

**Magistrates' Court General Civil Procedure (Offers
of Compromise Amendments) Rules 2014**

S.R. No. 105/2014

TABLE OF PROVISIONS

<i>Rule</i>		<i>Page</i>
1	Object	1
2	Authorising provisions	1
3	Commencement	1
4	Principal Rules	1
5	Definitions	1
6	Rule 26.02 substituted	2
	26.02 Offers of compromise generally	2
7	Time for making, accepting etc. offer	3
8	Time for payment	3
9	Rule 26.07 substituted and new Rules 26.07.1 and 26.07.2	3
	26.07 Withdrawal of acceptance	3
	26.07.1 Failure to comply with accepted offer	4
	26.07.2 Multiple defendants	5
10	Costs consequences of failure to accept	5
11	New Rule 26.08.1	7
	26.08.1 Pre-litigation offers	7
12	Rule 26.09 revoked	8
13	Rule 26.10 substituted	8
	26.10 Contributor parties	8
14	New Rule 26.11 inserted	9
	26.11 Transitional	9
	26.12 * * * * *	9
<hr/> <hr/>		
ENDNOTES		11

STATUTORY RULES 2014

S.R. No. 105/2014

Magistrates' Court Act 1989

Magistrates' Court General Civil Procedure (Offers of Compromise Amendments) Rules 2014

The Chief Magistrate together with 2 Deputy Chief Magistrates jointly make the following Rules:

1 Object

The object of these Rules is to amend the Magistrates' Court General Civil Procedure Rules 2010 in relation to offers of compromise.

2 Authorising provisions

These Rules are made under section 16 of the **Magistrates' Court Act 1989** and all other enabling powers.

3 Commencement

These Rules come into operation on 1 August 2014.

4 Principal Rules

In these Rules, the Magistrates' Court General Civil Procedure Rules 2010¹ are called the Principal Rules.

5 Definitions

In Rule 26.01 of the Principal Rules, **insert** the following definition—

"business day means a day on which the office of the venue of the Court at which a proceeding is commenced is open;"

6 Rule 26.02 substituted

For Rule 26.02 of the Principal Rules
substitute—

"26.02 Offers of compromise generally

- (1) A party may, in respect of any claim in a proceeding, serve on another party an offer of compromise on the terms specified in the offer.
 - (2) An offer of compromise in respect of a claim may be on terms that take into account any other claim made in the proceeding between the parties.
 - (3) An offer of compromise must—
 - (a) be in writing and prepared in accordance with Rules 27.02 to 27.04; and
 - (b) contain a statement to the effect that it is served in accordance with this Order.
 - (4) An offer of compromise must state either—
 - (a) that the offer is inclusive of costs; or
 - (b) that costs are to be paid or received, as the case may be, in addition to the offer.
 - (5) For the avoidance of any doubt, the making of or acceptance of an offer of compromise under this Order does not affect the operation of the following concerning the awarding of costs—
 - (a) section 105 of the Act; and
 - (b) any regulations made under section 105 of the Act."
-

7 Time for making, accepting etc. offer

(1) Rule 26.03(4) of the Principal Rules is **revoked**.

(2) For Rule 26.03(8) of the Principal Rules
substitute—

"(8) Upon the acceptance of an offer of
compromise that states that costs are to be
paid or received in addition to the offer, then,
unless the offer otherwise provides or the
Court otherwise orders—

(a) such costs are to be paid or received in
respect of the claim up to and including
the day the offer was served; and

(b) liability for any costs in respect of the
claim in relation to any subsequent
period are in the discretion of the
Court; and

(c) any party to the accepted offer may
apply for such costs to be taxed by the
Costs Court."

(3) Rule 26.03(9) of the Principal Rules is **revoked**.

8 Time for payment

In Rule 26.03.1 of the Principal Rules, for "sum of
money to a plaintiff" **substitute** "specified sum of
money to a party".

**9 Rule 26.07 substituted and new Rules 26.07.1
and 26.07.2**

For Rule 26.07 of the Principal Rules
substitute—

"26.07 Withdrawal of acceptance

(1) A party who has accepted an offer for the
payment to that party of a sum of money
may withdraw the acceptance if—

- (a) the sum of money is not paid—
 - (i) within the time provided by the offer; or
 - (ii) where no time is specified by the offer, within 30 days after acceptance of the offer; and
 - (b) the Court, on the application of the party who accepted the offer, gives leave.
- (2) A party seeking the leave of the Court under paragraph (1)(b) may also seek orders—
- (a) to restore the parties as nearly as practicable to each party's position in the proceeding at the time of acceptance; and
 - (b) as to the further conduct of the proceeding.

26.07.1 Failure to comply with accepted offer

If, after acceptance of an offer of compromise, a party to the accepted offer defaults in complying with that party's obligations under the offer, any non-defaulting party to the accepted offer may apply to the Court for an order—

- (a) giving effect to the accepted offer; or
 - (b) staying or dismissing the proceeding if the plaintiff is in default; or
 - (c) striking out the defendant's defence if the defendant is in default; or
 - (d) that a claim, not the subject of the offer, is to proceed.
-

26.07.2 Multiple defendants

- (1) Rule 26.07.1 does not apply if—
 - (a) two or more defendants are alleged to be jointly, or jointly and severally, liable to the plaintiff for a debt or damages; and
 - (b) rights of contribution or indemnity appear to exist between the defendants.
- (2) Notwithstanding paragraph (1), Rule 26.07.1 applies if—
 - (a) in the case of an offer made by the plaintiff, the offer—
 - (i) is made to all defendants; and
 - (ii) is an offer to compromise the claim against all of them; or
 - (b) in the case of an offer made to the plaintiff—
 - (i) the offer is to compromise the claim against all defendants; and
 - (ii) if the offer is made by two or more defendants, those defendants offer to be jointly, or jointly and severally, liable to the plaintiff for the whole amount of the offer."

