

2013 No. 1695 (L. 18)

SENIOR COURTS OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

The Civil Procedure (Amendment No.6) Rules 2013

Made - - - - - *5th July 2013*

Laid before Parliament *10th July 2013*

Coming into force - - - *31st July 2013*

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, makes the following Rules:

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No.6) Rules 2013.
2. These Rules shall come into force on 31st July 2013.
3. In these Rules—
 - (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(b); and
 - (b) a reference to an Order by number and prefixed “RSC” means the RSC Order so numbered in Schedule 1 to those Rules.

Amendments to the Civil Procedure Rules 1998

4. In Part 14—

(1) In the index to the Part, in the entry for rule 14.1B, after “Protocol” insert “or the EL/PL Protocol”.

(2) In rule 14.1B—

- (a) in the heading, after “Protocol” insert “or the EL/PL Protocol”;
- (b) in paragraph (1), after “(‘the RTA Protocol’)” insert “or the Pre-action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’)”; and

(a) 1997 c.12. Section 2(1) was substituted by the Constitutional Reform Act 2005 (c.4), section 15 and Schedule 4 Part 1. Section 1(3) was substituted by section 82(1) of the Courts Act 2003 (c.39) and further amended by the Constitutional Reform Act 2005 sections 15, 146, Schedule 4 Part 1 and Schedule 18, Part 2.

(b) S.I. 1998/3132 to which there are relevant amendments in S.I. 2005/2292, rule 31; S.I. 2006/1689, rule 5; S.I. 2006/3435, rule 6; S.I. 2009/3390, rule 14; S.I. 2010/ 621, rules 3 and 5; S.I. 2012/2208, rules 2 and 4; S.I. 2013/262, rules 9 and 16 and the Schedule; and S.I. 2013/789, rule 3.

(c) in paragraph (2)(a)(i), for “RTA Protocol” substitute “relevant Protocol”.

5. In Part 27, in rule 27.14—

(1) After paragraph (1), in the words in parentheses, for “44.9 and 44.11” substitute “46.11 and 46.13”; and

(2) In paragraph (2), in subparagraph (h)—

(a) for “45.29” substitute “45.18”;

(b) in sub-subparagraph (i), after “(‘the RTA Protocol’)” insert “or the Pre-action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’)”;

(c) in sub-subparagraph (ii), for “RTA Protocol” substitute “relevant Protocol”; and

(d) in sub-subparagraph (iii), for “RTA Protocol” substitute “relevant Protocol”.

6. In Part 36—

(1) In the index to the Part—

(a) after the entry for rule 36.10, insert—

“Costs consequences of acceptance of a Part 36 offer where Section IIIA Rule 36.10A”;
of Part 45 applies

(b) after the entry for rule 36.14, insert—

“Costs consequences following judgment where Section IIIA of Part 45 Rule 36.14A”;
applies

(c) in the entry for Section II, after “PROTOCOL” insert “AND EL/PL PROTOCOL”; and

(d) in the entries for rules—

(i) 36.17;

(ii) 36.18; and

(iii) 36.20,

for “an RTA”, substitute “a”.

(2) In rule 36.A1, in paragraph (3), after “(‘the RTA Protocol’)” insert “or the Pre-action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’)”.

(3) In rule 36.10, in paragraph (1), for “Subject to” to “and (4)(a)”, substitute “Subject to rule 36.10A and to paragraphs (2) and (4)(a) of this rule”.

(4) After rule 36.10, insert—

“Costs consequences of acceptance of a Part 36 offer where Section IIIA of Part 45 applies

36.10A.—(1) This rule applies where a claim no longer continues under the RTA or EL/PL Protocol pursuant to rule 45.29A(1).

(2) Where a Part 36 offer is accepted within the relevant period, the claimant will be entitled to the fixed costs in Table 6B, Table 6C or Table 6D in Section IIIA of Part 45 for the stage applicable at the date on which notice of acceptance was served on the offeror.

(3) Where—

(a) a defendant’s Part 36 offer relates to part only of the claim; and

(b) at the time of serving notice of acceptance within the relevant period the claimant abandons the balance of the claim,

the claimant will be entitled to the fixed costs in paragraph (2).

(4) Subject to paragraph (5), where a defendant's Part 36 offer is accepted after the relevant period—

- (a) the claimant will be entitled to the fixed costs in Table 6B, Table 6C or Table 6D in Section IIIA of Part 45 for the stage applicable at the date on which the relevant period expired; and
- (b) the claimant will be liable for the defendant's costs for the period from the date of expiry of the relevant period to the date of acceptance.

