

STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 45

FIXED COSTS

Textual Amendments

F1 Pts. 44-48 substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, 16, [Sch.](#) (with [rule 22](#))

Contents of this Part

<i>Title</i>	<i>Number</i>
I FIXED COSTS	
Scope of this Section	Rule 45.1
Amount of fixed commencement costs in a claim for the recovery of money or goods	Rule 45.2
When defendant only liable for fixed commencement costs	Rule 45.3
Costs on entry of judgment in a claim for the recovery of money or goods	Rule 45.4
Amount of fixed commencement costs in a claim for the recovery of land or a demotion claim	Rule 45.5
Costs on entry of judgment in a claim for the recovery of land or a demotion claim	Rule 45.6
Miscellaneous fixed costs	Rule 45.7
Fixed enforcement costs	Rule 45.8
II ROAD TRAFFIC ACCIDENTS – FIXED RECOVERABLE COSTS	
Scope and interpretation	Rule 45.9
Application of fixed recoverable costs	Rule 45.10
Amount of fixed recoverable costs	Rule 45.11
Disbursements	Rule 45.12
Claims for an amount of costs exceeding fixed recoverable costs	Rule 45.13
Failure to achieve costs greater than fixed recoverable costs	Rule 45.14
Costs of the costs-only proceedings or the detailed assessment	Rule 45.15

Status: Point in time view as at 28/02/2017.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

Contents of this Part

<i>Title</i>	<i>Number</i>
[^{F2} III 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 45.16
Application of fixed costs [^{F3} and] disbursements	Rule 45.17
Amount of fixed costs	Rule 45.18
Disbursements	Rule 45.19
Where the claimant obtains judgment for an amount more than the defendant's [^{F4} relevant Protocol] offer	Rule 45.20
Settlement at Stage 2 where the claimant is a child	Rule 45.21
Settlement at Stage 3 where the claimant is a child	Rule 45.22
Where the court orders the claim is not suitable to be determined under the Stage 3 Procedure and the claimant is a child	Rule 45.23
[^{F5} Settlement before proceedings are issued under Stage 3	Rule 45.23A
Additional advice on value of claim	Rule 45.23B]
Failure to comply or electing not to continue with the [^{F6} relevant Protocol] – costs consequences	Rule 45.24
Where the parties have settled after proceedings have started	Rule 45.25
Where the claimant obtains judgment for an amount equal to or less than the defendant's RTA Protocol offer	Rule 45.26
Adjournment	Rule 45.27
Account of payment of Stage 1 fixed costs	Rule 45.28
Costs-only application after a claim is started under Part 8 in accordance with Practice Direction 8B	Rule 45.29
[^{F7} IIIA CLAIMS WHICH NO LONGER CONTINUE UNDER THE RTA AND EL/PL PRE-ACTION PROTOCOLS – FIXED RECOVERABLE COSTS	
Scope and interpretation	Rule 45.29A
Application of fixed costs and disbursements – RTA Protocol	Rule 45.29B
Amount of fixed costs – RTA Protocol	Rule 45.29C
Application of fixed costs and disbursements – EL/PL Protocol	Rule 45.29D
Amount of fixed costs – EL/PL Protocol	Rule 45.29E
Defendants' costs	Rule 45.29F
Counterclaims under the RTA Protocol	Rule 45.29G
Interim applications	Rule 45.29H

Contents of this Part

<i>Title</i>	<i>Number</i>
Disbursements	Rule 45.29I
Claims for an amount of costs exceeding fixed recoverable costs	Rule 45.29J
Failure to achieve costs greater than fixed recoverable costs	Rule 45.29K
Costs of the costs-only proceedings or the detailed assessment	Rule 45.29LJ
IV SCALE COSTS FOR CLAIMS IN [F⁸THE INTELLECTUAL PROPERTY ENTERPRISE COURT]	
Scope and interpretation	Rule 45.30
Amount of scale costs	Rule 45.31
Summary assessment of the costs of an application where a party has behaved unreasonably	Rule 45.32
V FIXED COSTS: HM REVENUE AND CUSTOMS	
Scope, interpretation and application	Rule 45.33
Amount of fixed commencement costs in [F ⁹ the County Court] claim for the recovery of money	Rule 45.34
Costs on entry of judgment in [F ⁹ the County Court] claim for recovery of money	Rule 45.35
When the defendant is only liable for fixed commencement costs	Rule 45.36
VI FAST TRACK TRIAL COSTS	
Scope of this Section	Rule 45.37
Amount of fast track trial costs	Rule 45.38
Power to award more or less than the amount of fast track trial costs	Rule 45.39
Fast track trial costs where there is more than one claimant or defendant	Rule 45.40
VII COSTS LIMITS IN AARHUS CONVENTION CLAIMS	
Scope and interpretation	Rule 45.41
Opting out	Rule 45.42
Limit on costs recoverable from a party in an Aarhus Convention claim	Rule 45.43
Challenging whether the claim is an Aarhus Convention claim	Rule 45.44

*SECTION I**Fixed Costs***Scope of this Section**

45.1.—(1) This Section sets out the amounts which, unless the court orders otherwise, are to be allowed in respect of legal representatives' charges.

Status: Point in time view as at 28/02/2017.

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- (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 45.4 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 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 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 of land (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) and a possession order is made where the defendant has neither delivered a defence, or counterclaim, nor otherwise denied liability;
 - (f) the claim is a demotion claim under Section III of Part 65 or a demotion claim is made in the same claim form in which a claim for possession is made under Part 55 and that demotion claim is successful; or
 - (g) a judgment creditor has taken steps under Parts 70 to 73 to enforce a judgment or order.
- (Practice Direction 7B 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 will be allowed where the only claim is for a sum of money or goods not exceeding £25.
 - (4) Any appropriate court fee will 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

- 45.2.**—(1) The amount of fixed commencement costs in a claim to which rule 45.1(2)(a) or (b) applies—
- (a) will be calculated by reference to Table 1; and
 - (b) the amount claimed, or the value of the goods claimed if specified, in the claim form is to be used for determining the band in Table 1 that applies to the claim.

(2) The amounts shown in Table 4 are to be allowed in addition, if applicable.

TABLE 1

<i>Fixed costs on commencement of a claim for the recovery of money or goods</i>			
Relevant band	Where the claim form is served by the court or by any method other than personal service by the claimant	Where – the claim form is served personally by the claimant; and there is only one defendant	Where there is more than one defendant, for each additional defendant personally served at separate addresses by the claimant
Where— the value of the claim exceeds £25 but does not exceed £500	£50	£60	£15
Where— the value of the claim exceeds £500 but does not exceed £1,000	£70	£80	£15
Where— the value of the claim exceeds £1,000 but does not exceed £5,000; or the only claim is for delivery of goods and no value is specified or stated on the claim form	£80	£90	£15
Where— the value of the claim exceeds £5,000	£100	£110	£15

When defendant only liable for fixed commencement costs

45.3. Where—

- (a) the only claim is for a specified sum of money; and

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(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.

Costs on entry of judgment in a claim for the recovery of money or goods

45.4. Where—

- (a) the claimant has claimed fixed commencement costs under rule 45.2; and
- (b) judgment is entered in a claim to which rule 45.1(2)(a) or (b) applies in the circumstances specified in Table 2, 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 2.

TABLE 2

<i>Fixed Costs on Entry of Judgment in a claim for the recovery of money or goods</i>		
	Where the amount of the judgment exceeds £25 but does not exceed £5,000	Where the amount of the judgment exceeds £5,000
Where judgment in default of an acknowledgment of service is entered under rule 12.4(1) (entry of judgment by request on claim for money only)	£22	£30
Where judgment in default of a defence is entered under rule 12.4(1) (entry of judgment by request on claim for money only)	£25	£35
Where judgment is entered under rule 14.4 (judgment on admission), or rule 14.5 (judgment on admission of part of claim) and claimant accepts the defendant’s proposal as to the manner of payment	£40	£55
Where judgment is entered under rule 14.4 (judgment on admission), or rule 14.5 (judgment on admission of part of claim) and court decides the date or time of payment	£55	£70
Where summary judgment is given under Part 24 or the court strikes out a defence under rule 3.4(2)(a), in either case, on application by a party	£175	£210
Where judgment is given on a claim for delivery of goods under a regulated agreement within the	£60	£85

<i>Fixed Costs on Entry of Judgment in a claim for the recovery of money or goods</i>		
meaning of the Consumer Credit Act 1974 and no other entry in this table applies		

Amount of fixed commencement costs in a claim for the recovery of land or a demotion claim

45.5.—(1) The amount of fixed commencement costs in a claim to which rule 45.1(2)(c), (d) or (f) applies will be calculated by reference to Table 3.

