

SCHEDULES

SCHEDULE 7

INDUSTRIAL INJURIES BENEFITS

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
 - (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.

Status: This is the original version (as it was originally enacted).

- (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.
- (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;

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- (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.
- (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.