(5) Where the claimant accepts the defendant's Protocol offer after the date on which the claim leaves the Protocol—

- (a) the claimant will be entitled to the applicable Stage 1 and Stage 2 fixed costs in Table 6 or Table 6A in Section III of Part 45; and
- (b) the claimant will be liable for the defendant's costs from the date on which the Protocol offer is deemed to be made to the date of acceptance.

(6) For the purposes of this rule a defendant's Protocol offer is either—

- (a) defined in accordance with rules 36.17 and 36.18; or
- (b) if the claim leaves the Protocol before the Court Proceedings Pack Form is sent to the defendant—
 - (i) the last offer made by the defendant before the claim leaves the Protocol; and
 - (ii) deemed to be made on the first business day after the claim leaves the Protocol.

(7) A reference to the 'Court Proceedings Pack Form' is a reference to the form used in the Protocol.

(8) Fixed costs shall be calculated by reference to the amount of the offer which is accepted.

(9) Where the parties do not agree the liability for costs, the court will make an order as to costs.

(10) Where the court makes an order for costs in favour of the defendant—

- (a) the court will have regard to; and
- (b) the amount of costs ordered shall not exceed,

the fixed costs in Table 6B, Table 6C or Table 6D in Section IIIA of Part 45 applicable at the date of acceptance, less the fixed costs to which the claimant is entitled under paragraph (4) or (5).

(11) The parties are entitled to disbursements allowed in accordance with rule 45.29I incurred in any period for which costs are payable to them.”.

(5) In rule 36.14, in paragraph (1), for “This” substitute “Subject to rule 36.14A, this”.

(6) After rule 36.14, insert—

“Costs consequences following judgment where Section IIIA of Part 45 applies

36.14A.—(1) Where a claim no longer continues under the RTA or EL/PL Protocol pursuant to rule 45.29A(1), rule 36.14 applies with the following modifications.

(2) Subject to paragraph (3), where an order for costs is made pursuant to rule 36.14(2)—

- (a) the claimant will be entitled to the fixed costs in Table 6B, 6C or 6D in Section IIIA of Part 45 for the stage applicable at the date on which the relevant period expired; and
- (b) the claimant will be liable for the defendant's costs from the date on which the relevant period expired to the date of judgment.

(3) Where the claimant fails to obtain a judgment more advantageous than the defendant's Protocol offer—

- (a) the claimant will be entitled to the applicable Stage 1 and Stage 2 fixed costs in Table 6 or Table 6A in Section III of Part 45; and
- (b) the claimant will be liable for the defendant's costs from the date on which the Protocol offer is deemed to be made to the date of judgment; and
- (c) in this rule, the amount of the judgment is less than the Protocol offer where the judgment is less than the offer once deductible amounts identified in the judgment are deducted.

("Deductible amount" is defined in rule 36.15(1)(d).)

(4) For the purposes of this rule a defendant's Protocol offer is either—

- (a) defined in accordance with rules 36.17 and 36.18; or
- (b) if the claim leaves the Protocol before the Court Proceedings Pack Form is sent to the defendant—
 - (i) the last offer made by the defendant before the claim leaves the Protocol; and
 - (ii) deemed to be made on the first business day after the claim leaves the Protocol.

(5) A reference to the 'Court Proceedings Pack Form' is a reference to the form used in the Protocol.

(6) Fixed costs shall be calculated by reference to the amount which is awarded.

(7) Where the court makes an order for costs in favour of the defendant—

- (a) the court will have regard to; and
- (b) the amount of costs ordered shall not exceed,

the fixed costs in Table 6B, 6C or 6D in Section IIIA of Part 45 applicable at the date of judgment, less the fixed costs to which the claimant is entitled under paragraph (2) or (3).

(8) The parties are entitled to disbursements allowed in accordance with rule 45.29I incurred in any period for which costs are payable to them."

(7) In the heading to Section II, after "PROTOCOL", insert "AND EL/PL PROTOCOL".

(8) In rule 36.16—

- (a) in paragraph (2), after "RTA Protocol", insert "or the EL/PL Protocol"; and
- (b) in paragraph (3)—
 - (i) for "Proceeding", substitute "Proceedings"; and
 - (ii) omit "RTA".

(9) In rule 36.17—

- (a) in the heading, for "an RTA" substitute "a";
- (b) in paragraph (1) for "an RTA" substitute "a"; and
- (c) in paragraph (2) for "An RTA" substitute "A".

(10) In rule 36.18—

- (a) in the heading, for "an RTA" substitute "a"; and
- (b) after "The", omit "RTA".

(11) In rule 36.19—

- (a) for "An RTA" substitute "A"; and
- (b) for "45.29", substitute "45.18".

(12) In rule 36.20—

- (a) in the heading, for "an RTA" substitute "a"; and
- (b) in each place it occurs, omit "RTA".

