

***THE FOLLOWING PIECE OF LEGISLATION IS AN EXTRACT FROM THE COUNTY COURT RULES OF NORTHERN IRELAND 1981 GOVERNING THE HANDLING OF SMALL CLAIMS.***

*The forms referred to in this legislation are also annexed to the back of these Rules.*

**Last updated by Supplement No. 43 – June 2003**

**COUNTY COURT RULES (NORTHERN IRELAND) 1981**

**[(a) “ORDER 26**

**Small Claims**

*Definitions*

**1. In this Order-**

“the applicant” means the person who makes the initial claim;

“the respondent” means the person against whom the initial claim is made;

“a counterclaim” means a claim which is made by the respondent against the applicant;

“the judge” means the district judge;

“a small claim” means an action to which Article 30(3) of the Order applies;

“small claims court” means a court which processes small claims;

“the small claims office” means the office of the small claims court which will process the small claim;

“the officer” means the person in the court office who processes the application for a small claim; and

“party” means the applicant or the respondent.

*Excluded claims*

**2. No small claims application shall be made with regard to any claim which-**

(a) is for damages for personal injuries;

(b) is for damages in respect of a road traffic accident;

(c) is for damages for libel or slander;

(d) is made under Article 11 (Recovery of legacies, annuities, etc.) of the Order;

(e) concerns the title to land;

(f) is made under section 17 of the Married Women’s Property Act 1882;

(g) has been remitted by the High Court.

**3.-(1)** Subject to paragraph (2), where the claim is for a debt or other liquidated amount which does not exceed £2000, the applicant may proceed by ordinary civil bill provided he includes, immediately after the Warning in the civil bill, the statement in Form 10A.

(2) If the respondent's notice of intention to defend includes a request that the claim and any counterclaim be dealt with as a small claim, his request shall be granted.

### *Starting Proceedings*

**4.** An application for a small claim must be made in Form 125.

**5.** The applicant must complete Part A of Form 125, setting out details of his claim, including any claim for interest under Article 45A of the Order or otherwise.

**6.** After completing Part A of Form 125, the applicant must bring or send the original Form, together with two copies and the appropriate fee, to any court office and that office will then forward the application on to the small claims office.

**7.** If there is more than one respondent, the applicant must bring or send one extra copy of Form 125 for each additional respondent.

**8.** When the relevant forms and the appropriate fee are received in the small claims office, the officer will-

- (a) a complete Part B of the original Form 125 and the copy forms;
- (b) file the original Form 125;
- (c) return one copy of Form 125, together with Form 127 (application for default decree for liquidated amount) or 128 (application for default decree for unliquidated amount) to the applicant; and
- (d) issue one copy of Form 125, together with Forms 126A (notice of dispute) and 126B (acceptance of liability) to the respondent.

**9.** Each court office shall keep a record of –

- (a) the applications which are received; and
- (b) the small claims office to which those applications are sent.

### *Defending the application*

**10.** If the respondent intends to defend the claim or rely on a counterclaim he must, within 21 days of receiving the copy Form 125, lodge with the small claims office a notice of dispute in Form 126A which sets out the details of his defence and of any counterclaim he wishes to make, together with the appropriate fee.

**11.** On receiving a notice of dispute, the officer must send a copy to any other party and advise all parties of the date of hearing.

*Accepting Liability*

**12.** If the respondent accepts liability for the claim, he must, within 21 days of receiving the copy Form 125, lodge with the small claims office a notice of acceptance of liability in Form 126B.

**13.** On receiving a notice of acceptance of liability, the chief clerk may issue a decree, together with a copy of Form 126B, or may refer the notice to the judge if he considers that would be more appropriate.

*Default decrees*

**14.** If a Form 126A or 126B is not lodged with the small claims office within 21 days of the date on which the application is received, the applicant may apply to the chief clerk for a decree.

**15.** An applicant under rule 14 shall –

(a) if the claim is for a liquidated amount, be in Form 127; and

(b) if the claim is for an unliquidated amount, be in Form 128.

