

Toolkit: Enforcing QCAT or Magistrates Court Money Orders in the Magistrates Court

Enforcing Money Orders in the Magistrates Court: applying for Enforcement Hearings and Enforcement Warrants

Last updated: November 2023



LawRight Toolkit: Enforcing Money Orders in the Magistrates Court

About this Toolkit

This Toolkit has been designed for individuals who want to enforce a judgment, decision or order made by the Queensland Civil and Administrative Tribunal ('**QCAT**') or the Magistrates Court that requires someone to pay them a sum of money ('a **Money Order**'). This Toolkit has not been designed for use by companies or Bodies Corporate. If you are a company or Body Corporate, you should not use this Toolkit and you should seek legal advice about how to enforce your debt.

This Toolkit only focuses on how to enforce Money Orders in the Magistrates Court. That means the Money Order can only be for a debt of up to \$150,000, which is the monetary limit of the Magistrates Court. If you have a Money Order for a debt of more than \$150,000, you should not use this Toolkit and you should seek legal advice about how to enforce your debt.

The information in this Toolkit is for general information purposes only. The law, procedure, and other information this Toolkit was based on could have changed. If you are unsure of anything in the Toolkit or need help to apply this information to your specific circumstances, you should seek legal advice.

If you are reading a hard copy version of this Toolkit, you can also find downloadable Word document versions of any of the templates or blank forms referred to in this Toolkit on the LawRight Website. You can find this resource here: <https://www.lawright.org.au/enforcing-judgments-toolkit/>.

You can find more information about enforcing Money Orders and up-to-date versions of Court forms on the Queensland Courts website: <https://www.courts.qld.gov.au/>.

If you need legal advice and you cannot afford a lawyer, you may want to contact a community legal centre. You can find details for your nearest community legal centre on the Community Legal Centres Queensland website: <https://www.communitylegalqld.org.au/>.

This Toolkit was developed by LawRight. LawRight is an independent community legal centre that coordinates pro bono legal services for individuals and community groups. LawRight operates several different programs that provide free legal assistance to vulnerable people through strategic partnerships with law firms, barristers, and universities. LawRight's Court and Tribunal Services assist self-represented litigants who are involved in current or potential proceedings in the District Court, Supreme Court, Court of Appeal, Queensland Civil and Administrative Tribunal, and the Federal Court and Federal Circuit and Family Court. Depending on your circumstances, your legal problem, and the pro bono resources we have available, we can provide legal information, offer advice and task assistance, or in some cases, refer your matter for limited scope or full representation. You can find more information about this program, or any of LawRight's other programs on our website: <https://www.lawright.org.au>.

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Introduction

If the Magistrates Court or QCAT made a Money Order requiring a person ('the **Debtor**') to pay a sum of money to you, but the Debtor has not complied with the Money Order, you can start enforcement action in Court under chapter 19 of the *Uniform Civil Procedure Rules 1999* (Qld) ('**UCPR**') to enforce the Money Order.

You would normally enforce a Money Order by applying to the Court for an Enforcement Warrant. However, if you do not have enough information about the Debtor's financial position to apply for an Enforcement Warrant, then you can apply for an Enforcement Hearing first, which is a formal process in the Court designed to help you get enough information to work out how to enforce your Money Order.

You can start Court action to enforce your Money Order at any time within 6 years of the date of the Money Order. After that, you will need the Court's permission to bring any Court action to enforce the Money Order (Rule 799 of the UCPR). You can't enforce your Money Order if it has been 12 years since the date of the Money Order (section 10(4) *Limitation of Actions Act 1974* (Qld)).

Part 1 of this Toolkit sets out what you should consider and what you should do before starting any enforcement action in Court.

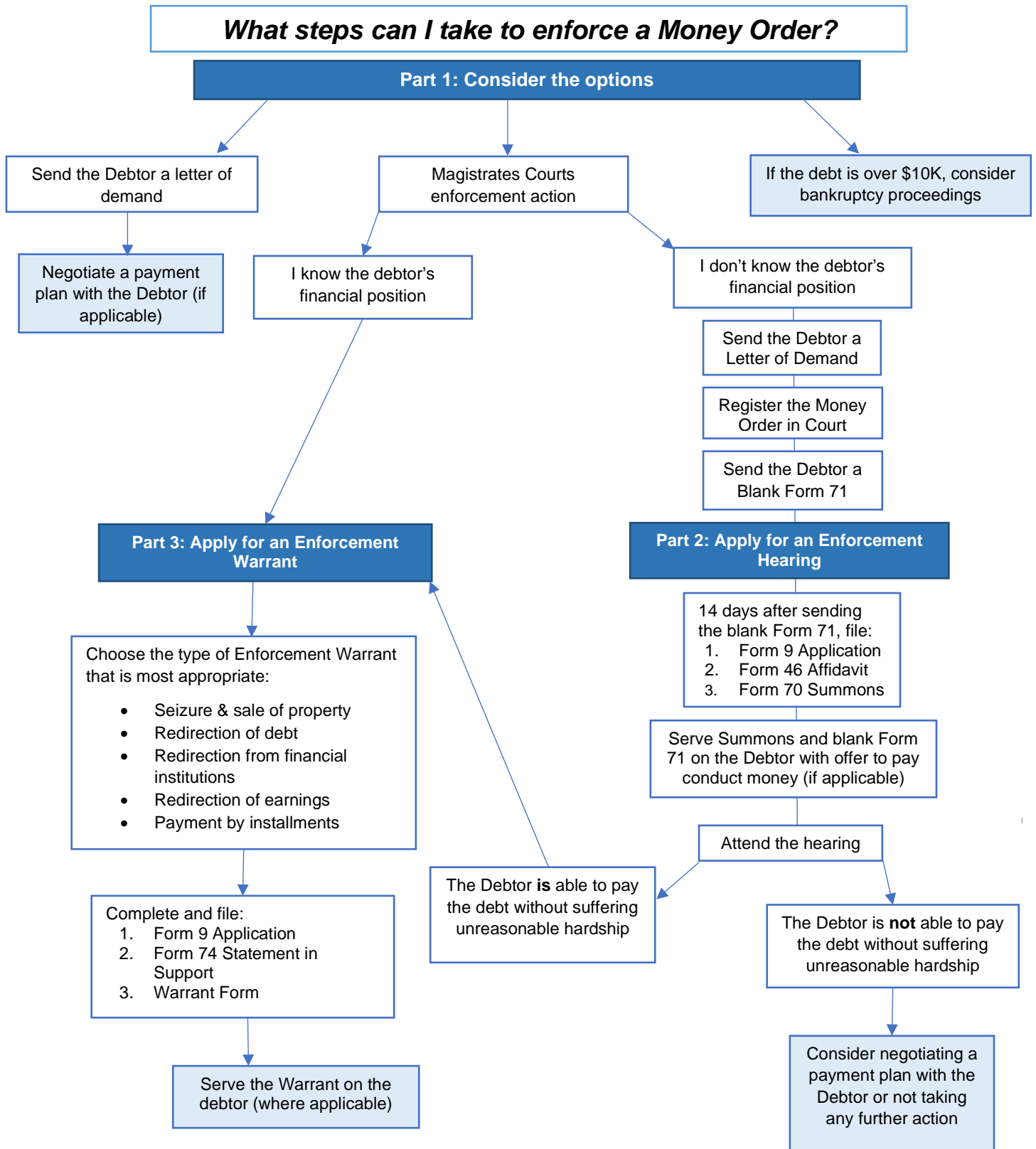
Part 2 of this Toolkit explains the steps for applying for an Enforcement Hearing.

Part 3 of this Toolkit explains the steps for applying for an Enforcement Warrant.

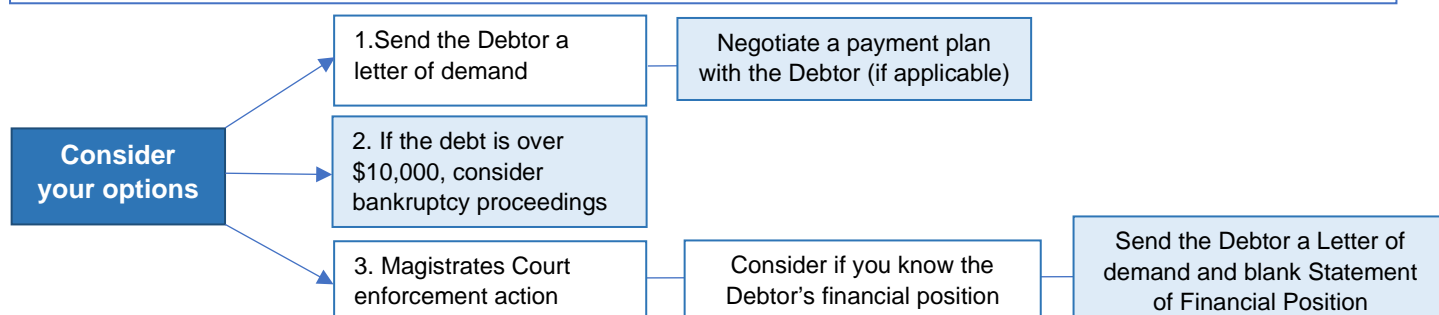
The flowchart on **page 6** may help you to navigate this Toolkit and work out what you should do to enforce your Money Order.

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This flowchart shows the steps that you can take to enforce a Money Order. More detail on each step is provided in this Toolkit.



PART 1 - BEFORE STARTING ENFORCEMENT ACTION



What are your options?

If a Money Order requires a Debtor to pay you money, but they have not complied with the Money Order, you have a few different options. This Toolkit will cover the most common options, although there may be other options available.

Option 1 – Letter of Demand

Your first option is to write a formal letter of demand to the Debtor, asking them to make payment of the Money Order to you.

In this letter, you should:

- Confirm when the Money Order was made and the amount of the Money Order, and attach a copy of the Money Order;
- Request that the Debtor pay the amount of the Money Order to you by a reasonable date (for example, 14 days from the date of the letter);
- Provide details for how you want to be paid (e.g. provide your bank account details for a direct deposit); and
- Explain that if the Debtor does not pay the amount of the Money Order as requested, you may take further steps to enforce the debt, including starting Court action, without further notice to the Debtor.

Template 1 is a blank letter of demand.

Example 1 is an example letter of demand.

If the Debtor is unable to pay you the entire amount of the Money Order at once, you can try to negotiate a payment plan in which the Debtor pays you the amount of the Money Order in instalments over a period of time. If you have obtained a Money Order, you are entitled to be paid the amount in full so there is no requirement that you negotiate a payment plan from the Debtor; however, often this can be a much simpler process than commencing enforcement action in Court. If the Debtor is experiencing financial hardship, it may also be better to reach an agreement with the Debtor about repayment as you may not obtain any better outcome by going through an Enforcement Hearing process or commencing any enforcement action.

If you negotiate a payment plan with the Debtor, make sure you record the details of the payment plan and get the Debtor's agreement in writing. You can also consider whether it is appropriate to formalise the payment plan by obtaining an order from the Court for payment by instalments (see **Part 3** of this Toolkit for more information about applying for an order for payment by instalments).

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Option 2 – Making the Debtor bankrupt

If the Money Order is for an amount over \$10,000, you may be able to take steps to make the Debtor bankrupt. However, advice about bankruptcy is outside the scope of this Toolkit. If you want to consider this option further, you should seek legal advice. You may also want to visit the Australian Financial Security Authority website for more information: <https://www.afsa.gov.au/>

Option 3 – Magistrates Court enforcement action

If the Debtor does not respond to your letter of demand or refuses to pay the Money Order, another option is to start enforcement action in the Magistrates Court to enforce the Money Order.

Normally, to enforce a Money Order you should apply for an Enforcement Warrant. However, if you do not have enough information about the Debtor's financial position to apply for the Enforcement Warrant, then you can apply for an Enforcement Hearing first. In most cases, it will be necessary to apply for an Enforcement Hearing before you are in a position to apply for an Enforcement Warrant; however, this is a decision you will need to make based on the information available to you.

Before you start any kind of Court action to enforce a Money Order, you should consider the following factors:

- the amount of the Money Order and any conditions or terms of the Money Order;
- the work, time, stress, and costs involved in bringing further Court proceedings; and
- whether you have enough information and knowledge about the Debtor and their financial position to apply for an Enforcement Warrant or whether you will need to apply for an Enforcement Hearing first.