(13) In rule 36.21—

- (a) in each place it occurs, omit “RTA”;
- (b) in paragraph (2), in subparagraph (a), for “45.38”, substitute “45.26”;
- (c) in paragraph (3), for “45.32” substitute “45.20”; and
- (d) in paragraph (4)—
 - (i) in subparagraph (b)—
 - (aa) for “45.32” substitute 45.20; and
 - (bb) omit “and”;
 - (ii) in subparagraph (c), for the full stop substitute “; and”; and
 - (iii) after paragraph (c), insert—
 - “(d) an additional amount calculated in accordance with rule 36.14(3)(d).”.

(14) In rule 36.22, omit “RTA”.

7. In Part 45—

(1) In the index to the Part—

(a) for the entry for Section III, substitute—

“III THE PRE-ACTION PROTOCOLS FOR LOW VALUE PERSONAL INJURY CLAIMS IN ROAD TRAFFIC ACCIDENTS AND LOW VALUE PERSONAL INJURY (EMPLOYERS’ LIABILITY AND PUBLIC LIABILITY) CLAIMS”;

- (b) in the entry for rule 45.17, after “costs” insert “and”;
- (c) in the entry for rule 45.20, for “RTA Protocol” substitute “relevant Protocol”;
- (d) after the entry for rule 45.23, insert—

| | |
|---|---------------|
| “Settlement before proceedings are issued under Stage 3 | Rule 45.23A |
| Additional advice on value of claim | Rule 45.23B”; |

- (e) in the entry for rule 45.24, for “RTA Protocol” substitute “relevant Protocol”; and
- (f) after the entry for rule 45.29, insert—

| | |
|--|---------------|
| “IIIA CLAIMS WHICH NO LONGER CONTINUE UNDER THE RTA AND EL/PL PRE-ACTION PROTOCOLS – FIXED RECOVERABLE COSTS | |
| Scope and interpretation | Rule 45.29A |
| Application of fixed costs and disbursements – RTA Protocol | Rule 45.29B |
| Amount of fixed costs – RTA Protocol | Rule 45.29C |
| Application of fixed costs and disbursements – EL/PL Protocol | Rule 45.29D |
| Amount of fixed costs – EL/PL Protocol | Rule 45.29E |
| Defendants’ costs | Rule 45.29F |
| Counterclaims under the RTA Protocol | Rule 45.29G |
| Interim applications | Rule 45.29H |
| Disbursements | Rule 45.29I |
| Claims for an amount of costs exceeding fixed recoverable costs | Rule 45.29J |
| Failure to achieve costs greater than fixed recoverable costs | Rule 45.29K |
| Costs of the costs-only proceedings or the detailed assessment | Rule 45.29L”. |

(2) In rule 45.9, in paragraph 3(b), after “Section III” insert “or Section IIIA”.

(3) For the heading to Section III, substitute—

“The Pre-Action Protocols for Low Value Personal Injury Claims In Road Traffic Accidents and Low Value Personal Injury (Employers’ Liability and Public Liability) Claims”.

(4) In rule 45.16—

(a) for “RTA Protocol”, in each place it occurs, substitute “relevant Protocol”;

- (b) for the definition of “RTA Protocol”, substitute—
- “The “relevant Protocol” means—
- (a) the Pre-Action Protocol for Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”); or
- (b) the Pre-action Protocol for Low Value Personal Injury Claims (Employers’ Liability and Public Liability) Claims (“the EL/PL Protocol”).”; and
- (c) in paragraph (3), after “Claim Notification Form” insert “or Court Proceedings Pack”.
- (5) In rule 45.17—
- (a) in subparagraph (b), at the end, for the full stop substitute “;and”; and
- (b) after subparagraph (b), insert—
- “(c) where applicable, fixed costs in accordance with rule 45.23A or 45.23B.”.
- (6) In rule 45.18—
- (a) in paragraph (1), for “Table 6” substitute “Tables 6 and 6A”;
- (b) in paragraph (2), for “Table 6” substitute “Tables 6 and 6A”;
- (c) in paragraph (4), for “Table 1” substitute “Tables 6 or 6A”;
- (d) in paragraph (5)(b), for “Table 6” substitute “Tables 6 or 6A”; and
- (e) for Table 6 substitute—

“Table 6

| Fixed costs in relation to the RTA Protocol | | | |
|---|------|--|------|
| Where the value of the claim for damages is not more than £10,000 | | Where the value of the claim for damages is more than £10,000, but not more than £25,000 | |
| Stage 1 fixed costs | £200 | Stage 1 fixed costs | £200 |
| Stage 2 fixed costs | £300 | Stage 2 fixed costs | £600 |
| - Type A fixed costs | £250 | - Type A fixed costs | £250 |
| Stage 3 - Type B fixed costs | £250 | Stage 3 - Type B fixed costs | £250 |
| - Type C fixed costs | £150 | - Type C fixed costs | £150 |

