

2013 No. 93

SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES

The Offers to Settle in Civil Proceedings Order 2013

Made - - - - - *21st January 2013*
Laid before Parliament *22nd January 2013*
Coming into force - - - *12th February 2013*

The Lord Chancellor, in exercise of the powers conferred by section 55 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a), makes the following Order:

Citation and commencement

1. This Order may be cited as the Offers to Settle in Civil Proceedings Order 2013 and shall come into force on 12th February 2013.

Additional amount to be paid where a claim is only for an amount of money

2. Where rules of court make provision for a court to order a defendant in civil proceedings to pay an additional amount to a claimant in those proceedings and the claim is for (and only for) an amount of money then, for the purposes of section 55(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the prescribed percentage shall be—

<i>Amount awarded by the court</i>	<i>Prescribed percentage</i>
Up to £500,000	10% of the amount awarded.
Above £500,000, up to £1,000,000	10% of the first £500,000 and 5% of the amount awarded above that figure.
Above £1,000,000	7.5% of the first £1,000,000 and 0.001% of the amount awarded above that figure.

Amount to be paid where a claim is or includes a non-monetary claim

3.—(1) Rules of court may make provision for a court to order a defendant in civil proceedings to pay an amount to a claimant (“the amount to be paid”) in those proceedings where—

- (a) the claim is or includes a non-monetary claim;
- (b) judgment is given in favour of the claimant; and

- (c) the judgment in respect of the claim is at least as advantageous as an offer to settle the claim which the claimant made in accordance with rules of court and has not withdrawn in accordance with those rules.
- (2) The amount to be paid shall be calculated as prescribed in paragraph (4).
- (3) Rules made under paragraph (1) may—
- (a) include provision as to the assessment of whether a judgment is at least as advantageous as an offer to settle; and
- (b) make provision as to the calculation of the value of a non-monetary benefit awarded to a claimant.
- (4) Subject to subparagraph (5), the amount to be paid shall be—
- (a) if a claim includes both a claim for an amount of money and a non-monetary claim, the following percentages of the amount awarded to the claimant by the court (excluding any amount awarded in respect of the claimant’s costs)—

<i>Amount awarded by the court</i>	<i>Amount to be paid by the defendant</i>
Up to £500,000	10% of the amount awarded.
Above £500,000, up to £1,000,000	10% of the first £500,000 and 5% of the amount awarded above that figure; and

- (b) in a non-monetary claim only, the following percentages of any costs ordered by the court to be paid to the claimant by the defendant—

<i>Costs ordered to be paid to the claimant</i>	<i>Amount to be paid by the defendant</i>
Up to £500,000	10% of the costs ordered to be paid.
Above £500,000, up to £1,000,000	10% of the first £500,000 and 5% of any costs ordered to be paid above that figure.

- (5) The amount to be paid shall not exceed £75,000.

Signed by authority of the Lord Chancellor

Helen Grant
Parliamentary Under Secretary of State
Ministry of Justice

21st January 2013

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 55 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10).

Section 55(1) enables rules of court to be made in relation to civil proceedings involving a claim for money to permit a court to order an additional amount to be paid to a claimant by a defendant, where the defendant does not accept the claimant’s offer to settle, and the court subsequently gives judgment for the claimant which is at least as advantageous to the claimant as the claimant’s offer.

Section 55(3) confers power on the Lord Chancellor to prescribe, as a percentage of the amount awarded to the claimant by the court, the additional amount that may be paid by the defendant in such cases.

Article 2 prescribes the percentage of the amount awarded to the claimant that a defendant may be ordered to pay as an additional amount.

Section 55(4) confers a power on the Lord Chancellor to provide that rules of court may make similar provision to that in section 55(1) in relation to civil proceedings which include a non-monetary claim (defined in the 2012 Act as a claim for a benefit other than an amount of money). Section 55(5) makes provision as to how the amount to be paid by the defendant may be calculated in such circumstances.

Under Article 3, in those proceedings which include both a claim for money and a non-monetary claim, the amount to be paid by the defendant to the claimant will be calculated as a percentage of the amount awarded to the claimant by the court in respect of the claim for money. In a non-money claim only, Article 4 provides that the amount to be paid will be calculated as a percentage of the costs that the defendant is ordered to pay the claimant. In these instances the maximum amount that a defendant may be ordered to pay is £75,000.

Article 3 also provides that rules of court may include provision as to the assessment of whether a judgment is at least as advantageous as an offer to settle and may further make provision as to how the value of a non-monetary benefit awarded to a claimant may be calculated.

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STATUTORY INSTRUMENTS

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