

CHAPTER 380

SMALL CLAIMS TRIBUNAL ACT

To establish the Small Claims Tribunal.

16th October, 1995

ACT V of 1995, as amended by Acts XII of 1998, VI of 2001 and XXXI of 2002; Legal Notice 425 of 2007; and Act IV of 2016 and Legal Notice 212 of 2023.

1. The short title of this Act is the Small Claims Tribunal Act. Short title.
2. In this Act, unless the context otherwise requires - Interpretation.
- "adjudicator" means an Arbiter of the Tribunal appointed in accordance with article 4;
- "Minister" means the Minister responsible for justice;
- "Registrar" means the Registrar of Courts appointed under the Code of Organization and Civil Procedure; Cap. 12.
- "Tribunal" means the Small Claims Tribunal established under article 3.
3. (1) There shall be a Tribunal to be styled the Small Claims Tribunal. Establishment of tribunal.
- (2) Subject to subarticle (5), the Small Claims Tribunal shall have jurisdiction to hear and determine only all money claims of an amount not exceeding five thousand euro (€5,000): Amended by: XII. 1998.2; VI. 2001.27; XXXI. 2002.227; L.N. 425 of 2007; IV. 2016.26.
- Provided that, in determining the sum referred to in this subarticle, no account shall be taken of fees and costs relative to the same claim.
- (3) (a) If the plaintiff claims payment of several sums due for the same cause, the value of the claim is to be determined by the total amount of the claims.
- (b) If the plaintiff claims payment of several sums due for different causes, the value of the claim is determined by the highest sum, irrespective of the smaller sums.
- (c) If the claim is for capital and interest, the value is determined by the aggregate of all the capital sums claimed, and the Tribunal shall have jurisdiction over the claim notwithstanding that the capital and interest claimed in their aggregate exceed five thousand euro (€5,000).
- (4) The Tribunal shall hold its sittings in such place or places in Malta and Gozo as the Minister may by order in the Gazette determine and the Tribunal shall, as far as practicable, hold the sittings in the Island where the person against whom the claim is made has his ordinary residence*.

*See Legal Notice 142 of 1995.

(5) Causes involving questions of ownership of immovable property, or relating to easements, burdens or other rights annexed to such property, even though the claim does not exceed five thousand euro (€5,000), and causes of ejectment or eviction from immovable property shall not fall within the jurisdiction of the Tribunal.

Adjudicators.
Amended by:
VI. 2001.27.

4. (1) The Tribunal shall be presided by an adjudicator sitting alone:

Provided that more than one adjudicator may be appointed to sit in any of the said Tribunals, but only one adjudicator shall sit in any one case.

(2) Adjudicators shall be appointed by the President acting in accordance with the advice of the Prime Minister. A person shall not be qualified to be appointed as Adjudicator unless he has practised as an advocate in Malta for a period or periods amounting in the aggregate to not less than seven years.

(3) A person shall be disqualified to be appointed adjudicator if such person -

- (a) is a member of the House of Representatives; or
- (b) is a member of a Local Council; or
- (c) is an undischarged bankrupt; or
- (d) has been sentenced by any court to imprisonment for any term or has been found guilty by any court of any of the crimes in Titles III, V or VI of Part II of Book First of the [Criminal Code](#).

Cap. 9.

(4) (a) Adjudicators shall receive such remuneration as the Prime Minister may by notice in the Gazette determine and such remunerations shall be a charge on the Consolidated Fund; such remuneration shall not during the tenure of office of an Adjudicator be altered to his disadvantage.

(b) During the term of their appointment, Adjudicators shall be precluded from the exercise of their profession in cases before the Tribunal.

(5) Adjudicators shall be appointed for a term of five years and, on the lapse of their term, they shall not be eligible for re-appointment:

Provided that if the office of Adjudicator is vacant or if the Adjudicator is unable to perform the functions of his office, then, until a person has been appointed and has assumed the functions of that office, then, until a person has been appointed and has assumed the functions of that office, those functions shall be performed by any other Adjudicator in office or by such other person qualified for appointment as Adjudicator as may be appointed to act as Adjudicator by the President acting in accordance with the advice of the Prime Minister. Such person shall continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the President acting in accordance with

the advice of the Prime Minister.

