

THE PROPOSED NORTHERN IRELAND CRIMINAL INJURIES  
COMPENSATION SCHEME  
2009

The Secretary of State, in exercise of the powers conferred on him by Articles 3 to 8 of the Criminal Injuries Compensation (Northern Ireland) Order 2002, hereby makes the attached Northern Ireland Criminal Injuries Compensation Scheme, a draft thereof having been approved by both Houses of Parliament:

Northern Ireland Office  
1 April 2009

Shaun Woodward  
One of Her Majesty's Principal Secretaries of State

# THE PROPOSED NORTHERN IRELAND CRIMINAL INJURIES COMPENSATION SCHEME (2009)

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## **THE PROPOSED NORTHERN IRELAND CRIMINAL INJURIES COMPENSATION SCHEME (2009)**

1. This Scheme provides for the payment of compensation to, or in respect of, persons who have sustained criminal injury. This Scheme is made by the Secretary of State under the Criminal Injuries Compensation (Northern Ireland) Order 2002. This Scheme shall come into operation on such day or days as the Secretary of State may appoint.

### Administration of the Scheme

2. The Secretary of State is responsible for determining claims for compensation in accordance with this Scheme. The Secretary of State will be responsible for deciding, in accordance with this Scheme, what awards (if any) should be made in individual cases, and how they should be paid. Decisions of the Secretary of State will be open to review and thereafter to appeal in accordance with this Scheme. The general working of the Scheme will be kept under review by the Secretary of State.

3. Appeals against decisions taken on reviews under this Scheme will be determined by adjudicators. Persons appointed as adjudicators are appointed as members of the Criminal Injuries Compensation Appeals Panel for Northern Ireland ("the Panel"). The Secretary of State will appoint one of the adjudicators as Chairman of the Panel. The Secretary of State will also appoint persons as staff of the Panel to administer the provisions of this Scheme relating to the appeal system. There will be no appeal from decisions of the Panel.

4. The designated accounting officer for the Panel must submit a report to the Secretary of State as soon as possible after the end of each financial year, dealing with the discharge of the Panel's functions under this Scheme. The designated accounting officer for the Panel must keep proper accounts and proper records in relation to those accounts, and must prepare a statement of accounts in each financial year in a form directed by the Secretary of State. These statements of accounts must be submitted to the Secretary of State as soon as possible after the end of each financial year.

5. The Panel will advise the Secretary of State on matters on which he seeks its advice, as well as on such other matters and at such times as it considers appropriate. Any advice given by the Panel will be referred to by the designated accounting officer for the Panel in his annual report made under the preceding paragraph.

### Eligibility to apply for compensation

6. Compensation may be paid in accordance with this Scheme:

- (a) to an applicant who has sustained a criminal injury;
- (b) where the victim of a criminal injury has since died, to an applicant who is a qualifying claimant for the purposes of paragraph 38 (compensation in fatal cases).

For the purposes of this Scheme, "applicant" means any person for whose benefit an application for compensation is made, even where it is made on his behalf by another person.

7. No compensation will be paid under this Scheme in the following circumstances:

- (a) in respect of a criminal injury sustained by a person before the coming into operation of this Scheme unless the requirements of paragraph 86 (transitional provision) are satisfied;
- (b) where the applicant has previously lodged any claim for compensation in respect of the same criminal injury under this or any other scheme for the compensation of the victims of violent crime in operation in Northern Ireland; or
- (c) where the criminal injury was sustained before 1 July 1988 and the victim and the assailant were living together at the time as members of the same family.

8. For the purposes of this Scheme, "criminal injury" means one or more personal injuries as described in paragraph 10, being an injury sustained in Northern Ireland and directly attributable to:

- (a) a crime of violence (including arson, fire-raising or an act of poisoning); or
- (b) an offence of trespass on a railway; or
- (c) the apprehension or attempted apprehension of an offender or a suspected offender, the prevention or attempted prevention of an offence, or the giving of help to any constable who is engaged in any such activity.

9. Where, on or after the day on which this paragraph comes into operation, a person sustains a personal injury that is directly attributable to conduct mentioned in paragraph 8, but it cannot be established whether the injury was sustained in Northern Ireland or in the Republic of Ireland, the injury shall be deemed to have been sustained in Northern Ireland if the person was ordinarily resident in Northern Ireland when the injury was sustained.

10. For the purposes of this Scheme, personal injury includes physical injury (including fatal injury), mental injury (that is, a disabling mental illness confirmed by psychiatric diagnosis) and disease (that is, a medically recognised illness or condition). Mental injury or disease may either result directly from the physical injury or from a sexual offence or may occur without any physical injury. Compensation will not be payable for mental injury or disease without physical injury, or in respect of a sexual offence, unless the applicant:

- (a) was put in reasonable fear of immediate physical harm to his own person; or
- (b) had a close relationship of love and affection with another person at the time when that person sustained physical and/or mental injury (including fatal injury) directly attributable to conduct within paragraph 8(a), (b) or (c), and
  - (i) that relationship still subsists (unless the victim has since died), and
  - (ii) the applicant either witnessed and was present on the occasion when the other person sustained the injury, or was closely involved in its immediate aftermath; or
- (c) in a claim arising out of a sexual offence, was the non-consenting victim of that offence (which does not include a victim who consented in fact but was deemed in law not to have consented); or
- (d) being a person employed in the business of a railway, either witnessed and was present on the occasion when another person sustained physical (including fatal) injury directly attributable to an offence of trespass on a railway, or was closely involved in its immediate aftermath. Paragraph 13 below does not apply where mental illness is sustained as described in this sub-paragraph.

11. It is not necessary for the assailant to have been convicted of a criminal offence in connection with the injury. Moreover, even where the injury is attributable to conduct within paragraph 8 in respect of which the assailant cannot be convicted of an offence by reason of age, insanity or diplomatic immunity, the conduct may nevertheless be treated as constituting a criminal act.

12. A personal injury is not a criminal injury for the purposes of this Scheme where the injury is attributable to the use of a vehicle, except where the vehicle was used so as deliberately to inflict, or attempt to inflict, injury on any person.

13. Where an injury is sustained accidentally by a person who is engaged in:

- (a) any of the law-enforcement activities described in paragraph 8(c), or
- (b) any other activity directed to containing, limiting or remedying the consequences of a crime,

compensation will not be payable unless the person injured was, at the time he sustained the injury, taking an exceptional risk which was justified in all the circumstances.

#### Eligibility to receive compensation

14. The Secretary of State may withhold or reduce an award where he considers that:
- (a) the applicant failed to take, without delay, all reasonable steps to inform the police, or other body or person considered by the Secretary of State to be appropriate for the purpose, of the circumstances giving rise to the injury; or
  - (b) the applicant failed to co-operate with the police or other authority in attempting to bring the assailant to justice; or
  - (c) the applicant has failed to give all reasonable assistance to the Secretary of State or other body or person in connection with the application; or
  - (d) the conduct of the applicant before, during or after the incident giving rise to the application makes it inappropriate that a full award or any award at all be made; or
  - (e) the applicant's character as shown by his criminal convictions (excluding convictions spent under the Rehabilitation of Offenders (Northern Ireland) Order 1978 at the date of application or death) or by evidence available to the Secretary of State makes it inappropriate that a full award or any award at all be made.

15. In considering the issue of conduct under paragraph 14(d) above, the Secretary of State may withhold or reduce an award where he considers that excessive consumption of alcohol or use of illicit drugs by the applicant contributed to the circumstances which gave rise to the injury in such a way as to make it inappropriate that a full award, or any award at all, be made.

16. Where the victim has died since sustaining the injury (whether or not in consequence of it), paragraphs 14 and 15 will apply in relation both to the deceased and to any applicant for compensation under paragraphs 38-45 (fatal awards). In such a case the convictions excluded as spent under paragraph 14(e) are those convictions of the victim which were spent at the date of his death, and those convictions of the applicant which were spent at the date of the application.

17. The Secretary of State will make an award only where he is satisfied:

- (a) that there is no likelihood that an assailant would benefit if an award were made; or
- (b) where the applicant is under 18 years of age when the application is determined, that it would not be against his interest for an award to be made.

18. Where a case is not ruled out under paragraph 7(c) (injury sustained before 1 July 1988) but at the time when the injury was sustained, the victim and any assailant (whether or not that assailant actually inflicted the injury) were living in the same household as members of the same family, an award will be withheld unless:

- (a) the assailant has been prosecuted in connection with the offence, except where the Secretary of State considers that there are practical, technical or other good reasons why a prosecution has not been brought; and
- (b) in the case of violence between adults in the family, the Secretary of State is satisfied that the applicant and the assailant stopped living in the same household before the application was made and are unlikely to share the same household again.

For the purposes of this paragraph, a man and woman living together as husband and wife or as same sex partners will be treated as members of the same family.

#### Consideration of applications

19. An application for compensation under this Scheme in respect of a criminal injury ("injury" hereafter in this Scheme) must be made in writing on a form obtainable from the Secretary of State. It should be made as soon as

possible after the incident giving rise to the injury and must be received by the Secretary of State within two years of the date of the incident, or where the applicant is under the age of eighteen at the date of the incident, within two years of the applicant's eighteenth birthday. The Secretary of State may waive this time limit where he considers that, by reason of the particular circumstances of the case, it is reasonable and in the interests of justice to do so.

