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STATUTORY INSTRUMENTS

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**1998 No. 3132**

**The Civil Procedure Rules 1998**

**[<sup>F1</sup>PART 45**

**FIXED COSTS**

**[<sup>F1</sup>SECTION III**

*Pre-Action Protocol For Low Value Personal Injury Claims In Road Traffic Accidents*

**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)

**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 RTA Protocol rule 45.24 will apply.

“RTA Protocol” means the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents.

(3) A reference to “Claim Notification Form” is a reference to the form used in the RTA Protocol.

**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.

**Amount of fixed costs**

**45.18.**—(1) Subject to paragraph (4), the amount of fixed costs is set out in Table 6.

(2) In Table 6—

“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).

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(4) Subject to rule 45.24(2) the court will not award more or less than the amounts shown in Table 1.

(5) Where the claimant—

(a) lives or works in an area set out in Practice Direction 45; and

(b) instructs a legal representative who [<sup>F2</sup>practises] in that area,

the fixed costs will include, in addition to the costs set out in Table 6, an amount equal to 12.5% of the Stage 1 and 2 and Stage 3 Type A fixed costs.

(6) Where appropriate, value added tax (VAT) 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.

**TABLE 6**

<i>Fixed costs in relation to the RTA Protocol</i>		
Stage 1 fixed costs		[ <sup>F3</sup> £200]
Stage 2 fixed costs		[ <sup>F4</sup> £300]
Stage 3 –	Type A fixed costs	£250
	Type B fixed costs	£250
	Type C fixed costs	£150

#### **Textual Amendments**

**F2** 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\(a\)](#)

**F3** Sum in rule 45.18 Table 6 substituted (30.4.2013) by [The Civil Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/789\), rules 1\(1\), 3\(b\)\(i\)](#) (with rule 4)

**F4** Sum in rule 45.18 Table 6 substituted (30.4.2013) by [The Civil Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/789\), rules 1\(1\), 3\(b\)\(ii\)](#) (with rule 4)

#### **Disbursements**

**45.19.**—(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 or reports as provided for in the RTA Protocol;

(iii) an engineer’s report;

(iv) a search of the records of the—

(aa) Driver Vehicle Licensing Authority;

(bb) Motor Insurance Database;

- (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;
- (e) any other disbursement that has arisen due to a particular feature of the dispute.

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

- 45.20.** Where rule 36.21(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.

**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 RTA 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) the claimant to pay an amount equivalent to either or both the Stage 3—
    - (i) Type A fixed costs;
    - (ii) Type B fixed costs.

**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 RTA 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.

(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.

**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.

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

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

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

and starts proceedings under Part 7.

- (2) 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 RTA 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 RTA Protocol and starting proceedings under Part 7;
    - (ii) by valuing the claim at more than £10,000, so that the claimant did not need to comply with the RTA Protocol; or
    - (iii) except for paragraph (2)(a), in any other way that caused the process in the RTA Protocol to be discontinued; or
  - (c) the claimant did not comply with the RTA 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.

(3) Where the claimant starts proceedings under paragraph 7.22 of the RTA 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 that 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.

#### **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 RTA 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 RTA 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.

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

**45.26.** Where rule 36.21(1)(a) applies, the court will order the claimant to pay—

- (a) where the claim is determined—

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- (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.

### **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 fixed costs**

**45.28.** Where a claim no longer continues under the RTA Protocol the court will, when making any order as to costs including an order for fixed recoverable costs under Section II of this Part, take into account the Stage 1 fixed costs that have been paid by the defendant.

### **Costs-only application after a claim is started under Part 8 in accordance with Practice Direction 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.]

**Status:**

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**Changes to legislation:**

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