(2) The amounts shown in Table 4 are to be allowed in addition, if applicable.

TABLE 3

<i>Fixed costs on commencement of a claim for the recovery of land or a demotion claim</i>		
Where the claim form is served by the court or by any method other than personal service by the claimant	Where— the claim form is served personally by the claimant; and there is only one defendant	Where there is more than one defendant, for each additional defendant personally served at separate addresses by the claimant
£69.50	£77.00	£15.00

Costs on entry of judgment in a claim for the recovery of land or a demotion claim

45.6.—(1) Where—

- (a) the claimant has claimed fixed commencement costs under rule 45.5; and
- (b) judgment is entered in a claim to which rule 45.1(2)(d) or (f) applies, 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 sum of £57.25.

(2) Where an order for possession is made in a claim to which rule 45.1(2)(e) applies, the amount allowed for the claimant’s legal representative’s charges for preparing and filing—

- (a) the claim form;
- (b) the documents that accompany the claim form; and
- (c) the request for possession,
is £79.50.

Miscellaneous fixed costs

45.7. Table 4 shows the amount to be allowed in respect of legal representative’s charges in the circumstances mentioned.

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TABLE 4

<i>Miscellaneous Fixed Costs</i>	
For service by a party of any document other than the claim form required to be served personally including preparing and copying a certificate of service for each individual served	£15.00
Where service by an alternative method or at an alternative place is permitted by an order under rule 6.15 for each individual served	£53.25
Where a document is served out of the jurisdiction –	
(a) in Scotland, Northern Ireland, the Isle of Man or the Channel Islands;	£68.25
(b) in any other place	£77.00

Fixed enforcement costs

45.8. Table 5 shows the amount to be allowed in respect of legal representatives' costs in the circumstances mentioned. The amounts shown in Table 4 are to be allowed in addition, if applicable.

TABLE 5

<i>Fixed Enforcement Costs</i>	
For an application under rule 70.5(4) that an award may be enforced as if payable under a court order, where the amount outstanding under the award:	
exceeds £25 but does not exceed £250	£30.75
exceeds £250 but does not exceed £600	£41.00
exceeds £600 but does not exceed £2,000	£69.50
exceeds £2,000	£75.50
On attendance to question a judgment debtor (or officer of a company or other corporation) who has been ordered to attend court under rule 71.2 where the questioning takes place before a court officer, including attendance by a responsible representative of the legal representative	for each half hour or part, £15.00
On the making of a final third party debt order under rule 72.8(6) (a) or an order for the payment to the judgment creditor of money in court under rule 72.10(1)(b):	
if the amount recovered is less than £150	one-half of the amount recovered
otherwise	£98.50
On the making of a final charging order under rule ^{F10} 73.10(7)(a) or 73.10A(3)(a):	£110.00
	The court may also allow reasonable disbursements in respect of search fees

<i>Fixed Enforcement Costs</i>	
	and the registration of the order.
Where a certificate is issued and registered under Schedule 6 to the Civil Jurisdiction and Judgments Act 1982, the costs of registration	£39.00
Where permission is given under [^{F11} rule 83.13] to enforce a judgment or order giving possession of land and costs are allowed on the judgment or order, the amount to be added to the judgment or order for costs –	
(a) basic costs	£42.50
(b) where notice of the proceedings is to be to more than one person, for each additional person	£2.75
[^{F12} Where a writ of control as defined in rule 83.1(2)(k) is issued against any party	£51.75]
Where a writ of execution as defined in [^{F13} rule 83.1(2)(l)] is issued against any party	£51.75
Where a request is filed for the issue of a warrant of [^{F14} control under rule 83.15] for a sum exceeding £25	£2.25
[^{F15} Where a request is filed for the issue of a warrant of delivery under rule 83.15 for a sum exceeding £25	£2.25]
Where an application for an attachment of earnings order is made and costs are allowed under [^{F16} rule 89.10] or CCR Order 28, rule 10, for each attendance on the hearing of the application	£8.50

Textual Amendments

- F10** Words in rule 45.8 Table 5 substituted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, **9(a)** (with rule 24)
- F11** Words in rule 45.8 Table 5 substituted (22.4.2014) by The Civil Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/867), rules 1, **8(a)** (with art. 25)
- F12** Words in rule 45.8 Table 5 inserted (22.4.2014) by The Civil Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/867), rules 1, **8(b)** (with art. 25)
- F13** Words in rule 45.8 Table 5 substituted (22.4.2014) by The Civil Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/867), rules 1, **8(c)** (with art. 25)
- F14** Words in rule 45.8 Table 5 substituted (22.4.2014) by The Civil Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/867), rules 1, **8(d)** (with art. 25)
- F15** Words in rule 45.8 Table 5 inserted (22.4.2014) by The Civil Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/867), rules 1, **8(e)** (with art. 25)
- F16** Words in rule 45.8 Table 5 substituted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, **9(b)** (with rule 25)

SECTION II

Road Traffic Accidents – Fixed Recoverable Costs

Scope and interpretation

45.9.—(1) Subject to paragraph (3), this Section sets out the costs which are to be allowed in—

- (a) proceedings to which rule 46.14(1) applies (costs-only proceedings); or
- (b) proceedings for approval of a settlement or compromise under rule 21.10(2),

in cases to which this Section applies.

(2) This Section applies where—

- (a) the dispute arises from a road traffic accident occurring on or after 6 October 2003;
- (b) the agreed damages include damages in respect of personal injury, damage to property, or both;
- (c) the total value of the agreed damages does not exceed £10,000; and
- (d) if a claim had been issued for the amount of the agreed damages, the small claims track would not have been the normal track for that claim.

(3) This Section does not apply where—

- (a) the claimant is a litigant in person; or
- (b) Section III ^{F17} or Section IIIA] of this Part applies.

(4) In this Section—

“road traffic accident” means an accident resulting in bodily injury to any person or damage to property caused by, or arising out of, the use of a motor vehicle on a road or other public place in England and Wales;

“motor vehicle” means a mechanically propelled vehicle intended for use on roads; and

“road” means any highway and any other road to which the public has access and includes bridges over which a road passes.

Textual Amendments

F17 Words in rule 45.9(3)(b) inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, 7(2) (with rule 10)

Application of fixed recoverable costs

45.10. Subject to rule 45.13, the only costs which are to be allowed are—

- (a) fixed recoverable costs calculated in accordance with rule 45.11; and
- (b) disbursements allowed in accordance with rule 45.12.

(Rule 45.13 provides for where a party issues a claim for more than the fixed recoverable costs.)

Amount of fixed recoverable costs

45.11.—(1) Subject to paragraphs (2) and (3), the amount of fixed recoverable costs is the total of—

- (a) £800;
- (b) 20% of the damages agreed up to £5,000; and

(c) 15% of the damages agreed between £5,000 and £10,000.

(2) Where the claimant—

- (a) lives or works in an area set out in Practice Direction 45; and
- (b) instructs a legal representative who practises in that area,

the fixed recoverable costs will include, in addition to the costs specified in paragraph (1), an amount equal to 12.5% of the costs allowable under that paragraph.

(3) Where appropriate, VAT may be recovered in addition to the amount of fixed recoverable costs and any reference in this Section to fixed recoverable costs is a reference to those costs net of any such VAT.

Disbursements

45.12.—(1) The court—

- (a) may allow a claim for a disbursement of a type mentioned in paragraph (2); but
- (b) will not allow a claim for any other type of disbursement.

(2) The disbursements referred to in paragraph (1) are—

- (a) the cost of obtaining—
 - (i) medical records;
 - (ii) a medical report;
 - (iii) a police report;
 - (iv) an engineer’s report; or
 - (v) a search of the records of the Driver Vehicle Licensing Authority;
- (b) where they are necessarily incurred by reason of one or more of the claimants being a child or protected party as defined in Part 21—
 - (i) fees payable for instructing counsel; or
 - (ii) court fees payable on an application to the court; or
- (c) any other disbursement that has arisen due to a particular feature of the dispute.

Claims for an amount of costs exceeding fixed recoverable costs

45.13.—(1) The court will entertain a claim for an amount of costs (excluding any success fee or disbursements) greater than the fixed recoverable costs but only if it considers that there are exceptional circumstances making it appropriate to do so.

(2) If the court considers such a claim appropriate, it may—

- (a) summarily assess the costs; or
- (b) make an order for the costs to be subject to detailed assessment.

(3) If the court does not consider the claim appropriate, it will make an order for fixed recoverable costs (and any permitted disbursements) only.