You should carefully weigh up all of these factors when deciding whether it would be worthwhile to start enforcement action in Court to enforce the Money Order.

Knowledge of the Debtor's financial position

To apply for an Enforcement Warrant, you need to have certain information about the Debtor. The type of information you need will depend on the type of Enforcement Warrant you want. You can read more about Enforcement Warrants in **Part 3** of this Toolkit. In general, you will need information about the Debtor's financial position, such as whether they have any income, savings, property or assets, and whether they have any other major debts or expenses, etc. You should keep in mind that certain types of payments and property are protected from recovery under the *Social Security Act 1991* (Cth) and the *Bankruptcy Regulations 2021* (Cth) and the *Bankruptcy Act 1966* (Cth), such as Centrelink benefits, superannuation, basic household property like basic furniture, personal property with sentimental value like cultural or sporting awards, tools of trade (up to a specified value), and a vehicle like a car (up to specified value) which the Debtor uses primarily for transport.

If you do not have much information about the Debtor's financial position, you can send them a notice to complete a Statement of Financial Position (UCPR Form 71 or 71A). If the Debtor does not return the Statement of Financial Position within 14 days or returns a partially completed Statement of Financial Position, and you still need more information about the Debtor's financial position, then you can apply to the Court for an Enforcement Hearing. The Enforcement Hearing process is a formal Court process designed to help you get information from the Debtor which will help you decide whether to take further steps to enforce your Money Order. **Part 2** of this Toolkit sets out the steps for applying for an Enforcement Hearing.

If you do not believe the Debtor has enough money, income or assets to pay the Money Order (either from your own knowledge, the Debtor's Statement of Financial Position, or through the Enforcement Hearing process), then you should consider whether it would be worthwhile to take further steps to enforce the Money Order.

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However, if you have enough information about the Debtor's financial position and you believe it will be worthwhile continuing to enforce the Money Order, you can apply to the Court for an Enforcement Warrant. **Part 3** of this Toolkit sets out the steps for applying for an Enforcement Warrant.

Starting enforcement action in Court – what to do first

If you decide to start enforcement action in Court to apply for an Enforcement Hearing or Enforcement Warrant, you should obtain legal advice before commencing any action if possible. You should also look at the UCPR (available at <https://www.legislation.qld.gov.au/view/html/inforce/current/sl-1999-0111>), as these rules set out the Court process and requirements, and consider any relevant guidelines for Court processes published by the Queensland Courts on their website: <https://www.courts.qld.gov.au/>.

Make sure that your Money Order refers to the parties by the correct names, including any business, company and/or trust names. If the Money Order does not refer to the correct names, you may need to have it amended by the Court or Tribunal that made it before you take any steps to start enforcement action in Court.

If your Money Order was made in the Magistrates Court, you can start your Court action straight away. Go to **Part 2** of this Toolkit for information about how to apply for an Enforcement Hearing, or **Part 3** for information about how to apply for an Enforcement Warrant.

If your Money Order was made by QCAT, you will need to register it in the Court first before you can start Court action to enforce it. Once the QCAT Money Order is registered in the Court, it will become an Order of the Court that can be enforced by the Court.

Registering a QCAT Money Order

To register your QCAT Money Order, you will need to file it in the appropriate Court Registry.

Where to register the QCAT Money Order

While a QCAT Money Order can be registered in any Magistrates Court Registry in Queensland, it is usually best to register the QCAT Money Order in the Court that is closest to where the Debtor lives or carries on business. This is because the location where you register the QCAT Money Order can have some consequences for steps that you take later to enforce the QCAT Money Order in the Court.

For example, if the Money Order is registered in a Court that is not the closest to where the Debtor works or lives and you apply for an Enforcement Hearing in that Court, you will likely have to pay the Debtor "conduct money" to attend the Enforcement Hearing. This money is for the Debtor's costs related to attending hearings during the enforcement process (such as travel costs), and you may not be able to claim it back. You may also need to provide evidence or submissions to the Court about why it is not practicable to conduct the Enforcement Hearing where the Debtor lives or carries on business. You can read more about what you need to do to apply for the Enforcement Hearing in **Part 2** of this Toolkit.

A list of Queensland Courts and their locations can be found online on the Courts website: <https://www.courts.qld.gov.au/contact-us/courthouses>.

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Filing your QCAT Money Order

You can file documents either in person at the Court Registry or by post.

If you choose to file your forms by post, the envelope sending the documents should include:

- a note on the outside that the envelope contains Court documents; and
- a stamped self-addressed envelope so that the sealed copies of your documents can be returned to you. Make sure the envelope is big enough to fit the sealed copies of your documents.

You should provide at least two copies of the Money Order. The Court will keep one and will give you back the other copies, usually after placing a date stamp and the Court seal (a purple stamp) on the documents.

How to file and serve Court documents

If you decide to start enforcement action in Court, you will need to follow the Court rules about filing and serving Court documents. **Filing** a Court document means to give the document to the Court Registry to put on the Court file for your matter. **Serving** a Court document means giving a copy of the filed Court document to another person in the way that the Court rules specify.

1. Filing Court documents

You can file documents either in person at the Court Registry or by post.

If you choose to file your Court documents by post, the envelope sending the documents should include:

- a note on the outside that the envelope contains Court documents; and
- a stamped self-addressed envelope so that the sealed copies of your documents can be returned to you. Make sure the envelope is big enough to fit the sealed copies of your documents.

You need to provide the Court with the original signed Court documents, as well as enough photocopies of each document for you and anyone else you need to serve the documents on later (e.g. the Debtor, Debtor's employer or financial institution). The Court will keep the originals and will give you back the photocopies, usually after placing a date stamp and the Court seal (a purple stamp) on those documents

One set of sealed copies is for you to keep for your own records, and the other sets are for you to serve on any other relevant parties.

Filing documents via QCase

You may be able to file your Court documents online via QCase. QCase is a quick and efficient way to file documents and manage civil proceedings in the Magistrates Courts.

Benefits of QCase include the following:

- view case information and documents 24 hours a day, 7 days a week;
- access via desktop, laptop, mobile phone, and tablet;
- receive case updates and notifications in real time; and
- lodge documents any time on any day of the week.

To access QCase, users must have a Commonwealth MyGov account with myGovID or a Queensland Government QGov account. These options are a 'tell-us-once' registration service offered by the Australian and Queensland Governments, providing users with access to multiple agencies using a single registration and log-in.

To register for a myGovID or a QGov account, you will need to provide certain identification.

- For identification requirements for myGovID, visit: <https://www.mygovid.gov.au/set-up>.
- For identification requirements for QGov, visit: <https://account.qld.gov.au/help/faq.html#whatDocumentsDoINeedToProveMyDigitalIdentity>

For more information about QCase, visit the Court website: <https://www.courts.qld.gov.au/services/qcase>

Make sure you allow enough time for the documents to be filed in line with any relevant time limits. For example, if you are filing your Court documents by post, you will need to allow enough time for the documents to be sent to the Court, processed, and sent back to you, with enough time for you to serve any other relevant parties.

2. Serving Court documents

There are two ways that you can serve Court documents: **personal service** and **ordinary service**. The method you choose will depend on what the document is and what the Court rules say. Some documents must be given by personal service, while other documents can be given by ordinary service.

Personal service

To serve a document by personal service, you must physically give the document to the person intended to be served (Rule 106(1) UCPR). If the person refuses to accept the document, you can put it down in their presence and tell them what the document is (Rule 106(2) UCPR). For Magistrates Court matters, you can also leave the documents with an adult who appears to live at the address of the person you need to serve (see Rules 111 and 112(1)(a) UCPR).

To personally serve a document on a company (such as a financial institution), you must post the document to the company's registered office or leave the documents at that address (section 109X *Corporations Act 2001* (Cth)). You may need to pay a fee to do a search of ASIC's company register to get the details of the company's registered office.

You can also engage a licensed commercial agent to serve the Enforcement Hearing Summons on your behalf, though certain fees will apply. While you may be able to claim the costs of engaging the licensed commercial agent as part of the costs of enforcing the Money Order, you can only claim the amounts allowed under the *Uniform Civil Procedure (Fees) Regulation 2019* (Qld), even if the agent charges you more. You can find out more and calculate service fees on the Queensland Government website: <https://www.qld.gov.au/law/court/court-services/enforce-a-court-order-and-disputes-about-money/service-fees>.

Ordinary service

To serve documents by ordinary service, you first need to know the 'relevant address' of the person you are serving.

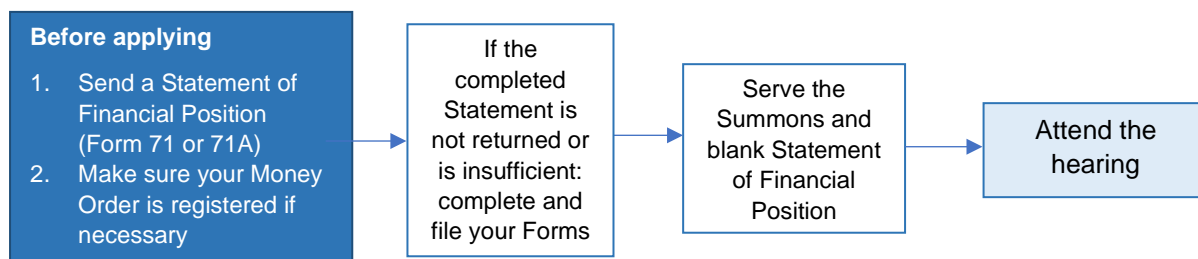
If the person has notified their 'address for service' in your Court matter already (for example, by filing a Court document that states their address for service in the footer), that will be the 'relevant address'. If the person has not notified an 'address for service' in the Court matter, then the relevant address will be the person's last known place of business or residence, or for a company, the company's head office or its principal or registered office.

To serve your documents, you can do any of the following (Rule 112 UCPR):

- Leave the documents with someone who is apparently an adult living at the relevant address;
- If nobody is at the relevant address – leave the documents in a position where they are reasonably likely to come to the attention of the person being served; or
- Post the documents to the relevant address.

If the person you are serving has notified a fax number or email address in their 'address for service' in your Court matter, you can also serve the documents by faxing or emailing them to that fax number or email address.

PART 2 - ENFORCEMENT HEARING PROCESS



What is an Enforcement Hearing?

1. Purpose of an Enforcement Hearing

The purpose of an Enforcement Hearing is to uncover information about the Debtor's financial position. This information is important, because it can help you decide whether it is worthwhile to apply for an Enforcement Warrant, and because if you want the Court to make an order for an Enforcement Warrant, you will need to satisfy the Court that the Enforcement Warrant will not cause unreasonable hardship to the Debtor.

If you do not have enough information about the Debtor's financial position, you may need to apply for an Enforcement Hearing before you apply for an Enforcement Warrant.

2. What to do before applying for an Enforcement Hearing

Register the Money Order if it is a QCAT decision

As explained in **Part 1** of this Toolkit, a Money Order of QCAT can only be enforced if a copy of the Money Order is registered in the Court. If your Money Order was made by QCAT, make sure you have registered it in the Court before going through the steps to apply for an Enforcement Hearing.

Remember to make sure that your Money Order refers to the correct party names, including any business, company and/or trust names – if not, you may need to get it amended by QCAT before you register it in Court.

Ask the Debtor to complete a Statement of Financial Position

Before you can apply for an Enforcement Hearing, you must first give a notice to the Debtor requiring them to complete a Statement of Financial Position (UCPR Form 71 or 71A) within 14 days (Rule 807 UCPR). You can do this by sending a letter to the Debtor, attaching a blank Form 71 or 71A.

The letter should refer to your Money Order, ask the Debtor to complete the Form 71 or 71A within 14 days, and note that if the Debtor does not respond within this time or provide sufficient information, you intend to apply to the Court to summon the Debtor to an Enforcement Hearing.

You will need to attach a blank Form 71 or Form 71A to the letter. Use Form 71 if the Debtor is a person, or Form 71A if the Debtor is a company. You can find the blank forms on the Court's website: <https://www.courts.qld.gov.au/about/forms>.

