

PRACTICE DIRECTION

OFFERS TO SETTLE

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 36

FORMALITIES OF PART 36 OFFERS AND OTHER NOTICES
UNDER THIS PART

- 1.1** A Part 36 offer may be made using Form N242A.
- 1.2** Where a Part 36 offer, notice of acceptance or notice of withdrawal or change of terms is to be served on a party who is legally represented, the document to be served must be served on the legal representative.

APPLICATION FOR PERMISSION TO WITHDRAW A PART 36
OFFER

- 2.1** Rule 36.3(4) provides that before expiry of the relevant period a Part 36 offer may only be withdrawn or its terms changed to be less advantageous to the offeree with the permission of the court.
- 2.2** The permission of the court must be sought –
 - (1)** by making an application under Part 23, which must be dealt with by a judge other than the judge (if any) allocated in advance to conduct the trial, unless the parties agree that such judge may hear the application;
 - (2)** at a trial or other hearing, provided that it is not to the trial judge or to the judge (if any) allocated in advance to conduct the trial, unless the parties agree that such judge may hear the application.

ACCEPTANCE OF A PART 36 OFFER

- 3.1** Where a Part 36 offer is accepted in accordance with rule 36.9(1) the notice of acceptance must be served on the offeror and filed with the court where the case is proceeding.
- 3.2** Where the court's permission is required to accept a Part 36 offer, the permission of the court must be sought –
 - (1)** by making an application under Part 23, which must be dealt with by a judge other than the judge (if any) allocated in advance to conduct the trial, unless the parties agree that such judge may hear the application;
 - (2)** at a trial or other hearing, provided that it is not to the trial judge or to the judge (if any) allocated in advance to conduct the trial, unless the parties agree that such judge may hear the application.
- 3.3** Where rule 36.9(3)(b) applies, the application for permission to accept the offer must –
 - (1)** state
 - (a)** the net amount offered in the Part 36 offer;

- (b) the deductible benefits that had accrued at the date the offer was made;
- (c) the deductible benefits that have subsequently accrued; and
- (2)** be accompanied by a copy of the current certificate of recoverable benefits.