

SCHEDULE 1

Rule 5(b)

“SECTION VII

*SCALE COSTS FOR CLAIMS IN A PATENTS COUNTY COURT*

**Scope and interpretation**

**45.41.**—(1) Subject to paragraph (2) this Section applies to proceedings in a patents county court.

(2) This Section does not apply where—

(a) the court considers that a party has behaved in a manner which amounts to an abuse of the court’s process; or

(b) the claim concerns the infringement or revocation of a patent or registered design the validity of which has been certified by a court in earlier proceedings.

(3) The court will make a summary assessment of the costs of the party in whose favour any order for costs is made. Rules 44.3(8), 44.3A(2)(b) and (c), 44.7(b) and Part 47 do not apply to this Section.

(4) “Scale costs” means costs as defined in rule 43.2(1)(a).

**Amount of scale costs**

**45.42.**—(1) Subject to rule 45.43 the court will not order a party to pay total costs of more than—

(a) £50,000 on the final determination of a claim in relation to liability; and

(b) £25,000 on an inquiry as to damages or account of profits.

(2) The amounts in paragraph (1) apply after the court has applied the provision on set off in accordance with rule 44.3(9)(a).

(3) The maximum amount of scale costs that the court will award for each stage of the claim is set out in the Costs Practice Direction.

(4) The amount of the scale costs awarded by the court in accordance with paragraph (3) will depend on the nature and complexity of the claim.

(5) Where appropriate, value added tax (VAT) may be recovered in addition to the amount of the scale costs and any reference in this Section to scale costs is a reference to those costs net of any such VAT.

**Summary assessment of the costs of an application where a party has behaved unreasonably**

**45.43.** Costs awarded to a party under rule 63.26(2) are in addition to the total costs that may be awarded to that party under rule 45.42.”