

A guide to The Small Claims Court



national consumer agency
gníomhaireacht náisiúnta tomhaltóirí

putting **consumers** first

National Consumer Agency

Who are we?

The National Consumer Agency is an independent national agency that was established by the Irish government under the Consumer Protection Act 2007.

Our activities incorporate the work that was previously done by the Office of the Director of Consumer Affairs (ODCA). We also have additional areas of focus, which are outlined below, and we have extensive new powers. Among other things, these powers allow us to deal with unfair, misleading or aggressive commercial practices.

What do we do?

Our aim is to provide strong and modern consumer protection, safeguarding consumers in Ireland and empowering them to understand and to exercise their rights.

To achieve our aim, we:

- inform consumers of their rights through **consumer information**;

- promote a strong consumer culture in Ireland through consumer **education and awareness**;
- help businesses obey consumer law through our **enforcement** activities; and
- represent consumer interests at all levels of local and national consumer policy development through **targeted research** and **forceful advocacy**.

Our consumer website, www.consumerconnect.ie, provides a broad range of consumer-related information, news, top tips and an email enquiry service. If you can't find what you are looking for on our website, ring our friendly and helpful advisors on **LoCall 1890 432 432**.

Our corporate website, www.nca.ie, helps businesses understand their obligations. It also provides useful references for the media and researchers. Further information is available in our leaflet ***A Guide To The National Consumer Agency***.

a guide to the small claims court

Most people don't like the prospect of going to court and will generally only do it as a last resort. The Small Claims Court was set up to help the ordinary consumer sort out disputes in small civil cases. It operates in an informal way; for instance you don't need to use a solicitor and you don't need to pay costs if you lose the case.

This booklet describes what type of claims the Small Claims Court deals with, who can use the service and what steps are involved in bringing a claim.

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what is the small claims court?



The Small Claims Court is a relatively cheap, fast and easy way for consumers to resolve some types of dispute without having to pay for a solicitor.

For example, if you have been sold a faulty product or have not received the service you agreed to, the law entitles you to get redress for damage done or for rights infringed. If you have complained to the retailer or service provider and they won't remedy the situation, then your last course of action is the Small Claims Court.

The service of the Small Claims Court is provided in your local District Court office. The current application fee is €9.

Who operates the Small Claims Court?

A clerk of the District Court, called the Small Claims Registrar, processes the claims. They will first try to settle your case through negotiation, without the case having to be listed for court.

Who can use the Small Claims Court?

You can use the Small Claims Court if:

- you are a consumer (someone who has bought goods or services for private use from someone selling them as part of a business); and
- your claim is for €2,000 or less.

The Small Claims Court cannot be used by one business against another. If you received the goods or service as a gift, you must be able to show proof of purchase if you wish to make a claim in the Small Claims Court.



What kind of claims does the Small Claims Court handle?

You can bring claims to the Small Claims Court for:

- faulty goods;
- bad workmanship; or
- minor damage to property.

The Small Claims Court does not deal with:

- debts;
- personal injuries; or
- problems with lease agreements.

These cases are handled by the Private Residential Tenancies Board who can be contacted on 01 888 2960.

how do I make a claim?



First you need to complete an application form. The form asks for:

- your details ('claimant's details');
- the details of the business you are making a claim against ('respondent's details');
- how much you are claiming; and
- the details of what you are claiming for.

You can get this form from your local District Court office, where the staff will help you fill it in.

You can also download the application form from the website www.courts.ie and complete it either by filling it in on screen or by printing it and filling it in by hand. You should then send the completed form and the €9 fee to the Small Claims Registrar, who will look after your claim. They or their staff will give you information and guidance and let you know if the Small Claims Court can deal with your claim.

The Registrar will send a copy of the completed application form to the respondent and will keep the original form in their office.

When you submit your claim don't forget to attach copies of any supporting documents or evidence such as

- letters of complaint;
- photographs; and
- samples of the product.

If the respondent is a company rather than an individual, you need to make sure that you put the correct title of the company on the application form. You may have to do some research to find this out, but the Companies Registration Office at (01) 804 5200 or 804 5201, or LoCall 1890 220 226, will help you with this.