20. It will be for the applicant to make out his case including, where appropriate:
- (a) making out his case for a waiver of the time limit in the preceding paragraph; and
  - (b) satisfying the Secretary of State that an award should not be reconsidered, withheld or reduced under any provision of this Scheme.

Where an applicant is represented, the costs of representation will not be met by the Secretary of State.

21. The Secretary of State may make such directions and arrangements for the conduct of an application, including the imposition of conditions, as he considers appropriate in all the circumstances. The standard of proof to be applied by the Secretary of State in all matters before him will be the balance of probabilities.

22. Where the Secretary of State considers that an examination of the injury is required before a decision can be reached, the Secretary of State will make arrangements for such an examination by a duly qualified medical practitioner. Reasonable expenses incurred by the applicant in that connection will be met by the Secretary of State.

23. A Guide to the operation of this Scheme will be published by the Secretary of State. In addition to explaining the procedures for dealing with applications, the Guide will set out, where appropriate, the criteria by which decisions will normally be reached. It will also give details of any body providing advice, assistance and support to applicants which has been designated for the time being under article 11 of the Criminal Injuries Compensation (Northern Ireland) Order 2002.

#### Types and limits of compensation

24. Subject to the other provisions of this Scheme, the compensation payable under an award will be:
- (a) a standard amount of compensation determined by reference to the nature of the injury in accordance with paragraphs 27-30;
  - (b) where the applicant has lost earnings or earning capacity for longer than 28 weeks as a direct consequence of the injury (other than injury leading to his death), an additional amount in respect of such loss of earnings, calculated in accordance with paragraphs 31-35;
  - (c) where the applicant has lost earnings or earning capacity for longer than 28 weeks as a direct consequence of the injury (other than injury leading to his death) or, if not normally employed, is incapacitated to a similar extent, an additional amount in respect of any special expenses, calculated in accordance with paragraphs 36-37;
  - (d) where the victim has died in consequence of the injury, the amount or amounts calculated in accordance with paragraphs 38-44;
  - (e) where the victim has died otherwise than in consequence of the injury, a supplementary amount calculated in accordance with paragraph 45.

25. For awards which are in excess of £500,000, a staged payment arrangement may apply. For these purposes, where the victim has died in consequence of the injury, any application made by the victim before his death and any application made by any qualifying claimant or claimants after his death will be regarded as being in respect of the same injury.

26. The injury, or any exacerbation of a pre-existing condition, must be sufficiently serious to qualify for compensation equal at least to the minimum award under this Scheme in accordance with paragraph 27, but lesser compensation may be paid if an award is reduced under paragraphs 14, 15, or 16 of the Scheme.

### Standard amount of compensation

27. The standard amount of compensation will be the amount shown in respect of the relevant description of injury in the Tariff, which sets out:

- (a) a scale of fixed levels of compensation;
- (b) the level and corresponding amount of compensation for each description of injury; and
- (c) qualifying notes.

Level 1 represents the minimum award under this Scheme, and Level 25 represents the maximum award for any single description of injury. Where the injury has the effect of accelerating or exacerbating a pre-existing condition, the compensation awarded will reflect only the degree of acceleration or exacerbation.

28. Minor multiple injuries will be compensated in accordance with *Note 10* to the Tariff. The standard amount of compensation for more serious but separate multiple injuries will, unless expressly provided for otherwise in the Tariff, be calculated as:

- (a) the Tariff amount for the highest-rated description of injury; plus
- (b) 30 per cent of the Tariff amount for the second highest-rated description of injury; plus
- (c) 15 per cent of the Tariff amount for the third highest-rated description of injury; plus
- (d) 10 per cent of the Tariff amount for any remaining injuries.

29. Where the Secretary of State considers that any description of injury for which no provision is made in the Tariff is sufficiently serious to qualify for at least the minimum award under this Scheme, he shall consult the Panel about the possible inclusion of that description of injury in the Tariff and also the amount of compensation for which it should qualify. Any such consultation with the Panel must not refer to the circumstances of any individual application for compensation under this Scheme other than the relevant medical reports.

30. Where an application for compensation is made in respect of an injury for which no provision is made in the Tariff and the Secretary of State consults the Panel under the preceding paragraph, an interim award may be made of up to half the amount of compensation for which it is recommended that such description of injury should qualify if subsequently included in the Tariff. No part of such an interim award will be recoverable if the injury is not subsequently included in the Tariff or, if included, qualifies for less compensation than the interim award paid.

### Compensation for loss of earnings

31. Where the applicant has lost earnings or earning capacity for longer than 28 weeks as a direct consequence of the injury (other than injury leading to his death), no compensation in respect of loss of earnings or earning capacity will be payable for the first 28 weeks of loss. The period of loss for which compensation may be payable will begin after 28 weeks incapacity for work and continue for such period as the Secretary of State may determine.

32. For a period of loss ending before or continuing to the time the claim is assessed, the net loss of earnings or earning capacity will be calculated on the basis of:

- (a) the applicant's emoluments (being any profit or gain accruing from an office or employment) at the time of the injury and what those emoluments would have been during the period of loss; and
- (b) any emoluments which have become payable to the applicant in respect of the whole or part of the period of loss, whether or not as a result of the injury; and
- (c) any changes in the applicant's pension rights; and

- (d) in accordance with paragraphs 46-48 (reductions to take account of other payments), any social security benefits, insurance payments and pension which have become payable to the applicant during the period of loss; and
- (e) any other pension which has become payable to the applicant during the period of loss, whether or not as a result of the injury.

33. Where, at the time the claim is assessed, the Secretary of State considers that the applicant is likely to suffer continuing loss of earnings and/or earning capacity, an annual rate of net loss (the multiplicand) or, where appropriate, more than one such rate will be calculated on the basis of:

- (a) the current rate of net loss calculated in accordance with the preceding paragraph; and
- (b) such future rate or rates of net loss (including changes in the applicant's pension rights) as the Secretary of State may determine; and
- (c) the Secretary of State's assessment of the applicant's future earning capacity; and
- (d) in accordance with paragraphs 46-48 (reductions to take account of other payments), any social security benefits, insurance payments and pension which will become payable to the applicant in future; and
- (e) any other pension which will become payable to the applicant in future, whether or not as a result of the injury.

The compensation payable in respect of each period of continuing loss will be a lump sum, which is the product of that multiplicand and an appropriate multiplier. When the loss does not start until a future date, the lump sum will be discounted to provide for the present value of the money. The multipliers, discounts and life expectancies to be applied are those contained in the Government Actuary's Department's Actuarial Tables for Personal Injury and Fatal Accident Cases in force at the time of the incident. Any rate of return prescribed by the Lord Chancellor under section 1 of the Damages Act 1996 shall be applied in discounting the lump sum.

34. Where the Secretary of State considers that the approach in the preceding paragraph is impracticable, the compensation payable in respect of continuing loss of earnings and/or earning capacity will be such other lump sum as he may determine.

35. Any rate of net loss of earnings or earning capacity (before any reduction in accordance with this Scheme) which is to be taken into account in calculating any compensation payable under paragraphs 31-34 must not exceed one and a half times the gross average industrial earnings in Northern Ireland at the time of assessment according to the latest figures published by the Department of Enterprise, Trade and Investment.

#### Compensation for special expenses

36. Where the applicant has lost earnings or earning capacity for longer than 28 weeks as a direct consequence of the injury (other than injury leading to his death), or, if not normally employed, is incapacitated to a similar extent, additional compensation may be payable in respect of any special expenses incurred by the applicant from the date of the injury for:

- (a) loss of or damage to property or equipment belonging to the applicant on which he relied as a physical aid, where the loss or damage was a direct consequence of the injury;
- (b) costs (other than by way of loss of earnings or earning capacity) associated with treatment for the injury provided by, or under arrangements with, a Health and Social Services Board or any other health services body within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1991;
- (c) the cost of private health treatment for the injury, but only where the Secretary of State considers that, in all the circumstances, both the private treatment and its cost are reasonable;
- (d) the reasonable cost, to the extent that it falls to the applicant, of

- (i) special equipment, and/or
- (ii) adaptations to the applicant's accommodation, and/or
- (iii) care, whether in a residential establishment or at home, which are not provided or available free of charge from a health services body such as mentioned in sub-paragraph (b) or any other agency, provided that the Secretary of State considers such expense to be necessary as a direct consequence of the injury; and
- (iv) the cost of the Office of Care and Protection, the curator bonis or the Court of Protection.

In the case of (d)(iii), the expense of unpaid care provided at home by a relative or friend of the victim will be compensated by having regard to the level of care required, the cost of a carer, assessing the carer's loss of earnings or earning capacity and/or additional personal and living expenses, as calculated on such basis as the Secretary of State considers appropriate in all the circumstances. Where the foregoing method of assessment is considered by the Secretary of State not to be relevant in all the circumstances, the compensation payable will be such sum as he may determine having regard to the level of care provided.

