

PRACTICE DIRECTION – INTERIM PAYMENTS

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 25

GENERAL

- 1.1 Rule 25.7 sets out the conditions to be satisfied and matters to be taken into account before the court will make an order for an interim payment.
- 1.2 The permission of the court must be obtained before making a voluntary interim payment in respect of a claim by a child or patient.

EVIDENCE

- 2.1 An application for an interim payment of damages must be supported by evidence dealing with the following:
 - (1) the sum of money sought by way of an interim payment,
 - (2) the items or matters in respect of which the interim payment is sought,
 - (3) the sum of money for which final judgment is likely to be given,
 - (4) the reasons for believing that the conditions set out in rule 25.7 are satisfied,
 - (5) any other relevant matters,
 - (6) in claims for personal injuries, details of special damages and past and future loss, and
 - (7) in a claim under the Fatal Accidents Act 1976, details of the person(s) on whose behalf the claim is made and the nature of the claim.
- 2.2 Any documents in support of the application should be exhibited, including, in personal injuries claims, the medical report(s).
- 2.3 If a respondent to an application for an interim payment wishes to rely on written evidence at the hearing he must comply with the provisions of rule 25.6(4).
- 2.4 If the applicant wishes to rely on written evidence in reply he must comply with the provisions of rule 25.6(5).

INTERIM PAYMENT WHERE ACCOUNT TO BE TAKEN

- 2A.1 This section of this practice direction applies if a party seeks an interim payment under rule 25.7(b) where the court has ordered an account to be taken.

- 2A.2 If the evidence on the application for interim payment shows that the account is bound to result in a payment to the applicant the court will, before making an order for interim payment, order that the liable party pay to the applicant “the amount shown by the account to be due”.

INSTALMENTS

- 3 Where an interim payment is to be paid in instalments the order should set out:
- (1) the total amount of the payment,
 - (2) the amount of each instalment,
 - (3) the number of instalments and the date on which each is to be paid, and
 - (4) to whom the payment should be made.

COMPENSATION RECOVERY PAYMENTS

- 4.1 Where in a claim for personal injuries there is an application for an interim payment of damages:
- (1) which is other than by consent,
 - (2) which falls under the heads of damage set out in column 1 of Schedule 2 of the Social Security (Recovery of Benefits) Act 1997 in respect of recoverable benefits received by the claimant set out in column 2 of that Schedule, and
 - (3) where the defendant is liable to pay recoverable benefits to the Secretary of State,
- the defendant should obtain from the Secretary of State a certificate of recoverable benefits.
- 4.2 A copy of the certificate should be filed at the hearing of the application for an interim payment.
- 4.3 The order will set out the amount by which the payment to be made to the claimant has been reduced according to the Act and the Social Security (Recovery of Benefits) Regulations 1997.
- 4.4 The payment made to the claimant will be the net amount but the interim payment for the purposes of paragraph 5 below will be the gross amount.

ADJUSTMENT OF FINAL JUDGMENT FIGURE

- 5.1 In this paragraph ‘judgment’ means:
- (1) any order to pay a sum of money,
 - (2) a final award of damages,

- (3) an assessment of damages.
- 5.2 In a final judgment where an interim payment has previously been made which is less than the total amount awarded by the judge, the order should set out in a preamble:
 - (1) the total amount awarded by the judge, and
 - (2) the amounts and dates of the interim payment(s).
 - 5.3 The total amount awarded by the judge should then be reduced by the total amount of any interim payments, and an order made for entry of judgment and payment of the balance.
 - 5.4 In a final judgment where an interim payment has previously been made which is more than the total amount awarded by the judge, the order should set out in a preamble:
 - (1) the total amount awarded by the judge, and
 - (2) the amounts and dates of the interim payment(s).
 - 5.5 An order should then be made for repayment, reimbursement, variation or discharge under rule 25.8(2) and for interest on an overpayment under rule 25.8(5).
 - 5.6 A practice direction supplementing Part 40 provides further information concerning adjustment of the final judgment sum.