



# Courts Act 2003

## 2003 CHAPTER 39

### PART 8

#### MISCELLANEOUS

##### *Damages*

#### **100 Periodical payments**

- (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—
- (a) may order that the damages are wholly or partly to take the form of periodical payments, and
  - (b) 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—
- (a) it is protected by a guarantee given under section 6 of or the Schedule to this Act,
  - (b) 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) <sup>F1</sup> .....

(3) <sup>F1</sup> .....

(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](#))

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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](#))