



Courts Act 2003

2003 CHAPTER 39

PART 8 **E+W**

MISCELLANEOUS

Damages

100 Periodical payments **U.K.**

- (1) For section 2 of the Damages Act 1996 (c. 48) (periodical payments by consent) substitute—

“2 Periodical payments

- (1) A court awarding damages for future pecuniary loss in respect of personal injury—
- may order that the damages are wholly or partly to take the form of periodical payments, and
 - shall consider whether to make that order.
- (2) A court awarding other damages in respect of personal injury may, if the parties consent, order that the damages are wholly or partly to take the form of periodical payments.
- (3) A court may not make an order for periodical payments unless satisfied that the continuity of payment under the order is reasonably secure.
- (4) For the purpose of subsection (3) the continuity of payment under an order is reasonably secure if—
- it is protected by a guarantee given under section 6 of or the Schedule to this Act,
 - it is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation) (whether or not as modified by section 4 of this Act), or

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- (c) the source of payment is a government or health service body.
- (5) An order for periodical payments may include provision—
- (a) requiring the party responsible for the payments to use a method (selected or to be selected by him) under which the continuity of payment is reasonably secure by virtue of subsection (4);
 - (b) about how the payments are to be made, if not by a method under which the continuity of payment is reasonably secure by virtue of subsection (4);
 - (c) requiring the party responsible for the payments to take specified action to secure continuity of payment, where continuity is not reasonably secure by virtue of subsection (4);
 - (d) enabling a party to apply for a variation of provision included under paragraph (a), (b) or (c).
- (6) Where a person has a right to receive payments under an order for periodical payments, or where an arrangement is entered into in satisfaction of an order which gives a person a right to receive periodical payments, that person's right under the order or arrangement may not be assigned or charged without the approval of the court which made the order; and—
- (a) a court shall not approve an assignment or charge unless satisfied that special circumstances make it necessary, and
 - (b) a purported assignment or charge, or agreement to assign or charge, is void unless approved by the court.
- (7) Where an order is made for periodical payments, an alteration of the method by which the payments are made shall be treated as a breach of the order (whether or not the method was specified under subsection (5)(b)) unless—
- (a) the court which made the order declares its satisfaction that the continuity of payment under the new method is reasonably secure,
 - (b) the new method is protected by a guarantee given under section 6 of or the Schedule to this Act,
 - (c) the new method is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation) (whether or not as modified by section 4 of this Act), or
 - (d) the source of payment under the new method is a government or health service body.
- (8) An order for periodical payments shall be treated as providing for the amount of payments to vary by reference to the retail prices index (within the meaning of section 833(2) of the Income and Corporation Taxes Act 1988) at such times, and in such a manner, as may be determined by or in accordance with Civil Procedure Rules.
- (9) But an order for periodical payments may include provision—
- (a) disapplying subsection (8), or
 - (b) modifying the effect of subsection (8).

2A Periodical payments: supplementary

- (1) Civil Procedure Rules may require a court to take specified matters into account in considering—

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- (a) whether to order periodical payments;
 - (b) the security of the continuity of payment;
 - (c) whether to approve an assignment or charge.
- (2) For the purposes of section 2(4)(c) and (7)(d) “government or health service body” means a body designated as a government body or a health service body by order made by the Lord Chancellor.
- (3) An order under subsection (2)—
- (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Section 2(6) is without prejudice to a person’s power to assign a right to the scheme manager established under section 212 of the Financial Services and Markets Act 2000.
- (5) In section 2 “damages” includes an interim payment which a court orders a defendant to make to a claimant.
- (6) In the application of this section to Northern Ireland—
- (a) a reference to Civil Procedure Rules shall be taken as a reference to rules of court, and
 - (b) a reference to a claimant shall be taken as a reference to a plaintiff.
- (7) Section 2 is without prejudice to any power exercisable apart from that section.

2B Variation of orders and settlements

- (1) The Lord Chancellor may by order enable a court which has made an order for periodical payments to vary the order in specified circumstances (otherwise than in accordance with section 2(5)(d)).
- (2) The Lord Chancellor may by order enable a court in specified circumstances to vary the terms on which a claim or action for damages for personal injury is settled by agreement between the parties if the agreement—
- (a) provides for periodical payments, and
 - (b) expressly permits a party to apply to a court for variation in those circumstances.
- (3) An order under this section may make provision—
- (a) which operates wholly or partly by reference to a condition or other term of the court’s order or of the agreement;
 - (b) about the nature of an order which may be made by a court on a variation;
 - (c) about the matters to be taken into account on considering variation;
 - (d) of a kind that could be made by Civil Procedure Rules or, in relation to Northern Ireland, rules of court (and which may be expressed to be with or without prejudice to the power to make those rules).
- (4) An order under this section may apply (with or without modification) or amend an enactment about provisional or further damages.

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(5) An order under this section shall be subject to any order under section 1 of the Courts and Legal Services Act 1990 (allocation between High Court and county courts).

(6) An order under this section—

- (a) shall be made by statutory instrument,
- (b) may not be made unless the Lord Chancellor has consulted such persons as he thinks appropriate,
- (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and
- (d) may include transitional, consequential or incidental provision.

(7) In subsection (4)—

“provisional damages” means damages awarded by virtue of subsection (2)(a) of section 32A of the Supreme Court Act 1981 or section 51 of the County Courts Act 1984 (or, in relation to Northern Ireland, paragraph 10(2)(a) of Schedule 6 to the Administration of Justice Act 1982), and

“further damages” means damages awarded by virtue of subsection (2)(b) of either of those sections (or, in relation to Northern Ireland, paragraph 10(2)(b) of Schedule 6 to the Administration of Justice Act 1982).”

