

Uganda

Judicature Act

Judicature (Small Claims Procedure) Rules, 2011

Statutory Instrument 25 of 2011

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Judicature (Small Claims Procedure) Rules, 2011

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Uganda
Judicature Act
Judicature (Small Claims Procedure) Rules, 2011
Statutory Instrument 25 of 2011

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IN EXERCISE of the powers conferred upon the Rules Committee by section 41 of the Judicature Act, these Rules are made this 5th day of May, 2011.

Part I – Preliminary

1. Title

These Rules may be cited as the Judicature (Small Claims Procedure) Rules, 2011.

2. Commencement

These Rules shall come into force on the 30th day of May, 2011.

3. Interpretation

In these Rules, unless the context otherwise requires—

"**Court**" means the High Court and in particular the Commercial Court Division, a Chief Magistrates' Court and a Magistrate Grade 1 Court;

"**judicial officer**" means a Judge, Chief Magistrate or Magistrate Grade 1;

"**small claim**" means a matter whose subject matter does not exceed ten million Uganda shillings;

"**small claims procedure**" means the procedure established under rule 4.

Part II – Establishment of Small Claims Procedure

4. Establishment of Small Claims Procedure

- (1) There is established a procedure known as the Small Claims Procedure.
- (2) The objects of the Small Claims Procedure are to adjudicate over small claims and to perform any other matters that may be conferred by the Chief Justice.
- (3) The Chief Justice may by notice published in the *Gazette* designate a court where these Rules shall apply.
- (4) The High Court shall have general powers of supervision over matters of small claims in magistrates courts.

5. Jurisdiction

- (1) A Small Claims Procedure shall cover a case whose subject matter does not exceed ten million Uganda shillings.
- (2) These Rules shall not apply to—
 - (a) family disputes relating to the management of an estate;
 - (b) a claim against the Government;
 - (c) a suit for defamation, malicious prosecution, wrongful imprisonment, wrongful arrest or seduction;
 - (d) a petition for divorce, nullification of marriage or separation of spouses;
 - (e) a case involving the validity of a will;
 - (f) a claim in which specific performance is sought without an alternative claim for payment of damages, except in the case of a claim for rendering an account or transferring movable property and disputes arising out of tenancy agreements not exceeding ten million Uganda shillings in value; or
 - (g) contracts of service and contracts for service.

Part III – Record of proceedings

6. Record of proceedings

In every case, the Court shall keep a record of its proceedings in writing, and every record shall include the following particulars—

- (a) the serial number of the case;
- (b) the statement of claim;
- (c) the date of hearing the case;
- (d) the names and addresses of the claimant and his or her witnesses;
- (e) the names and addresses of the defendant and his or her witnesses;
- (f) a summary of the evidence of the witnesses;
- (g) the documentary exhibits, if any;
- (h) the judgment or final orders of the Court and the date of the judgment or final orders;
- (i) the date of payment of the judgment debt, if any; and
- (j) the particulars of execution of the judgment, if any.

Part IV – Assignment to a small claim

7. Assignment to a judicial officer

The Chief Justice may assign a judicial officer to—

- (a) preside over a case in the Small Claims Procedure; and
- (b) carry out any other duties incidental to the above objects.

Part V – Parties to a small claim

8. Parties who may appear in Court

- (1) Only a natural person may institute an action in court, but a body corporate may become a party to an action in a court as a defendant.
- (2) A party to an action shall appear in person before a court and, shall not be represented by an advocate during the proceedings.
- (3) In case of a body corporate, it may appear before court by a representative not being an advocate.

Part VI – Institution of a small claim

9. Where to institute a small claim

- (1) Subject to rule 4(3), every suit shall be instituted in a court within the local limits of whose jurisdiction the cause of action wholly or in part arises.
- (2) In the case of a rental dispute or claim, a small claim shall be instituted in a Court within the local limits of whose jurisdiction the property is situated or where the defendant resides.

10. Notice of demand

A person shall, before instituting a small claim under these Rules, give a notice of demand to the defendant specified in Schedule 1, requesting him or her to satisfy a small claim within fourteen days of receipt of the notice of demand.

