

SCHEDULE 3

Rule 15

“PART 45  
FIXED COSTS

**Contents of this Part**

<i>Title</i>	<i>Number</i>
I GENERAL PROVISIONS	
Scope of this Part	Rule 45.1
VAT	Rule 45.2
Additional costs for work in specified areas ('London weighting')	Rule 45.3
Litigants in person	Rule 45.4
Entitlement to costs - more than one claimant	Rule 45.5
Defendants' costs - assessment	Rule 45.6
Counterclaims	Rule 45.7
Pre-action and interim applications	Rule 45.8
Claims for an amount of costs exceeding fixed recoverable costs	Rule 45.9
Claims for an amount of costs exceeding fixed recoverable costs - vulnerability	Rule 45.10
Failure to achieve costs greater than fixed recoverable costs	Rule 45.11
Costs of the costs-only proceedings or the detailed assessment	Rule 45.12
Unreasonable behaviour	Rule 45.13
Costs consequences on reconsideration of track or complexity band	Rule 45.14
Costs consequences where rules 36.23 or 36.24 apply	Rule 45.15
II COMMENCEMENT, ENTRY OF JUDGMENT AND ENFORCEMENT	
Scope and application	Rule 45.16
Amount of fixed commencement costs in a claim for the recovery of money or goods	Rule 45.17
When defendant only liable for fixed commencement costs	Rule 45.18
Fixed costs on entry of judgment in a claim for the recovery of money or goods	Rule 45.19

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

<i>Title</i>	<i>Number</i>
Amount of fixed commencement costs in a claim for the recovery of land (including possession) or a demotion claim or prohibited conduct standard contract claim (Wales)	Rule 45.20
Fixed costs on entry of judgment in a claim for the recovery of land (including possession) or a demotion claim or prohibited conduct standard contract claim (Wales)	Rule 45.21
Miscellaneous fixed costs	Rule 45.22
Fixed costs of enforcement	Rule 45.23
III HM REVENUE AND CUSTOMS	
Scope, interpretation and application	Rule 45.24
Amount of fixed commencement costs in a County Court claim for the recovery of money conducted by an HMRC Officer	Rule 45.25
Fixed costs on entry of judgment in a county court claim for recovery of money conducted by an HMRC Officer	Rule 45.26
IV 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	
Scope and interpretation	Rule 45.27
Application of fixed costs and disbursements	Rule 45.28
Amount of fixed costs	Rule 45.29
Where the claimant obtains judgment for an amount more than the defendant's relevant Protocol offer	Rule 45.30
Settlement at Stage 2 or Stage 3 where the claimant is a child	Rule 45.31
Where the court orders that the claim is not suitable to be determined under the Stage 3 procedure and the claimant is a child	Rule 45.32
Settlement before proceedings are issued under Stage 3	Rule 45.33
Additional advice on value of claim	Rule 45.34
Failure to comply or electing not to continue with the relevant Protocol - costs consequences	Rule 45.35
Where the parties have settled after proceedings have started	Rule 45.36
Where the claimant obtains judgment for an amount equal to or less than the defendant's RTA Protocol offer	Rule 45.37

<i>Title</i>	<i>Number</i>
Adjournment	Rule 45.38
Account of payment of Stage 1 fixed costs	Rule 45.39
Costs-only application after a claim is started under Part 8 in accordance with Practice Direction 49F	Rule 45.40
<b>V THE PRE-ACTION PROTOCOL FOR PERSONAL INJURY CLAIMS BELOW THE SMALL CLAIMS LIMIT IN ROAD TRAFFIC ACCIDENTS</b>	
Failure to comply with, or electing not to continue under, the RTA Small Claims Protocol	Rule 45.41
Claims which do not continue under the RTA Small Claims Protocol	Rule 45.42
<b>VI FIXED COSTS IN THE FAST TRACK</b>	
Scope	Rule 45.43
Amount of fixed costs	Rule 45.44
Fixed costs	Rule 45.45
Specialist legal advice	Rule 45.46
Advice obtained in claims started under the RTA Protocol or the EL/PL Protocol	Rule 45.47
Preliminary issue or separate trial	Rule 45.48
<b>VII FIXED COSTS IN THE INTERMEDIATE TRACK</b>	
Scope	Rule 45.49
Amount of fixed costs	Rule 45.50
Preliminary issue or separate trial	Rule 45.51
<b>VIII CLAIMS FOR NOISE INDUCED HEARING LOSS</b>	
Scope	rule 45.52
Amount of fixed costs	rule 45.53
More than one defendant	rule 45.54
Preliminary issues trials	rule 45.55
Restoration proceedings	rule 45.56
<b>IX DISBURSEMENTS</b>	
Scope of this Section	rule 45.57
Disbursements - Section IV	rule 45.58
Disbursements - Section VI	rule 45.59
Disbursements - Section VII	rule 45.60
Disbursements - Section VIII	rule 45.61
Soft tissue injury and whiplash injury claims	rule 45.62

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SECTION I

### General Provisions

#### Scope of this Part

**45.1.**—(1) This Part sets out the amounts to be allowed for costs in the categories of claim to which it applies.

(2) In the categories of claim to which this Part applies, the court has a discretion as to—

- (a) whether costs are payable by one party to another;
- (b) when they are to be paid; and
- (c) whether to make an order in the form contemplated by rule 44.2(6)(a).

(3) Where—

- (a) a claim is one to which Section IV, Section VI, Section VII or Section VIII of this Part applies; and
- (b) the parties agree or the court orders that a party is entitled to costs,

subject to the application of any rule in those Sections or this Section by which costs are to be allowed, disallowed, increased or reduced, the court may only award costs in an amount that is neither more nor less than the fixed costs allowed by the applicable Section and set out in the relevant table in Practice Direction 45.

(4) Section VI and Section VII of this Part do not apply to a claim or counterclaim which relates, in whole or in part, to a residential property or dwelling and which, in respect of that property, includes a claim or counterclaim for—

- (a) possession;
- (b) disrepair; or
- (c) unlawful eviction,

save where the claim or counterclaim in respect of the residential property or dwelling arises from a boundary dispute.

(5) Where a claim relates in part to a residential property or dwelling and that part of the claim is concluded or discontinued, paragraph (4) shall continue to apply to the remainder of the claim.

(6) Section VI, Section VII and Section VIII of this Part do not apply where a party is a protected party.