**16.** On receiving an application under rule 14, the chief clerk may –

(a) if the claim is for a liquidated amount, issue a decree for the amount then due to the applicant; or

(b) if the claim is for an unliquidated amount issue a decree which states that the amount of the claim will be assessed by the judge.

**17.** The chief clerk may refer any application in Form 127 or 128 to the judge if he considers that it would be more appropriate for the judge to deal with the application.

**18.** The chief clerk may only issue a decree under rule 16 if he is satisfied that:-

(a) the application was sent to the respondent;

(b) no notice of dispute has been received; and

(c) the claim has not been settled.

**19.** Where a decree has been issued under rule 16, the judge may, either on an application or of his own choosing –

(a) set aside or vary the decree; or

(b) make any other order or give any other directions as the circumstances require.

**20.** If an application under rule 19 is made by one of the parties, it must be made in Form 129 and must set out all of the relevant facts.

**21.** On receiving the application, the officer shall send a copy to the other party (who may, within 14 days, respond in writing to the application) and inform the parties of the date on which the application will be heard.

**22.** If a decree is set aside the officer must inform the parties immediately and amend the court records accordingly.

**23.** An application in Form 127 or 128 may not be made if the claim is brought against a minor or a patient.

**[(a)24.** An application in form 127 or 128 may only be made with the judge's permission –

(a) if the claim is brought against the Crown; or

(b) if in any such proceedings as are mentioned in section 139(1)(b) of the consumer Credit Act 1974**(b)** the debtor or surety desires to have a credit agreement re-opened.]

**25.** A request for permission under rule 24 shall be made in writing and the other party shall be informed of the request.

#### *Assessment hearing*

**26.** The officer shall notify the parties of the date on which the amount of the claim will be assessed by the judge.

**27.** Where a decree has been issued under rule 16(b) and the party against whom the decree has been made wishes to attend the assessment hearing, he must notify the small claims office and the other parties in writing.

**28.** The judge shall issue a decree for the amount of the claim, as assessed.

#### *Venue for a small claims hearing*

**29.** A small claims hearing may take place:-

(a) in a court in the county court division in which the applicant or one of the applicants lives or carries on business; or

(b) in a court in the county court division in which the respondent or one of the respondents lives or carries on business.

*Procedure on a small claims hearing*

**30.** A small claims hearing -

- (a) shall be informal; and
- (b) shall not be subject to the strict rules of evidence.

**31.** The judge may adopt any procedure which he considers to be fair.

*Powers of the Judge*

**32.** The judge has the power –

- (a) to administer oaths and take the affirmations of the parties and any witnesses who attend;
- (b) to order specific performance of a contract;
- (c) to make an interim decree;
- (d) to correct any clerical mistake in a decree;
- (e) without prejudice to rule 19(a) and either on the application of any of the parties or of his own choosing, to set aside, vary or confirm any decree; or
- (f) to direct that an application in Form 125 be transferred to his civil bill lists, provided he is satisfied that –
  - (i) a difficult question of act or law is involved; or
  - (ii) fraud is alleged against a party; or
  - (iii) the parties consent to the application being dealt with in that way; or
  - (iv) it would be unreasonable for the application to be dealt with in a small claims hearing because of its subject matter, the circumstances of the parties or the interests of any other person likely to be affected by the outcome.

**33.** If an application is transferred to the judge's civil bill list, it shall proceed as if it had been commenced by civil bill and shall be subject to scale costs.

**34.** An application under rule 32(e) shall be made in writing and the other party shall be informed of the application.

**35.** All parties shall, subject to any legal objection, agree to –

- (a) be examined by the judge on oath or affirmation;

- (b) produce any relevant documents or items which are in their possession; and
- (c) otherwise comply with the judge's requests.

#### *Witnesses*

**36.** If a party wishes to summons a person as a witness, he can apply to the small claims court under Order 24, rule 9 for a witness summons and the summons may be served in accordance with paragraph (5) of that rule or may be delivered to the witness personally by the applicant.