11. Claim form

- (1) A person may institute a small claim by filing a claim form specified in Schedule 2.
- (2) A person instituting a small claim shall—
 - (a) attach to the claim a copy of the notice of demand specified in rule 10 and an affidavit of service specified in Schedule 4;
 - (b) attach to the claim a copy of any agreement, document or other proof upon which the claim is based;
 - (c) indicate the full name and address of the intended defendant; and
 - (d) give any other information relevant for the speedy disposal of the claim.

Part VII – Service of summons, defence and counter claim

12. Service of summons

- (1) A claimant shall, in person or through a designated Court process server, serve the summons specified in Schedule 4, upon the defendant.
- (2) The claimant or Court process server shall, within seven days of service, file an affidavit of service specified in Schedule 3, showing proof of service of the claim upon the defendant.

13. Response of defendant

A defendant shall, upon receipt of the summons—

- (a) satisfy the debt or claim owed to the claimant; or
- (b) deliver, to the Court, a written statement of defence and counterclaim as specified in Schedule 5, containing the nature of his or her defence and particulars of the grounds on which it is based; or
- (c) institute a counterclaim by delivering a written statement of defence and counterclaim which contains particulars of the claim to the clerk of the Court.

14. Service of counterclaim

The defendant or a designated Court process server shall serve a copy of the written statement of defence and counterclaim provided for in rule 13(b) or (c), upon the claimant, within fourteen days of filing the written statement of defence and counterclaim in Court.

15. Reply to counter claim

Where the defendant has filed a defence which includes a counterclaim under rule 13(c), the claimant shall, within fourteen days of service of the written statement of defence and counterclaim—

- (a) file a reply to the counterclaim specified in Schedule 6; or
- (b) notify the Court in writing, that he or she shall reply to the counterclaim at the hearing of the case.

Part VIII – Satisfied claim, default judgment, splitting of claims, and cumulative jurisdiction**16. Satisfied claim**

Where a defendant satisfies a claim under rule 13(a), the claimant shall—

- (a) give him or her a receipt or written acknowledgement of receipt of the money owed, a copy of which shall be given to the Court; and
- (b) inform the Court in writing within seven days of acknowledgement of receipt that he or she shall not proceed with the case filed in the Court.

17. Default judgment

Where a defendant does not respond to the summons duly served upon him or her under rule 12, the Court shall, upon proof of service, enter judgment for the claimant.

18. Splitting of claims

A claim exceeding the jurisdiction of a court and based on one and the same cause of action may not be split with the object of recovering it in more than one action, if the parties to those actions and the point in issue in those actions are the same.

19. Cumulative jurisdiction

If two or more claims, each based upon a different cause of action are combined in one summons, the court shall have the same jurisdiction to adjudicate upon each claim as it would have had, if each claim had formed the sole object of a separate action.

Part IX – Hearing and examination of witnesses

20. Hearing

The parties to a small claim shall, on the day and time of hearing—

- (a) appear in person with all the relevant documents and exhibits to the claim, written statement of defence or counterclaim;
- (b) ensure that any witness or witnesses in support of his or her claim are present in Court; and
- (c) have proof that the summons, written statement of defence or counterclaim was served upon the other party or parties.

21. Judicial officer’s duties at hearing

- (1) A judicial officer shall ensure that the proceedings at the hearing are in accordance with the provisions of rule 25.
- (2) The judicial officer shall request the claimant on oath to state the facts of his or her claim clearly and submit any document or exhibit relevant to the claim.
- (3) The claimant shall answer any questions that may be asked by the judicial officer or any other party to the claim.
- (4) The judicial officer shall request the defendant on oath to respond to the claim presented under sub-rule (2) and the defendant shall answer any questions asked by the judicial officer or the other party to the claim.

22. Alternative dispute resolution

- (1) A judicial officer shall, in any appropriate case, refer the parties to mediation, arbitration or other form of alternative dispute resolution within fourteen days before the hearing of a case.
- (2) Where the parties reach an agreement under sub-rule (1), the judicial officer shall register a consent judgment.

