



Republic of Namibia  
Annotated Statutes

**REGULATIONS**

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REGULATIONS SURVIVING IN TERMS OF

**Disaster Risk Management Act 10 of 2012**  
section 59(2)

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**Civil Defence Regulations relating to Compensation for  
Physical Injuries, Death and Disability**

Government Notice AG 3 of 1981

(OG 4363)

came into force on date of publication: 9 January 1981

These regulations were originally made in terms of section 9 of the Civil Defence Proclamation 54 of 1978, which was repealed by the Disaster Risk Management Act 10 of 2012. Pursuant to section 59(2) of the Disaster Risk Management Act 10 of 2012, the regulations are deemed to have been made under that Act.

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**Disaster Risk Management Act 10 of 2012**

**Civil Defence Regulations relating to Compensation for Physical Injuries, Death and Disability**

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18. Short title

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**Definitions**

1. (1) In these regulations, unless the context indicates otherwise -

“Appeal Board” means the appeal board appointed under regulation 11;

“child”, in relation to a member, means an unmarried or posthumous child under the age of 18 years -

- (a) who is a child for whose maintenance the member is legally responsible;
- (b) who is a stepchild of such member;
- (c) who has been legally adopted by such member;
- (d) as well as an unmarried child over the age of 18 years who is a fulltime student at a university, a college, a school or other educational institution or who, because of physical or mental disability, is unable to provide for his own maintenance and who is regularly maintained by such member;

“civil defence service” means service performed or training undergone by a member in connection with civil defence;

“compensation” means compensation payable in terms of these regulations;

“deceased member” means a member who died as a result of an event;

“dependant”, in relation to a deceased member, means -

- (a) a child;
- (b) if the member was married at the time of the event, the widow or, if there is no widow, any woman with whom the member in the opinion of the Secretary lived as husband and wife at the time of the event;
- (c) if the member was married at the time of the event, the widower who in the opinion of the Secretary was fully dependent on her on account of physical or mental disability;

“disability” means the temporary or permanent disability of a member caused or aggravated by an event;

“event” means an event which resulted in the death, physical injury or disability of any member and which took place in the course of the performance of any function assigned to such a member in terms of the Proclamation, the Civil Defence Ordinance, 1979 (Ordinance 3 of 1979), or any regulation made thereunder;

“formula I”, in relation to a particular member and any matter to be calculated in accordance with formula I, means the formula -

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A x B x C,

in which -

- (a) A represents the income of the member on the date of the event which, in the case of a member whose actual income -
  - (i) exceeds R6 000 per annum, shall be deemed to be R5 600 per annum;
  - (ii) does not exceed the amount of R6 000 per annum, shall be deemed not to exceed R4 800 per annum;
- (b) B represents the percentage at which the member's disability has been laid down or determined;
- (c) C represents 0,75;

“formula II”, in relation to any matter to be calculated in accordance with formula II, means the formula -

A x C x D,

in which

- (a) A and C shall have the same meaning as A and C in the definition of formula I, respectively;
- (b) D represents 0,40:

Provided that the compensation payable in accordance with this formula shall not exceed the amount of compensation calculated in accordance with formula I, payable to the member for 100 per cent disability;

“formula III”, in relation to any matter to be calculated in accordance with formula III, means the formula -

A x C x E,

in which

- (a) A and C shall have the same meaning as A and C in the definition of formula I, respectively;
- (b) E represents 0,20:

Provided that the compensation payable in accordance with this formula shall not exceed the amount of compensation calculated in accordance with formula I, payable to the member for 100 per cent disability;

“formula IV”, in relation to any matter to be calculated in accordance with formula IV, means the formula -

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$$\frac{F \times G}{H}$$

in which-

- (a) F represents the amount of R4 080;
- (b) G represents the percentage at which the member's disability has been determined;
- (c) H represents 0,30;

“head of civil defence” means the person who, in terms of the said Civil Defence Ordinance, 1979, is appointed as Chief of Civil Defence of a Local authority;

**[The word “local” is capitalised in the *Official Gazette*.]**

“local authority” means -

- (a) the council of any municipality established or constituted, or deemed to be established or constituted, in terms of the Municipal Ordinance, 1963 (Ordinance 13 of 1963); or
- (b) any village management board constituted or deemed to be constituted in terms of the Village Management Boards Ordinance, 1963 (Ordinance 14 of 1963); or
- (c) the Peri-Urban Development Board established in terms of the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970);