37. Where, at the time the claim is assessed, the Secretary of State is satisfied that the need for any of the special expenses mentioned in the preceding paragraph is likely to continue, he will determine the annual cost and select an appropriate multiplier in accordance with paragraph 33 (future loss of earnings), taking account of any other factors and contingencies which appear to him to be relevant.

#### Compensation in fatal cases

38. Where the victim has died in consequence of the injury, no compensation other than funeral expenses will be payable for the benefit of his estate. Such expenses will, subject to the application of paragraphs 14 and 15 in relation to the actions, conduct and character of the deceased, be payable up to an amount considered reasonable by the Secretary of State, even where the person bearing the cost of the funeral is otherwise ineligible to claim under this Scheme.

39. Where the victim has died since sustaining the injury, compensation may be payable, subject to paragraphs 14-16 (actions, conduct and character), to any claimant (a "qualifying claimant") who at the time of the deceased's death was:

- (a) the partner of the deceased, being only, for these purposes:
  - (i) a person who was living together with the deceased as husband and wife or as a same sex partner in the same household immediately before the date of death and who, unless formally married to him, had been so living throughout the two years before that date, or
  - (ii) a spouse or former spouse of the deceased who was financially supported by him immediately before the date of death; or
- (b) a natural parent of the deceased, or a person who was not the natural parent, provided that he was accepted by the deceased as a parent of his family; or
- (c) a natural child of the deceased, or a person who was not the natural child, provided that he was accepted by the deceased as a child of his family or was dependent on him.

Where the victim has died in consequence of the injury, compensation may be payable to a qualifying claimant under paragraphs 40-43 (standard amount of compensation, dependency, and loss of parent). Where the victim has died otherwise than in consequence of the injury, and before title to the award has been vested in the victim (see paragraph 51), no standard amount or other compensation will be payable to the estate or to a qualifying claimant other than under paragraph 45 (supplementary compensation).

40. A person who was criminally responsible for the death of a victim may not be a qualifying claimant. In cases where there is only one qualifying claimant, the standard amount of compensation will be Level 13 of the Tariff, save

that where a claims officer is aware of the existence of one or more other persons who would in the event of their making a claim become a qualifying claimant, the standard amount of compensation will be level 10 of the tariff. Where there is more than one qualifying claimant, the standard amount of compensation for each claimant will be Level 10 of the Tariff. A former spouse of the deceased is not a qualifying claimant for the purposes of this paragraph

41. Additional compensation calculated in accordance with the following paragraph may be payable to a qualifying claimant where the Secretary of State is satisfied that the claimant was financially or physically dependent on the deceased. A financial dependency will not be established where the deceased's only normal income was from:

- (a) United Kingdom social security benefits; or
- (b) social security benefits or similar payments from the funds of other countries.

42. The amount of compensation payable in respect of dependency will be calculated on a basis similar to paragraphs 32-35 (loss of earnings) and paragraph 36 (d) (iii) (cost of care). The period of loss will begin from the date of the deceased's death and continue for such period as the Secretary of State may determine, with no account being taken, where the qualifying claimant was formally married to the deceased, of remarriage or prospects of remarriage. In assessing the dependency, the Secretary of State will take account of the qualifying claimant's income and emoluments (being any profit or gain accruing from an office or employment), if any. Where the deceased had been living in the same household as the qualifying claimant before his death, the Secretary of State will, in calculating the multiplicand, make such proportional reduction as he considers appropriate to take account of the deceased's own personal and living expenses.

43. Where a qualifying claimant was under 18 years of age at the time of the deceased's death and was dependent on him for parental services, the following additional compensation may also be payable:

- (a) a payment for loss of that parent's services at an annual rate of Level 5 of the Tariff; and
- (b) such other payments as the Secretary of State considers reasonable to meet other resultant losses.

Each of these payments will be multiplied by an appropriate multiplier selected by the Secretary of State in accordance with paragraph 33 (future loss of earnings), taking account of the period remaining before the qualifying claimant reaches age 18 and of any other factors and contingencies which appear to the Secretary of State to be relevant.

44. Application may be made under paragraphs 38-43 (compensation in fatal cases) even where an award had been made to the victim in respect of the same injury before his death. Any such application will be subject to the conditions set out in paragraphs 58-59 for the re-opening of cases, and any compensation payable to the qualifying claimant or claimants, except payments made under paragraphs 38 and 40 (funeral expenses and standard amount of compensation), will be reduced by the amount paid to the victim.

45. Where a victim who would have qualified for additional compensation under paragraph 24(b) (loss of earnings) and/or paragraph 24(c) (special expenses) has died, otherwise than in consequence of the injury, before such compensation was awarded, supplementary compensation under this paragraph may be payable to a qualifying claimant who was financially dependent on the deceased within the terms of paragraph 41 (dependency), whether or not a relevant application was made by the victim before his death. Payment may be made in accordance with paragraph 32 in respect of the victim's loss of earnings (except for the first 28 weeks of the victim's loss of earnings and/or earning capacity) and in accordance with paragraph 36 in respect of any special expenses incurred by the victim before his death.

#### Effect on awards of other payments

46. All awards payable under this Scheme, except those payable under paragraphs 27, 28, 40 and 43(a) (Tariff-based amounts of compensation), will be subject to a reduction to take account of social security benefits (or other state benefits) or insurance payments made by way of compensation for the same contingency. The reduction will be applied to those categories or periods of loss or need for which additional or supplementary compensation is payable, including compensation calculated on the basis of a multiplicand or annual cost. The amount of the reduction will be the full value of any relevant payment which the applicant has received, or to which he has or may have any present or future entitlement, by way of:

- (a) United Kingdom social security benefits (or other state benefits);
- (b) social security benefits or similar payments from the funds of other countries;
- (c) payments under insurance arrangements, including, where a claim is made under paragraphs 36(c) and (d) and 37 (special expenses), insurance personally effected, paid for and maintained by the personal income of the victim or, in the case of a person under 18 years of age, by his parent. Insurance so personally effected will otherwise be disregarded.

In assessing the value of any such benefits and payments, account may be taken of any income tax liability likely to reduce their value.

47. Where, in the opinion of the Secretary of State, an applicant may be or may become eligible for any of the benefits and payments mentioned in the preceding paragraph, an award may be withheld until the applicant has taken such steps as the Secretary of State considers reasonable to claim them.

48. Where the victim is alive, any compensation payable under paragraphs 31-35 (loss of earnings) will be reduced to take account of any pension accruing as a result of the injury. Where the victim has died in consequence of the injury, any compensation payable under paragraphs 41-42 (dependency) will similarly be reduced to take account of any pension payable, as a result of the victim's death, for the benefit of the applicant. Where such pensions are taxable, one half of their value will be deducted, but they will otherwise be deducted in full (where, for example, a lump sum payment not subject to income tax is made). For the purposes of this paragraph, "pension" means any payment payable as a result of the injury or death in pursuance of pension or any other rights connected with the victim's employment, and includes any gratuity of that kind and similar benefits payable under insurance policies paid for by the victim's employers. Pension rights accruing solely as a result of payments by the victim or a dependant will be disregarded.

49. An award payable under this Scheme will be reduced by the full value of any payment in respect of the same injury which the applicant has received by way of:

- (a) any criminal injury compensation award made under or pursuant to arrangements in force at the relevant time in Great Britain;
- (b) any compensation award or similar payment from the funds of other countries;
- (c) any award where:
  - (i) a civil court has made an order for the payment of damages;
  - (ii) a claim for damages and/or compensation has been settled on terms providing for the payment of money;
  - (iii) payment of compensation has been ordered by a criminal court in respect of personal injuries.

In the case of (a) or (b), the reduction will also include the full value of any payment to which the applicant has any present or future entitlement.

50. Where a person in whose favour an award under this Scheme is made subsequently receives any other payment in respect of the same injury in any of the circumstances mentioned in the preceding paragraph, but the award made under this Scheme was not reduced accordingly, he will be required to repay the Secretary of State in full up to the amount of the other payment.

#### Determination of applications and payment of awards

51. An application for compensation under this Scheme will be determined by the Secretary of State, and written notification of the decision will be sent to the applicant or his representative. The Secretary of State may make such directions and arrangements, including the imposition of conditions, in connection with the acceptance, settlement or trust, payment, repayment and/or administration of an award as he considers appropriate in all the circumstances. Any

such directions and arrangements, including any settlement or trust may be made having regard to the interests of the applicant (whether or not a minor or a person under an incapacity) as well as to considerations of public policy (including the desirability of providing for the return of any parts of an award which may prove to be surplus to the purposes for which they were awarded) on terms which do not exhaust the beneficial interest in the award and which provide, either expressly or by operation of law, for the balance of any trust fund to revert to the Secretary of State. Subject to any such arrangements, including the special procedures in paragraph 53 (purchase of annuities) and paragraph 54 (minors) and to paragraphs 55-57 (reconsideration of decisions), title to an award offered will be vested in the applicant when the Secretary of State has received notification in writing that he accepts the award.

52. Compensation will normally be paid as a single lump sum, but one or more interim payments may be made where the Secretary of State considers this appropriate. Once an award has been paid to an applicant or his representative, the following paragraph does not apply.

