

SCHEDULE

PART II

IV – FIXED PERCENTAGE INCREASE IN EMPLOYERS LIABILITY CLAIMS

Commencement Information

II Sch. Pt. II in force at 1.10.2004, see [rule 1\(b\)](#)

“Scope and interpretation

- 45.20.**—(1) Subject to paragraph (2), this Section applies where—
- (a) the dispute is between an employee and his employer arising from a bodily injury sustained by the employee in the course of his employment; and
 - (b) the claimant has entered into a funding arrangement of a type specified in rule 43.2(1)(k)(i).
- (2) This Section does not apply—
- (a) where the dispute—
 - (i) relates to a disease;
 - (ii) relates to an injury sustained before 1st October 2004; or
 - (iii) arises from a road traffic accident (as defined in rule 45.7(4)(a)); or
 - (b) to a claim—
 - (i) which has been allocated to the small claims track; or
 - (ii) not allocated to a track, but for which the small claims track is the normal track.
- (3) For the purposes of this Section—
- (a) “employee” has the meaning given to it by section 2(1) of the Employers' Liability (Compulsory Insurance) Act 1969(1); and
 - (b) a reference to “fees” is a reference to fees for work done under a conditional fee agreement or collective conditional fee agreement.

Percentage increase of solicitors' and counsel's fees

45.21. In the cases to which this Section applies, subject to rule 45.22 the percentage increase which is to be allowed in relation to solicitors' and counsel's fees is to be determined in accordance with rules 45.16 and 45.17, subject to the modifications that—

- (a) the percentage increase which is to be allowed in relation to solicitors' fees under rule 45.16(b) is—
 - (i) 27.5% if a membership organisation has undertaken to meet the claimant's liabilities for legal costs in accordance with section 30 of the Access to Justice Act 1999; and
 - (ii) 25% in any other case; and

- (b) the percentage increase which is to be allowed in relation to counsel's fees under rule 45.17(1)(b)(ii), (1)(c)(ii) or (1)(d) is 25%.

("membership organisation" is defined in rule 43.2(1)(n))

Alternative percentage increase

45.22.—(1) In the cases to which this Section applies, rule 45.18(2)-(4) applies where—

- (a) the percentage increase of solicitors' fees to be allowed in accordance with rule 45.21 is 25% or 27.5%; or
- (b) the percentage increase of counsel's fees to be allowed is 25%.

(2) Where the percentage increase of fees is assessed by the court under rule 45.18(4) as applied by paragraph (1) above—

- (a) if the percentage increase is assessed as greater than 40% or less than 15%, the percentage increase to be allowed shall be that assessed by the court; and
- (b) if the percentage increase is assessed as no greater than 40% and no less than 15%—
 - (i) the percentage increase to be allowed shall be 25% or 27.5% (as the case may be); and
 - (ii) the costs of the application and assessment shall be paid by the applicant."

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure (Amendment No.2) Rules 2004, PART II.