
STATUTORY INSTRUMENTS

2013 No. 1695

The Civil Procedure (Amendment No.6) Rules 2013

Amendments to the Civil Procedure Rules 1998

6. In Part 36—

(1) In the index to the Part—

(a) after the entry for rule 36.10, insert—

“Costs consequences of acceptance of a Part 36 offer where Section IIIA of Rule 36.10A”;
Part 45 applies

(b) after the entry for rule 36.14, insert—

“Costs consequences following judgment where Section IIIA of Part 45 Rule 36.14A”;
applies

(c) in the entry for Section II, after “PROTOCOL” insert “AND EL/PL PROTOCOL”; and

(d) in the entries for rules—

(i) 36.17;

(ii) 36.18; and

(iii) 36.20,

for “an RTA”, substitute “a”.

(2) In rule 36.A1, in paragraph (3), after “(‘the RTA Protocol’)” insert “or the Pre-action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’)”.

(3) In rule 36.10, in paragraph (1), for “Subject to” to “and (4)(a)”, substitute “Subject to rule 36.10A and to paragraphs (2) and (4)(a) of this rule”.

(4) After rule 36.10, insert—

“Costs consequences of acceptance of a Part 36 offer where Section IIIA of Part 45 applies

36.10A.—(1) This rule applies where a claim no longer continues under the RTA or EL/PL Protocol pursuant to rule 45.29A(1).

(2) Where a Part 36 offer is accepted within the relevant period, the claimant will be entitled to the fixed costs in Table 6B, Table 6C or Table 6D in Section IIIA of Part 45 for the stage applicable at the date on which notice of acceptance was served on the offeror.

(3) Where—

(a) a defendant’s Part 36 offer relates to part only of the claim; and

(b) at the time of serving notice of acceptance within the relevant period the claimant abandons the balance of the claim,

the claimant will be entitled to the fixed costs in paragraph (2).

(4) Subject to paragraph (5), where a defendant's Part 36 offer is accepted after the relevant period—

- (a) the claimant will be entitled to the fixed costs in Table 6B, Table 6C or Table 6D in Section IIIA of Part 45 for the stage applicable at the date on which the relevant period expired; and
- (b) the claimant will be liable for the defendant's costs for the period from the date of expiry of the relevant period to the date of acceptance.

(5) Where the claimant accepts the defendant's Protocol offer after the date on which the claim leaves the Protocol—

- (a) the claimant will be entitled to the applicable Stage 1 and Stage 2 fixed costs in Table 6 or Table 6A in Section III of Part 45; and
- (b) the claimant will be liable for the defendant's costs from the date on which the Protocol offer is deemed to be made to the date of acceptance.

(6) For the purposes of this rule a defendant's Protocol offer is either—

- (a) defined in accordance with rules 36.17 and 36.18; or
- (b) if the claim leaves the Protocol before the Court Proceedings Pack Form is sent to the defendant—
 - (i) the last offer made by the defendant before the claim leaves the Protocol; and
 - (ii) deemed to be made on the first business day after the claim leaves the Protocol.

(7) A reference to the 'Court Proceedings Pack Form' is a reference to the form used in the Protocol.

(8) Fixed costs shall be calculated by reference to the amount of the offer which is accepted.

(9) Where the parties do not agree the liability for costs, the court will make an order as to costs.

(10) Where the court makes an order for costs in favour of the defendant—

- (a) the court will have regard to; and
- (b) the amount of costs ordered shall not exceed,

the fixed costs in Table 6B, Table 6C or Table 6D in Section IIIA of Part 45 applicable at the date of acceptance, less the fixed costs to which the claimant is entitled under paragraph (4) or (5).

(11) The parties are entitled to disbursements allowed in accordance with rule 45.29I incurred in any period for which costs are payable to them.”.

(5) In rule 36.14, in paragraph (1), for “This” substitute “Subject to rule 36.14A, this”.

