

Western Australia

# **Industrial Relations (Industrial Magistrates' Courts) Regulations 1980**

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Western Australia

# **Industrial Relations (Industrial Magistrates' Courts) Regulations 1980**

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## **NOTES**



INDUSTRIAL ARBITRATION ACT 1979

## **Industrial Relations (Industrial Magistrates' Courts) Regulations 1980**

### **1. Citation and commencement**

These regulations may be cited as the *Industrial Relations (Industrial Magistrates' Courts) Regulations 1980* and shall come into operation on the 1st March, 1980.

*[Regulation 1 amended by Gazette 3 January 1992 p.42.]*

### **2. Interpretation**

In these regulations, unless the contrary intention appears —  
**“industrial magistrate”** means industrial magistrate or acting industrial magistrate holding office under section 81B of the Act.

*[Regulation 2 amended by Gazette 3 January 1992 p.42.]*

### **3. Proceedings before Industrial Magistrate**

- (1) Subject to the Act and to these regulations, proceedings before an industrial magistrate's court and in particular the making of a complaint, the issue of a summons, the summoning of witnesses, the fees to be paid relating to any matter, the taking of evidence, the hearing and determination of a complaint and the costs and allowances to parties and witnesses shall be, with such modifications as circumstances require, those prescribed by the *Justices Act 1902*, in respect of proceedings before justices for a simple offence.

- (2) Proceedings before an industrial magistrate's court shall be commenced by a complaint which may be made by the complainant in person or by his counsel or solicitor or other person authorised in that behalf.
- (3) A complaint for hearing by an industrial magistrate's court made before and a summons may be issued by the Registrar, Deputy Registrar, Assistant Registrar, a Justice of the Peace or a Clerk of Petty Sessions.
- (4) Subject to section 103 of the Act, every complaint shall be in respect of one matter only, but if two or more matters of complaint are substantially in respect of the same act or omission on the part of the defendant, such matters may be joined in the one complaint.
- (5) The summons shall be directed to the defendant, and shall state shortly the matter of the complaint, and require him to appear at a certain time and place before an industrial magistrate's court.
- (6) A complaint shall be in the form of Form 1 in the Schedule.
- (7) A summons to a defendant shall be in triplicate and —
  - (a) in the case of the service copy of that summons, be in the form set out in Form 2A in the Schedule;
  - (b) in the case of the defendant's copy of that summons, be in the form set out in Form 2B in the Schedule; and
  - (c) in the case of the triplicate copy of that summons, be in the form set out in Form 2A in the Schedule without the indorsement of service.
- (8) A summons of a witness shall be in the form of Form 3 in the Schedule.
- (9) Subject to these regulations, a summons to a witness —
  - (a) may be issued without leave and shall be signed by the Registrar, Deputy Registrar, Assistant Registrar, a Justice of the Peace or a Clerk of Petty Sessions;

- (b) may require the production of books, deeds, papers and writings in the possession or control of the person to whom it is directed;
- (c) shall be directed to not more than one person; and
- (d) shall be served by the party applying for the summons or his solicitor, or the agent or servant of such party or solicitor, or by a member of the Police Force of Western Australia or a bailiff of a Local Court.

*[Regulation 3 amended by Gazettes 4 May 1984 p.1213; 3 January 1992 pp.42 and 44.]*

**4. Service of summons**

- (1) A summons shall be served upon the person to whom it is directed by delivering a duplicate of the summons to him personally or, if he cannot be found, by leaving it with some person apparently over the age of sixteen years at his last known place of abode or, if he is a principal of a business, at his last known place of business.
- (2) A summons shall be served on a company by delivering a duplicate of the summons at the registered office of the company to the person apparently in charge.
- (3) A summons shall be served on a corporation, other than a union, by delivering a duplicate of the summons to the manager, chairman or other principal officer, senior clerk, treasurer or secretary of the corporation or, where statutory provision has been made for the manner of service upon a corporation, service may be effected in the manner provided by that provision.
- (4) A summons shall be served on a union in the manner provided by subsection (3) of section 60 of the Act.

**5. Non-compliance with witness summons**

- (1) If a person summonsed as a witness neglects or refuses to appear at the time and place appointed by the summons or

neglects or refuses to bring and produce all documents and writings in his possession or power when so required by the summons and no just excuse is offered for such a neglect or refusal, then (after proof that the summons was duly served upon such person and that a reasonable sum was paid or tendered to him for his costs and expenses of attendance), the industrial magistrate's court before which such person was summonsed to appear may then and there impose upon him in his absence a penalty not exceeding forty dollars, which may be recovered in the same manner as penalties imposed upon a summary conviction.

- (2) The industrial magistrate's court may also issue a warrant to bring and have such person at a time and place mentioned in the warrant before an industrial magistrate's court to testify what he knows concerning the matter of the complaint.
- (3) Notwithstanding subregulation (9) of regulation 3 and subregulation (1) of this regulation, no person shall be bound to produce any document or writing not specified or otherwise sufficiently described in the summons, or which he would not be bound to produce upon a *subpoena duces tecum* in the Supreme Court.

