

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE
PRACTICE DIRECTIONS
AMENDMENT NO. 6 OF 2019

It is hereby notified for general information that, with effect from 1 September 2019, the State Courts Practice Directions will be amended —

- (a) by inserting, immediately after the existing Part XXI (*Defamation Actions*), the following Part:

New Part XXII

- (b) by inserting, immediately after the existing Appendix K (*Pre-action Protocol for Defamation Actions*), the following Appendix:

New Appendix L

2. The new Part XXII consists of a new Practice Direction 144 (*Pre-action protocol for business-to-business debt claims*) which introduces a pre-action protocol that must be complied with by business entities that are parties to an action relating to the recovery of business debts.
3. The pre-action protocol (which is set out in the new Appendix L) serves to —
- (a) assist parties to resolve such disputes by helping them to identify the quantum of the claim (including interest) and narrow other issues in dispute; and
- (b) encourage the early and upfront exchange of documents and information between parties in order to facilitate negotiations leading to settlement.
4. The new Practice Direction 144 and the pre-action protocol set out in the new Appendix L will apply to actions for business-to-business claims that are commenced in the State Courts from 1 October 2019 onwards.

Dated this 26th day of August 2019.



JENNIFER MARIE
REGISTRAR
STATE COURTS

PART XXII: BUSINESS-TO-BUSINESS DEBT CLAIMS

144. Pre-action protocol for business-to-business debt claims

Definitions of “business” and “business-to-business claims”

(1) For the purposes of this Practice Direction —

“business entity” includes —

- (a) a sole proprietorship;
- (b) a partnership;
- (c) a company, including a foreign company;
- (d) a limited partnership; and
- (e) a limited liability partnership.

“business-to-business claim” means a claim by a business entity (being the creditor) against another business entity (being the debtor) for a contractual debt that falls within the following categories:

- (a) a claim for payment for the sale of goods or the supply of services (except for construction and renovation services);
- (b) a claim for payment for rental or for the hire-purchase of goods;
- (c) a claim under a banking, overdraft, or other credit facility; and
- (d) a claim under a guarantee.

Compliance with pre-action protocol

- (2) This Practice Direction and the pre-action protocol (“the Protocol”) set out in Appendix L to these Practice Directions apply to all actions for business-to-business claims that are commenced in the State Courts from 1 October 2019 onwards.
- (3) Except as otherwise provided by the Protocol, a creditor in a business-to-business claim must comply with the Protocol before commencing Court proceedings.

- (4) All creditors and debtors in a business-to-business claim must comply in substance and spirit with the terms of the Protocol.
- (5) A breach by one party will not exempt the other parties in the action from complying with the Protocol insofar as they are able to do so.
- (6) The Protocol operates in addition to the simplified process in O 108 of the Rules of Court (Cap 322, R 5), but does not affect the small claims process under the Small Claims Tribunals Act (Cap 308).

Sanctions for non-compliance with Protocol

- (7) In exercising its discretion as to costs, the Court will consider whether the Protocol has been complied with.
- (8) If non-compliance with the Protocol has led to unnecessary costs, the Court may —
 - (a) disallow in part or in whole the costs claimed by the defaulting party, even if the defaulting party has succeeded in the action;
 - (b) order the defaulting party to pay to the other party or parties their costs of the proceedings, whether in whole or in part; and/or
 - (c) order that the defaulting party pay the costs above on an indemnity basis.
- (9) The Court will consider whether the Protocol has been complied with when exercising its discretion in determining the amount of interest payable (except when it has been agreed between the parties), and may —
 - (a) award a party that has succeeded in the action and that has complied with the Protocol interest from a period earlier than the date of the writ; and
 - (b) deprive a party that has succeeded in the action but that has not complied with the Protocol interest in respect of any period as the Court deems fit.
- (10) Where there are good reasons for non-compliance with the Protocol, the Court will not impose any sanction against the defaulting party.

APPENDIX L

PRE-ACTION PROTOCOL FOR BUSINESS-TO-BUSINESS DEBT CLAIMS

Application

1. This Protocol applies to any action that is commenced in the State Courts from 1 October 2019 onwards by a business (the “creditor”) against another business (the “debtor”) arising from a business-to-business claim.