(7) In this Part—

- (a) ‘an order for costs’, includes orders for costs deemed to have been made (either against the claimant or in favour of the claimant) as set out in rule 44.9;
- (b) ‘the relevant Protocol’ means—
  - (i) the Pre-Action Protocol for Personal Injury Claims in Road Traffic Accidents (‘the RTA Protocol’); or
  - (ii) the Pre-action Protocol for Low Value Personal Injury Claims (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’); and
- (c) a reference to a table by number alone is a reference to the corresponding table in Practice Direction 45.

(8) A reference in any rule to an amount in a table in Practice Direction 45 is a reference to the amount applicable to a claim on the date that proceedings are issued, regardless of any subsequent amendment.

## VAT

**45.2.** Where appropriate, VAT may be recovered in addition to the amount of fixed costs in Section IV, Section VI, Section VII or Section VIII of this Part and any reference to fixed costs in those Sections is a reference to those costs net of any such VAT.

### **Additional costs for work in specified areas ('London weighting')**

**45.3.—**(1) Where fixed costs are payable under Section IV, Section VI, Section VII or Section VIII of this Part and the receiving party—

- (a) lives, works or carries on business in any area set out in Section II of Practice Direction 45; and
- (b) instructs a legal representative with conduct of the litigation who practises in any of those areas,

the fixed costs shall include, in addition to the costs allowable in the relevant Section, an amount equal to 12.5% of those fixed costs ('London weighting').

(2) In this rule 'fixed costs' excludes any disbursements.

### **Litigants in person**

**45.4.—**(1) This rule applies to any claim where—

- (a) costs are payable under Section VI, Section VII or Section VIII of this Part; and
- (b) the party in whose favour the costs order is made is at any stage a litigant in person.

(2) Where this rule applies—

- (a) rule 46.5 shall apply, save that—
  - (i) where a party is a litigant in person throughout the entire claim, the costs allowed under this rule shall not exceed, except in the case of a disbursement, two-thirds of the fixed recoverable costs which would have been allowed under Section VI, Section VII or Section VIII if the litigant in person had been represented by a legal representative;
  - (ii) for any stage in Table 12, Table 14 or Table 15 during which the party is for any period a litigant in person, the costs allowed for that stage shall not exceed two thirds of the costs so specified; and
  - (iii) for any stage in Table 12, Table 14 or Table 15 during which a party is represented by a legal representative for the entire stage, the fixed recoverable costs shall apply as set out in sub-paragraph (b), provided that the total amount of costs to be allowed shall not exceed the costs which would have been allowed if the litigant in person had been represented by a legal representative for the entire claim;
- (b) where sub-paragraph (a)(iii) applies, the fixed recoverable costs shall be as follows—
  - (i) where the stage provides only for a fixed sum, the fixed sum;
  - (ii) in any other stage the difference between the fixed recoverable costs for that stage and the fixed recoverable costs for the last stage before that when the party was a litigant in person.

### **Entitlement to costs – more than one claimant**

**45.5.—**(1) Unless paragraph (2) or paragraph (4) applies, where—

- (a) fixed costs are payable under Section VI or Section VII of this Part; and

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(b) orders for costs are made in favour of two or more claimants, each claimant is entitled to the costs of their own claim in accordance with the applicable rules in this Part.

(2) Paragraph (1) does not apply where the claim is for a remedy to which the claimants are jointly entitled, and they are joined to the proceedings to comply with rule 19.3.

(3) Paragraph (4) applies where fixed costs are payable under Section VI or Section VII and—

- (a) a legal representative with conduct of the litigation acts for more than one claimant in the proceedings;
- (b) each of those claimants has a separate claim against the defendant;
- (c) an order for costs is made in favour of two or more of those claimants; and
- (d) the court has ordered that paragraph (4) shall apply.

(4) Where this paragraph applies—

- (a) the claimants in whose favour an order for costs is made shall only be entitled to one set of fixed costs;
- (b) the amount of the fixed costs to which those claimants are entitled is the sum of the allowable costs and the further amounts calculated in accordance with paragraph (5) and, where applicable, paragraph (7); and
- (c) those claimants are jointly entitled to any costs so ordered.

(5) A further amount equal to 25% of the allowable costs is to be added for each additional claimant in whose favour the order for costs is made.

(6) In paragraph (4), ‘the allowable costs’—

- (a) means—
  - (i) the applicable costs payable to the claimant in respect of whom the damages of highest value are agreed or awarded; or
  - (ii) where paragraph (i) would apply to two or more claimants, the applicable costs payable to whichever one of those claimants their legal representative chooses;
- (b) does not include any additional amounts under rule 36.24; but
- (c) may include the relevant trial advocacy fees if applicable; and
- (d) excludes any disbursements.

(7) In addition to the allowable costs under paragraph (4), those claimants who meet the criteria are entitled to London weighting.

(8) Where one or more of the claimants referred to in paragraph (4) is entitled to additional costs under rule 36.24(5) or increased costs under rule 45.13(2), the percentage increases for which those rules provide must be calculated by applying the relevant percentage to such proportion of the amount referred to in paragraph (4)(b) as reflects the proportion which each claimant so entitled bears to the total number of claimants to which paragraph (4) applies.

### **Defendants’ costs**

**45.6.**—(1) Where, in any case to which Section VI, Section VII or Section VIII of this Part applies, the court makes an order for costs in favour of the defendant, the allowable costs are—

- (a) the fixed costs set out in Section VI, Section VII or Section VIII;
- (b) the applicable disbursements set out in Section IX of this Part.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (2) For the purpose of assessing the costs payable to a defendant by reference to the fixed costs in Table 12 and Table 14—
- (a) “value of the claim for damages” and “damages” shall be treated as references to the value of the claim, as defined in paragraph (3); and
  - (b) if the claim is discontinued, a reference in Table 12 or Table 14 to the stage at which a case is settled shall be treated as a reference to the stage at which the case is discontinued.
- (3) For the purposes of paragraph (2)(a), ‘the value of the claim’ is—
- (a) the amount specified in the claim form, without taking into account any deduction for contributory negligence, but excluding—
    - (i) any amount not in dispute;
    - (ii) interest; or
    - (iii) costs;
  - (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;
  - (c) if the claim form states that the claimant cannot reasonably say how much is likely to be recovered—
    - (i) £25,000 in a claim to which Section VI applies; or
    - (ii) £100,000 in a claim to which Section VII applies;
  - (d) if the claim has no monetary value—
    - (i) the applicable amount in rule 45.45(1)(a)(ii) in a claim to which Section VI applies; or
    - (ii) the applicable amount in rule 45.50(2)(b)(ii) in a claim to which Section VII applies; or
  - (e) if a claim includes both a claim for monetary relief and a claim which has no monetary value, the applicable amount in sub-paragraph (d) taken together with the applicable monetary value in sub-paragraph (a), (b) or (c).