Failure to achieve costs greater than fixed recoverable costs

45.14.—(1) This rule applies where—

- (a) costs are assessed in accordance with rule 45.13(2); and
- (b) the court assesses the costs (excluding any VAT) as being an amount which is less than 20% greater than the amount of the fixed recoverable costs.

Status: Point in time view as at 28/02/2017.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

- (2) The court must order the defendant to pay to the claimant the lesser of—
- (a) the fixed recoverable costs; and
 - (b) the assessed costs.

Costs of the costs-only proceedings or the detailed assessment

45.15. Where—

- (a) the court makes an order for fixed recoverable costs in accordance with rule 45.13(3); or
- (b) rule 45.14 applies, the court may—
 - (i) decide not to make an award of the payment of the claimant’s costs in bringing the proceedings under rule 46.14; and
 - (ii) make orders in relation to costs that may include an order that the claimant pay the defendant’s costs of defending those proceedings.

SECTION III

[^{F18}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.]

Textual Amendments

F18 Pt. 45 heading substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(3)** (with rule 10)

Scope and interpretation

45.16.—(1) This Section applies to claims that have been or should have been started under Part 8 in accordance with Practice Direction 8B (“the Stage 3 Procedure”).

(2) Where a party has not complied with the [^{F19}relevant Protocol] rule 45.24 will apply.

[^{F20}The “relevant Protocol” means—

- (a) the Pre-Action Protocol for Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”); or
- (b) the Pre-action Protocol for Low Value Personal Injury Claims (Employers’ Liability and Public Liability) Claims (“the EL/PL Protocol”).]

(3) A reference to “Claim Notification Form [^{F21}or Court Proceedings Pack]” is a reference to the form used in the [^{F19}relevant Protocol].

Textual Amendments

F19 Words in rule 45.16 substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(4)(a)** (with rule 10)

F20 Words in rule 45.16 substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(4)(b)** (with rule 10)

F21 Words in rule 45.16(3) inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(4)(c)** (with rule 10)

Application of fixed costs, and disbursements

45.17. The only costs allowed are—

- (a) fixed costs in rule 45.18; and
- (b) disbursements in accordance with rule 45.19 [F22;and]
- [F23(c) where applicable, fixed costs in accordance with rule 45.23A or 45.23B.]

Textual Amendments

- F22** Word in rule 45.17(b) substituted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, 7(5)(a) (with rule 10)
- F23** Rule 45.17(c) inserted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, 7(5)(b) (with rule 10)

Amount of fixed costs

- 45.18.**—(1) Subject to paragraph (4), the amount of fixed costs is set out in [F24Tables 6 and 6A].
- (2) In [F25Tables 6 and 6A]—
- “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.
- (3) “Advocate” has the same meaning as in rule 45.37(2)(a).
- (4) Subject to rule 45.24(2) the court will not award more or less than the amounts shown in [F26Tables 6 or 6A].
- (5) Where the claimant—
- (a) lives or works in an area set out in Practice Direction 45; and
 - (b) instructs a legal representative who [F27practises] in that area,
- the fixed costs will include, in addition to the costs set out in [F28Tables 6 or 6A], an amount equal to 12.5% of the Stage 1 and 2 and Stage 3 Type A fixed costs.
- (6) Where appropriate, [F29VAT] may be recovered in addition to the amount of fixed costs and any reference in this Section to fixed costs is a reference to those costs net of any such VAT.

[F30**TABLE 6**

Fixed costs in relation to the RTA Protocol			
Where the value of the claim for damages is not more than £10,000		Where the value of the claim for damages is more than £10,000, but not more than £25,000	
Stage 1 fixed costs	£200	Stage 1 fixed costs	£200
Stage 2 fixed costs	£300	Stage 2 fixed costs	£600
Stage 3 - Type A fixed costs	£250	Stage 3 - Type A fixed costs	£250
- Type B fixed costs	£250	- Type B fixed costs	£250
- Type C fixed costs	£150	- Type C fixed costs	£150

Status: Point in time view as at 28/02/2017.

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Table 6A

Fixed costs in relation to the EL/PL Protocol			
Where the value of the claim for damages is not more than £10,000		Where the value of the claim for damages is more than £10,000, but not more than £25,000	
Stage 1 fixed costs	£300	Stage 1 fixed costs	£300
Stage 2 fixed costs	£600	Stage 2 fixed costs	£1300
Stage 3 - Type A fixed costs	£250	Stage 3 - Type A fixed costs	£250
- Type B fixed costs	£250	- Type B fixed costs	£250
- Type C fixed costs	£150	- Type C fixed costs	£150]

Textual Amendments

- F24** Words in rule 45.18(1) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\), rules 2, 7\(6\)\(a\)](#) (with rule 10)
- F25** Words in rule 45.18(2) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\), rules 2, 7\(6\)\(b\)](#) (with rule 10)
- F26** Words in rule 45.18(4) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\), rules 2, 7\(6\)\(c\)](#) (with rule 10)
- F27** Word in rule 45.18(5)(b) substituted (30.4.2013) by [The Civil Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/789\), rules 1\(1\), 3\(a\)](#)
- F28** Words in rule 45.18(5)(b) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\), rules 2, 7\(6\)\(d\)](#) (with rule 10)
- F29** Word in rule 45.18(6) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\), rules 2, 20\(b\)](#)
- F30** [Rule 45.18 Tables 6, 6A](#) substituted for rule 45.18 Table 6 (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\), rules 2, 7\(6\)\(e\)](#) (with rule 10)

Disbursements

- 45.19.**—(1) ^{F31}Subject to paragraphs (2A) to (2E), the court]—
- (a) may allow a claim for a disbursement of a type mentioned in ^{F32}paragraphs (2) or (3)]; but
 - (b) will not allow a claim for any other type of disbursement.
- (2) ^{F33}In a claim to which either the RTA Protocol or EL/PL Protocol applies, the disbursements] referred to in paragraph (1) are—
- (a) the cost of obtaining—
 - (i) medical records;
 - ^{F34}(ii) a medical report or reports or non-medical expert reports as provided for in the relevant Protocol;]
 - ^{F35}(iii)
 - ^{F36}(iv)
 - (b) court fees as a result of Part 21 being applicable;
 - (c) court fees payable where proceedings are started as a result of a limitation period that is about to expire;

- (d) court fees in respect of the Stage 3 Procedure; ^{F37}and]
- (e) any other disbursement that has arisen due to a particular feature of the dispute.

^{F38}(2A) In a soft tissue injury claim to which the RTA Protocol 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—

- ^{F39}(a) obtaining the first report from an accredited medical expert selected via the MedCo Portal: £180;]
- (b) obtaining a further report where justified from ^{F40}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.

(2B) Save in exceptional circumstances, no fee may be allowed for the cost of obtaining ^{F41}a report to which paragraph (2A) 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 ^{F42}treatment that they or an associate then provide].

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

(2D) Where appropriate, VAT may be recovered in addition to the cost of obtaining a fixed cost medical report or medical records.]

^{F43}(2E) In this rule, ‘accredited medical expert’, ‘associate’, ‘associated with’, ‘fixed cost medical report’, ‘MedCo’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(A1), (1A), (10A), (12A), and (16A), respectively, of the RTA Protocol.]

^{F44}(3) In a claim to which the RTA Protocol applies, the disbursements referred to in paragraph (1) are also the cost of—

- (a) an engineer’s report; and
- (b) a search of the records of the—
 - (i) Driver Vehicle Licensing Authority; and
 - (ii) Motor Insurance Database.]

Textual Amendments

- F31** Words in [rule 45.19\(1\)](#) substituted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014](#) (S.I. 2014/2044), [rules 2, 7\(a\)\(i\)](#) (with [rule 14](#))

Status: Point in time view as at 28/02/2017.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, PART 45. (See end of Document for details)

- F32** Words in rule 45.19(1)(a) substituted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(7)(a)** (with rule 10)
- F33** Words in rule 45.19(2) substituted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(7)(b)(i)** (with rule 10)
- F34** Rule 45.19(2)(a)(ii) substituted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(7)(b)(ii)(aa)** (with rule 10)
- F35** Rule 45.19(2)(a)(iii) omitted (31.7.2013) by virtue of The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(7)(b)(ii)(bb)** (with rule 10)
- F36** Rule 45.19(2)(a)(iv) omitted (31.7.2013) by virtue of The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(7)(b)(ii)(bb)** (with rule 10)
- F37** Word in rule 45.19(2)(d) inserted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(7)(b)(iii)** (with rule 10)
- F38** Rules 45.19(2A)-(2E) inserted (1.10.2014) by The Civil Procedure (Amendment No. 6) Rules 2014 (S.I. 2014/2044), rules 2, **7(a)(ii)** (with rule 14)
- F39** Rule 45.19(2A)(a) substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **10(a)(i)(aa)**
- F40** Words in rule 45.19(2A)(b) inserted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **10(a)(i)(bb)**
- F41** Words in rule 45.19(2B) substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **10(a)(ii)(aa)**
- F42** Words in rule 45.19(2B)(c) substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **10(a)(ii)(bb)**
- F43** Rule 45.19(2E) substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **10(a)(iii)**
- F44** Rule 45.19(3) inserted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(7)(c)** (with rule 10)

Where the claimant obtains judgment for an amount more than the defendant's [^{F45}relevant Protocol] offer

- 45.20.** Where rule [^{F46}36.29](1)(b) or (c) applies, the court will 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 rule 45.19.

