

SCHEDULE 2

Regulations 4(2), 5(3) and 7

Procedures for making, revoking and revising determinations and for payment and recovery of compensation

Part 1

Procedure for making of determinations

1. In this Part “signed statement” means a statement that is either—
 - (a) signed by the applicant; or
 - (b) signed on the applicant’s behalf by a person with authority to bind the applicant (“signatory”).
2. Within the period of 28 days beginning with the date on which the Secretary of State receives an application, the Secretary of State must, if no additional information is required under paragraph 3, notify the applicant in writing—
 - (a) of a determination of entitlement and a determination as to amount, specifying in respect of the applicant—
 - (i) the amounts payable to that person for income losses and (as the case may be) for each of the non-income losses, as well as the total amount payable to that person, as calculated in accordance with regulation 6; and
 - (ii) where the total amount payable differs from the amount claimed in the application, the reasons for the difference; or
 - (b) that the application has been unsuccessful, specifying the reasons why the Secretary of State considers that the applicant does not fulfil the requirements set out in regulation 4(3).
3. If the Secretary of State requires additional information in order to substantiate the whole or any part of the applicant’s claim, the Secretary of State must within a period of 28 days beginning with the date on which the Secretary of State receives an application, notify the applicant in writing of the additional information required and the reasons for requesting that additional information.
4. A notification under paragraph 3 may include a request for the applicant’s consent for the Secretary of State to make reasonable enquiries of a person who holds information that is relevant to the applicant’s claim, for the purpose of substantiating any part of the applicant’s claim.
- 5.—(1) If notification is given under paragraph 3 the applicant must provide the Secretary of State with—
 - (a) such of the additional information requested in the notification as the applicant is reasonably able to provide and, where any of the requested additional information is not provided, such information as the applicant has available and a written explanation as to why the applicant is unable to provide the requested additional information; and
 - (b) a signed statement that the additional information provided is true to the best of the applicant’s knowledge and belief.
 - (2) The information and statement referred to in sub-paragraph (1) must be provided within a period of 28 days beginning with the date on which the notification was given unless special circumstances justify a longer period.
6. Within the period of 28 days of the date of receipt of the additional information and statement provided under paragraph 5 the Secretary of State must notify the applicant in writing—

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- (a) of a determination of entitlement and a determination as to amount, specifying in respect of the applicant—
 - (i) the amounts payable to that person for income losses and (as the case may be) for each of the non-income losses, as well as the total amount payable to that person, as calculated in accordance with regulation 6; and
 - (ii) where the amount payable in accordance with the determination as to amount differs from the amount claimed in that person’s application, the reasons for the difference; or
- (b) that the application has been unsuccessful, specifying the reasons why the Secretary of State considers that the applicant does not fulfil the requirements set out in regulation 4(3).

7. Paragraphs 2 and 6 do not prevent the Secretary of State, where the Secretary of State sees fit, from determining entitlement in respect of any part of an application, pending the Secretary of State’s decision as to whether compensation is payable in respect of each of the income and non-income losses claimed by the applicant.

8. Where the procedure in this Schedule applies by virtue of regulation 4(2)(b) the reference in paragraph 2 to the Secretary of State receiving an application is to be treated as a reference to the date on which the Tribunal makes a relevant order in respect of an applicant and for the purpose of paragraph (2)(b)(ii) of that regulation—

- (a) there is to be omitted from Part 1 of this Schedule—
 - (i) paragraph 7;
 - (ii) sub-paragraph (b) of paragraphs 2 and 6;
 - (iii) the references in paragraphs 2 and 6 to “determination of entitlement”; and
- (b) if the Secretary of State has, before the date of the relevant order, made a determination of entitlement in respect of the applicant, the references in paragraphs 2 and 6 to “determination as to amount” are to be treated as including a reference to revising a determination as to amount.

Part 2

Revoking or revising determinations

9. An entitled person may, within a period of 28 days beginning with the date on which the Secretary of State sent a notification under regulation 5(1), make representations to the Secretary of State.

10. The Secretary of State may extend the time period mentioned in paragraph 9 in any case where the Secretary of State is satisfied that by reason of the special circumstances of the case, it is just to do so.

11. The Secretary of State must take into account any representations received pursuant to paragraph 9, and must decide within 28 days of receiving those representations whether or not to revoke the determination of entitlement or (as the case may be) revise the determination as to amount.

