

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

SCHEDULES

SCHEDULE 8, Paragraph 34: Damages Act 1996

General

The Damages Act 1996 makes provision in relation to damages for personal injury. This includes provision for structured settlements. A structured settlement is an agreement settling a claim or action for damages for personal injury on terms whereby:

- (a) the damages are to consist wholly or partly of periodical payments; and
- (b) (in effect) the person against whom a claim is made has purchased an annuity (or annuities) which would enable all or part of the sum to be paid in periodical payments by him (or his insurer).

The claimant (as the annuitant) would receive periodical payments for life, for a specified period or for a specified number of payments. A court may make an order awarding damages for personal injury which incorporates such terms.

Section 6 of the 1996 Act provides for guarantees for public sector settlements.

Where payments are to be made by a body in relation to which a Minister of the Crown has power to do so, under the provisions of section 6(2) the Minister of the Crown may guarantee the payments to be made under the agreement or court order.

Section 6(3) of the 1996 Act provides that bodies in relation to which a Minister may give such a guarantee are such bodies as are designated in relation to the relevant government department by guidelines agreed between that department and the Treasury.

The function of guaranteeing public sector settlements under section 6(2) of the 1996 Act will transfer to the Scottish Ministers under section 53 insofar as these guarantees concern designated Scottish public authorities with mixed functions or no reserved functions.

It is intended that the Scottish Ministers will designate the bodies and, since any liabilities arising from guarantees provided by the Scottish Ministers should fall on the Scottish Consolidated Fund, the requirement to agree guidelines for the designations with the Treasury is not considered necessary.

The amendment therefore makes it clear that it is for the Scottish Ministers to designate bodies without the requirement for Treasury consent.