

The copy claim forms will now have a claim number, a date of issue and the court seal on them.

It is your responsibility to file the correct number of copies of the claim with the court, and also to ensure the correct forms are served on the defendant(s) by the coroner.

For example if you file a claim for a specified amount of money against two defendants you should file at least:

- 4 copies of the claim form (including the Particulars of Claim if filed with the Claim Form)

You will need to provide the coroner with the following documents for service on one defendant:

- 1 copy of Form **HC2A** - Response Pack cover sheet;
- 1 copy of the claim form (including the Particulars of Claim if filed with the claim form);
- 2 copies of Form **HC2B** - Acknowledgement of Service (General);
- 1 copy of Form **HC2C** - Admission form (Specified amount);
- 1 copy of Form **HC2E** - Defence & Counterclaim form (Specified amount); and
- 1 copy of Form **HC1B** - Notes for defendant

Therefore you will need to provide the coroner with double the amount of copies for service on 2 defendants. Please ensure that that claim number is on all documents.

What happens if the coroner cannot serve the claim?

If the coroner is unable to serve the claim personally on the defendant he may serve it by post at the address given on the claim form. The coroner will complete a notice of service indicating the method of service and give you a copy which you must then file with the court as proof of service.

If service on the defendant wasn't possible the coroner will return the papers to you and tell you why it wasn't possible.

What can the defendant do when the claim form is received?

The defendant can:

- not reply to your claim at all;
- admit whole or part of your claim is owed; or
- dispute (defend) the whole or part of your 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.

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ISLE OF MAN
COURTS OF JUSTICE

How to make a small claim. HCG02

Claimant guidance in the Small Claims Procedure



How to make a small claim

www.courts.im

There are specific forms you will need to complete depending on the type of claim you wish to make. The forms are available online at www.courts.im or from the Court Office/public counter.

The **HC1A**—Notes for claimant will help you fill in the form. Each heading on the form has a separate note relating to it.

It is important that you read these guidance notes carefully before you start to complete the form. Court staff **cannot** provide you with advice.

What if I do not know the defendant's current, last or usual address?

If you do not know the current, last or usual address of the defendant you may be able to apply for an alternative method of service. You should apply to the court using form **HC8A** - Application Notice General.

For further information on service by an alternative method please refer to Part 2, Chapter 7 of the Rules of the High Court of Justice 2009. The rules are available for purchase from the Tynwald Library or can be downloaded from the courts website www.courts.im.

The defendant lives outside the Isle of Man, can I still make a claim?

If the defendant is to be served outside the Isle of Man you must obtain the court's permission. Use Form **HC8C** - Application Notice (permission to serve outside of the jurisdiction) to apply to the court for service outside of the Isle of Man.

I am not sure what procedure should be used.

You *must* select the procedure to be used.

- If your claim is for £10,000 or less (£5,000 or less if the claim is for personal injuries) then you should select the Small Claims Procedure.

- If your claim is for £10,001 or more (£5,001 or more if the claim is for personal injuries), but less than £100,000 then you should select the Summary Procedure.
- If your claim is for more than £100,000 or where the financial value of the claim is to be decided by the court then you should select the Ordinary Procedure.

If your claim is complex or there are other considerations you should seek legal advice as to the correct procedure for your claim. There may be cost consequences to issuing your claim incorrectly.

Can the procedure I have chosen be changed by the courts?

Court staff will check the claim form to ensure that the correct procedure has been chosen. If the court staff are in any doubt they will refer the matter to a judge.

How does the judge decide if my case is a small claim?

When reaching a decision the judge will consider the following:

- your views;
- the views of the defendant;
- the amount of the dispute – which should not exceed £10,000;
- the type of claim – these will usually be;
 - consumer claims (e.g. faulty goods or workmanship);
 - disputes over the ownership of goods; or
 - disputes between landlords and tenants regarding rent arrears, repairs etc.
- the amount and type of preparation needed to be able to deal with the case justly (proportionality).

How will I know which procedure my claim has been changed to?

Before the forms are returned to you by the court, court staff will contact you to inform you of any change.

Can I ask for my claim to be dealt with in the small claims procedure if the amount in dispute is over £10,000?

Yes, if:

- the defendant consents in writing; and
- the judge is satisfied that the claim is straightforward enough for the small claims procedure.

Can I claim interest?

You can claim interest on the money the defendant owes you. If you wish to claim for interest you must include details of the basis in your Particulars of Claim, namely if it is:

- under the terms of a contract;
- according to legislation, and if so which; or
- on some other basis and, if so, what that basis is.

You must also state:

- the percentage rate at which interest is claimed;
- the date from which it is claimed;
- the date to which it is calculated, which must not be later than the date on which the claim form is issued;
- the total amount of interest claimed to the date of calculation; and

the daily rate at which interest accrues after that date.

What will it cost and what if I can't afford it?

You will have to pay to the court fee. Court staff will be able to tell you how much you have to pay. Please note that the fee might increase each year.

What happens next?

When your claim is processed by the court, the appropriate number of copies of the processed claim form, together with any other documents you may have filed, will be left at the public counter *for you to collect*. Please allow 5 working days for the court to process the claim.