**[The Local Authorities Act 23 of 1992 repealed the Municipal Ordinance 13 of 1963, the Village Management Boards Ordinance 14 of 1963 and the Peri-Urban Development Board Ordinance 19 of 1970.]**

“medical practitioner” means any person registered as such in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974);

**[The Medical, Dental and Supplementary Health Service Professions Act 56 of 1974 was repealed by the Medical and Dental Professions Act 21 of 1993, which was replaced in turn by the Medical and Dental Act 10 of 2004.]**

“medical treatment” means medical, surgical or hospital treatment, professional nursing services, any special curative treatment approved by the Secretary the supply and repair of any artificial part of the body or any device necessitated by disability and also the transportation of a member to and from his home, hospital or institution for the purpose of treatment or examination by a medical practitioner;

“member” means any person who in terms of the said Civil Defence Ordinance, 1979, has bound himself to undergo training in connection with civil defence and to perform service in connection therewith;

“misconduct”, in relation to a member, means any action or omission which the Secretary, with due consideration to all the circumstances, regards as misconduct;

“permanent disability” means a disability laid down in regulation 6(2) or determined thereunder;

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“Secretary” means the Secretary for National Health and Welfare;

“State” includes the Administrator-General;

“temporary disability” means the temporary inability of a member to perform his ordinary work as a result of an event in respect of which compensation is payable;

“the Proclamation” means the Civil Defence Proclamation, 1978 (Proclamation AG. 54 of 1978).

- (2) In the application of these regulations -
  - (a) the income of a member who has no income on the day on which the event takes place to which his claim for compensation relates, shall be deemed to be the amount which the Administrator-General may from time to time determine as the income of the category of persons to which the said member belongs;
  - (b) civil defence service shall be deemed to have commenced on the date and time a member departed from his home, usual place of residence or place of employment to report for such service or training.

### **Payment of compensation**

2. Subject to the other provisions of these regulations, the Secretary shall, out of moneys appropriated by law for that purpose, pay -

- (a) compensation to members who were involved in an event;
- (b) compensation to dependants of deceased members;
- (c) the reasonable cost of medical treatment necessitated by an event and also any medical or psychological examination in terms of these regulations;
- (d) travelling, subsistence and other allowances to members who, on the instructions of the Secretary have to appear before a medical practitioner or a medical board in connection with the determination of his disability, and also to any person who must of necessity accompany such a member;
- (e) an allowance not exceeding R500 for the necessary funeral costs of a member who dies as a result of an event.

### **Exclusion of liability for compensation**

3. No member is entitled to compensation in terms of these regulations if -
  - (a) the event was due to the misconduct of such a member;
  - (b) he has received or will receive compensation in terms of the Workmen's Compensation Act, 1941 (Act 30 of 1941), in respect of the same event.

[The Employees' Compensation Act 30 of 1941 was known as the “Workmen's Compensation Act” until 1995. The word “Workmen's” is misspelt in the *Official Gazette*, as reproduced above.]

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**Amount of compensation payable**

4. (1) Subject to the other provisions of these regulations -
- (a) a member suffering from a temporary disability shall be entitled to receive an amount which bears the same proportion to an amount calculated in accordance with formula I as the proportion which the actual number of days of temporary disability bears to a year: Provided that -
    - (i) such compensation shall only be payable on submission by the member concerned of a medical certificate issued by a medical practitioner showing the actual period of such temporary disability;
    - (ii) a temporary disability which lasts longer than 18 months may in the discretion of the Secretary be deemed a disability of a permanent nature;
  - (b) no compensation shall be payable to a member in respect of the first three days of disability of a temporary nature where such disability lasts less than 14 days;
  - (c) a member who suffers from a permanent disability which has in terms of these regulations been determined at more than 30 per cent, shall be entitled to a pension calculated in accordance with formula I;
  - (d) the pension of a member to whom compensation is paid in terms of this subregulation and who has to undergo further medical treatment, may be supplemented by an amount equal to the difference between the amount paid to him and the amount of the compensation which would have been paid to him if his disability had been determined at 100 per cent;
  - (e) the widow or widower of a deceased member who died as a result of a disability shall be entitled to a pension calculated in accordance with formula II;
  - (f) every child of a deceased member who died as a result of a disability shall be entitled to a pension calculated in accordance with formula III.