### **Counterclaims**

**45.7.**—(1) Subject to paragraphs (2) and (3), if in any case to which Section VI or Section VII of this Part applies—

- (a) the defendant brings a counterclaim; and
- (b) the court makes an order for costs,

rules 45.5, 45.6, 45.9, 45.10, 45.11, 45.12, 45.13, 45.43, 45.45, 45.46, 45.49 and 49.50 shall apply as if the counterclaim were a claim.

(2) No costs are allowable under this rule where the only remedy sought by the counterclaimant is also a defence to the claim.

(3) Where in a claim to which the RTA Protocol applies, there is a counterclaim which does not include a claim for personal injuries, any order for costs shall be for a sum equivalent to one half of the applicable Type A and Type B costs in Table 10.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Pre-action and interim applications**

**45.8.** Where, in any claim to which Section VI, Section VII or Section VIII of this Part applies, the court makes an order for the costs of a pre-action or interim application, the costs which a party may be allowed are those set out in Table 1, together with any appropriate court fee.

### **Claims for an amount of costs exceeding fixed recoverable costs**

**45.9.—(1)** The court may consider a claim for an amount of costs (excluding disbursements) which is greater than the fixed recoverable costs referred to in Section VI, Section VII or Section VIII of this Part where there are exceptional circumstances making it appropriate to do so.

- (2) If the criteria in paragraph (1) are met, the court may—
- (a) summarily assess the costs; or
  - (b) make an order for the costs to be subject to detailed assessment.

### **Claims for an amount of costs exceeding fixed recoverable costs – vulnerability**

**45.10.—(1)** The court may consider a claim for an amount of costs (excluding disbursements) which is greater than the fixed recoverable costs referred to in Section VI, Section VII or Section VIII of this Part where—

- (a) a party or witness for the party is vulnerable;
- (b) that vulnerability has required additional work to be undertaken; and
- (c) by reason of that additional work alone, the claim is for an amount that is at least 20% greater than the amount of fixed recoverable costs.

(Rule 1.6 and Practice Direction 1A make provision for how the court is to give effect to the overriding objective in relation to vulnerable parties or witnesses).

- (2) If the criteria in paragraph (1) are met, the court may—
- (a) summarily assess the costs; or
  - (b) make an order for the costs to be subject to detailed assessment.

### **Failure to achieve costs greater than fixed recoverable costs**

**45.11.—(1)** This rule applies where—

- (a) costs are assessed in accordance with rule 45.9(2) or 45.10(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 shall 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**

**45.12.—(1)** If the criteria in rule 45.9(1) or rule 45.10(1) are not met, the court may make an order for the fixed recoverable costs and any permitted disbursements only.

- (2) Where—
- (a) the court makes an order for costs in accordance with paragraph (1); or



- (b) rule 45.11 applies,  
the court may decide—
- (i) to make no order as to the costs of the costs only proceedings or detailed assessment; or
  - (ii) to make an order for some or all of such costs to be paid by the party making the claim.

### **Unreasonable behaviour**

**45.13.**—(1) Where, in a claim to which Section VI, Section VII or Section VIII of this Part applies, an order for costs is made in favour of a party whom the court considers has behaved unreasonably, the other party may apply for an order that those costs be reduced by an amount equivalent to 50% of the fixed recoverable costs which would otherwise be payable.

(2) Where, in a claim to which Section VI, Section VII or Section VIII of this Part applies, an order for costs is made against a party whom the court considers has behaved unreasonably, the other party may apply for an order that those costs be increased by an amount equivalent to 50% of the fixed recoverable costs which would otherwise be payable.

- (3) In this rule—
- (a) unreasonable behaviour is conduct for which there is no reasonable explanation; and
  - (b) “fixed recoverable costs which would otherwise be payable” does not include—
    - (i) VAT;
    - (ii) any additional amounts under rules 36.17 or 36.24; or
    - (iii) any disbursements.

### **Costs consequences on reconsideration of track or complexity band**

**45.14.**—(1) Where—

- (a) the court reallocates a claim to a different track; and
- (b) before or upon reallocation, the claim is one to which Section VI, Section VII or Section VIII of this Part applies,

the costs which may be allowed are those applicable to the track to which the claim is reallocated, as if the claim been allocated to that track at the outset.

(2) Where, in any claim to which Section VI or Section VII of this Part applies, the court reassigns a claim to a different complexity band, the costs which may be allowed are those applicable to the complexity band to which the claim is reassigned, as if the claim been assigned to that band at the outset.

(3) Where in any claim to which this rule applies, the court makes an order for the costs of an application to—

- (a) reallocate the claim to a different track; or
- (b) reconsider the complexity band to which a claim is assigned,

that application shall be treated as an interim application and the costs which a party may be allowed are those set out in Table 1, together with any appropriate court fee.

### **Costs consequences where rules 36.23 or 36.24 apply**

**45.15.** In a case to which Section VI, Section VII or Section VIII of this Part applies

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) where a Part 36 offer is accepted, rule 36.23 applies instead of the relevant Section; and
- (b) where upon judgment being entered, the claimant fails to obtain a judgment more advantageous than the defendant's Part 36 offer, rule 36.24 applies instead of the relevant Section.

## *SECTION II*

### *Commencement, Entry of Judgment and Enforcement*

#### **Scope and application**

**45.16.**—(1) In any case to which this Section applies, unless the court orders otherwise, the only costs allowed in respect of a legal representative's charges are those specified in this Section.