10 Costs consequences of failure to accept

- (1) In Rule 26.08(2) of the Principal Rules, for paragraphs (a) and (b) **substitute**—
 - "(a) if the claim of the plaintiff is for damages for or arising out of death or bodily injury—to an order against the defendant for costs in respect of the claim fixed on the appropriate scale in Appendix A, as if the costs

prescribed by that scale were increased by 25%;

- (b) in the case of any other claim of the plaintiff—to an order against the defendant for the plaintiff's costs in respect of the claim before 11.00 a.m. on the second business day after the offer was served, fixed on the appropriate scale in Appendix A and for the plaintiff's costs thereafter fixed on the appropriate scale in Appendix A, as if the costs prescribed by that scale were increased by 25%."

- (2) For Rule 26.08(2A), (3) and (4) of the Principal Rules **substitute**—

"(3) If an offer of compromise is made by a defendant and not accepted by the plaintiff, and the plaintiff obtains an order on the claim to which the offer relates not more favourable than the terms of the offer, then, unless the Court otherwise orders—

- (a) the plaintiff is entitled to an order against the defendant for the plaintiff's costs in respect of the claim before 11.00 a.m. on the second business day after the offer was served, fixed on the appropriate scale in Appendix A; and
- (b) the defendant is entitled to an order against the plaintiff for the defendant's costs in respect of the claim thereafter fixed on the appropriate scale in Appendix A, as if the costs prescribed by that scale were increased by 25%.

-
- (4) If an offer of compromise is made by a defendant and the plaintiff unreasonably fails to accept the offer and the claim to which the offer relates is dismissed or an order on the claim is made in favour of the defendant, then unless the Court otherwise orders—
- (a) the defendant is entitled to an order against the plaintiff for the defendant's costs in respect of the claim until 11.00 a.m. on the second business day after the offer was served, on the appropriate scale in Appendix A; and
 - (b) the defendant is entitled to an order against the plaintiff in respect of the defendant's costs after the time referred to in paragraph (a) on the appropriate scale in Appendix A, as if the costs prescribed by that scale were increased by 25%."

11 New Rule 26.08.1

After Rule 26.08 of the Principal Rules **insert—**

"26.08.1 Pre-litigation offers

- (1) If—
- (a) a party, before a proceeding has commenced, has made an offer in writing to another party (whether or not expressed to be without prejudice) to compromise any claim on the terms specified in the offer; and
 - (b) the offer was open to be accepted for a period of at least 7 days after the offer was made, but was not accepted; and

- (c) in a proceeding, the offeror obtains an order in respect of the claim no less favourable to the offeror than the terms of the offer—

the Court may take those matters into account in determining what order for costs to make in respect of the costs of the proceeding.

- (2) In exercising its discretion as to costs in accordance with paragraph (1), the Court may order that the offeree pay all or part of the offeror's costs of the proceeding fixed on the appropriate scale in Appendix A, as if the costs prescribed by that scale were increased by an amount not exceeding 50%, from—
- (a) the day the offer was made; or
 - (b) the commencement of the proceeding; or
 - (c) any other time that the Court thinks fit."

12 Rule 26.09 revoked

Rule 26.09 of the Principal Rules is **revoked**.

13 Rule 26.10 substituted

For Rule 26.10 of the Principal Rules **substitute—**

"26.10 Contributor parties

- (1) If two or more parties (the *contributor parties*) may be held liable to contribute towards an amount of debt or damages that may be recovered from the contributor parties, any of those contributor parties may, without prejudice to that contributor party's defence, make an offer to another contributor

- party, to contribute, to a specified extent, to the amount of the debt or damages.
- (2) If an offer is made by a contributor party (the *first contributor party*) and not accepted by another contributor party, and the first contributor party obtains an order against the other contributor party more favourable than the terms of the offer, then, unless the Court otherwise orders, the first contributor party is entitled to an order that the contributor party who did not accept the offer pay the costs incurred by the first contributor party—
- (a) before 11.00 a.m. on the second business day after the offer was served—fixed on the applicable scale in Appendix A; and
 - (b) after the time referred to in paragraph (a)—fixed on the applicable scale in Appendix A, as if the costs prescribed by that scale were increased by 25%."

14 New Rule 26.11 inserted

For Rules 26.11 to 26.12 of the Principal Rules substitute—

"26.11 Transitional

This Order as in force immediately before the commencement of the Magistrates' Court General Civil Procedure (Offers of Compromise Amendments) Rules 2014 continues to apply to any offer of compromise served under Part 2 of this Order before that commencement.

26.12 * * * * *

Magistrates' Court General Civil Procedure (Offers of Compromise
Amendments) Rules 2014

r. 14

S.R. No. 105/2014

Dated: 25 July 2014

P. LAURITSEN,
Chief Magistrate

B. B. BRAUN,
Deputy Chief Magistrate

LANCE MARTIN,
Deputy Chief Magistrate

Magistrates' Court General Civil Procedure (Offers of Compromise
Amendments) Rules 2014

S.R. No. 105/2014

Endnotes

ENDNOTES

- ¹ Rule 4: S.R. No. 140/2010. Reprint No. 1 as at 11 October 2013.
Reprinted to S.R. No. 89/2013. Subsequently amended by
S.R. Nos 155/2013, 178/2013 and 11/2014.