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On page 1 of the Form 71 or Form 71A, you will need to fill in the following details:

- In the header: the details of your Magistrates Court proceedings, including the name of the Court Registry and the Court file number (if you registered a QCAT Money Order in the Court, use the Court Registry and the Court file number from the registered Money Order);
- Where it says 'Applicant' and 'Enforcement creditor': your name;
- Where it says 'Respondent' and 'Enforcement debtor': the debtor's name; and
- Where it says 'insert address': your address.

The Debtor can complete the Statement of Financial Position form online and have it witnessed (<https://www.qld.gov.au/law/court/court-services/enforce-a-court-order-and-disputes-about-money/statement-of-financial-position>), but you will still need to send the Debtor the actual Form 71 or Form 71A.

Template 2 is a blank letter to the Debtor attaching a blank Form 71 Statement of Financial Position.

Example 2 is an example letter to the Debtor attaching a blank Form 71 Statement of Financial Position.

You can send the letter and the Form 71 or Form 71A to the Debtor using the **ordinary service** method. For more information about ordinary service, see **page 11** of this Toolkit.

If the Debtor returns the completed Form 71 or 71A within 14 days, you can use the information to decide what further steps to take. For example, you may choose to apply for an Enforcement Warrant, or you might decide that the Debtor does not have enough money or assets to make an Enforcement Warrant worthwhile. For instructions on how to apply for an Enforcement Warrant, go to **Part 3** of this Toolkit.

If the Debtor does not fill out enough information in the Form, or if the Debtor does not respond within 14 days, then you can apply for an Enforcement Hearing. The Debtor will be required to attend the Hearing and give you information about their financial position.

How to apply for an Enforcement Hearing

To apply for an Enforcement Hearing, you must complete and file the following documents in the Court:

1. UCPR Form 9 Application – the Application sets out the legal basis for the orders that you want the Court to make;
2. UCPR Form 46 Affidavit – an Affidavit sets out the facts within your knowledge that you are relying on to prove to the Court that they should make the orders you are asking for in the Application; and
3. UCPR Form 70 Enforcement Hearing Summons – a Summons directs the Debtor to attend the Court hearing.

You can find all Court forms on the Court's website (<https://www.courts.qld.gov.au/about/forms>).

All Court documents should be on white A4 paper and have a left-hand margin on the first page wide enough so that the Court seal (or stamp) can be placed on the document when it is filed. If possible, the document should be typed in at least size 10 font; however, if you need to handwrite the form, make sure your writing is clear and large enough so that it can be easily read by the Court.

The appropriate Court Registry to file your documents is the closest Court to where the Debtor lives or carries on his or her business (Rule 810(1) UCPR). If that is not possible, then the appropriate Court Registry is the one where the Money Order was originally made (Rule 810(2) UCPR).

If you apply for an Enforcement Hearing in a Court that is not the closest Court to where the Debtor works or lives, then you will have to offer to pay the Debtor "conduct money", which is money to meet the Debtor's reasonable travel and/or accommodation expenses to attend the Enforcement Hearing (Rule 811 UCPR). You will also have to actually offer conduct money to the Debtor when they are served with the Enforcement Hearing Summons (Rule 811(2) UCPR).

If you apply for an Enforcement Hearing at a Court that is not the one where the Money Order was originally made or registered, you will need to file a copy of the Money Order that was registered at the other Court (i.e. the copy with the Court's date stamp and Court seal on it) at the same time as your other documents (Rule 810(3) UCPR).

If you want an Enforcement Hearing in the Brisbane Magistrates Court specifically, you can apply for a Hearing online (<https://www.qld.gov.au/law/court/court-services/enforce-a-court-order-and-disputes-about-money/apply-for-hearing>)

1. Application for Enforcement Hearing (Form 9)

Preparing your Application – Form 9

The correct form for this type of Application is "Form 9 – Application".

For an Application, the "Applicant" is the person seeking an order of the Court, which in this case is you. The "Respondent" is the person you are asking the Court to order to do something, or that you are seeking some sort of legal remedy against, which in this case is the Debtor.

The Application (Form 9) should:

1. Include your name and contact details;
2. Include the name and contact details of the Debtor;
3. Ask the Court for an order to be made under rule 808 of the UCPR that summons the Debtor to an Enforcement Hearing; and
4. List the financial information and documents that you require the Debtor to provide.

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If you did not receive a completed Statement of Financial Position from the Debtor, you can also ask the Court for an order that the Debtor completes and returns a Statement of Financial Position in the approved form at least 4 business days before the date of the Enforcement Hearing.

You can also ask the Court for an order that the Debtor pays you any costs of the application. This is because rule 797 of the UCPR says that the costs of enforcing a Money Order are recoverable as part of the Money Order. This would include costs such as fees you paid to a licensed commercial agent to serve your Court documents on the Debtor. Only qualified legal practitioners representing someone else can claim costs for their time spent, under the Court's scale of costs. This means that if you are self-represented and do not have a lawyer, you cannot ask for costs for things like the time you spent preparing your Court documents, your travel time to attend Court to file documents, etc.

Template 3 is a blank Application for Enforcement Hearing.

Example 3 is an example Application for Enforcement Hearing.

Finishing your Application

When your Application is complete, you will need to sign it where indicated. You do not have to sign the Application in front of a witness.

2. Affidavit (Form 46)

Preparing your Affidavit – Form 46

The correct form for an Affidavit is "Form 46 – Affidavit".

An Affidavit is a written statement made a person that is sworn or affirmed in front of an appropriately qualified witness. When a person swears or affirms an Affidavit, they are testifying that the contents of the Affidavit are true and correct to the best of the person's knowledge. If you are religious, you can 'swear' the Affidavit on a religious text. If you are not religious, you can 'affirm' the Affidavit.

The purpose of the Affidavit is to explain the facts and circumstances of your matter that support your Application. You shouldn't make legal arguments in your Affidavit or refer to any legislation. It should be prepared by you, from your perspective, setting out only the things that you did, or that you saw or heard. It should not include your opinion on what has happened, only the facts that you know are true.

The Affidavit should include the following information (Rule 808(3) UCPR):

1. The date the Money Order was made by the Court or QCAT;
2. The unpaid amount of the Money Order;
3. The date you sent the blank Statement of Financial Position to the Debtor;
4. Whether you have received a completed Statement of Financial Position from the Debtor;
5. If you did receive a completed Statement of Financial Position from the Debtor, why you are not satisfied with the information in it; and
6. If you require the Debtor to attend an Enforcement Hearing in a Court other than the one closest to where the Debtor lives or works, an undertaking that you will offer to pay conduct money to the Debtor (Rule 811(4) UCPR).

Depending on your situation, you may also need to include the following additional information in your Affidavit:

- If you are claiming interest from the date the Money Order was made—you will need to specify the dates and amounts of any payments made towards the Money Order. The Court's online interest calculator (<https://www.courts.qld.gov.au/courts-calculator/calculator>) can help you work out how much interest is payable under the Money Order;

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- If the Debtor is a company—usually the Enforcement Hearing Summons is directed to the director of the company. To enable the Court registrar to ensure that the person to whom the Enforcement Hearing Summons is directed is an officer of the company, you should conduct an ASIC search of the company to find out who the officers of the company are, include this information in your Affidavit, and exhibit (attach) the results of the ASIC search to your Affidavit; and
- If you are requiring the Debtor to attend an Enforcement Hearing in a Court other than the one closest to where the Debtor lives or works—you may also need to provide evidence or explain why it is not practicable to conduct the Enforcement Hearing where the Debtor lives or works.

You can include other information in your Affidavit if you think it is important, but you should try to keep your Affidavit simple and only cover the key and important facts that relate to the orders you are asking the Court to make in your Application.

Template 4 is a blank Affidavit to support an Application for Enforcement Hearing.

Example 4 is an example Affidavit to support an Application for Enforcement Hearing.

Exhibits to the Affidavit

If you refer to a document in your Affidavit, you should attach a copy of that document to the Affidavit as an Exhibit. An example of an Exhibit could be the letter you sent to the Debtor asking them to complete the Statement of Financial Position, or the ASIC search results if the Debtor is a company.

Whenever you refer to an Exhibit in your Affidavit, you should give it a reference number using your initials and a number. For example, if your name was Kirra Jones, your Exhibits would be numbered “KJ1”, “KJ2”, “KJ3” etc. You should then clearly mark each Exhibit with the relevant reference number.

To attach an Exhibit to your Affidavit, you will need to prepare a “Form 47 – Certificate of Exhibit” for each Exhibit, which will act as a cover page before the Exhibit.

Template 5 is a blank Certificate of Exhibit.

Example 5 is an example Certificate of Exhibit.

You should make sure your Certificates of Exhibit and Exhibits are properly attached to your Affidavit before you swear or affirm the Affidavit in front of a witness.

Finishing your Affidavit

When your Affidavit is complete and you have all your Exhibits attached to the Affidavit with their Certificates of Exhibit, you will need to swear or affirm it in front of a qualified witness such as a solicitor, a Commissioner of Declarations (**Cdec**) or a Justice of the Peace (**JP**). You and the witness will need to sign the Affidavit on each page and each Certificate of Exhibit. You do not need to sign the pages of the Exhibits.

Most Courthouses have a JP available, and JPs and Cdecs are also available in shopping centres, libraries and a variety of other locations during business hours. You can search for your nearest JP or Cdec at the following website: <https://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/about-justice-of-the-peace/search-for-your-nearest-jp-or-cdec>.

You should swear or affirm your Affidavit no more than 2 business days before you file your Court documents, so that the information you give the Court Registry is as up-to-date as possible.

3. Enforcement Hearing Summons (Form 70)

Preparing your Enforcement Hearing Summons

The correct form for an Enforcement Hearing Summons is “Form 70 – Enforcement hearing summons”.

An Enforcement Hearing Summons from the Court requires the Debtor by law to attend the Enforcement Hearing on the time and date set by the Court and requires the Debtor to produce certain documents at the Hearing.

The Enforcement Hearing Summons should:

1. Include the Debtor’s details;
2. List the financial information and documents the Debtor is required to give to you before or at the Hearing, which should be the same as the information and documents you listed in your Application; and
3. State the date of the Money Order and the amount outstanding as at the date you are making your Application.

If you did not receive a completed Statement of Financial Position from the Debtor, the Enforcement Hearing Summons should also state that the Debtor is required to complete a Statement of Financial Position and send it to you at least 4 business days before the Enforcement Hearing.

You do not need to sign the Enforcement Hearing Summons or write down the date and time for the Enforcement Hearing. The Court will provide the specific date and time for the Enforcement Hearing when you file the Enforcement Hearing Summons.

Template 6 is a blank Enforcement Hearing Summons.

Example 6 is an example Enforcement Hearing Summons.

4. Filing your Court documents

Once you have completed your Application, Affidavit and Enforcement Hearing Summons, you must file them in the Court.

There are no filing fees for applying for an Enforcement Hearing.

See **page 10** of this Toolkit for more information about how to file Court documents.

5. Serving your Enforcement Hearing Summons

You do not have to serve a copy of the Application and Affidavit on the Debtor, but you must serve a sealed copy of the Enforcement Hearing Summons on the Debtor. If the Enforcement Hearing Summons asks the Debtor to complete a Statement of Financial Position, you will also need to include a blank Form 71 or Form 71A Statement of Financial Position (Form 71) with the Enforcement Hearing Summons.

You can serve the Enforcement Hearing Summons by personal service or by pre-paid ordinary post (Rule 809(2) UCPR). However, it is generally a good idea to serve the Enforcement Hearing Summons by personal service. This is because, if the Debtor does not come to the Enforcement Hearing, the Court needs to be satisfied that the Debtor was personally served with, or otherwise received, the Enforcement Hearing Summons before it will issue a warrant ordering an Enforcement Officer to arrest the Debtor and bring them before the Court (Rule 816(1) UCPR).

See **page 11** of this Toolkit for more information about how to personally serve Court documents.

You must make sure you serve the Enforcement Hearing Summons on the Debtor at least 2 weeks before the date of the Enforcement Hearing (Rule 809(4) UCPR).