(6) In the exercise of his functions under this Act, an Adjudicator shall not be subject to the control or direction of any other person or authority. An Adjudicator may not be removed from office except in the manner and for the reasons provided for in article 97(2) of the [Constitution](#), and any law or regulation made pursuant to article 97(3) of the Constitution for the purposes of article 97(2) thereof shall apply *mutatis mutandis* to the procedure for the presentation of an address and for the investigation and proof of the inability or misbehaviour of an Adjudicator under the provisions of this article.

5. The provisions of the [Code of Organization and Civil Procedure](#) relative to abstentions by and challenges to a magistrate, and to the subrogation of and the distribution of duties amongst magistrates shall, *mutatis mutandis*, apply to Adjudicators. Any Code of Ethics applicable to Magistrates shall also apply to Adjudicators.

Abstention or challenge of adjudicators.
Substituted by:
VI. 2001.27.
Cap. 12.

6. Every person appointed as an adjudicator shall not assume the functions of his office unless and until he has taken before the State Advocate an oath to examine and decide the cases brought before him without delay, with impartiality and equity according to law.

Oath to be taken by adjudicators.
Amended by:
L.N. 212 of 2023.

7. (1) The Tribunal shall determine any claim or counter-claim before it principally in accordance with equity:

Tribunal to decide according to equity.

Provided that, in any case, any question of prescription shall be determined according to law.

(2) The Tribunal shall suspend its proceedings if -

- (a) the claim is sought to be avoided by way of defence, involving an issue outside the Tribunal's jurisdiction; and/or
- (b) there is pending before a competent court an action, the outcome of which would affect the claim before the Tribunal.

8. (1) An appeal shall lie from a decision of a Tribunal to the Court of Appeal composed of one judge only in accordance with article 41(9) of the [Code of Organization and Civil Procedure](#). Such appeal shall be entered by an application to be filed within twenty days.

Appeals.
Amended by:
XXXI. 2002.228;
L.N. 425 of 2007;
IV. 2016.27.
Cap.12.

(2) Independently of the amount of the claim, an appeal shall always lie in the following cases:

- (a) on any matter relating to the jurisdiction of the Tribunal;
- (b) on any question of prescription;
- (c) on any non-compliance with the provisions of article 7(2);
- (d) where the Tribunal has acted in a serious manner contrary to the rules of impartiality and equity

according to law and such action has prejudiced the rights of the appellant.

(3) A right of appeal on all grounds shall also lie where the amount in dispute, calculated in accordance with the provisions of article 3(2), exceeds one thousand and five hundred euro (€1,500).

(4) Where the Court of Appeal finds that the grounds for appeal are justified it shall quash the decision of the Tribunal and shall itself determine the original claim and counter-claim in accordance with the provisions of article 7.

(5) The Court of Appeal may, if it considers the application frivolous or vexatious, dismiss the appeal and order the applicant to pay a penalty which shall not be less than two hundred and fifty euro (€250) and not exceeding one thousand and two hundred and fifty euro (€1,250).

(6) The amount of the penalty shall be due and owing to the Government as a civil debt, liquidated and certain, and may be collected by the Registrar. The order referred to in subarticle (5) shall constitute an executive title within the meaning and for the purposes of Title VII of Book Second of the [Code of Organization and Civil Procedure](#).

Cap. 12.

Procedure.
Amended by:
IV. 2016.28.

9. (1) Subject to the provisions of any rules made in accordance with article 16 and to the provisions of subarticle (2), an adjudicator shall regulate the proceedings before a Tribunal as he thinks fit in accordance with the rules of natural justice.

(2) Subject to any rules referred to in subarticle (1), an adjudicator -

- (a) shall ensure that a case is, as far as possible, heard summarily and decided *ex tempore* on the same day of the hearing and that the hearing shall not take longer than one sitting:

Provided that if a party wishes to appeal from the decision, notice shall be given to the adjudicator at the time the decision is given:

Provided further that the adjudicator shall on the same day when the decision is given deliver a written copy of the *ex tempore* decision containing the reasons for the decision to the Registrar;

- (b) he shall inform himself in any manner he thinks fit and shall not be bound by the rules of best evidence or the rules relative to hearsay evidence if he is satisfied that the evidence before him is sufficiently reliable for him to reach a conclusion on the case before him;
- (c) he shall refrain as far as possible from appointing referees to give expert evidence, and shall where experts are appointed make out a list of facts upon which the expert is to give evidence;
- (d) shall only list out the main points upon which his decision is based; and

- (e) shall have the same power as a magistrate sitting in a Court of Magistrates in its civil jurisdiction and in particular shall have power to summon witnesses and to administer an oath to witnesses.

