

## What happens if the defendant admits the whole claim?

The Court will automatically give judgment for you. You should contact the defendant to arrange payment of the claim, or for the work to be done, or for the return or repair of the goods.

## What happens if the defendant admits part of the claim?

You can either accept or reject this admission as sufficient to satisfy the whole claim. If you accept it, you can advise the defendant first and settle the matter. Alternatively, you can apply for judgment based on admissions and judgment will be given for you if possible, or a hearing date will be fixed.

After judgment, you can contact the defendant to arrange payment of the claim, or for work to be done, or for return or repair of the goods.

If you do not file the application for judgment within 14 days, a date for a prehearing conference will be set and you will be notified when you have to attend the conference.

## Claims for money owing

What happens if the defendant pays the whole claim? If the full amount is paid directly to you, you must sign a receipt and give it to the person paying you. If the full amount is paid to the Court before the claim is to be heard, the money will be sent to you and you will not need to go to Court. Your claim will end automatically.

What if the defendant pays or offers to pay less than the whole claim? If the defendant pays to the Court, or offers to pay, less than the full amount, you will be notified and can accept or reject this amount. If you accept it, file a **Notice Accepting Money or Offer**. If you do not accept it within 14 days, you will be notified when to go to Court for a Pre-Hearing Conference. Even though a conference date has been fixed, you can still accept an offer as long as the defendant does not withdraw it.

What happens if the defendant offers to pay by instalments? If the defendant offers to pay by instalments in the **Offer to Pay**, you can accept or reject this offer any time before it is withdrawn, or any time before the hearing if it is not withdrawn. If you accept, you file a **Notice Accepting Offer to Pay** in the Court

and judgment will be given for you. If you do not accept it within 14 days, you will be notified when to go to Court for the prehearing conference. Even though a prehearing conference has been fixed, you can still accept the offer as long as the defendant does not withdraw it.

Am I entitled to interest on the claim? You can claim interest if you claim a sum of money owed under an agreement which specifically provided for interest. If there is no agreement covering interest, the Court has a discretion to award whatever rate of interest, if any, it thinks fit.

## Attending Court

If your case has not settled by this stage, or if judgment has not yet been given, you will be notified of a date for a Pre-Hearing Conference. If you do not attend that conference and you are the plaintiff, your claim may be dismissed. If you are the defendant and do not attend, the Registrar may give the plaintiff leave to proceed to default judgment against you.

### For further information on small claims

#### Contact the nearest Local Court office:

Cnr Cavenagh St & Harry Chan Ave, DARWIN  
8999 6298

Court House, First Street, KATHERINE  
8973 8959

Law Courts, Parsons St, ALICE SPRINGS  
8951 5710

Court House, Paterson St, TENNANT CK  
8962 4377

Court House, NHULUNBUY  
8987 1378

#### See other brochures in this series:

**SMALL CLAIMS 2:** Defending a Small Claim

**SMALL CLAIMS 3:** Pre-hearing Conferences and Attending Court

**SMALL CLAIMS 4:** Enforcing Judgment against Debtors.

If you live in a unit and have a dispute with the owners of other units where you live, or with the body corporate, you may also bring a small claim. For information see the brochure **UNIT TITLES: Settling Disputes**.

# SMALL CLAIMS

## 1

### Making a Small Claim



The Northern Territory of Australia  
Department of Justice

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## Making a small claim

If you are owed up to \$10,000 or have a claim against someone for work or goods up to \$10,000 in value, you can make a claim easily and cheaply. Reading this brochure carefully can save you time and money.

### What is a small claim?

A small claim is a claim for an amount of money up to \$10,000, or a work order (an order that a defendant perform work, return, repair or replace goods). Disputes between owners, occupiers or managers of units may also be resolved by a small claim.

### Do you need to make a claim?

This brochure gives a brief outline of what is required in making a claim in the Small Claims Division of the Local Court. It cannot help you decide whether to claim. That is up to you. You may be able to resolve the dispute by talking to the debtor or defendant (the person against whom any claim would be made).