23. Witnesses

- (1) A judicial officer may allow a witness to the case to give evidence on oath, which is relevant to the claim, a written statement of defence or counterclaim and the witness shall answer any questions asked by the judicial officer or any other party to the claim.
- (2) The judicial officer shall permit only one witness to be present in the Courtroom at the time of giving testimony and a witness who has already testified in the case may attend the proceedings.
- (3) A judicial officer shall have powers to summon a required witness where the circumstances warrant.

24. Cross examination

Cross-examination between the parties or of any witness is not permitted, but the judicial officer may inquire into any aspect of the evidence that has been adduced in court.

Part X – Proceedings of small claims procedure

25. Proceedings of Small Claims Procedure

The Court shall hear every case before it expeditiously and without undue regard to technical rules of evidence or procedure, but in exercising its jurisdiction, the Court shall be guided by the principles of fairness, impartiality without fear or favour and adhere to the rules of natural justice, and in particular, shall ensure that—

- (a) each party is given an opportunity to be heard;
- (b) each party is accorded ample opportunity to call witnesses and to adduce any other evidence as he or she requires to support his or her case; and
- (c) a judicial officer who has a direct or indirect interest of whatever nature in the dispute before him or her shall disqualify himself or herself from hearing the case.

26. Cessation of an action

- (1) If a court is of the opinion that a case contains complex questions of law or fact which cannot be adequately adjudicated upon by it, it shall suspend the proceedings.
- (2) If the proceedings are suspended in sub-rule (1), the claimant may institute a fresh action in another court of law which has the appropriate jurisdiction.
- (3) Upon the claimant filing a fresh claim in another court of law in accordance with sub-rule(2), the claimant shall be deemed to have withdrawn the suspended proceedings and the file shall be closed accordingly.

Part X – Judgment and decree

[Note: numbering as in original]

27. Judgment

Where the judicial officer has heard all parties and any witness to the case, he or she shall pass judgment specified in Schedule 7, immediately after the hearing or within fourteen days after hearing the case.

28. Inquiry into financial position

- (1) Where court has granted judgment for payment of a sum of money, the court shall inquire from the judgment debtor whether he or she is able to comply with the judgment without delay, and if he or she indicates that he or she is unable to do so, the court may, in camera, conduct an inquiry into the financial position of the judgment debtor and into his or her ability to pay the judgment debt and costs.
- (2) After such an inquiry, the court may—
 - (a) order the judgment debtor to pay the judgment debt and costs in specified instalments; or
 - (b) suspend the order under sub-rule (a) either wholly or in part on such conditions as to security or as the court may determine.

29. Expenses

A party to a claim under these Rules shall bear his or her own expenses.

30. Review of certain judgments

The court may upon application by an aggrieved party—

- (a) review or vary any judgment granted by it in the absence of the person against whom that judgment was granted, where the application for set-down for hearing is made on a date within six weeks after the applicant first had knowledge of the judgment;
- (b) review or vary any judgment granted by it which was void or was obtained by fraud or as a result of a mistake common to the parties, discovery of new and important matters provided the application is made not later than one year after the applicant first had knowledge of the voidness, fraud or mistake;
- (c) correct latent errors in any judgment, provided, in the case of an application, the application is made not later than one year after the applicant first had knowledge of any errors.

31. Execution of judgment

- (1) A person against whom a judgment is given shall abide by the Court's order specified in Schedule 8.
- (2) Where a judgment debtor pays the decretal amount, the judgment creditor shall issue a receipt acknowledging payment and shall notify the Court in writing within seven days after receipt of the payment.
- (3) Where a judgment debtor fails to comply with the judgment or order of the Court, the judgment creditor, may with the guidance of the court apply for execution of the judgment or order under section 38 of the Civil Procedure Act and order XXII, rule 7 of the Civil Procedure Rules.

Part XI – General**32. Extension of time**

Where any period is fixed or granted by the Court for doing any act prescribed or allowed by these Rules, the Court may, from time to time extend that period even where the period originally fixed or granted has expired.