(2) This Section applies where—

- (a) the only claim is a claim for a specified sum of money where the value of the claim exceeds £25 and—
  - (i) judgment in default is obtained under rule 12.4(1);
  - (ii) judgment on admission is obtained under rule 14.4(3);
  - (iii) judgment on admission on part of the claim is obtained under rule 14.5(6);
  - (iv) summary judgment is given under Part 24;
  - (v) the court has made an order to strike out a defence under rule 3.4(2)(a) as disclosing no reasonable grounds for defending the claim; or
  - (vi) rule 45.19 applies;
- (b) the only claim is a claim where the court gave a fixed date for the hearing when it issued the claim and judgment is given for the delivery of goods, and the value of the claim exceeds £25;
- (c) the claim is for the recovery of land, including a possession claim or recovery of a dwelling including a Renting Homes possession claim under Part 55, whether or not the claim includes a claim for a sum of money and the defendant gives up possession, pays the amount claimed, if any, and the fixed commencement costs stated in the claim form;
- (d) the claim is for the recovery of land, including a possession claim or recovery of a dwelling including a Renting Homes possession claim under Part 55, where one of the grounds for possession is arrears of rent, for which the court gave a fixed date for the hearing when it issued the claim and judgment is given for the possession (whether or not the order for possession is suspended on terms) and the defendant—
  - (i) has neither delivered a defence, or counterclaim, nor otherwise denied liability; or
  - (ii) has delivered a defence which is limited to specifying his proposals for the payment of arrears of rent;
- (e) the claim is a possession claim under Section II of Part 55 (accelerated possession claims of land let on an assured shorthold tenancy) or a claim under Section V of Part 55 (Renting Homes Wales – accelerated possession claims of dwellings let on a standard contract) and a possession order is made where the defendant has neither delivered a defence, or counterclaim, nor otherwise denied liability;

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (f) the claim is a demotion claim or prohibited conduct standard contract order claim under Section III of Part 65 or a demotion claim or prohibited conduct standard contract order claim is made in the same claim form in which a claim for possession is made under Part 55 and that demotion claim or prohibited conduct standard contract order claim is successful;
- (g) a judgment creditor has taken steps under Parts 70 to 73 to enforce a judgment or order; or
- (h) costs are ordered under rule 27.14(2)(a).

(Practice Direction 49C sets out the types of case where a court will give a fixed date for a hearing when it issues a claim.)

(3) No sum in respect of legal representatives' charges shall be allowed where the only claim is for a sum of money or goods not exceeding £25.

(4) Any appropriate court fee shall be allowed in addition to the costs set out in this Section.

(5) The claim form may include a claim for fixed commencement costs.

#### **Amount of fixed commencement costs in a claim for the recovery of money or goods**

**45.17.**—(1) In a claim to which rule 45.16(2)(a) or (b) applies, where the claim form includes a claim for fixed commencement costs—

- (a) the amount of fixed commencement costs is set out in Table 2; and
  - (b) the amount claimed, or the value of the goods claimed if specified, in the claim form is to be used in determining the band in Table 2 that applies to the claim.
- (2) The amounts shown in Table 6 are to be allowed in addition, if applicable.

#### **When defendant only liable for fixed commencement costs**

**45.18.** Where—

- (a) the only claim is for a specified sum of money; and
- (b) the defendant pays the money claimed within 14 days after being served with the particulars of claim, together with the fixed commencement costs stated in the claim form,

the defendant is not liable for any further costs unless the court orders otherwise.

#### **Fixed costs on entry of judgment in a claim for the recovery of money or goods**

**45.19.** Where—

- (a) the claimant has claimed fixed commencement costs under rule 45.17; and
- (b) judgment is entered in a claim to which rule 45.16(2)(a) or (b) applies in the circumstances specified in Table 3,

the amount to be included in the judgment for the claimant's legal representative's charges is the total of—

- (i) the fixed commencement costs; and
- (ii) the relevant amount shown in Table 3.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Amount of fixed commencement costs in a claim for the recovery of land (including possession) or a demotion claim or prohibited conduct standard contract claim (Wales)**

**45.20.**—(1) The amount of fixed commencement costs in a claim to which rule 45.16(2) (c), (d) or (f) applies is set out in Table 4.

(2) The amounts shown in Table 6 are to be allowed in addition, if applicable.

**Fixed costs on entry of judgment in a claim for the recovery of land (including possession) or a demotion claim or prohibited conduct standard contract claim (Wales)**

**45.21.** Table 5 sets out the amounts to be allowed in respect of a legal representative's charges in the circumstances mentioned.

**Miscellaneous fixed costs**

**45.22.** Table 6 shows the amount to be allowed in respect of legal representative's charges in the circumstances mentioned.

**Fixed costs of enforcement**

**45.23.** Table 7 shows the amount to be allowed in respect of legal representatives' costs in the circumstances mentioned. The amounts shown in Table 6 are to be allowed in addition, if applicable.

*SECTION III*

*HM Revenue and Customs*

**Scope, application and interpretation**

**45.24.**—(1) This Section applies where—

- (a) the only claim is a claim conducted by an HMRC Officer in the County Court for the recovery of a debt; and
- (b) the Commissioners obtain judgment on the claim.

(2) Where this Section applies, unless the court orders otherwise, the only costs allowed in respect of HMRC charges are those specified in this Section.

(3) For the purpose of this Section—

- (a) 'His Majesty's Revenue and Customs charges' means the fixed costs set out in Table 8 and Table 9;
- (b) 'HMRC Officer' means a person appointed by the Commissioners under section 2 of the Commissioners for Revenue and Customs Act 2005<sup>(1)</sup> and authorised to conduct County Court proceedings for recovery of debt under section 25(1A) of that Act;
- (c) 'debt' means any sum payable to the Commissioners under or by virtue of an enactment or under a contract settlement; and
- (d) 'Commissioners' means commissioners for HMRC appointed under section 1 of the Commissioners for Revenue and Customs Act 2005.

(4) HMRC charges must, for the purpose of this Section, be claimed as 'legal representative's costs' on relevant court forms.

---

(1) 2005 c. 11.

- (5) Any appropriate court fee shall be allowed in addition to the costs set out in this Section.
- (6) The claim form may include a claim for fixed commencement costs.

**Amount of fixed commencement costs in a County Court claim for the recovery of money conducted by an HMRC Officer**

- 45.25.** The amount of fixed commencement costs in a claim to which rule 45.24 applies—
- (a) is set out in Table 8; and
  - (b) the amount claimed in the claim form is to be used for determining which claim band in Table 8 applies.

**Fixed costs on entry of judgment in a County Court claim for recovery of money conducted by an HMRC Officer**

- 45.26.** Where—
- (a) an HMRC Officer has claimed fixed commencement costs under Rule 45.25; and
  - (b) judgment is entered in a claim to which rule 45.24 applies,
- the amount to be included in the judgment for HMRC charges is the total of—
- (i) the fixed commencement costs; and
  - (ii) the amount in Table 9 relevant to the value of the claim.