*[Regulation 5 amended by Gazette 3 January 1992 p.43.]*

**6. Substituted service**

Where an industrial magistrate's court is satisfied that service of a summons in accordance with regulation 4 cannot be effected promptly, the industrial magistrate's court may make any order which it considers necessary or convenient for substituted or other service or the substitution for service of notice by letter, public advertisement or otherwise and in any such case compliance with the order of the industrial magistrate's court shall be sufficient service.

*[Regulation 6 amended by Gazette 3 January 1992 pp.43 and 44.]*



**7. Oral evidence and evidence by affidavit**

- (1) Subject to the *Evidence Act 1906* and any other Act relating to the admission of evidence and subject also to sub-regulation (2), every witness shall be examined in open court upon oath or in such other manner as is allowed by the Acts in force relating to giving evidence in Courts of Justice.
- (2) Notwithstanding sub-regulation (1), where having regard to the circumstances of the case it considers it reasonable to do so, the industrial magistrate's court may order that the evidence of a witness shall be given by affidavit, but such an order shall not be made if it appears to the industrial magistrate's court that a party to the proceedings *bona fide* desires the production of that witness for cross examination and such witness can reasonably be produced.

*[Regulation 7 amended by Gazette 3 January 1992 pp.43 and 44.]*

**8. Representation before Industrial Magistrate**

The provisions of section 91 of the Act as to the representation of parties before the Court apply to proceedings before an industrial magistrate's court.

*[Regulation 8 amended by Gazettes 6 February 1981 p.560; 3 January 1992 p.44.]*

**9. Praecept for warrant of execution**

Before issuing a warrant of execution or a warrant of commitment, the person issuing the warrant may require the person applying for its issue to furnish to him a praecipe in the form of Form 4 in the Schedule.

*[Regulation 9 amended by Gazette 3 January 1992 p.43.]*

**10. Execution**

- (1) Any fine, penalty, or costs directed to be levied by execution, and also any sum of money or costs payable under any award, order or judgment of an industrial magistrate's court, shall be recoverable by warrant of execution in the form of Form 5 or 6 in the Schedule, as the case requires.
- (2) A police officer, under a warrant of execution, may seize and take and cause to be sold any goods (which term includes cheques, bills of exchange, promissory notes, specialties, or other securities for money) that the person against whom the warrant was issued is or may be possessed of or entitled to or has power to assign or dispose of, except that the following goods are protected from seizure, namely —
  - wearing apparel of that person to the value of one hundred dollars and of his wife to the value of one hundred dollars and of his family to the value of fifty dollars for each member thereof dependent on him;
  - household furniture and effects to a value not exceeding in the aggregate three hundred dollars;
  - implements of trade to the value of one hundred dollars;
  - all beds and bedding;
  - family photographs and portraits.
- (3) The police officer shall hold any cheques, bills of exchange, promissory notes, specialties, or other securities for money that are seized or taken under the warrant of execution, as a security for the amount directed to be levied under the warrant, or so much thereof as has not been otherwise levied or raised for the benefit of the execution creditor, and may receive any moneys payable by virtue of any such instrument from the person liable under it.
- (4) The police officer may sue in the name of the person against whom the warrant of execution was issued, or in the name of any person in whose name the debtor might sue, for the recovery of the sums secured or made payable by any such instrument when the time of payment thereof arrives.

- (5) Any money paid to the police officer or recovered in an action brought by him in respect of any such instrument shall be paid to the Registrar by him.
- (6) A sale of goods that are taken in execution shall not, unless the goods are of a perishable nature, be made until after the expiration of the five days at least next following the day on which the goods were taken, except upon the request in writing of the person whose goods are taken.
- (7) Until the sale, the goods shall be deposited by the police officer in some fit place or they may remain in the custody of a fit person approved by the police officer to be put in possession by him.
- (8) The police officer may deduct out of the amount realised by the sale, the costs incurred in the execution of any warrant of execution and all costs and charges actually incurred in effecting the sale, and shall render to the owner the surplus (if any) after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.
- (9) A written account of the costs and charges incurred in respect of the execution of any warrant of execution shall be sent by the police officer to the Registrar, and the person against whom the warrant was issued may, at any time within one month after the levy, inspect the account at any reasonable time and take a copy thereof.
- (10) A writ or warrant of execution issued under the Act has the same effect against any property (including land under the *Transfer of Land Act 1893*) as a writ of *fiery facias* issued out of the Supreme Court.
- (11) Section 133 of the *Transfer of Land Act 1893* applies to a sale under a writ or warrant of execution issued under the Act, and that section and the schedules therein referred to shall, in relation to any such sale, be read as if the words “warrant of

execution issued out of the Court” were inserted in place of “writ of *feri facias* issued out of the Supreme Court”; and as if the word “sheriff” included the police officer effecting the sale.

