
STATUTORY INSTRUMENTS

2024 No. 839

The Civil Procedure (Amendment No. 3) Rules 2024

Amendment of Part 45

11.—(1) In the table of contents to the Part, after the entry for rule 45.62 insert—

“X FIXED COSTS DETERMINATION

Summary determination after hearing	Rule 45.63
Determination where all parties agree on all issues except costs	Rule 45.64
Court’s power to direct assessment in conjunction with fixed costs determination	Rule 45.65
Non-application of Part 36	Rule 45.66”.

(2) In rule 45.2—

- (a) after “in addition to the amount of fixed costs in” insert “rules 45.8 and 45.15A and”;
- (b) after “Section VII”, for “or” substitute a comma; and
- (c) after “Section VIII” insert “or Section X”.

(3) In rule 45.6(2), after “the purpose of assessing” insert “or determining”.

(4) In rule 45.15A, after paragraph (2) insert—

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

(5) In rule 45.40(3), for “assess” substitute “determine”.

(6) In rule 45.48, after paragraph (2) insert—

“(3) Where the court orders a party to pay costs in respect of a preliminary issue, unless the court orders otherwise, those costs shall be paid within 14 days of the order.

(4) Where, under this rule, a claim includes a claim for monetary relief and the court is unable at that stage to quantify the total fixed costs referred to in paragraph (1), the court—

- (a) shall order the paying party to pay that element of the fixed costs which are specified in Table 12, as are then quantifiable, together with the applicable disbursements, unless there is good reason not to do so; and
- (b) may order that party to pay a sum on account of that element of the fixed costs in Table 12 which are to be calculated by reference to a percentage of the damages to be awarded.”.

(7) In rule 45.51, after paragraph (4) insert—

“(5) Where the court orders a party to pay costs in respect of a preliminary issue, unless the court orders otherwise, those costs shall be paid within 14 days of the order.

- (6) Where, under this rule, a claim includes a claim for monetary relief and the court is unable at that stage to quantify the total fixed costs referred to in paragraph (1), the court—
- (a) shall order the paying party to pay that element of the fixed costs which are specified in Table 14, as are then quantifiable, together with the applicable disbursements, unless there is good reason not to do so; and
 - (b) may order that party to pay a sum on account of that element of the fixed costs in Table 14 which are to be calculated by reference to a percentage of the damages to be awarded.”.
- (8) In rule 45.58, for “the disbursements to be allowed are” substitute “the court may allow a claim for a disbursement of a type mentioned in paragraphs (a) to (f)—”.
- (9) In rule 45.59, for “the disbursements to be allowed are” substitute “the court may allow a claim for a disbursement of a type in mentioned in paragraphs (a) and (b)—”.
- (10) In rule 45.61, for “the disbursements to be allowed are” substitute “the court may allow a claim for a disbursement of a type mentioned in sub-paragraphs (a) and (b)”.
- (11) After rule 45.62 insert—

“Section X

Fixed Costs Determination

Summary determination after hearing

45.63.—(1) Subject to paragraph (3), where the court makes an order for costs at the conclusion of a hearing, it shall in the absence of agreement between the parties make a summary determination of the amount of fixed costs or disbursements to which the receiving party is entitled in accordance with this Part.

(2) Any party who intends to claim any fixed costs or disbursements in accordance with this Part, must file at court and serve on any party against whom an order for payment is intended to be sought a completed Precedent U, which must include, if applicable, the details of any claim under rule 45.9, rule 45.10 or rule 45.13, no later than 24 hours before the time fixed for the hearing.

(3) Where a court is unable to make a summary determination at the conclusion of a hearing—

- (a) it may direct that the amount of fixed costs or disbursements be determined with or without a further hearing and may give such directions for the determination as it thinks fit; and
- (b) the costs of that determination shall be treated as if it were an interim application under rule 45.8.

Determination where parties agree on all issues except costs

45.64.—(1) Where, in a claim to which this Part applies, the parties have reached an agreement made or confirmed in writing on all issues except the amount of costs or disbursements to be allowed under this Part, the receiving party may apply for the amount of those costs or disbursements to be determined in accordance with this rule.

(2) Where proceedings have been started, the application must be made in those proceedings under Part 23 as modified by this rule.

(3) Where proceedings have not been started, the application must be made by the commencement of costs only proceedings under rule 46.14 as modified by this rule.

- (4) Save where the court directs to the contrary—
- (a) the evidence in support of the application must—
 - (i) be served with the application; and
 - (ii) include the written agreement or confirmation, together with a completed Precedent U containing details of the costs or disbursements to which the applicant claims to be entitled and, if applicable, the details of any claim under rule 45.9, rule 45.10 or rule 45.13;
 - (b) any evidence in response to the application must be filed and served—
 - (i) within 21 days of service of the application where proceedings have been started; or
 - (ii) within 21 days of filing the acknowledgment of service where proceedings have not been started,and must include a completed response to the applicant's Precedent U;
 - (c) the application shall be determined without a hearing; and
 - (d) the costs which the court may allow for the application are those set out in Table 17 in Practice Direction 45 and any appropriate court fee.

(5) The court shall record its determination of the application by annotating Precedent U with its decision noted against each item claimed, which must be served on the parties together with a notice stating that any party who wishes to challenge any aspect of the determination must file and serve a written request for a hearing.

- (6) Any request for a hearing must—
- (a) be made within 21 days of service of the notice;
 - (b) identify the decisions in the determination which the party wishes the court to reconsider; and
 - (c) provide a time estimate for the hearing,

and if no such request is filed and served within that period, the determination shall be binding upon the parties.

(7) The court shall fix a date for the hearing and give at least 14 days' notice of the hearing.

(8) The court must order the requesting party to pay the costs of and incidental to the hearing unless they achieve an adjustment in their own favour that is at least 20% of the sum determined under paragraph (5).

(9) For the purposes of any order for costs made in respect of the hearing, the application is to be treated as an interim application under rule 45.8 and the amount payable shall be determined summarily at the hearing.

Court's power to direct assessment in conjunction with fixed costs determination

45.65. Where, in any claim to which this Section applies, a party seeks an assessment of costs under rule 45.9, rule 45.10 or rule 45.50(3)—

- (a) that party must notify the court; and
- (b) the court may give such directions as it thinks appropriate for those costs to be assessed in conjunction with the fixed costs determination.

Non-application of Part 36

45.66. Part 36 does not apply to any determination under this Section.”.