*SECTION IV*

*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*

**Scope and interpretation**

- 45.27.**—(1) This Section applies to claims that have been or should have been started under Part 8 in accordance with Practice Direction 49F ('the Stage 3 Procedure').
- (2) A reference to Claim Notification Form or Court Proceedings Pack is a reference to the form used in the relevant Protocol.

**Application of fixed costs and disbursements**

- 45.28.** The only costs allowed are—
- (a) the fixed costs in accordance with Table 10 and Table 11; and
  - (b) the disbursements in accordance with Section IX of this Part.

**Amount of fixed costs**

- 45.29.**—(1) In Table 10 and Table 11—
- 'Type A fixed costs' means the legal representative's costs;
  - 'Type B fixed costs' means the advocate's costs; and
  - 'Type C fixed costs' means the costs for the advice on the amount of damages where the claimant is a child.
- (2) 'Advocate' means a person exercising a right of audience as a representative of, or on behalf of, a party.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Where the claimant obtains judgment for an amount more than the defendant's relevant Protocol offer**

- 45.30.** Where rule 36.29(1)(b) or (c) applies, the court shall order the defendant to pay
- (a) where not already paid by the defendant, the Stage 1 and 2 fixed costs;
  - (b) where the claim is determined—
    - (i) on the papers, Stage 3 Type A fixed costs;
    - (ii) at a Stage 3 hearing, Stage 3 Type A and B fixed costs; or
    - (iii) at a Stage 3 hearing and the claimant is a child, Type A, B and C fixed costs; and
  - (c) disbursements allowed in accordance with Section IX of this Part.

**Settlement at Stage 2 or Stage 3 where the claimant is a child**

- 45.31.**—(1) This rule applies where—
- (a) the claimant is a child;
  - (b) there is a settlement—
    - (i) at Stage 2 of the relevant Protocol; or
    - (ii) after proceedings are started under the Stage 3 Procedure and the settlement is more than the defendant's relevant Protocol offer; and
  - (c) an application is made to the court to approve the settlement.
- (2) Where the court approves the settlement—
- (a) where paragraph (1)(b)(i) applies, at a settlement hearing at Stage 2 of the relevant Protocol; or
  - (b) where paragraph (1)(b)(ii) applies, at the settlement hearing under the Stage 3 procedure,

it shall order the defendant to pay—

- (i) the Stage 1 and 2 fixed costs;
- (ii) the Stage 3 Type A, B and C fixed costs; and
- (iii) disbursements allowed in accordance with Section IX of this Part.

- (3) Where the court does not approve the settlement—
- (a) at a settlement hearing at Stage 2 of the relevant Protocol; or
  - (b) at the settlement hearing under the Stage 3 procedure,

it shall order the defendant to pay the Stage 1 and 2 fixed costs.

(4) Paragraphs (5) and (6) apply where the court does not approve the settlement at the first settlement hearing but does approve the settlement at—

- (a) where paragraph (1)(b)(i) applies, a second settlement hearing; or
- (b) where paragraph (1)(b)(ii) applies, the Stage 3 hearing.

(5) At the second settlement hearing or Stage 3 hearing, as appropriate, the court shall order the defendant to pay—

- (a) the Stage 3 Type A and C fixed costs for the first settlement hearing;
- (b) disbursements allowed in accordance with Section IX of this Part; and
- (c) the Stage 3 Type B fixed costs for one of the hearings.

(6) The court in its discretion may also order—

- (a) the defendant to pay an additional amount of either or both the Stage 3—
  - (i) Type A fixed costs;
  - (ii) Type B fixed costs; or
- (b) the claimant to pay an amount equivalent to either or both of the Stage 3—
  - (i) Type A fixed costs;
  - (ii) Type B fixed costs.

(7) Where paragraph (1)(b)(ii) applies and the settlement is not approved at the Stage 3 hearing the court shall order the defendant to pay the Stage 3 Type A fixed costs.

**Where the court orders that the claim is not suitable to be determined under the Stage 3 Procedure and the claimant is a child**

**45.32.** Where

- (a) the claimant is a child; and
- (b) at a settlement hearing or the Stage 3 hearing the court orders that the claim is not suitable to be determined under the Stage 3 Procedure,

the court shall order the defendant to pay—

- (i) the Stage 1 and 2 fixed costs; and
- (ii) the Stage 3 Type A, B and C fixed costs.

**Settlement before proceedings are issued under Stage 3**

**45.33.** 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 shall include an additional amount equivalent to the Stage 3 Type A fixed costs.

**Additional advice on the value of the claim**

**45.34.—(1)** Where—

- (a) the value of the claim for damages is more than £10,000;
- (b) an additional advice has been obtained from a specialist legal representative, and that advice—
  - (i) is within the legal representative's specialist expertise; and
  - (ii) is reasonably required to value the claim,

the fixed costs may include an additional amount equivalent to the Stage 3 Type C fixed costs.

(2) In a claim to which the RTA Protocol applies—

- (a) vehicle related damages are excluded for the purpose of valuing a claim under paragraph (1)(a); and
- (b) 'vehicle related damages' has the meaning ascribed to it by paragraph 1.1(18) of the RTA Protocol.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Failure to comply or electing not to continue with the relevant Protocol – costs consequences**

**45.35.**—(1) This rule applies where the claimant—

- (a) does not comply with the process set out in the relevant Protocol; or
- (b) elects not to continue with that process,

and starts proceedings under Part 7.

(2) Subject to paragraph (3), where a judgment is given in favour of the claimant but—

- (a) the court determines that the defendant did not proceed with the process set out in the relevant Protocol because the claimant provided insufficient information on the Claim Notification Form;
- (b) the court considers that the claimant acted unreasonably—
  - (i) by discontinuing the process set out in the relevant Protocol and starting proceedings under Part 7;
  - (ii) by valuing the claim at more than £25,000, so that the claimant did not need to comply with the relevant Protocol; or
  - (iii) except for paragraph (2)(a), in any other way that caused the process in the relevant Protocol to be discontinued; or
- (c) the claimant did not comply with the relevant Protocol at all despite the claim falling within the scope of the relevant Protocol,

the court may order the defendant to pay no more than the fixed costs in rule 45.28 together with the disbursements allowed in accordance with Section IX of this Part.