*[Regulation 10 amended by Gazette 3 January 1992 pp.43 and 44.]*

**11. Commitment**

- (1) When the police officer has returned that he can find no goods or no sufficient goods to satisfy a warrant of execution issued under regulation 10, and that the sum to be levied remains wholly or partially unsatisfied, then a warrant may be issued in the form of Form 7 or Form 8 in the Schedule as the case requires for the imprisonment of the offender in accordance with the scale set forth in section 167 of the *Justices Act 1902*.
- (2) Where an industrial magistrate’s court has ordered that a person be committed to prison —
  - (a) in default of payment of a penalty or fine, then a warrant shall be issued in the form of Form 9 in the Schedule;
  - (b) upon making a conviction, then a warrant shall be issued in the form of Form 10 in the Schedule.
- (3) The police officer to whom a warrant is directed shall convey the person therein named or described to the prison or other place mentioned in the warrant and there deliver him, together with the warrant, to the superintendent or keeper of such prison or place, who shall thereupon give the police officer delivering the prisoner into his custody a receipt for the prisoner in the form of Form 11 in the Schedule setting forth the state and condition in which the prisoner was at the time he was delivered into the custody of the superintendent or keeper.
- (4) The superintendent of any prison to which any person has been committed under a warrant in Form 7 or 8 shall discharge the person —
  - (a) on payment to him of the fine or penalty or costs or such part thereof as remains unpaid;

- (b) on receipt of a certificate from the Registrar that the fine or penalty or costs, or the part remaining unpaid, has been paid or realised;
- (c) if the fine or penalty or costs, or any part thereof remains unpaid or unrealised after he has suffered the period of imprisonment set forth in the warrant of commitment or such portion thereof corresponding with the unpaid part of the fine or penalty or costs.

*[Regulation 11 amended by Gazette 3 January 1992 pp.43 and 44.]*

**12. Procedure for issue of warrants of execution and commitment**

A warrant of execution and commitment shall be prepared by the person seeking to issue it, and shall be presented in duplicate to the Registrar who shall procure the signature of an industrial magistrate or sign it, and issue a duplicate for lodgment with the police officer or other official to whom it may be directed.

*[Regulation 12 amended by Gazette 3 January 1992 p.43.]*

**13. Crown not bound by regulations**

Nothing in regulations 10, 11 and 12 applies to the Crown in right of the State.

**14. Order for sum of money or costs enforceable by warrant of execution**

Where an order is made by an industrial magistrate's court directing the payment of any sum of money or costs, it may direct that the order shall be enforced in the manner provided by regulation 10 and thereupon the proceedings provided for in that regulation may be taken.

*[Regulation 14 amended by Gazette 3 January 1992 pp.43 and 44.]*

Sch.

**Schedule**

Western Australia <i>Industrial Relations Act 1979</i>	CHARGE BY SUMMONS <b>1. — COMPLAINT</b>	CHARGE No. <b>S</b> Industrial Magistrate's Court PERTH.....	ORIGINAL												
THE COMPLAINT OF _____ (Full name of Complainant) OF: _____ IN THE STATE OF WESTERN AUSTRALIA (Address of Complainant) (Postcode) OCCUPATION: _____ SWORN (OR MADE) AT: _____ THIS _____ DAY OF _____ 19____ before the undersigned <sup>(A)</sup> *one of Her Majesty's Justices of the Peace or the Registrar or the Deputy Registrar of Industrial Unions, or a Clerk of Petty Sessions) who says that between/on the _____ DAY OF _____ 19____ and THE _____ DAY OF _____ 19____ AT: _____ NAME OF DEFENDANT: _____ (Full name of Defendant) being a party bound by AWARD No. _____ of 19____ has committed a breach thereof in that (B)  Clause _____ Sub-clause _____ THE DEFENDANT IS REQUIRED TO PRODUCE THE FOLLOWING DOCUMENTS  Signature of Complainant _____ (A) * Signature _____															
NAME OF DEFENDANT: _____ (Full name of Defendant) OF: _____ no. and street _____ town/locality _____ postcode _____ to appear before THE INDUSTRIAL MAGISTRATE'S COURT, SUPPLY HOUSE, 815-823 HAY STREET, PERTH on FLOOR LEVEL NUMBER 3 on THE _____ DAY OF _____ 19____ AT 10 O'CLOCK IN THE FORENOON															
Summons signed at _____ in the said State, on the day and year first mentioned above.															
RECORD OF COURT PROCEEDINGS															
Adjudgments etc: _____ _____ _____															
DEFENDANT <u>Yes</u> REPRESENTED PRESENT: No BY: _____	PLEA: <u>Guilty</u> Not Guilty FINDING: <u>Guilty</u> Not Guilty	FINES — PAYABLE BY _____ TO _____ COSTS — PAYABLE BY _____ TO _____													
PENALTY FINE \$ _____ COSTS \$ _____	DEFAULT EXECUTION IMPRIS DAYS	CLERK'S RECORD <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">UNDERPAYMENT OF \$ _____</td> <td style="width: 25%;">DEFAULT: EXECUTION</td> <td style="width: 25%;"></td> <td style="width: 25%;"></td> </tr> <tr> <td>PAYABLE BY _____</td> <td>IMPRIS DAYS</td> <td></td> <td></td> </tr> <tr> <td>to _____</td> <td></td> <td></td> <td></td> </tr> </table>		UNDERPAYMENT OF \$ _____	DEFAULT: EXECUTION			PAYABLE BY _____	IMPRIS DAYS			to _____			
UNDERPAYMENT OF \$ _____	DEFAULT: EXECUTION														
PAYABLE BY _____	IMPRIS DAYS														
to _____															
Other order _____ _____ _____															
Industrial Magistrate _____		Date: _____													