Offering conduct money to the Debtor

If the Enforcement Hearing Summons requires the Debtor to attend an Enforcement Hearing at a Court that is not the closest Court to where the Debtor works or lives, then you must offer to pay conduct money to the Debtor when you serve them with the Enforcement Hearing Summons (Rule 811(2) UCPR).

6. What happens next?

Once you have filed the relevant Court documents and served the Enforcement Hearing Summons on the Debtor, the next step is usually for you and the Debtor to attend the Enforcement Hearing. However, there are some other things that can happen or that you may want to do before the day of the Enforcement Hearing.

Affidavit of Service

Once you have served the Enforcement Hearing Summons (and, if relevant, the blank Statement of Financial Position) on the Debtor, it is a good idea to prepare an Affidavit of Service.

An Affidavit of Service is an Affidavit (Form 46) that provides evidence of the steps that were taken to serve a person with Court documents. You may need to rely on an Affidavit of Service if there is some kind of dispute at the Enforcement Hearing about when or how the Enforcement Hearing Summons was served on the Debtor or whether you offered the Debtor conduct money as required by Rule 811(2) of the UCPR. You may also need to rely on an Affidavit of Service if the Debtor does not come to the Enforcement Hearing, and you want the Court to issue a warrant under Rule 816 of the UCPR to have the Debtor arrested and brought to Court.

You are not required to file and serve your Affidavit of Service in Court before your Enforcement Hearing. You may not know if you actually need to rely on it until the day of your Enforcement Hearing (e.g. if the Debtor does not attend the hearing). The best thing to do is to prepare and swear or affirm your Affidavit of Service to have it ready for the day of your Enforcement Hearing in case you need it.

If you served the Enforcement Hearing Summons on the Debtor yourself, you will be the one who swears or affirms the Affidavit of Service (the 'deponent'). If you engaged a licensed commercial agent to serve the Enforcement Hearing Summons on the Debtor, the agent will be the deponent for the Affidavit of Service.

The Affidavit of Service should include the following information (Rule 120 UCPR):

1. The deponent's full name;
2. The time, day and date the Enforcement Hearing Summons (and any other relevant documents, like the blank Statement of Position) was served on the other person;
3. The place where the documents were served on the other person;
4. The name of the person who was served, and how the person was identified; and
5. If you are requiring the Debtor to attend an Enforcement Hearing in a Court other than the one closest to where the Debtor lives or works, information to show that you (or your agent on your behalf) offered to pay conduct money to the Debtor, as required by Rule 811(2) of the UCPR.

The Affidavit of Service should attach a copy of the documents that were served on the Debtor (including any cover letters or correspondence, if relevant) as Exhibits, with a corresponding Certificate of Exhibit.

Template 7 is a blank Affidavit of Service.

Example 7 is an example Affidavit of Service.

On the day of your Enforcement Hearing, you should bring the original Affidavit of Service with you to the Enforcement Hearing along with two copies. At the Enforcement Hearing, if you want to refer to your Affidavit of Service, you should ask the Court to give you permission ('leave') under Rules 437 and 438 of

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the UCPR to file the Affidavit of Service and rely on it for the Enforcement Hearing despite the fact that it has not already been filed and served. If the Court grants you leave, you should hand up the original Affidavit of Service to the Court, keep one of the copies, and give the other copy to the Debtor (if they are there).

Negotiating with the Debtor before the Enforcement Hearing

Sometimes, the Debtor might contact you before the Enforcement Hearing to try to negotiate with you, or to provide you with a completed Statement of Financial Position or information about their financial position. Remember that the purpose of an Enforcement Hearing is to uncover information about the Debtor's financial position. If you decide you no longer need to go ahead with the Enforcement Hearing (e.g. you negotiate an agreement with the Debtor to pay the amount of the Money Order, or the Debtor gives you enough information about their financial position for you to decide whether to apply for an Enforcement Warrant), you must notify the Court as soon as possible.

If you do agree to a payment plan with the Debtor, make sure you record the details of the payment plan and get the Debtor's agreement in writing. You also have the following options:

- You can write to the Court Registry to ask for the Enforcement Hearing to be 'adjourned' (postponed) until a specific date that is after the last repayment date. This means that you still have the option of going through with the Enforcement Hearing process if the Enforcement Debtor does not comply with the repayment agreement; and/or
- You can consider whether it is appropriate to formalise the payment plan by applying to the Court for an order for payment by instalments (see **Part 3** of this Toolkit for more information about applying for an order for payment by instalments).

If you need to write to the Court Registry, you can look up the relevant Court Registry email addresses on the Court website: <https://www.courts.qld.gov.au/contacts/courthouses>. You should copy the Debtor into any email you send to the Court Registry, and the email should state the Court file number and the names of all the parties.

When the Debtor can't attend the Enforcement Hearing

Sometimes, the Debtor might contact the Court before the Enforcement Hearing to say that they cannot attend the Enforcement Hearing or that they want the Enforcement Hearing to be adjourned to a later date. This might occur if, for example, the Debtor is unwell, or they want more time to pay their debt.

You will need to decide whether you want to agree to the adjournment. If you agree to the adjournment, you should write to the Court Registry to confirm that.

If you do not agree to the adjournment, you should write to the Court Registry to confirm your position. You will still need to attend the Enforcement Hearing on the scheduled date – at the Enforcement Hearing, the Registrar/Magistrate will decide whether to adjourn the Enforcement Hearing to another day.

You should copy the Debtor into any email you send to the Court Registry, and the email should state the Court file number and the names of all the parties.

Arranging for someone to represent you at the Enforcement Hearing

Some licensed commercial agents may be able to represent you and appear at the Enforcement Hearing on your behalf for a fee. If you engaged a licensed commercial agent to serve the Enforcement Hearing Summons on the Debtor and you can afford the fees, you may wish to ask whether they are able to represent you at the Enforcement Hearing. You should be aware that you generally cannot recover the costs of engaging the agent to represent you at the Enforcement Hearing, unless the agent is legally qualified (i.e. a solicitor).

What happens at an Enforcement Hearing?

Going to Court can be stressful, but there is information online to guide you on what to expect. You can look at the following factsheets for more information about Court etiquette:

- <https://www.courts.qld.gov.au/going-to-court/courtroom-etiquette>
- <https://www.lawright.org.au/legal-information/queensland-courts-during-the-hearing/court-etiquette/>

This section provides a general overview of what to expect at an Enforcement Hearing. Depending on the Court, the Enforcement Hearing may be conducted slightly differently.

Enforcement Hearings in the Brisbane Magistrates Court generally happen in Court 36 on level 7 of the Brisbane Magistrates Court. Enforcement Hearings begin at 9am on Wednesdays, so everyone who has an Enforcement Hearing listed for that date waits in the Courtroom for their matter from 9am.

Depending on the Court, the person that sits at the bench will be either a Magistrate or Registrar. When your Enforcement Hearing begins, you and the Debtor will both appear before the Magistrate/Registrar. Who speaks first and in what order is not fixed – it is up to the Court on the day to decide how the Enforcement Hearing will go. It usually depends on what orders are being sought by the parties.

Often the Magistrate/Registrar will ask what the Enforcement Hearing is about. You should be ready to explain the purpose of the specific Enforcement Hearing, e.g. whether it was to have the Debtor supply you with a completed Statement of Financial Position (Form 71 or 71A), have the Debtor provide you with supporting documents about their financial position, ask the Debtor questions about the information they have already provided in a Statement of Financial Position, etc.

There are generally three scenarios that are likely to occur on the day of an Enforcement Hearing:

- (a) The Debtor attends but does not bring their Statement of Financial Position or documents;
- (b) The Debtor attends and brings the completed Statement and supporting documents; or
- (c) The Debtor does not attend.

1. What if the Debtor attends but does not bring their documents?

If the Debtor attends the Enforcement Hearing but does not bring their completed Statement of Financial Position or supporting documents with them, the Magistrate/Registrar may adjourn (postpone) the hearing to another date to give the Debtor time to provide the relevant documents. You will normally be asked whether you consent or object to the adjournment of the hearing. It can often be a good idea to consent to the adjournment, because it gives the Debtor an opportunity to give you the documents you need, and you will then have some time to review the documents and decide if you want to proceed before the adjourned Enforcement Hearing. If the Enforcement Hearing is adjourned, the Magistrate/Registrar will usually set a date for the adjourned Enforcement Hearing as well as set an earlier date for the Debtor to provide you with the relevant documents.

Alternatively, you may want to try speaking with the Debtor outside of the Courtroom before the Enforcement Hearing starts, to see if they will agree to provide you with their Statement of Financial Position and/or their documents by a certain date. If you and the Debtor agree, then during the Enforcement Hearing the parties can ask the Magistrate/Registrar to adjourn the Enforcement Hearing to another date to give time for the Debtor to provide the relevant documents. If that is the case, then the Debtor may speak first in the Courtroom to explain that they have not provided the documents for the Enforcement Hearing but that they will do so within a certain period of time and ask for the Enforcement Hearing to be adjourned. The Magistrate/Registrar will then generally ask you if you consent to the adjournment before making orders to adjourn the Enforcement Hearing.

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If you do not consent to the adjournment, you will need to explain the reasons why. It is generally not enough just to say that you want to be paid—you will have to show that you will suffer some kind of hardship if the Debtor is given more time to complete the Statement of Financial Position/provide their supporting documents.

2. What if the Debtor provides the requested documents before the Enforcement Hearing?

If the Debtor gives you the requested documents before the Enforcement Hearing starts, you should review the documents and decide if you still need to go ahead with the Enforcement Hearing. You may not need to continue with the Enforcement Hearing process if the Debtor has given you enough information and documents to show their financial position to allow you to decide whether to apply for an Enforcement Warrant.

Finishing the Enforcement Hearing process

If you decide you no longer need to keep going with the Enforcement Hearing process, you should tell the Court as soon as possible (either by contacting the Court Registry and the Debtor before the date for the Enforcement Hearing, or telling the Magistrate/Registrar during the Enforcement Hearing). If you tell the Magistrate/Registrar during the Enforcement Hearing, the Magistrate/Registrar may discharge the Enforcement Hearing Summons to end the Enforcement Hearing process, or they may adjourn the matter to the Registry which allows a future hearing to be held upon your request.

Continuing with the Enforcement Hearing

If you decide you still need to keep going with the Enforcement Hearing, then you should tell the Magistrate/Registrar during the Enforcement Hearing what you want next. For example, if the Debtor has not given you enough documents to understand their financial position, you can ask the Magistrate/Registrar to adjourn the Enforcement Hearing and set a specific date for the Debtor to provide you with the supporting documents before the next Enforcement Hearing. If you have only recently received the documents and need time to think about what you want to do, you might want to ask that the hearing be adjourned to the Registry so that you can decide if you still need a further Enforcement Hearing, rather than it being dismissed entirely.

If you think you need a third party to give information about the Debtor's circumstances (e.g. a bank or the Debtor's employer), you may be able to apply for the Court to issue a subpoena to that third party to compel them to attend an Enforcement Hearing (Rule 812 UCPR). However, this is a more complicated process and you may have to pay more costs, so you should carefully consider whether you really need the third party to give the information or if you can get that information from the Debtor.

Asking the Debtor questions

You may want to ask the Debtor questions about the information and documents they have given you, for example, to clarify any inconsistencies in the Debtor's Statement of Financial Position and supporting documents. If that is the case, you can tell the Magistrate/Registrar that you want to question ('cross-examine') the Debtor. It is normally a good idea to have specific questions prepared that you want to ask the Debtor, as well as spare copies of the Debtor's documents for them to refer to during the cross-examination. You must be ready with all the documents that you want to ask the Debtor about, because you will generally only have one opportunity to ask the Debtor more questions.

The Debtor will take an oath and enter the witness box. You can then ask the Debtor questions about the information they have provided in their sworn Statement of Financial Position and any supporting documents they have provided. You should keep in mind that cross examination is not an opportunity to ask the Debtor questions about the previous legal dispute or to badger them about why they haven't paid

the Money Order. The purpose of cross examination is for you to ask questions of the Debtor about things in their Statement of Financial Position or documents that they have given you that you don't understand. Your questions must be limited to things that you need to ask to help you understand whether to apply for an Enforcement Warrant and what type of Enforcement Warrant to apply for. If you are not a lawyer and have no legal training, it is expected that you might need more time to ask questions or that you might need to ask questions in a few different ways; however, the Magistrate/Registrar or the legal representative for the Debtor (if they have one) will interrupt you and object to your questions if they are inappropriate.