2. For the purposes of this Protocol —

“business” includes:

- (a) a sole proprietorship;
- (b) a partnership;
- (c) a company, including a foreign company;
- (d) a limited partnership; and
- (e) a limited liability partnership;

“business-to-business claim” means a claim by a business entity (being the creditor) against another business entity (being the debtor) for a contractual debt that falls within any of the following categories:

- (a) a claim for payment for the sale of goods or the supply of services (except for construction and renovation services);
- (b) a claim for payment for rental or for the hire-purchase of goods;
- (c) a claim under a banking, overdraft, or other credit facility; and

- (d) a claim under a guarantee.
- 3. A creditor must comply with the framework prescribed in this Protocol before commencing proceedings in the State Courts. Creditors and debtors may adopt the Forms in this Protocol where necessary to suit the facts of their case. Also, this Protocol is in addition to any negotiations that creditors and debtors may be conducting privately or on a “without prejudice” basis. In following this Protocol, creditors and debtors should act reasonably to keep costs proportionate to the nature and gravity of the case and the stage that the dispute has reached.
- 4. The Protocol operates in addition to the simplified process in O 108 of the Rules of Court (Cap 322, R 5), but does not affect the small claims process under the Small Claims Tribunals Act (Cap 308).

Objectives

- 5. This Protocol provides a framework for resolving business-to-business claims before the commencement of legal proceedings in the State Courts.
- 6. This Protocol has the following aims:
 - (a) helping creditors and debtors identify the quantum of the sum disputed (including interest);
 - (b) helping creditors and debtors identify the material issues implicated by their dispute;
 - (c) helping creditors and debtors identify the documents relevant to their dispute;
 - (d) encouraging early disclosure of relevant documents and information;
 - (e) encouraging early communications and negotiations leading to settlement; and
 - (f) supporting the efficient management of proceedings that cannot be avoided by facilitating the drafting of proper pleadings and by narrowing the issues in dispute.

Letter of Claim

7. Before commencing formal proceedings in the State Courts, the creditor must send to the debtor a Letter of Claim in the form set out in Form 1 to this Protocol. The Letter of Claim should be marked “Private and Confidential: to be opened by addressee only”, but should *not* be marked “Without Prejudice”.
8. The Letter of Claim should state the following:
 - (a) the name of the creditor;
 - (b) the amount of the debt;
 - (c) whether interest or other charges are continuing;
 - (d) where the debt arises from an oral agreement, who made the agreement, what was agreed (including, as far as possible, what words were used) and when and where it was agreed;
 - (e) where the debt arises from a written agreement, the date of the agreement, the parties to it and the fact that a copy of the written agreement can be requested from the creditor;
 - (f) where the debt has been assigned, the details of the original debt and creditor, when it was assigned and to whom;
 - (g) if payment of the debt through regular instalments have been offered by or on behalf of the debtor, an explanation of why the offer is not acceptable and why a court claim is still considered;
 - (h) details of how the debt can be paid (e.g., the method of and address for payment) and details of how to proceed if the debtor wishes to discuss payment options;
 - (i) the timeframe given for debtor to respond; save in cases of exceptional urgency, the debtor should be given at least 28 days to respond; if a shorter timeframe is imposed, the creditor should explain the reasons for the urgency; and

- (j) a statement by the creditor as to which of any of the alternative dispute resolution (“ADR”) options (set out at paragraphs [22]–[25] below) it proposes to use for the resolution of the dispute for the debtor to consider.
9. The Letter of Claim should also state the amount of interest incurred and any administrative or other charges imposed since the debt was incurred. It should further enclose, where available, an updated statement of account for the debt that includes details of any interest and administrative or other charges added. The Letter of Claim should be sent to the registered address or the last known address of the debtor.
 10. The Letter of Claim together with these enclosures (if any) must be sent to the debtor by way of certificate of posting, registered post, or any other mode that provides the creditor with a written acknowledgement of posting or delivery.
 11. Nothing in this Protocol should be construed to operate as a stay of the time limited for the doing of any act as prescribed by the Limitation Act (Cap. 163). If, by reason of complying with any part of this Protocol, a claim may be time-barred under any provision of the Limitation Act, the creditor may commence proceedings without complying with this Protocol, or so much of this Protocol that he is unable to comply with by reason of the impending operation of an applicable limitation period.

Response to Letter of Claim

12. The debtor must provide a Response to the creditor within 28 days of the receipt of the Letter of Claim (or such shorter time limit as specified in the Letter of Claim). The Response must be in accordance with Form 2 to this Protocol, and should contain the following information:
 - (a) whether, and to what extent, the creditor’s claim is accepted, whether more information is required or whether the claim is rejected;
 - (b) if the claim is accepted in whole or in part, the terms of repayment that the debtor is willing to offer;
 - (c) if more information is required, precisely what information is needed in order to enable the claim to be dealt with and why;

