

*Status: Point in time view as at 01/04/1995.*

*Changes to legislation: Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

Section 108.

#### COMPENSATION

##### *Claims for compensation*

- 1 (1) The Board shall not award compensation to a person unless, in addition to any other conditions relating to it being satisfied, he has made a claim for it in the prescribed manner.
- (2) In this Schedule “prescribed” means prescribed by rules under paragraph 14 below.
- 2 Unless the circumstances appear to them to be exceptional—
  - (a) in a case where the Board have not previously awarded compensation in respect of an injury they shall not determine a claim in respect of it which is made after the end of three years from the date of the incident giving rise to the injury; and
  - (b) in a case where they have previously awarded compensation in respect of an injury, they shall not determine any further claim in respect of it which is made after the end of three years beginning with the date of the notice under paragraph 6(2) below relating to the award, or latest award, of compensation in respect of the injury.
- 3 If
  - (a) the Board—
    - (i) have previously awarded compensation in respect of an injury; and
    - (ii) stated at the time of a previous award that the evidence before them showed that a particular medical condition might arise in the future as a result of the injury; and
  - (b) a claim is made in respect of such a condition,the Board shall determine the claim whenever it is made.

##### *Procedure*

- 4 (1) The Secretary of State shall make rules of procedure in relation to claims for compensation.
- (2) Without prejudice to the generality of sub-paragraph (1) above rules under this paragraph may in particular—
  - (a) specify matters which may be dealt with or which must be dealt with—

*Status: Point in time view as at 01/04/1995.*

**Changes to legislation:** Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) by members of the Board’s staff; or
  - (ii) by a member or members of the Board;
  - (b) make provision—
    - (i) for the determination of a claim without a hearing;
    - (ii) for the reconsideration without a hearing of a previous determination without a hearing; and
    - (iii) for the extent to which a previous determination may be altered on such a reconsideration;
  - (c) make provision as to circumstances in which a claim is to be or may be determined by a decision at a hearing on specified issues and as to the procedure for settling the issues which are to be considered;
  - (d) make provision about the conduct of hearings and in particular about the calling of witnesses, the admissibility of, and weight to be given to, hearsay and opinion evidence and the order of proceedings;
  - (e) make provision as to the confidentiality of information disclosed in connection with a claim; and
  - (f) make such incidental or supplementary provision as appears to the Secretary of State to be appropriate.
- (3) Rules under this paragraph may make different provision for different descriptions of cases.
- (4) Rules under this paragraph shall be made by statutory instrument.
- (5) A statutory instrument containing any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Applications for reconsideration of claims*

- 5
- (1) Where a claimant is aggrieved by the determination of a claim which was determined without a hearing, he may question the determination by applying to the Board for the claim to be reconsidered after a hearing.
  - (2) A claimant may not make an application under this paragraph if, as part of their determination, the Board have certified that in their opinion no prima facie case for an award of compensation was disclosed by his application.
  - (3) An application under this paragraph—
    - (a) shall be entertained by the Board if it is made before the expiry of the period of three months beginning with the date on which the claimant was notified of their determination; and
    - (b) may be entertained by them if made outside that period if they are satisfied that there are exceptional reasons for doing so.
  - (4) The Board may refuse an application under this paragraph if they are of the opinion that there is sufficient reason to do so and, if the claimant so requires, shall give him a certificate that the application has been refused.
  - (5) Where the Board refuse an application for the reconsideration of a claim determined without a hearing in accordance with the law of England and Wales, the High Court, on the application of the claimant, may make an order of mandamus requiring the Board to reconsider his claim after a hearing.

*Status: Point in time view as at 01/04/1995.*

*Changes to legislation: Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) Where the Board refuse an application for the reconsideration of a claim determined without a hearing in accordance with the law of Scotland, the Court of Session, on the application of the claimant, may direct the Board to reconsider the claim after a hearing.

#### *Payment of compensation*

- 6 (1) Except in prescribed cases, compensation, whether on an interim or a final award, shall be paid in a lump sum.
- (2) It shall be the duty of the Board to give a claimant written notice of the amount of an award.
- (3) A claimant shall not be entitled to a payment unless the Board have received from him written notice to the effect that he has received a notice under sub-paragraph (2) above and accepts the amount of compensation specified in the notice as the proper amount.

