

## 1984 No. 919 (S.90)

## COURT OF SESSION, SCOTLAND

Act of Sederunt (Amendment of Rules of Court No. 4)  
(Provisional Damages) 1984

Made - - - - - 28th June 1984  
Coming into Operation 1st September 1984

The Lords of Council and Session, in exercise of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(a), and of all other powers enabling them in that behalf, hereby enact and declare—

*Citation and commencement*

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Amendment of Rules of Court No. 4) (Provisional Damages) 1984 and shall come into operation on 1st September 1984.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

*Provisional Damages*

2. In the Rules of Court (b), in Chapter II (Ordinary Actions), after section 10 insert the following section—

**“SECTION 11—PROVISIONAL DAMAGES***Application and interpretation*

134A.—(1) This section applies to an action for damages for personal injuries in which—

- (a) there is proved or admitted to be a risk that at some definite or indefinite time in the future the injured person will, as a result of the act or omission which gave rise to the course of action, develop some serious disease or suffer some serious deterioration in his physical or mental condition; and
- (b) the responsible person was, at the time of the act or omission giving rise to the course of action—
  - (i) a public authority or public corporation; or
  - (ii) insured or otherwise indemnified in respect of the claim.

(2) Unless the context otherwise requires, expressions used in this section and also used in the Administration of Justice Act 1982(c) shall have the meaning given to them in that Act.

(3) In this section—

- (a) “award of provisional damages” means an award of damages for personal injuries assessed on the assumption that the injured person will not develop the disease or suffer the deterioration in his condition;

(a) 1933 c.41.

(b) S.I. 1965/321.

(c) 1982 c.53.

- (b) “award of further damages” means an award of further damages if he develops the disease or suffers the deterioration.

*Application for provisional damages*

134B.—An application by an injured person for an award of provisional damages shall be made by concluding in the summons for such an award, and making averments supporting that conclusion, including averments relating to the matters mentioned in rule 134A(1), together with an appropriate plea-in-law.

*Application for further damages and procedure*

134C.—(1) Subject to any period specified by the Court in making an award of provisional damages, an application by an injured person for an award of further damages may be made at any time during his lifetime by minute concluding for such an award, and containing averments supporting that conclusion, together with an appropriate plea-in-law.

(2) The minute shall be intimated by the minuter to the other parties to the action and if they are insured or otherwise indemnified to their insurers or indemnifiers, if known, who may lodge answers.

(3) The court may allow the parties such time for adjustment of the minute and any answers as it thinks fit.

*Appeal*

134D.—For the purposes of appeal, an interlocutor disposing of the merits of an action to which this section applies and making an award of provisional damages, shall be treated as a final interlocutor.”.

*Emslie,*  
Lord President,  
I.P.D.

Edinburgh  
28th June 1984.

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EXPLANATORY NOTE

*(This Note is not part of the Act of Sederunt.)*

This Act of Sederunt makes provision in the Rules of the Court of Session for the procedure to be followed where an injured person in an action for personal injuries seeks an award of provisional damages in the Court of Session under section 12 of the Administration of Justice Act 1982.



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