(2) If a member is suffering from a disability of a permanent nature which in terms of the provisions of these regulations has been determined at 30 per cent or less, he shall be paid a gratuity calculated in accordance with formula IV.

**Application for compensation**

5. (1) Any person who claims compensation, shall apply therefore on a form prescribed by the Secretary and shall in support of the application furnish the particulars, documents and information which the Secretary deems necessary to enable him to come to a decision on such an application.

(2) An application for compensation in terms of these regulations shall be submitted within a period of 12 months from the date of an event on the form referred to in subregulation (1), to the head of civil defence of the local authority concerned of which the person was a member.

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(3) The head of civil defence of the local authority concerned of which the person was a member at the time of the event, shall submit a certificate prescribed by the Secretary together with the information referred to in subregulation (1), to the Secretary for consideration.

(4) The Secretary may, in his discretion, permit any person to submit an application on behalf of a member who claims compensation.

(5) After consideration of the application the Secretary shall determine the amount of any compensation to which member or dependant is entitled.

**Determination of percentage of disability**

6. (1) In considering an application for compensation or in reviewing a pension in terms of these regulations, the disability and the degree of such disability shall be determined or redetermined by the Secretary in accordance with the directives laid down in the Annexure in relation to the percentages of disabilities.

(2) When a member has sustained a specific injury, he shall, for the purposes of these regulations, be deemed to be permanently disabled to the degree laid down in the Annexure and if the injury is not mentioned in the said Annexure, the Secretary shall determine a degree of disability which in his opinion is not contrary to the said Annexure.

(3) In the application of subregulations (1) and (2) the Secretary may require from a member whose determination of disability is under consideration, that he be examined by a medical practitioner or a board of medical practitioners designated by the Secretary.

**Payment of compensation by way of pensions**

7. (1) Pensions shall be paid monthly at the times and places and in the manner determined by the Secretary from time to time in general or in a particular case.

(2) Subject to subregulation (3) -

(a) every person shall personally receive the pension payable to him and shall furnish a receipt under his signature or mark in respect of the amount so received;

(b) the pension may, at the request of the person concerned, be paid direct to his credit into his account with a banking institution defined in section 1 of the Banks Act, 1965 (Act 23 of 1965), or with a building society defined in section 1 of the Building Societies Act, 1965 (Act 24 of 1965).

**[The Banks Act 23 of 1965 has been replaced by the Banking Institutions Act 2 of 1998, which has been replaced in turn by the Banking Institutions Act 13 of 2023. The Building Societies Act 24 of 1965 has been replaced by the Building Societies Act 2 of 1986.]**

(3) (a) If a person is unable personally to receive the pension payable to him at a post office, the pension may on submission of an authorisation by him in writing and duly signed in the presence of two witnesses, be paid over to another person mentioned in the authorisation.

(b) An authorisation referred to in subregulation (3)(a) may be issued for a specific or indeterminate period and may at any time be cancelled by the person by whom it was granted.

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[The reference to “subregulation (3)(sa)” should be be “subregulation (3)(a)”,  
as it appears in the Afrikaans text in the *Official Gazette*.]

- (c) Notwithstanding any provisions to the contrary in any law contained, the Secretary may, if he is satisfied that there is good reason for such step, order that the pension to which the authorisation refers, be not paid over to the person mentioned in the authorisation.
- (d) Subregulation 2(a) shall apply *mutatis mutandis* to a person to whom a pension is paid over in accordance with an authorisation referred to in subregulation (3)(a).

[The reference to “subregulation 2(a)” should be “subregulation (2)(a)”,  
as it appears in the Afrikaans text in the *Official Gazette*.]

**Review of compensation awarded**

- 8. (1) The Secretary may at any time review the compensation awarded where -
  - (a) a substantial change in the degree of the disability of the member concerned has occurred;

[The word “occurred” is misspelt in the *Official Gazette*, as reproduced above.]

- (b) the compensation was obtained by fraud, misrepresentation of facts or in any other improper manner;
- (c) the persons receiving the compensation or in respect of whom the compensation is paid, is not entitled thereto;
- (d) the disability on which the compensation is based is extended or aggravated by the member’s unreasonable refusal or deliberate failure to submit himself to medical treatment.

