

A dissatisfied party may file an Application to 'Set-Aside' the said Default Order by filing in Form 6 of Rule 15(1) of the Small Claims Tribunal. The Form is available at the Registrar of the Subordinate Court of the Law and Courts Building, Bandar Seri Begawan during office hours. The application **MUST** provide ground(s) or reason(s) for the absence in the "Application to Set-Aside" Form.

A date will be fixed for the hearing of the Setting Aside Application, and a notification will be sent to the Applicant and the opposing party. Attendance is **compulsory**, and if the application is heard before a Adjudicator, failure to attend the hearing can result in preclusion against the applicant filing further application to set aside.

11. **WHAT DOES A "STAY OF EXECUTION" MEAN?**

Any party that is dissatisfied with an Order made by an Adjudicator may appeal against the said Order to the High Court. The dissatisfied party may apply for the Order appealed against not to be executed pending the disposal of the appeal. Such an application is called a 'Stay of Execution'.

The application will be heard before the Small Claims Tribunal. The application should be made by filing in Form 18 which can be obtained from the Small Claims Tribunal Registry.

The application for Stay of Execution does not apply in reference to Appeal to the Adjudicator against the Discontinuance Order by a Registrar.

12. **WHAT DOES IT MEAN TO ARRIVE AT A SETTLEMENT WITH THE OTHER PARTY?**

A **Settlement** refers to an agreement concluded by the **parties** on terms which are acceptable to all of them at Consultation or Hearing.

For example, the **Claimant's Cause of Action** against the **Respondent** is for a sum amounting to \$300/-, being the price for goods sold. However, because there are some defects in those goods, if both the **parties** at the Consultation or Hearing agree that the **Respondent** will pay the **Claimant** the sum of \$210/-, to reflect the cost of rectifying those goods, a **Settlement** is then reached.

Where such a Settlement is facilitated by a Registrar or an Adjudicator of the Small Claims Tribunals, a Consent Order will be made giving effect to the terms of that agreement. The copy of the Consent Order will be served on both parties. No Appeal to the High Court may be made against such Consent Orders. Once a Consent Order is granted by the Registrar or Adjudicator, the parties are to comply with the terms therein.

13. **WHAT IS THE LIMITATION PERIOD TO FILE A CLAIM?**

All claims must be made within one year from the date the cause of action accrued.

For example, if a payment is due on the 1st January 2012 and is left unpaid, then the claim should be brought on or before the 1st January 2013.

14. **DO I NEED A LEGAL REPRESENTATIVE?**

If you choose to bring a lawyer, your lawyer will not be permitted to represent you in the proceedings before the tribunal.

SMALL CLAIMS TRIBUNAL

General Information

For more information please contact:

The Small Claims Tribunals
Subordinate Court
The Law and Courts Building
KM 11/2, Jalan Raja Isteri Pengiran
Anak Saleha,
Bandar Seri Begawan, BA 1910,
Negara Brunei Darussalam
or
Subordinate Courts in
Kuala Belait, Tutong and
Temburong.

Office Hours:
Government Office Hours (Counter)

General Inquiries: Tel.no.: 2232979

1. **WHAT IS A SMALL CLAIMS TRIBUNAL?**

A Small Claims Tribunal is set up to provide a low costs and expeditious forum to resolves disputes without entering into the realm of a court trial. The procedures are kept simple and informal.

2. **WHAT TYPE OF DISPUTES CAN BE HEARD IN THE SMALL CLAIMS TRIBUNALS?**

The Small Claims Tribunal has jurisdiction to hear cases involving contract of sales of goods, a contract for provision of services, claims arising from a respondent causing damages to a property and contracts under the Consumer Protection Act, where the claim does not exceeds bnd \$10,000.

3. **WHO ARE THE PARTIES TO THE CLAIMS?**

A party bringing an action is the Claimant. The person whom the claim is brought against is the Respondent.

For example, if a supplier after delivering goods to his customer does not get paid, the supplier (Claimant) will have a Cause of Action to claim for the price or balance price of the unpaid goods against the customer (Respondent), provided the Claim is within the Tribunals' jurisdiction.

