



# Social Security (Northern Ireland) Act 1975

## 1975 CHAPTER 15

### PART II

#### BENEFIT AND ITS ADMINISTRATION

### CHAPTER IV

#### BENEFIT FOR INDUSTRIAL INJURIES

##### *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.

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(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).
- (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(b)—
  - (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

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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 ;
  - (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;

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- (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
  - (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 condition 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

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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.
- (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—

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- (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—

- (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 150(3)(b) below (payments for pre-1948 cases).
- (3) Subsection (1) above does not affect death benefit where the death occurred before 26th July 1971.