



# Civil Liability Act 2018

## 2018 CHAPTER 29

### PART 1

#### WHIPLASH

##### *Damages*

#### 5 Uplift in exceptional circumstances

- (1) Regulations made by the Lord Chancellor may provide for a court—
- (a) to determine that the amount of damages payable for pain, suffering and loss of amenity in respect of one or more whiplash injuries is an amount greater than the tariff amount relating to that injury or those injuries;
  - (b) to determine that the amount of damages payable for pain, suffering and loss of amenity in respect of one or more whiplash injuries and one or more minor psychological injuries, taken together, is an amount greater than the tariff amount relating to those injuries;
  - (c) in a case where the court considers the combined effect of—
    - (i) an injury or injuries in respect of which a tariff amount is specified by regulations under section 3(2) or (4), and
    - (ii) one or more other injuries,to determine that an amount greater than the tariff amount is to be taken into account when deciding the amount of damages payable for pain, suffering and loss of amenity in respect of the injuries mentioned in sub-paragraphs (i) and (ii).
- (2) The regulations may require a court to be satisfied, before making the determination mentioned in subsection (1)(a), (b) or (c), that—
- (a) the degree of pain, suffering or loss of amenity caused by the whiplash injury or injuries in question makes it appropriate to use the greater amount, and
  - (b) it is the case that—

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*Status: This is the original version (as it was originally enacted).*

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- (i) the whiplash injury is, or one or more of the whiplash injuries are, exceptionally severe, or
  - (ii) where the person’s circumstances increase the pain, suffering or loss of amenity caused by the injury or injuries, those circumstances are exceptional.
- (3) The regulations must specify the maximum percentage by which the greater amount mentioned in subsection (1)(a), (b) or (c) may exceed the relevant tariff amount.
- (4) Regulations under this section amending or replacing earlier regulations may increase or reduce the maximum percentage.
- (5) The Lord Chancellor must consult the Lord Chief Justice before making regulations under this section.
- (6) A statutory instrument containing regulations under this section is subject to affirmative resolution procedure.
- (7) In this section “tariff amount” means—
  - (a) in relation to one or more whiplash injuries, the amount specified in respect of the injury or injuries by regulations under section 3(2);
  - (b) in relation to one or more whiplash injuries and one or more minor psychological injuries, the amount specified in respect of the injuries by regulations under section 3(4).