

Non pecuniary damages for personal injuries

An explanation of claims for non-pecuniary damages for personal injuries under section 27 and 28 of the Personal Injured (Liabilities and Damages) Act 2003.

Section 27 of the *Personal Injuries (Liabilities and Damages) Act 2003* (the Act) provides that the maximum amount that a Court may award for damages for non-pecuniary losses in respect of personal injuries claims is \$350,000. This amount must, however, be reviewed on a yearly basis in accordance with section 28 of the Act.

Section 28(1) of the Act provides that the Minister for Justice and Attorney-General must, in each year, make a declaration of what is to be the amount. The amount declared is, however, determined in accordance with the formula set out in section 28(3).

In essence the formula provides that the base amount (in this case \$350,000) must change by a percentage equal to the percentage change in average weekly earnings over the four quarters of the previous year (in this case 2003). The Minister is also required to set the date of commencement of the declaration.

The Minister has made a declaration for 2004, which has been published in the Northern Territory Government Gazette.

The declaration took effect on 1 December 2004 and the new maximum amount is \$376,000.

The revised amount was calculated as follows:

- * average weekly earnings as at the beginning of 2003 – \$864.50;
- * average weekly earnings as at the end of 2003 - \$929.30;
- * percentage change over the four quarters of 2003 – 7.5 percent; and
- * \$350,000 plus 7.5 percent of \$350,000 is \$376,000 (rounded off).

Below is a table which describes the effect the declaration.

PERIOD	AMOUNT	APPLICATION
Before 1 May 2003	No limit	Nil
1 May 2003 - 30 November 2004	\$350,000 ¹	Non-pecuniary losses ² awarded between 1 May 2003 -30 November 2004 for personal injuries ³ occurring after the commencement ⁴ of the <i>Personal Injuries (Liabilities and Damages) Act 2003</i>
1 December 2004 ⁵ until the date to be set in the declaration for 2005	\$376,000 ⁶	Non-pecuniary losses ⁷ awarded from 1 December 2004 to the next date set under section 28 ⁸ for personal injuries ⁹ occurring after the commencement ¹⁰ of the <i>Personal Injuries (Liabilities and Damages) Act 2003</i> .

Notes:

¹ Set by section 27 of the *Personal Injuries (Liabilities and Damages) Act 2003*

² See sections 18 and 25-26 of the *Personal Injuries (Liabilities and Damages) Act 2003*

³ See s.3 (definition) and s.4 (application) of the *Personal Injuries (Liabilities and Damages) Act 2003* and regulation 3 of the *Personal Injuries (Liabilities and Damages) Act Regulations*

⁴ 1 May 2003

⁵ Set by declaration dated 23 November 2004 made under section 28 of the *Personal Injuries (Liabilities and Damages) Act 2003*

⁶ Set by declaration dated 23 November 2004 made under section 28 of the *Personal Injuries (Liabilities and Damages) Act 2003*

⁷ See sections 18 and 25-26 of the *Personal Injuries (Liabilities and Damages) Act 2003*

⁸ This date will be set in 2005 in relation to the change in average weekly earnings between the beginning and the end of 2004.

⁹ See s.3 (definition) and s.4 (application) of the *Personal Injuries (Liabilities and Damages) Act 2003* and regulation 3 of the *Personal Injuries (Liabilities and Damages) Act Regulations*

¹⁰ 1 May 2003