In some cases, you may need to name more than one respondent on the form. This would happen where more than one business might be liable for the fault. For example, if a garment shrinks after being dry cleaned, the fault could be either with the material in the garment or with the dry cleaning process.

In a case where you cannot decide yourself, name both parties on the form and let the court decide. There is no extra cost involved in naming extra respondents.



what happens next?

Once the Small Claims Registrar has informed the business about your claim, the business must respond to the claim, within 15 days.

If they don't, the court will automatically treat the claim as 'undisputed'. This means the court will assume that the business agrees that your claim is valid.

If the claim is undisputed, the Court will make an order in your favour (without you having to attend court) for the amount you have claimed. It will also direct that it be paid within a short, specific period of time.

If the respondent replies to your claim, they may:

- admit the claim and pay you immediately (through the Registrar);
- admit the claim but say they will only pay you if certain conditions are met - for example if you return some faulty goods;

- admit your claim and ask if they can pay the claimed amount in instalments;
- dispute the claim or counterclaim (make a claim in court against you).

What happens if the business disputes my claim?

If the respondent does not agree with your claim or makes a counterclaim against you, the Registrar will send you a copy of the respondent's response.

If you still wish to pursue your claim, the Registrar will negotiate with both parties (the claimant and the respondent) to try to reach agreement without the need for a court hearing.

The Registrar may ask both parties to come to their office for an informal, private meeting.





You don't need to bring a solicitor – the whole point of this procedure is that you can bring a claim without using a solicitor.

The Registrar will probably ask you and the respondent to outline the facts and ask you questions to clarify the issues.

If you and the respondent still fail to reach an agreement, you can ask the Registrar to organise a hearing of your claim before a judge of the District Court.

Do I have to attend the District Court hearing?

You are not legally obliged to turn up in court, but if you don't, your case will not be heard and you automatically lose the claim. If you do attend, remember to bring with you all the evidence to support your claim. This could include documents such as:

- letters;
- receipts;
- invoices; and
- photographs.

Where possible you should also bring relevant evidence such as a faulty product or an example of bad workmanship.

what will happen at the hearing?

The judge will hear all the claims scheduled for that day. When your case is called the Court Registrar will show you to the witness box to give your evidence.

You will give your evidence under oath or affirmation and the respondent can question you on matters relating to your claim.

The respondent will also be given an opportunity to give evidence.

The claimant and the respondent may each bring a solicitor, but the point of this procedure is that you don't need to use a solicitor to bring a claim. If you do bring a solicitor, you will have to pay their fees out of your own pocket. You can also have a witness present, but again you will have to meet any costs they might have even if you win your case.

What happens if the court decides in my favour?

If the court decides in your favour, it will let the respondent know its decision shortly after the hearing. The court will allow the respondent about four weeks to pay the amount they have awarded.

If the respondent does not pay, you can apply to the Small Claims Registrar to have the 'order of the court' sent to the Sheriff to carry it out. This will cost you an additional small fee that will be refunded to you if the Court Order is carried out successfully.

Can the court decision be appealed to a higher court?

Yes. Both the applicant and the respondent have the right to appeal the decision to the Circuit Court. However, in the Circuit Court, the judge may decide to award costs to either you or to the respondent.



A word of warning

The main purpose of this booklet is to provide information on the Small Claims Court and how to make a claim. Before you make a claim be sure you know your rights and check the relevant legislation, particularly the Sale of Goods and Supply of Services Act, 1980.

If you are not sure what your rights are, check the National Consumer Agency website www.consumerconnect.ie or contact our consumer helpline on LoCall 1890 432 432.

Remember, the correct name and address of the respondent must be on your application form so that the Sheriff can carry out the Court Order, if necessary.

If the respondent is a company rather than an individual, it is important to make sure that the correct title of the company is used on the application form. This may take some research on your part, but the Companies Registration Office, on LoCall 1890 220 226, will be able to help you.



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The booklet is produced by:

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You can get copies of this booklet and all our publications by:

- downloading them from www.consumerconnect.ie; or
- contacting our Consumer Helpline at **1890 432 432***

*Note that the rates charged for the use of 1890 (LoCall) numbers may vary among different service providers.