53. Where prior agreement is reached between the Secretary of State and the applicant or his representative, an award may consist in whole or in part of an annuity or annuities, purchased for the benefit of the applicant or to be held on trust for his benefit. Once that agreement is reached, the Secretary of State will take the instructions of the applicant or his representative as to which annuity or annuities should be purchased. Any expenses incurred will be met from the award.

54. Where the applicant is a minor, the Secretary of State will hold the award in trust for the applicant until the applicant attains the age of eighteen.

#### Reconsideration of decisions

55. A decision made by the Secretary of State (other than a decision made in accordance with a direction by adjudicators on determining an appeal under paragraph 79) may be reconsidered at any time before actual payment of a final award where there is new evidence or a change in circumstances. In particular, the fact that an interim payment has been made does not preclude the Secretary of State from reconsidering issues of eligibility for an award.

56. Where an applicant has already been sent written notification of the decision on his application, he will be sent written notice that the decision is to be reconsidered, and any representations which he sends to the Secretary of State within 30 days of the date of such notice will be taken into account in reconsidering the decision. Whether or not any such representations are made, the applicant will be sent written notification of the outcome of the reconsideration, and where the original decision is not confirmed, such notification will include the revised decision.

57. Where a decision to make an award has been made by the Secretary of State in accordance with a direction by adjudicators on determining an appeal under paragraph 79, but before the award has been paid the Secretary of State considers that there is new evidence or a change in circumstances which justifies reconsidering whether the award should be withheld or the amount of compensation reduced, the Secretary of State will refer the case to the Panel for rehearing under paragraph 84.

#### Re-opening of cases

58. A decision made by the Secretary of State and accepted by the applicant, or a direction by adjudicators, will normally be regarded as final, except where an appeal is reheard under paragraphs 81-84. The Secretary of State may, however, subsequently re-open a case where there has been such a material change in the victim's medical condition as a consequence of the injury that injustice would occur if the original assessment of compensation were allowed to stand, or where he has since died in consequence of the injury.

59. A case will not be re-opened more than two years after the date of the final decision unless the Secretary of State is satisfied, on the basis of evidence presented in support of the application to re-open the case, that the renewed application can be considered without a need for further extensive enquiries.

#### Review of decisions

60. An applicant may seek a review of any decision under this Scheme by the Secretary of State:

- (a) not to waive the time limit in paragraph 19 (application for compensation) or paragraph 61 (application for review); or
- (b) not to re-open a case under paragraphs 58-59; or
- (c) to withhold an award, including such decision made on reconsideration of an award under paragraphs 55-56; or
- (d) to make an award, including a decision to make a reduced award whether or not on reconsideration of an award under paragraphs 55-56; or
- (e) to seek repayment of an award under paragraph 50.

An applicant may not, however, seek the review of any such decision where the decision was itself made on a review under paragraph 62 and either the applicant did not appeal against it or the appeal was not referred for determination on an oral hearing, or where the decision was made in accordance with a direction by adjudicators on determining an appeal under paragraph 79.

61. An application for the review of a decision by the Secretary of State must be made in writing to the Secretary of State and must be supported by reasons together with any relevant additional information. It must be received by the Secretary of State within 90 days of the date of the decision to be reviewed, but this time limit may, in exceptional circumstances, be waived where the Secretary of State considers that:

- (a) any extension requested by the applicant and received within the 90 days is based on good reasons; and
- (b) it would be in the interests of justice to do so.

62. When the Secretary of State considers an application for review, he will reach his decision in accordance with the provisions of this Scheme applying to the original application, and he will not be bound by any earlier decision either as to the eligibility of the applicant for an award or as to the amount of an award. The applicant will be sent written notification of the outcome of the review, giving reasons for the review decision, and the Secretary of State will, unless it receives notice of an appeal, ensure that a determination of the original application is made in accordance with the review decision.

#### Appeals against review decisions

63. An applicant who is dissatisfied with a decision taken on a review under paragraph 62 may appeal against the decision by giving written notice of appeal to the Panel on a form obtainable from the Secretary of State. Such notice of appeal must be supported by reasons for the appeal together with any relevant additional material which the appellant wishes to submit, and must be received by the Panel within 90 days of the date of the review decision. The Panel will send to the Secretary of State a copy of the notice of appeal and supporting reasons which it receives and of any other material submitted by the appellant. Where the applicant is represented for the purposes of the appeal, the costs of representation will not be met by the Secretary of State or the Panel.

64. A member of the staff of the Panel may, in exceptional circumstances, waive the time limit in the preceding paragraph where he considers that:

- (a) any extension requested by the appellant and received within the 90 days is based on good reasons; and
- (b) it would be in the interests of justice to do so.

Where, on considering a request to waive the time limit, a member of the staff of the Panel does not waive it, he will refer the request to the Chairman of the Panel or to another adjudicator nominated by the Chairman to decide requests for waiver, and a decision by the adjudicator concerned not to waive the time limit will be final. Written notification of the outcome of the waiver request will be sent to the appellant and to the Secretary of State, giving reasons for the decision where the time limit is not waived.

65. Where the Panel receives notice of an appeal against a review decision relating to a decision mentioned in paragraph 60 (a) or (b), the appeal will be dealt with in accordance with paragraphs 68-70 (appeals concerning time limits and reopening of cases). Where the Panel receives notice of an appeal against a review decision relating to a decision mentioned in paragraph 60(c), (d) or (e), the appeal will be dealt with in accordance with paragraphs 71-73 (appeals concerning awards) and may under those provisions be referred for an oral hearing in accordance with paragraphs 74-80. The Panel may publish information in connection with individual appeals, but such information must not identify any appellant or other person appearing at an oral hearing or referred to during an appeal, or enable identification to be made of any such person without that person's consent.

66. The standard of proof to be applied by the Panel in all matters before it will be the balance of probabilities. It will be for the appellant to make out his case including, where appropriate:

- (a) making out his case for a waiver of the time limit in paragraph 63 (time limit for appeals); and
- (b) satisfying the adjudicator or adjudicators responsible for determining his appeal that an award should not be reconsidered, withheld or reduced under any provision of this Scheme. Subject to paragraph 80 (determination of appeal in appellant's absence), the adjudicator or adjudicators concerned must ensure, before determining an appeal, that the appellant has had an opportunity to submit representations on any evidence or other material submitted by or on behalf of the Secretary of State.

67. The Panel may make such arrangements for the inspection of the injury as it considers appropriate. Reasonable expenses incurred by the appellant in that connection will be met by the Panel.

#### Appeals concerning time limits and re-opening of cases

68. The Chairman of the Panel or another adjudicator nominated by him will determine any appeal against a decision taken on a review:

- (a) not to waive the time limit in paragraph 19 (application for compensation) or paragraph 61 (application for review); or
- (b) not to re-open a case under paragraphs 58-59.

Where the appeal concerns a decision not to re-open a case and the application for re-opening was made more than two years after the date of the final decision, the adjudicator must be satisfied that the renewed application can be considered without a need for further extensive enquiries by the Secretary of State.

69. In determining an appeal under the preceding paragraph, the adjudicator will allow the appeal where he considers it appropriate to do so. Where he dismisses the appeal, his decision will be final. Written notification of the outcome of the appeal, giving reasons for the decision, will be sent to the appellant and to the Secretary of State.

70. Where the adjudicator allows an appeal in accordance with the preceding paragraph, the Secretary of State shall:

- (a) in a case where the appeal was against a decision not to waive the time limit in paragraph 19, arrange for the application for compensation to be dealt with under this Scheme as if the time limit had been waived by the Secretary of State;
- (b) in a case where the appeal was against a decision not to waive the time limit in paragraph 61, conduct a review under paragraph 62;
- (c) in a case where the appeal was against a decision not to re-open a case, re-open the case under paragraphs 58-59.

#### Appeals concerning awards

71. A member of the staff of the Panel may refer for an oral hearing in accordance with paragraphs 74-80 any appeal against a decision taken on a review:

- (a) to withhold an award, including such decision made on reconsideration of an award under paragraphs 55-56; or
- (b) to make an award, including a decision to make a reduced award whether or not on reconsideration of an award under paragraphs 55-56; or
- (c) to seek repayment of an award under paragraph 50.

A request for an oral hearing in such cases may also be made by the Secretary of State.

72. Where a member of the staff of the Panel does not refer an appeal for an oral hearing under the preceding paragraph, he will refer it to an adjudicator. The adjudicator will refer the appeal for determination on an oral hearing in accordance with paragraphs 74-80 where, on the evidence available to him, he considers:

- (a) in a case where the review decision was to withhold an award on the ground that the injury was not sufficiently serious to qualify for an award equal to at least the minimum award payable under this Scheme, that an award in accordance with this Scheme could have been made; or
- (b) in any other case, that there is a dispute as to the material facts or conclusions upon which the review decision was based and that a different decision in accordance with this Scheme could have been made.

He may also refer the appeal for determination on an oral hearing in accordance with paragraphs 74-80 where he considers that the appeal cannot be determined on the basis of the material before him or that for any other reason an oral hearing would be desirable.

73. Where an appeal is not referred under paragraphs 71 or 72 for an oral hearing, the adjudicator's dismissal of the appeal will be final and the decision taken on the review will stand. Written notification of the dismissal of the appeal, giving reasons for the decision, will be sent to the appellant and to the Secretary of State.

