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STATUTORY INSTRUMENTS

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**1998 No. 3132**

The Civil Procedure Rules 1998

Part 25

INTERIM REMEDIES

**Interim payments—conditions to be satisfied and matters to be taken into account**

**25.7.**—(1) The court may make an order for an interim payment only if—

- (a) the defendant against whom the order is sought has admitted liability to pay damages or some other sum of money to the claimant;
- (b) the claimant has obtained judgment against that defendant for damages to be assessed or for a sum of money (other than costs) to be assessed;
- (c) except where paragraph (3) applies, it is satisfied that, if the claim went to trial, the claimant would obtain judgment for a substantial amount of money (other than costs) against the defendant from whom he is seeking an order for an interim payment; or
- (d) the following conditions are satisfied—
  - (i) the claimant is seeking an order for possession of land (whether or not any other order is also sought); and
  - (ii) the court is satisfied that, if the case went to trial, the defendant would be held liable (even if the claim for possession fails) to pay the claimant a sum of money for the defendant's occupation and use of the land while the claim for possession was pending.

(2) In addition, in a claim for personal injuries the court may make an order for an interim payment of damages only if—

- (a) the defendant is insured in respect of the claim;
- (b) the defendant's liability will be met by—
  - (i) an insurer under section 151 of the Road Traffic Act 1988<sup>(1)</sup>; or
  - (ii) an insurer acting under the Motor Insurers Bureau Agreement, or the Motor Insurers Bureau where it is acting itself; or
- (c) the defendant is a public body.

(3) In a claim for personal injuries where there are two or more defendants, the court may make an order for the interim payment of damages against any defendant if—

- (a) it is satisfied that, if the claim went to trial, the claimant would obtain judgment for substantial damages against at least one of the defendants (even if the court has not yet determined which of them is liable); and
- (b) paragraph (2) is satisfied in relation to each of the defendants.

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<sup>(1)</sup> 1988 c. 52. Section 151 was amended by the Road Traffic Act 1991 (c. 40), section 83, Schedule 8.

(4) The court must not order an interim payment of more than a reasonable proportion of the likely amount of the final judgment.

(5) The court must take into account—

- (a) contributory negligence; and
- (b) any relevant set-off or counterclaim.