(2) ^{F1}

(3) ^{F1}

(4) In this section—

- (a) subsection (1) shall extend only to England and Wales and Northern Ireland, and
- (b) the remainder shall extend to the whole of the United Kingdom.

Textual Amendments

F1 S. 100(2)(3) repealed (6.4.2005 with effect as mentioned in s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 884, [Sch. 3](#) (with [Sch. 2](#))

101 Periodical payments: security E+W

(1) For sections 4 and 5 of the Damages Act 1996 (c. 48) (enhanced protection for structured settlement annuitant) substitute—

“4 Enhanced protection for periodical payments

(1) Subsection (2) applies where—

- (a) a person has a right to receive periodical payments, and
- (b) his right is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation), but only as to part of the payments.

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- (2) The protection provided by the scheme shall extend by virtue of this section to the whole of the payments.
 - (3) Subsection (4) applies where—
 - (a) one person (“the claimant”) has a right to receive periodical payments from another person (“the defendant”),
 - (b) a third person (“the insurer”) is required by or in pursuance of an arrangement entered into with the defendant (whether or not together with other persons and whether before or after the creation of the claimant’s right) to make payments in satisfaction of the claimant’s right or for the purpose of enabling it to be satisfied, and
 - (c) the claimant’s right to receive the payments would be wholly or partly protected by a scheme under section 213 of the Financial Services and Markets Act 2000 if it arose from an arrangement of the same kind as that mentioned in paragraph (b) but made between the claimant and the insurer.
 - (4) For the purposes of the scheme under section 213 of that Act—
 - (a) the claimant shall be treated as having a right to receive the payments from the insurer under an arrangement of the same kind as that mentioned in subsection (3)(b),
 - (b) the protection under the scheme in respect of those payments shall extend by virtue of this section to the whole of the payments, and
 - (c) no person other than the claimant shall be entitled to protection under the scheme in respect of the payments.
 - (5) In this section “periodical payments” means periodical payments made pursuant to—
 - (a) an order of a court in so far as it is made in reliance on section 2 above (including an order as varied), or
 - (b) an agreement in so far as it settles a claim or action for damages in respect of personal injury (including an agreement as varied).
 - (6) In subsection (5)(b) the reference to an agreement in so far as it settles a claim or action for damages in respect of personal injury includes a reference to an undertaking given by the Motor Insurers' Bureau (being the company of that name incorporated on 14th June 1946 under the Companies Act 1929), or an Article 75 insurer under the Bureau’s Articles of Association, in relation to a claim or action in respect of personal injury.”
- (2) In section 6(1) of the Damages Act 1996 (c. 48) (guarantee for public sector settlement) for the words “on terms corresponding to those of a structured settlement as defined in section 5 above except that the person to whom the payments are to be made is not to receive them as mentioned in subsection (1)(b) of that section” substitute “ on terms whereby the damages are to consist wholly or partly of periodical payments ”.
 - (3) In paragraph 1(a) of the Schedule to that Act (guarantee by Northern Ireland Department for public sector settlement) for the words “on terms corresponding to those of a structured settlement as defined in section 5 of this Act except that the person to whom the payments are to be made is not to receive them as mentioned in subsection (1)(b) of that section” substitute “ on terms whereby the damages are to consist wholly or partly of periodical payments ”.

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- (4) Where an individual who has a right to receive periodical payments becomes bankrupt—
- (a) the payments shall be treated for the purposes of the bankruptcy as income of the bankrupt (but without prejudice to [F2section 731 of the Income Tax (Trading and Other Income) Act 2005](c. 1)),
 - (b) neither the right to receive periodical payments, nor any property or arrangement designed to protect continuity of the periodical payments, shall form part of the bankrupt's estate for the purposes of the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
 - (c) an income payments order may not be made in respect of any part of the periodical payments identified (in the order or agreement under which the payments are made) as relating wholly to expenditure likely to be incurred by or for the individual as a result of the personal injury concerned,
 - (d) nothing in section 2 of the Damages Act 1996 (c. 48) shall prevent a court from making an income payments order (subject to paragraph (c)), and
 - (e) nothing in section 2 of that Act shall prevent entry into an income payments agreement.
- (5) In subsection (4)—
- “bankrupt” has the meaning given by section 381 of the Insolvency Act 1986 or Article 9 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
- “income payments agreement” means an agreement under section 310A of that Act or equivalent legislation for Northern Ireland,
- “income payments order” means an order under section 310 of that Act or equivalent legislation for Northern Ireland, and
- “periodical payments” means periodical payments awarded or agreed, or in so far as awarded or agreed, as damages for future pecuniary loss by—
- (a) an order of a court made in reliance on section 2 of the Damages Act 1996 (including an order as varied), or
 - (b) an agreement settling a claim or action for damages in respect of personal injury (including an agreement as varied).
- (6) In this section—
- (a) subsections (1) to (3) shall extend to the whole of the United Kingdom, and
 - (b) subsections (4) and (5) shall extend only to England and Wales and Northern Ireland.

Textual Amendments

F2 Words in s. 101(4)(a) substituted (6.4.2005 with effect as mentioned in s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 882(1), [Sch. 1 para. 627](#) (with [Sch. 2](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 75(6) inserted by [2022 c. 35 Sch. 4 para. 3\(2\)](#)
- s. 76(2B) inserted by [2010 c. 26 Sch. 3 para. 14](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 81(6) inserted by [2022 c. 35 Sch. 4 para. 3\(3\)](#)
- s. 85EA(5) words substituted by [2022 c. 32 Sch. 11 para. 29](#)
- Sch. 5 para. 13(1)(ca) inserted by [2013 c. 22 s. 26\(3\)](#)

Commencement Orders yet to be applied to the Courts Act 2003

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2005/547 art. 2](#) commences ([2003 c. 39](#))