

## 1 Existence of an order for payment procedure

There is no specific “order for payment” procedure in Ireland but a plaintiff who is owed a specific amount of money or whose claim is easily quantifiable may receive judgment in default.

### 1.1 Scope of procedure

If the defendant fails to enter an appearance or a defence to the plaintiff’s claim, then the plaintiff may obtain judgment in default. Where the original claim is for a liquidated or definite sum, final judgment may be entered in the Central Office of the High Court or in the Circuit Court Office, depending on the amount of the claim (except in a small number of cases e.g. moneylending matters, in which case the plaintiff must make an application for judgment in default or obtain the leave of the court to have judgment entered in their favour). In other words, in many straightforward debt collection cases, the plaintiff/claimant can obtain judgment in default without having to go to court and can obtain the judgment from the relevant court office through an administrative procedure. If the claim is not for a definite sum of money, then the plaintiff must apply to court for judgment and judgment may not be obtained otherwise than through going to court.

#### 1.1.1 What types of claims are eligible (e.g. only pecuniary claims, only contractual claims etc.)?

Judgment may be obtained by default in almost any type of case. This procedure is not limited to contractual or pecuniary claims, although the system is even more straightforward for such cases. The main exceptions include moneylending matters.

#### 1.1.2 Is there an upper limit regarding the value of the claim?

No.

#### 1.1.3 Is the use of that procedure optional or obligatory?

The use of the procedure is optional, as the plaintiff must take certain steps before he or she will be granted judgment in default: for example lodging the necessary papers in the relevant court office or issuing and serving a notice of motion and affidavit on the defendant. Where a defendant has failed or refused to answer a plaintiff’s claim and if the plaintiff does not pursue the judgment in default procedure, then the only alternative for the plaintiff is not pursuing the claim any further.

#### 1.1.4 Is the procedure available if the defendant lives in another Member State or in a third country?

Subject to agreements between countries on the recognition and enforcement of judgments between Ireland and other Member States (Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters now replaced by Council Regulation (EU) No 1215/2012), or similar agreements made with third countries, the procedure is available if the defendant lives in another jurisdiction. Where the defendant resides outside the jurisdiction, the plaintiff must ensure that the defendant is properly served in accordance with the relevant rules of court that apply to service out of the jurisdiction. If a defendant who resides in another jurisdiction fails to enter an appearance or a defence to the claim, the plaintiff can apply to court for judgment in default in the normal way.

### 1.2 Competent court

The competent court depends on the nature or amount of the claim involved. The plaintiff should apply to the court where he or she instituted the proceedings and that court is in a position to ascertain whether or not the defendant entered any appearance or defence and whether the time for so doing has elapsed. If the amount of the claim is less than €75,000 (€60,000 for personal injuries actions), then the plaintiff may bring their claim in the Circuit Court. If it is greater than that amount, the claim must be brought in the High Court. If the amount of the claim is less than €15,000, the claim must be brought in the District Court. If the claim is for less than €2,000, the claim may be brought in under the Small Claims procedure.

### 1.3 Formal requirements

The plaintiff must ensure that they follow the correct procedures as prescribed by the rules of court. They must serve the proceedings on the defendant. If the defendant fails to enter an appearance or a defence, then the plaintiff may seek judgment in default. If the claim is for a liquidated sum, then all the plaintiff has to do is to have made the request or demand for payment and once that has been done, the plaintiff is generally entitled to judgment from the office of the relevant court without the need for a court order or for an application to a judge. The relevant staff of the court office involved then check to see if the defendant has acknowledged the claim, whether the time limits for so doing have expired and that the plaintiff has provided the office with the necessary evidence such as an affidavit of service and an affidavit of debt specifying the sum then actually due.

Where the claim is for an unspecified amount or if the claim is not readily quantifiable, then the plaintiff must make an application to the court for judgment in default.

#### 1.3.1 Is the use of a standardised form obligatory? (if yes, where can that form be obtained?)

Yes. In the High Court, the relevant Rule for judgment in default of appearance is Order 13 of the [Rules of the Superior Courts 1986](#) as amended and for judgment in default of defence it is Order 27. In the Circuit Court, an application for judgment in default must be supported by certain documentation including the original claim document itself and a declaration of service of the claim. In addition, the application for judgment must be in accordance with Forms 9 and 10 of the Schedule of Forms annexed to the [Circuit Court Rules 2001](#). The forms can be obtained in a schedule attached to the Rules.

Similarly, in the case of the District Court the forms are available as a Schedule to the [District Court Rules](#).

#### 1.3.2 Is representation by a lawyer required?

No. However, if the claim is worth over €75,000 (€60,000 for personal injuries actions), then it is a Circuit Court claim and if it involves complicated issues, then it is advisable, though not obligatory, to have legal advice and representation.

#### 1.3.3 In how much detail do I have to describe the reason for the claim?

The initial claim must set out the parties names, addresses and, if applicable, occupation. It must also set out the amount of the claim, a description of how the claim arose/the cause of action and the details of any demands that were made for payment.

#### 1.3.4 Is it necessary to present written evidence of the claim at issue? If yes, which documents are admissible as proof?

In the initial claim, the plaintiff/claimant sets out all the relevant details regarding the claim such as the amount owed/being claimed, the details of how the claim arose, the demands for payment and a description, if applicable and depending on the nature of the claim, of any other relevant facts such as details of any injuries or losses suffered, treatment received or any other adverse consequences stemming from the cause of action

#### **1.4 Rejection of application**

The court will reject a request or application for judgment in default where the applicant has failed to comply with the requirements of the rules of court. For example, if the rules regarding to service of the documents have not been properly complied with, the claim for judgment in default will fail.

#### **1.5 Appeal**

If the court refused to grant judgment in default it is usually because the plaintiff was not in compliance with the rules of court and so it may be necessary for the plaintiff to begin again by serving a new claim against the defendant in accordance with the applicable rules of court.

A defendant may apply to set aside a judgment given in default. In order to successfully appeal a judgment in default, a defendant would have to satisfy the court of his or her reason for failing to enter the appearance or defence and the court would have to be satisfied that the reasons given explain or justify that failure. If the defendant successfully appeals against the judgment, it will then be set aside and the defendant will have an opportunity to defend the proceedings.

#### **1.6 Statement of opposition**

If the court is of the view that the judgment ought to be set aside, then the defendant may defend the proceedings and enter a defence and the case will proceed in the normal way.

#### **1.7 Effect of statement of opposition**

If a defendant enters a defence within the time allowed by the rules or by the court as the case may be, then the case will proceed in the normal way. The judge will determine how the case is to proceed in the event of any directions being necessary in this regard.

#### **1.8 Effect of lack of statement of opposition**

The failure to file a defence may result in the plaintiff entering judgment in default of defence.

##### **1.8.1 What needs to be done in order to obtain an enforceable decision?**

Judgment in default is an enforceable judgment. See the answers to 1.3.d) above.

##### **1.8.2 Is this decision final or is there still a possibility for the defendant to appeal against that decision?**

The defendant may apply to court to have the judgment varied or set aside. This application would be heard by the same court. The court can set aside the judgment if of the view that it would be just to do so and if there was any impropriety involved in obtaining the judgment or if it is satisfied the defendant has a real prospect of defending the claim. Either party can appeal against an order setting aside the judgment or refusing to set aside judgment.

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