

- (k) any payment made under the National Health Service (Scotland) (Injury Benefits) Regulations 1998^(a), the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001^(b) or the National Health Service (Injury Benefits) Regulations 1995^(c);
- (l) any benefit that is equivalent or substantially similar to those listed in sub-paragraphs (a)-(k) above (including benefits awarded under the legislation of another country or dependent territory).

Adjustment in respect of past compensation

20.—(1) This regulation applies in a case where—

- (a) a person is determined to be entitled to victims' payments in respect of disablement suffered by that person or another person, but
- (b) compensation has previously been paid to the person so entitled in respect of that disablement, and
- (c) the compensation referred to in sub-paragraph (b) exceeds the amount of exempted compensation.

(2) The reference in paragraph (1)(b) to the payment of compensation is a reference to the payment of compensation—

- (a) in proceedings on a claim,
- (b) in settlement of a claim (whether or not proceedings on the claim were brought before a court), or
- (c) under a scheme established under a statutory provision.

(3) The Board may, to the extent that Board considers appropriate, adjust the amount of victims' payments payable to the person in respect of the amount compensation mentioned in paragraph (1)(b) which is in excess of the amount of exempted compensation.

(4) In considering whether, and to what extent, to exercise the power in paragraph (3), the Board must have regard in particular to —

- (a) the amount of compensation referred to in sub-paragraph (b) which is in excess of the amount of exempted compensation;
- (b) the period of time since any such compensation was paid, and
- (c) any other factor the Board considers relevant.

(5) The exempted amount of compensation is calculated by taking the following three steps.

(6) The first step is to calculate the amount a person would have received had they been entitled to victims' payments from the date of the relevant incident, by multiplying together—

- (a) the number of weeks since the relevant incident, and
- (b) the appropriate rate.

(7) The second step is to adjust the amount calculated under step 1 for inflation, using the ratio published by the Treasury and known as the Gross Domestic Product deflator by reference to the period—

- (a) beginning with the date of the relevant incident, and
- (b) ending with the date of the determination of the person's entitlement to victims' payments.

(8) The third step is to further adjust the amount calculated under step 1 to reflect the time value of money, with reference to the Bank of England base rate.

^(a) 1998 No. 1594 (S. 84).

^(b) S.R. 2001 No. 365.

^(c) S.I. 1995/866.