

NORTHERN IRELAND SMALL CLAIMS PROCEDURE

THIS FACTSHEET APPLIES IN NORTHERN IRELAND ONLY

1. Where are the rules governing small claims found?

The procedure for bringing a small claims action is set out in Order 26 of the [County Court \(Northern Ireland\) Rules 1981](#).

2. What are small claims?

In general, a small claim in Northern Ireland is a claim which the value doesn't exceed the sum of £5,000 in total.

If the sum of money in question exceeds this amount, the person pursuing the claim (the Applicant) must do one of the following actions- either:

- Abandon any sum in excess of £5,000; or
- Issue a Civil Bill in the County Court for the full sum (up to £30,000)

There are two types of small claim:

- Liquidated - where the amount of claim is set, for example, loans or goods and services not paid for; or
- Unliquidated - where the amount is estimated, for example, damage to property, faulty goods or poor workmanship.

Please note that each case is commenced at The Civil Processing Centre, based in [Laganside Courts](#), but if a case is disputed/ defended, it is then transferred to the court office that is specified within the original application for hearing.

If you want to issue legal proceedings against another party, you should be aware that there are certain time limits within that apply. The time limit for each claim is dependent on the type of claim, i.e. the time limit for a breach of contract claim is 6 years. If you are in any doubt on this, please obtain independent legal advice prior to commencement of any legal claim.

3. Pre-action

Even though you might choose to go to court rather than use an alternative dispute resolution process, issuing a claim should always be your last resort. It is vital to be aware from the outset that the aim of the court will be to deal with the case justly, expeditiously, fairly and proportionate to the amount of money involved, the importance of the case, the complexity of the issues and the parties' financial position.

This needs to be borne in mind before and after commencing an action. The ramifications of overlooking this principle include the court being able to either strike out your claim and/or make an order for costs against you even if you are the successful party.

As part of this policy, it is also vital to be aware that the court now expects you to act responsibly in exchanging information and documents with the other side and to generally co-operate with the overall aim of trying to avoid the matter going to court in the first place.

Prior to issuing a claim, it is necessary to write to the individual or business who owes you money. You should ask for the money to be paid by a set date and explain that if it is not paid, you will issue a county court claim. This is commonly referred to as a "letter before claim".

Following the introduction of the "Pre-action protocol for Commercial Actions" from 6th February 2023, there is a comprehensive pre action letter and process from which parties who have disputes relating to "Commercial Actions" must adhere. For further information, please see our template letter **NORTHERN IRELAND- LETTER BEFORE ACTION (PRE-ACTION PROTOCOL)** and factsheet **NORTHERN IRELAND- GUIDANCE NOTES ON THE PRE-ACTION PROTOCOL FOR COMMERCIAL ACTIONS**.

4. What terminology is used?

The use of legal jargon should be minimal when bringing a claim. It is best to explain things in a clear and concise matter.

If you are bringing an action you are known as "the Applicant", if you are defending an action or counterclaiming you are known as "the Respondent".

5. How do I start my action?

To start your case a claim form must be completed. This will be made in Form 125 (Notice of Application for a Small Claim) and this is to be used whether your claim is for a fixed-sum or an unspecified amount (liquidated or unliquidated).

The form can be downloaded from the Justice-NI website (see the links section at the end of this fact sheet) or can be obtained from your nearest County Court, though you should check their opening times before attending.

Alternatively, you may be able to commence your action online [here](#). This website enables an Applicant to commence a claim online, check the progress of the claim, and also to:

- Apply for a Decree by default, or
- File a letter of settlement in the event of a receipt of a declaration of acceptance of liability from the Respondent to the claim.

In addition, if the claim is submitted online, the Respondent also has the ability to file a Notice of Dispute and a Counterclaim.

6. How much will it cost?

There is a fee to be paid to issue your claim form (or to file a counterclaim), which is based upon the amount of your claim. The most up to date issue fees are detailed in the listing below and also in the useful links section towards the end of this factsheet- please note that these fees are subject to change:

Applicable Fees

Claim does not exceed £300	£39.00
Claim exceeds £300 but does not exceed £500	£65.00
Claim exceeds £500 but does not exceed £1,000	£91.00
Claim exceeds £1,000	£130.00

These fees are regarded as a fixed-costs and are usually recoverable against the other party if you win your case.

There may be further fees, and if so the court will inform you and give you a specified time in which to pay them. You must comply with that deadline or you risk your claim being struck out.

A full list of current County Court fees is available from the Justice-NI website (see Useful Links at bottom of factsheet).