<p style="text-align: center;"><i>Western Australia</i> <i>Industrial Relations Act 1979</i></p>	<p>CHARGE BY SUMMONS</p> <hr/> <p><b>2A. — SUMMONS TO THE DEFENDANT UPON COMPLAINT</b></p>	<p>CHARGE No. <b>S</b> Industrial Magistrate's Court PERTH.....</p>
------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------

SERVICE COPY

THE COMPLAINT OF \_\_\_\_\_ (Full name of Complainant)  
 OF: \_\_\_\_\_ IN THE STATE OF WESTERN AUSTRALIA  
(Address of Complainant) (Postcode)

OCCUPATION: \_\_\_\_\_ SWORN (OR MADE) AT: \_\_\_\_\_  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_ before the undersigned <sup>(A)</sup> \*one of Her Majesty's Justices of the Peace or the Registrar or the Deputy Registrar of Industrial Unions, or a Clerk of Petty Sessions) who says that between/on the \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_ and THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_ AT: \_\_\_\_\_

NAME OF DEFENDANT: \_\_\_\_\_ (Full name of Defendant)  
 being a party bound by AWARD No. \_\_\_\_\_ of 19\_\_\_\_ has committed a breach thereof in that  
 (B)

Clause \_\_\_\_\_ Sub-clause \_\_\_\_\_

THE DEFENDANT IS REQUIRED TO PRODUCE THE FOLLOWING DOCUMENTS

(B)  
Nature of offence or Subject matter

THESE ARE THEREFORE TO COMMAND THE DEFENDANT: \_\_\_\_\_ (Full name of Defendant)  
 OF: \_\_\_\_\_ no. and street \_\_\_\_\_ town/locality \_\_\_\_\_ postcode  
 to appear before THE INDUSTRIAL MAGISTRATE'S COURT, SUPPLY HOUSE, 815-823 HAY STREET, PERTH on FLOOR LEVEL NUMBER 3 on THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_ AT 10 O'CLOCK IN THE FORENOON

Summons signed at \_\_\_\_\_ in the said State, on the day and year first mentioned above.  
 (A)\*Signature

**Sch.**

(Reverse of Form 2A)  
**INDORSEMENT OF SERVICE**

On the ..... day of ..... 19 .....,  
 at ....., I served the within-named .....  
 with the within summons by delivering a duplicate of it to him personally (or by  
 leaving a duplicate of it for him with ....., a person  
 apparently over the age of sixteen years at ....., his last  
 known place of abode or place of business).

(Signature) .....

(Date) .....

Western Australia <i>Industrial Relations Act 1979</i>	CHARGE BY SUMMONS <hr/> <b>2B. — SUMMONS TO                  THE DEFENDANT                  UPON COMPLAINT</b>	CHARGE No. <b>S</b> Industrial Magistrate's Court PERTH.....	DEFENDANT'S COPY
THE COMPLAINT OF _____ OF: _____ (Full name of Complainant) _____ IN THE STATE OF WESTERN AUSTRALIA (Address of Complainant) (Postcode) OCCUPATION: _____ SWORN (OR MADE) AT: _____ THIS _____ DAY OF _____ 19 _____ before the undersigned <sup>(A)</sup> *one of Her Majesty's Justices of the Peace or the Registrar or the Deputy Registrar of Industrial Unions, or a Clerk of Petty Sessions) who says that between/on the _____ DAY OF _____ 19 _____ and THE _____ DAY OF _____ 19 _____ AT: _____ NAME OF DEFENDANT: _____ (Full name of Defendant) being a party bound by AWARD No. _____ of 19 _____ has committed a breach thereof in that (B)  Clause _____ Sub-clause _____ THE DEFENDANT IS REQUIRED TO PRODUCE THE FOLLOWING DOCUMENTS			
THESE ARE THEREFORE TO COMMAND THE DEFENDANT: _____ (Full name of Defendant) OF: _____ no. and street _____ town/locality _____ postcode _____ to appear before THE INDUSTRIAL MAGISTRATE'S COURT, SUPPLY HOUSE, 815-823 HAY STREET, PERTH on FLOOR LEVEL NUMBER 3 on THE _____ DAY OF _____ 19 _____ AT 10 O'CLOCK IN THE FORENOON			
Summons signed at _____ in the said State, on the day and year first mentioned above.  (A)*Signature			

(B)  
 Nature of  
 offence or  
 Subject  
 matter

The alternatives open to you are —

- a) To enter a PLEA OF NOT GUILTY by completing the appropriate section on the reverse side of this summons and returning it to the Clerk to reach him prior to the hearing date above. (It should be received by the Clerk no later than



3 days prior to that date.) If you plead not guilty you do not have to attend Court and your case will be adjourned to a subsequent date when you and your witnesses will be required to attend.

