

Teachings on the Small Claims Court

The Small Claims Court is situated at any Magistrates Court in South Africa and are regulated in terms of the small claim's courts act 61 of 1984

THE PLAINTIFF MAY INSTITUTE A CLAIM?

- Any natural person except juristic persons such as Companies, Close Corporations, and Associations.
- A person under 18 must be helped by a parent or legal guardian.

THE DEFENDANT AGAINST WHOM A CLAIM MAY BE INSTITUTED?

- Apart from the State, against anyone, including Companies, Close Corporations, and Associations.
- **NB:** Please note that claims cannot be instituted against Municipalities/Local Government in a Small Claims Court.

WHAT AMOUNT CAN BE CLAIMED?

- An amount not exceeding R 20 000. (This amount is determined by the Minister from time to time in the Government Gazette.
- If your claim exceeds R 20 000 in value, you can institute a claim for a lesser amount to pursue your case in the Small Claims Court.

LIST OF CAUSES OF ACTION AND EXAMPLES

- **Action for repayment of monies lent to a person**
This is where the plaintiff has borrowed money from the defendant and the defendant has failed to pay over the money either during the stipulated time as per their agreement or upon demand by the plaintiff. The money owed should not exceed R 20 000.
- **Action for the delivery of movable or immovable property**
Where the defendant's indebtedness to the plaintiff arises from property that the defendant had bought from the plaintiff and does not pay for, the plaintiff can sue the defendant in the Small Claims Court. Examples of the property sold and delivered would include furniture or a piece of land not exceeding R 20 000 in value.
- **Action against an occupier of a property**
These are usually actions where the defendant's rental of the plaintiff's property is in arrears and the rental arrear amount does not exceed R 20 000.
- **Actions arising from liquid documents**
These are actions wherein the plaintiff's claim is based on a document like an acknowledgment of debt, a mortgage bond, a promissory note, or a cheque where the amount does not exceed R 20 000.
- **Actions arising from Credit Agreements as prescribed in terms of section 1 of the Credit Agreement Act, 1980 (Act 75 of 1980)**
These are actions wherein the plaintiff is a sole proprietor who sometimes supplies credit facilities to their customers. Where the defendant has failed to pay his or her instalments

in terms of the credit agreement and the arrear payment does not exceed R 20 000 the sole proprietor may approach the Small Claims Court for relief.

- **Actions for damages**

The plaintiff may also sue the defendant for damages arising, for example from a motor vehicle accident wherein the damage to the plaintiff's motor vehicle does not exceed R 20 000 when assessed.

ARE YOU COMPELLED TO INSTITUTE YOUR CASE IN THE SMALL CLAIMS COURT?

- No, you may choose whether you want to institute it in the Small Claims Court or any other competent court.

LEGAL REPRESENTATION AND ASSISTANCE IN THE PREPARATION OF YOUR CLAIM

- Representation by an attorney or advocate is not allowed. You may, however, obtain prior advice from an attorney at your own cost.
- Legal assistants and clerks of the Small Claims Courts will help you free of charge.

INTERPRETERS

- Any of the official languages of South Africa may be used in the court.
- Arrangements for an interpreter must be made with the clerk of the court beforehand if the evidence is to be given in a language with which one of the parties is not sufficiently conversant.

WHAT MATTERS ARE EXCLUDED FROM THE JURISDICTION OF THE COURT?

- Claims exceeding R 20 000 in value.
- Claims against the State including the Municipality or Local Government.
- Claims based on the cession or the transfer of rights.
- Claims for damages in respect of defamation, malicious prosecution, wrongful imprisonment, wrongful arrest, seduction, and breach of promise to marry.
- Claims for the dissolution of a marriage.
- Claims concerning the validity of a will.
- Claims concerning the status of a person in respect of their mental capacity.
- Claims in which specific performance is sought without an alternative claim for payment of damages, except in the case of a claim for making an account or transferring movable or immovable property not exceeding R 20 000 in value.

FORMS IS AVAILABLE AT YOUR LOCAL MAGISTRATES COURT IN THE DISRICT WHERE YOU RESIDE.

- [J141](#)-Summons [Form 01]
- [J993](#)-Letter of Demand in terms of section 29(1) of the Act [Form 04]
- [Complaint Form](#) - Complaint form [45KB]
- [J995](#)-Return of service in terms of rule 12(2) [Form 06]