
STATUTORY INSTRUMENTS

2021 No. 196

The Civil Procedure (Amendment No. 2) Rules 2021

Amendment of Part 35

7. In rule 35.4—

(a) For paragraph (3C), substitute—

“(3C) In a claim for a whiplash injury, whether or not it is part of a claim for other injuries—

(a) permission—

- (i) may normally only be given for one expert medical report in respect of the claim for the whiplash injury; and
- (ii) may not be given initially unless the medical report is a fixed cost medical report; and

(b) where the claimant seeks permission to obtain a further medical report in respect of the claim for the whiplash injury only, the report must be a fixed cost medical report if the report is from a medical expert in any of the following disciplines—

- (i) Consultant Orthopaedic Surgeon;
- (ii) Consultant in Accident and Emergency Medicine;
- (iii) General Practitioner registered with the General Medical Council; or
- (iv) Physiotherapist registered with the Health and Care Professions Council.

(3D) Where, in respect of a claim for a whiplash injury, the claimant lives outside England and Wales, but chooses to be examined in England or Wales, paragraph (3C) applies.

(3E) Where the claimant obtains a medical report in respect of a more serious injury suffered on the same occasion as the whiplash injury, the claimant may be given permission to use that report instead of a fixed cost medical report under paragraph (3C) provided that—

- (a) the report is from a doctor who is listed on the General Medical Council’s Specialist Register; and
- (b) the report provides evidence of the whiplash injury.

(3F) Unless paragraph (3D) applies, where, in respect of a claim for a whiplash injury—

- (a) the claimant lives outside England and Wales;
- (b) permission is given for a medical report,

the medical report (or, if there is more than one report, the first report) must be obtained from a person who is recognised by the country in which they practise as—

- (i) being a medical expert; and
- (ii) having the required medical qualifications for the purposes of diagnosis and prognosis of a whiplash injury.

(3G) In this rule—

- (a) in respect of a soft tissue injury claim, ‘fixed cost medical report’ and ‘soft tissue injury claim’ have the meanings ascribed to them by paragraph 1.1(10A) and (16A), respectively, of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents; and
- (b) in respect of a claim for a whiplash injury, ‘fixed cost medical report’ and ‘whiplash injury’ have the meanings ascribed to them by paragraph 1.2(17) and (38), respectively, of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.”.