[The word “aggravated” is misspelt in the *Official Gazette*, as reproduced above.]

**Cessation date of pensions**

- 9. (1) A pension shall be payable in the case -
  - (a) of the death of a member, widow or widower receiving a pension, up to and including the last day of the month in which such member, widow or widower dies;
  - (b) of a child, up to and including the last day of the month in which paragraphs (a) and (d) of the definition of “child” no longer apply to him;
  - (c) where the degree of the disability of a member is determined at 30 per cent or less in terms of these regulations, up to and including the last day of the month determined by the Secretary.

(2) If any person received compensation in terms of these regulations to which he was not entitled, he or, if he dies, his estate, shall be liable to repay the sum of such compensation to the Secretary, unless the Secretary is satisfied that he received it without knowing that he was not entitled thereto.



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(3) Secretary for Finance may in his discretion write off the whole or any portion of a sum of money repayable in terms of this regulation, if he is satisfied that it would be uneconomical to recover such sum or that the recovery thereof would cause undue hardship.

(4) (a) If any person who receives a pension, is admitted to an institution controlled by the State and makes no contribution towards his stay or care in such institution, the Secretary may in his discretion and with effect from such date as he may determine, reduce or discontinue the pension being paid to such person.

(b) Any pension reduced or discontinued under paragraph (a) shall, if the person concerned is discharged from such institution aforesaid, be restored with effect from the first day of the month in which he has been so discharged.

(5) The payment of compensation to any person who is absent from the territory for a continuous period of more than six months, shall be discontinued as from the first day of the seventh month following the month in which he left the territory: Provided that if the Secretary because of reasons given by such person, is of the opinion that it is equitable that the payment of such compensation should be continued or resumed, the Secretary may grant permission for the continuation or resumption of the payment of such compensation for the period or periods and subject to the conditions determined by him.

**Medical treatment and medical examinations of members**

10. (1) If the Secretary is of the opinion that it is necessary or desirable that a member receive further or continued medical treatment or undergo examination for the purpose of determining such member's disability the Secretary may direct that the member be so treated or examined and may also authorise the admission of the member to a hospital or other institution and may authorise the costs in connection therewith as compensation in terms of these regulations.

(2) If a member, after being directed thereto in terms of subregulation (1), refuses to submit to medical treatment or examination, the Secretary may direct that -

- (a) if the member's application for compensation has not yet been finalised, the application be not finalised;
- (b) if compensation has already been granted to the member, the compensation or such part thereof as the Secretary may determine, be withheld, until he submits to such treatment or examination.

**[The word "be" in the phrase "be withheld" is misspelt as "he" in the *Official Gazette*, as reproduced above.]**

(3) Compensation in respect of medical treatment shall be made in accordance with the tariff as laid down from time to time in terms of section 30(10) of the Medical Schemes Act, 1967 (Act 72 of 1967), and no amount in excess of the costs laid down by that tariff, or if no costs are so determined, no amount in excess of the costs deemed equitable by the Secretary may be recovered from the member or the State in respect of such medical treatment.

**[The Medical Schemes Act 72 of 1967 has been replaced by the Medical Aid Funds Act 23 of 1995.]**

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### **Appeal board**

11. (1) The Administrator-General shall appoint, according to the nature of an appeal, an appeal board consisting of not less than three persons in order to consider any appeal in terms of regulation 12(1).

(2) The appeal board shall consider all appeals submitted in terms of these regulations and may direct that a medical or psychological examination of the appellant be carried out by a medical practitioner nominated by the board and that the board be furnished with a report on such examination, which shall be taken into account in considering the appeal, and may take any steps to enable it to decide the appeal.

(3) The appeal board may confirm or set aside any decision of the Secretary against which an appeal is lodged, and may give a new decision.

(4) The time and place for the consideration of an appeal in terms of regulation 12, shall be determined by the Secretary after consultation with the appeal board and the appellant concerned shall be advised thereof.

(5) The Secretary shall, with the concurrence of the Secretary for Finance, determine the remuneration to be paid to members of the appeal board.

[The word "appeal" is misspelt in the *Official Gazette*, as reproduced above.]

