

# the small claims court



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The District Court Rules give the Small Claims Court the right and power to apply and interpret the law. The Small Claims Court provides a fast and inexpensive alternative dispute resolution process for consumers. This process allows parties to a dispute to resolve the issues between them by mediation through a District Court clerk known as the Small Claims Registrar.

The primary function of this registrar in a small claims dispute is to act as a mediator or objective go-between and try to settle the case. The registrar will be mediating between the two sides, these are known as:

**The claimant:** The person who makes the claim to the court or who has the problem.

**The respondent:** The person who must reply to the claimant through the Small Claims Court. This is usually the person who supplied the faulty product or service with which the claimant has a problem.

### **Who can lodge a claim in the Small Claims Court?**

Claims can only be lodged by **consumers** or people whose claim arises while they are acting in a **non-business capacity**. The procedure is not available to people whose claim arises in the course of their business.

## Types of claims that are dealt with

- a** Claims arising out of the purchase of **faulty goods** or the **supply of poor workmanship** (this includes holiday claims). The procedure is only available if the person making the claim is a consumer and the person defending the claim is a business or has acted in the course of their business.
- b** Claims for minor damage to property. A body corporate or company cannot lodge this type of claim.
- c** Claims by tenants for the non return of rent deposits for certain kinds of rented properties such as holiday homes or flats where the landlord also lives. (The Private Residential Tenancies Board (PRTB) handles the majority of other tenancy claims.)

## Types of claims that are excluded

The following types of claims are excluded from the small claims procedure:

- Personal injury claims;
- Claims arising out of breach of leasing agreements;
- Claims for debt recovery.

## **Does this mean that the claimant may not make a claim for personal injuries sustained?**

A person may not claim in the Small Claims Court for personal injuries they received because of a faulty product or poor workmanship which they have paid for. However, all claims may include a claim for distress caused by a faulty product or service.

Personal injuries claims can be made to the Injuries Board. Tel: 1890 829121  
Website: [www.injuriesboard.ie](http://www.injuriesboard.ie)

## **The amount that can be claimed**

The maximum sum that may be claimed is €2000.

## **How to lodge a claim**

The claimant fills out the application form and sends it to the Small Claims Registrar of the District Court office where the respondent resides or has his/her registered place of business, together with the relevant fee.

The current fee for making a claim in the Small Claims Court is €15. A claimant can obtain the relevant application form from their local District Court office. This is also downloadable from the court's website ([www.courts.ie](http://www.courts.ie)) under 'Small Claims Procedure'.

The rules provide that, if necessary, the claimant may call to the District Court office for assistance in completing the form.

## Small Claims Online

As of December 2006 the courts service provides a small claims application system available over the internet in a number of District Court offices. This allows you to:

- make a small claims application online
- pay the €15 fee online
- check the status of your claim online.

This service is accessed by going onto the court's website: [www.courts.ie](http://www.courts.ie) and clicking on 'Small Claims Online'. You will need a Credit/Debit Card and an e-mail address to use this new service.

Once you have made your claim through the online system to the appropriate District Court, you will be e-mailed a claim number and a special online PIN number which allows you to check on the status of your claim.

A list of the District Court offices that currently provide an online application system is available on the court's website. It will soon be possible to access this service for all other District Court offices. However, if the appropriate District Court Centre is not available on the selection list, you must contact the District Court Office directly and submit a small claims application manually.

## What to watch out for in completing the application form

Care must be taken with the respondent's details; for example, in a purchase of faulty goods claim, it is not sufficient to put the name of the shop and its address on the application form. The person or company who **owns** the shop must also be included on the application form.

For assistance in determining what company or person owns the relevant shop or business, the claimant should check the Companies Registration Office:

### **Companies Registration Office:**

Tel: 01-804 5400 or  
website: [www.cro.ie](http://www.cro.ie)

## What else must be included in the application form?

Details of what the claim is about must also be included on the application form. A claimant should include the following details:

- 1** Whether the claim arises from the purchase of faulty goods, bad workmanship, the return of a rent deposit or minor damage to property.
- 2** If the claim arises from the purchase of faulty goods or service, then state **when** and **where** and **from whom** the faulty goods or services were purchased. If the claim arises from damage to property, state who caused the damage and when it occurred.

- 3 Equally, in a claim for the return of a rent deposit, set out to whom and when the deposit was paid.
- 4 In relation to your specific claim, include a description of **what went wrong**, e.g. in what way were the goods or workmanship faulty or how property was damaged.
- 5 An explanation of the steps you have taken to rectify the problem up to now.
- 6 The value of the goods, service, property or rent deposit.
- 7 Whether you are claiming for distress caused by the faulty good or service.
- 8 The total worth of your claim.

**Remember: the Small Claims Court will not make awards greater than €2000.**

The registrar will forward a copy of the claim to the respondent.

### **The respondent's role**

The respondent **must respond to a claim within 15 calendar days** or she/he may be held to have admitted the claim. The claimant is then entitled to proceed to obtain judgment (get a decision about whether an amount should be paid, and how much) against the respondent without further notice. There are three possible outcomes after the receipt by

the respondent of a claim through the Small Claims Court:

- a** A respondent can **admit the claim**, by completing a form 53A.3 and returning it to the registrar within 15 calendar days of the receipt of the notice.
- b** A respondent can **dispute the claim**, by completing a form 53A.4 and returning it to the registrar within 15 calendar days of the receipt of the notice.
- c** A respondent can **discuss the claim** with the registrar within 15 calendar days.

