En el ámbito de la justicia civil, los procesos y procedimientos pendientes iniciados antes del final del período transitorio proseguirán con arreglo a la legislación de la UE. El Portal de e-Justicia mantendrá la información relativa al Reino Unido, sobre la base de un acuerdo mutuo con este país, hasta el final de 2024.

How to bring a case to court

Gibraltar

1 Do I have to go to court or is there another alternative?

Issuing a claim at court should be your last resort. You should first consider other ways to settle the matter. For example, if you are owed money you could write a letter to the person who owes it, say how much they owe, what it is for, and what steps you have already taken to recover it. You could include a warning that if they do not pay by the suggested date you will issue a court claim.

If you cannot settle things by any other way you may decide to issue a claim. If your claim is defended it can proceed in one of three ways. The small claims jurisdiction of the Supreme Court is a system for handling smaller claims (generally £10000 or less) in a quick, cheap and easy to use manner. For larger claims the Supreme Court has two other tracks. The fast track is normally for cases where the amount in dispute is more than £10000 but not more than £15000, where there is a need for only limited disclosure of documents to the defendant and where a period of no more than around 30 weeks is needed to prepare for a trial. All other cases are allocated to the multi track.

Most 'litigants' (people involved in court actions) acting for themselves choose to issue in in the Small Claims jurisdiction.

While the information below may help you decide how best to resolve your dispute it will only give you a general idea of what may happen. It does not explain everything about court rules, costs and procedures which may affect different types of claims in different ways. You should also remember that even if you win your case the court cannot guarantee that you will be able to get any money you are owed.

2 Is there any time limit to bring a court action?

There are time limits or limitation periods during which a court action should be made. The general limitation period is six years from a relevant date – for example the date of breach of contract or when damage was suffered or sometimes when any damage was discovered. Other limitation periods include one year for defamation or three years for clinical negligence and personal injury. The limitation periods can be found in the Limitation Act 1960 . The question of time limits can be clarified with a lawyer or the Citizens Advice Bureau.

3 Should I go to a court in this Member State?

There are specific rules in EU legislation that determine in which Member State a claim should be brought. More information can be found in the page “Juridiction”.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

There is only one court building in Gibraltar. The Gibraltar Courts Service is located at 277 Main Street, Gibraltar.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

There is only one court building in Gibraltar. The Gibraltar Courts Service is located at 277 Main Street, Gibraltar.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

There is no requirement for a person to seek the advice of, or be represented by, a lawyer. A litigant in person is able to bring any claim personally. It is up to the individual concerned.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

You can “issue” or start a claim at the Supreme Court of Gibraltar, 277 Main Street, Gibraltar.

The Supreme Court Registry is open between 0930 and 1600 Monday to Thursday and between 0930 and 1545 on Fridays (shorter counter hours apply during the summer months). There is a public counter where court staff can receive claims and provide information on court procedures. Court staff cannot give legal advice. (They may be able to tell if you can apply for legal aid.)

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

Claims should be completed in writing in English and the court proceedings are conducted in English, with the aid of interpreters if necessary. Generally, a claim should be taken in person to the Registry of the Supreme Court of Gibraltar.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

In general, to start a claim you must complete a claim form (Form N1). The Supreme Court Registry staff can assist you with obtaining copies of the form. Staff can be contacted at the Supreme Court Registry, 277 Main Street, Gibraltar or on telephone number (+350) 200 75608.

This form includes notes for guidance for the claimant and the defendant (the person, firm or company against whom the claim is being made). Court staff can help with filling in the form. The notes for guidance give details of the information that should be included with your claim. Once you have completed the form you should make one copy for yourself, one for the court and one for each defendant you are claiming from. Once the Supreme Court Registry has issued the claim form, it will be returned to you so that you can send each defendant a copy. A defendant should also be sent an Acknowledgement of Service Form and Response Pack.

There are a number of other forms for use in other types of proceedings or for later stages of a claim.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

You will usually need to pay a fee to start your claim. The level of the fee will depend on the amount you are claiming. If the defendant does not pay once you have judgment, or says the money is not owed and your claim proceeds as a “defended” (disputed) case, you may have to pay further fees. If you win your case, the fees will be added to the amount the defendant owes you.

There may be further expenses. If the defendant defends your claim you may need witnesses to help tell the court what happened. You may have to pay their travelling expenses to and from the court and the money they would have earned that day. If you win, however, the court may order the defendant to pay towards those expenses.

You may also need to obtain evidence from an expert such as a doctor, mechanic or surveyor. You may also need to ask this expert to come to the court hearing to give evidence on your behalf. You will have to pay the experts' expenses and charges but, again, if you win the court may order the defendant to pay towards these.

The amounts that can be claimed for witness, expert and legal advice costs are limited on the small claims jurisdiction.

Lawyers' fees are usually payable at the end of a case but this is a matter to be agreed between the lawyer and yourself. If you win your case the court may order the defendant to pay some or all of your lawyers' fees. However, if you have a solicitor and your claim is for less than £10,000, you will usually have to pay for his or her help yourself, even if you win your case. You should also bear in mind that although the court may make a judgment in your favour (this means ordering the defendant to pay you), the court will not automatically take steps to make sure that the money is paid. If the defendant does not pay, you will need to ask the court to take action (called “enforcing your judgment”) for which you may have to pay another fee.

11 Can I claim legal aid?

In Gibraltar, legal aid in civil matters is referred to as “legal assistance”. The eligibility to receive it depends upon a number of factors. More information can be obtained from the Supreme Court Registry, 277 Main Street, Gibraltar or on telephone number (+350) 200 75608.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

The date on which proceedings start is the date when the court issues a claim form. The date of issue is recorded by the court by a date stamp. If the claim is issued, the Supreme Court Registry will give you a Notice of Issue, which gives details of the date of issue.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

The Notice of Issue which will be given to you by the Supreme Court Registry once the claim is issued gives details of the time limits by which the defendant must file a defence. If within that time the defendant disputes all or part of the claim a copy of that defence together with a Notice of Defence and Allocation Questionnaire will be sent to you. The notice and questionnaire are also sent to the defendant. Once completed, the questionnaire is used by a judge to decide which of the three tracks (small claims, fast or multi) to which to allocate the case. When the judge has made a decision on the allocation, a Notice of Allocation will be sent to you and the other parties.

If the defendant does not respond to the claim within the specified period you can ask the court to enter judgment “by default” (that is, make an order that the defendant pay you the amount you have claimed because no reply has been received). If the defendant admits that all the money is owed, you can also ask the court to enter judgment. These requests for judgment are made on the Notice of Issue which will be given to you when the claim is issued. This Notice stipulates that if such a request is not made within six months of the end of the period the defendant had to file a defence, your claim will be “stayed” (that is, stopped or halted). The only action you can then take is to apply to a judge for an order lifting the stay.

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