

A date for the final hearing will also be set at the directions hearing so you should be aware of your future availability to attend any further hearings.

For further information on coming to court please refer to leaflet HCG07 I am coming to a Court hearing, what do I need to know?

What if the defendant does not pay?

If the defendant does not pay, it is up to you to ask the court to take further action, called 'enforcing the judgment'.

There are different ways you can try to enforce the judgment, namely:

- execution;
- an attachment of earnings order;
- an arrestment order;
- a charging order; and/or
- appointment of a receiver.

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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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?

HCG12—How do I apply for an arrestment order?

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

No reply to my claim. HCG03

Claimant guidance in the Small Claims Procedure



**No reply to
My claim**

www.courts.im

What should I do?

This section will help you if the person you are claiming against (the defendant) does not reply to your claim. What to do depends on whether your claim is for:

- a fixed sum of money (a specified amount); or
- an amount which is not fixed (an unspecified amount).

An unspecified amount of money is one which is not precise. If, for example, you are claiming damages (compensation) for loss or injury, you might not be in a position to work out exactly what those damages are. You might, however, believe that the amount of damages you are likely to recover will not exceed a figure within the small claims limit. This would be a claim for an unspecified amount.

Please remember court staff are not advocates and are not able to provide you with advice.

The defendant has not replied to my claim for a specified amount of money, what do I do?

If the coroner served your particulars of claim in, or with, the claim form, a notice of service will be given or sent to you. The notice of service shows the date the claim was served on the defendant.

If the claim was sent by post, the date of service is taken as the second day after posting (see postmark for posting date). If the claim form was delivered or left at the defendant's address, the date of service will be the day after it was delivered.

The defendant then has 14 days to reply. You must wait until after this date before you can take any action.

If the defendant does not reply to your claim, you can ask the court to enter judgment. That is, make an order that the defendant pay you the amount you have claimed because no reply has been received.

You should do this as soon as possible after the 14 days have passed. Until the court receives your

request to enter judgment, the defendant can still reply to your claim. If the court receives the defendant's reply before your request is processed, that reply will have priority even though it has been filed late.

How does the defendant pay?

Before you fill out the form asking the court to enter judgment (Form **HC7A** - Request for a Judgment) you must decide how you want the defendant to pay the amount owing. You may want the amount to be paid immediately, however you may wish to consider if you will be more likely to get the money if you allow the defendant to pay by instalments over a period of time. This will depend on the defendant's circumstances.

Once you have decided how you would like to be paid, complete the request form (there are guidance notes on the form to help you) and send or take it to the court. A copy of the notice of service or certificate of service must accompany your form or the application will not be processed until it has been filed.

What will the court do with my request for judgment?

The court will use the information on your request to make and issue a judgment. If you have requested execution to issue at the same time then the court will issue judgment and execution.

The judgment will tell the defendant:

- what the judgment (& execution) is for;
- how much to pay; and
- when to pay it.

The court will then send a copy of the judgment to you and to the defendant. Where judgment and execution is issued, the original of the judgment and execution will be placed at the court office Public Counter for collection by you. You should then give the judgment and execution to the coroner of your sheading (area), who will attempt to recover the amount of the judgment for you. There may be a fee for this. A judgment payable by instalments is not enforceable by a coroner; it is a matter between you and the defendant.

The judgment will be recorded on the Judgments Register. For more information please refer to the leaflet HCG19 Registered judgments - what does it mean?

Please note if you do not request judgment within six months of the end of the period for filing a defence, your claim will be 'stayed' (stopped or halted) and the only action you could take would be to apply to a judge for an order lifting the stay.

What do I do if my claim was for an unspecified sum and the defendant has not replied?

If your claim was for an unspecified amount, complete form **HC7B** - Request for Judgment. Use this form to ask the court to enter a judgment against the defendant for an amount to be decided by the court and costs.

When your request is received by the courts the court file will be referred to a judge.

The judge will decide:-

- whether a court hearing is necessary; and
- what you need to do to help the judge make a decision as to the amount of money you are entitled to, for example what evidence you should provide.

This is called giving 'directions'. Once the judge has made a decision, you and the defendant will be sent an order. This order will say that you are entitled to judgment on liability and will set out any other directions the judge has given.

What will happen at the directions hearing?

If the judge did not give directions and listed the matter for a directions hearing you will receive a notice of what date and time the hearing is to take place. All parties are expected to attend.

At the hearing the judge will give directions for trial which may include the filing of witness statements, expert's reports etc. These documents are for the assistance of the court in coming to a decision about the case.