

DIRECTIONS RELATING TO PART 45

FIXED COSTS

SECTION 24 FIXED COSTS IN SMALL CLAIMS

- 24.1 Under Rule 27.14 the costs which can be awarded to a claimant in a small claims track case include the fixed costs payable under Part 45 attributable to issuing the claim.
- 24.2 Those fixed costs shall be the sum of
- (a) the fixed commencement costs calculated in accordance with Table 1 of Rule 45.2 and;
 - (b) the appropriate court fee or fees paid by the claimant.

SECTION 25 FIXED COSTS ON THE ISSUE OF A DEFAULT COSTS CERTIFICATE

- 25.1 Unless paragraph 24.2 applies or unless the court orders otherwise, the fixed costs to be included in a default costs certificate are £80 plus a sum equal to any appropriate court fee payable on the issue of the certificate.
- 25.2 The fixed costs included in a certificate must not exceed the maximum sum specified for costs and court fee in the notice of commencement.

SECTION 25A – ROAD TRAFFIC ACCIDENTS: FIXED RECOVERABLE COSTS IN COSTS-ONLY PROCEEDINGS

Scope

- 25A.1 Section II of Part 45 ('the Section') provides for certain fixed costs to be recoverable between parties in respect of costs incurred in disputes which are settled prior to proceedings being issued. The Section applies to road traffic accident disputes as defined in rule 45.7(4)(a), where the accident which gave rise to the dispute occurred on or after 6th October 2003.
- 25A.2 The Section does not apply to disputes where the total agreed value of the damages is within the small claims limit or exceeds £10,000. Rule 26.8(2) sets out how the financial value of a claim is assessed for the purposes of allocation to track.
- 25A.3 Fixed recoverable costs are to be calculated by reference to the amount of agreed damages which are payable to the receiving party. In calculating the amount of these damages –
- (a) account must be taken of both general and special damages and interest;

- (b) any interim payments made must be included;
- (c) where the parties have agreed an element of contributory negligence, the amount of damages attributed to that negligence must be deducted;
- (d) any amount required by statute to be paid by the compensating party directly to a third party (such as sums paid by way of compensation recovery payments and National Health Service expenses) must not be included.

25A.4 The Section applies to cases which fall within the scope of the Uninsured Drivers Agreement dated 13 August 1999. The section does not apply to cases which fall within the scope of the Untraced Drivers Agreement dated 14 February 2003.

Fixed recoverable costs formula

25A.5 The amount of fixed costs recoverable is calculated by totalling the following –

- (a) the sum of £800;
- (b) 20% of the agreed damages up to £5,000; and
- (c) 15% of the agreed damages between £5,000 and £10,000.

For example, agreed damages of £7,523 would result in recoverable costs of £2,178.45 i.e.

£800 + (20% of £5,000) + (15% of £2,523).

Additional costs for work in specified areas

25A.6 The area referred to in rule 45.9(2) consists of (within London) the county court districts of Barnet, Bow, Brentford, Central London, Clerkenwell, Edmonton, Ilford, Lambeth, Mayors and City of London, Romford, Shoreditch, Wandsworth, West London, Willesden and Woolwich and (outside London) the county court districts of Bromley, Croydon, Dartford, Gravesend and Uxbridge.

Multiple claimants

25A.7 Where there is more than one potential claimant in relation to a dispute and two or more claimants instruct the same solicitor or firm of solicitors, the provisions of the section apply in respect of each claimant.

Information to be included in the claim form

25A.8 Costs only proceedings are commenced using the procedure set out in rule 44.12A. A claim form should be issued in accordance with Part 8. Where the claimant is claiming an amount of costs which exceed the amount of the fixed recoverable costs he must include on the claim form details of the exceptional circumstances which he considers justifies the additional costs.

- 25A.9 The claimant must also include on the claim form details of any disbursements or success fee he wishes to claim. The disbursements that may be claimed are set out in rule 45.10(1). If the disbursement falls within 45.10(2)(d) (disbursements that have arisen due to a particular feature of the dispute) the claimant must give details of the particular feature of the dispute and why he considers the disbursement to be necessary.

Disbursements and success fee

- 25A.10 If the parties agree the amount of the fixed recoverable costs and the only dispute is as to the payment of, or amount of, a disbursement or as to the amount of a success fee, then proceedings should be issued under rule 44.12A in the normal way and not by reference to Section II of Part 45.

DIRECTIONS RELATING TO PART 46

FAST TRACK TRIAL COSTS

SECTION 26 SCOPE OF PART 46: RULE 46.1

- 26.1 Part 46 applies to the costs of an advocate for preparing for and appearing at the trial of a claim in the fast track.
- 26.2 It applies only where, at the date of the trial, the claim is allocated to the fast track. It does not apply in any other case, irrespective of the final value of the claim.
- 26.3 In particular it does not apply to:
 - (a) the hearing of a claim which is allocated to the small claims track with the consent of the parties given under rule 26.7(3); or
 - (b) a disposal hearing at which the amount to be paid under a judgment or order is decided by the court (see paragraph 12.8 of the Practice Direction which supplements Part 26 (Case Management – Preliminary Stage)).

Cases which settle before trial

- 26.4 Attention is drawn to rule 44.10 (limitation on amount court may award where a claim allocated to the fast track settles before trial).

SECTION 27 POWER TO AWARD MORE OR LESS THAN THE AMOUNT OF FAST TRACK TRIAL COSTS: RULE 46.3

- 27.1 Rule 44.15 (providing information about funding arrangements) sets out the requirement to provide information about funding arrangements to the court and other parties. Section 19 of this Practice Direction sets out the information to be provided and when this is to be done.
- 27.2 Section 11, of this Practice Direction explains how the court will approach the question of what sum to allow in respect of additional liability.
- 27.3 The court has the power, when considering whether a percentage increase is reasonable, to allow different percentages for different items of costs or for different periods during which costs were incurred.