



Courts Act 2003

2003 CHAPTER 39

PART 8

MISCELLANEOUS

Damages

101 Periodical payments: security

- (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.
- (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

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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 ”.
- (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 ^{F1}section 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

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- 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

- F1** 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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