

ST HELENA



A BILL

FOR AN ORDINANCE

to amend the Civil Litigation (Costs) Ordinance 2025.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

Short title and commencement

1. (1) This Ordinance may be cited as the Civil Litigation (Costs) (Amendment) Ordinance 2026.
(2) This Ordinance comes into force on [DATE]

Amendment of the Civil Litigation (Costs) Ordinance 2025

2. (1) The Civil Litigation (Costs) Ordinance 2025 is amended as follows.
(2) For section 13 substitute—
“13. (1) A costs order made in favour of a party to proceedings who has taken out an after the event insurance policy may include provision requiring the payment of an amount in respect of all or part of the premium of that policy if either condition A or condition B is met.

- (2) Condition A is that—
 - (a) the claim includes a claim for clinical negligence,
 - (b) the financial value of the claim for damages in respect of clinical negligence is more than £1000, and
 - (c) the after the event insurance policy insures against the risk of incurring a liability to pay for an expert report or reports relating to liability or causation in respect of clinical negligence (or against that risk and other risks).

- (3) Condition B is that—
 - (a) the claim includes a claim for personal injury,
 - (b) the financial value of the claim for damages in respect of personal injury is more than £1000,
 - (c) the after the event insurance policy insures against the risk of incurring a liability to pay for an expert report or reports relating to the claim for personal injury (or against that risk and other risks), and
 - (d) the court is satisfied that the exceptional nature or circumstances of a claim are such that permission should be given to seek such a costs order.

- (4) Permission under subsection (3)(d) may be sought by way of freestanding application to the court before substantive proceedings are issued.

- (5) The amount of the premium that may be required to be paid under a costs order made in accordance with this section shall not exceed that part of the premium which related to the risk of incurring liability to pay for the relevant expert report or reports.

- (6) A costs order made in favour of a party to proceedings who has taken out an after the event insurance policy may not include provision requiring the payment of any amount in respect that part of the premium (if there is one) that relates to the risk of having to pay adverse costs, whether by reference to part 36 or otherwise.”.

Made by the Governor this *[DATE]* day of *[DATE]* 2026.

Nigel Phillips, CBE
Governor

EXPLANATORY NOTE
(This note is not part of the Order)

This Ordinance amends s13 of the Civil Litigation (Costs) Ordinance 2025 to...