3. What if the Debtor does not attend the Enforcement Hearing?

You and the Debtor must both attend the Enforcement Hearing in person. If there is a good reason why you cannot attend the Enforcement Hearing in person, you may be able to ask the Court for leave (permission) to attend the Enforcement Hearing by telephone. If you want to ask for leave to attend the Enforcement Hearing by telephone, you should contact the relevant Court Registry. The Court may not give you leave to attend the Enforcement Hearing by telephone if you want to cross-examine the Debtor or if you plan to refer to specific documents which may be difficult by telephone.

If the Debtor does not attend the Enforcement Hearing, you can ask the Magistrate/Registrar to issue an Enforcement Hearing Warrant (which is different from an Enforcement Warrant). An Enforcement Hearing Warrant orders an Enforcement Officer (the Court's Bailiff or the police) to issue the Debtor with a warrant which compels them to attend Court. In some circumstances, the Enforcement Officer may arrest the Debtor and bring them before the Court.

The Magistrate/Registrar can issue the Enforcement Hearing Warrant if they are satisfied that the Debtor was personally served with, or otherwise received, the Enforcement Hearing Summons, and that the Debtor failed to attend the Enforcement Hearing without a good reason (Rule 816 UCPR).

If an Enforcement Hearing Warrant is issued, the Court will usually adjourn the Enforcement Hearing to another date and the Debtor must attend Court on that date.

4. Other frequently asked questions about Enforcement Hearings

What if the Debtor refuses to provide any documents or answer any questions, or does not comply with orders of the Court?

If the Debtor does any of the following things at the Enforcement Hearing without an excuse, then the Court may treat the person's refusal or failure as a contempt of Court (Rules 815 and 925 UCPR):

- The Debtor refuses to be sworn or to affirm to answer questions;
- The Debtor refuses to answer a question put to them that the Court directs to be answered;
- The Debtor fails to give an answer to the Court's satisfaction;
- The Debtor fails or refuses to produce the documents or things stated in the Enforcement Hearing Summons; or
- The Debtor fails to comply with an order the Court made (e.g. an order to provide documents by a certain date).

Contempt of Court is an offence resulting out of disturbance to the orderly administration of justice, punishable by a fine or imprisonment. However, punishment for contempt of Court is a very serious step, and is normally reserved for the most extreme cases of disobedience of the Court and its rules.

If the Debtor attends the Enforcement Hearing but refuses to answer questions, the Magistrate/Registrar may give warnings to the Debtor. If the Enforcement Hearing is being conducted by a Registrar, the

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Registrar may consider referring the potential question of contempt for further consideration or direction by a Magistrate later that same day.

If you want to apply to punish the Debtor for contempt under Rules 815 and 926 of the UCPR, you will need to file an application. Advice about applying for punishment for contempt is beyond the scope of this Toolkit and if you want to consider this option further, you should seek legal advice.

What is the cost of an Enforcement Hearing?

While it does not cost anything to file your Court documents to apply for an Enforcement Hearing, you may incur certain expenses during the Enforcement Hearing process, e.g. fees paid to engage a licensed commercial agent to serve the Enforcement Hearing Summons on the Debtor.

These types of costs are generally considered part of the costs of enforcing your Money Order (Rule 814(2) UCPR). The costs of enforcing a Money Order can be recovered as part of the Money Order (Rule 797 UCPR).

At the Enforcement Hearing, you may be able to ask the Magistrate/Registrar to make an order that the Debtor pay the costs you incurred as part of the Enforcement Hearing process (Rule 814 UCPR). However, if you plan to apply for an Enforcement Warrant, you may want to consider waiting until then to ask for orders about costs.

Only qualified legal practitioners representing someone else can claim costs for their time spent, under the Court's scale of costs. This means that if you are self-represented and do not have a lawyer, you cannot ask for costs for things like the time you spent preparing your Court documents, your travel time to attend Court to file documents, etc.

Do I have to pay the Debtor's costs of attending the Enforcement Hearing?

If you required the Debtor to attend an Enforcement Hearing in a Court other than the one closest to where they live or work, then you should already have offered to pay the Debtor conduct money when you served them with the Enforcement Hearing Summons (Rule 811 UCPR).

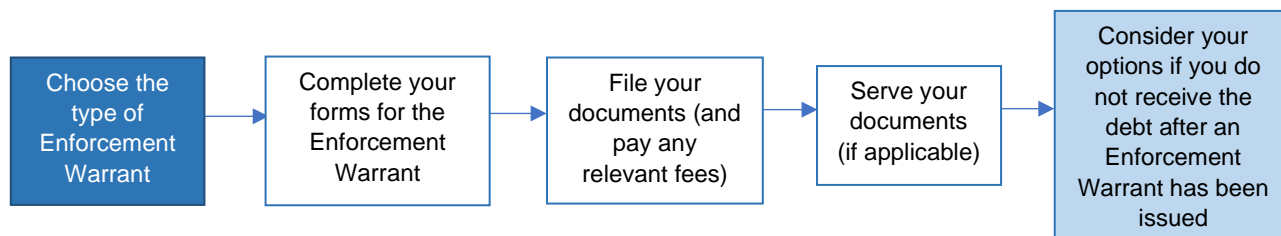
Conduct money is money to cover the Debtor's reasonable travel and accommodation expenses to attend the Enforcement Hearing. This can include the cost of public transport, and if public transport is not available, then the cost of the Debtor using their motor vehicle, calculated at the specified rate per kilometre (Part 3, Division 2, *Uniform Civil Procedure (Fees) Regulation 2019*). If no travel expenses are incurred by the Debtor, then they are not entitled to payment.

The Enforcement Hearing process is over – what now?

The purpose of the Enforcement Hearing is to uncover more information about the Debtor's financial position, so you should now have enough information to help you decide whether to take further steps to enforce your Money Order.

If it looks like the Debtor does not have enough money, income, or assets to pay the Money Order, then it may not be worthwhile to take further steps to enforce the Money Order at this time. However, if you have enough information about the Debtor's financial position and you believe it will be worthwhile continuing to enforce the Money Order, you can apply to the Court for an Enforcement Warrant. **Part 3** of this Toolkit sets out the steps for applying for an Enforcement Warrant.

PART 3 - ENFORCEMENT WARRANTS



What is an Enforcement Warrant?

To enforce your Money Order, you can apply for an Enforcement Warrant. An Enforcement Warrant is used to direct a person to pay you the money owed in a specific way.

You do not have to request an Enforcement Hearing before applying for an Enforcement Warrant (Rule 817(4) UCPR).

When deciding whether to issue any kind of Enforcement Warrant, the Court will generally consider:

- whether the Debtor has adequate means of satisfying the debt after deducting necessary living expenses of the Debtor and the Debtor's family and any other known liabilities of the Debtor; and
- whether the Enforcement Warrant would impose unreasonable hardship on the Debtor.

This means that, if the Debtor would not be able to repay the debt without suffering unreasonable hardship due to their particular financial circumstances, the Court may not issue the Enforcement Warrant.

If you have information about the Debtor that suggests they might suffer hardship if the Court grants an Enforcement Warrant, then you should carefully consider whether it is worthwhile applying for an Enforcement Warrant. You may want to consider negotiating a payment plan directly with the Debtor, or waiting for a period of time (within the 6 year limit) to see if the Debtor is in a better financial position in the future.

If you believe you do not have enough information about the Debtor's financial position to satisfy the Court that the Debtor will not suffer unreasonable hardship, then you should consider applying for an Enforcement Hearing before applying for an Enforcement Warrant. For more information about applying for an Enforcement Hearing, see **Part 2** of this Toolkit.

1. What are the outcomes from an Enforcement Warrant?

If your application for an Enforcement Warrant is successful, the Debtor will be required to pay you the amount owed in the manner specified in the Enforcement Warrant. There are several kinds of Enforcement Warrants, and you can choose to apply for the type that best suits your situation and the Debtor's position. The different kinds of Enforcement Warrants are detailed below.

Generally, while an Enforcement Warrant is in force, no other Enforcement Warrant may be issued in relation to the same Money Order, unless the Court gives permission.

2. What are the costs of an Enforcement Warrant?

It is free to apply for an Enforcement Warrant. However, you may be required to pay other costs as part of the enforcement process – for example, fees for an Enforcement Officer to enforce an Enforcement Warrant for the seizure and sale of property, or fees for a bailiff to serve the Enforcement Warrant on the Debtor. The costs of enforcing a Money Order are recoverable as part of the Money Order (Rule 797 UCPR).

You can also recover interest on the Money Order owed to you (Rule 797).

Interest is calculated as follows:

- (a) in respect of the period from 1 January to 30 June in any year, a rate 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced; and
- (b) in respect of the period from 1 July to 31 December in any year, a rate 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced.

You can use the interest calculator on the Queensland Courts website to calculate how much interest you can claim: <https://www.courts.qld.gov.au/courts-calculator/calculator>

What are the different types of Enforcement Warrants?

The main types of Enforcement Warrants that may be available include:

- Enforcement Warrant for seizure and sale of property (Rule 828 UCPR);
- Enforcement Warrant for redirection of a debt (Rule 840 UCPR);
- Enforcement Warrant for regular redirections from a financial institution (Rule 848 UCPR); and
- Enforcement Warrant for redirection of earnings (Rule 855 UCPR).

You can also apply for an order for payment by instalments (Rule 868 UCPR).

Unless directed otherwise, an application for an Enforcement Warrant must be dealt with by the Registrar without a formal hearing (Rule 817(5) UCPR). An application for an order for payment by instalments is also generally dealt with by the Registrar without a formal hearing, though the Court can make an order for payment by instalments at the same time as making a Money Order or at an Enforcement Hearing (see Rule 868 UCPR). If the Registrar does not have enough information about the Debtor's financial position to issue the Enforcement Warrant or make the order for payment by instalments, then the Registrar may tell you that the parties should attend an Enforcement Hearing to obtain that information first.

The type of Enforcement Warrant or order that is most appropriate will depend on factors such as the amount of the Money Order, the Debtor's financial position and particular circumstances, and the amount of time, effort and costs you are willing to spend on enforcing the Money Order.

1. Enforcement Warrant for the seizure and sale of property

This Enforcement Warrant can be issued if the Debtor owns property (including personal property) that can be sold to pay the amount of the Money Order. The Enforcement Warrant authorises an Enforcement Officer to enter the Debtor's property, seize the Debtor's property that is specified in the Enforcement Warrant, and then sell the property at an auction (Rule 828 UCPR). The proceeds from the sale are first used to pay the Enforcement Officer's fees and costs, and then to pay you up to the amount recoverable under the Enforcement Warrant. If there is still money left over, it is paid to the Debtor (Rule 836 UCPR).

The Enforcement Warrant does not authorise the Enforcement Officer to seize and sell all the Debtor's valuable property – it is only to sell what is required to satisfy the Money Order. If the Debtor pays you the outstanding amount before their property is seized, the Enforcement Officer will not be entitled to seize and sell the Debtor's property (Rule 830 UCPR).

The Enforcement Officer will seize and sell the Debtor's property in the way that they think is best to avoid unnecessary expense, and in the way that will best minimize any hardship to the Debtor (Rule 829 UCPR).

The types of property the Enforcement Officer can seize includes goods, chattels (personal possessions or property) or real property (land or buildings) that the debtor has a legal or beneficial interest in. Examples include real estate, motor vehicles, and other actual goods.

The types of property the Enforcement Officer cannot seize include items that are exempt under the bankruptcy legislation (rules 27-30 of *Bankruptcy Regulations 2021* (Cth) and s116 of *Bankruptcy Act 1966* (Cth)). Examples include basic household property like basic furniture, personal property with sentimental value like cultural or sporting awards, tools of trade (up to a specified value), and a vehicle like a car (up to specified value) which the Debtor uses primarily for transport.

There are many other rules that the Enforcement Officer must follow when seizing, advertising and selling the property, which you can read in Chapter 19, Part 3 of the UCPR.

