

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 31**

PROPERTY (SEIZURE & DELIVERY) ORDER

This fact sheet provides information on a judgment of a Court requires a person to give possession of any real property (including an order under the Residential Tenancies Act 1987) or personal property to another person.

The person, who has to give possession, is known as the obligated person.

Who is the Bailiff?

A Bailiff is an authorised officer of the Sheriff of Western Australia who serves Court documents and seizes and sells the judgment debtor's real or personal property.

What is a property (seizure & delivery) order?

A property (seizure & delivery) order authorises a Bailiff to seize the obligated persons' real or personal property and deliver it to the applicant.

Applying for a property (seizure & delivery) order?

Complete and lodge **Form 6 – Application or Request to A Court** and pay the prescribed fee, which includes the Bailiff's enforcement fees. Enforcement fees may vary based upon a number of factors including the number of enforcement attempts made and the distance travelled to execute the enforcement process. Please refer to the Civil Judgment Enforcement Regulations 2005 for the full list of fees.

Enforcement forms are available from the Magistrates Court website: www.magistratescourt.wa.gov.au.

Making additional orders

The Court can also make a further enforcement order for:

- a) the costs associated with enforcing the property (seizure and delivery) order; and
- b) in the case of personal property, the value of the property concerned, as assessed by the Court, if the property cannot be seized under the property (seizure and delivery) order.

Role of the Bailiff

To carry out the orders of the Court.

Powers of the Bailiff when seizing and delivering real property

Evict any person who is not lawfully entitled to be on the property. This power may only be exercised between 9am and 5pm.

Powers of the Bailiff when seizing and delivering personal property

Enter any place where it is 'reasonably' suspected the personal property is located.

A Bailiff can enter any place, if it is not a dwelling or the occupier consents, at any time of the day or night.

Without consent, the Bailiff can only enter the place between 9am and 5pm.

Disobeying the order

If the obligated person unlawfully takes possession of real or personal property seized by the Bailiff, that person is guilty of a contempt of Court.

See Fact Sheet:
No. 37 - Contempt of Court

Application to suspend enforcement

Under special circumstances, an obligated person may apply for an order suspending the judgment. This application is made to the Court where the judgment was given.

Complete and lodge a **Form No. 9 – Application for Suspension Order** and supporting **Form 2 – General Form of Affidavits**.

These forms are available from the Magistrates Court website: www.magistratescourt.wa.gov.au.

See Fact Sheet:
No. 26 - Applying for a Suspension Order

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.