#### *Expert evidence*

**37.** At any time before giving his decision the judge may –

- (a) consult any expert;
- (b) ask for an expert report on any disputed issue; and
- (c) invite an expert to attend the hearing.

**38.** Unless the judge orders otherwise the evidence of any expert witness retained by a party must be given in a written report and the report, together with one copy, must be lodged with the small claims office not less than 14 days before the date of the small claims hearing.

**39.** On receiving the report, the officer shall send a copy to the other party and may set a new date for hearing.

#### *Transfer of proceedings*

**40.** If the judge is satisfied that an application could be more conveniently or fairly dealt with in another small claims court, he may order the application to be transferred to that court and the chief clerk of the court in which the application is originally made must –

- (a) inform all the parties of the transfer; and
- (b) send to the chief clerk of the other court any relevant court records and documents.

**41.** On receiving the relevant records and documents, the chief clerk of the other court shall set a date for the hearing and advise the parties of that date.

#### *Documents*

**42.** Any document which is required to be sent may be sent by ordinary first class post.

*Costs*

**43.** Subject to Rules 33, 44, and 45, no costs, except the appropriate court fee, may be awarded in respect of an application for a small claim.

**44.** No witness expenses may be awarded, except in respect of expert witnesses who have provided written or oral evidence at the request of the judge under Rule 37.

**45.** If the judge is satisfied that –

(a) there has been unreasonable conduct by one of the parties he may award costs against that party;

(b) the proceedings were properly started by ordinary civil bill under Rule 3 he may, subject to Rule 46, award such costs as he considers appropriate.

**46.** When the judge is awarding costs under Rule 45 the costs must not exceed those specified in Table 3 of Part I of Appendix 2 and must be determined in accordance with the amount of the claim.]

Form 10

*Endorsement on ordinary\* civil bill*

ORDER 5, RULE 1(5)

Costs and outlay if paid within [(a) 21] days from date of service: £

NOTE: costs and outlay if paid after [(a) 21] days from service will be payable on a higher scale.

\*This endorsement not to be made in civil bills in title jurisdiction or for defamation.

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[(b) FORM 10A

*Endorsement on Civil Bill for debt or liquidated amount not exceeding £2,000*

If you wish to defend this action you have the right to have it dealt with under the small claims procedure. If you wish to have it dealt with in this way, you must include in your notice of intention to defend the following statement:

“Take notice that I wish this action to be dealt with under the small claims procedure”.]

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(a) Figures substituted by S.R. 1995 No. 151 with effect from 1.9.95  
(b) Form 10A substituted by S.R. 2002 No. 255 with effect from 4.11.02

*Notice of Application for a Small Claim*

ORDER 26, RULE 4

**For Office Use Only**  
**Claim No.**

**Part A**

Applicant:  
Full name, postal address, postcode  
and e-mail address (if appropriate) in  
BLOCK CAPITALS

Respondent:  
Full name, postal address, postcode  
and e-mail address (if appropriate) in  
BLOCK CAPITALS

Take note that I, the above named applicant, intend to apply to the Small Claims Court  
at \_\_\_\_\_ for a decree in respect of:-

My claim for	£ _____
Interest*	£ _____
The court fee	£ _____
<b>Total</b>	<b>£ _____</b>

**\* Only include a figure if you wish to claim interest and you have given details of the rate and the period covered.**

**Please describe in simple terms details of your claim:-** also include the date the claim arose and, if interest is claimed, the amount, rate and period covered.

I believe that the facts stated in this form are true.

