

SCHEDULES

SCHEDULE 7

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.