more days of interruption of employment; and
 - (b) prescribe circumstances in which a person is or is not to be regarded as having given up regular employment by reference to—
 - (i) the level or frequency of his earnings during a prescribed period; or
 - (ii) the number of hours for which he works during a prescribed period calculated in a prescribed manner.
- (10) “Day of interruption of employment” has the same meaning for the purposes of this paragraph as it has for the purposes of provisions of this Act relating to unemployment benefit, sickness benefit or invalidity benefit.
- (11) In this paragraph “maximum rate of a disablement pension” means the rate specified in the first entry in column (2) of Schedule 4, Part V, paragraph 1 and does not include increases in disablement pension under any provision of this Act.

PART VI

INDUSTRIAL DEATH BENEFIT

Introductory

- 14 (1) This Part of this Schedule only has effect in relation to deaths before 11th April 1988.
- (2) In this Part of this Schedule “the deceased” means the person in respect of whose death industrial death benefit is claimed or payable.

Widow’s benefit (entitlement)

- 15 (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 pension commencing from the death of the deceased and payable, at the weekly rate for the time being applicable under paragraph 16 below for life or until she remarries.
- (3) A pension under this paragraph shall not be payable for any period during which the beneficiary is living as husband and wife with a man not her husband.
- (4) In this paragraph—
- (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

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- (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.

Widow’s benefit (rate)

- 16 (1) The weekly rate of a pension payable under paragraph 15 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 10.
- (2) The weekly rate of the pension shall, after the end of that period, be the higher permanent rate specified in that paragraph—
- (a) for any period for which the widow is entitled, or is treated by regulations as entitled, to an allowance for children under paragraph 18 below; 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 sub-paragraph (1) above, the weekly rate of the pension shall, in any case not within sub-paragraph (2) above, be the lower permanent rate specified in Schedule 4, Part V, paragraph 10.

Widower’s benefit (entitlement and rate)

- 17 (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 11 commencing from the death of the deceased and payable for life.

Children of deceased’s family

- 18 (1) Subject to paragraph 19 below, where at his death the deceased was entitled to child benefit in respect of a child or children, then, for any period for which—
- (a) the widow of the deceased is entitled—
 - (i) to death benefit (other than a gratuity) under paragraphs 15 and 16 above; and
 - (ii) to child benefit in respect of that child or one or more of those children; or
 - (b) such other person as may be prescribed is entitled to child benefit in respect of that child or one or more of those children,
- the widow or, as the case may be, the person so prescribed 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 weekly rate specified in Schedule 4, Part V, paragraph 12.

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- (2) Paragraph 5 above applies in relation to an allowance under this paragraph as it applies in relation to an increase of benefit under paragraph 4 above.

Limits of entitlement to industrial death benefit in respect of children

- 19 Where two or more persons satisfy the conditions, in respect of the same death, for receipt of an allowance or allowances under paragraph 18 above 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;
 - (b) 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;
 - (c) subject to sub-paragraph (b) above, regulations may make provision as to the priority in any prescribed circumstances of two or more persons satisfying the said conditions.

Death of person with constant attendance allowance

- 20 (1) If a person dies at a time when—
- (a) he is entitled to an increase under section 104 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 2(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 sub-paragraph (1) above to an increase under section 104 above includes only a payment by way of increase of a disablement pension, and in particular does not include any payment for constant attendance under paragraph 7(2)(b) of Schedule 8 to this Act.
- (3) Sub-paragraph (1) above does not affect death benefit where the death occurred before 26th July 1971.

Pulmonary disease

- 21 (1) If a person dies as a result of any pulmonary disease and—
- (a) he was entitled, for a period which includes the date of his death, to disablement pension or gratuity in respect of pneumoconiosis or byssinosis or pneumoconiosis accompanied by tuberculosis; and
 - (b) the extent of the disablement in respect of which the benefit was payable was assessed for such a period at not less than 50 per cent.,
- then, subject to sub-paragraph (2) below, his death shall be treated, for the purposes of this Part of this Schedule, as having been caused by the disease in respect of which the benefit was payable.

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- (2) Unless regulations provide otherwise, the requirements of paragraph (b) of sub-paragraph (1) above shall be treated as unsatisfied in a case where, had the physical condition of the deceased at the time of the assessment been normal, apart from the diseases mentioned in paragraph (a) of that sub-paragraph, the extent of the disablement in question would have been assessed at less than 50 per cent.
- (3) This paragraph does not affect death benefit where the death occurred before 30th March 1977.