

Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill – Stage 3

Section 6

Daniel Johnson

- 1 In section 6, page 3, line 33, leave out <must not> and insert <—
(a) may>

Daniel Johnson

- 2 In section 6, page 3, line 36, at end insert <if the future element is within subsection (5), but
- (b) otherwise, must provide that any future element will not be included in the relevant amount of damages.
- (5) The future element is within this subsection if it is to be paid in a lump sum and—
- (a) does not exceed £1,000,000, or
 - (b) exceeds £1,000,000 and—
 - (i) the provider had not advised the recipient to accept that the future element be paid in periodical instalments, and
 - (ii) the condition in subsection (6) is met.
- (6) The condition is—
- (a) in the case where the damages are awarded by a court or tribunal, that the court or tribunal in awarding the future element has stated that it is satisfied that it is in the recipient's best interests that the future element be paid as a lump sum rather than in periodical instalments,
 - (b) in the case where the damages are obtained by agreement, that an independent actuary has, after having consulted the recipient personally in the absence of the provider, certified that in the actuary's view it is in the recipient's best interests that the future element be paid as a lump sum rather than in periodical instalments.>

Daniel Johnson

- 3 In section 6, page 3, line 38, at end insert—
- <() The Scottish Ministers may by regulations substitute another sum for the sum for the time being specified in subsection (4A)(a) and (b).>

Daniel Johnson

- 4 In section 6, page 3, line 40, at end insert—
- <() In subsection (4B)(b), “actuary” means an Associate or Fellow of the Institute and Faculty of Actuaries.>