(3) Where a judgment is given in favour of the claimant but the claimant did not comply with the process in paragraph 6.3A(2) of the RTA Protocol, the court may not order the defendant to pay the claimant’s costs and disbursements save in exceptional circumstances.

(4) Where the claimant starts proceedings under paragraph 7.28 of the RTA Protocol or paragraph 7.26 of the EL/PL Protocol and the court orders the defendant to make an interim payment of no more than the interim payment made under paragraph 7.14(2) or (3) of the RTA Protocol or paragraph 7.17(2) or (3) of the EL/PL Protocol the court shall, on the final determination of the proceedings, order the defendant to pay no more than—

- (a) the Stage 1 and 2 fixed costs; and
- (b) the disbursements allowed in accordance with Section IX of this Part.

(5) Nothing in Section VI or Section VII of this Part shall prevent the court making an order under this rule where appropriate.

### **Where the parties have settled after proceedings have started**

**45.36.**—(1) This rule applies where an application is made under rule 45.40 (costs-only application after a claim is started under Part 8 in accordance with Practice Direction 49F).

(2) Where the settlement is more than the defendant’s relevant Protocol offer the court shall order the defendant to pay—

- (a) the Stage 1 and 2 fixed costs where not already paid by the defendant;
- (b) the Stage 3 Type A fixed costs; and
- (c) disbursements allowed in accordance with Section IX of this Part.

(3) Where the settlement is less than or equal to the defendant’s relevant Protocol offer the court shall order the defendant to pay—



*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) the Stage 1 and 2 fixed costs where not already paid by the defendant; and
  - (b) disbursements allowed in accordance with Section IX of this Part.
- (4) The court may, in its discretion, order either party to pay the costs of the application.

**Where the claimant obtains judgment for an amount equal to or less than the defendant's relevant Protocol offer**

- 45.37.** Where rule 36.29(1)(a) applies, the court shall order the claimant to pay
- (a) where the claim is determined—
    - (i) on the papers, Stage 3 Type A fixed costs; or
    - (i) at a hearing, Stage 3 Type A and B fixed costs;
  - (b) any Stage 3 disbursements allowed in accordance with Section IX of this Part.

**Adjournment**

- 45.38.** Where the court adjourns a settlement hearing or a Stage 3 hearing it may, in its discretion, order a party to pay
- (a) an additional amount of the Stage 3 Type B fixed costs; and
  - (b) any court fee for that adjournment.

**Account of payment of Stage 1 and Stage 2 fixed costs**

**45.39.** Where a claim no longer continues under the relevant Protocol the court shall, when making any order as to costs including an order for fixed recoverable costs under Section VI or Section VII of this Part, take into account the Stage 1 and Stage 2 fixed costs that have been paid by the defendant.

**Costs-only application after a claim is started under Part 8 in accordance with Practice Direction 49F**

- 45.40.—**(1) This rule sets out the procedure where—
- (a) the parties to a dispute have reached an agreement on all issues (including which party is to pay the costs) which is made or confirmed in writing; but
  - (b) they have failed to agree the amount of those costs; and
  - (c) proceedings have been started under Part 8 in accordance with Practice Direction 49F.
- (2) Either party may make an application for the court to determine the costs.
- (3) Where an application is made under this rule the court shall assess the costs in accordance with the relevant provisions in rule 45.31 in so far as that rule applies to proceedings started under the Stage 3 Procedure and the settlement is more than the defendant's relevant Protocol offer or rule 45.36.
- (4) Rule 44.5 (amount of costs where costs are payable pursuant to a contract) does not apply to an application under this rule.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SECTION V

### *The 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**

**45.41.**—(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; or
  - (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**

**45.42.**—(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 VI of this Part applies as though the claim had started under the RTA Protocol, except where—

- (a) the court makes an order under rule 45.41; or
- (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 21.1(2).

## SECTION VI

### *Fixed Costs in the Fast Track*

#### **Scope**

**45.43.**—(1) This Section applies to any claim which would normally be or is allocated to the fast track.

(2) This Section does not apply where Section IV, Section VII or Section VIII of this Part applies.

#### **Amount of fixed costs**

**45.44.** For so long as the claim is allocated neither to the small claims track, the intermediate track or the multi-track, the only costs allowed in any claim which would normally be or is allocated to the fast track are

- (a) the fixed costs in Table 12; and
- (b) the disbursements as set out in Section IX of this Part.

#### **Fixed costs**

**45.45.**—(1) In Table 12—

- (a) unless stated otherwise, “damages”—
  - (i) means any form of monetary relief;
  - (ii) in a claim which has no monetary value, shall be taken to mean an amount equivalent to—
    - (aa) £10,000 in a claim assigned to complexity band 2;
    - (bb) £15,000 in a claim assigned to complexity band 3; and
    - (cc) £20,000 in a claim assigned to complexity band 4;
  - (iii) in a claim which includes both a claim for monetary relief and a claim which has no monetary value, means the applicable amount in sub-paragraph (ii) taken together with the monetary value in sub-paragraph (i); and
  - (iv) in so far as it applies to monetary relief, means—
    - (aa) agreed damages; or
    - (bb) an amount awarded following trial;

(Rule 44.2 provides that the court has a discretion as to the costs order to be made including whether an order for costs relating only to a distinct part of the proceedings is appropriate.)

- (b) the figures in each of stages A to C are the cumulative totals for costs incurred up to and including that stage;
- (c) the figures in stage D are separate sums where the claim is disposed of at trial; and
- (d) a reference to a ‘trial’ is a reference to the final hearing.

#### **Specialist legal advice**

**45.46.**—(1) Where a claim would normally be assigned to complexity band 4, under rule 26.15 in addition to the costs allowable in Table 12, the fixed costs may include an amount in accordance with Table 13.

(2) The additional costs in Table 13 are only allowable where—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) the legal advice is obtained from, or a statement of case is drafted by—
    - (i) a specialist legal representative in respect of a matter within their specialist expertise; or
    - (ii) the intended trial advocate; and
  - (b) the use of that person to provide the advice or draft the statement of case is justified.
- (3) A court may only order payment for one advice in writing or in conference unless further advice is justified.
- (Rule 2.3 defines ‘legal representative’.)

