

The Court of Queen's Bench Act, CCSM c C280

PART XIV.1

PERIODIC PAYMENT OF DAMAGES

Definitions

88.1 In this Part,

"judgment creditor" means a person who is entitled to receive payment of or to enforce a judgment; (« créancier judiciaire »)

"judgment debtor" means a person who is obligated to make payment under a judgment or against whom a judgment may be enforced; (« débiteur judiciaire »)

"periodic payments" means the payment of money to a judgment creditor at a future time or times in an amount or amounts that are ordered by the court. (« versements périodiques »)

S.M. 1993, c. 19, s. 6.

Order for periodic payments

88.2 In a court proceeding in which damages are claimed for personal injuries or for the death of a person, or under *The Fatal Accidents Act*, the court may, on the application of any party, order that damages be paid in whole or in part by periodic payments.

S.M. 1993, c. 19, s. 6.

Content of judgment

88.3 Where the court orders damages to be paid by periodic payments, the judgment shall

- (a) identify each head of damage for which a periodic award is to be made;
- (b) in respect of each head of damage for which periodic payments are awarded, state
 - (i) the amount of each periodic payment,
 - (ii) the date of or the interval between each periodic payment,
 - (iii) the recipient of each periodic payment,

- (iv) any annual percentage increase in the amount of each periodic payment, and
- (v) the date or event on which the periodic payments will terminate; and
- (c) contain or have attached to it any other material that the court considers appropriate.

S.M. 1993, c. 19, s. 6.

Security required

88.4(1) Unless the court orders otherwise, a judgment that orders damages to be paid by periodic payments is conditional on the judgment debtor's filing with the court, within 30 days after the day the judgment is rendered or such other time as the court may fix, security to assure the payment of the judgment.

Security to be satisfactory to court

88.4(2) Security under subsection (1) shall be in the form of an annuity contract issued by a life insurer satisfactory to the court, or in any other form that is satisfactory to the court.

Effect of posting security

88.4(3) Where security is filed and approved under this section, the judgment debtor by whom or on whose behalf the security is filed is discharged from all liability to the judgment creditor in respect of the damages that are to be paid by periodic payments.

Effect of not posting security

88.4(4) Where security is not filed and approved under this section, the court shall, at the request of any party to the proceedings, vacate the portions of the judgment in which periodic payments are awarded and substitute a lump sum award or awards.

S.M. 1993, c. 19, s. 6.

Effect of death

88.5 Where a judgment creditor dies before the date or event on which periodic payments are terminated for a head of damage under [subclause 88.3\(b\)\(v\)](#), the remaining periodic payments for that head of damage shall continue to be paid to the estate of the judgment creditor until the termination date, unless the judgment provides otherwise.

S.M. 1993, c. 19, s. 6.

Commutation to lump sum prohibited

88.6 Except as provided in [subsection 88.4\(4\)](#), no award for periodic payments of damages shall be commuted into a lump sum.

S.M. 1993, c. 19, s. 6.

Limitation on garnishment, etc.

88.7 Periodic payments of damages for loss of future earnings are exempt from garnishment, attachment, execution or any other process or claim to the same extent that wages or earnings are exempt under law.

S.M. 1993, c. 19, s. 6.

Assignment of periodic payments

88.8 An assignment or an agreement to assign periodic payments that are identified in a judgment as being for the cost of future care is void and unenforceable unless

(a) the assignee is a provider of care to the judgment creditor and the assignment is in respect of the cost of products, services or accommodation provided by the assignee; and

(b) the assignment or agreement to assign is approved by the court.

S.M. 1993, c. 19, s. 6.

Transitional

88.9 This Part applies to all proceedings, whether commenced before or after the day this Part comes into force.

S.M. 1993, c. 19, s. 6.