33. Inherent powers of Court

Nothing in these Rules, shall be deemed to limit or affect the inherent power of Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of Court.

34. General power to amend

The Court may, at any time, and on such terms as to costs or otherwise as it thinks fit, amend any defect or error in any proceeding in a suit and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or arising out of such proceedings.

35. Correction of judgments, decrees or orders

The Court may, at any time, on its own motion or on application of any of the parties, correct a clerical or mathematical error in a judgment, decree or order of the Court.

Schedule 1 (Rule 10)**The Judicature (Small Claims Procedure) Rules, 2011*****Notice of demand***

To: _____ (name, description and place of residence)

I, _____ (*name, description and place of residence of claimant*)

hereby claim a sum of _____ (*amount claimed*) from you, arising from _____ (*particulars of debt e.g. rent, contract, etc.*).

You are required within fourteen days from the service of this notice of demand to pay or settle the debt mentioned above. If you pay or settle the debt, I will give you a receipt acknowledging settlement of the debt owing.

If you fail to comply with this notice of demand within the fourteen days, I will file a claim against you under the Small Claims Procedure to obtain a decree for the amount claimed together with expenses permitted by the Court.

Dated this _____ day of _____ 20 ____

Claimant

Schedule 2 (Rule 11)**The Judicature (Small Claims Procedure) Rules, 2011*****Claim form***

	For Court use only
Claim No.	
Issue date	

Claimant(s)

- (i) *name*
- (ii) *description*
- (iii) *place of residence*
- (iv) *address*

Defendant(s)

- (i) *name*
- (ii) *description*
- (iii) *place of residence*

(iv) *address*

Brief details of Claim

(Write in the space below)

(i) amount claimed

(ii) nature of transaction

(iii) evidence to be relied on

(attach photocopies of documents to be relied on)

(iv) relief sought

(v) witnesses-

(a) state names

(b) address

Value *(write in the space below)*

--

Amount claimed	Shillings
Court fee	
Total Amount	

Statement of truth

a) * I acknowledge that the facts stated in these particulars of claim are true to the best of my knowledge.

Full name of Claimant _____

Signed _____

* (Thumbprint of the Claimant)

* *delete as appropriate*

Note: Use additional paper if necessary.

Schedule 3 (Rules 11(2), 12(2))
The Judicature (Small Claims Procedure) Rules, 2011

The Republic of Uganda

In the Magistrates Court/ High Court of Uganda (Commercial Division)

Claim No. _____

_____ Claimant

Versus

_____ Defendant

Affidavit of Service of Summons

I, _____ of c/o M/s _____ P.O. Box _____
 _____ do make solemn oath and state as follows-

1. I am a process server of this Court.
2. On the _____ day of _____ 20__ I received a notice of demand issued by the Claimant/Summons issued by the Court of _____ in Suit No. _____ of _____ dated the _____ day of _____ 20__, for service on _____
3. He/she, was at the time personally known to me/was unknown to me and was shown to me by _____ who accompanied me to his/her house/place of work and I served the notice/summons on him/her on the _____ day of _____, 20__, at about ___ O'clock in the _____ morning/afternoon at _____ by tendering a copy of it to him/her and requiring his/her signature to the original notice/summons.
 - (a) _____ (Here state whether the person served signed or refused to sign the process and in whose presence)
 - (b) _____ (Signature or mark of process server)

Sworn/Affirmed by _____

Before me this _____ day of _____ 20__

 Deponent

 Before me

 Commissioner for oaths

Drawn and Filed by

P.O. Box _____

Schedule 4 (Rule 12(1))**The Judicature (Small Claims Procedure) Rules, 2011*****Summons***

To: _____ (*name, description and place of residence*).

Whereas _____ has instituted a suit against you for _____, you are summoned to settle the claim within fourteen days of receipt of this Summons or to appear in this Court in person on the _____ day of _____, 20____ at _____ O'clock in the morning/afternoon, to answer the claim; and you are directed to produce on that day all the documents upon which you intend to rely in support of your defence.

Take Notice that, in default of your appearance on the day mentioned above, the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court this _____ day of _____ 20____.

