

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

**DAMAGES**  
(Unliquidated amount of more than \$1000 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**

Complete and lodge **Form 4**.

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

**See Fact Sheets**

**No 1 Understanding the Magistrates Court  
No 3 How to commence a minor case claim**

**Commencing a General Procedure claim**

Complete and lodge **Form 3**.

Your claim must not exceed \$75,000

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.

**See Fact Sheets**

**No 1 Understanding the Magistrates Court  
No 2 How to commence a general procedure claim**

**Can I claim for other expenses?**

Your claim may include a sum for:

- a) towing and storage fees incurred;
- b) reasonable cost of renting alternative property while the property was under repair; and
- c) 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.

**Defendants admits to the amount of the claim**

Alternatively you can make arrangements to serve the claim yourself.

**See Fact Sheet  
No 8 Serving a Court document**

Admission to the amount claimed  
You will receive a "Notice of admission of claim" from the court with details of the defendants 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.

**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 unliiquidated amount of \$1000 or less you may apply for default judgment. **Form 13**

If the claim is for an amount of more than \$1000, and if the Registrar is able to assess the amount from a supporting affidavit lodged with your application for default judgment "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 must list the application for a hearing before the Court to assess the amount of damages.

A supporting affidavit must be lodged and served at least 14 days before the hearing.

**Role of the Court**

The court will assess the damages, and judgment will be given for that amount as determined by the Court.

**Minor Case defended by the defendant**

A Registrar must list a case for a pre-trial conference within 14 days after the defendant lodges a response to 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.

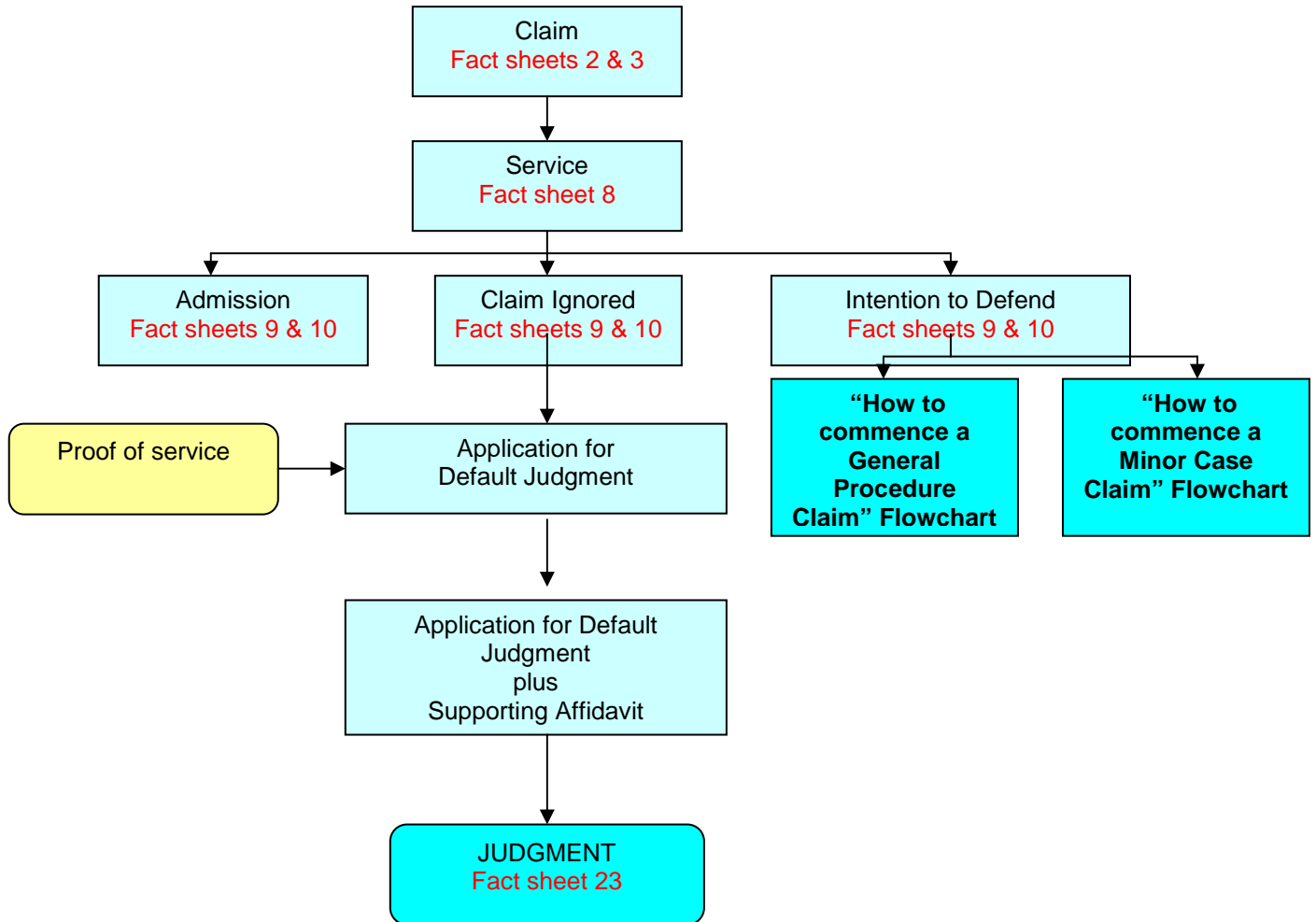
**See Fact Sheet  
No 12 Pre-trial Conference – Minor Case**

**General Procedure claim defended by the defendant**

The claimant must then 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 for an intention to defend the claim. **Form 28**

**See Fact Sheets:  
No 13 Pre-Trial conference – General Procedure**

# FLOWCHART



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.