Time limits on procedures

Irlanda

1 What are the types of deadlines relevant for civil procedures?

The main types of deadlines are as follows:

Time for responding to a claim: On having been served with a High Court claim, a defendant has 8 days to file an acknowledgement of service, known as an 'appearance'. However, the 8 day time limit does not apply to a 'special summons', per Rules of the Superior Courts Ord. 12, r. 2, which allows for an appearance to be filed at any time.

The general 8 day period is 'exclusive' of the date of service, unless the Court directs otherwise. The defendant then has a further period of 28 days from the date of delivery of the statement of claim or from the time limited for appearance, whichever be later, to deliver a defence [Rules of the Superior Courts, Order 21. r. 1].

In Circuit Court civil proceedings, a defendant is required to deliver his defence to the plaintiff within 10 days of entering an appearance [Circuit Court Rules 2001, Ord. 15, r. 4]. In the District Court, an Appearance and Defence must be filed not later than 28 days after service of the Claim Notice [District Court Rules, Order 42].

Time to enforce a judgment: In the High Court, proceedings for the enforcement of a judgment can be brought within six years from the date on which the judgment became enforceable [Rules of the Superior Courts Ord. 42, r. 23]. Application to the court for liberty to issue execution is necessary where six years has elapsed or where a change has taken place in the parties by death or otherwise. An action on a judgment is statute barred after 12 years from the date on which the judgment became enforceable [Statute of Limitations 1957, s. 11].

Limitation periods: In contract cases, a party to the contract has 6 years within which to bring a claim from the date on which the cause of action accrued. In tort cases, a person generally has 6 years within which to bring their claim although special rules apply in respect of personal injury and defamation cases.

In personal injury cases, a person has 2 years within which to bring a claim from the date of injury or from the date of knowledge of the cause of the injury if later [Civil Liability and Courts Act 2004, s. 7].

In defamation cases, a person has 1 year within which to bring a claim, which can be extended to 2 years in exceptional circumstances.

In an action against the estate of a deceased person, the claim must be brought within two years after death, or within the ordinary limitation period, whichever is the lesser period [Civil Liability Act 1961, s. 9(2)].

Proceedings issued by cohabitants pursuant to Part 15 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 must be brought within 2 years after the end of the relationship.

For cases involving the recovery of land, the limitation period is 12 years.

For recovery of arrears of conventional rent, the limitation period is 6 years. For redemption of mortgage, the period is 12 years. For salvage claims, a 2 year limitation period applies. For a claim for damages arising from breach of implied conditions arising from a defective motor vehicle, a person has 2 years within which to bring the claim [Sale of Goods and Supply of Services Act 1980, s. 13(8)]. For a claim for damages in respect of a defective product, the action must be commenced within 3 years [Liability for Defective Products Act 1991, s. 7(1)].

2 List of the various days envisaged as non-working days pursuant to the Regulation (EEC, Euratom) n° 1182/71 of 3 June 1971.

The rules regarding sittings of the courts and court vacations are to be found at the link at the end of this document.

In addition to Saturday and Sunday, the following is a list of non-working days in Ireland:

New Year's Day (1 January)
St Patrick's Day (17 March)
Easter Monday
Christmas Day (25 December)
St Stephen's Day (26 December)
The first Monday in May, June and August
The last Monday in October

Where Christmas Day, St. Stephen's Day or New Year's Day falls on a weekend, the next weekday becomes a public holiday. Note also the court vacations, during which there are limited court sittings, such as "vacation sittings" and urgent applications. For example, during the long vacation in August and September, there are limited court sittings in the Superior Courts and in the Circuit Court.

