

Changes to Bereavement Damages Awards from 1 May 2020

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Following *The Damages for Bereavement (Variation of Sum) (England and Wales) Order 2020*, published on 16 March 2020, the award for bereavement in fatal accident claims will increase in relation to cases relating to deaths on or after 1 May 2020, from £12,980 to £15,120, seven years after the award was last increased.

The increase in the award follows the publication of the draft *Remedial Order to the Fatal Accidents Act 1976*, which is expected to see the range of Claimants eligible to recover bereavement awards extended with effect from June - July 2020.

The question of the range of Claimants eligible to recover bereavement damages in England and Wales has been under debate for some time, particularly following the Court of Appeal's judgment in *Smith v Lancashire Teaching Hospitals NHS Foundation Trust and the Secretary of State for Justice (2017)*. The exclusion of unmarried cohabiting partners was found to be incompatible with the European Convention on Human Rights, and the question of the how far the range of eligible Claimants would be extended has now been answered in the Government's draft Remedial Order.

Despite pressure from APIL to allow all cohabiting partners to claim the award, the Remedial Order limits the scope of the extension of the range of eligible Claimants to unmarried partners of the Deceased with whom the Deceased was cohabiting for at least two years immediately prior to death. As in the case for parents, where both a qualifying cohabitant and spouse are eligible to claim the award is divided equally between them.

Defendants and their insurers should be relieved that, whilst the range of eligible Claimants has been extended, unlike the range in Scotland it remains limited and the potential awards of bereavement damages, whilst increasing by 16%, should not see damages awards increase significantly.

For more information or advice, please contact one of our experts in our [casualty team](#).

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