7. What information should Form 125 contain?

The claim form is the form you use to start your case and is known as "Form 125" and it must contain the following:

- **Your full name and address**, as well as e-mail address (if applicable).
- **The capacity in which you sue** - If you are a sole trader doing business under another name then state your own name followed by the words "trading as" then the business name. If you are a limited company, then you must state limited after the company name, followed by the trading address or registered office. If you are a partnership then the words "a firm" should be used after the partnership name.
- **The Respondent's Details** - It is essential you correctly identify the Respondent. If it is a limited company or a limited liability partnership (LLP) then it might be necessary to contact Companies House in Cardiff who can inform you of the correct name and registered office. To identify a partnership, the names of the partners should be on their headed note paper. If not, the partners' names must be kept at the main place of business. A sole trader should be sued in his own name followed by the words "trading as" then his trading name.
- **Statement of Value** - You must work out how much your claim is worth and state this in the claim form, including court fees and any interest you are claiming under the contract or, if appropriate, interest to be recovered under Article 45A of the County Courts (Northern Ireland) Order 1980 (currently at 8% per Annum).
- If you want to remain in the small claims track and your claim exceeds £5,000, then you can limit your claim to £5,000. If you cannot place a value on your claim then you must say, "I cannot say how much I expect to recover".
- **Particulars of Claim** - This is the explanation as to why you are commencing your claim. You can either affix this to Form 125 or send this on later in a separate document to the Respondent. If you decide not to include particulars of the claim affixed to Form 125, then your particulars must be sent to the other side within 14 days after service of the Form 125. The Respondent need not respond until they

have received the particulars of claim. They must contain a concise statement of facts upon which your claim is based. Therefore, you must set out your case in a clear and intelligible manner.

- **Statement of Truth** - This is a box on Form 125 which must either be signed by you or your solicitor in order to verify that the facts of your case are correct.

8. You are now ready - what next?

Unless you are using the online service , you should send hard copies of the documents below via post:

1. A completed Form 125 (Claim form) and copies of your claim form for serving on all Respondents.
2. The applicable court fee – the Courts accept payment by:
 - debit or credit cards
 - cash
 - postal orders or cheques, which should be made payable to “Northern Ireland Courts & Tribunals Service”.
 - The address to send these documents to is:
Civil Processing Centre
Laganside Courts,
Oxford Street,
Belfast,
BT1 3LL

9. Service outside the jurisdiction

If your small claims application requires service on parties based in England/Wales, you are required to sign and complete an endorsement which accompanies the small claims form. These are found in the link below:

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/fe0cc1ac88964e1cb1f7e1577b53505aOutsideJurisdictionalInformation.pdf>

Before you decide to proceed with the application it is important that you are aware of the following factors:

- It takes longer to obtain a decree as additional time is required for service outside the jurisdiction;
- If you are successful in obtaining a decree and wish to enforce it, you can only enforce it through the enforcement procedures available in England/Wales;
- It is possible in most cases to initiate proceedings in England/Wales where the Respondent resides.

If you would like further information on the registration or enforcement procedure in England/Wales you should contact the Kings Bench Action Department of the Central Office of the Royal Courts of Justice, Strand, London. WC2A 2LL.

10. How is Form 125 served?

Once a case has been submitted to the Civil Processing Centre and verified by the Court Officer, the Respondent is then posted a small claims pack giving all relevant information in relation to the case, including a copy of Form 125, together with Forms 126A (notice of dispute) and 126B (acceptance of liability).

11. Drafting your defence/notice of dispute

When drafting your defence it is essential to understand that it must state a positive case. Where a denial is made then you must state your reason for doing so and your own version of events if it is different from the Applicant's version. A holding defence where a brief denial is stated will no longer be acceptable. If such a defence is raised then the court may, of its own volition, decide to strike the claim out.

What if a defence/notice of dispute is filed?

If the Respondent intends to defend the matter and/or commence a counter claim, they must lodge Form 126A (Notice of Dispute) within 21 days of receipt of the small claims pack with the small claims office. If a counter claim is also pursued then they must also pay the associated requisite fee. A copy of this will then be sent to the Applicant to notify them of the challenge.

What if no defence/notice of dispute is filed?

If the Respondent fails to file a defence or notice of dispute to your claim within the required timescale, then you can apply to the court to ask if the decree can be granted by default.

However, be aware that the Respondent can still apply to the court for the decree to be set aside if:

1. The Respondent has a real prospect of successfully defending the claim; or
2. There appears to be some other good reason why the Respondent should be allowed to defend the claim.

In either event the court must have regard to whether the Respondent made their application to set aside promptly. If such an application is made, the case will be transferred to the Respondent's home County Court for the matter to be heard.

In principle, if the Respondent can show that the claim was not properly served, for example if it was sent to the wrong address, or to an address which the Applicant knew was no longer the Respondent's, then the court should set aside the judgment.

12. Can you amend your claim form or defence?

If a party wishes to amend their claim or defence, then they cannot do so without the consent of the other party or leave of the court once the document has been served. Leave is only likely to be granted if the statement is ambiguous and requires clarification. It will no longer be necessary in the amended text to also set out the original text that has been altered.

13. Can I request further information about my opponent's case?

Any request for information must first be approved by the court. An application is likely to be granted provided you have relevant points that require clarification before the case can proceed.

