

## SCHEDULES

### SCHEDULE 1

Section 7.

#### AMENDMENTS RELATING TO THE RECOVERY FROM DAMAGES ETC OF SUMS EQUIVALENT TO BENEFIT

##### *Payments under compensation schemes for motor accidents*

- 1 (1) In the definition of “compensation payment” in section 22(3) of the 1989 Act—
- (a) at the beginning of paragraph (b) there shall be inserted the words “either (i)” and at the end of that paragraph there shall be inserted the words “or (ii) in pursuance of a compensation scheme for motor accidents,”; and
  - (b) for the words following that paragraph there shall be substituted the words—  
“but does not include benefit or an exempt payment or so much of any payment as is referable to costs incurred by any person;”.
- (2) After that definition there shall be inserted—  
““compensation scheme for motor accidents” means any scheme or arrangement under which funds are available for the payment of compensation in respect of motor accidents caused, or alleged to have been caused, by uninsured or unidentified persons;”.
- (3) In consequence of the amendment made by sub-paragraph (1)(b) above, in the definition of “relevant period” in the said section 22(3), the words from “whether or not” onwards shall be omitted.
- (4) In paragraph 13 of Schedule 4 to that Act, after sub-paragraph (2) there shall be inserted—  
“(2A) A person who makes any payment (whether a compensation payment or not) on behalf of himself or another—  
(a) in consequence of any accident, injury or disease suffered, or any damage to property sustained, by any other person, or  
(b) which is referable to any costs, or, in Scotland, expenses, incurred by any such other person by reason of such an accident, injury, disease or damage,  
shall, if the Secretary of State so requests him in writing, furnish the Secretary of State with such particulars relating to the size and composition of the payment as may be specified in the request.”

##### *Payments into court*

- 2 (1) In paragraph 12 of Schedule 4 to that Act, in sub-paragraph (2)(b) (payments into court: compensator not liable to make relevant payment etc until he is notified that

the money has been paid out to the other party) after the words “notified that” there shall be inserted the words “the whole or any part of”.

- (2) In sub-paragraph (5) of that paragraph (special provision where payment into court is paid out to or for the other party within 21 days) for the words “paid out of court to or for” there shall be substituted the words “accepted by” and for the words “was made” there shall be substituted the words “(or, if there were two or more such payments, the last of them) was made; but where the payment into court is not so accepted, then—
- (a) the relevant period as respects that compensator shall end on the day on which he is notified that the payment has been paid out of court to or for that other party; and
  - (b) in determining the amount of the relevant payment, that compensator shall be treated as if his payment into court had been made on that day.”
- (3) In sub-paragraph (6) of that paragraph (the initial period) after the words “payment into court” there shall be inserted the words “(or, if there were two or more such payments, the last of them)”.
- (4) After that sub-paragraph there shall be inserted—
- “(6A) Where a payment into court is paid out wholly to or for the party who made the payment (otherwise than to or for the other party to the action) the making of the payment into court shall cease to be regarded as the making of a compensation payment.”

*Appeals: special time limit for provisional damages*

- 3 In paragraph 17 of that Schedule, in sub-paragraph (3) (which provides a special time limit for appeals in cases where provisional damages are awarded) for paragraph (a) there shall be substituted—
- “(a) an award of damages (“provisional damages”) has been made under or by virtue of—
- (i) section 32A(2)(a) of the Supreme Court Act 1981,
  - (ii) section 12(2)(a) of the Administration of Justice Act 1982,
  - or
  - (iii) section 51(2)(a) of the County Courts Act 1984, and”.

*Appeal to Commissioner by Secretary of State on point of law*

- 4 In sub-paragraph (11) of that paragraph (appeal on point of law from decision of social security appeal tribunal or medical appeal tribunal) after the words “at the instance of” there shall be inserted the words “the Secretary of State,”.

*Interaction with the Northern Ireland scheme*

- 5 (1) At the beginning of Part IV of that Schedule (which, among other things, relates to cases where the compensator is not resident in Great Britain) there shall be inserted the following—

*“Persons in Northern Ireland*

- 20A (1) Where, immediately before making a compensation payment to or in respect of a victim, the compensator—
- (a) is not resident and does not have a place of business in Great Britain, but
  - (b) is resident or has a place of business in Northern Ireland, the Great Britain provisions shall apply as if at that time he were resident or had a place of business in the relevant part of Great Britain.
- (2) Where, immediately before making a Northern Ireland compensation payment to or in respect of a Northern Ireland victim, the Northern Ireland compensator—
- (a) is not resident and does not have a place of business in Northern Ireland, but
  - (b) is resident or has a place of business in any part of Great Britain, the Northern Ireland provisions shall apply as if at that time he were resident or had a place of business in Northern Ireland.
- (3) Where an address in Northern Ireland is the first address notified in writing to the compensator by or on behalf of the victim as his residence (or, if the victim has died, by or on behalf of the intended recipient as the victim’s last residence) then—
- (a) the compensator shall apply, as a Northern Ireland compensator, for a Northern Ireland certificate in accordance with the Northern Ireland provisions (and shall not make any separate application for a certificate of total benefit);
  - (b) any Northern Ireland certificate which is issued to the compensator in relation to the victim and the accident, injury or disease in question—
    - (i) shall contain a statement that it is to be treated as including a certificate of total benefit so issued by the Secretary of State and that any relevant payment required to be made to him by reference thereto is to be paid to the Northern Ireland Department as his agent; and
    - (ii) shall be taken to include such a certificate of total benefit; and
  - (c) any payment made by the compensator to the Northern Ireland Department in pursuance of such a Northern Ireland certificate shall be applied—
    - (i) first towards discharging his liability under the Northern Ireland provisions, and
    - (ii) then, as respects any remaining balance, towards discharging his liability under the Great Britain provisions,in respect of the relevant victim and that accident, injury or disease.