#### **Advice obtained in claims started under the RTA Protocol or the EL/PL Protocol**

**45.47.**—(1) This rule applies where a claim has been started under the RTA Protocol or the EL/PL Protocol.

- (2) Where this rule applies and—
  - (a) an advice has been obtained from a legal representative as provided for in the relevant Protocol; or
  - (b) an advice has been obtained from a specialist legal representative on the amount of damages where the claimant is a child and that advice—
    - (i) is within the legal representative’s particular expertise; and
    - (ii) is reasonably required to value the claim,

the fixed costs may include an additional amount of £150.

#### **Preliminary issue or separate trial**

**45.48.**—(1) Where a costs order is made in favour of a party in respect of a preliminary issue, that party is entitled to the fixed costs in Table 12 for the stage applicable at the date the preliminary issue is concluded, together with such disbursements as are allowed in accordance with Section IX of this Part.

(2) Where a claim continues following the conclusion of a preliminary issue and a costs order is made in favour of a party on conclusion of the claim, that party shall be entitled to—

- (a) additional fixed costs, if it is the party in whose favour a costs order is made under paragraph (1); or
- (b) fixed costs, if the party is not a party in whose favour a costs order is made under paragraph (1),

being in either case the amount specified for the stage in Table 12 within which the claim concludes, less the applicable amount in stage B(1), together with such disbursements as are allowed in accordance with Section IX of this Part.

### *SECTION VII*

#### *Fixed Costs in the Intermediate Track*

#### **Scope**

**45.49.**—(1) This Section sets out the costs which are to be allowed in any claim which would normally be or is allocated to the intermediate track.

(2) This Section does not apply where Section IV, Section VI or Section VIII of this Part applies.

### **Amount of fixed costs**

**45.50.**—(1) For as long as the case is not allocated to the multi-track, the only costs allowed in any claim which would normally be or is allocated to the intermediate track are—

- (a) the fixed costs in Table 14; and
- (b) the disbursements as set out in Section IX of this Part.

(2) In Table 14—

- (a) a reference to a date set by the court means the first date so set, notwithstanding that the parties may agree an extension to a later date, unless the court orders otherwise;
- (b) unless stated otherwise, “damages”—
  - (i) means any form of monetary relief; or
  - (ii) in a claim which has no monetary value, shall be taken to mean an amount equivalent to—
    - (aa) £25,000 in a claim assigned to complexity band 1;
    - (bb) £50,000 in a claim assigned to complexity band 2;
    - (cc) £75,000 in a claim assigned to complexity band 3; and
    - (dd) £100,000 in a claim assigned to complexity band 4;
  - (iii) in a claim which includes both a claim for monetary relief and a claim which has no monetary value, means the applicable amount in sub-paragraph (ii) taken together with the monetary value in sub-paragraph (i); and
  - (iv) in so far as it applies to monetary relief, means—
    - (aa) agreed damages; or
    - (bb) an amount awarded following trial;

(Rule 44.2 provides that the court has a discretion as to the costs order to be made including whether an order for costs relating only to a distinct part of the proceedings is appropriate.)

- (c) the figures in each of stages S1, S3, S4, S5, S6 and S8 are the cumulative totals for costs incurred up to and including that stage;
- (d) the figures in stages S2, S7 and S9 to S15 are separate sums for those steps, if carried out; and
- (e) a reference to a ‘trial’ is a reference to the final hearing.

(3) The costs to be awarded for stage S1 are subject to assessment up to a maximum of the figure shown for stage S1 in Table 14, except in a claim for personal injuries where the figure shown is fixed.

(4) The costs in stages S2, S7 and S14 of Table 14 are only allowed where—

- (a) legal advice is obtained from, or a statement of case is drafted by—
- (b) a specialist legal representative in respect of a matter within their specialist expertise;  
or
- (c) the intended trial advocate; and
- (d) the use of that person to provide the advice or draft the statement of case is justified.

### **Preliminary issue or separate trial**

**45.51.**—(1) Subject to paragraph (3), where a costs order is made in favour of a party in respect of a preliminary issue, that party is entitled to the fixed costs in Table 14 for the stage applicable at the date the preliminary issue is concluded, together with—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) if there has been a trial, those fees appropriate in stages S8 and 9; and
- (b) if appropriate, those costs specified in stages S2, S7, S9, S12, S13 and S14.

(2) Subject to paragraph (3), where a claim continues following the conclusion of a preliminary issue and a costs order is made in favour of a party on conclusion of the claim, that party shall be entitled to—

- (a) additional fixed costs, if it is the party in whose favour a costs order is made under paragraph (1); or
- (b) fixed costs, if the party is not a party in whose favour a costs order is made under paragraph (1),

being in either case the amount specified for the stage in Table 14 within which the claim concludes less the amount in stage S3, together with—

- (c) if there has been a trial, those fees appropriate in stages S8 and 9; and
- (d) if appropriate, those costs specified in stages S9, S12, S13 and S14.

(3) Only one set of fees can be recovered by any one party under stages S13 and S14 whether under paragraph (1) or (2).

(4) The parties are entitled to disbursements allowed in accordance with Section IX of this Part incurred in any period for which costs are payable to them.

## *SECTION VIII*

### *Claims for Noise Induced Hearing Loss*

#### **Scope**

**45.52.**—(1) This Section sets out the costs which are to be allowed in any claim for noise induced hearing loss which—

- (a) has been or should have been started under Annex E of the Pre-Action Protocol for Disease and Illness Claims; and
- (b) would normally be or is allocated to the fast track.

(2) Subject to rule 45.6(3), or unless a rule in this Section provides otherwise, the costs which are to be allowed are applicable to both claimants and defendants.

#### **Amount of fixed costs**

**45.53.**—(1) The only costs allowed in any claim to which this Section applies are—

- (a) the fixed costs in Table 15; and
- (b) the disbursements set out in Section IX of this Part.

(2) The cost of any additional pre-litigation advice is included within the Stage A costs and is not separately recoverable.

#### **More than one defendant**

**45.54.**—(1) ) In Table 15, the reference to the number of defendants is to the number of active defendants against whom the claimant obtains a settlement or an award of damages.

(2) Where the defendants have all admitted liability and coordinate settlement between them, only one set of Stage 2 costs is allowed.

