



## Magistrates Court of Western Australia Civil Jurisdiction

### 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 **must be lodged electronically** using the Courts Electronic Case Management System (ECMS) [eCourts Portal](#).

The fee schedule is available from the Magistrates Court website.

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 must be lodged electronically using the Courts Electronic Case Management System (ECMS) [eCourts Portal](#).

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

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**

## 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.

For a **Minor Case Claim**, the Registrar will then list the case for a **status conference** and notify all parties in writing.

For a **General Procedure Claim**, the Registrar will then list the case for a **pre-trial conference** and notify all parties in writing.

**See Fact Sheet:**

**No. 14A – Status 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 \$10,000 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 \$1000 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).

## **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 **status 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.

**See Fact Sheet: No. 14A - Status 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**.

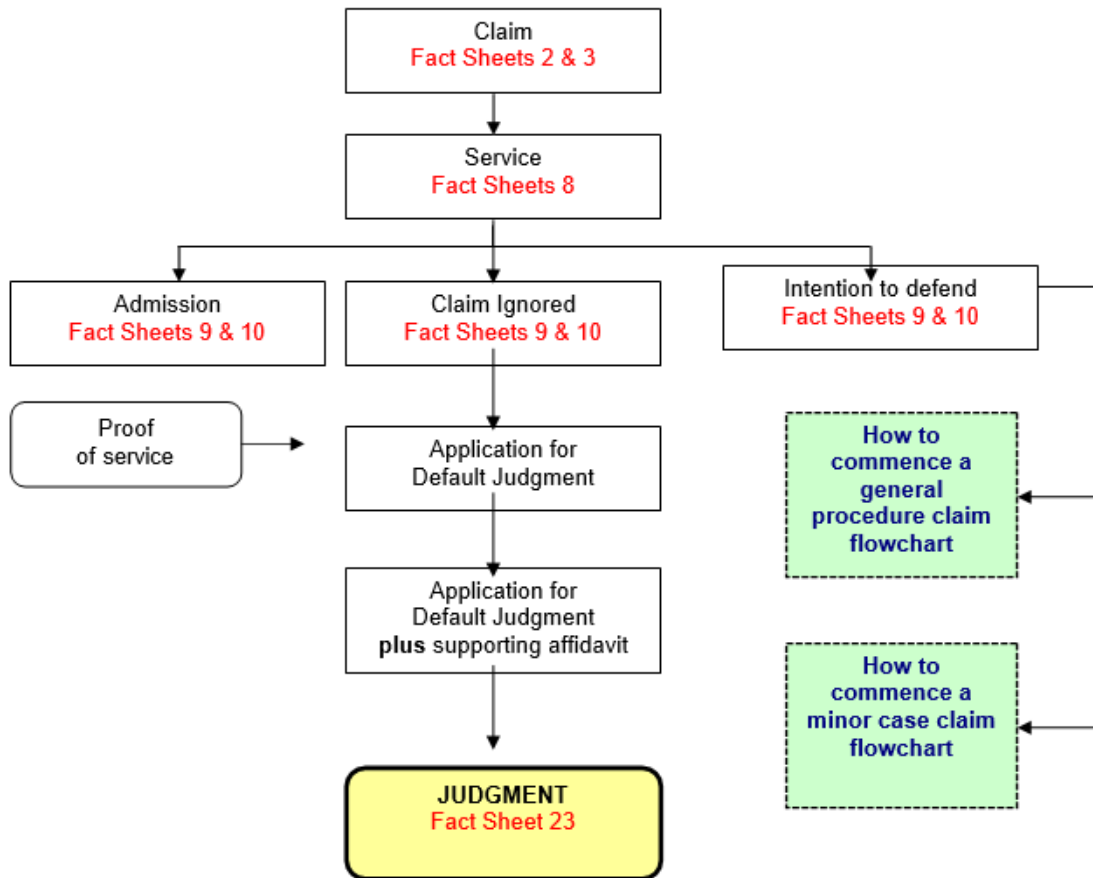
This form is available from the Magistrates Court website:

[www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au).

If you win your case, you can apply to the Court for an order for the payment of costs. These costs may include the costs of getting your witnesses to Court.

**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.