

In more complex cases you will need to have some understanding of the legal basis of the claim, your defence and court procedures. You may, for example, need to provide experts' reports and organise statements from witnesses. In any case it may save you a lot of money, time and effort if you gain some legal advice when you receive the claim.

Please remember that this and other leaflets can only provide you with a general idea of what is likely to happen. They cannot explain everything about court rules, costs and procedures which may affect different claims in different ways. Court staff can provide you with information, tell you about court forms and procedures, but they cannot give you legal advice or answer questions like "Will I win my case?", "What evidence do I need?" You should seek legal advice from an advocate. A list of Manx advocates is available through the Isle of Man Law Society.

Other leaflets in the series:-

For the claimant

- HCG01**—What is a small claim?
HCG02—How to make a small claim
HCG03—No reply to my claim
HCG04—The defendant admits my claim, I claimed a fixed amount
HCG05—The defendant admits my claim, I did not claim a fixed amount
HCG06—The defendant disputes all or part of my claim
HCG07—I am coming to a court hearing, what do I need to know?
HCG08—I have a judgment but the defendant has not paid
HCG09—How do I apply for execution?
HCG10—How do I apply for an attachment of earnings order?
HCG11—How do I apply for a charging order?
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For the defendant

- HCG13**—A claim has been made against me, what should I do?
HCG14—Defending a claim
HCG15—Paying my judgment
HCG16—I cannot pay my judgment, what can I do?
HCG17—I have received a charging order, what is it?
HCG18—I am coming to a court hearing, what do I need to know?
HCG19—Registered judgments, what does this mean?

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ISLE OF MAN
COURTS OF JUSTICE

Defending a claim **HCG14**
Defendant guidance in the Small Claims Procedure

Defending a claim

www.courts.im

What is defending a claim?

This is where the you file a form called a defence. It is an answer to a claim made against you to indicate you want to contest the claim. The defence will contain statements as to why you disagree with the claim. It is a document to let the claimant know what your position is so that the matter can proceed with both parties knowing what the other intends to say about the issue.

I want to defend the claim - what do I do?

Complete form **HC2B** - Acknowledgment of Service if you wish to extend the time for filing your defence.

If the claim is for a specified amount complete form **HC2E** – Defence & Counterclaim Form (specified).

If the claim is for an unspecified amount complete form **HC2F** – Defence & Counterclaim Form (unspecified).

Whichever form you complete, you must make sure that one copy is taken or sent to court (called 'filing') and the other copy is taken or sent to the claimant no later than 14 days from the date the particulars of claim were served on you. If you do not, the claimant can ask the court to enter a judgment. This means that you will be ordered by the court to pay the amount of the claim, or an amount decided by the court, and costs.

Why would I file an acknowledgment of service rather than a defence form?

Filing the acknowledgement of service allows you more time in which to seek advice and complete your defence. If you file an acknowledgment of service within 14 days of service of the particulars of claim, this extends the time for filing the defence to 28 days from the service of the particulars of claim.

What if my defence is that I have already paid the amount claimed?

You should still complete the defence form **HC2E** – Defence Form (specified) or **HC2F** – Defence Form (unspecified) and send or take one copy to the court. Again, you must take or send the other copy to the claimant at the address to which documents or payments should be sent at the end of the claim form.

The claimant must respond within 28 days of receiving the form from you stating whether:

- it is agreed that the money has been paid and the matter will not be taken any further; or
- it is not accepted that the money has been paid, that the claim should continue as a defended claim.

If you paid the money after the date of issue (shown on the claim form), the claimant may still claim for the court fee and any advocate's costs shown on the claim form. You should send the money direct to the claimant.

The claimant owes me money - what can I do?

If you are owed money by the claimant and want to claim this (called making a counterclaim), you can do so by using the defence form **HC2E** – Defence Form (specified) or **HC2F** – Defence Form (unspecified). Complete the appropriate section of the form, then send or take one copy to the court and send or take the other copy to the claimant.

I do owe some money, but not as much as the amount claimed.

You can admit part of the claim if you agree that you do owe some money, but less than the amount claimed. Complete forms **HC2C** – Admission Form (specified) and **HC2E** – Defence & Counterclaim Form (specified) stating how much you do owe and why you consider that you do not owe any more than that.

Send or take one copy to the court and send or take the other copy to the claimant within 14 days of service of the claimant's particulars of claim and 28 days if you have filled in an acknowledgment of service.

- pay the amount that you agree you owe the claimant immediately; or
- ask for time to pay by either instalments of at some future date.

The claimant must reply to you and the court within 14 days of receiving your part admission stating whether it is:

- accepted in full and final settlement of the claim; or
- not accepted and the claim should continue as defended.

If the claim is for an unspecified amount use form **HC2F** – Defence & Counterclaim Form (unspecified) if you want to defend the claim or make a counterclaim.

Will I need to go to court?

If you defend the claim, or if you and the claimant cannot agree about paying instalments, you may have to go to court. Refer to the leaflet **HCG18**— I am coming to a court hearing, what do I need to know?

What happens if I do not pay?

If the court sends you an order to pay, but you do not, the claimant can ask the court to take steps to make you pay. This is called enforcing the judgment.

Should I see an advocate?

In straight forward cases, the small claims procedure provides a simple and informal way of resolving disputes. You should be able to defend your claim without the need for an advocate.