
STATUTORY INSTRUMENTS

1983 No. 136

**The Pneumoconiosis, Byssinosis and
Miscellaneous Diseases Benefit Scheme 1983**

PART II

ALLOWANCES AND DEATH BENEFIT

Death benefit

9.—(1) The benefit payable in cases of death due to pneumoconiosis, byssinosis or any of the said diseases set out in Schedule 1 shall be payable to or for the benefit of such of the dependants of the deceased as are specified in paragraph (2) and, subject to the following provisions of this scheme, shall be a capital sum of an amount calculated in accordance with the provisions of paragraphs (4) and (5).

(2) The dependants of a person entitled to claim death benefit under this scheme are such of the members of the deceased's family as were wholly or in part dependent on the deceased at the time of his death or are treated as being so dependent under the provisions of paragraph (3), and for the purposes of this paragraph the expression "member of a family" has the same meaning as it has for the purposes of the Workmen's Compensation Act 1925 [^{F1}and is to be read as including a surviving civil partner of the deceased].

(3) For the purposes of paragraph (2), a person shall be treated as having been wholly or in part dependent (as the case may be) upon the deceased at the time of his death if that person would have been so dependent but for the disablement due to the disease.

(4) The capital sum payable by way of death benefit in respect of a deceased person shall, subject to the condition that where, under the following provisions of this paragraph, such sum is payable to more than one person the total payment shall not exceed £300, be calculated and payment made in accordance with those provisions and with the order of priority herein set out:—

(a) where the deceased is survived by—

(i) his widow who was residing with him at his death, or

(ii) her widower who was wholly dependent upon her and who was residing with her at her death, [^{F2}or]

[^{F3}(iii) his or her surviving civil partner who was wholly dependant upon him or her and who was residing with him or her at the time of his or her death,]

the sum of £300 shall be payable [^{F4}to that widow, that widower or, as the case may be, that surviving civil partner];

(b) where the deceased is survived by no such [^{F5}widow, widower or surviving civil partner] as aforesaid but is survived by—

(i) either his widow who was at his death receiving or entitled to receive or would but for the relevant disease have been receiving from him periodic payments for her maintenance of not less than the amount prescribed by regulations for the purposes

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of section 67(1)(b) of the Social Security Act or, where the deceased was a woman, by her widower who was wholly dependent upon her; and

[^{F6}(ia) his or her surviving civil partner who was wholly dependant on the deceased at the time of the deceased's death; or]

(ii) a child who was at his or her death residing with him or her and in respect of whom he or she was entitled to child benefit,

the sum of £300 shall be divided equally [^{F7}between the widow, widower or, as the case may be, the surviving civil partner and that child or, if there is more than one child, between the widow, widower or, as the case may be, the surviving civil partner and those children];

(c) where the deceased is survived by such a [^{F8}a widow, widower or surviving civil partner] as is mentioned in paragraph (4)(b)(i) but by no such child as described in paragraph (4)(b)(ii) the sum of £300 shall be payable [^{F9}to that widow, that widower or, as the case may be, to that surviving civil partner];

(d) where the deceased is survived by no such [^{F10}widow, widower or surviving civil partner] as is mentioned in the foregoing sub-paragraphs but is survived by a child who was at his death, residing with him and in respect of whom he was entitled to child benefit, the sum of £300 shall be payable to that child or, if more than one, divided equally between those children;

(e) where the deceased is survived by no such person as aforesaid but is survived by a member of his family who was wholly maintained by him at the date of his death, the sum of £300 shall be payable to that member or, if more than one, divided equally between those members;

(f) where the deceased is survived by no such person as aforesaid but is survived by any member of his family who was partly maintained by him at the date of his death, such sum or sums not exceeding in total £300 shall be payable to that member or, if more than one, those members, as may be reasonable and proportionate to the loss sustained by such member or members.

(5) For the purposes of this article, a dependant shall be disregarded—

(a) where the dependant has died (whether he had made a claim for death benefit or not) before an award of such benefit in respect of the deceased has been made; or

(b) where the dependant was not ordinarily resident in the United Kingdom at the date of the death of the deceased.

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| F1 | Words in art. 9(2) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877) , art. 1, Sch. 3 para. 12(3)(a) (with art. 3) |
| F2 | Word in art. 9(4)(a)(ii) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877) , art. 1, Sch. 3 para. 12(3)(b)(i)(aa) , (with art. 3) |
| F3 | Art. 9(4)(a)(iii) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877) , art. 1, Sch. 3 para. 12(3)(b)(i), (bb) (with art. 3) |
| F4 | Words in art. 9(4)(a) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877) , art. 1, Sch. 3 para. 12(3)(b)(i), (cc) (with art. 3) |
| F5 | Words in art. 9(4)(b) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877) , art. 1, Sch. 3 para. 12(3)(b)(ii)(aa) , (with art. 3) |

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- F6** Art. 9(4)(b)(ia) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, Sch. 3 para. 12(3)(b)(ii), **(bb)** (with art. 3)
- F7** Words in art. 9(4)(b) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, Sch. 3 para. 12(3)(b)(ii), **(cc)** (with art. 3)
- F8** Words in art. 9(4)(c) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 12(3)(c)(i)** (with art. 3)
- F9** Words in art. 9(4)(c) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 12(3)(c)(ii)** (with art. 3)
- F10** Words in art. 9(4)(d) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 12(3)(d)** (with art. 3)

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