#### *Deferment of determination*

- 7 (1) The Board may only defer the determination of a claim on the ground that criminal proceedings are current if they consider that the proceedings are likely to be material to their determination of the claim.
- (2) Where the Board are satisfied that a claimant is qualified for an award of compensation but do not have all the information they need to assess the amount of the award, they may defer the determination of the claim for such reasonable period as may be appropriate to allow them to obtain that information.
- (3) Where the Board are satisfied that a claimant is qualified for an award of compensation but have reason to believe that he may become entitled to an award of compensation under the scheme established by the <sup>M1</sup>Criminal Injuries (Compensation) (Northern Ireland) Order 1988, or any order replacing that Order, or under any similar scheme established in any other country or territory, they may defer the determination of his claim for such reasonable period as may be appropriate in order to establish whether he will become entitled to such an award and, if he will, the amount of the award.

#### **Marginal Citations**

**M1** [S.I. 1988/793 \(N.I. 4\)](#).

#### *Appropriate law*

- 8 Subject to the provisions of this Part of this Act, a claim for compensation under any of the heads specified in section 111 above is to be determined, and the amount of any compensation which falls to be assessed under any of those heads is to be assessed, in accordance with the rules of the law of England and Wales or the law

*Status: Point in time view as at 01/04/1995.*

*Changes to legislation: Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

of Scotland (including rules contained in Acts of Parliament but not including rules allowing a plaintiff or pursuer aggravated damages or interest) in accordance with which a claim in tort or delict arising out of the same facts for damages under a corresponding head would fall to be determined.

*Private medical treatment*

- 9 In assessing compensation no account shall be taken of any expenses incurred in respect of private medical treatment unless the Board are satisfied that such treatment is or was essential; and where the Board are so satisfied in relation to any such treatment, compensation for the expenses incurred in respect of that treatment shall not exceed a reasonable amount.

*Calculation of earning capacity*

- 10 (1) For the purposes of assessing compensation payable under this Part of this Act, the earning capacity of the person who sustained the injury to which the claim in question relates shall be taken not to be or to have been in excess of one-and-a-half times the gross average industrial wage.
- (2) For the purposes of this paragraph the gross average industrial wage shall be taken to be whatever sum is specified by the Secretary of State by order as being the gross average industrial wage; and the Secretary of State shall cause any order specifying such a sum to be published in such manner as he thinks fit.
- (3) The Secretary of State may by order amend sub-paragraph (1) above by varying the multiplier for the time being specified in that sub-paragraph.
- (4) An order under sub-paragraph (2) above shall be made by statutory instrument.
- (5) A statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Reduction of compensation by reference to social security benefits etc.*

- 11 (1) Compensation, other than compensation in respect of funeral expenses, shall be assessed on the basis that the loss to be compensated is reduced by the value of any entitlement to benefits which the claimant has in consequence of the injury to which the claim relates or, as the case may be, the death of the person who sustained that injury.
- (2) In this paragraph—
- “benefit” means—
- (a) any social security benefits payable under the laws of any part of the United Kingdom and any similar benefits payable under the laws of any other country or territory;
- (b) <sup>M2</sup>Injuries (Compensation) (Northern Ireland) Order 1988, or any order replacing that Order, or under any similar scheme established in any other country or territory;

*Status: Point in time view as at 01/04/1995.*

*Changes to legislation: Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) benefits (including any return of premiums) under any insurance arrangements, other than private insurance arrangements; and  
“private insurance arrangements” means insurance arrangements for which no person wholly or partly pays except—
  - (a) the person who sustained the injury to which the claim relates;
  - (b) his spouse;
  - (c) any person who on the date that that injury was sustained—
    - (i) was living in the same household as the person who sustained that injury,
    - (ii) was so living with him as his spouse; and
    - (iii) had been so living with him in the same household during the whole of the period of two years immediately preceding that date;
  - (d) where the person who sustained that injury was at the time under the age of 18 years, his parent or guardian.
- (3) In calculating for the purposes of this paragraph the value of any entitlement to benefits regard shall be had—
  - (a) to any liability to income tax likely to reduce the value of that entitlement; and
  - (b) to any effect the making of the award is likely to have on that entitlement.
- (4) In the case of a claim by the surviving spouse of a person who died as a result of having sustained the injury to which the claim relates, no account shall be taken of any re-marriage of his or of his prospect of re-marriage in calculating for the purposes of this paragraph the value of the surviving spouse’s entitlement to social security benefits.