### Option a) Admitting the claim

If the respondent admits the claim, she/he must do one of the following:

- Enter into an agreement with the claimant to **pay immediately** the full amount claimed.
- Enter into an agreement with the claimant to pay the amount claimed **by instalments**.
- Consent to judgment being given against her/him. In this instance, the claimant will swear a statement with the assistance of the District Court Registrar setting out the claim and amount of the judgment to which the respondent has consented. On foot of the sworn statement and a request for judgment, a small claims decree for judgment against the respondent will be

entered. The respondent must pay the amount claimed within **28 days** of the small claims decree. The significance here is that a small claims decree is entered against the respondent.

### **Option b) Disputing the claim**

If the respondent decides to dispute the claim, she/he must lodge a 'notice of dispute' with the registrar within 15 calendar days. The registrar sends the notice of dispute to the claimant and tries to settle the matter. If the parties agree to settle the matter, the details of the settlement are recorded on the District Court register.

If the registrar is unsuccessful and no settlement can be reached, the matter is set down for court hearing.

### **Option c) Discussing the claim with the Small Claims Registrar**

If the respondent chooses to discuss the claim with the registrar, again the registrar will liaise with the claimant and try to settle the matter. If the registrar is unsuccessful in this and no settlement can be reached, the matter is set down for court hearing.

### **What happens if the respondent fails to pay as agreed with the assistance of the Small Claims Registrar?**

On the claimant's request, the District Court Registrar may enter judgment against the respondent.

## **The Court hearing**

If the registrar fails to settle the matter, the dispute will be heard by a District Court judge in the Small Claims Court. Legal assistance is not essential here. Nevertheless, there is no bar to obtaining legal assistance and, in many cases, corporate or business respondents will do so as a matter of course.

## **Appealing a Decision**

Orders made in the Small Claims Court can be appealed to the Circuit Court. Appeals must be made within 14 days of the Court hearing.

## **Legal costs**

Regardless of who wins or loses the case, each party must pay its own legal costs. In this regard, if a claimant wishes to obtain legal assistance for a Small Claims District Court hearing, she/he should first enquire as to the costs involved.

## **Failure to pay by the respondent**

If the respondent does not pay, the claimant can apply to the Small Claims Registrar to have the court order sent to the sheriff. The sheriff will execute (enforce) the judgment and get the money from the respondent.

## **The European Small Claims Court System**

On 1 January 2009, a cross-border European Small Claims Court system was introduced across the EU (excluding Denmark) to deal

with civil and commercial matters under Regulation (EC) No. 861/2007.

It is somewhat similar to the Irish Small Claims Court system in that it deals with disputes concerning goods or services to the value of €2000 and the fee for making the claim is €15. However it differs from the Irish System in that it is broader and also applies to businesses. Also, the claim cannot be made online as can be done under the Irish Small Claims Court system. It deals with all types of claims, with the following exceptions:

- revenue, customs or administrative matters
- matters relating to the liability of the State for acts or omissions in the exercise of State authority
- the status or legal capacity of natural persons
- rights in property arising out of a matrimonial relationship, maintenance obligations, wills and succession
- bankruptcy proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings
- social security
- arbitration
- employment law

- tenancies of immovable property, with the exception of action on monetary claims
- violations of privacy
- defamation

To find out more about the European Small Claims Court Procedure, contact the European Consumer Centre at 01 809 0607 or 087 67528882 or see online:  
[www.justice.ie/en/JELR/Pages/SI 533 2008](http://www.justice.ie/en/JELR/Pages/SI_533_2008)

### **How does it work?**

- Patrick runs a business in Dublin – he supplied goods to the value of €2000 to Paul who lives in France. Paul has failed to pay for the goods.
- Patrick fills in an application form the Small Claims Registrar in Dublin. He must know the full name and address of Paul in France. The Registrar in Dublin. He must know the full name and address of Paul in France. The Registrar will assist Patrick with filling out the form if necessary.
- When handing in the completed application form, Patrick pays a fee of €15 to the Registrar. The Registrar must then send a copy of the application form to Paul in France within 14 days (the Registrar retains the original). Paul has 30 days to respond.

## What happens then?

- Paul may admit he owes the money and return the form with the payment to the Registrar
- Paul may ignore the claim form, in which case Patrick will obtain judgement against Paul in the District Court in Dublin for the amount of €2000
- Paul may decide that as the goods he received from Patrick were faulty, he is now going to claim against Patrick. He does this by notifying the Registrar here in Dublin. If Patrick and Paul are not able to resolve the case between them, it is referred to the District Court in Dublin for hearing.

## What happens if Paul's level of English is not good enough for him to fully understand the claim that has been set out against him?

- The Registrar will request Patrick to submit a French translation of the documentation.

## Judgement in the District Court

Once judgement is given, it is binding on both parties. In this instance, the Registrar makes an order stating that Paul must pay Patrick €2000 plus any costs he has incurred. This order is made in Dublin, but it is recognised in France and can be enforced by Patrick in France against Paul in accordance with French law.

## notes

**Legal information is also available on the following topics in this series:**

**separation**

**maintenance**

**cohabiting**

**domestic violence**

**divorce**

**family law and children**

**change of name by deed pole**

**enduring power of attorney**

**probate**

**wills and intestacy**

**the small claims court**

**working hours**

**unfair dismissals**

**maternity leave**

## FLAC Mission Statement:

FLAC is an independent human rights organisation dedicated to the realisation of equal access to justice for all. It campaigns through advocacy, strategic litigation and authoritative analysis for the eradication of social and economic exclusion.

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13 Lower Dorset Street  
Dublin 1

**LoCall:** 1890 350 250

**Tel:** 01 874 5690

**Email:** [info@flac.ie](mailto:info@flac.ie)

**Website:** [www.flac.ie](http://www.flac.ie)