

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 31**

PROPERTY (SEIZURE & DELIVERY) ORDER

This fact sheet provides information on a judgment of a court requires a person to give possession of any real property (including an order under the Residential Tenancies Act 1987) or personal property to another person.

The person, who has to give possession, is known as the obligated person.

Who is the bailiff?

A bailiff is an authorised officer of the Sheriff of Western Australia who serves court documents and seizes and sells the judgment debtor's real or personal property.

What is a property (seizure & delivery) order?

A property (seizure & delivery) order authorises a bailiff to seize the obligated persons' real or personal property and deliver it to the applicant.

Applying for a property (seizure & delivery) order?

Complete and file **Form 6**. The applicant will also need to pay the necessary application fee and bailiff enforcement fees.

Making additional orders

The court can also make a further enforcement order for:

- a) the costs associated with enforcing the property (seizure and delivery) order; and
- b) in the case of personal property, the value of the property concerned, as assessed by the court, if the property cannot be seized under the property (seizure and delivery) order.

Role of the Bailiff

To carry out the orders of the court.

Powers of the bailiff when seizing and delivering real property

Evict any person who is not lawfully entitled to be on the property.

This power may only be exercised between 9am and 5pm.

Powers of the bailiff when seizing and delivering personal property

Enter any place where it is 'reasonably' suspected the personal property is located.

A bailiff can enter any place, if it is not a dwelling or the occupier consents, at any time of the day or night.

Disobeying the order

Without consent, the bailiff can only enter the place between 9am and 5pm.

If the obligated person unlawfully takes possession of real or personal property seized by the bailiff, that person is guilty of a contempt of court.

See Fact Sheet:
No. 37 Contempt of court

Application to suspend enforcement

Under special circumstances, an obligated person may apply for an order suspending the judgment. This application is made to the court where the judgment was given. See Form No. 7 and supporting affidavit.

See Fact Sheet:
No. 26 Applying for a suspension order

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.