(3) No proceedings before the Tribunal shall be invalid because of the non-observance of any formalities if there has been substantial compliance with this Act or any rules made thereunder.

10. (1) In any award the adjudicator shall determine the costs that any of the parties is to bear. Unless special circumstances otherwise warrant the losing party shall be ordered to pay the costs of the party in whose favour the decision is awarded.

Costs and enforcement.
Amended by:
XII. 1998.3;
VI. 2001.27;
XXXI. 2002.229;
L.N. 425 of 2007.

(2) Costs shall be limited to actual expenses directly made in connection with the case by the party in whose favour the payment of costs is awarded.

(3) In the case of a vexatious or frivolous claim the Tribunal may order the claimant to pay to the defendant a penalty of not more than two hundred and thirty-two euro and ninety-four cents (232.94), which penalty shall be due as a civil debt.

(4) A decision of the Tribunal which has become *res judicata* may be enforced, depending on the residence of the person against whom enforcement is sought, by the Court of Magistrates (Malta) or by the Court of Magistrates (Gozo), as if the decision was a judgment of the respective court.

11. (1) The Minister may by regulations designate the registry of the Tribunal and the functions thereof and by the same regulations may also designate such officers as may be necessary for the operation of the Tribunal. All the records of the Tribunal shall be filed in the registry referred to in this subarticle.

Registry of the Tribunal.
Substituted by:
XII. 1998.4.
Amended by:
XXXI. 2002.230.

(2) The records of the Tribunal shall be accessible to all persons, and copies thereof shall be given on payment of the prescribed fee to any person on request.

(3) The acts of the Tribunal shall be deposited and kept in such archives as may be designated by the Minister by regulations made under this article.

12. (1) The Registrar shall be responsible for the running of the Tribunal. The Registrar shall also perform any other duties which may be incumbent upon him under this Act or any rules made thereunder.

Duties of Registrar.

(2) The duties of Registrar of the Tribunal shall be carried out in accordance with the provisions of the [Code of Organization and Civil Procedure](#).

Cap. 12.

13. If any of the parties fails to appear on the date appointed for the hearing of the cause, the following provisions shall apply:

When parties fail to appear.
Substituted by:
XXXI. 2002.231.

- (a) if the claimant fails to appear, the adjudicator shall adjourn the cause for another date and if on such other date the claimant fails to appear, the adjudicator shall dismiss the cause and order the costs to be borne by the

claimant:

Provided that the adjudicator shall not make such adjournment but shall either determine the case or dismiss the same with costs to be borne by the plaintiff if the defendant so requests;

- (b) if the defendant fails to appear, the adjudicator may determine the case in the absence of the defendant and an admission made upon a reference to the oath of the defendant may be received in evidence against the defendant, and the provisions of Sub-title VI of Title I of Book Third of the [Code of Organization and Civil Procedure](#) with respect to a reference to the oath of a defendant in the inferior courts shall, *mutatis mutandis*, apply.

Cap. 12.

Parties may be assisted by any person.

Language of proceedings.
Cap. 189.

Rules.
Amended by:
XXXI. 2002.232.

14. The parties may be assisted by any person.

15. The provisions of the [Judicial Proceedings \(Use of English Language\) Act](#) shall apply to the Tribunal.

16. (1) The Minister may make rules for the better functioning of the Tribunal and may without prejudice to the generality hereof make rules -

- (a) setting out the procedure before the Tribunal or in appeals from the Tribunal;
- (b) establishing the forms that are to be used in proceedings before the Tribunal or in appeals from the Tribunal;
- (c) establishing rates of costs in proceedings before the Tribunal;
- (d) establishing the fees that may be due to the registry of the Tribunal;
- (e) establishing the fees that may be due to advocates and legal procurators appearing before the Tribunal;
- (f) setting out the duties of registrar in relation to the Tribunal;
- (g) prescribing anything that may or is to be prescribed in accordance with this Act.

(2) The service of judicial acts in terms of this Act shall be carried out in such manner as is provided for the service of judicial acts in the [Code of Organization and Civil Procedure](#), unless the Minister shall, by regulations made under this article, otherwise provide.

Cap. 12.

Expenditure of administration of Tribunal.

17. The expenses in connection with the administration of the Tribunal and the remuneration due to adjudicators shall be paid out of the Consolidated Fund without the necessity of any further appropriation.