

*Draft Order laid before Parliament under sections 1(5), 2(11), 3(6) and 4(5) of the Civil Liability Act 201X, for approval by resolution of each House of Parliament.*

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STATUTORY INSTRUMENTS

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**201X No. 0000**

**DAMAGES, ENGLAND AND WALES**

**LEGAL SERVICES, ENGLAND AND WALES**

**The Whiplash Injury Regulations 201X**

*Made* - - - - \*\*\*

*Coming into force* - - \*\*\*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 1, 2, 3 and 4 of the Civil Liability Act 201X(a), having consulted in accordance with section 3(5) of that Act.

A draft of these Regulations has been laid before Parliament in accordance with sections 1(5), 2(11), 3(6) and 4(5) of the Civil Liability Act 201X, and has been approved by a resolution of each House of Parliament.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Whiplash Injury Regulations 201X and come into force on 201X.

(2) These Regulations apply only to causes of action which accrue on or after XX XXX 201X.

(3) In these Regulations, “the Act” means the Civil Liability Act 201X.

**“Whiplash injury”**

**2.** In these Regulations “whiplash injury” means a sprain, strain, tear or rupture of one or more of the muscles, tendons or ligaments in the neck or back which has been caused by the backward or forward or sideways movement of the neck beyond the limit of its normal range of motion, the effects of which may include, but are not limited to—

- (a) pain in the neck, back, shoulders or arms;
- (b) reduced mobility in the neck, back or shoulders;
- (c) headaches;
- (d) muscle spasms; or
- (e) swelling in the neck.

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(a) c. XX.

### Damages for whiplash injuries

3.—(1) Subject to regulation 4, the total amount of damages for pain, suffering and loss of amenity payable in respect of a whiplash injury or in respect of both a whiplash injury and one or more minor psychological injuries suffered on the same occasion as the whiplash injury (“the tariff amount” for the purposes of section 3(7) of the Act) is—

<i>Duration of injury</i>	<i>Amount</i>
Not more than 3 months	£235
More than 3 months, but not more than 6 months	£470
More than 6 months, but not more than 9 months	£805
More than 9 months, but not more than 12 months	£1,250
More than 12 months, but not more than 15 months	£1,910
More than 15 months, but not more than 18 months	£2,790
More than 18 months, but not more than 24 months	£3,910.

(2) In this regulation, “duration of injury” means the duration of the whiplash injury which a person has suffered, or is likely to suffer, assuming they take or have taken reasonable steps to mitigate that injury.

### Uplift in exceptional circumstances

4.—(1) If a court is satisfied that—

- (a) the degree of pain, suffering or loss of amenity caused by a whiplash injury or both a whiplash injury and one or more minor psychological injuries suffered on the same occasion as the whiplash injury makes it appropriate to do so; and
- (b) the circumstances giving rise to that degree of pain, suffering or loss of amenity are exceptional,

it may award an amount greater than the tariff amount that applies to that injury or those injuries.

(2) In a case where the court considers the combined effect of—

- (a) an injury or injuries to which a tariff amount is specified in regulation 3; and
- (b) one or more other injuries,

it 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 sub-paragraphs (a) and (b).

(3) The maximum percentage by which the amount awarded may be greater than the tariff amount is 20%.

### Settlement of a whiplash claim

5.—(1) For the purposes of section 4 of the Act, only evidence of the injury or injuries provided in a fixed cost medical report from an accredited medical expert selected via the MedCo Portal constitutes appropriate medical evidence of an injury.

(2) In this regulation, “accredited medical expert”, “fixed cost medical report” and “MedCo” have the meanings ascribed to them by paragraph 1.1(A1), (10A) and (12A), respectively, of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents from 31 July 2013.

Signed by authority of the Lord Chancellor

Date

*Name*  
Minister of State for Justice  
Ministry of Justice

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations specify, by way of a tariff, the total amount of damages for pain, suffering and loss of amenity that a court may award for road traffic accident ('RTA') related whiplash injuries of up to two-year duration and any minor psychological injuries suffered on the same occasion. The Regulations permit the court to award a maximum uplift of 20% on those damages in exceptional circumstances.

The Regulations also describe those soft tissue injuries of the neck and back (as provided by section 1 of the Civil Liability Act 201X, c. X) which are to be treated as whiplash injuries and so subject to these Regulations.

These Regulations further specify the medical evidence that must be provided before a regulated person (defined in section 7 of the 201X Act) may settle or offer to settle, or make or accept a payment in settlement of, an RTA related whiplash injury claim.

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