**Marginal Citations**

**M2** 1988/793 (N.I. 4)

*Reduction of compensation by reference to pension rights*

- 12 (1) Compensation payable, other than compensation in respect of funeral expenses, shall be assessed on the basis that the loss to be compensated is reduced by the value of any pension rights, other than private pension rights, which—
  - (a) where the claimant is the person who sustained the injury to which the claim relates, are enjoyed by him in consequence of that injury and by virtue of any office or employment of his; or
  - (b) where the claimant is a dependant of the person who sustained the injury to which the claim relates, are enjoyed by him in consequence of that person’s death and by virtue of any office or employment of that person.
- (2) In assessing the value of any pension rights for the purposes of this paragraph, regard shall be had to any likelihood that present or future liability to income tax may reduce their value.
- (3) In this Schedule “private pension rights” means rights arising under pension arrangements for which no person wholly or partly pays except—

*Status: Point in time view as at 01/04/1995.*

**Changes to legislation:** Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the person who sustained the injury to which the claim relates;
  - (b) his spouse;
  - (c) any person who on the date that that injury was sustained—
    - (i) was living in the same household as the person who sustained that injury;
    - (ii) was so living with him as his spouse; and
    - (iii) had been so living with him in the same household during the whole of the period of two years immediately preceding that date;
  - (d) where the person who sustained that injury was at the time under the age of 18 years, his parent or guardian.
- (4) For the purposes of this paragraph “pension rights” includes sums paid under insurance arrangements, other than private insurance arrangements, and gratuities.

*Reduction of compensation by reference to damages etc.*

- 13 Where the Board are satisfied that, by virtue of—
- (a) a judgment or decree in, or the settlement of, any action for damages; or
  - (b) any order under section 35 (compensation orders against convicted persons) or section 43A (payment of the proceeds of forfeited property to a person suffering personal injury, loss or damage as the result of an offence) of the of Criminal Courts Act 1973 or section 98 of the <sup>M3</sup>Criminal Justice (Scotland) Act 1980 (compensation orders against convicted persons),

[<sup>F1</sup>or

- (c) any order under paragraph 11 (compensation orders) of Schedule 5A to the Army Act 1955, of Schedule 5A to the Air Force Act 1955 or of Schedule 4A to the Naval Discipline Act 1957; or
- (d) any award of stoppages under any of the Acts referred to in sub-paragraph (c) above]

a claimant has received any payment which compensates him for any loss in respect of which compensation is payable to him under this Part of this Act, the compensation so payable to him shall be assessed on the basis that that loss is reduced by the amount of that payment.

#### Textual Amendments

**F1** Word in [Sch. 7 para. 13](#) and paras. 13(c) and (d) inserted (1. 1. 1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), s. 26(1), [Sch. 2 para. 9\(4\)](#); S.I. 1991/2719, [art.2](#).

#### Marginal Citations

**M3** [1980 c. 62](#).

#### *Miscellaneous rules*

- 14 (1) The Secretary of State may by rules—
- (a) provide for the use of prescribed forms;

---

*Status: Point in time view as at 01/04/1995.*

**Changes to legislation:** *Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (b) prescribe circumstances in which, and the method by which, one person may act for another in relation to a claim for compensation;
  - (c) prescribe the manner in which the Board are to notify their determinations;
  - (d) specify cases in which compensation is not to be paid as a lump sum and how it is to be paid in any such case;
  - (e) provide that, in the case of compensation awarded to a person who is under the age of 18 years or under a disability, the Board shall have such power with respect to the payment and investment of the award as may be prescribed; and
  - (f) make such incidental or supplementary provision as appears to the Secretary of State to be appropriate.
- (2) Rules under this paragraph may make different provision for different descriptions of cases.
- (3) Rules under this paragraph shall be made by statutory instrument.
- (4) A statutory instrument containing any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Status:**

Point in time view as at 01/04/1995.

**Changes to legislation:**

Criminal Justice Act 1988, SCHEDULE 7 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.