Table 6A

| Fixed costs in relation to the EL/PL Protocol | | | |
|---|------|--|--------|
| Where the value of the claim for damages is not more than £10,000 | | Where the value of the claim for damages is more than £10,000, but not more than £25,000 | |
| Stage 1 fixed costs | £300 | Stage 1 fixed costs | £300 |
| Stage 2 fixed costs | £600 | Stage 2 fixed costs | £1300 |
| - Type A fixed costs | £250 | - Type A fixed costs | £250 |
| Stage 3 - Type B fixed costs | £250 | Stage 3 - Type B fixed costs | £250 |
| - Type C fixed costs | £150 | - Type C fixed costs | £150”. |

- (7) In rule 45.19—
- (a) in paragraph (1)(a), for “paragraph (2)” substitute “paragraphs (2) or (3)”;
- (b) in paragraph (2)—
- (i) for “The disbursements”, substitute, “In a claim to which either the RTA Protocol or EL/PL Protocol applies, the disbursements”;
- (ii) in subparagraph (a)—
- (aa) for sub-subparagraph (ii), substitute—

- “(ii) a medical report or reports or non-medical expert reports as provided for in the relevant Protocol;” and
 - (bb) omit sub-subparagraphs (iii) and (iv); and
 - (iii) in subparagraph (d), at the end insert “and”; and
- (c) after paragraph (2), insert—
 - “(3) In a claim to which the RTA Protocol applies, the disbursements referred to in paragraph (1) are also the cost of—
 - (a) an engineer’s report; and
 - (b) a search of the records of the—
 - (i) Driver Vehicle Licensing Authority; and
 - (ii) Motor Insurance Database.”.
- (8) In rule 45.20, in the heading, for “RTA Protocol” substitute “relevant Protocol”.
- (9) In rule 45.21—
 - (a) in paragraph (1)(b), for “RTA Protocol” substitute “relevant Protocol”; and
 - (b) in paragraph (6)(b), for “he” substitute “the”.
- (10) In Rule 45.22, in paragraph (1)(c), for “RTA Protocol” substitute “relevant Protocol”.
- (11) After rule 45.23, insert—

“Settlement before proceedings are issued under Stage 3

45.23A. Where—

- (a) there is a settlement after the Court Proceedings Pack has been sent to the defendant but before proceedings are issued under Stage 3; and
 - (b) the settlement is more than the defendant’s relevant Protocol offer,
- the fixed costs will include an additional amount equivalent to the Stage 3 Type A fixed costs.

Additional advice on the value of the claim

45.23B. Where—

- (a) the value of the claim for damages is more than £10,000;
 - (b) an additional advice has been obtained from a specialist solicitor or from counsel;
 - (c) that advice is reasonably required to value the claim,
- the fixed costs may include an additional amount equivalent to the Stage 3 Type C fixed costs.”.
- (12) In rule 45.24—
 - (a) in the heading, for “RTA Protocol” substitute “relevant Protocol”;
 - (b) in paragraph (1), in subparagraph (a), for “RTA Protocol” substitute “relevant Protocol”;
 - (c) in paragraph (2)—
 - (i) for “RTA Protocol”, in each place it occurs, substitute “relevant Protocol”; and
 - (ii) in subparagraph (b)(ii), for “£10,000” substitute “£25,000”; and
 - (d) in paragraph (3)—
 - (i) for “7.22” substitute “7.28”;
 - (ii) after “RTA Protocol” insert “or paragraph 7.26 of the EL/PL Protocol”; and
 - (iii) for “that Protocol” substitute “the RTA Protocol or paragraph 7.17(2) or (3) of the EL/PL Protocol”.
 - (13) In rule 45.25, for “RTA Protocol”, in each place it occurs, substitute “relevant Protocol”.

(14) In rule 45.26, in the heading, for “RTA Protocol” substitute “relevant Protocol”.

(15) In rule 45.28—

- (a) in the heading, after “Stage 1” insert “and Stage 2”;
- (b) for “RTA Protocol” substitute “relevant Protocol”;
- (c) after “Section II” insert “or Section IIIA”; and
- (d) after “Stage 1” insert “and Stage 2”.

(16) After rule 45.29, insert Section IIIA as set out in the Schedule to these Rules.

8. In rule 47.6, after the words in parentheses following paragraph (3), insert—

“(Paragraphs 7B.2 to 7B.7 of the Practice Direction - Civil Recovery Proceedings contain provisions about detailed assessment of costs in relation to civil recovery orders.)”.