The Enforcement Officer will likely incur a number of different types of expenses when executing this kind of Enforcement Warrant, such as seizure expenses (e.g. removalists or tow trucks), storage costs, advertising costs, auction costs, and the Enforcement Officer's own fees for their time and travel. You will normally have to provide a security deposit to cover the Enforcement Officer's fees before they execute the Enforcement Warrant. The rest of the Enforcement Officer's costs and expenses will be paid from the proceeds of the sale.

You can find out more about the Enforcement Officer's fees and costs on the Queensland Government website (<https://www.qld.gov.au/law/court/court-services/enforce-a-court-order-and-disputes-about-money/service-fees>) or by contacting the Court Registry.

2. Enforcement Warrant for the redirection of debt

This Enforcement Warrant can be issued if a third party owes a debt to the Debtor (e.g. a commission, the proceeds from sale of property, money owed under a contract, etc.). The Enforcement Warrant is served on the third party and orders them to pay the debt to you instead of the Debtor (Rule 842 UCPR).

The debt can only be redirected to you if it is an actual debt that is due and payable by the third party to the Debtor at the time that the Enforcement Warrant is served on the third party (Rule 840(3) UCPR). If the third party says that they don't owe the Debtor the debt in the first place, they can apply to the court to object to the Enforcement Warrant (Rule 844 UCPR).

You may be able to use this warrant if the Debtor has money in a financial institution, e.g. a savings account in a bank. The third party in this situation would be the financial institution. This is because, for the purposes

of enforcing a Money Order, an amount of money held in an account by a financial institution is considered a debt payable to the Debtor because the bank would need to give (or pay) the individual that money if they asked for it (Section 97 *Civil Proceedings Act 2011* (Qld)). If the Debtor's money is in a joint account, then it is presumed that it's owned by the respective owners in equal shares unless the Court decides their actual entitlements (Section 94 *Civil Proceedings Act 2011* (Qld)).

When deciding whether to issue this kind of Enforcement Warrant, the Court will consider:

- whether the Debtor is receiving regular income and the amount and frequency of payment;
- whether the Debtor has sufficient means of satisfying the order after deducting—
 - the necessary living expenses of the Debtor and the Debtor's dependants; and
 - any other known liabilities of the Debtor; and
- whether the redirection of the debt is appropriate, with regard to the nature of the debt and the type of redirection.

3. Enforcement Warrant for regular redirection from financial institution

This Enforcement Warrant can be issued if the Debtor has an account with a third party financial institution (e.g. a bank, building society or credit union), and a fourth party (e.g. an employer or a tenant) regularly deposits earnings into the account. The Enforcement Warrant is served on the financial institution and orders them to regularly deduct money from the Debtor's account and pay it to you. It stays in force until the total amount specified in the Enforcement Warrant is paid, or the warrant is set aside, varied, or expires (Rule 848(2) UCPR).

While the Enforcement Warrant is in force, every time the fourth party makes the regular deposit into the Debtor's account, the financial institution must deduct from the account the amount specified in the Enforcement Warrant within 2 business days and pay it to you. The financial institution may also deduct an administration charge and keep it as a contribution towards administrative costs of payments under the Enforcement Warrant. The financial institution must also give the Debtor a notice detailing the deductions (Rule 851 UCPR).

The Debtor must make sure that there is enough money in their account for the deductions, and they have to notify you if the fourth person stops making regular payments to them, or if the Debtor closes the account or arranges for the fourth person to pay you in another way (Rule 852 UCPR).

When deciding whether to issue this kind of Enforcement Warrant, the Court will consider:

- whether the Debtor is receiving regular income and the amount and frequency of payment;
- whether the Debtor has sufficient means of satisfying the order after deducting—
 - the necessary living expenses of the Debtor and the Debtor's dependants; and
 - any other known liabilities of the Debtor;
- whether the amount of regular debt to be redirected would impose unreasonable hardship on the Debtor; and
- whether a regular redirection is appropriate, with regard to the nature of the debt and the type of redirection.

4. Enforcement Warrant for redirection of earnings

This Enforcement Warrant can be issued if the Debtor is employed and earns money through that employment. The Enforcement Warrant is served on the employer and orders them to redirect part of the Debtor's earnings to you. It stays in force until the total amount specified in the Enforcement Warrant is paid, or the warrant is set aside or expires (Rule 855(2) UCPR).

While the Enforcement Warrant is in force, on each pay day the employer must deduct from the Debtor's earnings the amount specified in the Enforcement Warrant and pay it to you. The employer may also deduct an administration charge and keep it as a contribution towards administrative costs of payments under the Enforcement Warrant. The employer must also give the Debtor a notice detailing the deductions (Rule 860 UCPR).

If the employer pays you more than the deduction amount specified in the Enforcement Warrant, you must return the extra money to the employer to be paid to the Debtor (Rule 863(3) UCPR). If the Debtor stops their employment while the Enforcement Warrant is in force, the employer must give notice to you and the Court Registrar (Rule 866).

Although this type of warrant sounds very similar to the warrant for regular redirection from a financial institution explained above, the difference here is that the money would be transferred to you directly from the employer, rather than it being deposited into a bank account and then being transferred to you. This type of warrant might be more suitable if the creditor has regular employment, whereas the warrant for redirection from a financial institution might be more appropriate if they are a contractor or receive income from many different sources.

When deciding whether to issue this kind of Enforcement Warrant, the Court will consider:

- whether the Debtor is employed and the Debtor's employer has been identified;
- whether the Debtor has sufficient means of satisfying the order after deducting—
 - the necessary living expenses of the Debtor and the Debtor's dependants; and
 - any other known liabilities of the Debtor; and
- whether the amount of earnings to be redirected would impose unreasonable hardship on the Debtor.

5. Order for payment by instalments

An order for payment by instalments (**Instalment Order**) is not a type of Enforcement Warrant. Instead, it is an order that is served on the Debtor and requires them to pay the debt to you in small instalments over time, rather than in one lump payment. (Rule 868 UCPR).

While an Instalment Order is in force, the Court will not issue an Enforcement Warrant for the same Money Order (Rule 870 UCPR). The Instalment Order will remain in force until the debt is paid, the Instalment Order is set aside by the Court or expires, or the Debtor fails to make two payments in a row (Rule 872 UCPR). If any of these things happen, you must give notice to the Debtor that the Instalment Order has ceased to have effect.

If the Debtor was not present at Court when the Instalment Order was made, they can apply to the Court to set aside or vary the Instalment Order (Rule 868(6)).

When deciding whether to make an Instalment Order, the Court will consider:

- whether the Debtor is employed;
- the Debtor's means of satisfying the order;
- whether the debt, including any interest, will be satisfied within a reasonable time;

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- the necessary living expenses of the Debtor and the Debtor 's dependants; and
- any other liabilities of the Debtor.

The Court must be satisfied that the Instalment Order will not impose unreasonable hardship on the Debtor when deciding the amount and timing of the instalments.

If you are considering applying for an Instalment Order, it may be a good idea to write to the Debtor first to see if they are willing to pay you by instalments under an Instalment Order. If they indicate they will not make any payments to you and/or you think it is likely that they will default on two payments in a row even if the Instalment Order is made, then you may want to consider applying for an Enforcement Warrant instead.

6. Which Enforcement Warrant should you apply for?

There are different advantages and disadvantages to consider when deciding what type of warrant will be most appropriate in the circumstances. It will depend on the type of assets, employment and debts the Debtor has at the time, and your own preferences about how long you are willing to wait and how much effort you are willing to put in to enforce your Money Order.

Type of Enforcement Warrant/Order	When does this type make the most sense?	Advantages	Disadvantages
Seizure and sale of property	If you know that the Debtor has valuable property, and the value of the property is more than the debt.	<ul style="list-style-type: none"> • You may be able to receive the total amount of the debt in one payment • The Enforcement Officer is the one who does the work of seizing and selling the Debtor's property • You do not have to deal directly with the Debtor – this may be beneficial if the Debtor refuses to communicate with you or if you have a bad relationship with the Debtor 	<ul style="list-style-type: none"> • The property must generally be in the Debtor's own name – there are difficulties selling jointly-owned property without a specific direction from the Court (which requires an application) • You must pay a security deposit up front for the Enforcement Officer's fees when you file your Court documents • The Enforcement Officer's remaining fees and charges will reduce the proceeds that can be paid to you, and could be significant depending on how much work is needed to execute the Enforcement Warrant • Depending on the type of property you want to be sold, you may have to take further steps and provide additional documents to the Court which may be more complicated or time-consuming, e.g. register the warrant on the title of the property, obtain a current title search and independent valuation of the property, find out any payout figures owed to financial institutions (e.g. amounts owing under any mortgages), etc. • It can be difficult to work out whether the Debtor has enough/valuable enough property to pay the debt as well as the relevant fees and costs • You will not have control over the sale or auction of the Debtor's property

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<p>Redirection of a debt</p>	<p>If you have information that someone else owes a debt to the Debtor and you have enough information to serve the Enforcement Warrant on that third party.</p>	<ul style="list-style-type: none"> You may be able to receive the total amount of the debt in one payment You do not have to deal directly with the Debtor – this may be beneficial if the Debtor refuses to communicate with you or if you have a bad relationship with the Debtor 	<ul style="list-style-type: none"> You need information and details about the third party and their debt, not just about the Debtor The third party can object to the Enforcement Warrant, which can make the Court process take longer If the Third Party does not comply with the Enforcement Warrant, you will have to consider taking further Court action to enforce the Enforcement Warrant.
<p>Regular redirections from a financial institution</p>	<p>If you know that the Debtor has an account with a financial institution (e.g. bank) and they are getting regular payments into it from e.g. an employer, renter, etc.</p>	<ul style="list-style-type: none"> You do not have to deal directly with the Debtor – this may be beneficial if the Debtor refuses to communicate with you or if you have a bad relationship with the Debtor A financial institution is likely to comply with the Enforcement Warrant 	<ul style="list-style-type: none"> You will need to wait for payments to be made in instalments over a period of time If the Debtor's circumstances change (e.g. they lose employment or stop receiving the regular payments), the Enforcement Warrant will no longer be effective
<p>Redirection of earnings</p>	<p>If the Debtor has regular employment and is earning a regular wage/salary.</p>	<ul style="list-style-type: none"> You do not have to deal directly with the Debtor – this may be beneficial if the Debtor refuses to communicate with you or if you have a bad relationship with the Debtor 	<ul style="list-style-type: none"> You will need to wait for payments to be made in instalments over a period of time If the employer does not comply with the Enforcement Warrant, you will have to consider taking further Court action to enforce the Enforcement Warrant. If the Debtor's circumstances change (e.g. they lose employment), the Enforcement Warrant will no longer be effective
<p>Order for payment by instalments</p>	<p>If the Debtor is willing and able to repay the debt over time by making smaller repayments on a regular basis.</p>	<ul style="list-style-type: none"> You can formalise any repayment agreement you have already made with the Debtor May be simpler and easier since you do not have to deal with or communicate with any third parties, particularly if you have a reasonably good relationship with the Debtor 	<ul style="list-style-type: none"> You may need to attend a Court Hearing before the Order can be made Not helpful if the Debtor is not willing or able to make the repayments You will need to wait for payments to be made in instalments over a period of time If the Debtor defaults on 2 consecutive payments, the Order will no longer be in force and you will need to reconsider how to enforce the remaining debt (e.g. apply for a different Enforcement Warrant)

How to apply for an Enforcement Warrant

To apply for an Enforcement Warrant, you will need to complete and file the following documents at the Court where you filed the Money Order:

- Form 9 Application;
- Form 74 Statement supporting the Application for the Enforcement Warrant; and
- the specific form for the type of Enforcement Warrant or order you are seeking (Form 75, 76, 77, 78 or 82).

Depending on the type of Enforcement Warrant you are seeking, you may need to prepare additional documents. For example, if you are applying for an **Enforcement Warrant for seizure and sale of property**, you may also need to provide a letter of instruction and security deposit to the Court. If you are applying for an **Enforcement Warrant for redirection of earnings**, you will also need to file a Form 79 Notice to Employer – Redirection of Earnings.

