

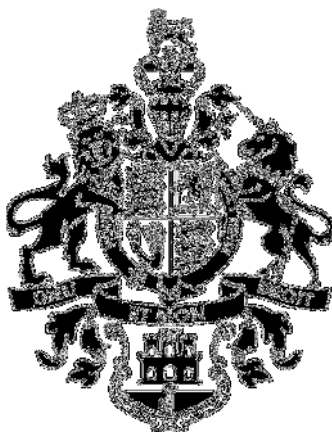
FIRST SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5059 GIBRALTAR Thursday 8th June 2023



I ASSENT,
DAVID STEEL,
GOVERNOR.

8th June 2023.



GIBRALTAR

No. 15 of 2023

AN ACT to amend the Damages Act 2019.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Damages (Amendment) Act 2023.

Commencement.

2. This Act comes into operation on the day of publication.

Amendment of the Damages Act 2019.

- 3.(1) The Damages Act 2019 is amended in accordance with this section.

- (2) The long title is amended as follows-

- (a) for the “and” substitute a semi colon;
- (b) after “cases” insert “and to make other provision in relation to damages for personal injury”.

- (3) By inserting the following section after section 2-

“Interpretation.

- 2A. In this Act, “personal injury” includes any disease and any impairment of a person’s physical or mental condition.”.

- (4) By inserting the following sections after section 4-

“Periodical payments.

- 5.(1) Subject to subsection (3), 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) Subject to subsection (3), 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 the paying party is the Government, the Gibraltar Health Authority or the Care Agency.

- (4) 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.
- (5) 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 unless it is approved by the court which made the order.
- (6) An order for periodical payments shall be treated as providing for the amount of payments to vary by reference to the index of retail prices published by the Government Statistician.
- (7) But an order for periodical payments may include provision-
- (a) disapplying subsection (6); or
 - (b) modifying the effect of subsection (6).
- (8) In this section “damages” includes an interim payment which a court orders a defendant to make to a claimant.
- (9) This section is without prejudice to any power exercisable apart from this section.

Variation of orders and settlements.

- 6.(1) The Minister with responsibility for Justice may by order enable a court which has made an order for periodical payments to vary the order in specified circumstances.
- (2) The Minister with responsibility for Justice 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 rules of court.”.

Transitional provisions and savings.

4. The power conferred by sections 5(1) and (2) of the Damages Act 2019 as inserted by this Act shall be exercisable in proceedings whenever begun.

Passed by the Gibraltar Parliament on the 26th day of May 2023.

K. BALBAN,
Acting Clerk to the Parliament.