

No. **15** of 2015.

Judicial Proceedings (Interest on Debts and Damages) Act 2015.

Certified on: **26 OCT 2015**



No. of 2015.

Judicial Proceedings (Interest on Debts and Damages) Act 2015.

ARRANGEMENT OF SECTIONS.

PART I. - PRELIMINARY.

1. Compliance with constitutional requirements.
2. Application.
3. Interpretation -
 "repealed Act".

PART II. - INTEREST ON DEBTS AND DAMAGES.

4. Pre-judgment interest on debts and damages.
5. Interest on interest, etc.
6. Post-judgment interest on debts and damages.

PART III. - MISCELLANEOUS.

7. Repeal.
8. No effect on previous acts and decisions.



No. of 2015.

AN ACT

entitled

Judicial Proceedings (Interest on Debts and Damages) Act 2015,

Being an Act -

- (a) to make provision for interest on certain judgments; and
- (b) to repeal the ***Judicial Proceedings (Interest on Debts and Damages) Act*** (Chapter 52),

and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice published in the National Gazette by the Head of State acting, and in accordance with, the advice of the Minister.

PART I. - PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the ***Constitution***, namely -

- (a) the right to the protection of the law as conferred by Section 37; and
- (b) the right to protection from unjust deprivation of property conferred by Section 53,

of the ***Constitution***, is a law that is made for the purpose of giving effect to the public interest in public safety, public order and public welfare.

(2) For the purposes of Section 41 of the ***Organic Law on Provincial Governments and Local-level Governments***, it is declared that this Act relates to a matter of national interest.

2. APPLICATION.

This Act applies to all Court Orders made against the State on or after 1 January 2014.

3. INTERPRETATION.

In this Act, unless the contrary intention appears -

“repealed Act” means the ***Judicial Proceedings (Interest on Debts and Damages) Act*** (Chapter 52).

PART II. - INTEREST ON DEBTS AND DAMAGES.

4. PRE-JUDGMENT INTEREST ON DEBTS AND DAMAGES.

(1) Subject to Section 5, in proceedings in a court for the recovery of a debt or damages, the court may order a rate as it thinks proper to be applied to the sum for which judgment is given interest, on the whole or part of the debt or damages for the whole or part of the period between the date on which the cause of action arose and the date of the judgment.

Judicial Proceedings (Interest on Debts and Damages)

(2) Where the proceedings referred to in Subsection (1), including proceedings arising out of a breach of express or implied contract or mercantile usage, are taken against the State, the rate of any interest under that subsection shall not exceed 2% yearly.

(3) The maximum rate of interest in Subsection (2) applies notwithstanding that the proceedings against the State arose out of a breach of express or implied contract or mercantile usage and the relevant interest rate in the contract or mercantile usage is higher than 2%.

(4) A judgment entered contrary to Subsections (2) and (3) is a nullity and is liable to be set aside and re-issued according to law by the same judge or judges on application -

- (a) by the lawyer for the State; or
- (b) by the registrar, clerk or other proper officer of the court by which the judgment is given; or
- (c) by any party to the proceedings.

5. INTEREST ON INTEREST, ETC.

Nothing in Subsection 4(1) -

- (a) authorises the awarding of interest on interest; or
- (b) applies in relation to a debt on which interest is payable as of right, whether under an agreement or otherwise, except a debt on which interest is payable as of right against the State; or
- (c) affects the damages recoverable for the dishonour of a bill of exchange.

6. POST-JUDGMENT INTEREST ON DEBTS AND DAMAGES.

(1) Subject to Subsections (2) and (3), where judgment is given or an order is made for the payment of money, interest shall, unless the court otherwise orders, be payable at the prescribed rate from the date when the judgment or order takes effect on such of the money as is, from time to time, unpaid.

(2) Where the judgment referred to in Subsection (1) is taken against the State, the rate of any interest under that subsection shall not exceed 2% yearly.

(3) Where, in proceedings on a common law claim, the court directs the entry of judgment for damages and the damages are paid within 30 days after the date that the direction is served, interest on the judgment debt shall not be payable under Subsection (1) unless the court otherwise orders.

(4) Where, in proceedings for damages on a common law claim, the court makes an order for the payment of costs and the costs are paid within 30 days after service of the direction or order that ascertains the amount of the costs by taxation or otherwise, interest on the costs shall not be payable under Subsection (1) unless the court otherwise orders.

(5) Notwithstanding anything in this section, where the judgment given or the order made is given or made against the State -

- (a) no interest is payable on a judgment for damages until a certificate of judgment is served on the State; and
- (b) to avoid any doubt, no interest is payable on taxed costs until a certificate of taxation is served on the State; and
- (c) any payment under Subsections (3) and (4) shall be deemed to have been made on the date of the drawing of the cheque for payment; and
- (d) where the sum awarded is increased on appeal, interest shall only be payable on the increase in accordance with this section from the date when the appellate judgment or order takes effect.

Judicial Proceedings (Interest on Debts and Damages)

(6) A judgment entered or order given contrary to Subsections (5) is a nullity and is liable to be set aside and re-issued according to law by the same judge or judges on application -

- (a) by the lawyer for the State; or
- (b) by the registrar, clerk or other proper officer of the court by which the judgment is given; or
- (c) by any party to the proceedings.

PART III. - MISCELLANEOUS.

7. REPEAL.

The *Judicial Proceedings (Interest on Debts and Damages) Act* (Chapter 52) is repealed.

8. NO EFFECT ON PREVIOUS ACTS AND DECISIONS.

Nothing in this Act affects the validity of any act or decision done or made under the repealed Act, before the coming into operation of this Act, and every such act and decision shall be taken to be valid and effectual and to have continuing effect notwithstanding anything in this Act.

I hereby certify that the above is a fair print of the *Judicial Proceedings (Interest on Debts and Damages) Act 2015* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

26 OCT 2015

I hereby certify that the *Judicial Proceedings (Interest on Debts and Damages) Act 2015* was made by the National Parliament on 28 May 2015, by an absolute majority as required by the *Constitution*.

Acting Speaker of the National Parliament.

26 OCT 2015