You may wish to discuss a problem in relation to purchased items with the Office of Consumer Affairs at Tourism House, 43 Mitchell Street, Darwin (phone 995184) or Helm House, Bath Street, Alice Springs (phone 515880).

### Try to settle the dispute

It is in both parties' interests to settle a dispute as quickly and reasonably as possible and avoid the necessity for Court action. If you decide to make a claim in the Local Court, this brochure will help to explain how you should proceed. If you are in doubt as to whether or not you should bring your own action, or if you begin an action and things start to get out of hand, you should seek legal advice.

### Time Limits

Most matters which become claims must be filed in the Local Court within three years of the date that the cause of action arose, for example the date that money became due or work was due to be completed. If the person who owes money has acknowledged and confirmed the debt in writing during the three year period, the time limit starts from the date of signature of

that letter or document. The Court has the discretion to extend the limitation period in exceptional cases.

### Contact the debtor or defendant

Contacting the debtor or defendant (or "other side" in terms of a legal action) should be your first step. If you are a creditor (someone owes you money) write a **Letter of Demand** to the debtor, setting out the sum claimed and what it is for (that is, how the debt was incurred) and request payment within a reasonable set period (say 28 days).

If you have a different kind of claim, say for work that was done incorrectly or not completed by a tradesman, or for faulty goods, or services which were poorly performed, or a dispute with the body corporate or the owners of other units where you live, you can still write a letter to the defendant. This should set out the problem, what you expect them to do to resolve it, and explain why you believe they are responsible (for instance because of a contract between you or because of the rules governing the management of your block of units). Again, you should request action within a reasonable set period of time. A contract for the supply of goods or the provision of services can be either a written or spoken agreement.

### What if no agreement is reached?

If no agreement is reached in response to your letter, or if there is no response at all within the time you have given, it will be necessary to make your claim to the Court.

### Who can make a small claim?

Any person (including a company, a business or association) who is capable of managing his or her affairs can make a claim in the Local Court. A person under 18 years must have a "litigation guardian".

### Who can I make a claim against?

Anyone. A person under 18 or people who cannot manage their affairs must appoint a litigation guardian if they wish to defend the action.

### How do I make a claim?

#### Step 1

You must fill in a **Statement of Claim** form which you can get from any Local Court office. You must then file the claim in the nearest Court and pay a filing fee. The filing fee is at the moment \$65.00.

Be sure to fill in your address for service of documents. You must have an accurate address for the defendant. If your claim is against a business or company and you are uncertain of its proper name or registered address, you should check this information at the Office of Business Affairs or the Australian Securities Office.

#### Step 2

One copy of the **Statement of Claim and Notice in form 6A** must be served on the defendant. " Service of the Statement of Claim and attached documents must be on the defendant in person, it is not enough to send the document to an address. You can serve the document yourself or arrange for someone else to do it on your behalf eg a bailiff.

#### Step 3

If you arrange service yourself, the person serving the documents must file a document called a **Declaration of Service** within 28 days of service, in the office of the Court where the claim was filed. The Declaration of Service form is on the back of the Statement of Claim and is proof that someone has served the claim on the defendant.

### What happens after service?

The defendant can settle or pay the claim, or file:

- (a) a **Notice of Defence**, or
- (b) a **Notice of Admission** admitting all or part of the claim, or
- (c) an **Offer to Pay**.

If any of these documents are filed, a copy will be sent to you. If the defendant does not file any of these documents within 28 days from the date the claim was served, you can apply for judgment without a formal Court hearing. You fill in a form called **Application for Default Judgment**. You can get these from the Court.

### Can we settle at this stage?

Yes, you can settle the dispute at any time but you must let the Court know. The best way is for both parties to sign an agreement and file it in the Court. This will stop further dispute.

### What happens if the defendant defends the claim?

The Court will send you:

- (a) a copy of the **Notice of Defence**, and
- (b) a **Notice to attend a Pre-Hearing Conference** in the Court building.