

SCHEDULES

SCHEDULE 2

Regulation 15(8)

Assessment of disablement

Assessment of degree of disablement

1.—(1) The degree of the disablement caused by a relevant incident is assessed by making a comparison between the condition of—

- (a) the person so disabled, and
- (b) an average, healthy person of the same age and sex who is not disabled.

(2) In making the comparison in accordance with sub-paragraph (1), the following must not be taken into account—

- (a) the earning capacity of the person so disabled in the person's trade or occupation or any other trade or occupation, and
- (b) the effect of any individual factors or extraneous circumstances.

(3) Where disablement is caused by more than one relevant incident, a composite assessment of the degree of disablement is to be made by reference to the combined effect of all such incidents.

(4) Subject to sub-paragraph (5), where the sole injury which an applicant suffers as a result of the relevant incident is one specified in column 1 of Schedule 2 to the Social Security (General Benefit) Regulations 1982 (prescribed degrees of disablement), whether or not such injury incorporates one or more other injuries so specified, the assessed degree of disablement suffered by the applicant as a result of that injury is the degree of disablement specified in column 2 of that Schedule.

(5) The degree of disablement assessed in accordance with paragraph (4) is subject to such increase or reduction of that degree of disablement as may be reasonable in the circumstances of the case where that degree of disablement does not provide a reasonable assessment of the degree of disablement resulting from the relevant incident.

(6) Where the assessed degree of disablement is increased or decreased in accordance with sub-paragraph (6), the health care professional conducting the assessment must make a record of the reason for the increase or decrease.

(7) For the purpose of assessing the degree of disablement resulting from an injury not specified in Column 1 of Schedule 2 to the Social Security (General Benefit) Regulations 1982, the health care professional may have such regard as the health care professional considers appropriate, to the prescribed degrees of disablement set against injuries specified in that Schedule.

Commencement Information

II Sch. 2 para. 1 in force at 29.5.2020, see reg. 1(3)

Disablement with other causes

2.—(1) This regulation applies where disablement is caused by a relevant incident but also has a cause (“the other cause”) other than a relevant incident.

Status: Point in time view as at 29/05/2020.

Changes to legislation: There are currently no known outstanding effects for the The Victims' Payments Regulations 2020, SCHEDULE 2. (See end of Document for details)

(2) In a case where the other cause is a congenital disorder or is an injury received or contracted before the relevant incident, the assessed degree of disablement must take into account all such disablement, except to the extent the applicant would have been subject to that disablement had the relevant incident not occurred.

(3) In a case where the other cause is an injury received or contracted after and not directly attributable to a relevant incident, the assessed degree of disablement must take account of—

- (a) all such disablement to the extent to which the applicant would have been subject to that disablement if the other cause had not arisen, and
- (b) where the extent of disablement would be assessed at not less than 11 percent if that other cause had not arisen, the assessment must also take account of any disablement to which the applicant may be subject as a result of that other cause except to the extent to which the applicant would have been subject to that disablement had the relevant incident not occurred.

Commencement Information

I2 Sch. 2 para. 2 in force at 29.5.2020, see reg. 1(3)

Expression of degree of disablement

3.—(1) The assessed degree of disablement must be expressed as a percentage.

(2) Subject to paragraph (3), if the assessed degree of disablement is a percentage between 0 and 100 which is not a multiple of 10, it is to be treated—

- (a) if it is a multiple of 5, as being the next higher percentage which is a multiple of 10, and
- (b) if it is not a multiple of 5, as being the nearest percentage which is a multiple of 10.

(3) Where the assessed degree of disablement is less than 20 percent, but not less than 14 percent, it is to be treated as 20 percent.

Commencement Information

I3 Sch. 2 para. 3 in force at 29.5.2020, see reg. 1(3)

Guidance

4.—(1) The Board must make arrangements for guidance to be issued to health care professionals regarding the assessment of the degree of relevant disablement.

(2) A health care professional must have regard to any guidance issued under paragraph (1) when assessing the degree of relevant disablement.

Commencement Information

I4 Sch. 2 para. 4(1) in force at 24.2.2020, see reg. 1(2)(d)

I5 Sch. 2 para. 4(2) in force at 29.5.2020, see reg. 1(3)

Status:

Point in time view as at 29/05/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Victims' Payments Regulations 2020, SCHEDULE 2.