**NOTE: (It remains your responsibility to ascertain the date of hearing.)**

- b) To enter a PLEA OF GUILTY by completing the appropriate section on the reverse side of this summons and returning it to the Clerk to reach him prior to the hearing date. (It should be received by the Clerk no later than 3 days prior to that date). There will be no need for you to attend unless you wish to address the Court on mitigation of penalty. You may also forward with the summons any written explanation or other information you believe is relevant to the charge.
- c) If you are in doubt as to what action you should take it is suggested that you seek advice.

**[(If you fail to take the account outlined in a) or b) and you fail to appear at Court the complaint against you may be dealt with in your absence. You may be liable for additional costs if witnesses are called by the complainant.]]**

NOTE (a) IT IS YOUR RESPONSIBILITY TO ASCERTAIN ANY PENALTY WHICH MAY BE IMPOSED BY THE COURT AGAINST YOU AT THE TIME AND DATE OF HEARING SHOWN HEREON.

(Reverse of Form 2B)

SECTION A

PLEA OF NOT GUILTY

Should you desire to plead not guilty please endorse this summons in the place provided hereunder "I plead not guilty" and give your address for service of notices, sign and date where indicated and then return to the Court mentioned on the front of this form to reach it prior to the hearing date (it should be received by the Court no later than 3 days prior to that date).

- NOTE:
- (1) IF YOU PLEAD NOT GUILTY IN THE MANNER MENTIONED ABOVE THE MATTER WILL NOT PROCEED ON THE DATE SET OUT IN THIS SUMMONS AND IT WILL NOT BE NECESSARY FOR YOU TO ATTEND AT THE COURT. A TIME AND DATE WILL BE APPOINTED BY THE COURT FOR DETERMINATION OF THE MATTER.
  - (2) YOU AND YOUR WITNESSES WILL BE REQUIRED TO ATTEND THE COURT ON THE DATE OF HEARING, OTHERWISE THE MATTER MAY BE DEALT WITH IN YOUR ABSENCE ON THAT DATE.
  - (3) NOTE: (It remains your responsibility to ascertain the date of hearing)

I understand the English language/or these provisions have been explained to me and I understand the plea I am making.

**Sch.**

---

PLEA: .....

(in your own handwriting)

ADDRESS FOR SERVICE OF NOTICES IS: .....

SIGNED: .....

Date: .....

The following information should be provided to assist the Clerk in listing your case for hearing.

- (a) Will you be represented? .....
- (b) If so, what is his/her name? .....
- (c) How many witnesses (including yourself) do you propose to call?  
.....
- (d) How long do you estimate your defence will take? .....
- (e) Are there any comments you wish to make regarding a suitable hearing date? .....

SECTION B

PLEA OF GUILTY

Should you desire to plead guilty to this summons please endorse in the place provided hereunder "I plead guilty", sign and date where indicated and then return it to the Court mentioned on the front of this form to reach it prior to the hearing date (it should be received by the Court no later than 3 days prior to that date). The effect of doing so will be that, unless advice is received by the Court prior to the hearing date that you wish to withdraw the plea, the Court dealing with the complaint may proceed to hear and determine the complaint in your absence as though you were present and had pleaded guilty. You may also forward with the summons any written explanation or any other information you believe is relevant to the charge.

NOTE: (a) IT IS YOUR RESPONSIBILITY TO ASCERTAIN ANY PENALTY THAT MAY BE IMPOSED BY THE COURT AGAINST YOU AT THE TIME AND DATE OF HEARING SHOWN HEREON.

I understand the English language/or these provisions have been explained to me and I understand the plea I am making.

PLEA: .....  I WILL NOT BE  
(in your own handwriting) ATTENDING COURT  
SIGNED: .....  I WILL BE

DATE: ..... ATTENDING COURT  
(Indicate Which)

**Sch.**

---

Form 3 (Reg. 3)  
*Industrial Relations Act 1979*

Before the Industrial Magistrate's Court at .....

No .....

Between

.....  
.....

Complainant,

and

.....  
.....

Defendant

**SUMMONS OF A WITNESS**

(Breach of Award)

To ..... of .....

Whereas a Complaint was on the .....day of .....,  
19 ....., made before one of Her Majesty's Justices of the Peace (or the  
Registrar of Industrial Unions, Deputy or Assistant Registrar of Industrial Unions  
or a Clerk of Petty Sessions) by ..... that .....  
..... of ..... committed a breach of Award No .....  
of ..... in that (here set out breach complained of).

These are therefore to require you to appear at .....  
on the ..... day of ....., 19 ....., at .....  
o'clock in the ..... noon before the Industrial Magistrate's Court  
to testify what you know concerning the matter of the Said Complaint: And you  
are further required to bring with you and produce at the same time and place  
abovenamed the following documents: —

.....  
.....

Given under my hand at ..... in the said State this.....  
day of ....., 19 .....

.....  
Justice of the Peace.

(Or the Registrar of Industrial Unions, Deputy or Assistant Registrar of Industrial  
Unions or a Clerk of Petty Sessions.)

**ENDORSEMENT OF SERVICE.**

**Sch.**

---

On the ..... day of ....., 19 ....., at ..... I served the within named ..... with the within Summons by delivering a duplicate of it to him personally (or by leaving a duplicate of it for him with ..... a person apparently over the age of sixteen years at ..... his last known place of abode or place of business).

