

## “Order for payment” procedures - Northern Ireland

### TABLE OF CONTENTS

- 1 Existence of an order for payment procedure
  - 1.1 Scope of procedure
    - 1.1.1 What types of claims are eligible (e.g. only pecuniary claims, only contractual claims etc.)?
    - 1.1.2 Is there an upper limit regarding the value of the claim?
    - 1.1.3 Is the use of that procedure optional or obligatory?
    - 1.1.4 Is the procedure available if the defendant lives in another Member State or in a third country?
  - 1.2 Competent court
  - 1.3 Formal requirements
    - 1.3.1 Is the use of a standardised form obligatory? (if yes, where can that form be obtained?)
    - 1.3.2 Is representation by a lawyer required?
    - 1.3.3 In how much detail do I have to describe the reason for the claim?
    - 1.3.4 Is it necessary to present written evidence of the claim at issue? If yes, which documents are admissible as proof?
  - 1.4 Rejection of application
  - 1.5 Appeal
  - 1.6 Statement of opposition
  - 1.7 Effect of statement of opposition
  - 1.8 Effect of lack of statement of opposition
    - 1.8.1 What needs to be done in order to obtain an enforceable decision?
    - 1.8.2 Is this decision final or is there still a possibility for the defendant to appeal against that decision?

### 1 Existence of an order for payment procedure

There is no specific 'order for payment' procedure in Northern Ireland. There is, however, a procedure by which an applicant (or plaintiff) can claim a 'judgment in default' where a defendant (or respondent) fails to indicate his intention to defend the proceedings (a 'default judgment procedure').

It may also be possible in a cross border claim within the EU to use the European Order for Payment or the European Small Claims Procedures.

#### 1.1 Scope of procedure

The 'default judgment procedure' is part of the normal civil court procedures in Northern Ireland.

In the High Court, when an applicant ('plaintiff') issues a claim, the defendant (respondent) is required to acknowledge this within 14 days after he has been served with the claim unless the respondent resides outside NI when the time limit depends on where the respondent lives, but this is reflected on the face of the writ of summonses.

In the County Court for civil bills and small claims cases, the period is 21 days. If the defendant (respondent) does not acknowledge that he has received papers relating to the claim and wishes to defend the action, the applicant ('plaintiff') may apply for judgment in default by lodging the appropriate papers in the designated court office.

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

In Northern Ireland, a judgment in default may be obtained in the following types of proceedings, although in certain circumstances, permission of the court will be required:

- debt;
- damages;
- detention of goods;
- recovery of land.

In other instances, application must be made to the court for judgment.

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

In the High Court, there is no upper limit on the value of the claim.

The County Court has general civil jurisdiction to hear and determine any action in which the amount claimed, or the value of specific chattels claimed, does not exceed £30,000.

The small claims process is part of the County Court and can deal with claims which do not exceed £3,000.

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

The procedure for obtaining a judgment in default is part of the normal civil proceedings. It is not a separate procedure. The use of the procedure is optional in the sense that judgment in default is not automatically granted upon the defendant's (respondent's) failure to respond to a claim in the relevant time limit.

In order to obtain judgment in default, the applicant ('plaintiff') must either make a request or an application. Alternatively, the applicant ('plaintiff') can choose not to pursue the claim.

#### **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 UK and other Member States or similar agreements made with other countries, the procedure is available if the defendant (respondent) lives in another Member State or in another country.

The applicant ('plaintiff') must ensure that he has properly served the claim form on a defendant (respondent) in accordance with the rules that apply to service of documents outside Northern Ireland.

Where the defendant (respondent) fails to respond to the claim, the applicant ('plaintiff') must make an application to the court for permission to obtain judgment in default in the usual way.

### **1.2 Competent court**

In Northern Ireland, a judgment in default can be obtained from the court in which the proceedings were initiated.

### **1.3 Formal requirements**

In addition to the requirements listed above - i.e. that the applicant ('plaintiff') followed the correct procedures in issuing the claim and that the defendant did not respond in the required time - the formal requirements to obtain a judgment in default are as follows:

In the High Court, an applicant ('plaintiff') entitled to judgment in default of appearance or defence may obtain judgment by producing the following documents to the appropriate office of the High Court:

#### **Default of Appearance**

- the original document ('writ') by which the proceedings were begun;
- Affidavit of Service confirming that the original proceedings have been served
- Affidavit of Debt if the claim is for a liquidated sum;
- If Possession of land a certificate stating that the property is non residential

#### **Default of Defence**

- Original document (writ) by which the proceedings were begun;
- Copy of the memorandum of appearance served by the respondent

- Affidavit of Debt if the claim is for a liquidated sum or a copy of the plaintiff's Statement of Claim
- A certificate stating that a defence has not been served
- If possession of land a certificate stating that the property is non residential

In the County Court, an applicant ('plaintiff') entitled to judgment in default of an indication of the defendant's intention to defend may enter judgment by lodging in the office of the court, a similar set of documents to those set out above.

