

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4474 of 13 June, 2018

B. 14/18

BILL

FOR

AN ACT to make new provision in relation to the applicable rate of return on investment of damages for personal injury and for guidelines relating to the assessment of general damages in personal injury cases,

ENACTED by the Legislature of Gibraltar.

Title.

1 . This Act may be cited as the Damages Act 2018.

Commencement.

2 . This Act comes into operation on the day appointed by the Minister with responsibility for Justice by notice in the Gazette.

Assumed rate of return on investment of damages.

3.(1) In determining the return to be expected from the investment of a sum awarded as damages for future pecuniary loss in an action for personal injury the court shall take into account such rate of return (if any) as may from time to time be prescribed by an Order made by the Minister with responsibility for Justice after consultation with the Financial Secretary of Her Majesty's Government of Gibraltar.

(2) If and to the extent that a rate has not been prescribed under subsection (1), the rate of return to be expected from the investment of a sum awarded as damages for future pecuniary loss in an action for personal injury shall be as set out in an Order made in relation to such damages made under the United Kingdom's Damages Act 1996 in relation to England and Wales (as amended or replaced from time to time).

Guidelines for the Assessment of General Damages in Personal Injury Cases.

4.(1) The Chief Justice, after consultation with the Minister with responsibility for Justice, the Financial Secretary of Her Majesty's Government of Gibraltar and such other persons or bodies as the Chief Justice thinks fit, may issue guidelines relating to the assessment of general damages in personal injury cases, which may be general in nature or limited to a particular category of proceedings or injury.

(2) Every court must, in assessing the quantum of general damages in personal injury cases, have regard to any guidelines issued in accordance with subsection (1) which are relevant to the case.

(3) If and to the extent that guidelines have not been issued under subsection (1), the court must have regard to the Guidelines for the Assessment of General Damages in Personal Injury Cases issued by the Judicial College of England and Wales (as amended or replaced from time to time).

(4) For the purposes of subsection (3) the Guidelines for the Assessment of General Damages in Personal Injury Cases shall be read with such modifications (for example, in nomenclature) as the circumstances of Gibraltar may require and so far only as the circumstances of Gibraltar may permit.

(5) Without limiting subsection (4) as to modifications, any reference in the Guidelines for the Assessment of General Damages in Personal Injury Cases to an Act of the United Kingdom Parliament is, if there is a corresponding Gibraltar Act, to be read as a reference to that Act.

EXPLANATORY MEMORANDUM

This Act provides for the setting, by the Minister with responsibility for Justice of an applicable rate of return on investment of damages for personal injury. In the absence of a local rate being set the rate shall be the rate for such matters applicable in England and Wales.

The Act also provides for the making of guidelines relating to the assessment of general damages in personal injury cases. Where no guidelines are so made, the guidelines applicable in England and Wales will be deemed to apply locally.

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