



Civil Liability Act 2018

2018 CHAPTER 29

PART 1

WHIPLASH

Whiplash injuries

1 “Whiplash injury” etc

- (1) In this Part “whiplash injury” means an injury of soft tissue in the neck, back or shoulder that is of a description falling within subsection (2), but not including an injury excepted by subsection (3).
- (2) An injury falls within this subsection if it is—
 - (a) a sprain, strain, tear, rupture or lesser damage of a muscle, tendon or ligament in the neck, back or shoulder, or
 - (b) an injury of soft tissue associated with a muscle, tendon or ligament in the neck, back or shoulder.
- (3) An injury is excepted by this subsection if—
 - (a) it is an injury of soft tissue which is a part of or connected to another injury, and
 - (b) the other injury is not an injury of soft tissue in the neck, back or shoulder of a description falling within subsection (2).
- (4) For the purposes of this Part a person suffers a whiplash injury because of driver negligence if—
 - (a) when the person suffers the injury, the person—
 - (i) is using a motor vehicle other than a motor cycle on a road or other public place in England or Wales, or
 - (ii) is being carried in or on a motor vehicle other than a motor cycle while another uses the vehicle on a road or other public place in England or Wales,

Status: This is the original version (as it was originally enacted).

- (b) the injury is caused—
 - (i) by the negligence of one or more other persons, or
 - (ii) partly by the negligence of one or more other persons and partly by the negligence of the person who suffers the injury, and
 - (c) the negligence of the other person or persons consists in an act or acts done by the person or persons while using a motor vehicle on a road or other public place in England or Wales.
- (5) The fact that the act or acts constituting the negligence of the other person or persons is or are also sufficient to establish another cause of action does not prevent subsection (4)(b) being satisfied.
- (6) For the purposes of this section references to a person being carried in or on a vehicle include references to a person entering or getting on to, or alighting from, the vehicle.
- (7) In this section—
- “act” includes omission;
 - “motor cycle” has the meaning given by section 185(1) of the Road Traffic Act 1988;
 - “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;
 - “road” means a highway or other road to which the public has access, and includes bridges over which a road passes.

2 Power to amend section 1

- (1) The Lord Chancellor may by regulations amend the definition of “whiplash injury” in section 1, but not so as to include an injury of soft tissue other than soft tissue in the neck, back or shoulder.
- (2) Before making regulations under subsection (1), the Lord Chancellor must—
- (a) review the definition of “whiplash injury” in section 1,
 - (b) as part of the review, consider whether to amend section 1,
 - (c) prepare and publish a report of the review, including a decision whether or not to amend section 1 and the reasons for the decision, and
 - (d) lay a copy of the report before Parliament.
- (3) After laying the copy of the report before Parliament and before making regulations under subsection (1), the Lord Chancellor must consult—
- (a) the Lord Chief Justice;
 - (b) the General Council of the Bar;
 - (c) the Law Society;
 - (d) the Chief Medical Officer of the Department of Health and Social Care;
 - (e) the member of staff of the Welsh Government designated by the Welsh Ministers as the Chief Medical Officer for Wales;
 - (f) such other persons or bodies as the Lord Chancellor considers appropriate.
- (4) The Lord Chancellor may not carry out the first review under subsection (2) before the end of the period of three years beginning with the day on which section 1 comes into force.

- (5) After the first review, the Lord Chancellor may not carry out a review under subsection (2) before the end of the period of three years beginning with—
- (a) if regulations under subsection (1) were made following the previous review, the day on which those regulations came into force, or
 - (b) if no regulations under subsection (1) were made following the previous review, the day on which a copy of the report of the previous review was laid before Parliament.
- (6) A statutory instrument containing regulations under this section is subject to affirmative resolution procedure.