#### Oral hearing of appeals

74. Where an appeal is referred for determination on an oral hearing, the hearing will take place before at least two adjudicators. Where the referral was made by an adjudicator under paragraph 72, that adjudicator will not take part in the hearing. On application by the appellant, pending determination, the Chairman or an adjudicator nominated by him may direct that an interim payment be made. Subject to the provisions of this Scheme, the procedure to be followed for any particular appeal will be a matter for the adjudicators hearing the appeal.

75. Written notice of the date proposed for the oral hearing will normally be sent to the appellant and the Secretary of State at least 21 days beforehand. Any documents to be submitted to the adjudicators for the purposes of the hearing by the appellant, or by or on behalf of the Secretary of State, will be made available at the hearing, if not before, to the Secretary of State or the appellant respectively.

76. Where a friend of the applicant or a legal adviser or a representative of any body designated under article 11 of the Criminal Injuries Compensation (Northern Ireland) Order 2002 wishes to assist the appellant in presenting his case at the hearing, such a person may do so. The costs of representation by a friend or legal adviser will not be met by the Secretary of State or the Panel. The services of a representative of a body designated under article 11 of the Criminal Injuries Compensation (Northern Ireland) Order 2002 will be free of charge to the appellant. The adjudicators may, however, direct the Panel to meet reasonable expenses incurred by the appellant and any person who attends to give evidence at the hearing.

77. The procedure at hearings will be as informal as is consistent with the proper determination of appeals. The adjudicators will not be bound by any rules of evidence which may prevent a court from admitting any document or other matter or statement in evidence. The appellant, the Secretary of State and the adjudicators may call witnesses to give evidence and may cross-examine them.

78. Hearings will take place in private. The Panel may, however, subject to the consent of the appellant, give permission for the hearing to be attended by observers such as representatives of the press, radio and television. Any such permission will be subject to written undertakings being given:

- (a) that the identity of the appellant and of any other persons appearing at the hearing or referred to during the appeal will be kept confidential and will not be disclosed in any account of the proceedings which is broadcast or in any way published without that person's consent; and
- (b) that no material will be disclosed or in any other way published from which those identities could be discovered without the consent of the subject.

79. Where the adjudicators adjourn the hearing, the Secretary of State will, if the adjudicators so recommend, make an interim payment. Where the only issue remaining is the determination of the amount of compensation, the adjudicators may remit the application for final determination by one of themselves in the absence of the appellant, but subject to the right of the appellant to have a further oral hearing if not satisfied with that determination, in which the adjudicator who made that determination will not take part. The determination of the appeal by the adjudicators will, where necessary, contain such declarations as they think fit as to the decision to be made by the Secretary of State on the application for compensation in accordance with the relevant provisions of this Scheme. Where they are of the opinion that the appeal was frivolous or vexatious, the adjudicators may reduce the amount of compensation to be awarded by such amount as they consider appropriate. The appellant and the Secretary of State will be informed of the adjudicators' determination of the appeal and the reasons for it, normally at the end of the hearing, but otherwise by written notification as soon as is practicable thereafter. On receiving notification of the determination of the appeal, the Secretary of State will deal with the application for compensation in accordance with the declarations of the adjudicators.

80. Adjudicators may determine an appeal on the available evidence in the absence of an appellant when they are satisfied that

- (a) he has so requested, or agreed; or
- (b) he has failed to attend a hearing and has given no reasonable excuse for his non-attendance; or
- (c) he is at the time of the hearing detained in custody or in hospital and is likely to remain so for a period of at least 6 months; or
- (d) he is not living in Northern Ireland

and it would not be against the interests of justice to do so.

#### Rehearing of appeals

81. Where an appeal is determined in the appellant's absence, he may apply to the Panel in writing for his appeal to be reheard, giving the reasons for his non-attendance or otherwise why it should be reheard. Any such application must be received by the Panel within 30 days of the date of notification to the appellant of the outcome of the hearing which he did not attend. The Panel will send a copy of the application to the Secretary of State.

82. A member of the staff of the Panel may waive the time limit in the preceding paragraph where he considers that it would be in the interests of justice to do so. Where he does not waive the time limit, he will refer the application to the Chairman of the Panel or to another adjudicator nominated by the Chairman to decide such applications, and a decision by the adjudicator concerned not to waive the time limit will be final. Written notification of the waiver decision will be sent to the appellant and to the Secretary of State, giving reasons for the decision where the time limit is not waived.

83. Where a member of the staff of the Panel considers that there are good reasons for an appeal determined in the appellant's absence to be reheard, he will refer it for a rehearing. Where he does not refer it for a rehearing, he will refer the application to the Chairman of the Panel or to another adjudicator nominated by the Chairman to decide such applications, and a decision by the adjudicator concerned not to rehear the appeal will be final. Written notification of

the decision on the application for a rehearing will be sent to the appellant and to the Secretary of State, giving reasons for the decision where the application is refused.

84. Where an appeal is to be reheard, any adjudicator or adjudicators who determined the appeal originally will not take part in the rehearing, and paragraphs 66 (onus on appellant), 67 (inspection of injury), and 74-80 (oral hearings) will apply.

#### Implementation and transitional provisions

85. Notwithstanding the provisions of paragraph 7, compensation may be paid in accordance with this Scheme in respect of a criminal injury sustained by a person before the coming into operation of this Scheme where—

- (a) that person sustained the injury as the victim of a sexual offence when that person was under the age of 18;
- (b) a claim is made in respect of the injury under this Scheme;
- (c) when the claim is made, the time limits set out in article 5(5) of, and paragraph 2(2) and 3(2) of Schedule 2 to, the Criminal Injuries (Compensation) (Northern Ireland) Order 1988 for claiming compensation for the injury under that Order or previous statutory provisions relating to compensation for criminal injury have expired;
- (d) any earlier claim for compensation in respect of the injury under that Order was refused because it was made after the expiry of the time limits set out in article 5(5) of that Order;
- (e) any earlier claim for compensation in respect of the injury under the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 or the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968 was refused because it was made after the expiry of the time limits set out in that Order or that Act or in paragraph 2(2) and 3(2) of Schedule 2 to the Criminal Injuries (Compensation) (Northern Ireland) Order 1988; and
- (f) had that person made a claim for compensation in respect of the injury under the Criminal Injuries (Compensation) (Northern Ireland) Order 1988, the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 or the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968 before the time limit for making such a claim had expired, compensation would have been payable under that Order or (as the case may be) that Act.

86. In determining for the purposes of paragraph 85 whether compensation would have been payable under the Northern Ireland Criminal Injuries Compensation Scheme 2002, the Criminal Injuries (Compensation) (Northern Ireland) Order 1988, the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 or the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968 it shall be assumed that the person making the claim –

- (a) complied with any requirement under those provisions to notify the commission of the injury to the police or to serve on the Secretary of State notice of intention to apply for compensation;
- (b) would have made the claim in the manner prescribed under those provisions;
- (c) would have complied with any requirement under those provisions as to the production to the Secretary of State of medical reports relating his injury, and would have complied with any requirement of the Secretary of State as to medical examinations, medical records, X-rays or other documents relating to his injury or medical history; and
- (d) would have complied with any requirement under those provisions as to information and assistance which might lead to the identification, apprehension, prosecution and conviction of the offender.

87. The provisions of this Scheme come into force on 1 April 2009. All applications for compensation received by the Authority in relation to injuries sustained on or after 1 April 2009 will be dealt with under the terms of this Scheme.

88. Applications for compensation received by the Secretary of State before 1 April 2009 will continue to be dealt with according to the provisions of the Scheme which came into operation on 1 May 2002 (“the 2002 Scheme”).

89. Cases which are reopened under paragraph 58 of this Scheme or any corresponding provision of any earlier scheme will be dealt with according to the terms of the scheme under which the initial application was decided.

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### Notes to the Scheme

1. Where an injury description does not appear, the provisions of paragraphs 29 and 30 of the Scheme will apply.
2. When compensation is paid for any physical injury described in the tariff, a separate award for mental injury will not be made, as the tariff award included an element of compensation for this. However, in any case where the compensation for mental injury is the same as, or higher than, the level of compensation for the physical injury, the applicant will be entitled to awards for the separate injuries calculated in accordance with paragraph 28 of the Scheme (the serious multiple injury formula).
3. When compensation is paid for any sexual offence described in the tariff, a separate award for mental injury will not be made, as the tariff award includes an element of compensation for this. This does not, however, preclude the payment of compensation for mental injury arising from a sexual offence, but, in that case, a tariff award will not be paid for the sexual offence.
4. Mental illness includes conditions attributed to post-traumatic stress disorder, depression and similar generic terms within which there may be:
  - (a) such psychological symptoms as anxiety, tension, insomnia, irritability, loss of confidence, agoraphobia and preoccupation with thoughts of guilt or self-harm; and
  - (b) related physical symptoms such as alopecia, asthma, eczema, enuresis and psoriasis.
5. “Psychiatric diagnosis/prognosis” means that the disabling mental illness has been diagnosed or the prognosis made by a psychiatrist or clinical psychologist.
6. A mental illness is disabling if it significantly impairs a person’s functioning in some important aspect of that person’s life e.g. impaired work or school performance or significant adverse effects on social relationships or sexual dysfunction.
7. Surgery resulting in scarring, due to a criminal injury, will be subject to the serious multiple injuries formula.
8. Specific tariff for burns affecting multiple areas of body covering over 25% of skin area, with significant scarring, for other burn injuries see under individual parts of the body.
9. Tariff relating to infection with HIV/AIDS, not subject to the multiple injuries formula and may be paid in addition to other awards.
10. Minor multiple physical injuries will qualify for compensation only where the applicant has sustained at least 3 separate physical injuries of the type illustrated below, at least one of which must still have had significant residual effects 6 weeks after the incident. The injuries must also have necessitated at least 2 visits to or by a medical practitioner within that 6-week period. Examples of qualifying injuries are:
  - (a) grazing, cuts, lacerations (no permanent scarring)
  - (b) severe and widespread bruising
  - (c) severe soft tissue injury (no permanent disability)

