

**MAGISTRATES COURT OF WESTERN AUSTRALIA  
CIVIL PROCEEDINGS  
FACT SHEET 18**

**ASSESSMENT OF DAMAGES**  
*(Unliquidated or liquidated 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.

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**.

The fee schedule is available from the Magistrates Court website.

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

## Defendants admits to the amount of the claim

You will receive a '**Notice of Admission of Claim**' from the Court with details of the defendant's offer to pay in full or by instalments.

If you do accept the offer, you should contact the defendant and provide details of where the payments are to be made.

If you do not accept the offer you may proceed to enforce the total judgment debt.

See Fact Sheet:  
No. 23 - Enforcing a Judgment

## 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 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 Minor Case claim by the defendant

If the defendant fails to respond to the claim and the claim is for an unliquidated (damages) amount or liquidated (debt) amount of \$10,000 or less you may apply for default judgment. Complete and lodge **Form 13 – Application for Default Judgment**.

Where the claim is for an unliquidated amount, the Registrar may order additional supporting materials to be provided, give default judgment or, list the application for a hearing at which the Court will assess the amount.

A **Form 2 – General Affidavit** must be lodged at least

**No response to the  
General Procedure  
Case claim by the  
Defendant**

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).

If the defendant fails to respond to the claim and the claim is for an unliquidated (damages) amount or liquidated (debt) amount of \$10,000 or less you may apply for default judgment. Complete and lodge **Form 13 – Application for Default Judgment**.

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 to the claim that indicates an intention to defend the claim. The Registrar will then notify all parties in writing when and where the status conference will be held.

See Fact Sheet:  
**No. 14A - Status Conference Minor Case**

**General procedure  
claim defended by the  
defendant**

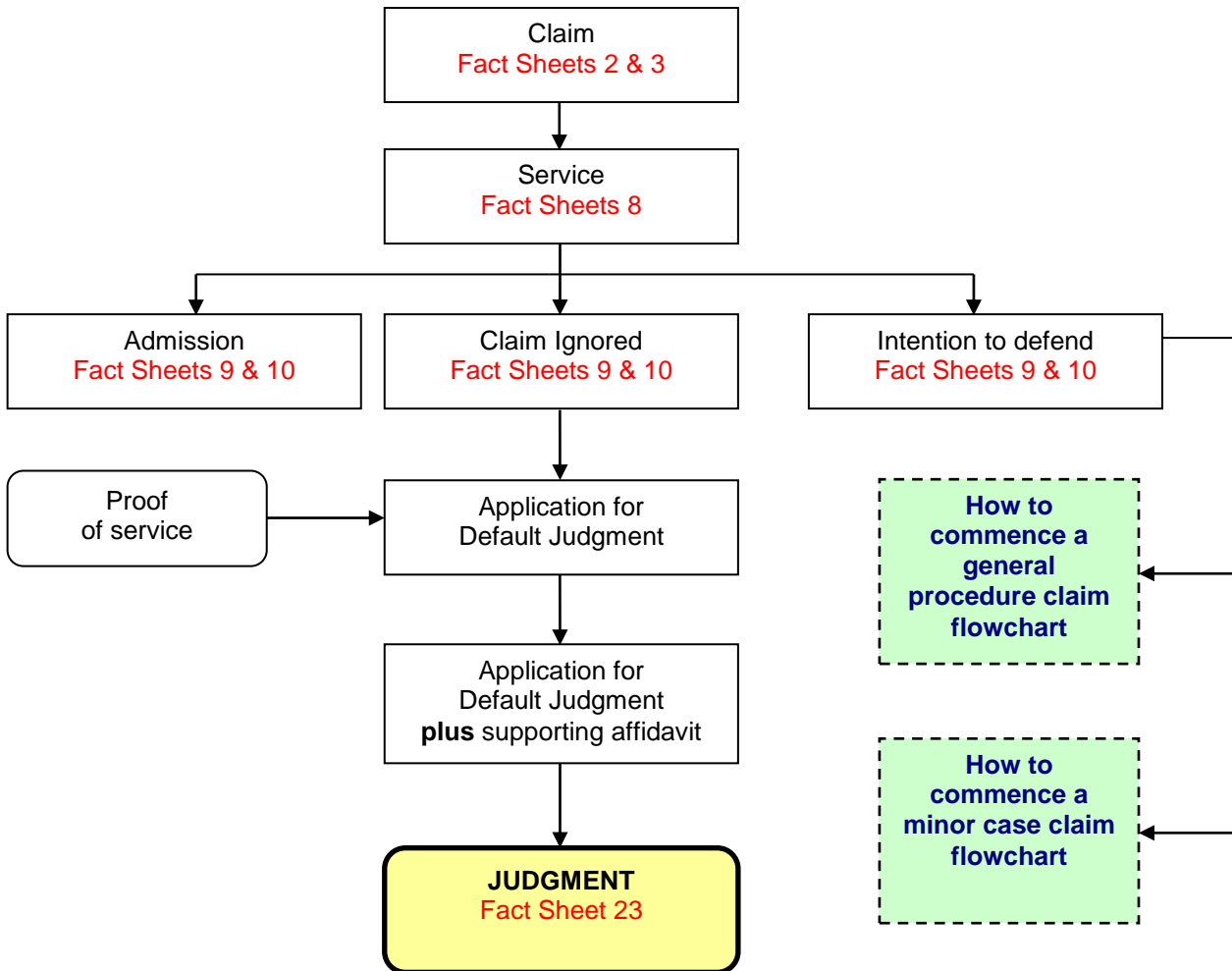
The claimant must request a Registrar to list the case for a pre-trial conference within 14 days after the claimant receives from the Court a copy of the response indicating an intention to defend the claim.

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).

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.***