Textual Amendments

- F45** Words in rule 45.20 heading substituted (31.7.2013) by The Civil Procedure (Amendment No.6) Rules 2013 (S.I. 2013/1695), rules 2, **7(8)** (with rule 10)
- F46** Word in rule 45.20 substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **10(b)** (with rule 18)

Settlement at Stage 2 where the claimant is a child

- 45.21.**—(1) This rule applies where—
- (a) the claimant is a child;

- (b) there is a settlement at Stage 2 of the [^{F47}relevant Protocol]; and
 - (c) an application is made to the court to approve the settlement.
- (2) Where the court approves the settlement at a settlement hearing it will order the defendant to pay—
- (a) the Stage 1 and 2 fixed costs;
 - (b) the Stage 3 Type A, B and C fixed costs; and
 - (c) disbursements allowed in accordance with rule 45.19.
- (3) Where the court does not approve the settlement at a settlement hearing it will 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 second settlement hearing.
- (5) At the second settlement hearing the court will 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 rule 45.19; 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) [^{F48}the] claimant to pay an amount equivalent to either or both the Stage 3—
 - (i) Type A fixed costs;
 - (ii) Type B fixed costs.

Textual Amendments

- F47** Words in rule 45.21(1)(b) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(9)(a)** (with rule 10)
- F48** Word in rule 45.21(6)(b) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(9)(b)** (with rule 10)

Settlement at Stage 3 where the claimant is a child

- 45.22.**—(1) This rule applies where—
- (a) the claimant is a child;
 - (b) there is a settlement after proceedings are started under the Stage 3 Procedure;
 - (c) the settlement is more than the defendant's [^{F49}relevant Protocol] offer; and
 - (d) an application is made to the court to approve the settlement.
- (2) Where the court approves the settlement at the settlement hearing it will order the defendant to pay—
- (a) the Stage 1 and 2 fixed costs;
 - (b) the Stage 3 Type A, B and C fixed costs; and
 - (c) disbursements allowed in accordance with rule 45.19.

Status: Point in time view as at 28/02/2017.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

(3) Where the court does not approve the settlement at the settlement hearing it will 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 the Stage 3 hearing.

(5) At the Stage 3 hearing the court will order the defendant to pay—

- (a) the Stage 3 Type A and C fixed costs for the settlement hearing;
- (b) disbursements allowed in accordance with rule 45.19; 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 the settlement is not approved at the Stage 3 hearing the court will order the defendant to pay the Stage 3 Type A fixed costs.

Textual Amendments

F49 Words in [rule 45.22\(1\)\(c\)](#) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), [rules 2, 7\(10\)](#) (with [rule 10](#))

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

45.23. 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 will 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.

[^{F50} Settlement before proceedings are issued under Stage 3

45.23A. 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 will include an additional amount equivalent to the Stage 3 Type A fixed costs.

Textual Amendments

F50 Rules 45.23A, 45.23B inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013](#) (S.I. 2013/1695), [rules 2, 7\(11\)](#) (with [rule 10](#))

Additional advice on the value of the claim

45.23B. Where—

- (a) the value of the claim for damages is more than £10,000;
- (b) an additional advice has been obtained from a specialist solicitor or from counsel;
- (c) that advice is reasonably required to value the claim,

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

Textual Amendments

F50 Rules 45.23A, 45.23B inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013](#) (S.I. 2013/1695), [rules 2, 7\(11\)](#) (with [rule 10](#))

Failure to comply or electing not to continue with the [^{F51}relevant Protocol] – costs consequences

45.24.—(1) This rule applies where the claimant—

- (a) does not comply with the process set out in the [^{F52}relevant Protocol]; or
- (b) elects not to continue with that process,

and starts proceedings under Part 7.

(2) [^{F53}Subject to paragraph (2A), 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 [^{F54}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 [^{F54}relevant Protocol] and starting proceedings under Part 7;
 - (ii) by valuing the claim at more than [^{F55}£25,000], so that the claimant did not need to comply with the [^{F54}relevant Protocol]; or
 - (iii) except for paragraph (2)(a), in any other way that caused the process in the [^{F54}relevant Protocol] to be discontinued; or
- (c) the claimant did not comply with the [^{F54}relevant Protocol] at all despite the claim falling within the scope of the RTA Protocol,

the court may order the defendant to pay no more than the fixed costs in rule 45.18 together with the disbursements allowed in accordance with rule 45.19.

[^{F56}(2A) 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.]

Status: Point in time view as at 28/02/2017.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

(3) Where the claimant starts proceedings under paragraph [^{F57}7.28] of the RTA Protocol [^{F58}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 [^{F59}the RTA Protocol or paragraph 7.17(2) or (3) of the EL/PL Protocol] the court will, 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 rule 45.19.

Textual Amendments

- F51** Words in rule 45.24 heading substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(12)(a)** (with rule 10)
- F52** Words in rule 45.24(1)(a) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(12)(b)** (with rule 10)
- F53** Words in rule 45.24(2) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(c)(i)**
- F54** Words in rule 45.24(2) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(12)(c)(i)** (with rule 10)
- F55** Sum in rule 45.24(2) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(12)(c)(ii)** (with rule 10)
- F56** Rule 45.24(2A) inserted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(c)(ii)**
- F57** Word in rule 45.24(3) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(12)(d)(i)** (with rule 10)
- F58** Words in rule 45.24(3) inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(12)(d)(ii)** (with rule 10)
- F59** Words in rule 45.24(3) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(12)(d)(iii)** (with rule 10)

Where the parties have settled after proceedings have started

45.25.—(1) This rule applies where an application is made under rule 45.29 (costs-only application after a claim is started under Part 8 in accordance with Practice Direction 8B).

(2) Where the settlement is more than the defendant's [^{F60}relevant Protocol] offer the court will 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 rule 45.19.

(3) Where the settlement is less than or equal to the defendant's [^{F60}relevant Protocol] offer the court will order the defendant to pay—

- (a) the Stage 1 and 2 fixed costs where not already paid by the defendant; and
- (b) disbursements allowed in accordance with rule 45.19.

(4) The court may, in its discretion, order either party to pay the costs of the application.

Textual Amendments

- F60** Words in rule 45.25 substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(13)** (with rule 10)

Where the claimant obtains judgment for an amount equal to or less than the defendant's [^{F61}relevant Protocol]

- 45.26.** Where rule [^{F62}36.29](1)(a) applies, the court will order the claimant to pay—
- (a) where the claim is determined—
 - (i) on the papers, Stage 3 Type A fixed costs; or
 - (ii) at a hearing, Stage 3 Type A and B fixed costs;
 - (b) any Stage 3 disbursements allowed in accordance with rule 45.19.

Textual Amendments

- F61** Words in rule 45.26 heading substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(14)** (with rule 10)
- F62** Word in rule 45.26 substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(d)** (with rule 18)

Adjournment

- 45.27.** 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 [^{F63}and Stage 2] fixed costs

45.28. Where a claim no longer continues under the [^{F64}relevant Protocol] the court will, when making any order as to costs including an order for fixed recoverable costs under Section II [^{F65}or Section IIIA] of this Part, take into account the Stage 1 [^{F66}and Stage 2] fixed costs that have been paid by the defendant.

Textual Amendments

- F63** Words in rule 45.28 heading inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(15)(a)** (with rule 10)
- F64** Words in rule 45.28 substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(15)(b)** (with rule 10)
- F65** Words in rule 45.28 inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(15)(c)** (with rule 10)
- F66** Words in rule 45.28 inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **7(15)(d)** (with rule 10)

Status: Point in time view as at 28/02/2017.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

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

- 45.29.**—(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 8B.
- (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 will assess the costs in accordance with rule 45.22 or rule 45.25.
- (4) Rule 44.5 (amount of costs where costs are payable pursuant to a contract) does not apply to an application under this rule.