4. **WHAT KIND OF HEARINGS WILL THERE BE FROM THE BEGINNING TO THE END OF A CASE?**

In general, the proceedings can be divided into three stages, namely, Consultation(s), mention(s), and the Hearing itself.

5. **WHAT IS A “CONSULTATION”?**

A **Consultation** is an initial process whereby both parties will present their case before a Registrar and the Registrar will attempt to **mediate/address** the issues between both parties with the view to resolve their disputes amicably.

The Registrar conducting the consultation **will not** be sitting as a judge but rather as a mediator. The role of a Registrar is to guide both parties towards a **Settlement**.

If no agreement can be reached between both parties, the Registrar will refer the matter to an Adjudicator for hearing.

If the Claim has been settled between parties **prior to the Consultation**, the parties should inform the Registrar by writing or in person to the Tribunal before the date of Consultation.

If a **Settlement** is reached, the terms of Settlement will be recorded in the form of a Consent Order. A copy of the Consent Order will be given to the parties. The Order has to be compiled by both parties. If any party is absent on the day of the Consultation, a **Default Order** may be made against the absent party.

6. **WHAT HAPPENS DURING CONSULTATION?**

During the Consultation, the Registrar will explain their role as a mediator and not as a judge.

The Registrar will then hear the issue raised by Claimant and from the Respondent. The Registrar will then help to bring about a settlement by suggestion options that is acceptable to both parties (on a voluntary basis).

7. **WHAT HAPPENS AT A MENTION?**

A mention before a Registrar or Adjudicator is often fixed to deal with issues like hearing dates, number of witnesses parties are intending to call, evidence to be produced etc. It is not a hearing of the matter.

8. **WHAT IS A “HEARING”?**

When a Registrar of the Small Claims Tribunals is unable to mediate a **Settlement** between the **Claimant** and the **Respondent**, the Registrar will refer the matter for Hearing i.e. a trial or adjudication before an Adjudicator of the Small Claims Tribunals.

9. **WHAT IS A “COUNTERCLAIM”?**

When a Claim is filed against a Respondent by the Claimant, if the Respondent has a claim against the Claimant in the same subject matter of the dispute, the Respondent may file a **Counterclaim** against the Claimant. The Counterclaim should be filed before any Order is made in the Claim or before the matter is heard by an Adjudicator, whichever is earlier. The **Counterclaim** may also amount to a defence to the Claimant's claim. The amount claimed must not be more than \$10,000.

For example, the customer (in this case the **Respondent**) may make a Counterclaim against the shopkeeper (who is the original **Claimant**) for having sold him goods which are defective.

[Both the Claim and the Counterclaim must involve the same subject matter of dispute involving the Claim.]

In a Counterclaim, the Respondent having made the counterclaim will be known as the Counterclaimant.

10. **WHAT IS A “SETTING-ASIDE ORDER”?**

When an absent party fails to attend a Consultation, a **Default Order** may be entered against the absent party. The absent party if dissatisfied with the Default Order made against him/her can apply for the Default Order to be set aside.

SMALL CLAIMS TRIBUNAL

Before Filing a Claim
in the Small Claims
Tribunal

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Before filling a claim at the Tribunal, you may wish to consider the following:

- **Do you have a claim?**

This must be considered before filing a claim at the Tribunal. You must ascertain that you have a cause of action against the person you wish to file the claim against.

- **Does your claim fall within the jurisdiction of the Small Claims Tribunal?**

Small Claims Tribunal have jurisdiction to hear cases involving contract of sales of goods, a contract for provision of services, claims arising from a respondent causing damages to a property and contracts under the Consumer Protection Act, where the claim does not exceed \$10,000.

- **Have you attempted to settle the claim amicably?**

It is advisable to consider settling the claim amicably before filing a claim at the Tribunal. Parties are encouraged to settle their claims amicably. Court action should be your last resort/option.

[When a claim is filed, it is the start of civil proceedings in court.]