Judicial Officer/Registrar

Schedule 5 (Rule 13(b) and (c))**The Judicature (Small Claims Procedure) Rules, 2011*****Written statement of defence and counterclaim***

In the Claim No.
Claimant
Defendant

- How much of the claim do you dispute?
(tick appropriate box)
I dispute the full amount claimed as shown on the claim form
Or # I admit the amount of SHS. _____
Or # I paid the amount admitted on (date) _____
- Do you dispute this claim because you have already paid it? (Tick whichever applies)
No (*Then go to section 3*)
Yes. I paid SHS. _____ to the Claimant on date _____ (before the claim form was issued)
Give details of where and how you paid it in the box below (*then go to section 5*)

[Empty rectangular box]

Claim No. _____

3. State your defence if any

4. If you wish to make a claim against the Claimant (a counterclaim)

If your claim is for a specific sum of money, how much are you claiming?

SHS. _____

My claim for (*please specify nature of claim*)

[Empty rectangular box]

What are your reasons for making the counterclaim? If you wish to continue on a separate sheet put the claim number in the top right corner.

[Empty rectangular box]

Statement of truth

a) *I acknowledge that the facts stated in this form are true to the best of my knowledge.

Full name of defendant _____

Signed _____

* (Thumbprint of the Defendant)

* *delete as appropriate*

Date

[Empty rectangular box]

Note: Use additional paper if necessary.

Schedule 6 (Rule 15)

The Judicature (Small Claims Procedure) Rules, 2011

Reply to counterclaim

In the Claim No.
Claimant
Defendant

- How much of the counterclaim do you dispute?(tick whichever applies)
 # I dispute the full amount claimed as shown on the written statement of defence and counterclaim form.
 Or
 # I admit the amount of SHS. _____
 Or
 # I paid the amount admitted on *(date)* _____
- Do you dispute this counterclaim because you have already paid it? *(Tick whichever applies)*
 # No *(Then go to section 3)*
 Or
 # Yes. I paid to the SHS. _____ to the Defendant on *(date)* _____
- Defence (state the defence to counterclaim in the box below)

Note: Use additional paper if necessary.

Statement of truth

a) *I acknowledge that the facts stated in this Reply to Counterclaim are true to the best of my knowledge.

Full name of Counter-Claimant _____

Signed _____

Thumbprint

**delete as appropriate*

Schedule 7 (Rule 27)

The Judicature (Small Claims Procedure) Rules, 2011

Judgment

This suit coming before me _____ on this _____ day of _____ 20 ____ for final disposal and upon hearing both parties in this suit, my decision is as follows—

The above decision is based on—

- (a) _____
 (b) _____
 (c) _____
 (d) _____
 (e) _____

And it is hereby ordered that—

Specified mode of payment _____

Undertaken schedule of payment—

- (1) _____
 (2) _____
 (3) _____
 (4) _____
 (5) _____

Particulars of Judgment Debtor in relation to payment _____

Particulars of Judgment Creditor for remission of payment _____

Given under my hand and the seal of the Court this _____ day of _____ 20 ____

Judicial Officer/Registrar.

Schedule 8 (Rule 31)

The Judicature (Small Claims Procedure) Rules, 2011

Court order

Claim for _____

This suit coming on this day for final disposal before _____
 in the presence of the claimant and the defendant, it is ordered and decreed that

And that the sum of _____ shillings be paid by the _____ (*Defendant*) to the _____ (*Claimant*) as the amount claimed or ordered and expenses allowed by the Court with interest on that sum at the rate of _____ percent per year from this date to the date of realisation.

Given under my hand and the seal of the Court this _____ day of _____ 20 _____

Particulars

1. Principal

2. Interest in the agreement

Specified mode of payment _____

Undertaken schedule of payment—

(1) _____

(2) _____

(3) _____

(4) _____

(5) _____

Particulars of Judgment Debtor in relation to payment _____

Particulars of Judgment Creditor for remission of payment _____

Signed _____

Judgment Debtor

Signed _____

Judgment Creditor