9. In RSC Order 79 rule 9, after paragraph (14) insert—

“(15) In the case of a prosecutor’s appeal to the High Court against the grant of bail under section 1(1A) or (1B) of the Bail (Amendment) Act 1993(a) (“the 1993 Act”)—

- (a) the appeal proceedings are to be commenced by the prosecutor filing a copy of the written notice of appeal required by section 1(5)(b) of the 1993 Act in the High Court; and
- (b) paragraphs (1) to (14) do not apply to such appeals.”.

Transitional provision

10. The amendments made by rules 6 and 7 apply only to claims started under the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents where the Claim Notification Form is sent in accordance with that Protocol on or after 31st July 2013.

Stephen Richards, LJ
Peter Coulson, J
Philip Sales, J
Master Barbara Fontaine
District Judge Suzanne Burn
District Judge Christopher Lethem
Nicholas Bacon QC
William Featherby QC
Edward Pepperall QC
Katy Peters
Qasim Nawaz
Amanda Stevens
Tim Lett

I allow these Rules

Signed by authority of the Lord Chancellor

Helen Grant
Parliamentary Under Secretary of State
Ministry of Justice

5th July 2013

(a) 1993 c.26. Section 1(1A) was inserted by the Extradition Act 2003 (c.41) section 200 and amended by the Police and Justice Act 2006 (c.48) section 42, Schedule 13 Part 2 paragraph 28. Section 1(1B) was inserted by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) section 90, Schedule 11, paragraph 32.

(b) 1993 c. 26. Section 1(5) was amended by the Extradition Act 2003, section 200.

SCHEDULE

Rule 7(16)

“SECTION IIIA

Claims Which No Longer Continue Under the RTA or EL/PL Pre-Action Protocols – Fixed Recoverable Costs

Scope and interpretation

45.29A.—(1) Subject to paragraph (3), this section applies where a claim is started under—

- (a) the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”); or
- (b) the Pre-Action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (“the EL/PL Protocol”),

but no longer continues under the relevant Protocol or the Stage 3 Procedure in Practice Direction 8B.

(2) This section does not apply to a disease claim which is started under the EL/PL Protocol.

(3) Nothing in this section shall prevent the court making an order under rule 45.24.

Application of fixed costs and disbursements – RTA Protocol

45.29B. Subject to rules 45.29F, 45.29G, 45.29H and 45.29J, if, in a claim started under the RTA Protocol, the Claim Notification Form is submitted on or after 31st July 2013, the only costs allowed are—

- (a) the fixed costs in rule 45.29C;
- (b) disbursements in accordance with rule 45.29I.

Amount of fixed costs – RTA Protocol

45.29C.—(1) Subject to paragraph (2), the amount of fixed costs is set out in Table 6B.

(2) Where the claimant—

- (a) lives or works in an area set out in Practice Direction 45; and
- (b) instructs a legal representative who practises in that area,

the fixed costs will include, in addition to the costs set out in Table 6B, an amount equal to 12.5% of the costs allowable under paragraph (1) and set out in Table 6B.

(3) Where appropriate, VAT may be recovered in addition to the amount of fixed recoverable costs and any reference in this Section to fixed costs is a reference to those costs net of VAT.

(4) In Table 6B—

- (a) in Part B, “on or after” means the period beginning on the date on which the court respectively—
 - (i) issues the claim;
 - (ii) allocates the claim under Part 26; or
 - (iii) lists the claim for trial; and
- (b) unless stated otherwise, a reference to “damages” means agreed damages; and
- (c) a reference to “trial” is a reference to the final contested hearing.

Table 6B

Fixed costs where a claim no longer continues under the RTA Protocol

| A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7 | | | | |
|--|--|--|---|-------------------|
| Agreed damages | At least £1,000, but not more than £5,000 | More than £5,000, but not more than £10,000 | More than £10,000, but not more than £25,000 | |
| Fixed costs | The greater of— (a) £550; or (b) the total of— (i) £100; and (ii) 20% of the damages | The total of— (a) £1,100; and (b) 15% of damages over £5,000 | The total of— (a) £1,930; and (b) 10% of damages over £10,000 | |
| B. If proceedings are issued under Part 7, but the case settles before trial | | | | |
| Stage at which case is settled | On or after the date of issue, but prior to the date of allocation under Part 26 | On or after the date of allocation under Part 26, but prior to the date of listing | On or after the date of listing but prior to the date of trial | |
| Fixed costs | The total of— (a) £1,160; and (b) 20% of the damages | The total of— (a) £1,880; and (b) 20% of the damages | The total of— (a) £2,655; and (b) 20% of the damages | |
| <i>C. If the claim is disposed of at trial</i> | | | | |
| Fixed costs | The total of— (a) £2,655; and (b) 20% of the damages agreed or awarded; and (c) the relevant trial advocacy fee | | | |
| D. Trial advocacy fees | | | | |
| Damages agreed or awarded | Not more than £3,000 | More than £3,000, but not more than £10,000 | More than £10,000, but not more than £15,000 | More than £15,000 |
| Trial advocacy fee | £500 | £710 | £1,070 | £1,705 |

Application of fixed costs and disbursements – EL/PL Protocol

45.29D. Subject to rules 45.29F, 45.29H and 45.29J, in a claim started under the EL/PL Protocol the only costs allowed are—

- (a) fixed costs in rule 45.29E; and
- (b) disbursements in accordance with rule 45.29I.

