

JUDGMENT INTEREST ACT

Part I General

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| <p>1. In this Act,
 (a) "interest rate" means the rate of interest published in <i>The Gazette</i> as required in section 3;
 (b) "judgment" includes order of a court.</p> | Interpretation |
| <p>2. Her Majesty is bound by this Act.</p> | Application |
| <p>3. (1) The Lieutenant Governor in council may make regulations respecting the method of determining and the frequency of publishing interest rates and the periods with respect to which interest rates are in effect.</p> | Regulations |
| <p>(2) The (<i>fill in title of appropriate official</i>) shall determine and publish in <i>The Gazette</i> interest rates in accordance with the regulations.</p> | Interest Rates |

Part II Interest Before Judgment

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| <p>4. In this Part, "pecuniary loss" does not include pain and suffering, physical inconvenience and discomfort, social discredit, injury to reputation, mental suffering, injury to feelings, loss of amenities and of expectation of life or loss of society of spouse or child.</p> | Interpretation |
| <p>5. (1) Where a person obtains a judgment for the payment of money or a judgment that money is owing, the court shall award interest on the judgment calculated in accordance with this Part.</p> | Award of Interest |
| <p>(2) The court shall not award interest
 (a) or that part of a judgment that represents pecuniary loss arising after the day of judgment and that is identified by the court;
 (b) on interest awarded under this Part;
 (c) on exemplary or punitive damages;
 (d) on an award of costs in the action;</p> | Exceptions |

- (e) on money, and interest on that money, borrowed by a party in respect of damages described in section 6(2);
 - (f) on money that is paid into court and accepted in satisfaction of a claim;
 - (g) where the judgment is given on consent, unless agreed to by the parties;
 - (h) where there is an agreement between the parties respecting interest; or
 - (i) where the payment of interest is otherwise provided by law.
- (3) Where it is proven to the satisfaction of the court that it is just to do so having regard to the circumstances, the court may, with respect to the whole or any part of the amount for which judgment is given, refuse to award interest under this Part, or award interest under this Part at a rate or for a period or both other than a rate or period determined pursuant to section 6.
- (4) In a jury trial, the judge shall exercise the powers of the court under this Part.
- (5) In the case of a default judgment, the registrar of the court shall award interest calculated in accordance with this Part, but shall not exercise any discretion granted to the court under subsection (3).
- 6.** (1) Subject to subsections (2) and (3), the court shall calculate interest under this Part from the day on which loss or damage is first sustained to the day of judgment at the rate determined by averaging the interest rates in effect during that period.
- (2) Where a judgment includes damages for expenses incurred or income lost, the court shall
- (a) determine the total of those damages sustained within the three-month period commencing on the day on which loss or damage is first sustained and within each subsequent three-month period; and
 - (b) calculate interest from the last day of each

Discretion to vary or disallow interest

Jury trials

Default judgments

General damages calculation

Special damages calculation

three-month period described in clause (a) to the day of judgment, on the total of the damages sustained within the three-month period, at the interest rate in effect on the last day of the three-month period.

- (3) Where a party pays money into court in satisfaction of a claim and another party does not accept the payment and obtains a judgment for an amount less than or equal to the amount paid into court, the court shall award interest, Payment into court
- (a) from the day on which loss or damage is first sustained to the day of payment into court, calculated in accordance with this Part; and
 - (b) from the day of payment into court to the day of judgment, in an amount equal to the actual interest earned on the portion of the money paid into court that is equal to the amount of the judgment.

NOTE: Jurisdictions should review their Rules of Court to ensure that it is specified whether a judgment is inclusive or exclusive of interest in comparing the amount of the judgment awarded to the amount paid into the court for the purpose of determining costs.

- 7. For the purpose of enforcing a judgment, interest awarded under this Part is included in the judgment. Interest deemed part of judgment
- 8. This part does not apply to a cause of action that arises before the coming into force of this Part. Transitional

Part III

Post-judgment Interest

- 9. Notwithstanding that the entry of judgment may have been suspended by any proceeding in an action, including an appeal, every judgment debt bears interest from the day on which it is payable by or under the judgment until it is satisfied Post-judgment interest
 - (a) with the respect to interest to be applied during the period from January 1 to June 30 in a year,

at the interest rate in effect on January 1 of the year; and

- (b) with respect to interest to be applied during the period from July 1 to December 31 in a year, at the interest rate in effect on July 1 of the year.

NOTE: This Part only deals with the determination of the past-judgment interest rate in the context of the situation of those jurisdictions that are subject to the *Interest Act* (Canada). Other issues, such as the extent of the definition of the term "judgment debt", coming into force and transitional application of the existing regime are dependent upon the precise terms of the Act amending the *Interest Act* (Canada).