- **Is the other party in a financial position to pay the sum that you are claiming?**

It is important to ensure that the other party is in a financial position to pay that sum that you are claiming. You may wish to note that expenses would be incurred in filing the claim and enforcing an Order of the Tribunal.

- **Will I be provided with legal advice?**

The answer is NO. The role of the Registrars of the Small Claims Tribunal are purely **mediatory**.

A Registrar will hear the case presented by both parties and allow parties to come to an amicable solution to resolve their disputes. In the event that both parties are not able to resolve their disputes, the Registrar will fix the case for hearing before an Adjudicator where the matter will be judged.

- **Am I allowed to have a lawyer to represent me at the Tribunal?**

At the Tribunal, legal representation is not allowed. You bear your own responsibility to prepare your own documents and the conduct of your case.

- **What are the expenses to file a claim in the Small Claims Tribunal?**

You will have to incur fees at various stages of the case and for the preparation of your case.

Please refer to The Small Claims Tribunals, Subordinate Court, The Law and Courts Building for the further information.

You **may** have to incur further costs for obtaining documents in support of your case. The party who wins the case **may** be able to recover the above expenses.

- **Can I afford the time?**

The time spent depends on the issue/s raised by the claimant and the complexity of the case. Even if you win the case, you may spend more time to enforce the judgment.

- **Do I need to consult a Lawyer?**

This is a frequently asked question where members of the public wish to know the merits of their case, if they should proceed with their claim or the best way to present their case. It is advisable that you seek your own legal advice as the officers of the Tribunal cannot give legal advice. You will however have to incur costs for this consultation.

- **Are you aware that commencing a claim at the Small Claims Tribunal does not necessarily mean that you will get a decision in your favour?**

The hearing in the Small Claims Tribunal is a court proceeding. At the hearing, an Adjudicator will hear the case presented by both parties and decide your case based on merits in accordance with the law.

- **Do you know that you may have to apply for enforcement proceedings if the other party does not pay or comply with the Order of the Tribunal?**

When an Order is granted in your favour and the other party does not pay, you may have to file a separate enforcement proceeding in the Subordinate Court by paying the appropriate fees that have been fixed.

Thank you

SMALL CLAIMS TRIBUNAL

**HOW TO START
A CLAIM**

1. Type of claims

Claims that may be filed in the Small Claims Tribunal are fairly limited. A Claimant may file a claim only if the cause of cause falls within the following:

- contract of sales of goods,
- a contract for provision of services,
- claim arising from the respondent causing damages to a property ad contracts under the Consumer Protection Act,
- which amount does not exceed \$10,000.

2. Respondent's particulars

- The claimant should ascertain the full name of the Respondent and his/her address.
- If the Respondent is a company, the claimant should conduct a company name search to obtain the updated company's name and address.

3. Filing of Forms

- To file a claim under the Small Claims Tribunals, the claimant should file in the particulars of the claim in Form 1.
- If the Respondent has a claim against the Claimant in the same subject matter of the dispute, the Respondent may file a **Counterclaim** against the Claimant.
- The Respondent should file in the particulars of the Counterclaim in Form 2.
- Both Form 1 and Form 2 are available at the Small Claims Tribunal Registry at the Law and Courts Building, Bandar Seri Begawan during office hours.

4. Filing Fees

- Parties lodging or filing a claim would have to pay claim fees as follows:

	Not exceeding \$5,000	Exceeding \$5,000 but not exceeding \$10,000
Consumer	\$10.00	\$20.00
Non-consumer	\$50.00	\$100.00

5. Service of Claim

- Service of the claim can be done by the Claimant in person, post to the last known address of the Respondent, served by a court process server or by any other means that it considers proper.
- After the claimant has filed his claim and paid the prescribed filing fees, the SCT Registry will issue out Form 4, which is the Notice of Consultation. It provides the date and time for the Consultation where both parties are required to appear.

6. What are the fees for a court process service?

- Court process service fees are governed by Rule 19 of the Magistrates' Courts (Court Fees and Costs) Rules.
- The fees for a process service are:
 - a) Within 8 kilometers of Court House
= \$20.00
 - b) More than 8 kilometers from Court House
= \$40.00

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