Amount of fixed costs – EL/PL Protocol

45.29E.—(1) Subject to paragraph (2), the amount of fixed costs is set out—

- (a) in respect of employers’ liability claims, in Table 6C; and
- (b) in respect of public liability claims, in Table 6D.

(2) Where the claimant—

- (a) lives or works in an area set out in Practice Direction 45; and
- (b) instructs a legal representative who practises in that area,

the fixed costs will include, in addition to the costs set out in Tables 6C and 6D, an amount equal to 12.5% of the costs allowable under paragraph (1) and set out in table 6C and 6D.

(3) Where appropriate, VAT may be recovered in addition to the amount of fixed recoverable costs and any reference in this Section to fixed costs is a reference to those costs net of VAT.

(4) In Tables 6C and 6D—

- (a) in Part B, “on or after” means the period beginning on the date on which the court respectively—
 - (i) issues the claim;
 - (ii) allocates the claim under Part 26; or
 - (iii) lists the claim for trial; and
- (b) unless stated otherwise, a reference to “damages” means agreed damages; and
- (c) a reference to “trial” is a reference to the final contested hearing.

Table 6C

Fixed costs where a claim no longer continues under the EL/PL Protocol – employers’ liability claims

| A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7 | | | |
|--|--|--|---|
| Agreed damages | At least £1,000, but not more than £5,000 | More than £5,000, but not more than £10,000 | More than £10,000, but not more than £25,000 |
| Fixed costs | The total of— (a) £950; and (b) 17.5% of the damages | The total of— (a) £1,855; and (b) 12.5% of damages over £5,000 | The total of— (a) £2,500; and (b) 10% of damages over £10,000 |
| B. If proceedings are issued under Part 7, but the case settles before trial | | | |
| Stage at which case is settled | On or after the date of issue, but prior to the date of allocation under Part 26 | On or after the date of allocation under Part 26, but prior to the date of listing | On or after the date of listing but prior to the date of trial |
| Fixed costs | The total of— (a) £2,630; and (b) 20% of the damages | The total of— (a) £3,350; and (b) 25% of the damages | The total of— (a) £4,280; and (b) 30% of the damages |
| C. If the claim is disposed of at trial | | | |
| Fixed costs | The total of— (a) £4,280; (b) 30% of the damages agreed or awarded; and (c) the relevant trial advocacy fee | | |
| D. Trial advocacy fees | | | |

| | | | | |
|---------------------------|----------------------|---|--|-------------------|
| Damages agreed or awarded | Not more than £3,000 | More than £3,000, but not more than £10,000 | More than £10,000, but not more than £15,000 | More than £15,000 |
| Trial advocacy fee | £500 | £710 | £1,070 | £1,705 |

Table 6D

Fixed costs where a claim no longer continues under the EL/PL Protocol – public liability claims

| | | | | |
|--|--|--|---|-------------------|
| A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7 | | | | |
| Agreed damages | At least £1,000, but not more than £5,000 | More than £5,000, but not more than £10,000 | More than £10,000, but not more than £25,000 | |
| Fixed costs | The total of— (a) £950; and (b) 17.5% of the damages | The total of— (a) £1,855; and (b) 10.5% of damages over £5,000 | The total of— (a) £2,370; and (b) 10% of damages over £10,000 | |
| B. If proceedings are issued under Part 7, but the case settles before trial | | | | |
| Stage at which case is settled | On or after the date of issue, but prior to the date of allocation under Part 26 | On or after the date of allocation under Part 26, but prior to the date of listing | On or after the date of listing but prior to the date of trial | |
| Fixed costs damages | The total of— (a) £2,450; and (b) 17.5% of the damages | The total of— (a) £3,065; and (b) 22.5% of the damages | The total of— (a) £3,790; and (b) 27.5% of the damages | |
| C. If the claim is disposed of at trial | | | | |
| Fixed costs | The total of— (a) £3,790; (b) 27.5% of the damages agreed or awarded; and (c) the relevant trial advocacy fee | | | |
| D. Trial advocacy fees | | | | |
| Damages agreed or awarded | Not more than £3,000 | More than £3,000, but not more than £10,000 | More than £10,000, but not more than £15,000 | More than £15,000 |
| Trial advocacy fee | £500 | £710 | £1,070 | £1,705 |

Defendants' costs

45.29F.—(1) In this rule—

- (a) paragraphs (8) and (9) apply to assessments of defendants' costs under Part 36;
- (b) paragraph (10) applies to assessments to which the exclusions from qualified one way costs shifting in rules 44.15 and 44.16 apply; and

(c) paragraphs (2) to (7) apply to all other cases under this Section in which a defendant's costs are assessed.

