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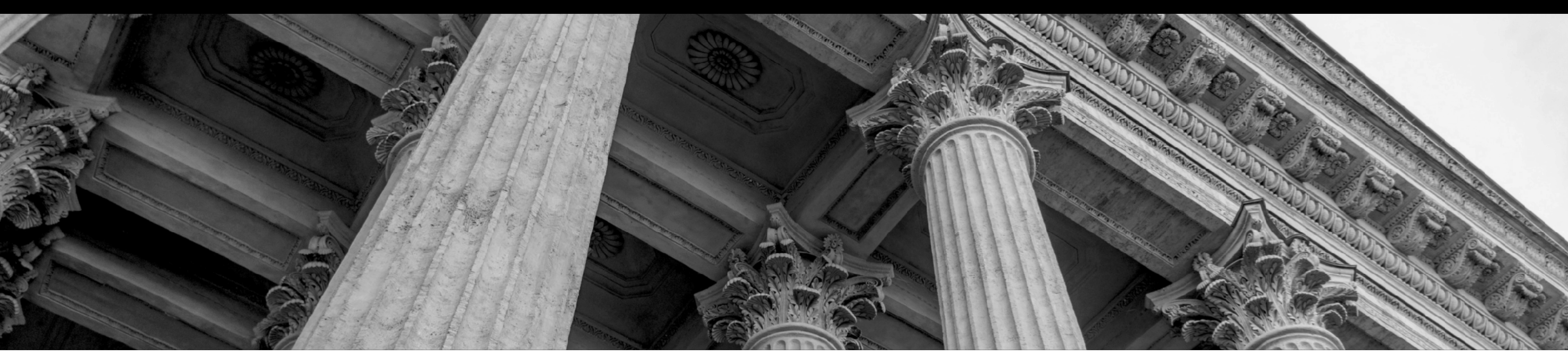

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# A brief overview of the Small Claims Court (2026 update)

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*by Dakalo Singo, Director and Head of Pro Bono*

## What is the Small Claims Court?

The Small Claims Court ("SCC") is a court that was established to improve access to justice by providing informal court processes to have civil law disputes of relatively low value adjudicated by judicial officers called "commissioners". The SCC aims to resolve civil disputes speedily, inexpensively and informally. The SCC differs from other courts in that commissioners play an inquisitorial role to ascertain the relevant facts from the parties.

## What is the jurisdiction of the Small Claims Court?

Generally, the SCC may deal with certain types of disputes with a value falling below a financial threshold that is updated every few years. From 1 August 2026, the limit of the SCC's jurisdiction is R30 000.00 (increased from R20 000.00). This means any claim exceeding this amount may not be dealt with by the SCC.

## What type of civil law disputes does the Small Claims Court deal with?

The nature of civil claims that may be dealt with by the SCC are the following—

a. actions for the delivery or transfer of any movable or immovable property not exceeding R30 000.00 in value;
b. actions for ejectment against the occupier of any premises or land within the court's area of jurisdiction, provided that where the right of occupation of the premises or land is in dispute between the parties, that right does not exceed R30 000.00 in value;
c. actions based on or arising out of a liquid document or a mortgage bond, where the claim does not exceed R30 000.00;
d. actions based on or arising out of a credit agreement, as defined in the National Credit Act, where the claim or value of the property in dispute does not exceed R30 000.00;
e. actions other than those already mentioned above where the value of the claim does not exceed R30 000.00; and
f. actions for counterclaims not exceeding R30 000.00.

## Are there any types of civil law disputes that the Small Claims Court cannot deal with?

The following types of matters are specifically excluded from the jurisdiction of the SCC—

a. matters in which the dissolution of a marriage or customary union are sought;
b. matters concerning the validity or interpretation of a will;
c. matters concerning the status of a person's mental capacity;
d. claims for specific performance without an alternative claim for payment of damages, except in the case of:
    i. the rendering of an account for a claim not exceeding R30 000.00;
    ii. the delivery or transfer of any movable or immovable property not exceeding R30 000.00 in value;
e. matters in which a decree of perpetual silence is sought;
f. claims for damages relating to:
    i. defamation,
    ii. malicious prosecution,
    iii. wrongful imprisonment,
    iv. seduction, and/or
    v. breach of promise to marry; and
g. matters in which an interdict is sought.