12. Where the Secretary of State revises a determination as to amount under paragraph 11, the Secretary of State must notify the person in respect of whom the determination as to amount was made that the Secretary of State has made such a revision, specifying—

- (a) the amounts payable to that person for income losses and (as the case may be) for each of the non-income losses, as well as the total amount payable to that person, as calculated in accordance with regulation 6 (“the revised amount”);

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- (b) the reasons for any difference between the revised amount and the corresponding amount in the determination as to amount that was the subject of the revision (“the original amount”); and
 - (c) if there is a difference as referred to in sub-paragraph (b) and the Secretary of State has paid the original amount to that person-
 - (i) in the case of the revised amount exceeding the original amount, the amount by which the revised amount exceeds the original amount (“the underpayment amount”); and
 - (ii) in the case of the original amount exceeding the revised amount, the amount by which the original amount exceeds the revised amount (“the overpayment amount”).
13. Where the Secretary of State revokes a determination of entitlement in respect of a person under paragraph 11—
- (a) the Secretary of State must notify that person that the Secretary of State has revoked the determination, specifying the reasons why the Secretary of State considers that the applicant does not fulfil the requirements set out in regulation 4(3); and
 - (b) the determination as to amount made in respect of that person is automatically revoked.

Part 3

Payment of compensation and recovery of overpayment

Payment of compensation

14.—(1) Subject to sub-paragraphs (2) to (6), the Secretary of State must pay an entitled person the amount of compensation which is notified to that person pursuant to paragraph 2(a)(i) or 6(a)(i) and must do so within a period of 45 days beginning with the day after notification was sent to that person.

(2) Sub-paragraph (1) does not apply if, within the period of 28 days of an applicant being notified under paragraph 2(a) or 6(a), an application is made to the Tribunal under section 131A of the Act for—

- (a) the determination of the amount of compensation payable to the applicant; or
- (b) an order that the Secretary of State reconsider a decision under regulation 4(1) regarding a determination as to amount.

(3) Unless a determination under sub-paragraph (2)(a) provides otherwise, the amount of compensation payable pursuant to a determination under that sub-paragraph must be paid by the Secretary of State to the applicant within a period of 45 days beginning with the date of that determination.

(4) Where an entitled person is notified of an amount of compensation payable pursuant to paragraph 2(a)(i) or 6(a)(i), as those paragraphs apply by virtue of paragraph 8, the Secretary of State must pay that person that amount of compensation and must do so within a period of 45 days beginning with the day after notification was sent to that person.

(5) Where, before any payment is made in accordance with sub-paragraph (1), notice is given under regulation 5(1) to the effect that the Secretary of State is considering revocation of the determination of entitlement—

- (a) if revocation takes place, sub-paragraph (1) does not then apply; or
- (b) if revocation does not take place, the Secretary of State must pay to the entitled person the amount notified to that person pursuant to paragraph 2(a)(i) or 6(a)(i) within a period

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of 45 days beginning with the day on which the Secretary of State decided not to revoke the determination of entitlement.

(6) Where, before any payment is made in accordance with sub-paragraph (1), notice is given under regulation 5(1) to the effect that the Secretary of State is considering revising a determination as to amount sub-paragraph (1) does not then apply and—

- (a) if revision takes place, the Secretary of State must pay to the entitled person the amount notified to that person pursuant to paragraph 12(a) and must do so within a period of 45 days beginning with the day after notification was sent to that person;
- (b) if revision does not take place, the Secretary of State must pay to the entitled person the amount notified to that person pursuant to paragraph 2(a)(i) or 6(a)(i) within a period of 45 days beginning with the date on which the Secretary of State decided not to revise the determination as to amount.

(7) Where, after payment is made in accordance with sub-paragraph (1), revision of a determination as to amount takes place under paragraph 11 and a notice under paragraph 12 specifies an underpayment amount, the Secretary of State must pay that amount to the entitled person and must do so within a period of 45 days beginning with the day after that notice was sent to that person.

Recovery of any overpayment

15. Where a notice sent to an entitled person under paragraph 12 specifies an overpayment amount and the Secretary of State has paid that person the original amount, the overpayment amount is immediately payable by that person to the Secretary of State.

16. Where the Secretary of State notifies a person pursuant to paragraph 13(a) that a determination of entitlement made in respect of that person has been revoked, any amount that has been paid under these Regulations to that person is immediately payable by that person to the Secretary of State.