



April 2014

## THE SMALL CLAIMS COURT

Only a natural person may institute legal action in the Small Claims Courts. Therefore, juristic person, i.e, a company may not appear in this court or bring an action in it.

The Small Claims Court is a court which has been established to assist a person in instituting legal action without incurring excessive court costs.

The Small Claims Court allows you to institute minor civil claims in a speedy, affordable and simple manner without the representation of an attorney. It has a monetary jurisdictional limit of R12 000 which means that any action for the recovery of money may be brought in this court provided the amount of the claim does not exceed R12 000.

It is important to contact the other party in your claim either telephonically or in writing BEFORE you take any steps through the Small Claims Court. This other party is called your opponent in the case. You must explain what your claim consists of and why you are claiming it. This is usually claimed by way of a letter of demand sent via registered post in order for you to be able to prove to the court that you have sent same.

You will then take a copy of the letter of demand and proof that it was posted to the clerk of the Small Claims Court and ask the clerk to issue Summons on your behalf. The clerk will help you fill to out the Summons. Thereafter, you will serve the Summons on your opponent either personally or you will use the sheriff. The Summons gives your opponent 10 days in which to pay the amount of your claim to you. It also states on which date the parties must appear if the 10 day period has lapsed and the defendant has failed to pay in order for the matter to be heard.

What happens if your opponent does not appear in court? The court can still make its decision even if your opponent is not there. The commissioner can grant a Default Judgment.

The commissioner's decision or judgment cannot be taken on appeal. The commissioner's judgment can be taken on review in the High Court only.

The same methods for enforcing a judgment in an ordinary civil case can be used in this court.



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