

Employees Compensation Assistance (Amendment) Bill 2002

Dependants in Fatal Injury Cases

- Comparison between the Fatal Accidents Ordinance and the ECA(A) Bill

Dependant(s) of the deceased recognised as "dependant(s)" under the Fatal Accidents Ordinance (Cap. 22) ("FAO")	"Eligible persons" qualified for relief payment under the ECA(A) Bill 2002?
Wife, husband, former wife or former husband	Husband or wife
Any person whose marriage to the deceased has been annulled or declared void	Not eligible
Concubine lawfully taken by the deceased before 7 October 1971	Not eligible
Any person who (i) was living with the deceased in the same household immediately before the date of his death, <u>and</u> (ii) had been living with the deceased in the same household for at least 2 years before that date as husband and wife (i.e. cohabitee for 2 years)	Cohabitee (length of cohabitation not specified)
Parent or other ascendant of the deceased	Parent and grandparent
Any person (not being a parent of the deceased) who, during any marriage to which that person was a party, treated the deceased as a child of the family in relation to that marriage (e.g. deceased being child of this person by adoption, regardless of the formality of adoption)	Parent who formally adopted the deceased under the relevant HK legislation, or adopted the deceased according to Chinese law and custom before 1 January 1973, or stepparent
Child or other descendent of the deceased	Child or grandchild
Any person (not being a child of the deceased) who, during any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage (e.g. adopted child, stepchild)	Child formally adopted by the deceased under the relevant HK legislation, or was adopted by the deceased according to Chinese law and custom before 1 January 1973, or stepchild
Brother, sister, uncle or aunt or his/her issue (including nephew, niece and cousin)	Brother, sister, half-brother, half-sister, child of a brother or sister of the whole blood (but not cousin)
Brother or sister of a grandparent or his/her issue	Not eligible
Godchild or godparent according to Chinese custom	Not eligible
Not eligible	Son-in-law, daughter-in-law
Not eligible	Father-in-law, mother-in-law

Not eligible	Brother-in-law, sister-in-law
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Note

1. Under the FAO,
 - (a) an adopted person shall be treated as the child of the person by whom he was adopted and not as the child of any other person;
 - (b) subject to (a) above, any relationship by affinity shall be treated as relationship by consanguinity;
 - (c) subject to (a) above, any relationship of half-blood shall be treated as a relationship of the whole blood;
 - (d) subject to (a) above, the stepchild of any person shall be treated as his child; and
 - (e) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.

2. An award under FAO is made when a dependant can prove to the satisfaction of the court that he or she has lost a reasonable expectation of pecuniary benefit.