.....  
(Signature.)

Dated this ..... day of ....., 19 .....

Sch.

Form 4 (Reg. 9)  
Industrial Relations Act 1979

PRAECIPE FOR WARRANT OF EXECUTION OR COMMITMENT

No .....of 19.....

FEES

\$

Warrant .....

Execution .....

Payment for Distance travelled ....

Receipt No. ....

Between

.....

.....

Complainant,  
and

.....

.....

Defendant.

PLEASE ISSUE Warrant of Execution (or Commitment) against the  
abovenamed Complainant (or Defendant) for the sum of \$ ..... as  
under, being the amount of Order or part of same made the .....day  
of ....., 19 ....., before .....Industrial  
Magistrate's Court at .....

Dated this ..... day of ....., 19 .....

.....

Complainant or Defendant

Amount of Order:

\$

\$

Fine .....

Wages .....

or

In the following periodical payments, namely: —

Payment due on .....

Payment due on .....

Payment due on .....

Sch.

---

In payment for costs of the sum of ..... \_\_\_\_\_

Deduct amount paid since Order ..... \_\_\_\_\_

Total overdue ..... \_\_\_\_\_

Received at ..... a.m./p.m. on the ..... day of ....., 19 .....,  
with fees as above.

Warrant issued ..... / ..... /19.....

.....  
Registrar of Industrial Unions.

**Sch.**

---

Form 5 (Reg. 10)  
*Industrial Relations Act 1979*

No ..... of 19.....

Between

.....  
.....

Complainant,

and

.....  
.....

Defendant

**WARRANT OF EXECUTION AGAINST DEFENDANT**

TO the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State.

Whereas on the ....., day of ....., 19..... on the hearing of a complaint made by the complainant against the defendant that †

.....  
.....  
.....

† Nature of complaint briefly

the Industrial Magistrate's Court convicted the defendant and adjudged that for his offence he should forfeit and pay the sum of \$.....and should pay to ....., the worker, the sum of \$..... the difference between the amount paid and that which should have been paid to the worker under the said Award and should also pay the sum of \$..... for costs, and it was thereby ordered that if the said several sums were not paid forthwith (on or before the ..... day of ..... 19 .....) the same should then be levied by execution against the goods and chattels of the defendant. And whereas default has been made in payment of the order (or part thereof) THESE ARE THEREFORE TO COMMAND YOU THE SAID POLICE OFFICERS FORTHWITH to make and levy by distress and sale of the goods of the defendant wheresoever they may be found (excepting so much of the goods of the defendant as are protected by regulation 10 of the *Industrial Relations (Industrial Magistrate's Court) Regulations 1980\**) the sum stated at the foot of this warrant being the amount due to the complainant under the said conviction, including the costs of this execution; and to pay what sum you shall



have so levied to the Registrar of Industrial Unions, and make return of what you have done under this warrant immediately upon the execution thereof.

Dated this ..... day of ....., 19 .....

By the Court,

(Seal)

.....  
Industrial Magistrate/Registrar  
of Industrial Unions.  
(See over.)

(Reverse side.)

\$

Amount directed to be paid under conviction .....	
Since paid .....	_____
Remaining due .....	
Fees for issuing and executing this warrant .....	
Any additional fees for executing this warrant .....	_____
Total amount to be levied .....	_____

NOTICE: The goods are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request in writing of the defendant.

Application was made to the Registrar for this warrant ..... minutes past the hour of ..... in the ..... noon of the .....day of ....., 19.....

.....  
Industrial Magistrate/Registrar  
of Industrial Unions.

† The following goods are protected from seizure by regulation 10 — wearing apparel of that person to the value of one hundred dollars and of his wife to the value of one hundred dollars and of his family to the value of fifty dollars for each member thereof dependent on him; household furniture and effects to a value not exceeding in the aggregate three hundred dollars; implements of trade to the value of one hundred dollars, all beds and bedding; family photographs and portraits.

**Sch.**

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Form 6 (Reg. 10)  
*Industrial Relations Act 1979*

No ..... of 19.....

Between

.....  
.....

Complainant,

and

.....  
.....

Defendant.

**WARRANT OF EXECUTION FOR COSTS AGAINST COMPLAINANT**

TO the Principal Police Officer at ..... in the State of  
Western Australia, and to all other police officers in the said State.

WHEREAS on the....., day of ..... 19 ..... on the  
hearing of a complaint made by the Complainant against the defendant that .....  
..... (identify case) .....the Industrial Magistrate's Court  
dismissed the complaint and ordered that the complainant should pay the  
defendant forthwith (or on or before the ..... day of .....  
19.....), the sum of \$ ..... for defendant's costs in connection with the  
said complaint. And whereas default has been made in payment according to the  
said order THESE ARE THEREFORE TO REQUIRE AND ORDER YOU  
FORTHWITH to make and levy by distress and sale of the goods of the  
complainant wheresoever they may be found within the State (excepting so much  
of the goods of the complainant as are protected by regulation 10 of the *Industrial  
Relations (Industrial Magistrate's Court) Regulations 1980\**, the sum stated at  
the foot of this warrant being the amount due to the defendant under the said  
order, including the costs of this execution, and to pay what you shall have so  
levied to the Registrar, and make return of what you may have done under this  
warrant immediately upon the execution thereof.

