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STATUTORY INSTRUMENTS

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**2021 No. 642**

**The Whiplash Injury Regulations 2021**

**Uplift in exceptional circumstances**

- 3.—(1) Subject to paragraphs (2) and (3), a court—
- (a) may determine that the amount of damages payable for pain, suffering and loss of amenity in respect of one or more whiplash injuries is an amount greater than the tariff amount relating to that injury or those injuries;
  - (b) may determine that the amount of damages payable for pain, suffering and loss of amenity in respect of one or more whiplash injuries, or one or more whiplash injuries and one or more minor psychological injuries, taken together, is an amount greater than the tariff amount relating to those injuries; and
  - (c) in a case where the court considers the combined effect of—
    - (i) an injury or injuries in respect of which a tariff amount is specified in regulation 2(1); and
    - (ii) one or more other injuries,may determine that an amount greater than the tariff amount is to be taken into account when deciding the amount of damages payable for pain, suffering and loss of amenity in respect of the injuries mentioned in paragraphs (i) and (ii).
- (2) Before making a determination under paragraph (1)(a), (b) or (c), the court must be satisfied that—
- (a) the degree of pain, suffering or loss of amenity caused by the whiplash injury or injuries in question makes it appropriate to use the greater amount; and
  - (b) it is the case that—
    - (i) the whiplash injury is, or one or more of the whiplash injuries are, exceptionally severe, or
    - (ii) where the person's circumstances increase the pain, suffering or loss of amenity caused by the injury or injuries, those circumstances are exceptional.
- (3) The greater amount in paragraph (1)(a), (b) or (c) may not exceed the relevant tariff amount by more than 20%.