(2) If, in any case to which this Section applies, the court makes an order for costs in favour of the defendant—

- (a) the court will have regard to; and
- (b) the amount of costs order to be paid shall not exceed,

the amount which would have been payable by the defendant if an order for costs had been made in favour of the claimant at the same stage of the proceedings.

(3) For the purpose of assessing the costs payable to the defendant by reference to the fixed costs in Table 6, Table 6A, Table 6B, Table 6C and Table 6D, “value of the claim for damages” and “damages” shall be treated as references to the value of the claim.

(4) For the purposes of paragraph (3), “the value of the claim” is—

- (a) the amount specified in the claim form, excluding—
 - (i) any amount not in dispute;
 - (ii) in a claim started under the RTA Protocol, any claim for vehicle related damages;
 - (iii) interest;
 - (iv) costs; and
 - (v) any contributory negligence;
- (b) if no amount is specified in the claim form, the maximum amount which the claimant reasonably expected to recover according to the statement of value included in the claim form under rule 16.3; or
- (c) £25,000, if the claim form states that the claimant cannot reasonably say how much is likely to be recovered.

(5) Where the defendant—

- (a) lives, works or carries on business in an area set out in Practice Direction 45; and
- (b) instructs a legal representative who practises in that area,

the costs will include, in addition to the costs allowable under paragraph (2), an amount equal to 12.5% of those costs.

(6) Where an order for costs is made pursuant to this rule, the defendant is entitled to disbursements in accordance with rule 45.29I

(7) Where appropriate, VAT may be recovered in addition to the amount of any costs allowable under this rule.

(8) Where, in a case to which this Section applies, a Part 36 offer is accepted, rule 36.10A will apply instead of this rule.

(9) Where, in a case to which this Section applies, upon judgment being entered, the claimant fails to obtain a judgment more advantageous than the claimant's Part 36 offer, rule 36.14A will apply instead of this rule.

(10) Where, in a case to which this Section applies, any of the exceptions to qualified one way costs shifting in rules 44.15 and 44.16 is established, the court will assess the defendant's costs without reference to this rule.

Counterclaims under the RTA Protocol

45.29G.—(1) If in any case to which this Section applies—

- (a) the defendant brings a counterclaim which includes a claim for personal injuries to which the RTA Protocol applies;
- (b) the counterclaim succeeds; and
- (c) the court makes an order for the costs of the counterclaim,

rules 45.29B, 45.29C, 45.29I, 45.29J, 45.29K and 45.29L shall apply.

- (2) Where a successful counterclaim does not include a claim for personal injuries—
- (a) the order for costs of the counterclaim shall be for a sum equivalent to one half of the applicable Type A and Type B costs in Table 6;
 - (b) where the defendant—
 - (i) lives, works, or carries on business in an area set out in Practice Direction 45; and
 - (ii) instructs a legal representative who practises in that area,

the costs will include, in addition to the costs allowable under paragraph (a), an amount equal to 12.5% of those costs;

- (c) if an order for costs is made pursuant to this rule, the defendant is entitled to disbursements in accordance with rule 45.29I; and
- (d) where appropriate, VAT may be recovered in addition to the amount of any costs allowable under this rule.

Interim applications

45.29H.—(1) Where the court makes an order for costs of an interim application to be paid by one party in a case to which this Section applies, the order shall be for a sum equivalent to one half of the applicable Type A and Type B costs in Table 6 or 6A.

- (2) Where the party in whose favour the order for costs is made—
- (a) lives, works or carries on business in an area set out in Practice Direction 45; and
 - (b) instructs a legal representative who practises in that area,

the costs will include, in addition to the costs allowable under paragraph (1), an amount equal to 12.5% of those costs.

(3) if an order for costs is made pursuant to this rule, the party in whose favour the order is made is entitled to disbursements in accordance with rule 45.29I; and

(4) Where appropriate, VAT may be recovered in addition to the amount of any costs allowable under this rule.

Disbursements

- 45.29I.**—(1) The court—
- (a) may allow a claim for a disbursement of a type mentioned in paragraphs (2) or (3); but
 - (b) will not allow a claim for any other type of disbursement.

