

## SCHEDULE

Article 4

### TRANSITIONAL CLAIMS

1. A transitional claim may be made in the cases specified in paragraph 3(1).
2. In this Schedule—
  - (a) references to sections are to sections of the Act;
  - (b) “advised” means—
    - (i) informed in written form; or
    - (ii) informed orally where there is a record in written form created by the adviser at the time when, or shortly after the time when, that advice was given;
  - (c) “in written form” means in a manner which is in, or which is capable of being reproduced in, legible form;
  - (d) “the amended section 1(4)” means section 1(4) as it is in force on or after the specified date;
  - (e) “the amended section 3(1)(c)” means section 3(1)(c) as it is in force on or after the specified date;
  - (f) “the extra-statutory scheme” means the non-statutory scheme of payments referred to in section 7;
  - (g) “the previous section 1(4)” means section 1(4) as it was in force prior to the specified date;
  - (h) “the previous section 3(1)(c)” means section 3(1)(c) as it was in force prior to the specified date;
  - (i) “the specified date” means the date this Order comes into force; and
  - (j) “transitional claim” has the meaning given in paragraph 4.
- 3.—(1) Subject to sub-paragraph (2), the specified cases are those where—
  - (a) a claim for a payment under section 1(1) was made prior to the specified date and—
    - (i) the Secretary of State refused to consider the application for a claim on the ground that the previous section 3(1)(c) was not satisfied but the amended section 3(1)(c) would have been satisfied had it been in force at the time of that refusal; or
    - (ii) it was determined that no payment was due under section 1(1) on the basis that the previous section 1(4) was not satisfied;
  - (b) a claim for a payment was made under the extra-statutory scheme and it was determined that no payment was due on the basis that the disabled person did not suffer disablement to the extent of 80 per cent. or more;
  - (c) no claim for a payment under section 1(1) was made prior to the specified date and the Secretary of State is satisfied that—
    - (i) the reason such a claim was not made was that the disabled person, those acting on his behalf or, as the case may be, his personal representatives had been advised prior to the specified date that either the previous section 1(4) or the previous section 3(1)(c) would not be satisfied if such a claim were made; and
    - (ii) the amended section 3(1)(c) would have been satisfied had it been in force at the date the advice referred to in paragraph (i) was given; or
  - (d) no claim for a payment under the extra-statutory scheme was made whilst it was in force and the Secretary of State is satisfied that the reason such a claim was not made was that the disabled person, those acting on his behalf or, as the case may be, his personal representatives had been advised whilst the extra-statutory scheme was in force that the

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requirement in the extra-statutory scheme that the disabled person suffers disablement to the extent of 80 per cent. or more would not be satisfied if such a claim were made.

(2) The Secretary of State shall not be satisfied for the purposes of sub-paragraph (1)(c) or (d) unless there has been produced to him the written form of the advice referred to in those paragraphs or a copy of it.

4. A “transitional claim” is a claim for a payment under section 1 (1) which is made—
- (a) by or on behalf of the disabled person concerned or, as the case may be, by his personal representatives;
  - (b) in the manner prescribed by regulations under the Act for a claim under section 3; and
  - (c) within 3 years after the date on which this Order came into force.

5.—(1) Where sub-paragraph (2) or (3) applies, a transitional claim shall be determined on the basis that the disabled person is, or was immediately before his death, disabled as a result of vaccination against any of the diseases to which the Act applies and whether he is, or was, severely disabled shall be determined in accordance with the amended section 1(4).

(2) This sub-paragraph applies where—

- (a) a case is a specified case by virtue of paragraph 3(1)(a)(ii); and
- (b) at the time of the claim referred to in paragraph 3(1)(a) it was determined that the condition that the person was disabled as a result of vaccination against any of the diseases to which the Act applies was satisfied but the condition that he was severely disabled in accordance with the previous section 1(4) was not satisfied.

(3) This sub-paragraph applies where—

- (a) a case is a specified case by virtue of paragraph 3(1)(b); and
- (b) at the time of the claim referred to in paragraph 3(1)(b) it was determined that the condition that the person was disabled as a result of vaccination against any of the diseases to which the extra-statutory scheme applied was satisfied but the condition that he suffered disablement to the extent of 80 per cent. or more was not satisfied.

6. Subject to paragraph 5, a transitional claim shall be treated for the purposes of the Act as a claim which satisfies the conditions in section 3(1).