

Redmond Johnson

Northern Ireland

The Legal System

Currency
£

NORTHERN IRELAND COURTS

- | | | |
|-----------|---------------------------|-----------------------|
| 1. | Small Claims Court | up to £2000 |
| 2. | County Court | £2000 - £15000 |
| 3. | High Court | over £15000 |

Based on British System

The Small Claims Court

- **ADVANTAGES**

- Deals with debts under £2000 (approx €2600)
- Arbitration rather than formal hearing – matters are heard in Judges Office
- Fees range from £30 - £100
- Proceedings issued in your locality (for foreign debts Belfast Small Claims Court) – no need to take account of where debtor resides
- Do not need to attend court unless debt is disputed*
- Order just as valid as CCJ (County Court Judgment or High Court Judgment)

- **DISADVANTAGES**

- Can be too lenient on debtor with regard to Regulations
- Debtor can be given a “second bite at the cherry” in that he can come back at a later date and want to dispute the debt

* Note

- Common Tactic – generally by serial debtors
- Debtor enters dispute therefore creditor has to turn up but on many occasions the debtor does not appear. Although you will get your judgment by default time has been wasted. Used to cause the creditor hassle

The County Court

- Deals with debts up to £15,000
- Commenced with a Civil Bill
 - Drafted by a solicitor
 - Stamped by Court Office
 - States amount of debt, how it arose etc
 - Gives debtor 21 days to pay in full or dispute the debt by lodging a Notice of Intention to Defend
 - Served on debtor by first class post by solicitor either at place of business or registered office if limited liability company
- Obtaining Judgment is Simple
 - Affidavit of Debt is sworn by you
 - Solicitor prepares other required documentation
 - Court Office stamps and issues decree
 - Decree should be served on debtor prior to enforcement
- You do not have to attend court if matter is not disputed
- Enforced Judgment is advertised in (Stubbs Gazette – D&B publication)

The High Court

- Can deal with all debts
 - no upper or lower limit
 - no real advantage gained for debts under £15000
- Commenced with Writ of Summons
 - similar in content to Civil Bill
- Costs are higher
 - especially if matter is disputed
 - if debt under £15000 and disputed, consider having case transferred to County Court
- 14 days to lodge Memorandum of Appearance, then a further 21 days to lodge Defence
 - Judgment obtained in same way as County Court
 - Affidavit of debt is sworn
 - Documents being lodged in court office

The Enforcements of Judgments Office
(Equivalent to Bailiff System in GB and Sheriff System in ROI)

- Established in 1969 to replace the previous bailiff system
- Unique to Northern Ireland
- Part of Northern Ireland Court Service therefore has only a small amount of independence and objectivity
- Alternative to Bailiff System in the rest of the United Kingdom or Sheriff in Republic of Ireland
- Only legitimate means of enforcing Judgments in Northern Ireland
- Can be renowned for their lack of activity – therefore need to keep pressure on them to ensure results

The Enforcement of Judgment Office

- **PROCEDURE**

- Notice of Intent to Enforce must be served to begin enforcement. This is completed and sent in triplicate to the EJO with a copy of your order (cost to obtain copy £5)
- Fee of £20 sent with the Notice of Intent
- Then full application for Enforcement lodged together with full enforcement fee – fees are set on a sliding scale
- Enforcement Officer appointed to deal with case
- Custody Warrant is issued which in effect means that all goods belonging to the debtor apart from wearing apparel and tools of the trade are deemed to be in the possession of the EJO
- Debtor must give evidence as to means under oath, either at the EJO or at his premises
- Report issued detailing assets and liabilities, and if you feel there are any discrepancies you should notify EJO immediately
- EJO will then inform you of what action will be taken on your behalf to recover the debt

The Enforcement of Judgment Office's Powers

- **Installment / Attachment of Earnings Order**

- a certain amount of debtors income is deducted and forwarded to you each month
- if employee, money is deducted at source

- **Seizure Order**
 - assets sufficient to cover the debt are seized
 - assets cannot be seized in partial satisfaction
 - EJO realizes the assets and forwards proceeds to you
- **Order Charging Land**
 - similar to a mortgage
 - sits on property/land for 12 years
 - money is only received when land is sold
- **Order Appointing Receiver**
 - issued when EJO are aware that debtor is due money
 - it is served on the person paying the money and prevents them from paying it to the debtor
- **Other Orders in respect of Specific Events**
 - if debtor has a claim pending
 - if he is due a dividend from shares
 - if he is due money from a will or trust fund

Insolvency Procedures

- **Bankruptcy** (debt must be £750 and over)
- - Where debtor is an individual
- **Company Winding Up** (debt must be £750 and over)
 - Where debtor is limited liability company
- Both are costly and serious measures but not as costly as the Republic of Ireland
- Unlikely to receive full payment – merely a dividend or probably nothing
- **Procedure**
 - Statutory Demand is served on debtor giving 21 days to pay
 - Deposit paid to Official Receivers office
 - Documents lodged in court and hearing date given (approx. 21 days)
 - Debt proved in court
 - Bankruptcy or winding up order made

Procedure after Order Made

- Report sent out to you detailing all debt owing
- Creditors meeting may be called
- Official Receiver realises assets
- Dividend paid to creditors
 - may take up to 2 or 3 years
 - may be awarded small sum, e.g. 15p in £
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- **NOTE!!!!!!**
 - **Statutory Demand can be used to elicit payment**
 - **Perfectly legitimate tactic where debt is not disputed**
 - **Useful when debtor has assets not realizable by a Creditor**
 - **Useful when debtor had acted in bad faith and you want to prevent him trading again**

IVA (Individual Voluntary Arrangement for sole traders/partnerships)

CVA (Company Voluntary Arrangement)

- Proposal put forward by debtor to pay the debts in full or in part over a period of time with a stay on legal proceedings.
- Requires 75% of creditors (value) to agree and must be authorised by the court

TYPICAL EXAMPLE ON UNDEFENDED ACTION

Based on £5000 debt actioned through the County Court

• Fees/Outlays to Judgment	£200
• Notice of Intention to Enforce	£ 25
• Enforcement Fee*	£481
Total	£656 sterling

Recoverable Costs if Successful 9 5%

* Enforcement Fees vary depending on size of debt

Legal Representatives

Solicitors (can be called Lawyers) act for plaintiff in all debts above £2000. Can represent creditors in the Small Claims Court but cannot claim costs from the Court for doing so therefore it is generally not viable to employ them for this purpose

Barristers (BL) also known as Counsel – can opt to be called QC (Queens Counsel) in ROI SC (State Counsel) like solicitors can be generally referred to as Lawyers. Give advice on points of law and to plead cases in Court - generally the larger amounts (High Court) and/or on points of Law or complicated cases. To access a Barrister you need to go through a Solicitor