



STATUTORY INSTRUMENTS.

S.I. No. 519 of 2009



DISTRICT COURT (SMALL CLAIMS) RULES 2009

(Prn. A9/1828)

DISTRICT COURT (SMALL CLAIMS) RULES 2009

The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961 and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the following rules of court.

Dated this 19th day of October 2009.

Miriam Malone Chairperson

Uinsin MacGruairc

Mary C Devins

Thomas E O'Donnell

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 14th day of December 2009.

DERMOT AHERN

Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 18th December, 2009.*

S.I. No. 519 of 2009

DISTRICT COURT (SMALL CLAIMS) RULES 2009

1. These rules may be cited as the District Court (Small Claims) Rules 2009.
2. These rules shall come into operation on the 11th day of January 2010 and shall be construed together with all other District Court Rules 1997 to 2009.
3. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended by the substitution for Order 53A of the Order set out in Schedule 1.
4. The Forms numbered 53A.1 to 53A.4 in Schedule 2 shall be substituted for the Forms bearing the like numbers respectively in Schedule B to the District Court Rules 1997 (S.I. No. 93 of 1997).

Schedule 1

**“ORDER 53A
SMALL CLAIMS PROCEDURE**

Definition

1. In this Order-

“business” means a natural or legal person (including a company, partnership or natural person trading as a sole trader) who supplies, sells or purchases goods or services in the ordinary course of a business;

“business small claim” means a civil proceeding instituted under this Order by a business purchaser against a business vendor in relation to a contract in respect of any goods or service purchased, but excluding any claim—

- (a) arising from an agreement to which the Consumer Credit Act 1995 applies), or
- (b) arising from an alleged breach of a leasing agreement, or
- (c) for debt or liquidated damages,

provided that in every such case the amount of the claim does not exceed the sum of €2,000.00;

“consumer” means a purchaser of goods or a service of a type ordinarily supplied for private use or consumption, where the purchaser does not make the contract in the course of a business and the vendor does make the contract in the course of a business;

“consumer small claim” means a civil proceeding instituted under this Order

(1) in relation to a consumer contract, by the consumer against the vendor in respect of any goods or service purchased, which is not a claim—

(a) arising from an agreement to which the Consumer Credit Act 1995 applies, or

(b) arising from an alleged breach of a leasing agreement,

(2) in relation to a tort, by the claimant (not being a body corporate) against the respondent in respect of minor damage caused to property belonging to the claimant but excluding personal injuries,

(3) in relation to a tenancy, by the tenant (not being a body corporate) against the landlord in respect of the non-return of any sum paid by the tenant as rent deposit or any such sum known as "key money" unless such claim is a dispute that may be referred to the Private Residential Tenancies Board under Part 6 of the Residential Tenancies Act 2004,

provided that in every such case the amount of the claim does not exceed the sum of €2,000.00;

“Form”, unless the context otherwise requires, means a form set out in the schedule hereto, or such modification thereof as may be appropriate in any particular case;

“small claim”, when used without qualification, includes a business small claim and a consumer small claim;

“Small Claims Procedure” means the alternative method provided by this Order of commencing and dealing with a civil proceeding in respect of a small claim;

“Small Claims Registrar” means any District Court Clerk who for the time being is performing the duties and functions of a Small Claims Registrar.

2. Whenever it is intended to institute civil proceedings in the District Court and the claim to which the proceedings relate is a small claim as defined in this Order, the person so intending (in this Order called “the claimant”) may, instead of issuing a civil summons, make application to the appropriate Small Claims Registrar to have the claim processed through the Small Claims Procedure, and the proceedings may then be commenced and dealt with in accordance with the provisions of this Order.

3. An application to which rule 2 relates shall be in writing, which may be in electronic form, in the Form 53A.1, Schedule C. The application, when completed, shall be lodged with the Small Claims Registrar together with any supporting documents required and the appropriate fee. The claimant may call to the court office if assistance is needed in completing the form.

4. The Small Claims Registrar shall, in respect of every such application received, record in writing the name and address of the claimant, the name

and address of the person against whom the claim is made (in this Order called “the respondent”), the date of the application, the nature of the claim and any other relevant details. The Small Claims Registrar shall consider the application and may take such steps as he deems necessary, whether by way of interviewing the claimant or otherwise, to record the full facts of the claim.

