



Damages (Investment Returns and Periodical Payments) (Scotland) Act 2019

2019 asp 4

PART 2

PERIODICAL PAYMENTS OF DAMAGES

6 Restriction on assignation by recipient

After section 4 of the Damages Act 1996 there is inserted—

“4A Periodical payments: restriction on assignation

- (1) An assignation of a qualifying right to receive the portion of periodical payments which falls within the description in subsection (2) is of no effect unless the assignation is approved by the relevant court.
- (2) The portion with respect to subsection (1) is the portion of periodical payments which is identified, in the order or agreement under which the periodical payments in total are made, as relating wholly to expenditure likely to be incurred by or for the person as a result of the personal injury concerned.
- (3) Approval may be given by the relevant court in connection with subsection (1) only if it is satisfied that special circumstances make the assignation necessary.
- (4) Subsection (1) does not prevent a right to receive periodical payments from being assigned, without the relevant court’s approval, to the scheme manager established under section 212 of the Financial Services and Markets Act 2000.
- (5) Subsection (1) does not apply if the order or agreement in question was made before the day on which section 6 of the Damages (Investment Returns and Periodical Payments) (Scotland) Act 2019 comes into force.
- (6) For the purposes of this section, a qualifying right to receive periodical payments is a right to receive payments of that type which arises from (including as varied)—
 - (a) an order made under section 2,

Status: This is the original version (as it was originally enacted).

- (b) an agreement made pursuant to such an order, or
- (c) an agreement—
 - (i) made to settle a claim or action for damages in respect of personal injury, and
 - (ii) providing for the agreed damages attributed to future pecuniary loss to take wholly or partly the form of periodical payments.

(7) The references in this section to the relevant court are—

- (a) in relation to an order under section 2, to the court which made the order,
- (b) in relation to an agreement mentioned in subsection (6)(b), to the court which made the order to which the agreement is pursuant,
- (c) in relation to an agreement mentioned in subsection (6)(c), to a court which could have heard the claim or action for the damages in respect of which the agreement was made.”.