## Who may institute disputes in the Small Claims Court?

Only natural persons may institute action as claimants (called "plaintiffs") in the SCC. A plaintiff may institute action against both natural and/or juristic persons (i.e. entities such as companies); meaning that a juristic person can only participate in SCC claims as a defendant. Notably, no action may be instituted against the State in the SCC.

## Who can represent me in the Small Claims Court?

Due to the informal nature of the proceedings, no legal representation is allowed, and plaintiffs are required to institute their own claims.

In cases where the defendant is a juristic person, a duly nominated director or other officer of that juristic person may appear on its behalf in the SCC.

## Where do I find the Small Claims Court?

SCCs are usually located within the Magistrate's Court.

## How do I know which Small Claims Court to approach?

A plaintiff is required to institute a claim against a defendant in the SCC that is either in the area where—

a. the defendant resides, carries on business, or is employed;
b. the defendant's business premises are situated;
c. the whole cause of action (or dispute) arose; or
d. an immovable property is situated (if the dispute relates to that property).

## How do I institute a claim in the SCC?

Before instituting a claim, a plaintiff must address a letter of demand to the defendant, which shall contain particulars of the facts upon which the claim is based and the amount sought, and must give the defendant at least 14 days to satisfy the plaintiff's claim. The letter of demand must be delivered to the defendant by hand or registered mail. There must be proof of delivery either in the form of an affidavit, if delivered by hand; or registered post receipt, if delivered by registered mail.

If 14 days have passed and the claim is not satisfied, the plaintiff may institute a claim against the defendant by preparing a summons—a legal document outlining the nature of, and basis for the claim—and delivering it to the defendant. Importantly, a plaintiff must institute their monetary claim within 3 years from the date on which the debt arose, failing which their claim may lapse in terms of the Prescription Act.

There is no requirement for the defendant to deliver a written response to the summons, but if they choose to do so, they may deliver a written statement (before the hearing) in which they set out the nature of their defence and the particulars of the grounds on which it is based.

Once the letter of demand and summons have been delivered to the defendant and the clerk is satisfied that there is adequate proof of delivery, the clerk will allocate a date and time for the hearing of the matter, which will be communicated to the parties.

The parties are then required to attend the hearing on the allocated date to appear before the commissioner in the SCC who will hear the versions of the parties and their witnesses, if any, and consider their evidence before granting judgment.

## What is the status of a Small Claims Court judgment?

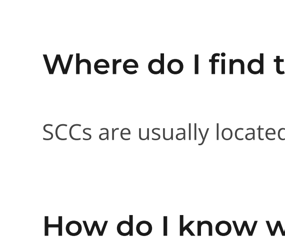
Where the SCC grants judgment for the payment of money (whether as a lump sum or in instalments) and the relevant party fails to make the necessary payment/s, that judgment will be enforceable by execution in the Magistrate's Court as if the judgment was granted by the Magistrate's Court having jurisdiction.

Where the SCC grants judgment for the surrender of property (whether movable or immovable), or for ejectment, such judgments are enforced by a warrant signed and issued by the clerk of the court and addressed to the sheriff. The sheriff will then execute the judgment based on the warrant.

## What if I am dissatisfied with a Small Claims Court judgment?

A judgment granted by a commissioner is final and cannot be appealed. It may, however, be reviewed in the High Court in limited circumstances, namely, where—

a. the SCC inappropriately dealt with a matter falling outside of its jurisdiction;
b. the commissioner:
    i. had an interest in the dispute (i.e. conflict of interest),
    ii. showed bias or malice toward or against a party in the dispute, or
    iii. committed an act of corruption (in terms of the Prevention and Combatting of Corrupt Activities Act); or
c. there was a gross irregularity in how the proceedings were conducted.

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