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STATUTORY INSTRUMENTS

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**2015 No. 1648**

**The Competition Appeal Tribunal Rules 2015**

**PART 4**

**CLAIMS UNDER SECTION 47A OF THE 1998 ACT**

**OFFERS TO SETTLE**

**Costs consequences following judgment**

**49.**—(1) This rule applies where a Rule 45 Offer is not accepted and upon judgment being handed down—

- (a) a claimant fails to obtain a judgment more advantageous than a defendant's Rule 45 Offer; or
- (b) judgment against the defendant is at least as advantageous to the claimant as the proposals contained in a claimant's Rule 45 Offer.

(2) Where paragraph (1)(a) applies, the Tribunal shall, unless it considers it unjust to do so, order that any defendant who made the Rule 45 Offer, either alone or jointly with any other defendant, is entitled to—

- (a) costs from the date on which the relevant period expired; and
- (b) interest on those costs.

(3) Where paragraph (1)(b) applies, the Tribunal shall, unless it considers it unjust to do so, order that the claimant is entitled to—

- (a) interest on the whole or part of any sum of money (excluding interest) awarded, at a rate not exceeding 10% above base rate for some or all of the period starting with the date on which the relevant period expired;
- (b) costs on the indemnity basis from the date on which the relevant period expired;
- (c) interest on those costs at a rate not exceeding 10% above base rate; and
- (d) an additional amount to be determined by the Tribunal in accordance with CPR Rule 36.17(4)(d)(1).

(4) In considering whether it would be unjust to make the orders referred to in paragraphs (1) and (2), the Tribunal shall take into account all the circumstances of the case including—

- (a) the terms of any Rule 45 Offer;
- (b) the stage in the proceedings when any Rule 45 Offer was made, including in particular how long before the substantive hearing of the claim started the offer was made;
- (c) the information available to the parties to the Rule 45 Offer at the time when the Rule 45 Offer was made;

- (d) the conduct of the parties to the Rule 45 Offer with regard to the giving or refusal to give information for the purposes of enabling the Rule 45 Offer to be made or evaluated; and
  - (e) whether the offer was a genuine attempt to settle the proceedings.
- (5) Paragraphs (2) and (3) do not apply to a Rule 45 Offer—
- (a) which has been withdrawn;
  - (b) which has been changed so that its terms are less advantageous to the offeree, where the offeree has beaten the less advantageous offer; or
  - (c) made less than 21 days before the substantive hearing of the claim, unless the Tribunal has abridged the relevant period.