- (d) if the claim is rejected, an explanation of the reasons why it is rejected, including a sufficient indication of any fact on which the debtor is likely to rely in support of any substantive defence (*eg*, details of defects in the goods sold or services supplied, payments made but not taken into account in the creditor's Letter of Claim, etc.); and
 - (e) whether the debtor agrees to the ADR option proposed by the creditor, and if not, which of the ADR options set out below it wishes to propose for the resolution of the dispute.
13. Where a debtor indicates in the Response that it requires time to pay, the creditor and debtor should try to reach agreement for the debt to be paid by affordable instalments, based on the debtor's revenues and expenses. If the creditor does not agree to a debtor's proposal for repayment of the debt, it should give the debtor reasons in writing.
 14. If the debtor is unable to respond substantively within 28 days (or such shorter time limit as specified), it must acknowledge receipt within the said 28 days (or shorter time limit) and inform the creditor of the length of time required to respond substantively to the claim. A sample Acknowledgement can be found at [Form 3](#) to this Protocol.
 15. A partially completed Response should be taken by the creditor as an attempt by the debtor to engage with the matter. The creditor should attempt to contact the debtor to discuss the Response and obtain any further information needed to understand the debtor's position.
 16. The Acknowledgement of receipt or Response must be sent by way of certificate of posting, registered post or any other mode which provides the debtor with a written acknowledgement of posting or delivery.
 17. If no Acknowledgement of receipt or Response is received by the creditor within the timeframe set out in the Letter of Claim, the creditor is entitled to commence proceedings without further compliance with this Protocol.

Disclosure of Documents

18. Early disclosure of documents and relevant information helps to clarify or resolve any issues in dispute. Where any aspect of the debt is disputed (including the amount,

interest, charges, time for payment, or the creditor's compliance with relevant statutes and regulations), the creditor and the debtor should exchange all documents that they will be relying on if the matter eventually proceeds to trial.

19. If the debtor requests a document or information, the creditor must within 28 days of receiving the request provide the document or information sought, or explain why the document or information sought is unavailable.

Counterclaim

20. If the debtor intends to make a counterclaim or a cross-claim in the nature of a contractual debt against the creditor, it must include the information at paragraphs [8]–[9] above in its Response.
21. The creditor should then provide a Response to any such counterclaim within the equivalent period allowed to the debtor to respond to the Letter of Claim.

Alternative Dispute Resolution Options

22. The Court regards ADR as crucial in the efficient and cost-effective resolution of disputes. The following are some ADR options that creditors and debtors should consider prior to commencing an action:
 - (a) mediation at the Singapore Mediation Centre;
 - (b) mediation at the Singapore International Mediation Centre; and
 - (c) mediation under the Law Society Mediation Scheme.
23. The above list is non-exhaustive and creditors and debtors are free to consider and propose other ADR mechanisms to resolve the dispute.
24. If the creditor and the debtor are able to agree on a mode of ADR, the creditor should submit the relevant request for ADR (depending on chosen mode of ADR) within 14 days of their agreement to initiate the ADR process.
25. No creditor or debtor can be compelled to enter into any form of ADR.

Pre-Action Protocol Checklist

26. Where the creditor decides to commence litigation, he must file, together with the statement of claim, a duly completed Pre-Action Protocol Checklist in Form 4 to this Protocol.

Repayment Plan Calculator

27. Creditors and debtors may in making their proposals have recourse to the Repayment Plan Calculator available at:

<https://www.statecourts.gov.sg/cws/Resources/Documents/B2B%20Protocol%20-%20Repayment%20Plan%20-%20clean.xlsx>

Sanctions for Non-Compliance

28. The Court will have regard to compliance and non-compliance with this Protocol in exercising its discretion and powers as to costs.

FORM 1

LETTER OF CLAIM

To:

[Debtor]

[Address]

Dear Sir / Madam,

Outstanding Balance under [Name of Contract]

This is a Letter of Claim sent pursuant to the State Courts Pre-Action Protocol for Business-to-Business Debt Claims (the “Protocol”).

I am / we are claiming against you for the outstanding balance under [name of contract].

Details of claim

Details of my / our claim are set out below.

1	Creditor's full name and address.	
2	Amount of debt claimed	
3	Continuing interest or other charges, and details of such interest or other charges	
4	Accrued interest or other charges, and details of such interest or other charges	
5	Where debt arises from oral agreement: <ul style="list-style-type: none">- who made agreement- when was agreement made- where was agreement made- what was agreed (including, where possible, what words were used)	
6	Where debt arises from written agreement: <ul style="list-style-type: none">- date of agreement- parties to agreement- fact that a copy of written agreement can be requested from creditor	
7	Where debt has been assigned: <ul style="list-style-type: none">- Details of original debt and creditor- Date of assignment- Details of assignee	

8	Where debtor has offered to pay debt through regular instalments, explanation of why offer is not acceptable.	
9	Details of how debt can be paid <ul style="list-style-type: none"> - Method of payment - Address for payment - Contact information of creditor for debtor to discuss repayment options 	
10	Deadline for debtor to respond to this Letter of Claim (minimum 28 days from receipt of Letter of Claim, or explain necessity for shorter timeline)	

Statement of Account

Enclosed with this Letter of Claim is an up-to-date statement of account for the debt that includes details of any interest and administrative or other charges added.

