



Magistrates Court of Western Australia

Civil Jurisdiction

Fact Sheet 33 – Default Inquiry

Information for the Judgment Debtor

What is a Default Inquiry?

This is an inquiry into the alleged failure of the judgment debtor to comply with an a time for payment order or on more than 2 occasions, has not paid an instalment in accordance with an instalment order.

As a result, the judgment creditor has requested a summons be issued for you to attend a **default inquiry**.

When and how is a default inquiry held?

The Court fixes a date, time and place for the default inquiry.

A default inquiry summons must be served on you no less than **five** days before the hearing.

At the default inquiry hearing, you will be required to give oral evidence and if requested in the summons, to produce records that will be used for the inquiry.

What if I don't attend the default inquiry hearing?

If you do not attend the default inquiry as summonsed, the Court may issue a warrant to have you arrested and brought before it.

See Fact Sheet: No. 35 Warrant for Arrest

If the judgment creditor fails to appear, you may seek an order for costs.

When does a default on a time for payment order occur?

If you had the means to pay the judgment debt but did not pay it and have no reasonable excuse for not paying the judgment debt.

When does a default on an instalment order occur?

If you owe two or more instalment payments, and had the means to pay the instalments, and you did not have a reasonable excuse for not paying the instalment.

Outcome of the default inquiry

If the Court finds that you have disobeyed a time for payment order or an instalment order you will be guilty of a **contempt of Court**.

Contempt of Court and imprisonment

You can be imprisoned for up to **40 days** for contempt of Court.

The Court can order imprisonment be suspended if you comply with:

- a new time for payment order; or
- the instalment order or an amended or new instalment order.

What if I do not comply with the new order where imprisonment has been suspended?

The judgment creditor may issue a warrant for your arrest and imprisonment.

See Fact Sheet:

No. 36 - Order for Arrest and Imprisonment for Contempt of Court where Imprisonment where Imprisonment previously Suspended.

The punishment that may be imposed **does not**:

- extinguish or reduce the judgment debt; or
- terminate an instalment order, unless the Court orders otherwise.

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.