
EXECUTIVE SUMMARY

Small Claims Court is a branch of the Court of Queen's Bench, designed to provide quick and inexpensive resolution for people claiming relatively small monetary awards for certain types of claims. The simplified procedure for small claims can be navigated without having to retain a lawyer, which makes the process more accessible for Manitobans compared to the ordinary procedure for claims initiated at the Court of Queen's Bench.

A simplified procedure for small claims was first enacted in Manitoba in 1972.¹ This procedure has evolved over time to the process in place today. *The Court of Queen's Bench Small Claims Practices Act*² ("Small Claims Practices Act") and the *Queen's Bench Rules*³ establish the procedure for small claims in Manitoba. Small Claims Court has jurisdiction over all claims which do not exceed \$10,000, which may include general damages up to \$2,000.⁴ This monetary limit has remained unchanged since 2007 and is one of the lowest in Canada.

In the Commission's view, reform is appropriate to improve and modernize the *Small Claims Practices Act* and to put it on par with other Canadian jurisdictions. This report will consider the need to update the *Small Claims Practices Act* by increasing the monetary jurisdiction; increasing the general damages limit; changes to the substantive jurisdiction of small claims; who should adjudicate small claims; and changes to the procedure for pre-trial processes, default judgment and costs. The Commission makes eleven recommendations that seek to strike a balance between ensuring that more people are able to access the simplified process under the *Small Claims Practices Act* with the concern that the small claims system does not become burdened with more complex issues that should be determined by a judge of the Court of Queen's Bench.

As part of this project, the Commission released a Consultation Report and online survey in October 2016.⁵ The feedback from the consultation process was clear; respondents were overwhelmingly in favour of increasing the monetary jurisdiction of the *Small Claims Practices Act* and were supportive of proposed amendments to increase the efficiency of the administration of justice.

Reform of the *Small Claims Practices Act* can enhance access to justice in Manitoba in two ways. First, an increase in the monetary limit means that more people are able to have their disputes resolved in a more cost effective and expeditious forum as opposed to the more onerous

¹ *The County Court Act*, CCSM c C260 [repealed in 1984]. The initial legislation was Part II of *The County Courts Act*, SM 1971, c 77, and it applied only to the Winnipeg area. In 1972, the initial legislation was repealed and replaced a new Part II, which applied province-wide.

² CCSM c C285.

³ *Queen's Bench Rules*, Man Reg 553/88, Rule 76.

⁴ *Supra* note 2, s 3(1)(a).

⁵ Manitoba Law Reform Commission, *Access to Courts and Court Processes: Improving the Small Claims System in Manitoba* (Consultation Report, October 2016), available online: http://manitobalawreform.ca/pubs/pdf/additional/consultation_report_oct2016.pdf.

procedure and stricter rules of evidence at the Court of Queen's Bench. Second, more claims being directed to Small Claims Court will help to relieve the burden on the Court of Queen's Bench and free up judicial resources.

This report forms part of a larger project entitled *Access to Courts and Court Processes*, which focuses on specific legislative amendments designed to promote the efficient administration of justice in Manitoba. In 2012, the Manitoba Law Reform Commission published an Issue Paper on Access to Justice,⁶ which was intended to contribute to the ongoing discussion about access to justice. This project is considered the Commission's next step in addressing the ongoing access to justice problem in Manitoba.

⁶Manitoba Law Reform Commission, *Access to Justice* (Issue Paper #1, 2012), available online: http://manitobalawreform.ca/pubs/pdf/additional/issue_paper_access_justice.pdf.