

Personal Injury Update

Autumn 2006

Personal Injury Damages Awards - The Effect of Statutory Instrument 2006 No. 2378

From 1st October 2006, The Social Security (Miscellaneous Amendments) (No 4) Regulations 2006, contained in Statutory Instrument 2006 No 2378 came into force.

The Statutory Instrument changes the way that personal injury damages awards are treated in relation to means tested state benefits including: Income Support, Housing Benefit, Income Based Jobseekers Allowance and Council Tax Benefit.

The two most important changes are:

1. A New 52-week Capital Disregard.

A 52 week disregard period has been created, starting from the date of receipt of the whole or part of an award of damages from a personal injury claim, whatever the amount. Damages are therefore ignored for the purposes of claimants' entitlement to means tested benefits for the 52 week period.

In other words, claimants have a year to either set up Personal Injury Trust, or spend their award. Recipients of more modest awards will therefore, be less likely to need the protection of a trust. Little has changed for

medium to large cases. Where claimants are unsure of their spending plans, a belt and braces approach to advice would be to set up a trust.

It may be difficult to set up a trust once the 52 weeks has elapsed - particularly if the award has been mixed with other savings or investments. Also, the treatment of interim awards requires particular care - the 52 week period commences upon receipt.

2. Patients' Awards Held Out of Court

Patients' damages awards managed by external advisers but under the auspices of the Court of Protection are managed *Out of Court*, rather than by panel fund managers under the Accountant General of the Supreme Court.

As regards Patients' awards and their effect on entitlement to means tested benefits, the treatment of funds managed *Out of Court*, by external advisers will be the same as those managed by the Court of Protection's panel fund managers - and are disregarded. The Statutory Instrument clarifies what was hitherto considered a grey area by some. The playing field is now level.

If you would like a copy of the Statutory Instrument, or indeed any further clarification please contact Nestor Partnership at: info@nestorpartnership.co.uk

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