

**MAGISTRATES COURT OF WESTERN AUSTRALIA  
CIVIL PROCEEDINGS  
FACT SHEET 18**

**ASSESSMENT OF DAMAGES**  
*(Unliquidated amount of more than \$1,000 but not exceeding \$10,000)*  
INFORMATION FOR THE CLAIMANT

**Making a claim for damages**

A claim can be commenced as a minor case or general procedure.

**Commencing a minor case claim**

Complete and lodge **Form 4** – Minor Case Claim and pay the prescribed fee.

This claim can be lodged through the website [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au) in Online Forms if you have a credit card.

This form and the fee schedule are available from the Magistrates Court website and can be lodged at any Magistrates Court registry.

Your minor case claim **must not exceed \$10,000** and you must be prepared to proceed without legal representation.

**See Fact Sheets:**  
**No. 1 - Understanding Civil Proceedings**  
**No. 3 - How to Commence a Minor Case Claim**

**Commencing a general procedure claim**

Complete and lodge **Form 3** – General Procedure Claim and pay the prescribed fee.

Your general procedure claim **must not exceed \$75,000**.

This claim can be lodged through the website [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au) in Online Forms if you have a credit card.

This form and the fee schedule are available from the Magistrates Court website and can be lodged at any Magistrates Court registry.

Legal representation is allowed, however if your claim is for \$10,000 or less and you did not elect to have the claim dealt with as a minor case, you will have to pay all your legal costs even if you win unless the Court orders otherwise.

See Fact Sheets:

No. 1 - Understanding Civil Proceedings

No. 2 - How to Commence a General Procedure Claim

### Can I claim for other expenses?

Your claim may include a sum for:

- towing and storage fees incurred
- reasonable cost of renting alternative property while the property was under repair and
- any other incidental expenses.

### Serving a Document

The Court can arrange service of your claim by a bailiff. Bailiffs are officers of the Court who are located throughout the State. You must prepay the service fee.

The fee schedule is available from the Magistrates Court website: [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au).

Alternatively you can make arrangements to serve the claim yourself.

See Fact Sheet:

No. 8 - Serving a Court Document

### Defendants admits to the amount of the claim

You will receive a **'Notice of Admission of Claim'** from the Court with details of the defendant's offer to pay in full or by instalments.

If you do accept the offer, you should contact the defendant and provide details of where the payments are to be made.

If you do not accept the offer you may proceed to enforce the total judgment debt.

See Fact Sheet:

No. 23 - Enforcing a Judgment

### Defendant admits to liability but disputes amount claimed

You will receive from the Court a copy of the response received from the defendant admitting liability but disputing the amount that should be awarded for the claim.

The Registrar will then list the case for a pre-trial conference and notify all parties in writing.

If you receive a notice to attend a pre-trial conference and you are aware of a risk to yourself or others in relation to the matter, you should contact the Court at which you are required to attend.

See Fact Sheet:

No. 12 – Pre-Trial Conference Minor Case

No. 13 – Pre-Trial Conference General Procedure

**No response to the claim by the defendant**

If the defendant fails to respond to the claim and the claim is for an unliquidated amount of \$5000 or less you may apply for default judgment. Complete and lodge **Form 13** – Application for Default Judgment.

This form is available from the Magistrates Court website: [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au).

If the claim is for an amount of more than \$5000 but not exceeding \$10,000 and the Registrar is able to assess the amount from a supporting affidavit lodged with your **Form 13**, the Registrar in the absence of the parties can give default judgment against the defendant.

If the Registrar is unable to assess the amount, the Registrar may give judgment for an unspecified amount and must list the application for a hearing before the Court to assess the amount of damages. A **Form 2** – General Affidavit must be lodged at least 14 days before the hearing.

This form is available from the Magistrates Court website: [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au).

If you receive a notice to attend a hearing and you are aware of a risk to yourself or others in relation to the matter, you should contact the Court at which you are required to attend.

**Role of the Court**

The Court will assess the amount of the damages to be awarded in the, and judgment previously given by the Registrar will be given for that amount as determined by the Court.

**Minor case claim defended by the defendant**

A Registrar must list a case for a pre-trial conference within 14 days after the defendant lodges a response a claim that indicates an intention to defend the claim. The Registrar will then notify all parties in writing when and where the pre-trial conference will be held.

If you receive a notice to attend a pre-trial conference and you are aware of a risk to yourself or others in relation to the matter, you should contact the Court at which you are required to attend.