- (d) black eye(s)
- (e) bloody nose
- (f) hair pulled from scalp
- (g) loss of fingernail

11. In the case of adult applicants where there has been a series of assaults (sexual and/or physical) over a period of time, it may be that an applicant will qualify for compensation only for the single most recent incident, if in relation to the earlier incidents the applicant failed to report them to the police without delay and/or failed to co-operate with the police in bringing the assailant to justice. Where the applicant is entitled to compensation for the series of assaults, the applicant will qualify for an award as the victim of a pattern of abuse, rather than for a separate award for each incident.
12. Note 11 (under Physical Abuse of Adults) applies in relation to sexual assault/abuse of victims any age (if not already compensated as a child) too.

## **CRIMINAL INJURIES COMPENSATION SCHEME**

### Levels of compensation

Level 1	£1,000
Level 2	£1,250
Level 3	£1,500
Level 4	£1,750
Level 5	£2,000
Level 6	£2,500
Level 7	£3,300
Level 8	£3,800
Level 9	£4,400
Level 10	£5,500
Level 11	£6,600
Level 12	£8,200
Level 13	£11,000
Level 14	£13,500
Level 15	£16,500
Level 16	£19,000
Level 17	£22,000
Level 18	£27,000
Level 19	£33,000
Level 20	£44,000
Level 21	£55,000
Level 22	£82,000
Level 23	£110,000
Level 24	£175,000
Level 25	£250,000

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## TARIFF OF INJURIES

Description of Injury	Level	Standard Amount £
<b><u>GENERAL</u></b>		
<u>Fatal injury</u>		
One qualifying claimant	13	11,000
Each qualifying claimant if more than one	10	5,500
<u>Burns</u>		
Affecting multiple areas of body covering over 25% of skin area, with significant scarring	19	33,000
<u>Infection with HIV/AIDS</u>		
Infection with HIV/AIDS	17	22,000
<u>Loss of foetus</u>	10	5,500
<u>Major paralysis</u>		
Hemiplegia (paralysis of one side of the body)	21	55,000
Paraplegia (paralysis of the lower limbs)	24	175,000
Quadriplegia/tetraplegia (paralysis of all four limbs)	25	250,000

**GENERAL**

Medically recognised illness/condition - not mental illness

Moderately disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset

– lasting 6 to 13 weeks	1	1,000
– lasting up to 28 weeks	5	2,000
– lasting over 28 weeks		
– not permanent	7	3,300
– permanent	12	8,200

Seriously disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset

– lasting 6 to 13 weeks	5	2,000
– lasting up to 28 weeks	9	4,400
– lasting over 28 weeks		
– not permanent	12	8,200
– permanent	17	22,000

**GENERAL**

Mental illness

Disabling mental illness, confirmed by psychiatric diagnosis:

– lasting up to 28 weeks	6	2,500
– lasting over 28 weeks to 2 years	9	4,400
– lasting 2 years to 5 years	12	8,200
– lasting over 5 years but not permanent	14	13,500

Permanent mental illness, confirmed by psychiatric prognosis

– moderately disabling	16	19,000
– seriously disabling	18	27,000

**GENERAL**

Minor injuries: multiple

Minor injuries: multiple	1	1,000
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Peripheral sensory nerve damage

– lasting more than 13 weeks

– substantial recovery expected	3	1,500
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– permanent disability

– minor loss	3	1,500
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– significant loss (eg loss of sensation in large area of leg)	7	3,300
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– serious loss (eg loss of sensation of hand)	12	8,200
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## GENERAL

### Physical abuse of adults

#### Serious abuse

- intermittent physical assaults resulting in an accumulation of healed wounds, burns or scalds, but with no appreciable disfigurement 5 2,000

#### Severe abuse

- pattern of repetitive violence resulting in minor disfigurement 10 5,500
- Persistent pattern of severe abuse over a period exceeding 3 years 12 8,200

### Physical abuse of children

#### Minor abuse

- isolated or intermittent assault(s) resulting in weals, hair pulled from scalp etc. 1 1,000

#### Serious abuse

- intermittent physical assaults resulting in an accumulation of healed wounds, burns or scalds, but with no appreciable disfigurement 5 2,000

#### Severe abuse

- persistent pattern of repetitive violence resulting in:
  - moderate multiple injuries (eg bruising and minor fractures) and/or minor disfigurement 10 5,500
  - significant multiple injuries 12 8,200
  - severe multiple injuries 14 13,500

## GENERAL

### Sexual assault/abuse of victims any age (if not already compensated as a child)

#### Indecent assault

– minor - non-penetrative indecent physical act/or acts over clothing	1	1,000
– serious - non-penetrative indecent act/or acts under clothing	5	2,000
– severe - non-penile penetrative and/or oral-genital act or acts	7	3,300
– pattern of repetitive frequent severe abuse over a period		
– up to 3 years	11	6,600
– exceeding 3 years	12	8,200
– resulting in serious internal bodily injuries	17	22,000

#### Non-consensual vaginal and/or anal intercourse

– by one attacker	13	11,000
– by two or more attackers	14	13,500
– resulting in serious internal bodily injuries	17	22,000
– resulting in permanently disabling mental illness confirmed by psychiatric prognosis	18	27,000
– resulting in serious internal bodily injury with permanent disabling mental illness confirmed by psychiatric prognosis	19	33,000
– pattern of repeated incidents over a period		
– up to 3 years	15	16,500
– exceeding 3 years	17	22,000

**GENERAL**Sexual assault/abuse of children (under age of 18 at time or commencement of abuse)  
and of adults who by reason of mental incapacity are incapable of giving consent

## Indecent assault

– minor - non penetrative indecent physical act/or acts over clothing	1	1,000
– minor - non penetrative frequent assaults over clothing	3	1,500
– serious - non penetrative indecent act under clothing	5	2,000
– serious - pattern of repetitive indecent acts under clothing	7	3,300

## Indecent assault

– non-penile penetrative and/or oral genital acts		
– one incident	7	3,300
– two or more isolated incidents	9	4,400
– pattern of repetitive, frequent incidents		
– over a period up to 3 years	11	6,600
– over a period exceeding 3 years	12	8,200
– resulting in serious internal bodily injuries	17	22,000

## Non-consensual vaginal and/or anal intercourse

– one incident	13	11,000
– one incident involving two or more attackers	14	13,500
– repeated incidents over a period		
– up to 3 years	15	16,500
– exceeding 3 years	17	22,000
– resulting in serious internal bodily injuries	17	22,000
– resulting in permanently disabling mental illness confirmed by psychiatric prognosis	18	27,000
– resulting in serious internal bodily injury with permanent disabling mental illness confirmed by psychiatric prognosis	19	33,000

**GENERAL**

Sexual assault/abuse - additional awards where the following are directly attributable to sexual assault (whether of an adult or a child) - not subject to the multiple injuries formula & may be paid in addition to other awards

Pregnancy	10	5,500
Sexually transmitted disease other than HIV/AIDS		
– substantial recovery	10	5,500
– permanent disability	13	11,000
Infection with HIV/AIDS	17	22,000

**HEAD & NECK**Burns

## Head

– minor visible disfigurement	5	2,000
– moderate	9	4,400
– severe	15	16,500

## Face

– minor disfigurement	5	2,000
– moderate	10	5,500
– severe	18	27,000

## Neck

– minor disfigurement	3	1,500
– moderate	9	4,400
– severe	15	16,500

Scarring

## Head

– minor visible disfigurement	3	1,500
– significant disfigurement	7	3,300
– serious disfigurement	10	5,500

## Face

– minor disfigurement	3	1,500
– significant disfigurement	9	4,400
– serious disfigurement	13	11,000

## Neck

– minor disfigurement	3	1,500
– significant disfigurement	7	3,300
– serious disfigurement	11	6,600

## HEAD & NECK

### Brain

#### Balance impaired

– lasting 6 to 28 weeks	3	1,500
– lasting over 28 weeks recovery expected	7	3,300
– permanent	12	8,200

#### Brain haemorrhage/stroke

– substantial recovery	9	4,400
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#### Brain damage - impairment of social/ intellectual functions

– minor	12	8,200
– moderate	15	16,500
– serious	20	44,000
– very serious	23	110,000
– extremely serious (no effective control of functions)	25	250,000