All Court documents should be on white A4 paper and have a left-hand margin on the first page wide enough so that the Court seal (or stamp) can be on the document when it is filed. If possible, the document should be typed in at least size 10 font; however, if you need to handwrite the form, make sure your writing is clear and large enough so that it can be easily read by the Court.

You can locate all Court forms on the Court website (<https://www.courts.qld.gov.au/about/forms>).

1. Step 1 – Prepare your documents

Form 9 Application

The application is the document that asks the Court to issue the relevant Enforcement Warrant.

Preparing your Application

The correct form for this type of Application is “Form 9 – Application”.

For an Application, the “Applicant” is the person seeking an order of the Court, which in this case is you. The “Respondent” is the person you are asking the Court to order to do something, or that you are seeking some sort of legal remedy against, which in this case is the Debtor.

The Application should:

1. Include your name and contact details;
2. Include the name and contact details of the Debtor; and
3. Ask the Court to issue the specific type of warrant you are seeking and refer to the specific rule in the UCPR that gives the Court the power to issue that type of warrant.

You can also ask the Court for an order that the Debtor pays you any costs of the application. This is because rule 797 of the UCPR says that the costs of enforcing a Money Order are recoverable as part of the Money Order. This would include costs such as fees you paid to a licensed commercial agent to serve your Court documents on the Debtor. Only qualified legal practitioners representing someone else can claim costs for their time spent, under the Court’s scale of costs. This means that if you are self-represented and do not have a lawyer, you cannot ask for costs for things like the time you spent preparing your Court documents, your travel time to attend Court to file documents, etc.

Template 8 is a blank Application for Enforcement Warrant.

Example 8 is an example Application for Enforcement Warrant (based on an application for an Enforcement Warrant for redirection of earnings).

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Finishing your Application

When your Application is complete, you will need to sign it where indicated. You do not have to sign the Application in front of a witness.

Form 74 Statement supporting Application for Enforcement Warrant

The statement supporting application for Enforcement Warrant (**Statement**) is a sworn document that sets out details about the Money Order you are seeking to enforce, any costs you have incurred in enforcing the Money Order, any interest due to be paid, and any other information the Court requires before the Enforcement Warrant.

Preparing your Statement

The correct form for the Statement is “Form 74 – Statement Supporting Application for Enforcement Warrant”.

The Statement will need to be sworn or affirmed in front of an appropriately qualified witness. When a person swears or affirms a Statement, they are testifying that the contents of the Statement are true and correct to the best of the person’s knowledge. If you are religious, you can ‘swear’ the Statement on a religious text. If you are not religious, you can ‘affirm’ the Statement.

The Statement should include the following information (Rule 817 UCPR):

- The date the Money Order was made;
- The amount of the Money Order;
- The date and amount of any payments already made under the Money Order;
- Details of the costs you incurred in any previous enforcement action for the Money Order (e.g. costs of an Enforcement Hearing);
- Any interest due, calculated on the date the Statement is sworn/affirmed;
- Any other necessary details to calculate the amount payable under the Money Order at the date the Statement is sworn/affirmed, including details about how the amount is calculated;
- The daily amount of any interest that will accrue after the date the Statement is sworn/affirmed (subject to any future payments made); and
- Any additional information that is relevant for the particular type of Enforcement Warrant that you are seeking.

The table on the next page sets out the additional information you need to include in your Statement for the different types of Enforcement Warrants.

Template 9 is a blank Statement Supporting Application for Enforcement Warrant.

Example 9 is an example Statement Supporting Application for Enforcement Warrant (based on an application for an Enforcement Warrant for redirection of earnings).

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Type of Enforcement Warrant/Order	Additional information to include in your Statement
Seizure and sale of property	<ul style="list-style-type: none"> • The Debtor's full address • Confirmation that you have paid or will pay the necessary security deposit for the Enforcement Officer's fees and expenses • If you already have it, any specific information about the property the Debtor owns that could be seized and sold
Redirection of a debt	<ul style="list-style-type: none"> • Details to prove that the third party owes a debt to the Debtor and will be owed by the third person at the time the Enforcement Warrant is to be served on them • Details about the Debtor's financial position to satisfy the Court that the Debtor will not suffer financial hardship and will have sufficient means of paying the Money Order after deducting the Debtor's known liabilities and necessary living expenses • The Debtor's bank account details and the name/s the account is held in (if the Enforcement Warrant is being applied for against a bank account)
Regular redirections from a financial institution	<ul style="list-style-type: none"> • Details of the relevant account with the financial institution • Details to prove that the fourth party (e.g. employer, tenant) is regularly depositing earnings into the account • Details about the Debtor's financial position to satisfy the Court that the Debtor will not suffer financial hardship and will have sufficient means of paying the Money Order after deducting the Debtor's known liabilities and necessary living expenses
Redirection of earnings	<ul style="list-style-type: none"> • Details about the Debtor's employment, including the name and address of the employer • Details about the amount and frequency of payments from the employer to the Debtor • Details about the Debtor's financial position to satisfy the Court that the Debtor will not suffer financial hardship and will have sufficient means of paying the Money Order after deducting the Debtor's known liabilities and necessary living expenses
Order for payment by instalments	<ul style="list-style-type: none"> • Details of any agreement you have already made with the Debtor regarding payment by instalments • Details about the Debtor's financial position to satisfy the Court that the Debtor will not suffer financial hardship and will have sufficient means of paying the Money Order after deducting the Debtor's known liabilities and necessary living expenses

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Exhibits to your Statement

If you refer to a document in your Statement, you should attach a copy of that document to your Statement as an Exhibit. Examples of Exhibits could include:

- A copy of the Money Order that was filed in the Court;
- Documents showing the amount of any costs you incurred for previous enforcement action;
- A print-out of your interest calculations using the Queensland Courts Interest Calculator;
- A copy of the Debtor's Statement of Financial Position;
- A copy of a contract or invoice showing that a third party owes a debt to the Debtor; and/or
- Copies of correspondence with the Debtor where they have agreed to pay you in instalments.

Whenever you refer to an Exhibit in your Statement, you should give it a reference number using your initials and a number. For example, if your name was Lillian Xiu, your Exhibits would be numbered "LX1", "LX2", "LX3" etc. You should then clearly mark each Exhibit with the relevant reference number.

To attach an Exhibit to your Statement, you will need to prepare a "Form 47 – Certificate of Exhibit" for each exhibit, which will act as a cover page before the Exhibit.

Template 10 is a blank Certificate of Exhibit.

Example 10 is an example Certificate of Exhibit.

Finishing your Statement

When your Statement is complete and you have all your Exhibits attached to the Statement with their Certificates of Exhibit, you will need to swear or affirm it in front of a qualified witness such as a solicitor, a Commissioner of Declarations or a Justice of the Peace. You and the witness will need to sign the Statement on each page and each Certificate of Exhibit. You do not need to sign the pages of the Exhibits.

You should not complete and swear/affirm your Statement until you are ready to file it with your other court documents. This is because you must file your court documents **within 2 days** of the day that you swear/affirm the Statement (Rule 817(1)(b) UCPR).

Specific documents for specific Enforcement Warrants

Along with your Application and Statement, you will need to complete and file the correct form for the specific Enforcement Warrant or order that you are seeking.

The specific forms are as follows:

- For an Enforcement Warrant for seizure and sale of property: **Form 75**
- For an Enforcement Warrant for redirection of a debt: **Form 76**
- For an Enforcement Warrant for regular redirection from financial institutions: **Form 77**
- For an Enforcement Warrant for redirection of earnings: **Form 78**
- For an order for payment by instalments: **Form 82**

Generally, the form must state (Rule 820 UCPR):

- The name of the Debtor;
- The date the Enforcement Warrant ends or expires (this is generally 1 year after the date the Enforcement Warrant is issued: see section 91 of the *Civil Proceedings Act 2011 (Qld)*);
- The amount recoverable under the Enforcement Warrant, which must include the unpaid costs of any previous enforcement action, costs relating to the Enforcement Warrant, and the amount of interest on the Money Order debt; and
- Any other necessary details.

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You do not need to sign the form, as the Court or Registrar will do that when you file it.

Each form requires specific details, and depending on the type of Enforcement Warrant or order you are seeking, you may need to prepare additional documents as well. This is explained in more detail below.

Enforcement Warrant for the seizure and sale of property

If you are seeking an Enforcement Warrant for the seizure and sale of the Debtor's property, the correct form to use is "Form 75 Enforcement Warrant – Seizure and Sale of Property". You will need to complete the Form 75 and file it with your Application and Statement. Form 75 sets out the conditions of the Enforcement Warrant and includes important notices to the relevant parties about their legal rights and obligations under the Enforcement Warrant.

After you file your Application, Statement and Form 75, you will also need to provide other documents to the Court, including a letter of instructions to the Enforcement Officer and a security deposit to cover the Enforcement Officer's costs.

Preparing Form 75 Enforcement Warrant – Seizure and Sale of Property

To complete Form 75, you should:

- Insert your details and the Debtor's details;
- Insert the date of the Money Order;
- State the amount owing under the Money Order, including interest and costs, and minus any payments the Debtor has already made; and
- In the notice to the Enforcement Officer, insert the details of any specific known property owned by the Debtor that may be available to be seized.

The Registrar will insert the remaining details when the Enforcement Warrant is issued.

Template 11 is a blank Form 75 – Enforcement Warrant for Seizure and Sale of Property.

Additional documents to provide to the Court

After you have filed your Application, Statement, and Form 75 and the Enforcement Warrant is issued, you will need to provide the following before the Enforcement Officer can take action:

- A letter of instructions to the Enforcement Officer which:
 - States that the Enforcement Warrant is to be executed;
 - Provides a contact person's name and telephone number (this will generally be your own details);
 - Provides details of where the Debtor is located;
 - Includes full descriptions and locations of any of the Debtor's property, vehicles, or assets; and
- Payment of a security deposit for the Enforcement Officer's fees – you will need to check with the relevant Court Registry for the amount you are required to pay for the security deposit.

You may have to provide further documents to the Court or the Enforcement Officer depending on what you want to happen and the information you have about the Debtor. For example, if you want the Enforcement Officer to seize and sell the Debtor's motor vehicle, you need to provide a valuation for the vehicle and evidence that the vehicle is not encumbered.

If you want the Enforcement Officer to seize and sell the Debtor's real property by auction (i.e. land), then you will need to provide the following:

- A copy of a current title search of the property showing any encumbrances on the property;
- An independent valuation of the property conducted by a valuer licensed in Queensland that is no more than three months old;

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- Pictures of the property that are suitable to be used for advertising purposes in a newspaper (800x600 resolution, JPEG format, 2MB maximum) – use a photograph of the property from the outside if photographs of the inside of the property are not available;
- A description of the property (e.g. 4-bedroom, brick home, pool, single garage, etc.);
- The payout figures from any relevant financial institutions (e.g. amount to be paid out to the financial institution under a mortgage) that are no more than one month old;
- Any amounts outstanding on the property for any of the following (including supporting documents):
 - Rates;
 - Water;
 - Anticipated enforcement costs (relevant to any Body Corporate claims that have been incurred after the date of the Money Order); or
 - Any other outstanding costs.
- Documents to show that the Enforcement Warrant has been noted on the property's title;
- Information about whether the property is vacant, tenanted or occupied by the Debtor;
- Whether the property has a pool, and if so a copy of the current Pool Safety Certificate or a Form 36 Notice (No Pool Safety Certificate Notice) if there is no Pool Safety Certificate;
- QCAT search results (and copies of any QCAT orders) showing whether the property has been the subject of a QCAT application or an order for a tree dispute; and
- Payment of a security deposit in the sum of \$3,500 (or other amount as directed by the relevant Court Registry or Enforcement Officer).

You should check with the Court Registry to find out whether there are any other documents that you need to provide before the Enforcement Officer can seize and sell the Debtor's land.

Enforcement Warrant for the redirection of a debt

If you are seeking an Enforcement Warrant to redirect a debt, the correct form to use is "Form 76 Enforcement Warrant – Redirection of Debt". You will need to complete a Form 76 and file it with your Application and Statement. Form 76 sets out the conditions of the Enforcement Warrant and includes important notices to the relevant parties about their legal rights and obligations under the Enforcement Warrant.

