

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 7**

CLAIMING INTEREST

This fact sheet sets out information on claiming interest under the *Magistrates Court (Civil Proceedings) Act 2004* and *Civil Judgments Enforcement Act 2004*.

Types of Interest

There are two types of interest that you can claim.

- Pre-judgment interest
- Post judgment interest on the judgment sum

Pre-Judgment Interest

A claimant has a right to interest at common law or may be awarded pre-judgment interest under the *Magistrates Court (Civil Proceedings) Act 2004*.

How do I claim Pre-Judgment Interest?

Where a claimant intends to seek an order for payment of interest, the claimant may include this intention in the description of claim on either a minor case or general procedure claim form.

Court order for Pre-Judgment Interest

If the Court gives judgment in favour of a monetary claim, including a debt, damages or the value of goods, it may include in the judgment sum either:

- a) Interest, at a rate decided by the Court, on the whole or part of the money, for the whole or a part of the period that:
 - (i) begins on the date when the cause of action arose;
 - (ii) ends on the date when the judgment is given; or
- b) a lump sum of money in lieu of such interest.

The *Magistrates Court (Civil Proceedings) Act 2004* does not allow for the giving of interest on interest.

Interest on Judgment sums

This is interest payable after the Court has given a judgment.

Interest is paid on the unpaid amount of a judgment sum from the date of the judgment until the date that the judgment sum is paid:

- a) at the prescribed rate of 6%; or
- b) at the rate set by the Court in the judgment or by an order made after the judgment has been given.

Unless the Court orders, interest applies whether or not a suspension order, time for payment order or instalment order has been made.

Waiving interest

A judgment creditor may waive the payment of the whole or part of the interest by written notice. Completing part 8 of Form 6 does this.

Record of interest

Where interest is claimed up until final payment it is the judgment creditor's responsibility to keep an accurate record of the interest calculation on any reducing balance.

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.