^{F67}SECTION IIIA

*Claims Which No Longer Continue Under the RTA or EL/
PL Pre-Action Protocols – Fixed Recoverable Costs*

Textual Amendments

F67 Pt. 45 Section 3A inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, 7(16), **Sch.** (with rule 10)

Scope and interpretation

- 45.29A.**—(1) Subject to paragraph (3), this section applies where a claim is started under—
- (a) the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”); or
 - (b) the Pre-Action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (“the EL/PL Protocol”),
- but no longer continues under the relevant Protocol or the Stage 3 Procedure in Practice Direction 8B.
- (2) This section does not apply to a disease claim which is started under the EL/PL Protocol.
- (3) Nothing in this section shall prevent the court making an order under rule 45.24.

Application of fixed costs and disbursements – RTA Protocol

45.29B. Subject to rules 45.29F, 45.29G, 45.29H and 45.29J, if, in a claim started under the RTA Protocol, the Claim Notification Form is submitted on or after 31st July 2013, the only costs allowed are—

- (a) the fixed costs in rule 45.29C;
- (b) disbursements in accordance with rule 45.29I.

Amount of fixed costs – RTA Protocol

- 45.29C.**—(1) Subject to paragraph (2), the amount of fixed costs is set out in Table 6B.
- (2) Where the claimant—
- (a) lives or works in an area set out in Practice Direction 45; and

(b) instructs a legal representative who practises in that area,
the fixed costs will include, in addition to the costs set out in Table 6B, an amount equal to 12.5% of the costs allowable under paragraph (1) and set out in Table 6B.

(3) Where appropriate, VAT may be recovered in addition to the amount of fixed recoverable costs and any reference in this Section to fixed costs is a reference to those costs net of VAT.

(4) In Table 6B—

(a) in Part B, “on or after” means the period beginning on the date on which the court respectively—

- (i) issues the claim;
- (ii) allocates the claim under Part 26; or
- (iii) lists the claim for trial; and

(b) unless stated otherwise, a reference to “damages” means agreed damages; and

(c) a reference to “trial” is a reference to the final contested hearing.

Table 6B

Fixed costs where a claim no longer continues under the RTA Protocol

A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7			
Agreed damages	At least £1,000, but not more than £5,000	More than £5,000, but not more than £10,000	More than £10,000, but not more than £25,000
Fixed costs	The greater of— (a) £550; or (b) the total of— (i) £100; and (ii) 20% of the damages	The total of— (a) £1,100; and (b) 15% of damages over £5,000	The total of— (a) £1,930; and (b) 10% of damages over £10,000
B. If proceedings are issued under Part 7, but the case settles before trial			
Stage at which case is settled	On or after the date of issue, but prior to the date of allocation under Part 26	On or after the date of allocation under Part 26, but prior to the date of listing	On or after the date of listing but prior the date of trial
Fixed costs	The total of— (a) £1,160; and (b) 20% of the damages	The total of— (a) £1,880; and (b) 20% of the damages	The total of— (a) £2,655; and (b) 20% of the damages
C. If the claim is disposed of at trial			
Fixed costs	The total of— (a) £2,655; and		

Status: Point in time view as at 28/02/2017.

Changes to legislation: There are currently no known outstanding effects for the Civil Procedure Rules 1998, PART 45. (See end of Document for details)

A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7				
(b) 20% of the damages agreed or awarded; and				
(c) the relevant trial advocacy fee				
D. Trial advocacy fee				
Damages agreed or awarded	Not more than £3,000	More than £3,000, but not more than £10,000	More than £10,000, but not more than £15,000	More than £15,000
Trial advocacy fee	£500	£710	£1,070	£1,705

Application of fixed costs and disbursements – EL/PL Protocol

45.29D. Subject to rules 45.29F, 45.29H and 45.29J, in a claim started under the EL/PL Protocol the only costs allowed are—

- (a) fixed costs in rule 45.29E; and
- (b) disbursements in accordance with rule 45.29I.

Amount of fixed costs – EL/PL Protocol

45.29E.—(1) Subject to paragraph (2), the amount of fixed costs is set out—

- (a) in respect of employers’ liability claims, in Table 6C; and
- (b) in respect of public liability claims, in Table 6D.

(2) Where the claimant—

- (a) lives or works in an area set out in Practice Direction 45; and
- (b) instructs a legal representative who practises in that area,

the fixed costs will include, in addition to the costs set out in Tables 6C and 6D, an amount equal to 12.5% of the costs allowable under paragraph (1) and set out in table 6C and 6D.

(3) Where appropriate, VAT may be recovered in addition to the amount of fixed recoverable costs and any reference in this Section to fixed costs is a reference to those costs net of VAT.

(4) In Tables 6C and 6D—

- (a) in Part B, “on or after” means the period beginning on the date on which the court respectively—
 - (i) issues the claim;
 - (ii) allocates the claim under Part 26; or
 - (iii) lists the claim for trial; and
- (b) unless stated otherwise, a reference to “damages” means agreed damages; and
- (c) a reference to “trial” is a reference to the final contested hearing.

Table 6C**Fixed costs where a claim no longer continues under
the EL/PL Protocol – employers' liability claims**

A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7				
Agreed damages	At least £1,000, but not more than £5,000	More than £5,000, but not more than £10,000	More than £10,000, but not more than £25,000	
Fixed costs	The total of— (a) £950; and (b) 17.5% of the damages	The total of— (a) £1,855; and (b) 12.5% of damages over £5,000	The total of— (a) £2,500; and (b) 10% of damages over £10,000	
B. If proceedings are issued under Part 7, but the case settles before trial				
Stage at which case is settled	On or after the date of issue, but prior to the date of allocation under Part 26	On or after the date of allocation under Part 26, but prior to the date of listing	On or after the date of listing but prior the date of trial	
Fixed costs	The total of— (a) £2,630; and (b) 20% of the damages	The total of— (a) £3,350; and (b) 25% of the damages	The total of— (a) £4,280; and (b) 30% of the damages	
C. If the claim is disposed of at trial				
Fixed costs	The total of— (a) £4,280; (b) 30% of the damages agreed or awarded; and (c) the relevant trial advocacy fee			
D. Trial advocacy fees				
Damages agreed or awarded	Not more than £3,000	More than £3,000, but not more than £10,000	More than £10,000, but not more than £15,000	More than £15,000
Trial advocacy fee	£500	£710	£1,070	£1,705

Status: Point in time view as at 28/02/2017.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

Table 6D

**Fixed costs where a claim no longer continues
under the EL/PL Protocol – public liability claims**

A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7				
Agreed damages	At least £1,000, but not more than £5,000	More than £5,000, but not more than £10,000	More than £10,000, but not more than £25,000	
Fixed costs	The total of— (a) £950; and (b) 17.5% of the damages	The total of— (a) £1,855; and (b) [^{F68} 10%] of damages over £5,000	The total of— (a) £2,370; and (b) 10% of damages over £10,000	
B. If proceedings are issued under Part 7, but the case settles before trial				
Stage at which case is settled	On or after the date of issue, but prior to the date of allocation under Part 26	On or after the date of allocation under Part 26, but prior to the date of listing	On or after the date of listing but prior to the date of trial	
Fixed costs damages	The total of— (a) £2,450; and (b) 17.5% of the damages	The total of— (a) £3,065; and (b) 22.5% of the damages	The total of— (a) £3,790; and (b) 27.5% of the	
C. If the claim is disposed of at trial				
Fixed costs	The total of— (a) £3,790; (b) 27.5% of the damages agreed or awarded; and (c) the relevant trial advocacy fee			
D. Trial advocacy fees				
Damages agreed or awarded	Not more than £3,000	More than £3,000, but not more than £10,000	More than £10,000, but not more than £15,000	More than £15,000
Trial advocacy fee	£500	£710	£1,070	£1,705

Textual Amendments

F68 Word in rule 45.29E Table 6D substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **20(d)**

Defendants' costs

45.29F.—(1) *In this rule—*

- (a) paragraphs (8) and (9) apply to assessments of defendants' costs under Part 36;
- (b) paragraph (10) applies to assessments to which the exclusions from qualified one way costs shifting in rules 44.15 and 44.16 apply; and
- (c) paragraphs (2) to (7) apply to all other cases under this Section in which a defendant's costs are assessed.

(2) If, in any case to which this Section applies, the court makes an order for costs in favour of the defendant—

- (a) the court will have regard to; and
- (b) the amount of costs order to be paid shall not exceed,

the amount which would have been payable by the defendant if an order for costs had been made in favour of the claimant at the same stage of the proceedings.