5. Where the claim does not come within the scope of the Small Claims Procedure or the claimant fails to supply supporting documents sufficient to identify the proper respondent to his or her claim, the Small Claims Registrar shall so inform the claimant and shall refund the fee. If the Small Claims Registrar considers the claim to be appropriate to the Small Claims Procedure, he shall serve by registered post (or, where permitted, by electronic mail in accordance with rule 15) on the respondent a Notice of Claim in the Form 53A.2 Schedule C (containing also Forms 53A.3 and 53A.4) together with a copy of the claim (Form 53A.1).

6. (1) If the respondent admits the claim made against him and

(a) agrees to pay the amount claimed, or

(b) consents to judgment being given against him, or

(c) wishes to pay the amount claimed by instalments,

he shall complete, detach and return (by post or by hand or, where permitted, by electronic mail in accordance with rule 15) the Notice of Acceptance of Liability (Form 53A.3 Schedule C) to the Small Claims Registrar within 15 days after service of the Notice of Claim and copy claim upon him. On receipt of such Notice the Registrar shall inform the claimant accordingly.

(2) Where the respondent agrees to pay the amount claimed, he may forward to the Small Claims Registrar, together with Form 53A.3, payment by cheque, postal order(s) or money order(s), made payable to the claimant, for the full amount claimed. The Small Claims Registrar shall transmit any such payment to the claimant. If the respondent's agreement to pay is conditional, (e.g. on condition that goods are returned by the claimant), the Small Claims Registrar shall so inform the claimant and seek his agreement to comply with the respondent's requirement.

(3) Where the respondent consents to judgment being given against him, the Small Claims Registrar shall proceed to judgment in the manner provided in rule 11.

(4) Where the respondent wishes to pay the amount claimed by instalments, the Small Claims Registrar shall seek the consent of the claimant to the terms proposed by the respondent.

(5) The details of every agreement reached or settlement effected under this rule shall be recorded in writing.

7. If the respondent disputes the claim or wishes to make a counterclaim, he shall complete, detach and return (by post or by hand or, where permitted, by electronic mail in accordance with rule 15) the Notice of Dispute in the Form 53A.4 Schedule C to the Small Claims Registrar within 15 days after the service of the Notice of Claim and copy claim upon him. Where a counterclaim is made the Notice of Dispute shall be accompanied by the appropriate fee (or where the Notice of Dispute is sent electronically, the fee shall be paid by cheque, postal order or money order to the Small Claims Registrar as soon as may be following transmission of the Notice of Dispute). The Small Claims Registrar shall promptly furnish the claimant with a copy of any Notice of Dispute received from the respondent.

8. (1) The Small Claims Registrar shall use his best endeavours to settle the dispute(s) between the parties and in that connection may interview the parties and any other person whom either party may wish him to hear. Where a settlement is effected, particulars of the settlement shall be recorded in writing.

(2) Where the terms of an agreement or settlement (including an agreement to pay by instalments) are not complied with, the Small Claims Registrar may, if requested so to do by the claimant, proceed to judgment against the other party. In cases other than those where payment by instalments has been agreed, he shall proceed in accordance with the provisions of rule 11. If default is made in the payment of an instalment, Order 46 rule 7(2) shall, with any necessary modifications, apply and Form 46.1 Schedule C prescribed therein (with any necessary amendments) may be used.

(3) Where a decree is issued in a case to which this rule relates, the Small Claims Registrar shall notify the party against whom it was issued accordingly and particulars of the request for and the issue and notification of such decree shall be recorded in writing.

9. (1) Where the Small Claims Registrar fails to effect a settlement of the dispute between the parties, he shall refer the matter to the District Court for hearing.

(2) The Registrar may at any time on his own initiative and shall, if so requested by either party, refer any application or proceeding under the Small Claims Procedure to the District Court for hearing.

(3) Upon referral under this rule, the Small Claims Registrar shall notify the parties of the place, date and time of hearing. He shall make himself available to assist the Court at the hearing, if requested by the Court so to do.