(2) In a claim started under either the RTA Protocol or the EL/PL Protocol, the disbursements referred to in paragraph (1) are—

- (a) the cost of obtaining medical records and expert medical reports as provided for in the relevant Protocol;
- (b) the cost of any non-medical expert reports as provided for in the relevant Protocol;
- (c) the cost of any advice from a specialist solicitor or counsel as provided for in the relevant Protocol;
- (d) court fees;
- (e) any expert's fee for attending the trial where the court has given permission for the expert to attend;
- (f) expenses which a party or witness has reasonably incurred in travelling to and from a hearing or in staying away from home for the purposes of attending a hearing;

- (g) a sum not exceeding the amount specified in Practice Direction 45 for any loss of earnings or loss of leave by a party or witness due to attending a hearing or to staying away from home for the purpose of attending a hearing; and
- (h) any other disbursement reasonably incurred due to a particular feature of the dispute.

(3) In a claim started under the RTA Protocol only, the disbursements referred to in paragraph (1) are also the cost of—

- (a) an engineer's report; and
- (b) a search of the records of the—
 - (i) Driver Vehicle Licensing Authority; and
 - (ii) Motor Insurance Database.

Claims for an amount of costs exceeding fixed recoverable costs

45.29J.—(1) If it considers that there are exceptional circumstances making it appropriate to do so, the court will consider a claim for an amount of costs (excluding disbursements) which is greater than the fixed recoverable costs referred to in rules 45.29B to 45.29H.

(2) If the court considers such a claim to be appropriate, it may—

- (a) summarily assess the costs; or
- (b) make an order for the costs to be subject to detailed assessment.

(3) If the court does not consider the claim to be appropriate, it will make an order—

- (a) if the claim is made by the claimant, for the fixed recoverable costs; or
- (b) if the claim is made by the defendant, for a sum which has regard to, but which does not exceed the fixed recoverable costs,

and any permitted disbursements only.

Failure to achieve costs greater than fixed recoverable costs

45.29K.—(1) This rule applies where—

- (a) costs are assessed in accordance with rule 45.29J(2); and
- (b) the court assesses the costs (excluding any VAT) as being an amount which is in a sum less than 20% greater than the amount of the fixed recoverable costs.

(2) The court will make an order for the party who made the claim to be paid the lesser of—

- (a) the fixed recoverable costs; and
- (b) the assessed costs.

Costs of the costs-only proceedings or the detailed assessment

45.29L.—(1) Where—

- (a) the court makes an order for costs in accordance with rule 45.29J(3); or
- (b) rule 45.29K applies,

the court may—

- (i) decide not to award the party making the claim the costs of the costs only proceedings or detailed assessment; and
- (ii) make orders in relation to costs that may include an order that the party making the claim pay the costs of the party defending those proceedings or that assessment.”

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules make the following amendments to the Civil Procedure Rules 1998—

- the amendment of:
 - rule 14.1B (admissions made under the RTA Protocol);
 - rule 27.14 (costs on the small claims track);
 - Part 36 (offers to settle); and

Part 45 (fixed costs), including the insertion of new Section IIIA in Part 45

These amendments concern the extension of the current Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”) to include claims up the value of £25,000, and to most employers’ liability and public liability claims, via the introduction of the Pre-Action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (“the EL/PL Protocol”).

In particular, the amendments to Section III of Part 45 extend the fixed costs regime, which prescribes the costs which may be recovered by a claimant under the RTA Protocol, to include claims made under the extended RTA and EL/PL Protocols and prescribes the costs a claimant may recover in those cases.

New Section IIIA of Part 45 provides for a fixed costs regime in respect of those claims which exit the RTA and EL/PL Protocols and which are subsequently settled or proceed to judgment and again prescribes the costs which might be recovered by a claimant in those cases. Provision is also made both in respect of defendants’ costs in those cases where the fixed costs regime would otherwise apply (including those cases where a defendant successfully counterclaims) and the costs recoverable by both parties in related interim applications.

New rules 36.10A and 36.14A make provision in respect of the fixed costs in Sections III and IIIA of Part 45 which a claimant may recover when the claimant either accepts or fails to beat a defendant’s Part 36 offer. Provision is also made with regard to defendants’ costs in those circumstances.

Consequential minor amendments are made to Parts 45 and 36, as well as rules 14.1B and 27.14, which reflect the introduction of the EL/PL Protocol;

- the insertion of a note in rule 47.6 to draw attention to the (new) location of costs provisions specifically in relation to civil recovery orders;
- the addition of paragraph (15) to RSC Order 79 rule 9, in relation to section 1(1A) and (1B) of the Bail (Amendment) Act 1993.

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