No domínio da justiça civil, os processos e procedimentos pendentes que tiverem tido início antes do final do período de transição continuarão a ser regidos pelo direito da UE. O Portal da Justiça, com base num acordo mútuo com o Reino Unido, manterá as informações relacionadas com este país até ao final de 2024.

Time limits on procedures

Gibraltar

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 receipt of a claim form or the particulars of claim if served separately, the defendant has 14 days to either respond to the claim or to file an acknowledgement of service. Upon filing an acknowledgement of service, the defendant then has 14 further days to prepare a defence. That means that the defendant can have up to 28 days to respond to the claim but if he or she files the acknowledgement of service the day after receipt of the particulars of claim, the defendant only has 15 days to file a defence.

Time to enforce a judgment – Under Section 4(4) of the Limitation Act 1960 an action cannot be brought upon any judgment after twelve years from the date on which the judgment became enforceable.

Limitation periods – In general, a limitation period of six years applies and is applicable for:

the time limit for actions on tort (Section 4(1)(a) Limitation Act 1960)

the time limit in case of successive conversions and extinction of title of owner and converted goods (Section 11 Limitation Act 1960)

the time limit for actions for sums recoverable by statue (Section 4(1)(d) Limitation Act 1960)

The limitation periods vary for other types of cases. For example:

the time limit for actions on a specialty is twelve years (Section 4(3) Limitation Act 1960) – for example specialty debts such as mortgages.

the time limit for actions in respect of personal injuries is three years (Section 4(1) Limitation Act 1960).

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

Parts 2.8 to 2.10 of the Civil Procedure Rules deal with the application and interpretation of the rules in terms of the calculation of time periods.

Apart from Saturday and Sunday, non-working days in Gibraltar include the following public holidays:

New Year's Day: 1 January

Good Friday: Friday before Easter

Easter Monday: Monday after Easter

Workers Memorial Day: 28 April

May Day 1 May

Spring Bank Holiday: Last Monday in May

Queen's Birthday: 2nd/3rd Monday in June

Summer Bank Holiday: Last Monday in August

National Day: 10 September

Christmas Day: 25 December

Boxing Day: 26 December

Where Christmas Day, Boxing Day, New Year's Day or National Day falls on a weekend the next weekday becomes a public holiday. For example if 25 and 26 December are Saturday and Sunday respectively the following Monday and Tuesday are public holidays. In addition Courts can also close in the period between Christmas and New Year.

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

Limitation Act 1960 This stipulates several time limits for the initiation of proceedings and sets out other periods within which, for example, a judgment has to be enforced and other actions have to be taken by the parties. Further information is given in the answer to question 1 above.

Civil Procedure Rules – These are the procedural rules for the civil courts in England and Wales (which apply to Gibraltar) and include time limits for different actions.

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

The starting date from which the period runs is usually the date of the relevant event. For example, the starting time for the 14-day period for responding to a claim is the day of the receipt of the claim form or particulars of claim if served separately (subject to the rules on deemed service – see below). In addition the starting time for the 12-year-period to enforce a judgment is the date on which the judgment became enforceable.

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)?

The normal method of service used in Gibraltar for the transmission of documents is personal service. Where service is effected by registered post, Section 8 of the Interpretation and General Clauses Act provides that service is deemed to have been effected "at the time at which the letter would be delivered in the ordinary course of post."

Further information on the deemed service dates for other methods of non-personal service, e.g. document exchange, delivering the document to or leaving it at the permitted address, fax or other electronic methods can be found in Part 6 of the Civil Procedure Rules.

Where a document is served personally it is treated as being served the next business day if it is served after 17.00 on a business day or served at any time on a Saturday, Sunday or public holiday.

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 as a number of days it is computed as clear days. In computing the number of 'clear days' the day on which the period begins and if the end of the period is defined by reference to an event, the day on which that event occurs, are not included. Examples of how to calculate these days can be found in Part 2 of the Civil Procedure Rules.

