



Magistrates Court of Western Australia

Civil Jurisdiction

Fact Sheet 25 – Means Inquiry

Information for the Judgment Debtor

What is a Means Inquiry?

An inquiry conducted in Court to determine if you have the means to pay the judgment debt.

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

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

May make an instalment order or time for payment order.

The judgment creditor will examine you.

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

Being served with a Means Inquiry?

The means inquiry summons must be served on you, in person, no less than **five** days before the hearing.

You will also be served with **Form 38 - Statement of Financial Affairs**.

This form must be completed and brought with you to the Court on the day of the means inquiry.

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** and **supporting Form 2 – General Form of Affidavit**.

The forms are available on the Magistrates Court website:

www.magistratescourt.wa.gov.au.

See Fact Sheet: No.21 – Application

What the judgment debtor must bring to the Court

You must provide the Court with all records that relate to your income, assets and liabilities and, if applicable, the income, assets and liabilities of your spouse, de facto partners and any dependants.

If these records are not provided, you may be found guilty of contempt of Court.

What happens if I do not attend?

The Court can order the issue a **warrant** to have you arrested and brought before the Court if you do not attend.

See Fact Sheet: No. 35 - Warrant for Arrest

If you do not have a reasonable excuse for not attending, and you do not obey the summons or refuse to be sworn or answer any lawful questions, you will be guilty of a contempt of Court.

See Fact Sheet: No. 37 Contempt of Court

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

What enforcement orders can be made at a Means Inquiry?

The following enforcement orders can be made:

- time for payment order;
- instalment order; or
- earnings appropriation order.

Time for payment order

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

Instalment order

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

Earnings appropriation order

This requires your employer to pay a portion of your earnings direct to the judgment creditor.

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

The judgment creditor will provide you with details of where the payment(s) can be made. **The Court cannot accept payment.**

It is recommended you obtain a receipt for each payment and keep it as a record of your payments.

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.