Dated this ..... day of ....., 19 .....

By the Court,

(Seal.)

.....

Industrial Magistrate/Registrar  
of Industrial Unions  
(See Over.)

(Reverse side)

	\$
Amount ordered to be paid .....	
Since paid .....	_____
Remaining due .....	
Fees for issuing and executing this warrant .....	
Any additional fees for executing this warrant .....	_____
Total amount to be levied .....	\$ _____

NOTICE: The goods are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature or at the request in writing of the complainant.

Application was made to the Registrar for this warrant ..... minutes past the hour of ..... in the ..... noon of the ..... day of ..... 19 .....

.....  
Industrial Magistrate/Registrar  
of Industrial Unions.

\* The following goods are protected from seizure by regulation 10 — wearing apparel of that person to the value of one hundred dollars and of his wife to the value of one hundred dollars and of his family to the value of fifty dollars for each member thereof dependent on him; household furniture and effects to a value not exceeding in the aggregate three hundred dollars; implements of trade to the value of one hundred dollars, all beds and bedding; family photographs and portraits.

**Sch.**

---

Form 7 (Reg. 10)  
*Industrial Relations Act 1979*

No ..... of 19.....

Between

.....  
.....

Complainant,

and

.....  
.....

Defendant.

**WARRANT OF COMMITMENT FOR WANT OF EXECUTION**

TO the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State, and to the Superintendent of Her Majesty's Prison at ..... in the said State. Whereas ....., of ..... in the State of Western Australia was on the ..... day of ....., 19 ..... convicted before ..... Industrial Magistrate's Court at ..... for that he did \* .....

.....  
.....  
and it was adjudged that the defendant ..... for his offence should forfeit and pay the sum of \$ ..... and should pay to .....the worker, the sum of \$....., the difference between the amount paid and that which should have been paid to the worker ..... under the said Award, and should also pay the sum of \$ ..... costs, and it was directed .....

.....  
And whereas a warrant of execution was issued against the said ..... and the officer entrusted with its execution has returned the warrant with a report that he was unable to find sufficient goods and chattels of the defendant whereon to pay the sum therein mentioned, which said sums (or \$..... being portion thereof) still remain due and owing.

\* State offence for which convicted.

(See Over.)

\_\_\_\_\_

(Reverse side.)

These are therefore to command you the said Police Officers to apprehend the defendant and convey him to the Prison at ..... aforesaid, and deliver him to the Superintendent thereof together with this warrant, and you the said Superintendent of the said Prison are hereby commanded to receive the defendant ..... into your custody in the said Prison there to imprison him (and keep him to hard labour) for the term of ..... unless the said several sums and the costs and charges of conveying him to the said Prison amounting to the further sum of \$ ..... are sooner paid.

The total amount payable under this warrant is \$ ..... made up as follows: —

	\$
Amount ordered to be paid .....	
Since paid .....	_____
Remaining due .....	
Costs and charges this warrant .....	_____
Total .....	\$ _____

Provided that if the defendant shall pay any portion of the total amount (namely, \$ ..... ) payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

Dated this ..... day of ....., 19 .....  
By the Court,

(Seal.) .....  
Industrial Magistrate.

Form 8 (Reg. 10)

*Industrial Magistrate's Act 1979*

No ..... of 19.....

Between

.....  
.....

Complainant,

Sch.

---

and

.....  
.....

Defendant.

**WARRANT OF COMMITMENT FOR WANT OF EXECUTION FOR COSTS ON DISMISSAL OF A COMPLAINT**

TO the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State, and to the Superintendent (or keeper) of Her Majesty's prison (or gaol) at ..... in the said State.

Whereas on the ....., day of ....., 19 ..... at ..... upon the hearing of a complaint made by the complainant against the defendant, ..... Industrial Magistrate's Court, dismissed the complaint and adjudged that the complainant should pay to the defendant the sum of \$..... for costs and that if the said sum was not paid forthwith (on or before the ..... day of ....., 19 ....) the same should be levied by execution against the goods and chattels of the complainant.

And it was adjudged that in default of sufficient goods and chattels the complainant should be imprisoned for the term of ..... unless the said sum and all costs and charges of the execution and of taking and conveying the complainant to prison should be sooner paid: And whereas on the ..... day of ....., 19 ....., a warrant was issued to the principal officer of police commanding him to levy the sum of \$..... by execution against the goods and chattels of the complainant: And whereas it appears to me by the return of the police officer to the warrant of execution that no sufficient goods and chattels could be found whereon to levy the sum abovementioned:

(See over.)

\_\_\_\_\_  
(Reverse side.)

THESE ARE THEREFORE TO COMMAND YOU the said police officers to apprehend the complainant and convey him to prison or gaol and deliver him to the superintendent or keeper thereof, together with this warrant, and you, the superintendent or keeper, are hereby commanded to receive the complainant into your custody in the prison or gaol, there to imprison him and keep him for a term of .....unless the sum and all the costs and charges of the execution and of the commitment and conveying of the complainant to prison or gaol amounting to the further sum of \$ ..... are sooner paid to you.