(3) Where at least one defendant admits liability and settles pre-litigation and at least one defendant denies liability—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) the fixed costs payable by those defendants who have admitted liability are 100% of the stage 2A or 2B costs for those defendants as appropriate; and
- (b) Stage 3 and any subsequent stages shall apply to the remaining defendants, provided that the claimant must give credit for the costs already payable under (a), so that the maximum entitlement under any stage is for the applicable stage costs.

#### **Preliminary issues trials**

**45.55.** Where the claimant succeeds at trial of a preliminary issue on limitation and an order for costs is made in favour of the claimant

- (a) the fixed costs may include those stages which would apply as if this was a trial of the claim, including trial advocacy fees; and
- (b) the claimant if successful in their claim for damages is entitled to additional fixed costs for the litigation stages only, starting with stage L2.

#### **Restoration proceedings**

**45.56.** Where

- (a) it is necessary for the claimant to make an application in separate proceedings to restore a defendant company to the Companies Register; and
- (b) the claimant is successful in their claim for damages for noise induced hearing loss and obtains an order for costs against that defendant,

the fixed costs may include the sum of £1,280 (inclusive of any advocate's fees incurred) in respect of the restoration proceedings, together with the disbursements set out in Section IX of this Part.

### *SECTION IX*

#### *Disbursements*

#### **Scope of this section**

**45.57.**—(1) This Section sets out the disbursements which are to be allowed in any claim to which Section IV, Section VI, Section VII or Section VIII of this Part applies.

(2) Subject to rule 45.62, the court—

- (a) may allow a claim for a disbursement of a type mentioned in rules 45.58, 45.59, 45.60 and 45.61, as applicable, and where it does so, the amount to be allowed is that which is reasonable and proportionate; but
- (b) shall not allow a claim for any other type of disbursement.

(3) Where appropriate, VAT may be recovered in addition to the cost of any disbursement allowable under this Section.

#### **Disbursements – Section IV**

**45.58.** In a claim to which Section IV applies, the disbursements to be allowed are

- (a) subject to rule 45.62, the cost of obtaining—
  - (i) medical records; and
  - (ii) expert medical reports as provided for in the relevant Protocol;

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (b) the cost of obtaining non-medical expert reports as provided for in the relevant Protocol;
- (c) court fees payable—
  - (i) as a result of Part 21 being applicable;
  - (ii) where proceedings are started as a result of a limitation period that is about to expire; and
  - (iii) in respect of the Stage 3 Procedure;
- (d) the provider cost of a telephone hearing;
- (e) additionally, in a claim to which the RTA Protocol applies—
  - (i) an engineer’s report; and
  - (ii) a search of the records of—
    - (aa) the Driver Vehicle Licensing Authority; and
    - (bb) the Motor Insurance Database; and
- (f) any other disbursement reasonably incurred due to a particular feature of the dispute or any requirement of these Rules.

#### **Disbursements – Section VI**

- 45.59.** In a claim to which Section VI applies, the disbursements to be allowed are
- (a) in a claim started under a relevant Protocol to which Section IV applies—
    - (i) the applicable disbursements referred to in rule 45.58(a) and (b) and (d) to (f);
    - (ii) any court fees;
    - (iii) in a claim which arises from a road traffic accident, the cost of obtaining a police report;
    - (iv) any expert’s fee for attending the trial where the court has given permission for the expert to attend;
    - (v) any interpreters’ or translators’ fees;
    - (vi) expenses which a party or witness has incurred in travelling to and from a hearing or in staying away from home for the purposes of attending a hearing; and
    - (vii) a sum not exceeding the amount specified in Table 16 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
  - (b) in any other claim to which Section VI applies, any disbursement which has been reasonably incurred, other than a disbursement covering work for which costs are already allowed in Section VI.

#### **Disbursements – Section VII**

**45.60.** In a claim to which Section VII applies, the court may allow any disbursement which has been reasonably incurred, other than a disbursement covering work for which costs are already allowed in Section VII.

#### **Disbursements – Section VIII**

**45.61.—**(1) Subject to paragraph (2), in a claim to which Section VIII applies, the disbursements to be allowed are—



- (a) the fees for the intended trial advocate for any step reasonably undertaken where both the use of that advocate and the cost are justified; and
  - (b) any other disbursement which has been reasonably incurred.
- (2) In a claim to which rule 45.56 applies, the disbursements to be allowed are—
- (a) any fees charged by the Government Legal Department or the solicitors to the Duchy of Lancaster or the Duchy of Cornwall;
  - (b) any court fees;
  - (c) the disc fee; and
  - (d) any adjournment fee.

### **Soft tissue injury and whiplash injury claims**

**45.62.**—(1) This rule applies—

- (a) to a soft tissue injury claim; or
- (b) a claim which consists of, or includes, a claim for a whiplash injury,

which arises from a road traffic accident.

(2) Where this rule applies, the only sums (exclusive of VAT) that are recoverable in respect of the cost of obtaining a fixed cost medical report or medical records are as follows—

- (a) obtaining the first report from an accredited medical expert selected via the MedCo Portal: £180;
- (b) obtaining a further report where justified from an expert from one of the following disciplines—
  - (i) Consultant Orthopaedic Surgeon (inclusive of a review of medical records where applicable): £420;
  - (ii) Consultant in Accident and Emergency Medicine: £360;
  - (iii) General Practitioner registered with the General Medical Council: £180; or
  - (iv) Physiotherapist registered with the Health and Care Professions Council: £180;
- (c) obtaining medical records: no more than £30 plus the direct cost from the holder of the records, and limited to £80 in total for each set of records required. Where relevant records are required from more than one holder of records, the fixed fee applies to each set of records required;
- (d) addendum report on medical records (except by Consultant Orthopaedic Surgeon): £50; and
- (e) answer to questions under Part 35: £80.

(3) Save in exceptional circumstances, no fee may be allowed for the cost of obtaining a report to which paragraph (1) applies where the medical expert—

- (a) has provided treatment to the claimant;
- (b) is associated with any person who has provided treatment; or
- (c) proposes or recommends treatment that they or an associate then provide.

(4) The cost of obtaining a further report from an expert not listed in paragraph (2) is not fixed, but the use of that expert and the cost must be justified.

(5) In this rule, ‘accredited medical expert’, ‘associate’, ‘associated with’, ‘fixed cost medical report’ ‘MedCo’, ‘soft tissue injury claim’ and ‘whiplash injury’ have the same meaning as in paragraph 1.1(A1), (1A), (10A), (12A), and (16A) and (20), respectively, of the RTA Protocol.”

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.