

## SCHEDULES

### SCHEDULE 6

Sections 68(6) and 103(5).

#### ASSESSMENT OF EXTENT OF DISABLEMENT

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

- 1 For the purposes of section 68 or 103 above and Part II of Schedule 7 to 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) except as provided in paragraphs (b) to (d) below, 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) except in the case of an assessment for the purposes of section 68 above, 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.

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*Severe disablement allowance*

- 4 (1) In the case of an assessment of any person's disablement for the purposes of section 68 above, the period to be taken into account for any such assessment shall be the period during which that person has suffered and may be expected to continue to suffer from the relevant loss of faculty beginning not later than—
- (a) the first claim day, if his entitlement to benefit falls to be determined in accordance with section 68(3)(b) above as modified by regulations under section 68(11)(b);
  - (b) where his disablement has previously been assessed for the purposes of section 68 above at a percentage which is not less than 80 per cent.—
    - (i) if the period taken into account for that assessment was or included the period of 196 days ending immediately before the first claim day, the first claim day, or
    - (ii) if the period so taken into account included any day falling within that period of 196 days, the day immediately following that day or, if there is more than one such day, the last such day;
  - (c) in any other case, 196 days before the first claim day;
- and, in any case, ending not later than the day on which that person attains the age of 65, if a woman, or 70, if a man.
- (2) In this paragraph “the first claim day” means the first day in respect of which the person concerned has made the claim in question for a severe disablement allowance.
- 5 (1) An assessment of any person's disablement for the purposes of section 68 above shall state the degree of disablement in the form of a percentage and shall specify the period taken into account by the assessment.
- (2) For the purposes of any such assessment—
- (a) a percentage which is not a whole number shall be rounded to the nearest whole number or, if it falls equally near two whole numbers, shall be rounded up to the higher; and
  - (b) a percentage between 5 and 100 which is not a multiple of 10 shall be treated, if it is a multiple of 5, as being the next higher percentage which is a multiple of 10 and, in any other case, as being the nearest percentage which is a multiple of 10.
- (3) If on the assessment the person's disablement is found to be less than 5 per cent., that degree of disablement shall for the purposes of section 68 above be disregarded and, accordingly, the assessment shall state that he is not disabled.

*Disablement benefit*

- 6 (1) Subject to sub-paragraphs (2) and (3) below, the period to be taken into account by an assessment for the purposes of section 103 above and Part II of Schedule 7 to this Act of the extent of a claimant's disablement shall be the period (beginning not earlier than the end of the period of 90 days referred to in section 103(6) above and in paragraph 9(3) of that Schedule and limited by reference either to the claimant's life or to a definite date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty.
- (2) If on any assessment the condition of the claimant is not such, having regard to the possibility of changes in that condition (whether predictable or not), as to allow

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of a final assessment being made up to the end of the period provided by sub-paragraph (1) above, then, subject to sub-paragraph (3) below—

- (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.

(3) Where the assessed extent of a claimant's disablement amounts to less than 14 per cent., then, subject to sub-paragraphs (4) and (5) below, that assessment shall be a final assessment and the period to be taken into account by it shall not end before the earliest date on which it seems likely that the extent of the disablement will be less than 1 per cent.

(4) Sub-paragraph (3) above does not apply in any case where it seems likely that—

- (a) the assessed extent of the disablement will be aggregated with the assessed extent of any present disablement, and
- (b) that aggregate will amount to 14 per cent. or more.

(5) Where the extent of the claimant's disablement is assessed at different percentages for different parts of the period taken into account by the assessment, then—

- (a) sub-paragraph (3) above does not apply in relation to the assessment unless the percentage assessed for the latest part of that period is less than 14 per cent., and
- (b) in any such case that sub-paragraph shall apply only in relation to that part of that period (and subject to sub-paragraph (4) above).

7 An assessment for the purposes of section 103 above and Part II of Schedule 7 to this Act shall—

- (a) state the degree of disablement in the form of a percentage;
- (b) specify the period taken into account by the assessment; and
- (c) where that period is limited by reference to a definite date, specify whether the assessment is provisional or final;

but the percentage and the period shall not be specified more particularly than is necessary for the purpose of determining in accordance with section 103 above and Parts II and IV of Schedule 7 to this Act the claimant's rights as to disablement pension or gratuity and reduced earnings allowance (whether or not a claim has been made).

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

8 (1) For the purpose of determining whether a person is entitled—

- (a) to an increase of a disablement pension under section 104 above; or
- (b) to a corresponding increase of any other benefit by virtue of paragraph 6(4)(b) or 7(2)(b) of Schedule 8 to this Act,

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.

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- (2) Those payments are—
- (a) payments by way of disablement pension;
  - (b) payments by way of benefit under paragraph 4 or 7(1) of Schedule 8 to this Act; or
  - (c) 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).