**See Fact Sheet:  
No. 12 - Pre-trial Conference Minor Case**

**General procedure claim defended by the defendant**

The claimant must request a Registrar to list the case for a pre-trial conference within 14 days after the claimant receives from the Court a copy of the response indicating an intention to defend the claim.

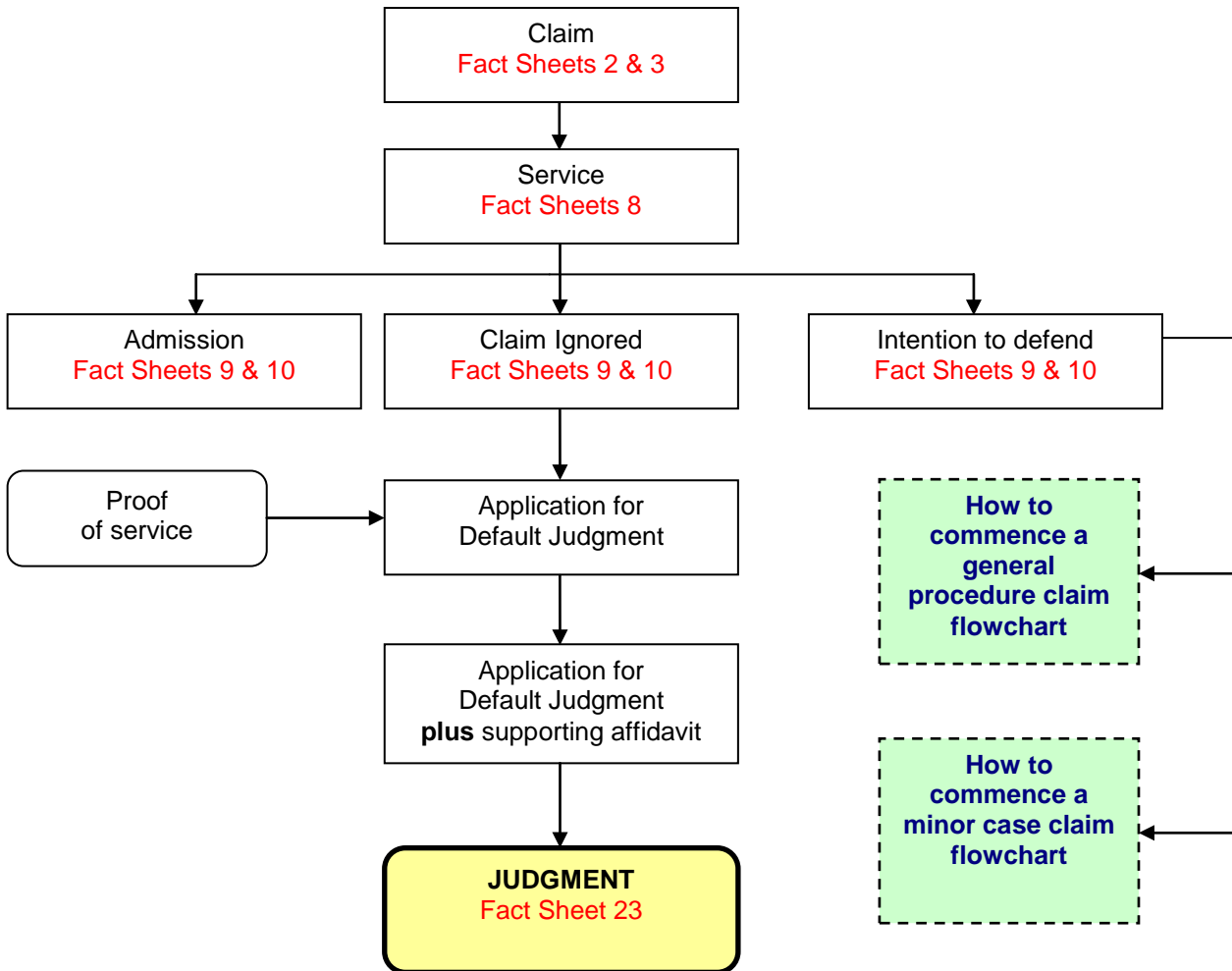
Complete and lodge a **Form 28** – Request for a Pre-Trial Conference.

This form is available from the Magistrates Court website: [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au).

If you receive a notice to attend a pre-trial conference and you are aware of a risk to yourself or others in relation to the matter, you should contact the Court at which you are required to attend.

**See Fact Sheet:  
No. 13 - Pre-trial Conference General Procedure**

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***This is a guide only. The content is subject to change. If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.***