### **Right of appeal**

12. (1) Subject to the other provisions of these regulations, any person who receives compensation or claims compensation and who feels aggrieved by any decision of the Secretary may lodge and appeal against such decision with the appeal board referred to in regulation 11(1).

(2) An appeal in terms of subregulation (1) shall -

(a) be lodged in writing with the Secretary within three months after notification of the decision concerned to the appellant: Provided that the said period of three months may in its descretion be extended by the appeal board;

[The word "discretion" is misspelt in the *Official Gazette*, as reproduced above.]

(b) contain the complete grounds of appeal;

(c) be accompanied by such documents as the appellant desires to submit.

(3) The Secretary shall as soon as practicable submit the required particulars together with all documents in his possession relating to the appellant, to the appeal board for consideration.

### **Notice to appear before the appeal board**

13. (1) The Secretary may give notice to any person who has information relating to an appeal, to appear before the appeal board for the purpose of testifying or of submitting to the said appeal board any relevant book, note or document.

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(2) A notice referred to in subregulation (1) shall be forwarded by registered post to the appellant or witness, as the case may be, at his latest known address to reach him at least 14 days prior to the date in determined terms of regulation 11(5).

[The phrase “date in determined terms of” should read “date determined in terms of”.]

(3) The Secretary shall, with the concurrence of the Secretary for Finance, determine the remuneration to be paid to a witness appearing before the appeal board in connection with the consideration of an appeal.

**Compensation may not be ceded and is not liable to attachment**

14. (1) No compensation payable under these regulations, and no right in respect of such compensation, shall be capable of being assigned or transferred or otherwise ceded or pledged or hypothecated, except as its provided in section 11(2) of the Maintenance Act, 1963 (Act 23 of 1963), or be liable to attachment or subject to any form of execution in terms of a judgment or order of a court of law.

(2) If any person attempts to assign or transfer or otherwise cede or pledge or hypothecate any compensation to which he is entitled, payment of such compensation may be withheld, suspended or discontinued.

(3) Notwithstanding the provision of subregulation (1), any amount which is owing by a person to the State, may be recovered in a lump sum or in such instalments as the Secretary may determine, from the compensation payable to such a person under these regulations.

**Effect of insolvency**

15. If the estate of any person who receives compensation under these regulations is sequestrated, such compensation shall not form part of the assets in his insolvent estate.

**Administration of payment of compensation**

16. If the Secretary is satisfied that it is undersirable for any reason to pay the whole amount of compensation payable under these regulations direct to te pension payable under these regulations direct to the such compensation or a portion thereof be paid to some other person on such conditions as to the administration thereof for the benefit of such first-mentioned person or his dependants as the Secretary may determine.

[Regulation 16 has several misspelt words and seems to be structurally garbled. The Afrikaans text reads as follows:

“Indien die Sekretaris oortuig is dat dit om die een of ander rede onwenslik is om die hele bedrag van vergoeding wat kragtens hierdie regulasies betaalbaar is, regstreeks aan die persoon wat daarop geregtig is, te betaal kan die Sekretaris gelas dat daardie vergoeding of 'n gedeelte daarvan aan iemand anders betaal word op die voorwaardes wat betref die beheer daarvan ten bate van eersgenoemde persoon of sy athanklikes wat die Sekretaris bepaal.” ]

**Administration of regulations**

17. The Secretary may delegate any of his powers or duties in terms of these regulations to an officer in his Department.

**Short title**

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18. These regulations shall be called the Civil Defence Regulations relating to Compensation for Physical Injuries, Death and Disability.