14. Case management

If the case is allocated to the small claims track then the court will give standard directions and fix a date for the hearing with a time estimate.

The standard directions that need to be complied with will be:

1. At least 14 days before the hearing date, to send the other side a copy of all the documents you intend to use for your case, and to provide the court with copies.
2. At least 14 days before the hearing date, to send the court a list of witnesses that you are intending to call, together with their statements.

If you fail to comply with any of these directions, then the judge may, for example, refuse to allow you to use a document which you failed to send to the other side prior to the hearing.

The judge may sometimes request a preliminary hearing. This is likely to arise if the court considers, for example, that the claim or defence is ill founded. If this is found to be the case then the matter will be struck out.

15. The Small Claims (Assessment) hearing

The hearing will be informal although it may take place in open court. Strict rules of evidence will not apply and the judge will conduct the hearing as they feel is appropriate. In fact, the judge may take a fairly active role and do not be surprised if they ask questions which the other side may have omitted to raise.

Remember, the over-riding principle will be that the court will seek to deal with this matter justly and proportionately, which means the court must be even-handed, fair and deal with matters swiftly.

The judge's decision will be recorded. You are therefore able to obtain a copy of the transcript on payment of a fee.

Please note, however, that if you fail to turn up without informing the court, then it is likely that your claim or defence will be struck out.

16. If I win, what can I expect to recover from the other side?

In general there is a "no costs" rule in the small claims court. This means that no solicitors or barristers charges or the costs of a litigant in person will be recovered against the losing party except:

1. The fixed-costs stated on the claim form.
2. Court fees.
3. Reasonable travelling expenses.

To recover more you will need to show that the other party acted unreasonably. For example, defending a case despite a reasonable offer to settle prior to a claim being issued may be considered unreasonable conduct. It is important to remember that litigation is to be considered as a last resort and if this principle is ignored the court may penalise you by imposing an order for costs against you.

17. What can I do if I lose? Can I appeal?

There are 2 grounds of appeal from the Judge's decision:

- The decision was unjust because of a serious procedural or other irregularity in the proceedings.
- The decision of the judge erred in law and was wrong.

18. How do I appeal?

If you wish to appeal Form 130 must be submitted to the court within 21 days after the date of the judgment/order. The cost of making this appeal is £195.00 currently.

The Respondent to the appeal may lodge a complete Form 131 to confirm if they oppose the appeal and the grounds that they rely on.

The judge may give such directions as he considers appropriate in relation to the appeal including if it is to be by way of rehearing and the chief clerk shall notify the parties accordingly.

The decision on the appeal shall be notified by the chief court clerk to the parties detailed in Form 131A.

19. What happens if I do not pay the judgment debt?

If the court sends you an order to pay, but you do not, the Applicant can ask the court to take steps to make you pay. See our factsheet on [NORTHERN IRELAND - Civil Court Judgments – How to Enforce Them](#) for further information.

20. Enforcement of Decree (County Court judgment)

For further information on the different enforcement methods available following receipt, please see our factsheet on [NORTHERN IRELAND - Civil Court Judgments – How to Enforce Them](#).

21. Are there any other alternatives to using the small claims court?

Yes, the following options should be considered:

- Using a debt collection recovery service. There are various organisations who will act on your behalf usually on a no win-no fee basis to try and collect outstanding debts. You should be aware that these organisations will not generally act for you where you have already used the small claims court to try and recover your debt.
- Alternative Dispute Resolution. This includes mediation, arbitration, negotiation and Ombudsman services.
- Where the debt is undisputed and exceeds £5,000 that owes you the money, it can be possible to serve what is known as a statutory demand on the debtor. This involves having to use a particular form dependent upon specific circumstances;

The forms for statutory demands are:

- **Form 6.01** - to be used for a debt for a specific amount which is payable now;
- **Form 6.02** - to be used for a debt of a specific amount which is payable now following a judgment or order of court;
- **Form 6.03** - to be used for a debt that is payable in the future;

The effect of non-compliance with the demand is that insolvency action must be taken against the debtor.

More information can be found on this link: <https://www.economy-ni.gov.uk/articles/making-someone-bankrupt>

22. Useful links

To find out more about the small claims process and especially Small Claims Online, use any of the following links:

<https://www.nidirect.gov.uk/articles/small-claims-process>

<https://www.justice-ni.gov.uk/articles/online-services>

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/small-claims-online-user-guide-v2.1-september-2022.pdf>

<https://www.justice-ni.gov.uk/publications/small-claims-forms>

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/SmallClaimsChecklist.pdf>

https://www.justice-ni.gov.uk/sites/default/files/publications/justice/406d8a772f774d9db0fb1ef12396349dp_ucs_smallclaimnewapplication_0.pdf

<https://www.justice-ni.gov.uk/publications/small-claims-online-user-guide>

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/cfr-county-court-fees-01-10-19.pdf> - Section 5 small claims fees

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