

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 3**

**HOW TO COMMENCE A MINOR CASE CLAIM
INFORMATION FOR CLAIMANTS**

What is a minor case?

A claim where the value of the debt or damages you are claiming does not exceed \$10,000.

Can a lawyer represent me?

Parties are not entitled to be represented before the Court, unless all parties agree or the Court is satisfied that none of the parties will be unfairly disadvantaged as a result,

However, you will have to pay all your legal costs even if you win unless the Court orders otherwise.

How do I issue a minor case?

Complete and lodge **Form 4**, and pay the prescribed fee.

This claim can be lodged through the website www.magistratescourt.wa.gov.au in Online Forms if you have a credit card. The form is also available on the Magistrates Court website.

The court's objective when dealing with a minor case is to bring the parties to an acceptable settlement.

All proceedings are to be held in private unless the Court orders otherwise. Relatives and friends of a party may be present at the trial proceeding unless the Court orders otherwise.

A party to a minor case is not entitled to be represented before the court by a lawyer, unless all parties agree or the Court is satisfied that no other party will be unfairly disadvantaged as a result.

Completing Form 4

Claimant

Your name, or the name of your company or business name if you are trading as a partnership.

Defendant

The name and address of the person, company or

business name if the defendant is trading as partnership, you are commencing the claim against.

Address for service of an individual

A document lodged in relation to your claim must contain a residential, business address for service.

Address for service of a company

If the corporation is not represented by a lawyer, it must be the registered office or principal place of business of the corporation.

If you are not aware of the correct description, registered office, or principle place of business address of the corporation you can do a search by visiting Australian Securities & Investments Commission (ASIC) Perth Service Centre between 9am and 5pm (excluding public holidays) at:

ASIC
Level 1
11 Mounts Bay Road
PERTH WA 6000
Telephone: 1300 300 630
Fax: 08 9261 4227

You may have to pay fees depending on the type of search.

Address for service of a business

Must be the place of business address of the business.

There are different kinds of service requirements for other types of organisations and certain individuals. Information is available from any court registry.

Method of Service

The court can arrange service of your claim by a bailiff. Bailiffs are officers of the Court and are located throughout the State. You must pre-pay the service fee.

Alternatively you can make arrangements to serve the claim yourself.

See Fact Sheet:
[No. 8 - Serving a Court Document](#)

Description of claim

These are the details of the claim that you are making against the defendant.

Amount of claim

The amount of money that you are claiming from the defendant, must be included in your description of

claim, you can also include a claim for interest.

Small business or non-profit association

If you are a small business or a non-profit association, you must complete a statutory declaration form, to qualify to have your lodgment fee reduced.

The *Magistrates Court (Fees) Regulations 2005* defines a small business or a non-profit association as:

- an individual or individuals in partnership who wholly own and operate a business that has less than 20 full-time equivalent employees and partners;
- a corporation that has less than 20 full-time equivalent employees and that is not a subsidiary of a corporation that has 20 or more full-time equivalent employees; or
- a non-profit association is a society club, institution or body that is not for the purpose of trading or financial profit for its members.

Signature

You are required to sign each copy of the claim form unless you electronically lodge your claim through the Magistrates Court Online Forms.

Contact details

Including these details will assist the court and defendant to contact you if the need arises.

Where do I lodge my minor case form?

You may lodge your claim in person at any Magistrates Court registry within the State or you may choose to lodge your claim electronically through the Magistrates Court website www.magistratescourt.wa.gov.au in Online Forms if you have a credit card.

However, any party may make an application to the court for a change of venue. If the court is satisfied it would be more convenient, or fair, to the parties if the whole or part of the proceedings in a case were conducted at another place in the State, the Court may order accordingly.

What happens after my claim is lodged and served on the defendant?