(3) For the purpose of assessing the costs payable to the defendant by reference to the fixed costs in Table 6, Table 6A, Table 6B, Table 6C and Table 6D, “value of the claim for damages” and “damages” shall be treated as references to the value of the claim.

(4) For the purposes of paragraph (3), “the value of the claim” is—

- (a) the amount specified in the claim form, excluding—
 - (i) any amount not in dispute;
 - (ii) in a claim started under the RTA Protocol, any claim for vehicle related damages;
 - (iii) interest;
 - (iv) costs; and
 - (v) any contributory negligence;
- (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; or
- (c) £25,000, if the claim form states that the claimant cannot reasonably say how much is likely to be recovered.

(5) Where the defendant—

- (a) lives, works or carries on business in an area set out in Practice Direction 45; and
- (b) instructs a legal representative who practises in that area,

the costs will include, in addition to the costs allowable under paragraph (2), an amount equal to 12.5% of those costs.

(6) Where an order for costs is made pursuant to this rule, the defendant is entitled to disbursements in accordance with rule 45.29I

(7) Where appropriate, VAT may be recovered in addition to the amount of any costs allowable under this rule.

(8) Where, in a case to which this Section applies, a Part 36 offer is accepted, rule [F⁶⁹36.20] will apply instead of this rule.

(9) Where, in a case to which this Section applies, upon judgment being entered, the claimant fails to obtain a judgment more advantageous than the [F⁷⁰defendant's] Part 36 offer, rule [F⁷¹36.21] will apply instead of this rule.

Status: Point in time view as at 28/02/2017.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

(10) Where, in a case to which this Section applies, any of the exceptions to qualified one way costs shifting in rules 44.15 and 44.16 is established, the court will assess the defendant's costs without reference to this rule.

Textual Amendments

- F69** Word in rule 45.29F(8) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(e)(i)** (with rule 18)
- F70** Word in rule 45.29F(9) substituted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **7(b)** (with rule 14)
- F71** Word in rule 45.29F(9) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(e)(ii)** (with rule 18)

Counterclaims under the RTA Protocol

45.29G.—(1) If in any case to which this Section applies—

- (a) the defendant brings a counterclaim which includes a claim for personal injuries to which the RTA Protocol applies;
- (b) the counterclaim succeeds; and
- (c) the court makes an order for the costs of the counterclaim,

rules 45.29B, 45.29C, 45.29I, 45.29J, 45.29K and 45.29L shall apply.

(2) Where a successful counterclaim does not include a claim for personal injuries—

- (a) the order for costs of the counterclaim shall be for a sum equivalent to one half of the applicable Type A and Type B costs in Table 6;
- (b) where the defendant—
 - (i) lives, works, or carries on business in an area set out in Practice Direction 45; and
 - (ii) instructs a legal representative who practises in that area,

the costs will include, in addition to the costs allowable under paragraph (a), an amount equal to 12.5% of those costs;

- (c) if an order for costs is made pursuant to this rule, the defendant is entitled to disbursements in accordance with rule 45.29I; and
- (d) where appropriate, VAT may be recovered in addition to the amount of any costs allowable under this rule.

Interim applications

45.29H.—(1) Where the court makes an order for costs of an interim application to be paid by one party in a case to which this Section applies, the order shall be for a sum equivalent to one half of the applicable Type A and Type B costs in Table 6 or 6A.

(2) Where the party in whose favour the order for costs is made—

- (a) lives, works or carries on business in an area set out in Practice Direction 45; and
- (b) instructs a legal representative who practises in that area,

the costs will include, in addition to the costs allowable under paragraph (1), an amount equal to 12.5% of those costs.

(3) ^[F72]If an order for costs is made pursuant to this rule, the party in whose favour the order is made is entitled to disbursements in accordance with rule 45.29I^[F73].

(4) Where appropriate, VAT may be recovered in addition to the amount of any costs allowable under this rule.

Textual Amendments

- F72** Word in rule 45.29H(3) substituted (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, 20(e)(i)
- F73** Rule 45.29H(3): full stop substituted for word (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, 20(e)(ii)

Disbursements

45.29I.—(1) [^{F74}Subject to paragraphs (2A) to (2E), the court]—

- (a) may allow a claim for a disbursement of a type mentioned in paragraphs (2) or (3); but
- (b) will not allow a claim for any other type of disbursement.

(2) In a claim started under either the RTA Protocol or the EL/PL Protocol, the disbursements referred to in paragraph (1) are—

- (a) the cost of obtaining medical records and expert medical reports as provided for in the relevant Protocol;
- (b) the cost of any non-medical expert reports as provided for in the relevant Protocol;
- (c) the cost of any advice from a specialist solicitor or counsel as provided for in the relevant Protocol;
- (d) court fees;
- (e) any expert's fee for attending the trial where the court has given permission for the expert to attend;
- (f) expenses which a party or witness has reasonably incurred in travelling to and from a hearing or in staying away from home for the purposes of attending a hearing;
- (g) a sum not exceeding the amount specified in Practice Direction 45 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
- (h) any other disbursement reasonably incurred due to a particular feature of the dispute.

[^{F75}(2A) In a soft tissue injury claim started under the RTA Protocol, 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—

- [^{F76}(a) obtaining the first report from an accredited medical expert selected via the MedCo Portal: £180;]
- (b) obtaining a further report where justified from [^{F77}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;

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Changes to legislation: There are currently no known outstanding effects for the Civil Procedure Rules 1998, PART 45. (See end of Document for details)

- (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.
- (2B) Save in exceptional circumstances, no fee may be allowed for the cost of obtaining [^{F78}a report to which paragraph (2A) 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 [^{F79}treatment that they or an associate then provide].
- (2C) The cost of obtaining a further report from an expert not listed in paragraph (2A)(b) is not fixed, but the use of that expert and the cost must be justified.
- (2D) Where appropriate, VAT may be recovered in addition to the cost of obtaining a fixed cost medical report or medical records.]
- [^{F80}(2E) In this rule, ‘accredited medical expert’, ‘associate’, ‘associated with’, ‘fixed cost medical report’ ‘MedCo’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(A1), (1A), (10A), (12A), and (16A), respectively, of the RTA Protocol.]
- (3) In a claim started under the RTA Protocol only, the disbursements referred to in paragraph (1) are also the cost of—
- (a) an engineer’s report; and
- (b) a search of the records of the—
- (i) Driver Vehicle Licensing Authority; and
- (ii) Motor Insurance Database.

Textual Amendments

- F74** Words in rule 45.29I(1) substituted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **7(c)(i)** (with rule 14)
- F75** Rules 45.29I(2A)-(2E) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **7(c)(ii)** (with rule 14)
- F76** Rule 45.29I(2A)(a) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(f)(i)(aa)**
- F77** Words in rule 45.29I(2A)(b) inserted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(f)(i)(bb)**
- F78** Words in rule 45.29I(2B) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(f)(ii)(aa)**
- F79** Words in rule 45.29I(2B)(c) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(f)(ii)(bb)**
- F80** Rule 45.29I(2E) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **10(f)(iii)**

Claims for an amount of costs exceeding fixed recoverable costs

45.29J.—(1) If it considers that there are exceptional circumstances making it appropriate to do so, the court will consider a claim for an amount of costs (excluding disbursements) which is greater than the fixed recoverable costs referred to in rules 45.29B to 45.29H.

- (2) If the court considers such a claim to be appropriate, it may—
- (a) summarily assess the costs; or
 - (b) make an order for the costs to be subject to detailed assessment.
- (3) If the court does not consider the claim to be appropriate, it will make an order—
- (a) if the claim is made by the claimant, for the fixed recoverable costs; or
 - (b) if the claim is made by the defendant, for a sum which has regard to, but which does not exceed the fixed recoverable costs,

and any permitted disbursements only.

Failure to achieve costs greater than fixed recoverable costs

45.29K.—(1) This rule applies where—

- (a) costs are assessed in accordance with rule 45.29J(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 will 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

45.29L.—(1) Where—

- (a) the court makes an order for costs in accordance with rule 45.29J(3); or
- (b) rule 45.29K applies,

the court may—

- (i) decide not to award the party making the claim the costs of the costs only proceedings or detailed assessment; and
- (ii) make orders in relation to costs that may include an order that the party making the claim pay the costs of the party defending those proceedings or that assessment.]

