



Magistrates Court of Western Australia

Civil Jurisdiction

Fact Sheet 24 – Means Inquiry

Information for the Judgment Creditor

What is a Means Inquiry?

An inquiry conducted in Court to determine the judgment debtor's **means to the pay** the judgment debt.

The Court may make an instalment order or a time to pay order having regard to:

- the judgment debtor's income, assets and liabilities and, if applicable, the income, assets and liabilities of their spouse, de facto partner and dependants;
- whether there are, or will be, any earnings that can be appropriated from an employer;
- whether there is, or will be, a debt owing to the judgment debtor by another person;
- the existence, location and value of any property that can be seized and sold.

At all times during the means inquiry the parties must listen to and follow directions from the registrar conducting the inquiry.

How do I apply for a Means Inquiry?

Complete and lodge a **Form 6 - Application or request to a Court** and pay the prescribed application fee (if not previously paid).

This form is available on the Magistrates Court website:

www.magistratescourt.wa.gov.au.

On the application, you should indicate if you need the judgment debtor to **produce any documents** to the Court at the means inquiry.

The Court will fix a date, time and place for the means inquiry hearing and will notify you of this.

How is a Means Inquiry summons served?

It must be served to the judgment debtor, in person, not less than **five days before the hearing**.

It can be served by a bailiff. The Court can arrange for a bailiff to serve your claim. Bailiffs are officers of the Court who are located throughout the State. You must prepay the service fee.

Alternatively, you can serve the means inquiry summons yourself.

See Fact Sheet: No. 8 - Serving a Court Document

Location of Means Inquiry

A means inquiry must be held at the Court registry where the judgment was given.

You can apply for the means inquiry hearing to be conducted at another registry of the Court. Complete and lodge a **Form No. 7 – Application**

See Fact Sheet: No.21 - Application

Failure to attend a Means Inquiry

As the judgment creditor, you must attend the means inquiry, or it may be dismissed.

If you do not, the Court also has the power to award costs against you.

If the judgment debtor has been served with the summons and does not attend the hearing, the Court may give leave for the judgment creditor to issue a warrant to have the judgment debtor arrested and brought before the Court. Complete and lodge a **Form 6 - Application or request to a Court** and pay the prescribed bailiff fees.

See Fact Sheet: No. 35 - Warrant for Arrest

A person who has been summoned to attend Court and:

- a) does not obey the summons; or
- b) refuses to be sworn or answer any lawful questions;

is guilty of a contempt of Court.

See Fact Sheet: No. 37 - Contempt of Court

At the means inquiry hearing, you are responsible for examining the judgment debtor to enable the Court to determine if they have the means to pay the judgment debt. Any questions you ask the judgment debtor **must** be restricted to the financial ability of the judgment debtor to pay the judgment debt.

To help you do this, an **examination statement** is attached.

What enforcement orders can be made at a Means Inquiry?

The following enforcement orders can be made:

- o time for payment order;

- instalment order; or
- earnings appropriation order.

Time for payment order

This requires the judgment debtor to pay the debt in full immediately or on, or before, a date set by the Court.

Instalment order

This requires the judgment debtor to pay the debt by regular amounts set by the Court.

Earnings appropriation order

This requires an employer, who pays the judgment debtor, to pay a portion of those earnings to you.

Before an earnings appropriation order can be issued an instalment order (see above) must have been disobeyed and cancelled.

See Fact Sheet: No. 34 - Earnings Appropriation Order

Payments

You must provide the judgment debtor with details of where payments can be made. The Court cannot accept payments on your behalf.

It is suggested that you **provide a receipt** for each payment to reduce disputes about payment.

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.