- (4) Where an address in any part of Great Britain is the first address notified in writing to the Northern Ireland compensator by or on behalf of the Northern Ireland victim as his residence (or, if the Northern Ireland victim has died, by or on behalf of the Northern Ireland intended recipient as the Northern Ireland victim's last residence) then—
- (a) the Northern Ireland compensator shall apply, as a compensator, for a certificate of total benefit in accordance with the Great Britain provisions (and shall not make any separate application for a Northern Ireland certificate);
  - (b) any certificate of total benefit which is issued to the Northern Ireland compensator in relation to the Northern Ireland victim and the accident, injury or disease in question—
    - (i) shall contain a statement that it is to be treated as including a Northern Ireland certificate so issued by the Northern Ireland Department and that any Northern Ireland relevant payment required to be made to that Department by reference thereto is to be paid to the Secretary of State as its agent; and
    - (ii) shall be taken to include such a Northern Ireland certificate; and
  - (c) any payment made by the Northern Ireland compensator to the Secretary of State in pursuance of such a certificate shall be applied—
    - (i) first towards discharging his liability under the Great Britain provisions, and
    - (ii) then, as respects any remaining balance, towards discharging his liability under the Northern Ireland provisions,
 in respect of the relevant victim and that accident, injury or disease.
- (5) For the purposes of sub-paragraph (1) above, “the relevant part of Great Britain”, in relation to a compensator, means—
- (a) if the compensator has been notified in writing—
    - (i) by or on behalf of the victim, or
    - (ii) where the victim has died, by or on behalf of the intended recipient,
 that the victim is or was at any time resident at an address in any part of Great Britain, that part of Great Britain (or, if more than one such notification has been given, the part in which he was so notified that the victim was most recently so resident); or
  - (b) in any other case, such part of Great Britain as the Secretary of State may determine in accordance with regulations.
- (6) In this paragraph—
- “the Great Britain provisions” means the recoupment provisions, other than this paragraph;
  - “Northern Ireland certificate” means a certificate of total benefit, within the meaning of the Northern Ireland provisions;

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

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“Northern Ireland compensation payment” means a compensation payment, within the meaning of the Northern Ireland provisions;

“Northern Ireland compensator” means a compensator, within the meaning of the Northern Ireland provisions;

“the Northern Ireland Department” has the same meaning as it has in the principal Act;

“the Northern Ireland intended recipient” means the intended recipient, within the meaning of the Northern Ireland provisions, in relation to a Northern Ireland compensation payment;

“the Northern Ireland provisions” means any legislation corresponding to the recoupment provisions (other than this paragraph) and having effect in Northern Ireland;

“Northern Ireland relevant payment” means a relevant payment, within the meaning of the Northern Ireland provisions;

“Northern Ireland victim” means a person who is the victim, within the meaning of the Northern Ireland provisions, in relation to a Northern Ireland compensation payment;

“the relevant victim” means the person who is the victim or the Northern Ireland victim (or both), as the case may be.

(7) This paragraph extends to Northern Ireland.”

- (2) In paragraph 21 of that Schedule (which makes provision for cases where the compensator is not resident and does not have a place of business in Great Britain) for the words “Great Britain” there shall be substituted the words “any part of the United Kingdom”.
- (3) In section 33(6) of that Act (provisions extending to Northern Ireland) after the words “and this section” there shall be inserted the words “and paragraph 20A of Schedule 4”.
- (4) In consequence of sub-paragraph (1) above—
- (a) in Article 59(10) of the Social Security (Northern Ireland) Order 1986 (definition of “the recoupment provisions”) after the words “Order 1989” there shall be inserted the words “and paragraph 20A of Schedule 4 to the Social Security Act 1989”; and
  - (b) in the definition of “the recoupment provisions” in paragraph 1(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1989, after the word “Schedule” there shall be inserted the words “and paragraph 20A of Schedule 4 to the Social Security Act 1989”.

*Interest on damages: reductions in respect of relevant payments*

6 After paragraph 23 of that Schedule there shall be added—

*“Interest on damages: reductions in respect of relevant payments*

- 24 In assessing the amount of interest payable in respect of an award of damages, the amount of the award shall be treated as reduced by a sum equal to the amount of the relevant payment (if any) required to be made in connection with the payment of the damages and—

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

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- (a) in England and Wales, if both special and general damages are awarded, any such reductions shall be treated as made first against the special damages and then, as respects any remaining balance, against the general damages; and
- (b) in Scotland, if damages are awarded both for patrimonial loss and for solatium, any such reductions shall be treated as made first against the damages for patrimonial loss and then, as respects any remaining balance, against the damages for solatium.”

*Law Reform (Personal Injuries) Act 1948 (c. 41)*

- 7 In section 2(1) of the Law Reform (Personal Injuries) Act 1948 (half of certain benefits to be brought into account in assessing damages) for the word “him” there shall be substituted the words “the injured person”.