

SCHEDULES

SCHEDULE 1

Regulation 3(2)

The Board

Status of the Board

- 1.—(1) The Board is a body corporate.
- (2) The Board is not to be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (3) Section 19 of the Interpretation Act (Northern Ireland) 1954⁽¹⁾, except for subsection (1)(a)(iv) and (vi), applies to the Board, subject to the provisions of this Act; and, for the purposes of that section, the Board is to be treated as if it were established by an Act of the Northern Ireland Assembly.

Administrative functions exercisable by the Department

- 2.—(1) The Executive Office must in writing designate a Northern Ireland Department to exercise the administrative functions of the Board on the Board's behalf.
- (2) The designated Department (whether in its own capacity or in the capacity of an agency of that Department) is, accordingly, to exercise the administrative functions of the Board on the Board's behalf.
- (3) The Board, or any member of the Board acting on its behalf, may do anything which the Board or member considers to be appropriate for facilitating, or to be incidental or conducive to, the exercise of its functions.
- (4) The power under sub-paragraph (2) does not include a power to borrow money.

Members

- 3.—(1) The Northern Ireland Judicial Appointments Commission must appoint—
 - (a) legal members of the Board;
 - (b) medical members of the Board, and
 - (c) ordinary members of the Board.
- (2) A person may be appointed as a legal member of the Board only if that person is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland of at least 5 years' standing.
- (3) A person may be appointed as a medical member of the Board only if that person is a registered medical practitioner.
- (4) A person may be appointed as an ordinary member of the Board only if it appears to the Department that the person has appropriate knowledge or experience.

(1) 1954 c. 33; section 19 is amended by the Mortmain (Repeals) Act (Northern Ireland) 1960 (c. 20).

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The President of the Board

4.—(1) The Lord Chief Justice of Northern Ireland is to appoint a person as the President of the Board.

(2) A person may be appointed under sub-paragraph (1) only if the person holds or has held office—

(a) as a judge of the Court of Judicature of Northern Ireland, or

(b) as a judge or deputy judge of a county court in Northern Ireland.

(3) The President has responsibility for ensuring the efficient and effective discharge of the Board's functions.

(4) Subject to these Regulations, the President may determine the procedure in relation to the discharge of any of the Board's functions.

(5) Any function of the President may be exercised by a legal member of the Board who has been authorised (whether generally or specifically) by the President for that purpose.

Terms of appointment

5.—(1) A member and the President holds and vacates office in accordance with the terms and conditions of their appointment.

(2) Those terms and conditions are to be determined by the Northern Ireland Judicial Appointments Commission with the agreement of the Department.

(3) A person holding office as a member of the Board may resign that office by giving notice in writing to the Northern Ireland Judicial Appointments Commission.

(4) A previous appointment as a member of the Board does not affect a person's eligibility for re-appointment as a member of the Board.

(5) A person shall not hold office as a member of the Board after reaching the age of 70.

(6) Section 26(5) and (6) of the Judicial Pensions and Retirement Act 1993 (c. 8) (extension to age 75) apply in relation to a member of the Board as they apply in relation to a holder of a relevant office.

Remuneration and expenses

6.—(1) The Department must pay to or in respect of the President and each member of the Board such remuneration, such allowances, and such sums for the provision of a pension as the Department may determine.

(2) The Department may reimburse the President and each member of the Board for such expenses as the member reasonably incurs in acting as such.

Staff and accommodation

7.—(1) The staff required for the Board are, with the approval of the Executive Office as to numbers, to be provided by the Department.

(2) The staff provided under sub-paragraph (1) must, in particular, include a person to act as the secretary to the Board.

(3) The Department may assign one or more members of its staff to act as a deputy secretary to the Board; and a deputy secretary is entitled to act on behalf of the secretary.

(4) The office accommodation and equipment required for the Board are to be provided by the Department.

Expenses

8. The Department may defray the expenses of the Board to such amount as the Department may determine.

Funding

9.—(1) The Executive Office may make to the Department grants of such amounts as the Executive Office determines for the purpose of funding—

- (a) the costs of exercising the administrative functions of the Board;
- (b) the payment of victims' payments and lump sums, and
- (c) the reimbursing of expenses under regulation 51.

(2) The Board must pay to the Executive Office all sums received by it in the course of, or in connection with, the exercise of the Board's functions.

(3) But sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may direct with the approval of the Department of Finance in Northern Ireland.

(4) Any sums received by the Executive Office under this paragraph must be paid into the Consolidated Fund of Northern Ireland.

Seal

10. The application of the seal of the Board must be authenticated—

- (a) by the signature of the President, or
- (b) by the signature of a person who is authorised under paragraph 5(4) for that purpose.

Evidence

11.—(1) A document purporting to be an instrument issued by the Board and to be duly executed under the Board's seal or signed by or on behalf of the Board is to be received in evidence and, unless the contrary is proved, taken to be such an instrument.

(2) The Board may administer oaths for the purposes of these Regulations.

Panels

12.—(1) A panel other than an appeal panel or a review panel must be constituted to consist of—

- (a) one legal member, or
- (b) three members, including at least one legal member and one ordinary member.

(2) A panel must be constituted in accordance with paragraph (1)(b) if the panel is to make a decision or determination under regulations 5(5), 6(2) or (3), 9(4)(b), 10(4) or 20(3).

(3) Where a panel has been constituted in accordance with paragraph (1)(a), the President may appoint further members such that the panel is constituted in accordance with paragraph (1)(b).

(4) Where a panel consists of one legal member, that member is chair.