	\$
Costs ordered to be paid .....	
Fees for issue of warrant of execution and execution thereof	_____
Paid under warrant of execution and/or otherwise .....	_____
Remaining due .....	
Fees for issuing and executing this warrant .....	
Costs and charges of conveying complainant to prison or gaol	_____
Total amount due .....	\$ _____

Provided that if the complainant shall pay any portion of the amount payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

Dated this ..... day of ....., 19 .....

By the Court,

(Seal.)

.....  
Industrial Magistrate

Form 9 (Reg. 10)

*Industrial Relations Act 1979*

No ..... of 19.....

Between

.....

.....

Complainant,

and

.....

.....

Defendant.

**WARRANT OF COMMITMENT UPON CONVICTION FOR A  
PENALTY IN THE FIRST INSTANCE**

**Sch.**

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TO the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State, and to the Superintendent (or keeper) of Her Majesty's prison (or gaol) at ..... in the said State.

Whereas ....., of ..... in the State of Western Australia, was on the ..... day of ....., 19 ....., convicted before ..... Industrial Magistrate's Court at ..... for that he did \* .....

..... and it was adjudged that the defendant for his offence should forfeit and pay the sum of \$....., and should pay to ..... the worker, the sum of \$ ..... the difference between the amount paid and that which should have been paid to the worker, ..... under the said Award, and should also pay the sum of \$ ..... costs, and it was directed

.....  
.....  
.....  
And whereas the time in and by the said conviction appointed for payment of the said several sums has elapsed, but the defendant has not paid the same except to the extent of \$ ..... paid off the penalty, \$ ..... paid off the amount ordered to be paid as due under the Award and \$ ..... paid off the costs.

\* State offence for which convicted.

(See over.)

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(Reverse side.)

These are therefore to command you, the said police officers, to apprehend the defendant and convey him to the prison (or gaol) at ..... and deliver him to the superintendent (or keeper) thereof together with this warrant; and I hereby command you, the said superintendent (or keeper) of the said prison (or gaol) to receive the defendant into your custody in the said prison (or gaol), there to imprison him (and keep him to hard labour) for the term of ..... unless the said several sums and the costs and charges of conveying him to the said prison (or gaol) amounting to the further sum of \$ ..... are sooner paid.

The total amount payable under this warrant is \$ ..... made up as follows: —



	\$
Amount ordered to be paid .....	
Since paid .....	_____
Costs and charges this warrant .....	_____
Total .....	\$ _____

Provided that if the defendant shall pay any portion of the amount payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

Dated this ..... day of ....., 19 .....

By the Court,

(Seal.)

.....  
Industrial Magistrate.

Form 10 (Reg. 10)

*Industrial Relations Act 1979*

No ..... of 19.....

Between

.....

.....

Complainant,

and

.....

.....

Defendant.

**WARRANT OF COMMITMENT ON A CONVICTION WHERE THE  
PUNISHMENT IS BY IMPRISONMENT.**

To the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State, and to the Superintendent (or keeper) of Her Majesty's prison (or gaol) at ..... in the said State.

Whereas ..... of ..... was this day duly convicted before the undersigned an Industrial Magistrate's Court that \* ..... and it was adjudged that the said .....

**Sch.**

---

should be imprisoned in Her Majesty's prison (or gaol) at .....  
(there to be kept to hard labour) for the term of .....  
These are therefore to command you, the said police officers, to convey the said  
..... to prison (or gaol) at ..... aforesaid, and  
deliver him to the Superintendent (or keeper) thereof, together with this warrant,  
and I command you, the said Superintendent (or keeper) of the said prison (or  
gaol) to receive the said ..... in your custody in the said prison  
(or gaol) there to imprison him and keep him to hard labour for the term of .....  
Given under my hand at ..... in the said State this .....  
day of ....., 19 .....

.....  
Industrial Magistrate

\* State the offence

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Form 11 (Reg. 10)

*Industrial Relations Act 1979*

**GAOLER'S RECEIPT FOR PRISONER**

I hereby certify that I have this day received from .....  
police officer of ..... in the State of Western Australia, the body of  
..... in good health (or as the case may be) together with a warrant  
of commitment directing the imprisonment of the said .....  
issued by an Industrial Magistrate of the said State.

Dated this ..... day of ....., 19 .....

.....  
Superintendent of the Prison

*[Schedule amended by Gazette 10 October 1980 p.3506; 4 May 1984  
pp.1213-6; 3 January 1992 p.44.]*

**Notes**

- <sup>1.</sup> This is a compilation of the *Industrial Relations (Industrial Magistrates' Courts) Regulations 1980* and includes the amendments referred to in the following Table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Industrial Relations (Industrial Magistrates' Courts) Regulations 1980</i>	4 Mar 1980 pp.755-68	1 Mar 1980 (see r. 1)
	10 Oct 1980 p.3506	
	6 Feb 1981 p.560	
	4 May 1984 pp.1213-16	
	3 Jan 1992 p.42-4	