In small claims cases there is a specific form entitled an "Application for a default decree" which the applicant must complete and lodge with the relevant court office.

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

The necessary forms which should be used for initiating proceedings and those required at other stages of the processes can be found in the following court rules:

- The Rules of the Court of Judicature (Northern Ireland) 1980 [S.R. 1980 No. 346]
- County Court Rules (Northern Ireland) 1981 [S.R.1981 No.225]

These can be accessed on the [Northern Ireland Courts and Tribunals Service](#) website.

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

No, however, as a general rule, it is advisable to seek the advice of a solicitor. Court staff are not qualified to give applicants or respondents legal advice.

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

As an application for judgment in default is part of the civil court procedures in Northern Ireland, it will have been necessary for an applicant ('plaintiff') to issue proceedings in the usual way and details of the claim will have been included in the originating papers. The application for judgment in default must indicate why this is sought.

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

Written evidence of the claim at issue will be included as part of the documents provided to the court when an application for a judgment in default is made.

## **1.4 Rejection of application**

When an applicant (plaintiff) issues a claim against a defendant (respondent) for a claim in which the amount needs to be determined by the court, and the defendant (respondent) fails to indicate his intention to defend, the applicant (plaintiff) may seek a judgment which states that the amount is to be assessed by the court. In such cases, the amount of the claim shall be assessed by the judge. the judge may decide on the amount due or may decide that nothing is due under the claim.

There are other cases that require an application to be made to a judge to decide whether a judgment in default can be granted. These include cases where the claim is served upon a defendant (respondent) in another jurisdiction, where the defendant (respondent) is a State, the Crown or a person or body immune from civil proceedings.

An application is also necessary where the claim is against a child or patient, or is a claim in negligence ('tort') by one spouse against another.

## **1.5 Appeal**

An application can be made by a defendant (respondent) to have the judgment in default varied (e.g. changed to a lower amount where part of the debt was paid prior to judgment) or set aside (i.e. cancelled).

Where the applicant (plaintiff) has reason to believe that the details of the claim did not reach the defendant (respondent) before the judgment, he has a duty to apply to the court to ask the court to set aside the judgment in default.

## **1.6 Statement of opposition**

If a defendant (respondent) wishes to have an order for judgment in default cancelled or changed after it has been granted, he must act promptly to apply to the court to have the judgment set aside or varied.

The court can vary or set aside the judgment in default if it considers that there is good reason for doing so or that the defendant (respondent) has a real prospect of successfully defending the case.

## 1.7 Effect of statement of opposition

If the defendant (respondent) lodges a defence to the claim within the required time the case proceeds as a normal contested claim.

If a judgment in default is set aside after a successful challenge, a case might have to start again or a defendant (respondent) might be given the opportunity to issue a defence to the claim. What happens will be determined by the judge depending on the circumstances of the case.

## 1.8 Effect of lack of statement of opposition

The judgment in default procedure only becomes available as a result of the defendant's (respondent's) failure to defend or acknowledge the claim in the required time. Only then can the applicant (plaintiff) file a request or application for judgment in default.

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

The judgment in default is a decision that the applicant (plaintiff) can enforce against the defendant (respondent). The procedures that need to be followed to obtain the judgment in default are described in paragraph 1.3) above.

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

As described above, the defendant (respondent) can ask the court to vary or set aside the judgment in default (i.e., to change the terms of the judgment or to cancel it in its entirety).

The court can vary or set aside the judgment in default if it considers that there was some procedural impropriety or that the defendant (respondent) has a real prospect of successfully defending the claim or that there is a good reason for doing so.

### Related links

Further information regarding the procedures can be obtained from the [Northern Ireland Courts and tribunals Service website](#).

### Assistance for Disabled Litigants

Some court offices have designated Customer Service Officers who might be able to assist. If they cannot help, the disabled litigant can contact the Northern Ireland Courts and Tribunals Service Communication Team on +44 300 200 7812.

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