10. The claimant and the respondent shall be liable for their own legal costs and witnesses' expenses (if any) incurred in respect of any claim processed through the Small Claims Procedure.

11. (1) Where the respondent fails to return either the Notice of Acceptance or Liability (Form 53A.3) or the Notice of Dispute (Form 53A.4) to

the Small Claims Registrar within the time permitted and fails to contact the Small Claims Registrar within that period, he shall be deemed to have admitted the claim.

(2) The claimant may then apply for judgment by swearing an affidavit of debt and lodging same with the Small Claims Registrar together with a requisition for judgment and a Small Claims decree, and the Small Claims Registrar shall proceed to judgment in accordance with the provisions of Order 45 as if the Notice of Claim and copy claim served under these Rules were a civil summons issued and served under the Order 39. The forms of affidavit and decree provided in Order 45 may, with necessary modifications, be used for that purpose. The claimant may call to the court office if assistance is needed in completing the forms.

(3) When a decree is issued under this rule, the Small Claims Registrar shall notify the respondent accordingly, and particulars of such issue and notification shall be recorded in writing.

12. The provisions of rule 3 of Order 45 (which relates to the review of judgments) shall, with necessary modifications, apply in the case of a decree obtained under rule 8 or rule 11 and Order 45, rule 3 shall be construed accordingly, save that in any application pursuant to that rule in relation to a decree so obtained the parties shall be liable for their own legal costs and witnesses' expenses (if any).

13. The Court shall not award costs or witnesses' expenses to any party when determining any matter referred to it by a Small Claims Registrar under the Small Claims Procedure. A decree granted in such a case shall be a Small Claims Decree, and the forms of decree at present in use may, with necessary modifications, be used when preparing the order of the Court.

14. (1) Every Small Claims Registrar shall have the power and is hereby authorised, to take affidavits and affirmations for the purposes of processing claims through the Small Claims Procedure and issuing decrees thereunder.

(2) No fee shall be payable by any party in respect of any affidavit or affirmation made by him before a Small Claims Registrar under this rule.

15. (1) Notwithstanding any other provision of these Rules, where suitable facilities for that purpose have been established by the Courts Service, and the Judge for the time being assigned to the relevant district (or in the case of the Dublin Metropolitan District, the President of the District Court) has so directed, the service of:

- (i) a Notice of Claim by the Small Claims Registrar on a respondent;
- (ii) a Notice of Acceptance of Liability by a respondent on the Small Claims Registrar;

(iii) a Notice of Dispute by a respondent on the Small Claims Registrar

shall be valid if transmitted in electronic form as an electronic communication to the respondent's electronic mail address (as identified on any letterhead or stationery of the respondent) or to the Small Claims Registrar's electronic mail address (as identified on a website operated by the Courts Service)

provided that where the sender is not satisfied that the electronic communication was delivered to the intended recipient (by reason of any delivery status message received) or where no response has been received within a period of seven days following such transmission, then the electronic communication shall be treated as if it had never been sent and the relevant document shall be served as provided for by rules 5, 6 and 7 within eight days following such period.

(2) No document sent pursuant to the provisions of this rule shall be treated as invalid or ineffective by reason only of the fact that it does not include a manuscript signature.

(3) Where a provision of this Order requires that a fee or payment be "lodged together with or forwarded together with" a document or that a document be "accompanied by" a fee, such fee or payment shall be deemed to have been validly effected or made provided that it is sent to the Small Claims Registrar as soon as may be following the transmission in accordance with this rule of the document in question and accompanied by a written note quoting any reference or claim number given in respect of the small claim to which it relates.

(4) No document sent pursuant to the provisions of this rule shall be treated as invalid or ineffective by reason only of the fact that any fee associated with the lodgment or delivery of such document is recorded or receipted otherwise than by impression of a stamp on the original document.

Note: Orders 39, 45 and 46 form part of the District Court Rules 1997 (S.I. No. 93 of 1997, as amended). "

Schedule 2

53A.1

Order 53A r 3

AN CHÚIRT DÚICHE
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of District No.....

