



# Criminal Justice and Courts Act 2015

## 2015 CHAPTER 2

### PART 3

#### COURTS AND TRIBUNALS

##### *Civil proceedings relating to personal injury*

#### **57 Personal injury claims: cases of fundamental dishonesty**

- (1) This section applies where, in proceedings on a claim for damages in respect of personal injury (“the primary claim”)—
  - (a) the court finds that the claimant is entitled to damages in respect of the claim, but
  - (b) on an application by the defendant for the dismissal of the claim under this section, the court is satisfied on the balance of probabilities that the claimant has been fundamentally dishonest in relation to the primary claim or a related claim.
- (2) The court must dismiss the primary claim, unless it is satisfied that the claimant would suffer substantial injustice if the claim were dismissed.
- (3) The duty under subsection (2) includes the dismissal of any element of the primary claim in respect of which the claimant has not been dishonest.
- (4) The court’s order dismissing the claim must record the amount of damages that the court would have awarded to the claimant in respect of the primary claim but for the dismissal of the claim.
- (5) When assessing costs in the proceedings, a court which dismisses a claim under this section must deduct the amount recorded in accordance with subsection (4) from the amount which it would otherwise order the claimant to pay in respect of costs incurred by the defendant.
- (6) If a claim is dismissed under this section, subsection (7) applies to—

- (a) any subsequent criminal proceedings against the claimant in respect of the fundamental dishonesty mentioned in subsection (1)(b), and
  - (b) any subsequent proceedings for contempt of court against the claimant in respect of that dishonesty.
- (7) If the court in those proceedings finds the claimant guilty of an offence or of contempt of court, it must have regard to the dismissal of the primary claim under this section when sentencing the claimant or otherwise disposing of the proceedings.
- (8) In this section—
- “claim” includes a counter-claim and, accordingly, “claimant” includes a counter-claimant and “defendant” includes a defendant to a counter-claim;
  - “personal injury” includes any disease and any other impairment of a person’s physical or mental condition;
  - “related claim” means a claim for damages in respect of personal injury which is made—
    - (a) in connection with the same incident or series of incidents in connection with which the primary claim is made, and
    - (b) by a person other than the person who made the primary claim.
- (9) This section does not apply to proceedings started by the issue of a claim form before the day on which this section comes into force.

## **58 Rules against inducements to make personal injury claims**

- (1) A regulated person is in breach of this section if—
- (a) the regulated person offers another person a benefit or is treated as doing so under subsection (4),
  - (b) the offer of the benefit is an inducement to make a claim in civil proceedings for—
    - (i) damages for personal injury or death, or
    - (ii) damages arising out of circumstances involving personal injury or death, and
  - (c) the benefit is not related to the provision of legal services in connection with the claim.
- (2) An offer of a benefit to another person is an inducement to make a claim if the offer of the benefit—
- (a) is intended to encourage the person to make a claim or to seek advice from a regulated person with a view to making a claim, or
  - (b) is likely to have the effect of encouraging the person to do so.
- (3) An offer of a benefit may be an inducement to make a claim regardless of—
- (a) when or by what means the offer is made,
  - (b) whether the receipt of the benefit pursuant to the offer is subject to conditions,
  - (c) when the benefit may be received pursuant to the offer, or
  - (d) whether the benefit may be received by the person to whom the offer is made or by a third party.
- (4) If a person other than a regulated person offers a benefit in accordance with arrangements made by or on behalf of a regulated person—

- (a) the regulated person is to be treated as offering the benefit, and
  - (b) the offer of the benefit is to be treated as satisfying subsection (2)(a) if the arrangements were intended to encourage people to make claims or seek advice from a regulated person with a view to making a claim.
- (5) The Lord Chancellor may by regulations make provision as to the circumstances in which a benefit is related to the provision of legal services in connection with a claim, including provision about benefits relating to—
- (a) fees to be charged in respect of the legal services,
  - (b) expenses which are or would be necessarily incurred in connection with the claim, or
  - (c) insurance to cover legal costs and expenses in connection with the claim.

## **59 Effect of rules against inducements**

- (1) The relevant regulator must ensure that it has appropriate arrangements for monitoring and enforcing the restriction imposed on regulated persons by section 58.
- (2) A regulator may make rules for the purposes of subsection (1).
- (3) The rules may in particular provide that, in relation to anything done in breach of that section, the relevant regulator may exercise any powers that the regulator would have in relation to anything done by the regulated person in breach of another restriction (subject to subsection (4)).
- (4) A breach of section 58—
- (a) does not make a person guilty of an offence, and
  - (b) does not give rise to a right of action for breach of statutory duty.
- (5) Subsection (6) applies in a case where—
- (a) a regulated person has offered a benefit to a person or is treated as having done so under section 58(4), and
  - (b) it appears to the regulator that the offer of the benefit is an inducement to make a claim as mentioned in section 58(1)(b).
- (6) Rules under subsection (2) may provide for the offer of the benefit to the person to be treated as an inducement to make a claim as mentioned in section 58(1)(b) unless the regulated person shows—
- (a) that the benefit was offered for a reason other than encouraging the person to make a claim or to seek advice from a regulated person with a view to making a claim, or
  - (b) that the benefit is related to the provision of legal services in connection with the claim (see regulations under section 58(5)).

## **60 Inducements: interpretation**

- (1) In relation to an offer of a benefit which is an inducement to make a claim in civil proceedings for damages for personal injury or death or arising out of circumstances involving personal injury or death—
- (a) a regulator is any person listed in column 1 below;
  - (b) a regulated person is any person listed in column 2;

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

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- (c) a regulator in column 1 is the relevant regulator in relation to the corresponding person in column 2.

<i>Regulator</i>	<i>Regulated person</i>
The General Council of the Bar	A person authorised by the Council to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
The Chartered Institute of Legal Executives	A person authorised by the Institute to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
The Law Society	A person authorised by the Society to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
A licensing authority for the purposes of Part 5 of the Legal Services Act 2007 (alternative business structures)	A person who is licensed by the authority to carry on a reserved legal activity
A regulatory body specified for the purposes of this section in regulations made by the Lord Chancellor	A person of a description specified for the purposes of this section in regulations made by the Lord Chancellor in relation to the body specified under column 1

- (2) For the purposes of this section and sections 58 and 59—
- “benefit” means—
- any benefit, whether or not in money or other property and whether temporary or permanent, and
  - any opportunity to obtain a benefit;
- “claim” includes a counter-claim;
- “legal services” means services provided by a person which consist of or include legal activities (within the meaning of the Legal Services Act 2007) carried on by or on behalf of that person;
- “personal injury” includes any disease and any other impairment of a person’s physical or mental condition.
- (3) For the purposes of this section and section 59 whether an offer of a benefit is an inducement to make a claim is to be determined in accordance with section 58.

## **61 Inducements: regulations**

- (1) This section applies to regulations under section 58 or 60.
- (2) The regulations are to be made by statutory instrument.
- (3) The regulations may include consequential, supplementary, incidental, transitional, transitory or saving provision.

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- (4) Regulations under section 58 may not be made unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing regulations under section 60 is subject to annulment in pursuance of a resolution of either House of Parliament.