

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL PROCEEDINGS
FACT SHEET 19**

ASSESSMENT OF DAMAGES

(A claim for damages for a liquidated or unliquidated amount exceeding \$10,000 but not more than \$75,000)

INFORMATION FOR THE CLAIMANT

Making a claim

A claim must be commenced as a general procedure.

See Fact Sheets:
No. 1 - Understanding Civil Proceedings

Commencing a General Procedure claim

Compete 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.

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.

Alternatively, you can make arrangement 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

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 for 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.

See Fact Sheet:
No. 13 - Pre-trial Conference General Procedure

No response to the claim by the defendant

If the defendant fails to respond to the claim and the claim is for

- (a) a liquidated (debt) amount more than \$10,000 but not exceeding \$75, 000
- (b) an unliquidated (damages) amount of more than \$10000 but not exceeding \$75,000 and the registrar is able to assess the amount from any supporting material lodged with the claim,

the registrar in the absence of the parties can give default judgment against the defendant.

If a claim is for an unliquidated amount of more than \$10000 , but no more than \$75000 and the Registrar is unable to initially assess the amount from the supporting materials lodged, the Registrar may do any of the following;

- Request the party to lodge additional supporting materials
- Award judgment for a specified amount after assessment of additional supporting materials lodged
- Award judgment for an unspecified amount and list the matter for a hearing at which the Court will assess the amount that should be awarded.

It is not always necessary for the parties to attend a hearing for the court to determine the amount. If you

are required, the registrar will notify the defendant of the hearing date.

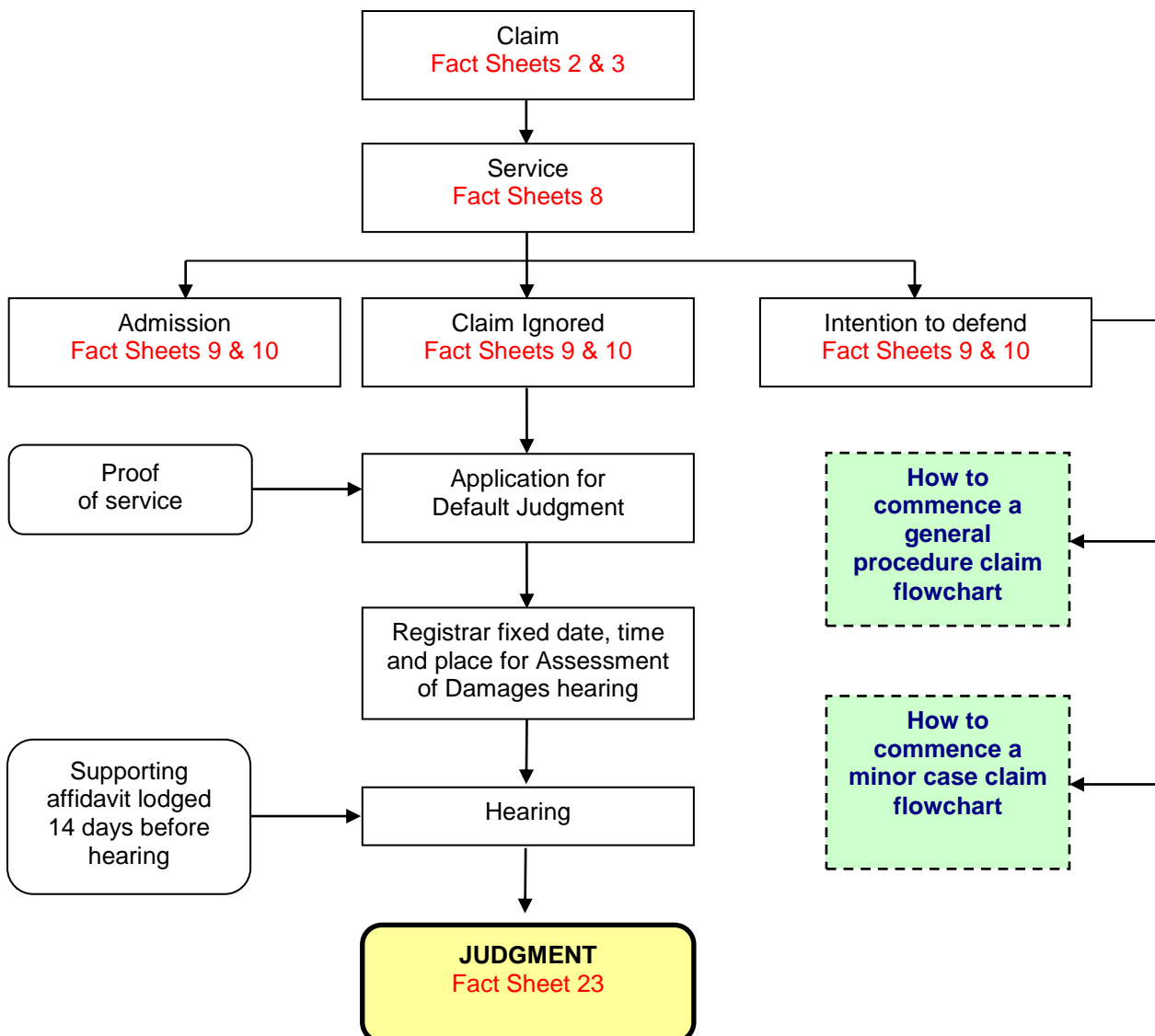
If the registrar notifies the defendant of the hearing date, the claimant must lodge and serve a **Form 2 – General Affidavit** at least 14 days before the hearing.

This form is available from the Magistrates Court website: www.magistratescourt.wa.gov.au.

Role of the Court

The Court will assess the amount of the damages to be awarded in the judgment previously given by the Registrar.

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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.