



# Civil judgment enforcement

**This fact sheet is about enforcing a judgment in the Magistrates Court of Western Australia about a debt.**

## What are civil law matters?

A civil law matter is generally any matter that is not a criminal or family law issue.

Civil law matters are dealt with in a different way to criminal or family cases and are called “civil proceedings” if they end up in court.

In civil proceedings, the “claimant” is the person who starts the case and the “defendant” is the person who the claim is against.

Often the claimant says the defendant owes them money.

## What is a civil judgment?

A civil judgment is the final order, or decision, of the court in a civil law case.

The judgment may say that the defendant has to pay the claimant money. When this happens, the claimant is called the “judgment creditor” and the defendant is called the “judgment debtor”.



## What happens if the judgment debtor does not pay the money?

If the judgment debtor does not pay the money, the judgment creditor can ask the court for an “enforcement order” to force them to pay.

The judgment creditor can ask the court for a number of enforcement orders. For example:

- » a “time for payment order” where the judgment debtor must pay the money by a certain date, or
- » an “instalment order” where the judgment debtor pays a small amount of money each week, fortnight or month.

If the judgment debtor does not follow an instalment order and it is cancelled, the judgment creditor can ask for an “earnings appropriation order”. An earnings appropriation order means the judgment debtor must pay the money directly from earnings, such as wages.

A judgment creditor could also ask for a “property seizure and sale order” to seize and sell the judgment debtor’s car, home or other asset.

## How do you know if the judgment debtor has any assets or income?

If the judgment creditor wants to know what income or assets the judgment debtor has, they can ask the court for a means inquiry.

In a means inquiry, the court looks at the judgment debtor's income, assets and liabilities to work out how they can pay the money.

## What if the judgment debtor has no money or is on Centrelink?

Sometimes a judgment creditor will not be able to enforce a civil judgment. For example:

- » the court will not make an enforcement order if the judgment debtor cannot afford to pay the money and has no assets; and
- » a judgment debtor who is on Centrelink can refuse to pay the money owed out of their Centrelink payments.

In these cases, the judgment creditor may lose money on the enforcement fees as well as not getting the money owed under the judgment.

However, a judgment creditor has twelve years to enforce the judgment and the judgment debtor's circumstances may change in that time.

A judgment creditor can try to enforce the judgment at any time in these twelve years, but will need permission from the court after six years from the judgment date.

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**Legal Aid WA can provide advice and, in some circumstances, other help to people affected by civil judgments.**

## How can Legal Aid WA help?

**Legal Aid WA can provide advice and, in some circumstances, other help to people affected by civil judgments.**

**Call Legal Aid WA's Infoline on 1300 650 579 to speak with the Civil Law Division.**