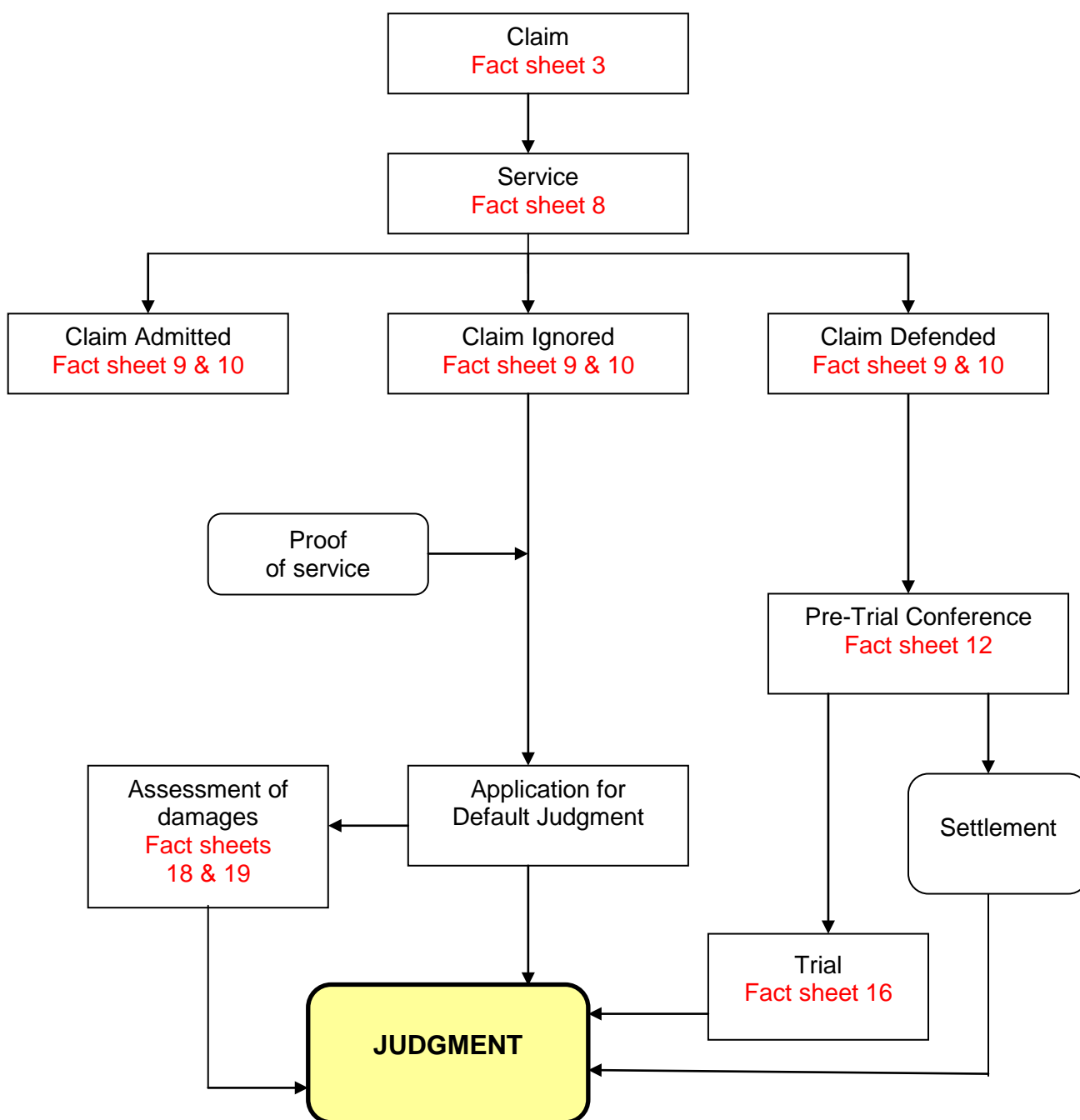
From the date that the defendant is served with the claim, they have a period of 14 days if service is within Western Australia or 21 days if service is within another State or Territory of Australia.

You cannot do anything until the defendant's time to respond has expired.

What happens next depends on how the defendant responds to the claim:

- Admission to claim;
- Notice of intention to defend; or
- The claim is ignored.

Minor Cases Procedure



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.