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

Where the court gives a judgment, order or direction which imposes a time limit for doing any act, the last date for compliance must, wherever practicable be expressed as a calendar date; and include the time of day by which the act must be done. Where the date by which an act must be done is inserted in any document, the date must, wherever practicable, be expressed as a calendar date.

For example, if a person is served a document on 4 April and he or she is requested to answer within 14 days from service he or she should answer before18 April.

However, if the specified period is less than 5 days Saturdays, Sundays and public holidays are not counted.

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

Where 'month' occurs in any judgment, order, direction or other document, it means a calendar month.

When a period is expressed in years, although there is no explicit rule, Part 2.10 of the Civil Procedure Rules has to be applied analogously. Thus, if a "year" is used in any judgment, order, direction or other document, a calendar year is meant.

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

If the end of the period is defined by reference to an event, the day on which that event occurs is not included. See also the answer to 6 above.

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?

When the period specified by the Civil Procedure Rules, a practice direction, any judgment or court order for doing any act at the court office ends on a day on which the office is closed, that act shall be in time if done on the next day on which the court office is open. This rule applies whenever there is an expiration period.

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

Where a claim form is served out of the jurisdiction, special rules apply. For example, where service is to an EU Member State or a Contracting State to the 1965 Hague Convention on the service abroad of judicial and extra-judicial documents in civil or commercial matters the period for filing an acknowledgement is 21 days after the date of service of the claim form or particulars of claim. The period for filing a defence is 21 days after the date of service of the particulars of claim or, if the defendant files an acknowledgement of service, 35 days after service of the particulars of claim. If service is to any other territory of a Contracting State to the 1965 Hague Convention the period for filing an acknowledgement is 31 days after the date of service of the claim form or particulars of claim. The period for filing a defence is 31 days after the date of service of the particulars of claim or, if the defendant files an acknowledgement of service, 45 days after service of the particulars of claim. Further details can be found in Part 6 of the Civil Procedure Rules.

Where service is to any other country the period for filing an acknowledgement of service or for filing a defence is the number of days listed in the table set out in Practice Direction 6B of the Civil Procedure Rules after service of the particulars of claim or, where the defendant has filed an acknowledgment of service, the number of days listed in the table plus an additional 14 days after the service of the particulars of claim.

12 What are the time limits for appeals?

The time limit for appeals against judgments is 14 days. Time limits for applying for a judge to review the decision of a body if you are entitled to do so by statute is three months unless the statute in question states otherwise (although applications for such judicial reviews must be brought promptly in any event).

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

If the claimant thinks there are exceptional reasons, he or she may ask the court to consider an application immediately and without the respondent being served with any documents, i.e. 'ex parte' or 'without notice'. If an 'ex parte' or 'without notice' order is made by the judge the claimant will be given a further appointment to attend at the court. The respondent will be entitled to be present at this appointment so that the judge can then listen to both before deciding whether to make another order.

Further possibilities of extending a period are provided in the Limitation Act 1960. For example there can be an extension of the limitation period in cases where the claimant is disabled (Section 28 of the Limitation Act).

Unless the Civil Procedure Rules or a practice direction provide otherwise or the court orders otherwise, the time specified by a rule or by the court for a person to do any act may be varied by the written agreement of the parties. Furthermore, judges have extensive case management powers to alter time periods.

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. A party would not lose such a benefit.

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

If a defendant fails to defend or acknowledge the claim in the required time, a claimant can file a request or application for judgment in default. However, the defendant can apply to the court to set aside the judgment.

Other case management-related sanctions are also available. For example where a party is required to submit something, i.e. an expert's report, by a certain time and fails to do so, the court may order that report inadmissible.

The court also has recourse to sanctions such as contempt.

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

The defaulting parties can go to the court and ask for the deadlines to be extended. If the expiry of the deadline has resulted in a default judgment, they can ask for the decision to be set aside.

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