
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 36

OFFERS TO SETTLE

SECTION 1

Part 36 Offers to Settle

UNACCEPTED OFFERS

[^{F1}Costs consequences following judgment

36.17.—(1) Subject to rule [^{F2}36.24], this rule applies where upon judgment being entered—

- (a) a claimant fails to obtain a judgment more advantageous than a defendant’s Part 36 offer; or
- (b) judgment against the defendant is at least as advantageous to the claimant as the proposals contained in a claimant’s Part 36 offer.

^{F3}
...

(2) For the purposes of paragraph (1), in relation to any money claim or money element of a claim, “more advantageous” means better in money terms by any amount, however small, and “at least as advantageous” shall be construed accordingly.

(3) Subject to paragraphs (7) and (8), where paragraph (1)(a) applies, the court must, unless it considers it unjust to do so, order that the defendant is entitled to—

- (a) costs (including any recoverable pre-action costs) from the date on which the relevant period expired; and
- (b) interest on those costs.

(4) Subject to paragraph (7), where paragraph (1)(b) applies, the court must, unless it considers it unjust to do so, order that the claimant is entitled to—

- (a) interest on the whole or part of any sum of money (excluding interest) awarded, at a rate not exceeding 10% above base rate for some or all of the period starting with the date on which the relevant period expired;
- (b) costs (including any recoverable pre-action costs) on the indemnity basis from the date on which the relevant period expired;
- (c) interest on those costs at a rate not exceeding 10% above base rate; and
- (d) provided that the case has been decided and there has not been a previous order under this sub-paragraph, an additional amount, which shall not exceed £75,000, calculated by applying the prescribed percentage set out below to an amount which is—

- (i) the sum awarded to the claimant by the court; or

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(ii) where there is no monetary award, the sum awarded to the claimant by the court in respect of costs—

<i>Amount awarded by the court</i>	<i>Prescribed percentage</i>
Up to £500,000	10% of the amount awarded
Above £500,000	10% of the first £500,000 and (subject to the limit of £75,000) 5% of any amount above that figure.

(5) In considering whether it would be unjust to make the orders referred to in paragraphs (3) and (4), the court must take into account all the circumstances of the case including—

- (a) the terms of any Part 36 offer;
- (b) the stage in the proceedings when any Part 36 offer was made, including in particular how long before the trial started the offer was made;
- (c) the information available to the parties at the time when the Part 36 offer was made;
- (d) the conduct of the parties with regard to the giving of or refusal to give information for the purposes of enabling the offer to be made or evaluated; and
- (e) whether the offer was a genuine attempt to settle the proceedings.

(6) Where the court awards interest under this rule and also awards interest on the same sum and for the same period under any other power, the total rate of interest must not exceed 10% above base rate.

(7) Paragraphs (3) and (4) do not apply to a Part 36 offer—

- (a) which has been withdrawn;
- (b) which has been changed so that its terms are less advantageous to the offeree where the offeree has beaten the less advantageous offer;
- (c) made less than 21 days before trial, unless the court has abridged the relevant period.

(8) Paragraph (3) does not apply to a soft tissue injury claim to which rule ^[F436.24] applies.

(Rule 44.2 requires the court to consider an offer to settle that does not have the costs consequences set out in this Section in deciding what order to make about costs.)]

Textual Amendments

- F1** Pt. 36 substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), [rule 2\(c\)](#), [Sch. 1](#) (with [rule 18](#))
- F2** Word in rule 36.17(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\)](#), [12\(7\)\(a\)](#) (with [rule 2](#))
- F3** Words in rule 36.17 omitted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\)](#), [12\(7\)\(b\)](#) (with [rule 2](#))
- F4** Word in rule 36.17(8) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\)](#), [19\(3\)](#)

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