(6) After rule 36.14, insert—

“Costs consequences following judgment where Section IIIA of Part 45 applies

36.14A.—(1) Where a claim no longer continues under the RTA or EL/PL Protocol pursuant to rule 45.29A(1), rule 36.14 applies with the following modifications.

(2) Subject to paragraph (3), where an order for costs is made pursuant to rule 36.14(2)—

- (a) the claimant will be entitled to the fixed costs in Table 6B, 6C or 6D in Section IIIA of Part 45 for the stage applicable at the date on which the relevant period expired; and
- (b) the claimant will be liable for the defendant's costs from the date on which the relevant period expired to the date of judgment.

- (3) Where the claimant fails to obtain a judgment more advantageous than the defendant's Protocol offer—
- (a) the claimant will be entitled to the applicable Stage 1 and Stage 2 fixed costs in Table 6 or Table 6A in Section III of Part 45; and
 - (b) the claimant will be liable for the defendant's costs from the date on which the Protocol offer is deemed to be made to the date of judgment; and
 - (c) in this rule, the amount of the judgment is less than the Protocol offer where the judgment is less than the offer once deductible amounts identified in the judgment are deducted.
- ("Deductible amount" is defined in rule 36.15(1)(d).)
- (4) For the purposes of this rule a defendant's Protocol offer is either—
- (a) defined in accordance with rules 36.17 and 36.18; or
 - (b) if the claim leaves the Protocol before the Court Proceedings Pack Form is sent to the defendant—
 - (i) the last offer made by the defendant before the claim leaves the Protocol; and
 - (ii) deemed to be made on the first business day after the claim leaves the Protocol.
- (5) A reference to the 'Court Proceedings Pack Form' is a reference to the form used in the Protocol.
- (6) Fixed costs shall be calculated by reference to the amount which is awarded.
- (7) Where the court makes an order for costs in favour of the defendant—
- (a) the court will have regard to; and
 - (b) the amount of costs ordered shall not exceed,
- the fixed costs in Table 6B, 6C or 6D in Section IIIA of Part 45 applicable at the date of judgment, less the fixed costs to which the claimant is entitled under paragraph (2) or (3).
- (8) The parties are entitled to disbursements allowed in accordance with rule 45.29I incurred in any period for which costs are payable to them.”.
- (7) In the heading to Section II, after “PROTOCOL”, insert “AND EL/PL PROTOCOL”.
- (8) In rule 36.16—
- (a) in paragraph (2), after “RTA Protocol”, insert “or the EL/PL Protocol”; and
 - (b) in paragraph (3)—
 - (i) for “Proceeding”, substitute “Proceedings”; and
 - (ii) omit “RTA”.
- (9) In rule 36.17—
- (a) in the heading, for “an RTA” substitute “a”;
 - (b) in paragraph (1) for “an RTA” substitute “a”; and
 - (c) in paragraph (2) for “An RTA” substitute “A”.
- (10) In rule 36.18—
- (a) in the heading, for “an RTA” substitute “a”; and
 - (b) after “The”, omit “RTA”.
- (11) In rule 36.19—
- (a) for “An RTA” substitute “A”; and
 - (b) for “45.29”, substitute “45.18”.

- (12) In rule 36.20—
 - (a) in the heading, for “an RTA” substitute “a”; and
 - (b) in each place it occurs, omit “RTA”.
- (13) In rule 36.21—
 - (a) in each place it occurs, omit “RTA”;
 - (b) in paragraph (2), in subparagraph (a), for “45.38”, substitute “45.26”;
 - (c) in paragraph (3), for “45.32” substitute “45.20”; and
 - (d) in paragraph (4)—
 - (i) in subparagraph (b)—
 - (aa) for “45.32” substitute 45.20; and
 - (bb) omit “and”;
 - (ii) in subparagraph (c), for the full stop substitute “; and”; and
 - (iii) after paragraph (c), insert—
 - “(d) an additional amount calculated in accordance with rule 36.14(3)
 - (d).”.
- (14) In rule 36.22, omit “RTA”.