3 What are the applicable general rules on time limits for the various civil procedures?

The Statute of Limitations 1957, as amended, specifies time limits within which legal proceedings are to be taken. A claim brought after the expiration of the limitation period is only precluded or disbarred if a defendant pleads the Statute of Limitations in his or her defence. Consequently, the Statute of Limitations does not affect a plaintiff's right to sue but it may affect his or her right to succeed. Also of interest is the fact that even where a claim is brought within the relevant time period, the High Court still has an inherent jurisdiction to dismiss the claim in the interests of justice where the lapse of time involved between the date of the cause of action and the date of the proceedings or the claim is so great that it would cause an injustice to a defendant. See also the answer to Question 1, above.

4 When an act or a formality has to be carried out within a given period, what is the starting time?

Time begins to run from the date of the relevant event or the 'date of knowledge of a relevant event' (e.g. an injury). For example, if given a week within which to do something by a court, the act in question must be done or the relevant document must be filed within a week of the making of the order directing that it be done. Similarly, if a party has 6 years within which to enforce a judgment, that is 6 years from the date on which the judgment became enforceable.

In general, and except where the contrary intention appears in an enactment, where a time period is expressed to begin on a particular day, that day is included in that time period [Interpretation Act 2005, s.18(h)]. However, Order 122 r.10 of the Rules of the Superior Courts provides that where a particular number of days (other than "clear" days), is prescribed by those Rules, the first day is excluded when reckoning the time period.

5 Can the starting time be affected or modified by the method of transmission or service of documents (personal service by a huissier or postal service)?

If a document is to be served on the other party to an action by a particular date or within a particular number of days, it will usually be directed to be served either by ordinary prepaid post or by registered post. If the document is served by ordinary prepaid post, it is deemed to be served on the other party at the time at which the envelope containing the document would be delivered in the ordinary course of post, usually the day after posting. [For rules governing service of a civil bill in the Circuit Court, see Circuit Court Rules 2001 Ord 11, r. 10 and Ord 14, r. 3(vi); for rules governing service of a Claim Notice in the District Court, see Rules of the District Court Ord 41; for rules governing service of a summons in the High Court, see Rules of the Superior Courts Ord 9]. Order 122 of the Rules of the Superior Courts govern the general rules in relation to time including when service is deemed to be effected [Rules of the Superior Courts Order 122 r9].

6 If the occurrence of an event sets the time running, is the day when the event occurred taken into account in the calculation of the time period?

Where a period of time is expressed to begin on or be reckoned from a particular day, for example if a document is to be served on a party "within 7 days", the first day (for example, the day on which the order is made) shall, subject to statute or rules of court, be deemed to be included in that period. However, Order 122, Rule 10 of the Rules of the Superior Courts provides that where a particular number of days (other than "clear" days), is prescribed by those Rules, the first day is excluded. Where a period of time is expressed to end on or be reckoned to a particular day that day shall be deemed to be included in the period. Where less than six days is allowed for serving any document or taking any proceeding, then Saturday, Sunday, Christmas Day and Good Friday shall not be reckoned in the calculation of the time period. [Rules of the Superior Courts, Ord. 122].

7 When a time limit is expressed in days, does the indicated number of days include calendar days or working days?

Calendar days, unless otherwise stated.

8 When such a period is expressed in weeks, in months or in years?

Where the time for doing any act or taking any proceedings is limited by months or years, such time is computed by calendar months, unless otherwise expressed.

9 When does the deadline expire if expressed in weeks, in months or in years?

In general, and except where the contrary intention appears in an enactment, where a period of time is expressed to begin on or be reckoned from a particular day, that day shall be included in the period and, where a period of time is expressed to end on or be reckoned to a particular day, that day shall be included in the period [Interpretation Act 2005, s.18(h)]. However, Order 122 r.10 of the Rules of the Superior Courts provides that where a particular number of days (other than "clear" days), is prescribed by those Rules, the first day is excluded when reckoning the time period.

10 If the deadline expires on a Saturday, Sunday or a public holiday or non-working day, is it extended until the first following working day?