SECTION IV

Scale Costs For Claims In ^{F81}The Intellectual Property Enterprise Court

Textual Amendments

F81 Words in Pt. 45 Section 4 heading substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **20(c)**

Scope and interpretation

45.30.—(1) Subject to paragraph (2), this Section applies to proceedings in [^{F82}the Intellectual Property Enterprise 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 [^{F83}or registered trade mark] the validity of which has been certified by a court [^{F84}or by the Comptroller-General of Patents, Designs and Trade Marks] 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 44.2(8), 44.7(b) and Part 47 do not apply to this Section.

(4) “Scale costs” means the costs set out in Table A and Table B of the Practice Direction supplementing this Part.

Textual Amendments

- F82** Words in rule 45.30(1) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **20(f)(i)**
- F83** Words in rule 45.30(2)(b) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **19**
- F84** Words in rule 45.30(2)(b) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **20(f)(ii)**

Amount of scale costs

45.31.—(1) Subject to rule 45.32, 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 44.12(a).

(3) The maximum amount of scale costs that the court will award for each stage of the claim is set out in Practice Direction 45.

(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.

[^{F85}(4A) Subject to assessment where appropriate, the following may be recovered in addition to the amount of the scale costs set out in Practice Direction 45 – Fixed Costs—

- (a) court fees;
- (b) costs relating to the enforcement of any court order; and
- (c) wasted costs.]

(5) Where appropriate, [^{F86}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.

Textual Amendments

- F85** [Rule 45.31\(4A\)](#) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **20(g)(i)**

F86 Word in rule 45.31(5) substituted (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, 20(g)(ii)

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

45.32. 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 45.31.

SECTION V

Fixed Costs: HM Revenue And Customs

Scope, interpretation and application

45.33.—(1) This Section sets out the amounts which, unless the court orders otherwise, are to be allowed in respect of HM Revenue and Customs charges in the cases to which this Section applies.

(2) For the purpose of this Section—

- (a) “HMRC Officer” means a person appointed by the Commissioners under section 2 of the Commissioners for Revenue and Customs Act 2005 and authorised to conduct [^{F87}County Court] proceedings for recovery of debt under section 25(1A) of that Act;
- (b) “Commissioners” means commissioners for HMRC appointed under section 1 of the Commissioners for Revenue and Customs Act 2005;
- (c) “debt” means any sum payable to the Commissioners under or by virtue of an enactment or under a contract settlement; and
- (d) “HMRC charges” means the fixed costs set out in Tables 7 and 8 in this Section.

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

(4) This Section applies where the only claim is a claim conducted by an HMRC Officer in the [^{F87}County Court] for recovery of a debt and the Commissioners obtain judgment on the claim.

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

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

Textual Amendments

F87 Words in Rules substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), 4(a)(ii); S.I. 2014/954, art. 2(a)

Amount of fixed commencement costs in [^{F9}the County Court] claim for the recovery of money

45.34. The amount of fixed commencement costs in a claim to which rule 45.33 applies—

- (a) will be calculated by reference to Table 7; and
- (b) the amount claimed in the claim form is to be used for determining which claim band in Table 7 applies.

Status: Point in time view as at 28/02/2017.

Changes to legislation: There are currently no known outstanding effects for the Civil Procedure Rules 1998, PART 45. (See end of Document for details)

TABLE 7

Fixed costs on commencement of a County Court claim conducted by an HMRC Officer

Where the value of the claim does not exceed £25	Nil
Where the value of the claim exceeds £25 but does not exceed £500	£33
Where the value of the claim exceeds £500 but does not exceed £1,000	£47
Where the value of the claim exceeds £1,000 but does not exceed £5,000	£53
Where the value of the claim exceeds £5,000 but does not exceed £15,000	£67
Where the value of the claim exceeds £15,000 but does not exceed £50,000	£90
Where the value of the claim exceeds £50,000 but does not exceed £100,000	£113
Where the value of the claim exceeds £100,000 but does not exceed £150,000	£127
Where the value of the claim exceeds £150,000 but does not exceed £200,000	£140
Where the value of the claim exceeds £200,000 but does not exceed £250,000	£153
Where the value of the claim exceeds £250,000 but does not exceed £300,000	£167
Where the value of the claim exceeds £300,000	£180

Textual Amendments

F9 Words in [Rules](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), 4(a)(i); S.I. 2014/954, art. 2(a)

Costs on entry of judgment in [^{F9}the County Court] claim for recovery of money

45.35. Where—

- (a) an HMRC Officer has claimed fixed commencement costs under Rule 45.34; and
- (b) judgment is entered in a claim to which rule 45.33 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 8 relevant to the value of the claim.

TABLE 8

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

Where the value of the claim does not exceed £5,000	£15
Where the value of the claim exceeds £5,000	£20

Textual Amendments

F9 Words in [Rules](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), 4(a)(i); S.I. 2014/954, art. 2(a)

When the defendant is only liable for fixed commencement costs**45.36.** Where—

- (a) the only claim is for a specified sum of money; and
- (b) the defendant pays the money claimed within 14 days after service of 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.

*SECTION VI**Fast Track Trial Costs***Scope of this Section**

45.37.—(1) This Section deals with the amount of costs which the court may award as the costs of an advocate for preparing for and appearing at the trial of a claim in the fast track (referred to in this rule as “fast track trial costs”).

(2) For the purposes of this Section—

“advocate” means a person exercising a right of audience as a representative of, or on behalf of, a party;

“fast track trial costs” means the costs of a party’s advocate for preparing for and appearing at the trial, but does not include—

- (i) any other disbursements; or
- (ii) any value added tax payable on the fees of a party’s advocate; and

“trial” includes a hearing where the court decides an amount of money or the value of goods following a judgment under Part 12 (default judgment) or Part 14 (admissions) but does not include –

- (i) the hearing of an application for summary judgment under Part 24; or
- (ii) the court’s approval of a settlement or other compromise under rule 21.10.

Amount of fast track trial costs

45.38.—(1) Table 9 shows the amount of fast track trial costs which the court may award (whether by summary or detailed assessment).

TABLE 9

<i>Value of the claim</i>	<i>Amount of fast track trial costs which the court may award</i>
No more than £3,000	£485
More than £3,000 but not more than £10,000	£690
More than £10,000 but not more than £15,000	£1,035
For proceedings issued on or after 6th April 2009, more than £15,000	£1,650

(2) The court may not award more or less than the amount shown in the table except where—

- (a) it decides not to award any fast track trial costs; or

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The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

- (b) rule 45.39 applies,
but the court may apportion the amount awarded between the parties to reflect their respective degrees of success on the issues at trial.
- (3) Where the only claim is for the payment of money—
- (a) for the purpose of quantifying fast track trial costs awarded to a claimant, the value of the claim is the total amount of the judgment excluding—
- (i) interest and costs; and
 - (ii) any reduction made for contributory negligence [^{F88}; and]
- (b) for the purpose of quantifying fast track trial costs awarded to a defendant, the value of the claim is—
- (i) the amount specified in the claim form (excluding interest and costs);
 - (ii) if no amount is specified, 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; or
 - (iii) more than £15,000, if the claim form states that the claimant cannot reasonably say how much is likely to be recovered.
- (4) Where the claim is only for a remedy other than the payment of money, the value of the claim is deemed to be more than £3,000 but not more than £10,000, unless the court orders otherwise.
- (5) Where the claim includes both a claim for the payment of money and for a remedy other than the payment of money, the value of the claim is deemed to be the higher of—
- (a) the value of the money claim decided in accordance with paragraph (3); or
 - (b) the deemed value of the other remedy decided in accordance with paragraph (4),
- unless the court orders otherwise.
- (6) Where—
- (a) a defendant has made a counterclaim against the claimant;
 - (b) the counterclaim has a higher value than the claim; and
 - (c) the claimant succeeds at trial both on the claim and the counterclaim,
- for the purpose of quantifying fast track trial costs awarded to the claimant, the value of the claim is the value of the defendant's counterclaim calculated in accordance with this rule.

Textual Amendments

F88 Word in [rule 45.38\(3\)\(a\)\(ii\)](#) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), [rules 2, 20\(h\)](#)

Power to award more or less than the amount of fast track trial costs

- 45.39.**—(1) This rule sets out when a court may award—
- (a) an additional amount to the amount of fast track trial costs shown in Table 9 in rule 45.38(1); or
 - (b) less than those amounts.
- (2) If—
- (a) in addition to the advocate, a party's legal representative attends the trial;

(b) the court considers that it was necessary for a legal representative to attend to assist the advocate; and

(c) the court awards fast track trial costs to that party,

the court may award an additional £345 in respect of the legal representative's attendance at the trial.