District Court Small Claims Procedure

APPLICATION TO SMALL CLAIMS REGISTRAR

CLAIMANT: Name and address of person making the claim		RESPONDENT: Name and address of person against whom the claim is made
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____

If you do not identify the correct legal name of the respondent, your claim cannot be enforced.

CLAIM: Set out the particulars of the claim.

I hereby apply to have the above claim processed through the Small Claims Procedure in accordance with the provisions of the District Court Rules.

Dated this day of20....

Signature of the person making the claim

To the Small Claims Registrar,
District Court Office, at.....

Note: This application must be accompanied by a fee of €15.00.

AN CHÚIRT DÚICHE
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of District No.....

District Court Small Claims Procedure

NOTICE OF CLAIM AGAINST RESPONDENT

CLAIMANT: Name and address of person making the claim	RESPONDENT: Name and address of person against whom the claim is made
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

PARTICULARS OF CLAIM

_____*(the contract having been made in said court area/district)

A copy of the claim (Form 53A.1) is attached).

IF YOU ADMIT THE CLAIM, you should complete and detach form 53A.3 and return it to the Small Claims Registrar within 15 days of receipt of this notice.

IF YOU DISPUTE THE CLAIM, you should complete and detach form 53A.4 and return it to the Small Claims Registrar within 15 days of receipt of this notice.

If you believe that the details given of the respondent are incorrect and you are connected with the correct respondent, please arrange to have the appropriate form completed and returned by the correct respondent within 15 days of receipt of this notice.

IF YOU WISH TO DISCUSS THE CLAIM with the Small Claims Registrar you should contact *him/*her at the address below within 15 days of receipt of this notice.

IF YOU DO NOTHING ABOUT THIS NOTICE YOU WILL BE HELD TO HAVE ADMITTED THE CLAIM AND THE CLAIMANT MAY PROCEED TO OBTAIN JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE TO YOU.

Dated this day of 20.....

Small Claims Registrar,

District Court Office, at.....

To the above-named respondent

*delete words inapplicable

53A.3

Order 53A r 6

AN CHÚIRT DÚICHE
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of District No.....

District Court Small Claims Procedure

NOTICE OF ACCEPTANCE OF LIABILITY

CLAIMANT: Name and address of person making the claim		RESPONDENT: Name and address of person against whom the claim is made
<hr/> <hr/> <hr/> <hr/> <hr/>		<hr/> <hr/> <hr/> <hr/> <hr/>

I admit the claim made against me in the above matter and

*I agree to pay the amount claimed and enclose herewith applicable cheque/postal order(s) /money orders(s), made payable to the claimant, for the sum of €..... in full settlement.

*I agree to pay the amount claimed and I will refund the full amount to the claimant when the goods are returned by the claimant.

*I consent to judgment being given against me.

*I wish to pay the amount claimed by instalments of €..... per *week/*month.

Dated this..... day of.....20...

Signature of the Respondent

To: the Small Claims Registrar,
District Court Office,
at _____

*delete words inapplicable

53A.4

Order 53A r 7

AN CHÚIRT DÚICHE
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of District No.....

District Court Small Claims Procedure

NOTICE OF DISPUTE

CLAIMANT: Name and address of person making the claim		RESPONDENT: Name and address of person against whom the claim is made
<hr/> <hr/> <hr/> <hr/> <hr/>		<hr/> <hr/> <hr/> <hr/> <hr/>

*I deny the claim made against me in the above matter for the following reason(s):

*I wish to counterclaim for the sum of €..... for the following reason(s):—

Dated this..... day of.....20...

Signature of the Respondent

To: the Small Claims Registrar,
District Court Office,
at _____

*delete words inapplicable

Order 53A, rule 13, District Court Rules: The Claimant and the respondent shall be liable for their own legal costs and witnesses' expenses (if any) incurred under the Small Claims Procedure.

Where a counterclaim is made, this notice must be accompanied by a fee of €15.00.

EXPLANATORY NOTE

(This does not form part of the Instrument and does not purport to be a legal interpretation.)

These rules substitute Order 53A Small Claims Procedure which has been amended to include provision for a business small claim by a business purchaser against a business vendor in relation to a contract in respect of any goods or services purchased in the ordinary course of a business.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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