Full Name: \_\_\_\_\_ Position or Office held \_\_\_\_\_  
(if signing on behalf of firm or company)

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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**Part B**

**TO BE COMPLETED BY THE SMALL CLAIMS COURT OFFICE**

<p>This application will be dealt with at _____ Court Office.</p> <p>If you wish to dispute this claim or issue a counterclaim please read the enclosed information leaflet and lodge a notice of dispute and/or counterclaim with the above court office.</p> <p>If you wish to accept liability for this claim please read the enclosed information leaflet and lodge a notice of acceptance of liability with the above court office.</p> <p>If you intend to dispute the claim, issue a counterclaim or accept liability then you must lodge the appropriate form with the above court office no later than _____.</p> <p style="text-align: center;"><b>Warning</b></p> <p style="text-align: center;"><b>If you intend to dispute the case or issue a counterclaim and you fail to reply to this application by the date above a decree may be issued against you without further correspondence.</b></p>
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Signed: \_\_\_\_\_

Date: \_\_\_\_\_ ]

[(a) Form 126A

*Notice of Dispute*

ORDER 26, RULE 10

**For Office Use Only**

Claim No.

Return Date

**Dispute**

**Only complete this section if you dispute the claim**

Take notice that I intend to dispute the claim made against me for the following reason(s):

Signed: \_\_\_\_\_  
(Respondent)

Date: \_\_\_\_\_

**Counterclaim**

**Only complete this section if you wish to make a counterclaim**

I wish to make a counterclaim for £ \_\_\_\_\_ .

Please describe in simple terms the details of your claim. Also include the date the claim arose and, if interest is claimed, the amount, rate and period covered.

Signed: \_\_\_\_\_  
(Respondent)

Date: \_\_\_\_\_ ]

[(a) Form 126B

*Notice of Acceptance of Liability*

ORDER 26, RULE 12

**For Office Use Only**

Claim No.

Return Date

**Liability**

**Only complete and return this form if you admit the claim**

I admit the claim made against me in full and agree to  
Pay the amount stated

Do you wish to apply for time to pay this amount?

Yes

No

If you wish to apply for time to pay you must provide full details of your income and outgoings  
and state the amount you are able to pay £\_\_\_ (per week/month).

Signed: \_\_\_\_\_  
(Respondent)

Date: \_\_\_\_\_

**IMPORTANT**

If you wish to make a payment to the applicant you *must* include the amount of the court fee and  
any interest claimed. If you do not do so a default decree may still be made against you for this  
amount.]



I believe that the above information is true and that the claim does not relate to a minor or a patient.

\_\_\_\_\_  
Signature of the Applicant

Position or office held \_\_\_\_\_  
(if signing on behalf of a firm or company)

\_\_\_\_\_  
Date

Form 128

*Application for a Default Decree*

ORDER 26, RULE 15

<b>For Office Use Only</b> Claim No. Date Filed
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Applicant:  
Full name, postal address, postcode  
and e-mail address (if appropriate) in  
BLOCK CAPITALS

Respondent:  
Full name, postal address, postcode  
and e-mail address (if appropriate) in  
BLOCK CAPITALS

I \_\_\_\_\_ wish to apply for a default decree against \_\_\_\_\_  
on the grounds that no notice of dispute and/or counterclaim has been received in respect of my small  
claim.

The amount of the claim to be assessed by the District Judge.

**Statement of Truth**

I believe that the above information is true and that the claim does not relate to a minor or a patient.

\_\_\_\_\_  
Signature of the Applicant

Position or office held \_\_\_\_\_  
(if signing on behalf of a firm or company)

\_\_\_\_\_  
Date

Form 129

*Application for a default decree to be set aside for directions*

ORDER 26, RULE 20

**For Office Use Only**

Claim No.

~~For Deleted/Not to be Deleted~~

Applicant:

Full name, postal address, postcode  
and e-mail address (if appropriate) in  
BLOCK CAPITALS

Respondent:

Full name, postal address, postcode  
and e-mail address (if appropriate) in  
BLOCK CAPITALS

I \_\_\_\_\_ wish to apply for the decree that issued in the above matter to be set aside [and/or directions]\* on the ground that

Please explain in simple terms the background to this application

I certify that the above information is correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\*Please delete as appropriate