| Item No. | Specific injury or disability  | Percentage of disability |          |
|----------|--|--------------------------|----------|
|          | Upper limbs  |                          |          |
|          | NOTES. - (a) Stump measurements shall be taken as follows -  |                          |          |
|          | (i) Upper arm - With stump hanging down by the side, measure in a straight line from tip of acromion to the end of the bone which is palpable beneath the skin or scar tissue.   |                          |          |
|          | (ii) Forearm - With stump flexed to a right angle, measure in a straight line from tip of olecranon to the end of the bone which is palpable beneath the skin or scar tissue.  |                          |          |
|          | (b) In the case of the members who are certified to be left-handed the relevant determination shown below for right and left arms, respectively, shall be transposed.  |                          |          |
| 1        | Loss of both hands or of all fingers and both thumbs .....   | 100                      |          |
|          |  | Right arm                | Left arm |
| 2        | Amputation of arm at shoulder joint  | 90                       | 80       |
| 3        | Amputation of arm with stump less than 20 centimetres from tip of acromion .....   | 80                       | 70       |
| 4        | Amputation of arm anywhere between a point 20 centimetres from tip of acromion and a point less than 11 centimetres distal to tip of olecranon .....   | 70                       | 60       |
| 5        | Amputation of arm at point 11 centimetres or more distal to tip of olecranon, or loss of all fingers and thumb of one hand .....   | 60                       | 50       |
| 6        | Loss of all phalanges of thumb or four fingers of one hand .....   | 40                       | 30       |
| 7        | Loss of all phalanges of three fingers .....   | 30                       | 20       |
| 8        | Loss of all phalanges of two fingers .....   | 20                       | 20       |
|          | Lower limbs  |                          |          |
|          | Notes. - (a) Stump measurements shall be taken as follows -  |                          |          |
|          | (i) Above knee - Measure from tip of great trochanter in a straight line over outer aspect of stump to end of bone which is palpable beneath the skin or scar tissue.  |                          |          |
|          | (ii) Below knee - With knee flexed measure from anterior edge of upper articular [articular] surface of the tibia in a straight line over inner aspect of stump to the end of the tibia (not the fibula) which is palpable beneath the skin or scra [scar] tissue. |                          |          |
|          | (b) In order to determine middle thigh level unilateral thigh amputations, the length of the sound femur shall be the criterion.   |                          |          |

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|--|---|-----|
| 9  | Loss of both feet .....   | 100 |
| 10   | Amputation at hip or below hip with stump not exceeding 13 centimetres measured from tip of great trechanter [greater trochanter] .....   | 80  |
| 11   | Amputation below hip with stump exceeding 13 centimetres measured from tip of great trochanter but not beyond middle thigh .....  | 70  |
| 12   | Amputation anywhere between middle thigh and 10 centimetres below knee .....  | 60  |
| 13   | Amputation of leg with stump exceeding 10 centimetres below knee .....  | 50  |
| 14   | Modified Syme amputation .....  | 40  |
| 15   | Loss of all toes of both feet proximal to the proximal interphalangeal [interphalangeal] joint .....  | 30  |
| 16   | Loss of all toes of one foot proximal to the proximal interphalangeal [interphalangeal] joint or loss of all toes of both feet distal to the proximal interphalangeal [interphalangeal] joint ..... | 20  |
| Defective vision   |   |     |
| 17   | Total los [loss] of sight .....   | 100 |
| 18   | Loss of one eye .....   | 50  |
| 19   | Total loss of vision in one eye   | 40  |
| N.B. - In cases of partial loss of vision the visual acuity shall be determined after correction with glasses. |   |     |
| Defective hearing  |   |     |
| 20   | Total deafneass [deafness] .....  | 100 |
| 21   | Total deafness in one ear .....   | 20  |
| Facial disfigurements  |   |     |
| 22   | Very servere [severe] facial disfigurement rendering the member incapable of mixing with the public .....   | 100 |
| 23   | Severe facial disfigurement rendering employment in contact with the public impossible .....  | 80  |
| Other disabilities   |   |     |
| 24   | Wounds, injuries or diseases resulting in the member being permanently bedridden or totally disabled .....  | 100 |
| 25   | Total loss of speech .....  | 80  |
| 26   | Loss of both testicles .....  | 70  |
| 27   | Loss of a kidney .....  | 30  |
| 28   | Loss of one testicle .....  | 20  |
| Combination of certain disabilities  |   |     |

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|    |                                 |     |
|----|---------------------------------|-----|
| 29 | Loss of any two limbs .....     | 100 |
| 30 | Loss of an arm and an eye ..... | 100 |
| 31 | Loss of a leg and an eye .....  | 100 |
| 32 | Loss of a hand and a foot.....  | 100 |

Notes -

- (a) The determination of the degree of disability in respect of disabilities not specified in this Annexure shall be on the basis of physical or mental incapacitation only and shall be made by comparison with a normally healthy person of the same age and sex, without regard to loss of earning capacity in any particular occupation.
- (b) No combination of disabilities shall be deemed to exceed 100 per cent disability.