ADR Options

State your / your client's preferred mode of ADR:

- ☐ Mediation at the Singapore Mediation Centre
- ☐ Mediation at the Singapore International Mediation Centre
- ☐ Mediation under the Law Society Mediation Scheme
- ☐ Others: (Please specify)

If you do not / your client does not wish to propose or engage in ADR, please state the reasons.

Please respond to this Letter of Claim within ____ days [as specified at paragraph 10 above] of your receipt of it by way of a Response or Acknowledgment in the form set out in the Protocol. If you fail to do so, I / we will be entitled to commence Court proceedings against the debtor without further compliance with the Protocol.

Yours faithfully

[Signed off by creditor / creditor's solicitors]

Enclosures.

FORM 2

RESPONSE TO LETTER OF CLAIM

To: [Creditor / creditor's solicitors]
[Address]

I / we acknowledge receipt of the Letter of Claim dated [date] and its enclosures on [date of receipt].

Details of Dispute

1	Debtor's full name and address.	
2	Amount of debt, including interest and other charges (if any) that is accepted.	
3	Amount of debt, including interest and other charges (if any) that is disputed.	
4	If claim is fully accepted: <ul style="list-style-type: none">- statement that claim is fully accepted- payment schedule that you wish to propose to creditor	
5	If claim is partially accepted: <ul style="list-style-type: none">- areas of claim that you accept- payment schedule that you wish to propose to creditor for such areas of claim- areas of claim that you dispute- reasons for disputing such areas of claim (eg, details of defects in the goods sold or services supplied, payments made but not taken into account in the creditor's Letter of Claim, etc.)	
6	If claim is wholly rejected: <ul style="list-style-type: none">- statement that claim is wholly rejected- reasons for disputing such areas of claim (eg, details of defects in the goods sold or services supplied, payments made but not taken into account in the creditor's Letter of Claim, etc.)	
7	If more information / documents required from creditor:	

	<ul style="list-style-type: none"> - a brief description of the information / documents required - date range of information / documents require - reasons for seeking such information /documents 	
8	<p>If you have a counterclaim against creditor:</p> <ul style="list-style-type: none"> - quantum of counterclaim - reasons for supporting counterclaim 	

Supporting Documents

Enclosed with this Response are documents supporting the reasons provided to dispute the amount claimed by the creditor in the Letter of Claim.

ADR Options

State whether you are agreeable to the ADR option proposed by the creditor in the Letter of Claim. If you are not agreeable to the proposed ADR option, counter-propose your preferred ADR option as a form of dispute resolution.

Yours faithfully

[Signed off by debtor / debtor's solicitors]

FORM 3

SAMPLE ACKNOWLEDGEMENT OF RECEIPT

To: [Creditor / creditor's solicitors]
[Address]

I / we acknowledge receipt of the Letter of Claim dated [*date*] and its enclosures on [*date of receipt*].

I am not in a position to fully respond to your claim within the time limit that you have set.

Please accept this letter as formal notification that I shall respond in full by [*date*].

Please defer any proposed action until receipt of my letter on [*date*].

Yours faithfully

[Signed off by debtor / debtor's solicitors]

FORM 4

PRE-ACTION PROTOCOL CHECKLIST TO BE FILED WITH STATEMENT OF CLAIM

1. Has the debtor acknowledged receipt of the creditor's Letter of Claim?

Ans: Yes / No

2. Have attempts been made to settle the matter?

Ans: Yes / No

If no, please give reasons.

3. Have the parties considered alternative dispute resolution?

Ans: Yes / No

If no, please give reasons.

4. Are any of the claims made by the creditor admitted by the debtor?

Ans: Yes / No

5. Has the debtor indicated that he has a counterclaim against the creditor?

Ans: Yes / No

6. Is that counterclaim or any part thereof admitted by the creditor?

Ans: Yes / No / Not applicable

7. The following documents / information have been exchanged between the creditor and debtor:

[Creditor to set out list of documents/information]

I confirm that I have complied with the Pre-Action Protocol for Business-to-Business Debt Claims.

[Signed off by creditor]

[This section is to be completed by the creditor's solicitors]

I have provided my client(s) with an estimate of the costs to be incurred if the matter proceeds to trial.

[Signed off by creditor's solicitors]