(3) If the court considers that it is necessary to direct a separate trial of an issue then the court may award an additional amount in respect of the separate trial but that amount is limited in accordance with paragraph (4) of this rule.

(4) The additional amount the court may award under paragraph (3) will not exceed two-thirds of the amount payable for that claim, subject to a minimum award of £485.

(5) Where the party to whom fast track trial costs are to be awarded is a litigant in person, the court will award—

- (a) if the litigant in person can prove financial loss, two-thirds of the amount that would otherwise be awarded; or
- (b) if the litigant in person fails to prove financial loss, an amount in respect of the time spent reasonably doing the work at the rate specified in Practice Direction 46.

(6) Where a defendant has made a counterclaim against the claimant, and—

- (a) the claimant has succeeded on his claim; and
- (b) the defendant has succeeded on his counterclaim,

the court will quantify the amount of the award of fast track trial costs to which—

- (i) but for the counterclaim, the claimant would be entitled for succeeding on his claim; and
- (ii) but for the claim, the defendant would be entitled for succeeding on his counterclaim,

and make one award of the difference, if any, to the party entitled to the higher award of costs.

(7) Where the court considers that the party to whom fast track trial costs are to be awarded has behaved unreasonably or improperly during the trial, it may award that party an amount less than would otherwise be payable for that claim, as it considers appropriate.

(8) Where the court considers that the party who is to pay the fast track trial costs has behaved improperly during the trial the court may award such additional amount to the other party as it considers appropriate.

Fast track trial costs where there is more than one claimant or defendant

45.40.—(1) Where the same advocate is acting for more than one party—

- (a) the court may make only one award in respect of fast track trial costs payable to that advocate; and
- (b) the parties for whom the advocate is acting are jointly entitled to any fast track trial costs awarded by the court.

(2) Where—

- (a) the same advocate is acting for more than one claimant; and
- (b) each claimant has a separate claim against the defendant,

the value of the claim, for the purpose of quantifying the award in respect of fast track trial costs is to be ascertained in accordance with paragraph (3).

(3) The value of the claim in the circumstances mentioned in paragraph (2) or (5) is—

- (a) where the only claim of each claimant is for the payment of money—
 - (i) if the award of fast track trial costs is in favour of the claimants, the total amount of the judgment made in favour of all the claimants jointly represented; or

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The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

(ii) if the award is in favour of the defendant, the total amount claimed by the claimants, and in either case, quantified in accordance with rule 45.38(3);

(b) where the only claim of each claimant is for a remedy other than the payment of money, deemed to be more than £3,000 but not more than £10,000; and

(c) where claims of the claimants include both a claim for the payment of money and for a remedy other than the payment of money, deemed to be—

(i) more than £3,000 but not more than £10,000; or

(ii) if greater, the value of the money claims calculated in accordance with subparagraph (a) above.

(4) Where—

(a) there is more than one defendant; and

(b) any or all of the defendants are separately represented,

the court may award fast track trial costs to each party who is separately represented.

(5) Where—

(a) there is more than one claimant; and

(b) a single defendant,

the court may make only one award to the defendant of fast track trial costs, for which the claimants are jointly and severally liable.

(6) For the purpose of quantifying the fast track trial costs awarded to the single defendant under paragraph (5), the value of the claim is to be calculated in accordance with paragraph (3) of this rule.

F⁸⁹ SECTION VII

Costs limits in Aarhus Convention claims

Textual Amendments

F89 Pt. 45 Section 7 substituted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **8(5)** (with rule 13(3))

Scope and interpretation

45.41.—(1) This section provides for the costs which are to be recoverable between the parties in Aarhus Convention claims.

(2) In this Section—

(a) “Aarhus Convention claim” means a claim brought by one or more members of the public—

(i) by judicial review or review under statute which challenges the legality of any decision, act or omission of a body exercising public functions, and which is within the scope of Article 9(1) or 9(2) of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998 (“the Aarhus Convention”); or

(ii) by judicial review which challenges the legality of any such decision, act or omission and which is within the scope of Article 9(3) of the Aarhus Convention;

(b) references to a member or members of the public are to be construed in accordance with the Aarhus Convention.

(3) This Section does not apply to appeals other than appeals brought under section 289(1) of the Town and Country Planning Act 1990 or section 65(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which are for the purposes of this Section to be treated as reviews under statute.

(Rule 52.19A makes provision in relation to costs of an appeal.)

The Aarhus Convention is available on the UNECE website at <https://www.unece.org/env/pp/welcome.html>.)

Opting out, and other cases where rules 45.43 to 45.45 do not apply to a claimant

45.42.—(1) Subject to paragraph (2), rules 45.43 to 45.45 apply where a claimant who is a member of the public has—

- (a) stated in the claim form that the claim is an Aarhus Convention claim; and
- (b) filed and served with the claim form a schedule of the claimant's financial resources which takes into account any financial support which any person has provided or is likely to provide to the claimant and which is verified by a statement of truth.

(2) Subject to paragraph (3), rules 45.43 to 45.45 do not apply where the claimant has stated in the claim form that although the claim is an Aarhus Convention claim, the claimant does not wish those rules to apply.

(3) If there is more than one claimant, rules 45.43 to 45.45 do not apply in relation to the costs payable by or to any claimant who has not acted as set out in paragraph (1), or who has acted as set out in paragraph (2), or who is not a member of the public.

Limit on costs recoverable from a party in an Aarhus Convention claim

45.43.—(1) Subject to rules 45.42 and 45.45, a claimant or defendant in an Aarhus Convention claim may not be ordered to pay costs exceeding the amounts in paragraph (2) or (3) or as varied in accordance with rule 45.44.

(2) For a claimant the amount is—

- (a) £5,000 where the claimant is claiming only as an individual and not as, or on behalf of, a business or other legal person;
- (b) £10,000 in all other cases.

(3) For a defendant the amount is £35,000.

(4) In an Aarhus Convention claim with multiple claimants or multiple defendants, the amounts in paragraphs (2) and (3) (subject to any direction of the court under rule 45.44) apply in relation to each such claimant or defendant individually and may not be exceeded, irrespective of the number of receiving parties.

Varying the limit on costs recoverable from a party in an Aarhus Convention claim

45.44.—(1) The court may vary the amounts in rule 45.43 or may remove altogether the limits on the maximum costs liability of any party in an Aarhus Convention claim.

(2) The court may vary such an amount or remove such a limit only if satisfied that—

- (a) to do so would not make the costs of the proceedings prohibitively expensive for the claimant; and

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The Civil Procedure Rules 1998, PART 45. (See end of Document for details)*

- (b) in the case of a variation which would reduce a claimant's maximum costs liability or increase that of a defendant, without the variation the costs of the proceedings would be prohibitively expensive for the claimant.
- (3) Proceedings are to be considered prohibitively expensive for the purpose of this rule if their likely costs (including any court fees which are payable by the claimant) either—
 - (a) exceed the financial resources of the claimant; or
 - (b) are objectively unreasonable having regard to—
 - (i) the situation of the parties;
 - (ii) whether the claimant has a reasonable prospect of success;
 - (iii) the importance of what is at stake for the claimant;
 - (iv) the importance of what is at stake for the environment;
 - (v) the complexity of the relevant law and procedure; and
 - (vi) whether the claim is frivolous.
- (4) When the court considers the financial resources of the claimant for the purposes of this rule, it must have regard to any financial support which any person has provided or is likely to provide to the claimant.

(Rule 39.2(3)(c) makes provision for a hearing (or any part of it) to be in private if it involves confidential information (including information relating to personal financial matters) and publicity would damage that confidentiality.)

Challenging whether the claim is an Aarhus Convention claim

- 45.45.**—(1) Where a claimant has complied with rule 45.42(1), and subject to rule 45.42(2) and (3), rule 45.43 will apply unless—
- (a) the defendant has in the acknowledgment of service—
 - (i) denied that the claim is an Aarhus Convention claim; and
 - (ii) set out the defendant's grounds for such denial; and
 - (b) the court has determined that the claim is not an Aarhus Convention claim.
- (2) Where the defendant denies that the claim is an Aarhus Convention claim, the court must determine that issue at the earliest opportunity.
- (3) In any proceedings to determine whether the claim is an Aarhus Convention claim—
- (a) if the court holds that the claim is not an Aarhus Convention claim, it will normally make no order for costs in relation to those proceedings;
 - (b) if the court holds that the claim is an Aarhus Convention claim, it will normally order the defendant to pay the claimant's costs of those proceedings to be assessed on the standard basis, and that order may be enforced even if this would increase the costs payable by the defendant beyond the amount stated in rule 45.43(3) or any variation of that amount.]]

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Changes to legislation:

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