

STATUTORY INSTRUMENTS

2021 No. 196

The Civil Procedure (Amendment No. 2) Rules 2021

Amendment of Part 45

8.—(1) In the list of contents to this Part, after the entry for rule 45.29L, insert—

“IIIB THE PRE-ACTION PROTOCOL FOR PERSONAL INJURY CLAIMS BELOW THE SMALL CLAIMS LIMIT IN ROAD TRAFFIC ACCIDENTS	
Failure to comply with, or electing not to continue under, the RTA Small Claims Protocol	Rule 45.29M
Claims which do not continue under the RTA Small Claims Protocol	Rule 45.29N”.

(2) In rule 45.19—

- (a) in paragraph (2A), after “soft tissue injury claim”, insert “, or a claim which consists of, or includes, a claim for a whiplash injury,”;
- (b) in paragraph (2E)—
 - (i) for “and ‘soft tissue injury claim’”, substitute “, ‘soft tissue injury claim’ and ‘whiplash injury’”; and
 - (ii) for “and (16A)”, substitute “(16A) and (20)”.

(3) In rule 45.29I—

- (a) in paragraph (2A), after “soft tissue injury claim”, insert “, or a claim which consists of, or includes, a claim for a whiplash injury,”; and
- (b) in paragraph (2E)—
 - (i) for “and ‘soft tissue injury claim’”, substitute “, ‘soft tissue injury claim’ and ‘whiplash injury’”; and
 - (ii) for “and (16A)”, substitute “(16A) and (20)”.

(4) After rule 45.29L, insert—

“IIIB PRE-ACTION PROTOCOL FOR PERSONAL INJURY CLAIMS BELOW THE SMALL CLAIMS LIMIT IN ROAD TRAFFIC ACCIDENTS

Failure to comply with, or continue under, the RTA Small Claims Protocol

45.29M.—(1) This rule applies where the claimant—

- (a) does not comply with the process set out in the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents (“the RTA Small Claims Protocol”); or
- (b) either—
 - (i) elects not to continue with that process;

- (ii) elects not to proceed with that process having been notified by the defendant pursuant to paragraph 6.15(4)(b) of the RTA Protocol that if proceedings were issued, the small claims track would be the normal track for that claim, and starts proceedings under Part 7 which are not allocated to the small claims track.
 - (2) Where a judgment is given in favour of the claimant, but—
 - (a) the court considers that the claimant acted unreasonably—
 - (i) by valuing the overall claim at more than £10,000 or the claim for damages for injury at more than £5,000, so that the claimant did not need to comply with the RTA Small Claims Protocol;
 - (ii) by electing not to proceed under the RTA Small Claims Protocol, following notification pursuant to paragraph 6.15(4)(b) of the RTA Protocol; or
 - (iii) in any other way that caused the process in the RTA Small Claims Protocol to be discontinued; or
 - (b) the claimant did not comply with the RTA Small Claims Protocol at all despite the claim falling within the scope of the Protocol,
- the court may order the defendant to pay no more than the fixed costs together with disbursements allowed in accordance with paragraphs 1.13 and 1.14 of Practice Direction 27B.

Claims which do not continue under the RTA Small Claims Protocol

- 45.29N.**—(1) This rule applies where—
- (a) a claim has been started under the RTA Small Claims Protocol, but no longer continues under that Protocol; and
 - (b) the claim has not subsequently proceeded under the RTA Protocol.
- (2) Where this rule applies, Section IIIA will apply as though the claim had started under the RTA Protocol, except where—
- (a) the court makes an order under rule 45.29M;
 - (b) the claim no longer continues under the RTA Small Claims Protocol because either the claimant or defendant becomes a protected party as defined in rule 21.2(2).”.