



Enforcing a QCAT Monetary Order

When the Queensland Civil and Administrative Tribunal (QCAT) makes an order that another party owes you a sum of money (the Debtor), a copy of this order is given to both parties and the debt is made payable. If you are in this situation, you should consider the following:

Time Limits

You may enforce a QCAT monetary order within six (6) years from the date of the decision. The QCAT notice that you receive will have a date that the decision was made. If you fail to commence enforcement action within this time frame, you may be prevented from taking enforcement action in the future. You can apply to the Court for an extension of time (for a further six (6) years) but this is at the Court's discretion and it will depend upon the circumstances of the case.

Enforcing your QCAT Order

If a satisfactory arrangement for payment cannot be reached, you may seek to have the QCAT order enforced by a Court. A judgment will only be enforced at your request.

Please note that QCAT does not enforce orders and this will need to be done through your local Magistrates Court.

For further information on how to enforce your monetary order, please contact your nearest Magistrates Court. For contact details of your nearest Magistrate Court, go to:

<http://www.courts.qld.gov/contact-us/courthouses>

Methods of Enforcement

Do you have a current address for the Debtor? You will not be able to enforce a QCAT order without a current address for the Debtor.

Letter of Demand

A delay in payment should not be taken to mean that the Debtor has no intention of complying with the order. If the Debtor was not at the hearing, they may not be aware that the QCAT order exists. A reminder call or letter might be all that is needed to prompt payment. This is certainly the first approach to try if you have not communicated with the Debtor since the hearing.

Writing a 'Letter of Demand' to the Debtor requesting payment in accordance with the QCAT order and/or within a reasonable time (e.g. 14 days or 21 days etc.) may resolve the matter and shows your attempts to recover the debt without initiating further court action.

Enforcement Hearing

If you do not know the Debtor's current financial situation, you may apply to have an Enforcement Hearing to get this information.

Firstly, you will need to send a Statement of Financial Position (Form 71) to the Debtor to be returned within fourteen (14) days. If you do not receive a response within this time frame or if the Debtor has not provided the relevant information, you can apply to QCAT for an order that they attend an Enforcement Hearing. If so, you will need to file the following documents:

- an application (Form 9);
- an affidavit (Form 46);
- an Enforcement Hearing Summons (Form 70) and
- a Statement of Financial Position (Form 71).

The Debtor must attend the hearing, answer questions about their finances and bring any documents requested in the summons.

If the Debtor does not attend the hearing, the Court may issue a warrant for their arrest. As the Creditor, you must also attend the hearing. If payment is not agreed to, the Court can order an Enforcement Warrant.

Enforcement Warrants

There are different types of Enforcement Warrants under the *Uniform Civil Procedure Rules 1999* (Qld)(UCPR), including but not limited to:

- Warrant for Redirection of Earnings (UCPR r 855)
- Warrant for Redirection of a Debt (UCPR r 840)
- Warrant for Regular Redirections (UCPR r 848)
- Warrant to Seize Property (UCPR r 828)

Registering/Enforcing your QCAT Order

Where the amount ordered to be paid does not exceed \$150,000.00, you must register your order with the Magistrates Court.

To enforce this order you will need to file two (2) documents with the Magistrates Court:

1. a copy of the order certified by the Principal Registrar to be a true copy, which can be obtained from QCAT on request; and
2. an affidavit as to the amount not paid under the order.

Costs of enforcement

There are currently no filing fees for registering a QCAT order or applying for an Enforcement Hearing.

However, if you choose to engage a 'bailiff' or other private process server to serve document/s, you will need to pay the costs of this. You may seek to recover this cost from the Debtor at the Enforcement Hearing.

This factsheet is for general information purposes only. You should seek independent legal advice in respect to your specific circumstances.

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