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## SCHEDULES

### SCHEDULE 8

Section 57(3).

#### ASSESSMENT OF EXTENT OF DISABLEMENT

##### *General provisions as to method of assessment*

- 1 For the purposes of section 57 of this Act, the extent of disablement shall be assessed, by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty, in accordance with the following general principles :—
- (a) save as hereafter provided in this paragraph, the disabilities to be taken into account shall be all disabilities so incurred (whether or not involving loss of earning power or additional expense) to which the claimant may be expected, having regard to his physical and mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;
  - (b) regulations may make provision as to the extent (if any) to which any disabilities are to be taken into account where they are disabilities which, though resulting from the relevant loss of faculty, also result, or without the relevant accident might have been expected to result, from a cause other than the relevant accident;
  - (c) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex, and physical and mental condition ;
  - (d) the disabilities resulting from such loss of faculty as may be prescribed shall be taken as amounting to 100 per cent. disablement and other disabilities shall be assessed accordingly.
- 2 Provision may be made by regulations for further defining the principles on which the extent of disablement is to be assessed and such regulations may in particular direct that a prescribed loss of faculty shall be treated as resulting in a prescribed degree of disablement ; and, in connection with any such direction, nothing in paragraph 1(c) above prevents the making of different provision, in the case of loss of faculty in or affecting hand or arm, for right-handed and for left-handed persons.
- 3 Regulations under paragraph 1(d) or 2 above may include provision—
- (a) for adjusting or reviewing an assessment made before the date of the coming into force of those regulations ;
  - (b) for any resulting alteration of that assessment to have effect as from that date ;
- so however that no assessment shall be reduced by virtue of this paragraph.
- 4 The period to be taken into account by an assessment of the extent of a claimant's disablement shall be the period (beginning not earlier than the end of the injury benefit period, and limited by reference either to the claimant's life or to a definite

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date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty :

Provided that if on any assessment the condition of the claimant is not such, having regard to the possibility of changes therein (whether predictable or not), as to allow of a final assessment being made up to the end of the said period—

- (a) a provisional assessment shall be made, taking into account such shorter period only as seems reasonable having regard to his condition and that possibility ; and
- (b) on the next assessment the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.

- 5 An assessment shall state the degree of disablement in the form of a percentage and shall also specify the period taken into account thereby and, where that period is limited by reference to a definite date, whether the assessment is provisional or final;

Provided that—

- (a) the percentage and period shall not be specified more particularly than is necessary for the purpose of determining in accordance with section 57 of this Act the claimant's rights as to disablement benefit; and
- (b) a percentage between 20 and 100 which is not a multiple of 10 shall be treated—
  - (i) if it is a multiple of 5, as being the next higher percentage which is a multiple of 10 ;
  - (ii) if it is not a multiple of 5, as being the nearest percentage which is a multiple of 10.

*Special provision as to entitlement to constant attendance allowance, etc.*

- 6 (1) For the purpose of determining whether a person is entitled—
- (a) to an increase of a disablement pension under section 61 of this Act (constant attendance allowance); or
  - (b) to a corresponding increase by virtue of section 159(3)(b) of this Act or section 7(3)(b) of the Old Cases Act of any other benefit,

regulations may provide for the extent of the person's disablement resulting from the relevant injury or disease to be determined in such manner as may be provided for by the regulations by reference to all disabilities to which that person is subject which result either from the relevant injury or disease or from any other injury or disease in respect of which there fall to be made to the person payments of any of the descriptions listed in sub-paragraph (2) below.

- (2) Those payments are—
- (a) payments by way of disablement pension under Part II of this Act, Chapter IV or V ;
  - (b) payments such as are referred to in section 159(1) of this Act ;
  - (c) payments by way of benefit under section 5 of the Old Cases Act;
  - (d) payments in such circumstances as may be prescribed by way of such other benefit as may be prescribed (being benefit in connection with any hostilities or with service as a member of Her Majesty's forces or of such other organisation as may be specified in the regulations).