

Gebbie & Wilson Newsletter.

New Financial Limits: Civil Court Actions.

As you may well be aware, there are new financial limits to be introduced for civil court actions which will take effect from **14th January 2008**.

Whilst these changes will have no effect on the actual procedures involved in each kind of action, the changes to the limits are substantial and will create a marked increase in the number of actions dealt with under Small Claims procedures. These are the first changes to the financial limits for civil court actions in 19 years.

We would like to take this opportunity to inform you of the new limits and to remind you of the 3 types of civil court actions.

SMALL CLAIMS ACTION

A Small Claims action in the Sheriff Court aims to provide a simpler and more informal framework to settle a dispute (although in practice how a case is dealt with is very much dependant on the individual Sheriff hearing the case). Previously, this type of action was limited to claims up to £750. The limit will increase fourfold to include actions up to **£3,000**. This will result in a large increase in the number of disputes which can be dealt with under small claims procedure. It should also be noted that personal injury cases are to be dealt with differently and will not require to be raised as a Small Claim even if they are under £3,000.

The aim of raising the financial limit is to increase availability of the Small Claims procedure to court users and to a certain extent protect parties from the risk of a large award of expenses being made against them.

The increased limit will however mean a rise in the number of cases which will have capped expenses and limited recoverable costs under Small Claims procedure rules. There are changes to the level of expenses which may be awarded in a Small Claims action which will come into effect in time with the new financial limits. Previously, any award of expenses was capped at £75. **After 14th January 2008, where the Small Claim is between £200 and £1,500, expenses may be awarded up to £150**

and where the Small Claim exceeds £1,500, expenses may be awarded up to 10% of the sum claimed.

SUMMARY CAUSE ACTION

Summary Cause procedures previously related to claims ranging between £750 and £1,500. Clearly, claims falling within that range will be dealt with under Small Claims procedure from 14th January 2008. As of that date, Summary Cause procedures will relate to claims ranging from **£3,000 to £5,000.**

On some occasions, if you are successful, it may be possible to recover all or a proportion of any solicitors fees by means of an award of expenses in your favour.

There are certain types of actions which are excluded from Summary Cause procedure for example, Divorce.

ORDINARY CAUSE ACTION

Ordinary Cause procedures previously dealt with claims exceeding £1,500. Many actions which would have fallen into this category will be dealt with either under Small Claims or Summary Cause procedure now. The new financial limit to qualify for Ordinary Cause procedures will be **£5,000.** Certain types of action which are excluded from Small Claims or Summary Cause such as Divorce will still require to be raised in the Ordinary Cause procedure.

As with Summary Cause actions, where you are successful, it may be possible to recover all or a proportion of any solicitors fees by means of an award of expenses in your favour.

Please note that these changes will not effect any proceedings raised prior to 14th January 2008.

10th January 2008