Where rules of court prescribe the time for doing any act or taking any proceedings and that time expires on a Saturday, Sunday or other day on which court offices are closed, and where the act cannot therefore be done on that day, that period will expire on the next day on which the court offices are open. However, where statute prescribes the time for doing any act or taking any proceedings and that time expires on a Saturday, Sunday or other day on which court offices are closed, there is not a fixed rule. Any presumption that the period is extended to the first following working day may be displaced by the content or purpose of the relevant statute.

11 Are there certain circumstances under which deadlines are extended? What are the conditions for benefiting from such extensions?

Where a statute provides a limitation period, the courts do not have the power extend that period. There is, however, a discretionary jurisdiction given to the courts to extend or shorten time periods that are set out in the rules of court or in court orders in certain cases. If the plaintiff thinks there are exceptional circumstances for doing so, he or she can ask the court to consider an application immediately without waiting to serve the defendant with any documents. This is known as an *ex parte* or "without notice" application. If an *ex parte* order is made, the other party will be notified of the making of that order and then given an opportunity to come to court and seek to have the order varied or discharged. Generally, the time for filing any court document may be extended between the parties by consent. Where a party to an action seeks to extend the time within which to appeal, he or she must establish that he or she formed the intention to appeal within the limited time, that the failure to so appeal on time was due to a mistake and that he or she has an arguable case. If there has been any prejudice caused to the other party by reason of the lapse of time, that may be a relevant factor and the court may in those circumstances exercise its discretion to refuse to extend the time.

12 What are the time limits for appeals?

An appeal against a decision of the High Court, must be brought within 28 days from date of the perfecting of the order appealed against.

If a person wishes to appeal against a decision of the Circuit Court, he or she must bring the appeal within 10 days from the date on which the judgment or order appealed from was pronounced [Rules of the Superior Courts, Order 61 r. 3]

If a person wishes to appeal against a decision of the District Court, he or she must bring the appeal within 14 days from the decision of the District Court [Order 101 r. 1 District Court Rules].

In order to judicially review a decision of a judge or an administrative body, an application must be brought promptly and within 3 months from the date when the grounds for the application first arose, unless the court is of the view that there are good reasons for extending the period. [Rules of the Superior Courts, Ord. 84 r. 21(1)]

13 Can courts modify time limits, in particular the appearance time limits or fix a special date for appearance?

Where a statute provides a limitation period, the courts do not have the power to extend or shorten that period. However, subject to any relevant provision of statute, the court has a discretionary power to extend or shorten the time for doing certain acts. Both the Rules of the Superior Courts and the Rules of the Circuit Court provide that the Court has power to enlarge or abridge the time appointed by those Rules, or fixed by any court.

14 When an act intended for a party resident in a place where he/she would benefit from an extension of a time limit is notified in a place where those who reside there do not benefit from such an extension, does this person lose the benefit of such a time limit?

No, the party does not lose the benefit of the extended time limit.

15 What are the consequences of non-observance of the deadlines?

Any party who fails to abide by time limits imposed by the court or set out in the rules of court or in legislation is liable to have their case struck out. For example, if a defendant fails to enter an appearance to a claim or fails to enter a defence, then the plaintiff may bring an application for judgment in default of defence.

If judgment is entered against a defendant in those circumstances, he or she can seek to have the judgment set aside or can appeal to a higher court. If a plaintiff does not deliver the details of their claim in time, a defendant may bring an application to have the claim struck out on the grounds of delay. The plaintiff can appeal against this decision to a higher court. The court may also exercise its discretion regarding the costs of the case in such a way as to penalise a party who has been guilty of any unreasonable delay or who has failed to abide by the relevant time limits.

16 If the deadline expires, what remedies are available to those who have missed the deadlines, i.e. the defaulting parties?

The defaulting party can seek an order from the court extending the time limits. If the expiry of the deadline has resulted in a default judgment, they can apply to have the judgment set aside or, if unsuccessful in that application, they can appeal to a higher court.

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