#### Concussion

– lasting at least one week	3	1,500
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#### Epilepsy

– post-traumatic epileptic fits - substantial recovery	5	2,000
– fully controlled	12	8,200
– partially controlled	14	13,500
– uncontrolled	20	44,000

#### Subdural or extradural haematoma

– treated conservatively	9	4,400
– requiring evacuation	12	8,200

## HEAD & NECK

### Ear

Fractured mastoid	1	1,000
Deafness		
– temporary partial deafness		
– lasting 6 to 13 weeks	1	1,000
– lasting more than 13 weeks	3	1,500
– partial deafness (remaining hearing socially useful, with hearing aid if necessary)		
– one ear	8	3,800
– both ears	12	8,200
– total deafness		
– one ear	15	16,500
– both ears	20	44,000
Loss of ear		
– partial loss of ear(s)	9	4,400
– loss of ear	13	11,000
– loss of both ears	16	19,000
Perforated ear drum		
– one ear	4	1,750
– both ears	6	2,500
Tinnitus (ringing noise in ear(s))		
– lasting 6 to 13 weeks	1	1,000
– lasting more than 13 weeks	7	3,300
– permanent		
– other than very severe	12	8,200
– very severe	15	16,500

## **HEAD & NECK**

Vestibular damage (causing giddiness)

- lasting 6 to 28 weeks 3 1,500
- lasting over 28 weeks - recovery expected 7 3,300
- permanent 12 8,200

**HEAD & NECK**Eye

## Blow out or other fracture of orbital bone cavity containing eyeball

– no operation	7	3,300
– requiring operation	9	4,400

## Blurred or double vision

– temporary		
– lasting 6 to 13 weeks	1	1,000
– lasting more than 13 weeks - recovery expected	4	1,750
– permanent		
– slight	9	4,400
– moderate	12	8,200
– serious	14	13,500

## Cataracts

– one eye		
– requiring operation	7	3,300
– permanent/inoperable	12	8,200
– both eyes		
– requiring operation	12	8,200
– permanent/inoperable	16	19,000

Corneal abrasions	5	2,000
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## Degeneration of optic nerve

– one eye	5	2,000
– both eyes	10	5,500

## Dislocation of lens

– one eye	10	5,500
– both eyes	14	13,500

Glaucoma	6	2,500
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## HEAD & NECK

### Hyphaema requiring operation

– one eye	3	1,500
– both eyes	6	2,500

### Loss of eye

– one eye	18	27,000
– both eyes	23	110,000

### Loss of sight

– one eye	17	22,000
– both eyes	23	110,000

### Partial loss of vision

– 6/12	11	6,600
– 6/18	12	8,200
– 6/24	14	13,500
– 6/36	15	16,500
– 6/60	16	19,000

### substantial loss of vision (both eyes) at least 6/36 in each eye or worse

	21	55,000
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### Residual central floater(s) affecting vision

	7	3,300
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### Retina

#### – damage not involving detachment

– one eye	6	2,500
– both eyes	10	5,500

#### – detached

– one eye	10	5,500
– both eyes	14	13,500

## HEAD & NECK

### Significant penetrating injury

– one eye	6	2,500
– both eyes	11	6,600
Traumatic angle recession	6	2,500

### Face

#### Clicking jaw

– temporary		
– lasting 6 to 13 weeks	1	1,000
– lasting more than 13 weeks	3	1,500
– permanent	10	5,500
Dislocated jaw		
– substantial recovery	5	2,000
– continuing significant disability	10	5,500

#### Fractured ethmoid

– no operation	5	2,000
– operation required	9	4,400

#### Fractured zygoma (malar/cheek bone)

– no operation		
– substantial recovery	5	2,000
– continuing significant disability	9	4,400
– operation required		
– substantial recovery	6	2,500
– continuing significant disability	10	5,500

## HEAD & NECK

### Fractured mandible and/or maxilla (jaw bones)

– no operation		
– substantial recovery	7	3,300
– continuing significant disability	10	5,500
– operation required		
– substantial recovery	8	3,800
– continuing significant disability	12	8,200
Multiple fractures to face (e.g. Le Fort fractures types 2 & 3)	13	11,000
Numbness/loss of feeling		
– temporary lasting more than 13 weeks - recovery expected	3	1,500
– permanent		
– moderate eg cheek, forehead	7	3,300
– severe eg lip interfering with function	9	4,400

### Neck

Fractured hyoid (bone in windpipe)	1	1,000
Strained neck or whiplash injury		
– disabling		
– for 6 to 13 weeks	1	1,000
– for more than 13 weeks	6	2,500
– seriously disabling		
– not permanent	10	5,500
– permanent	13	11,000

## HEAD & NECK

### Nose

#### Deviated nasal septum

– no operation	1	1,000
– requiring septoplasty	5	2,000

#### Fracture of nasal bones

– undisplaced	1	1,000
– displaced	3	1,500
– requiring manipulation	5	2,000
– requiring rhinoplasty	5	2,000
– requiring turbinectomy	5	2,000

#### Loss of smell/taste

– partial loss of smell and/or taste	10	5,500
– total		
– loss of smell or taste	13	11,000
– loss of smell and taste	15	16,500

Partial loss of nose (at least 10%) 9 4,400

### Skull

#### Fracture

– simple		
– no operation	6	2,500
– depressed		
– no operation	9	4,400
– requiring operation	11	6,600

## HEAD & NECK

### Teeth

#### Damage to:

– tooth/teeth requiring root-canal treatment	2	1,250
– front tooth/teeth requiring crown(s)	3	1,500
Fractured/chipped tooth/teeth requiring treatment	2	1,250
Fractured tooth/teeth requiring apicectomy (surgery to gum to reach root - root resection)	6	2,500
Loss of:		
– crowns	3	1,500
– front tooth/teeth (incisor or canine)		
– one front tooth	4	1,750
– two or three front teeth	6	2,500
– four or more front teeth	8	3,800
– tooth/teeth other than front		
– one tooth	2	1,250
– two or more teeth	4	1,750
Slackening of teeth requiring dental treatment	2	1,250

### Tongue

#### Impaired speech

– slight	5	2,000
– moderate	10	5,500
– serious	13	11,000
– severe	16	19,000
Loss of speech - permanent	19	33,000
Loss of tongue	20	44,000

## UPPER LIMBS

### Burns

Minor	3	1,500
Moderate	9	4,400
Severe	13	11,000

### Scarring

Minor disfigurement	2	1,250
Significant disfigurement	6	2,500
Serious disfigurement	10	5,500

### Arm

#### Loss of:

– one arm	20	44,000
– both arms	23	110,000

#### Paralysis of or equivalent loss of function of:

– one arm	19	33,000
– both arms	22	82,000

### Elbow

#### Dislocated/fractured

– one elbow		
– substantial recovery	7	3,300
– continuing significant disability	12	8,200
– both elbows		
– substantial recovery	12	8,200
– continuing significant disability	13	11,000

## UPPER LIMBS

### Finger and Thumb

Fracture/dislocation of:

– thumb		
– one hand		
– substantial recovery	5	2,000
– continuing significant disability	9	4,400
– both hands		
– substantial recovery	10	5,500
– continuing significant disability	12	8,200
– index finger		
– one hand		
– substantial recovery	4	1,750
– continuing significant disability	8	3,800
– both hands		
– substantial recovery	9	4,400
– continuing significant disability	11	6,600
– one finger other than index finger		
– one hand		
– substantial recovery	1	1,000
– continuing significant disability	5	2,000
– both hands		
– substantial recovery	4	1,750
– continuing significant disability	9	4,400

## UPPER LIMBS

– two or more fingers other than index finger		
– one hand		
– substantial recovery	2	1,250
– continuing significant disability	6	2,500
– both hands		
– substantial recovery	7	3,300
– continuing significant disability	11	6,600
Loss of:		
– finger other than index finger	10	5,500
– two or more fingers	13	11,000
– index finger	12	8,200
– both index fingers	15	16,500
– thumb	15	16,500
– both thumbs	19	33,000
Partial loss of:		
– finger other than thumb or index finger	6	2,500
– two or more fingers other than index finger or thumb	10	5,500
– thumb or index finger	9	4,400
– thumb or index finger - both hands	12	8,200
– thumb and index finger - one hand	12	8,200
– thumb and index finger - both hands	15	16,500

## UPPER LIMBS

### Hand

#### Fractured hand

##### – one hand

– substantial recovery 5 2,000

– continuing significant disability 10 5,500

##### – both hands

– substantial recovery 8 3,800

– continuing significant disability 12 8,200

#### Loss of, or equivalent loss of function of:

– one hand 20 44,000

– both hands 23 110,000

#### Permanently & seriously impaired grip

– one hand 12 8,200

– both hands 15 16,500

### Humerus (upper arm bone)

#### Fractured

##### – one arm

– substantial recovery 7 3,300

– continuing significant disability 10 5,500

##### – both arms

– substantial recovery 12 8,200

– continuing significant disability 13 11,000

**UPPER LIMBS**

Radius (a forearm bone)