(5) Where a panel consists of three members—

- (a) if the panel includes the President of the Board, the President is the chair of the panel;
- (b) in any other case, the President must appoint a legal member as the chair.

(6) A determination or decision of a panel is the determination or decision of the majority of the members of the panel.

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(7) The functions of a panel consisting of one legal member may, where and to the extent the President considers it appropriate, be exercised by a member of staff provided under paragraph 7.

Advisors

13.—(1) The Board may appoint one or more persons to act as advisors to the Board.

(2) A person may be appointed as an advisor only if it appears to the Board that the person has expertise that makes that person a suitable person to provide advice to the Board.

(3) The Board may at any time terminate the appointment of an advisor.

Annual report

14.—(1) The Board must, as soon as practicable after the end of each financial year, send to the Executive Office a report on the exercise of the Board's functions during that year.

(2) The Executive Office must, in the case of each report sent to it under this paragraph, lay a copy of the report before the Northern Ireland Assembly.

(3) In this paragraph, "financial year" means—

- (a) the period beginning with the day on which the Board is established under section 1 and ending with the next 31 March following that date, and
- (b) each successive period of twelve months ending with 31 March.

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 subparagraph (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.

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.

(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.

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.

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.

SCHEDULE 3

Regulation 53

Consequential amendments

Northern Ireland Assembly Disqualification Act 1975

1. In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(2) (disqualifying offices: bodies of which all members are disqualified), at the appropriate place, insert—

“The Victims’ Payments Board”.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

2.—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(3) is amended as follows.

(2) In article 3ZA (disapplication of section 4(2) of, and paragraph 3(3) of Schedule 3 to, the Rehabilitation of Offenders Act 1974)(4)—

(a) at the end of sub-paragraph (a) omit the “or”;

(b) after paragraph (b) insert—

“and

(c) any question asked by or on behalf of the Victims’ Payments Board, where—

(i) an application for payments under the Victims’ Payment Regulations 2020 has been made;

(ii) the question relates to the person whose disablement the application concerns, and

(iii) the question is asked in order to assess whether regulation 6(1) (convictions) of the Victims’ Payment Regulations 2020 excludes the person from entitlement to payments.”.

(3) In Schedule 3 (excepted proceedings), after paragraph 24(5) insert—

“25. Proceedings to determine whether regulation 6(1) (convictions) of the Victims’ Payment Regulations 2020 excludes a person from entitlement to payments under those regulations.”.

The Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979

3.—(1) The Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979(6) is amended as follows.

(2) In article 3A (exclusion from Article 5(2) of the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979)(7), after paragraph (b) insert—

“(c) any question asked by or on behalf of the Victims’ Payments Board, where—

(i) an application for payments under the Victims’ Payment Regulations 2020 has been made;

(2) 1975 c. 25; there are amendments to Part 2 of Schedule 1 not relevant to these Regulation.

(3) S.I. 1975/1023. The Order was revoked in relation to Scotland by S.S.I. 2003/231.

(4) Paragraph 3ZA was inserted by S.I. 2013/1198. There are other amendments but they are not relevant.

(5) Paragraph 24 was inserted by S.I. 2019/1051.

(6) S.R. 1979 No. 195.

(7) Article 3A was inserted by S.R. 2014 No. 27.

- (ii) the question relates to the person whose disablement the application concerns, and
- (iii) the question is asked in order to assess whether regulation 6(1) (convictions) of the Victims' Payment Regulations 2020 excludes the person from entitlement to payments.”.

(3) In Schedule 3 (excepted proceedings), after paragraph 26(8) insert—

“27. Proceedings to determine whether regulation 6(1) (convictions) of the Victims' Payment Regulations 2020 excludes a person from entitlement to payments under those regulations.”

Freedom of Information Act 2000

4. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies in Northern Ireland which are public authorities for the purposes of the Act), at the appropriate place, insert—

“The Victims' Payments Board, in relation to its administrative functions.”

Amendment to Justice (Northern Ireland) Act 2002

5. In Schedule 1 to the Justice (Northern Ireland) Act 2002(9) (listed offices), at the end insert—

“Member of the Victims' Payments Board

President of the Victims' Payments Board”.

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013

6.—(1) The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013(10) is amended as follows.

(2) In Article 4(3) (exclusion of section 4(2)(a) and (b) of the Rehabilitation of Offenders Act 1974), for “paragraph 6(1)” substitute “paragraphs 6(1) or 16”.

(3) In Schedule 1 (proceedings), after paragraph 29(11) insert—

“30. Proceedings to determine whether regulation 6(1) (convictions) of the Victims' Payment Regulations 2020 excludes a person from entitlement to payments under those regulations.”

(4) In Schedule 3 (exclusions of section 4(2)(a) and (b) of the Rehabilitation of Offenders Act 1974), after paragraph 15 insert—

“16. Any question asked by or on behalf of the Victims' Payments Board, where—

- (a) an application for payments under the Victims' Payment Regulations 2020 has been made;
- (b) the question relates to the person whose disablement the application concerns, and
- (c) the question is asked in order to assess whether regulation 6(1) (convictions) of the Victims' Payment Regulations 2020 excludes the person from entitlement to payments.”.

(8) Paragraph 26 was inserted by [S.R. 2014 No. 224](#).

(9) [2002 c. 26](#). There are amendments to Schedule 1 not relevant to these Regulations.

(10) [S.S.I. 2013/50](#).

(11) Paragraph 29 was inserted by [S.S.I. 2013/204](#).

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