Fractured

– one arm

– substantial recovery 7 3,300

– continuing significant disability 10 5,500

– both arms

– substantial recovery 12 8,200

– continuing significant disability 13 11,000

Shoulder

Dislocated

– one shoulder

– substantial recovery 4 1,750

– continuing significant disability 10 5,500

– both shoulders

– substantial recovery 8 3,800

– continuing significant disability 12 8,200

Frozen

– one shoulder

– substantial recovery 5 2,000

– continuing significant disability 10 5,500

– both shoulders

– substantial recovery 7 3,300

– continuing significant disability 12 8,200

## UPPER LIMBS

### Tendon & Ligament

#### Minor damage

##### – one arm

– substantial recovery 1 1,000

– continuing significant disability 6 2,500

##### – both arms

– substantial recovery 5 2,000

– continuing significant disability 9 4,400

#### Moderate damage

##### – one arm

– substantial recovery 5 2,000

– continuing significant disability 9 4,400

##### – both arms

– substantial recovery 9 4,400

– continuing significant disability 12 8,200

#### Severely damaged

##### – one arm

– substantial recovery 7 3,300

– continuing significant disability 10 5,500

##### – both arms

– substantial recovery 11 6,600

– continuing significant disability 13 11,000

## UPPER LIMBS

### Ulna (a forearm bone)

#### Fractured

##### – one arm

– substantial recovery 7 3,300

– continuing significant disability 10 5,500

##### – both arms

– substantial recovery 12 8,200

– continuing significant disability 13 11,000

### Wrist

#### Fractured - colles type

##### – one wrist

– substantial recovery 9 4,400

– continuing significant disability 12 8,200

##### – both wrists

– substantial recovery 12 8,200

– continuing significant disability 13 11,000

#### Fractured/dislocated – including scaphoid fracture

##### – one wrist

– substantial recovery 7 3,300

– continuing significant disability 11 6,600

##### – both wrists

– substantial recovery 11 6,600

– continuing significant disability 13 11,000

**UPPER LIMBS**

Sprained

– one wrist		
– disabling for 6 to 13 weeks	1	1,000
– disabling for more than 13 weeks	6	2,500
– both wrists		
– disabling for 6 to 13 weeks	5	2,000
– disabling for more than 13 weeks	8	3,800

**TORSO**Burns

Minor	3	1,500
Moderate	9	4,400
Severe	13	11,000

Scarring

Minor disfigurement	2	1,250
Significant disfigurement	6	2,500
Serious disfigurement	10	5,500

Abdomen

Injury requiring laparotomy	8	3,800
– including removal or repair of multiple organs	17	22,000

Back

Fracture of vertebra		
– one vertebra		
– substantial recovery	6	2,500
– continuing significant disability	10	5,500
– more than one vertebra		
– substantial recovery	9	4,400
– continuing significant disability	12	8,200
Prolapsed intervertebral disc(s)		
– seriously disabling		
– not permanent	10	5,500
– permanent	12	8,200
Ruptured intervertebral disc(s) - requiring surgical removal	13	11,000

**TORSO**

## Strained

## – disabling

– for 6 to 13 weeks

1 1,000

– for more than 13 weeks

6 2,500

## – seriously disabling

– not permanent

10 5,500

– permanent

13 11,000

Chest

Injury requiring thoracotomy

12 8,200

Clavicle (collar bone)

Dislocated acromioclavicular joint

5 2,000

## Fractured

## – one clavicle

– substantial recovery

5 2,000

– continuing significant disability

9 4,400

## – two clavicles

– substantial recovery

9 4,400

– continuing significant disability

11 6,600

Coccyx (tail bone)

Fractured

6 2,500

**TORSO**Genitalia

## Injury requiring medical treatment

– no significant permanent damage	4	1,750
– permanent damage		
– moderate	10	5,500
– severe	13	11,000
Loss of fertility	21	55,000

Hernia

– hernia	8	3,800
– hernias	10	5,500

Kidney

Loss of kidney	17	22,000
Serious and permanent damage to or loss of both kidneys	21	55,000

Lung

## Punctured

– one lung	7	3,300
– two lungs	11	6,600

## Collapsed

– one lung	8	3,800
– two lungs	12	8,200

Permanent and disabling damage to lungs from smoke or chemical inhalation 10 5,500

Pelvis

## Fractured

– substantial recovery	9	4,400
– continuing significant disability	13	11,000

**TORSO**Rib

Fractured (or bruised where significant pain lasts more than 6 weeks)

– one rib	1	1,000
– two or more	3	1,500

Scapula (shoulder blade)

Fractured

– one scapula		
– substantial recovery	6	2,500
– continuing significant disability	9	4,400
– two scapulas		
– substantial recovery	9	4,400
– continuing significant disability	11	6,600

Spleen

Loss of spleen	9	4,400
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Sternum (breast bone)

Fractured

– substantial recovery	6	2,500
– continuing significant disability	10	5,500

## LOWER LIMBS

### Burns

Minor	3	1,500
Moderate	9	4,400
Severe	13	11,000

### Scarring

Minor disfigurement	2	1,250
Significant disfigurement	6	2,500
Serious disfigurement	10	5,500

### Ankle

#### Fractured or Dislocated

##### – one ankle

– substantial recovery	9	4,400
– continuing significant disability	13	11,000

##### – both ankles

– substantial recovery	12	8,200
– continuing significant disability	15	16,500

#### Sprained

##### – one ankle

– disabling for at least 6 to 13 weeks	1	1,000
– disabling for more than 13 weeks	6	2,500

##### – both ankles

– disabling for at least 6 to 13 weeks	5	2,000
– disabling for more than 13 weeks	8	3,800

## LOWER LIMBS

### Femur (thigh bone)

#### Fractured

##### – one leg

– substantial recovery 8 3,800

– continuing significant disability 11 6,600

##### – both legs

– substantial recovery 10 5,500

– continuing significant disability 13 11,000

### Fibula (slender bone from knee to ankle)

#### Fractured

##### – one leg

– substantial recovery 6 2,500

– continuing significant disability 8 3,800

##### – both legs

– substantial recovery 7 3,300

– continuing significant disability 10 5,500

### Foot

#### Fractured metatarsal bones

##### – one foot

– substantial recovery 6 2,500

– continuing significant disability 8 3,800

##### – both feet

– substantial recovery 7 3,300

– continuing significant disability 10 5,500

## LOWER LIMBS

### Fractured tarsal bones

– one foot		
– substantial recovery	7	3,300
– continuing significant disability	12	8,200
– both feet		
– substantial recovery	10	5,500
– continuing significant disability	14	13,500

### Heel

#### Fractured heel bone

– one foot		
– substantial recovery	7	3,300
– continuing significant disability	12	8,200
– both feet		
– substantial recovery	10	5,500
– continuing significant disability	14	13,500

### Hip

#### Fractured/Dislocated

– one hip		
– substantial recovery	9	4,400
– continuing significant disability	13	11,000
– both hips		
– substantial recovery	12	8,200
– continuing significant disability	15	16,500

**LOWER LIMBS**Knee

Arthroscopy (investigative surgery / repair to knee) – no fracture	5	2,000
Patella (knee cap)		
– dislocated		
– one knee		
– substantial recovery	1	1,000
– continuing significant disability	10	5,500
– both knees		
– substantial recovery	6	2,500
– continuing significant disability	12	8,200
– fractured		
– one knee		
– substantial recovery	6	2,500
– continuing significant disability	10	5,500
– both knees		
– substantial recovery	9	4,400
– continuing significant disability	12	8,200
– removal of:		
– one knee	8	3,800
– both knees	10	5,500

## LOWER LIMBS

### Leg

#### Loss of:

– one leg		
– below knee	19	33,000
– above knee	20	44,000
– both legs	23	110,000
Paralysis of leg <i>(see also major paralysis (paraplegia))</i>	18	27,000

### Tendon & Ligament

#### Minor damage

– one leg		
– substantial recovery	1	1,000
– continuing significant disability	7	3,300
– both legs		
– substantial recovery	5	2,000
– continuing significant disability	10	5,500

#### Moderate damage

– one leg		
– substantial recovery	5	2,000
– continuing significant disability	10	5,500
– both legs		
– substantial recovery	9	4,400
– continuing significant disability	13	11,000

## LOWER LIMBS

### Severe damage

#### – one leg

– substantial recovery 7 3,300

– continuing significant disability 12 8,200

#### – both legs

– substantial recovery 11 6,600

– continuing significant disability 15 16,500

### Tibia (shin bone)

#### Fractured

#### – one leg

– substantial recovery 8 3,800

– continuing significant disability 11 6,600

#### – both legs

– substantial recovery 10 5,500

– continuing significant disability 13 11,000

### Toe

#### Fractured

#### – great toe

#### – one foot

– substantial recovery 6 2,500

– continuing significant disability 12 8,200

#### – both feet

– substantial recovery 8 3,800

– continuing significant disability 14 13,500

## LOWER LIMBS

– two or more toes		
– one foot		
– substantial recovery	1	1,000
– continuing significant disability	6	2,500
– both feet		
– substantial recovery	3	1,500
– continuing significant disability	9	4,400
Loss of:		
– great toe	12	8,200
– both great toes	14	13,500
– one toe (other than great toe)	1	1,000
– two or more toes	9	4,400
Partial loss of:		
– great toe	6	2,500
– both great toes	10	5,500