Preparing Form 76 Enforcement Warrant – Redirection of Debt

To complete Form 76, you should:

- Insert your details, the Debtor's details and the details of the third party who owes the Debtor the relevant debt;
- Insert the date of the Money Order;
- State the amount owing under the Money Order, including interest and costs, and minus any payments the Debtor has already made; and
- In the Notices to Third Person section, set out:
 - Details of the debt you say exists between the Debtor and the third party; and
 - Details of the relationship you say exists between the Debtor and the third party.

The Registrar will insert the remaining details when the Enforcement Warrant is issued.

Template 12 is a blank Form 76 – Enforcement Warrant for Redirection of Debt.

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Enforcement Warrant for regular redirection from a financial institution

If you are seeking an Enforcement Warrant for the regular redirection of payments from the Debtor's account, the correct form to use is "Form 77 Enforcement Warrant – For Regular Redirection". You will need to complete the Form 77 and file it with your Application and Statement. Form 77 sets out the conditions of the Enforcement Warrant and includes important notices to the relevant parties about their legal rights and obligations under the Enforcement Warrant.

Preparing Form 77 Enforcement Warrant – For Regular Redirection

To complete Form 77, you should:

- Insert your details, the Debtor's details, the details of the third party (the financial institution that holds the Debtor's account), and the details of the fourth party (the party that deposits the regular payments into the Debtor's account);
- Insert the date of the Money Order;
- State the amount owing under the Money Order, including interest and costs, and minus any payments the Debtor has already made;
- Insert the details of the Debtor's account with the third party; and
- In the Notices to Third Person section, set out:
 - Details of the debt you say exists between the Debtor and the third party; and
 - Details of the relationship you say exists between the Debtor, the third party and the fourth party.

The Registrar will insert the remaining details when the Enforcement Warrant is issued.

Template 13 is a blank Form 77 – Enforcement Warrant for Regular Redirection.

Enforcement Warrant for the redirection of earnings

If you are seeking an Enforcement Warrant for the redirection of the Debtor's earnings from their employer, you will need to complete and file the following forms with your Application and Statement:

- Form 78 Enforcement Warrant – Redirection of Earnings (**Form 78**); and
- Form 79 Notice to Employer – Redirection of Earnings (**Form 79**).

Form 78 sets out the conditions of the Enforcement Warrant and includes important notices to the relevant parties about their legal rights and obligations under the Enforcement Warrant. Form 79 contains important notices to the Debtor's employer about the effect of the Enforcement Warrant and their obligations.

You will also need to serve the Debtor's employer with a blank copy of "Form 80 Notice That Debtor Not Employee" (**Form 80**) along with the filed copies of the Form 78 and Form 79. The employer will complete and file this form if the debtor is not actually their employee.

Preparing Form 78 Enforcement Warrant – Redirection of Earnings

To complete Form 78, you should:

- Insert your details, the Debtor's details, the details of the Debtor's employer;
- Insert the date of the Money Order;
- State the amount owing under the Money Order, including interest and costs, and minus any payments the Debtor has already made; and
- Insert the amount of earnings the Debtor receives each pay period after tax.

The Registrar will insert the remaining details when the Enforcement Warrant is issued.

Template 14 is a blank Form 78 – Enforcement Warrant for Redirection of Earnings.

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Additional documents – Forms 79 and 80

To complete Form 79, you should insert your details, the Debtor's details, and the Debtor's employer's details. The Registrar will sign and date the Form 79 when you file it.

Template 15 is a blank Form 79 – Notice to Employer for Redirection of Earnings.

You do not have to fill out the Form 80 or file it in the Court with your other documents. You are only required to give the Debtor's employer a blank copy of Form 80, which they will only use if they need to tell you and the Court that the Debtor is not their employee.

Template 16 is a blank Form 80 – Notice That Debtor Not Employee.

Order for payment by instalments

If the Debtor makes an offer to pay a particular amount in the Statement of Financial Position, you negotiate a payment plan with the Debtor, or it otherwise appears that the Debtor can pay a set amount per week, you may wish to formalise this in an order for payment by instalments.

If you are seeking an Order that the Debtor pay you by regular instalments, the correct form to use is "Form 82 Order Authorising Payment by Instalments". You will need to complete the Form 82 and file it with your Application and Statement. Form 82 sets out the specific conditions of the Order, and includes important notices to the parties about their rights and obligations under the Order, and when the Order will cease to have effect.

Preparing Form 82 Order Authorising Payment by Instalments

To complete Form 82, you should:

- Insert your details and the Debtor's details;
- Insert the date of the Money Order;
- State the amount owing under the Money Order, including interest and costs, and minus any payments the Debtor has already made; and
- Insert the details of the payment schedule you are seeking.

The Registrar will insert the remaining details when the Order is made.

Template 17 is a blank Form 82 – Order Authorising Payment by Instalments.

2. Step 2 – File your Court documents

Once you have completed all your documents (Application, Statement, and the specific Form(s) for the particular Enforcement Warrant or Order that you are seeking), you must file them in the Court.

You must file your court documents within **2 days** of the day that you swore or affirmed your Statement.

There are no filing fees for applying for an Enforcement Warrant. However, if you are applying for an Enforcement Warrant for the seizure and sale of property, and you want the Enforcement Offer to proceed to seizing and selling off nominated personal property or real property, you will need to pay execution and travel fees (where required) and a security deposit for the Enforcement Officer's fees and charges. Before filing your Court documents, you should check with the relevant Court Registry about the specific amount of the security deposit you will need to pay when you want the Enforcement Offer to execute the warrant.

See **page 10** of this Toolkit for more information about how to file Court documents.

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3. Step 3 – Serve your documents

Once you have filed your documents and the Court has issued the Enforcement Warrant or made the Order for payment by instalments, you need to serve the relevant documents on the Debtor and any other relevant parties in the way the Court rules specify.

The type of Enforcement Warrant or Order you obtained from the Court will affect who you need to serve, what documents you need to serve on each person, and how you need to serve the documents. The table below summarises the service requirements for each type of Enforcement Warrant or Order.

See **page 12** of this Toolkit for more information about how to serve Court documents.

Type of Enforcement Warrant or order	Who do I need to serve?	What documents do I need to serve?	How do I serve the documents?
Seizure and sale of property	N/A	N/A	<i>You do not have to serve any documents on the Debtor. The Enforcement Officer will show the Enforcement Warrant to the Debtor and notify the Debtor about the relevant processes when executing the Enforcement Warrant.</i>
Redirection of debt	<ul style="list-style-type: none"> The Debtor The third party 	Sealed copy of Enforcement Warrant (Form 76)	<p>Personal service or ordinary service.</p> <p>The Enforcement Warrant will not be effective until it is served on the third party.</p>
Regular redirection from financial institution	<ul style="list-style-type: none"> The Debtor The third party (financial institution) 	Sealed copy of Enforcement Warrant (Form 77)	<p>Personal service or by post.</p> <p>The Enforcement Warrant will not come into force until the end of 7 days after the day the financial institution is served.</p>
Redirection of earnings	<ul style="list-style-type: none"> The Debtor The Debtor's employer 	<p>For the Debtor:</p> <ul style="list-style-type: none"> Sealed copy of Enforcement Warrant (Form 78) <p>For the employer:</p> <ul style="list-style-type: none"> Sealed copy of Enforcement Warrant (Form 78) Sealed copy of Notice to Employer (Form 79) Blank Form 80 	<p>Personal service or ordinary service.</p> <p>The Enforcement Warrant will not come into force until the end of 7 days after the day the employer is served.</p>
Order for payment by instalments	The Debtor	Sealed copy of the order (Form 82)	Personal service or ordinary service.

4. What happens once you have your Enforcement Warrant?

This section sets out some common questions that might come up once you have obtained your Enforcement Warrant or order for payment by instalments.

What happens if the Enforcement Warrant expires?

An Enforcement Warrant will generally end or expire one year after it has been issued. The expiry date should be stated clearly on the Enforcement Warrant itself.

An Enforcement Warrant can be renewed by the Court for a period of up to one year at a time (Rule 821 UCPR). You may want to renew your Enforcement Warrant if it is getting close to the expiry date but you still have not received full payment of the debt in accordance with the Enforcement Warrant.

To renew an Enforcement Warrant, you will need to file the following documents in the Court before the Enforcement Warrant's expiry date:

- An Application (Form 9) asking for the Enforcement Warrant to be renewed under Rule 821 of the UCPR; and
- An Affidavit (Form 46) setting out any relevant facts to support your Application.

The Application will be dealt with by the Registrar without a formal hearing, unless the Registrar or the Court directs otherwise (Rule 817(5) UCPR).

Can the Enforcement Warrant be varied, set aside or stayed?

The Debtor or any other person who is affected by the Enforcement Warrant can apply to the Court to have it set aside or stayed (i.e. put on pause or suspended) (Rule 819 UCPR). You or the Debtor can apply to set aside or suspend an Order for payment by instalments (Rule 871 UCPR).

Filing an application to set aside an Enforcement Warrant will not stay the operation of the Enforcement Warrant (Rule 871 UCPR). This means that the Enforcement Warrant will remain in effect while the application is being dealt with by the Court.

If the Debtor's circumstances change, you or the Debtor may want to vary the terms and conditions of the Enforcement Warrant or Order for payment by instalments. You or the Debtor can apply to the Court for the following types of Enforcement Warrants to be varied:

- Enforcement Warrant for regular redirection from a financial institution (Rule 854 UCPR);
- Enforcement Warrant for redirection of earnings (Rule 862 UCPR); and
- Order for payment by instalments (Rule 871 UCPR).

Any person who wants to vary, set aside or stay the Enforcement Warrant or Order for payment by instalments will need to file an Application (Form 9) and supporting Affidavit (Form 46) in the Court. They will need to serve the filed Court documents on all relevant parties, who will generally be given the opportunity to file their own Affidavits (Form 46) in response to the Application. The Application will be set down for a formal Hearing before the Court, and the Court will decide whether to vary the Enforcement Warrant or Order.

If the Court makes an Order varying, setting aside or staying the Enforcement Warrant or Order for payment by instalments (**New Order**), it will need to be served on all the parties, including any third parties who are affected by the New Order (e.g. the Debtor's financial institution or employer). If the New Order relates to an Enforcement Warrant for regular redirection from a financial institution or an Order to pay by instalments, then it will not come into effect until 7 days after the day the New Order is served on the relevant parties (Rules 854 and 871 UCPR). Otherwise, the New Order will take effect from the day that it is made.

What if the relevant person doesn't comply with the Enforcement Warrant?

A failure to comply with an Enforcement Warrant or Order for payment by instalments may be considered contempt of Court. Punishment for contempt can include a fine or imprisonment, and is arguably the most serious step that a civil Court can take. It is generally reserved for only the most deliberate breaches of a Court Order.

Before applying to the Court to have a person punished for contempt, you should consider writing to the relevant person identifying how they have failed to comply with the Enforcement Warrant or Order for payment by instalments and requesting that they comply, and give them time to take steps to comply.

To apply to have a person punished for contempt of Court, you will need to make an Application to the Court under Part 7, Division 3 of the UCPR. You will need to file an Application (Form 9) which specifies the alleged contempt (Rule 926(1) UCPR), as well as a supporting Affidavit (Form 46) setting out any relevant facts to support your Application. You will need to personally serve the filed court documents on the other person (Rule 926(3) UCPR).

Applying to the Court to have a person punished for contempt is a very serious step and you should obtain legal advice if possible before deciding whether to make this application.

Template 1: Blank letter of demand

DATE

Debtor's name

Debtor's address

Attention: [name of Debtor]

By email: [email address of Debtor] (if you know the debtor's email address)

Dear Mr/Mrs/Ms [surname]

Letter of demand

I refer to the QCAT/Magistrates Court order in matter number [insert QCAT/Court file number] dated [date of the Money Order].

I note:

- On [date], [briefly set out the circumstances for the debt]
- On [date] I started proceedings against you [briefly set out details of your proceedings in QCAT/Magistrates Court]
- On [date], QCAT/the Magistrates Court made an order requiring you to pay me a total amount of \$amount [insert any other details of the order, e.g. if the order required payment within a certain time].

As at the date of this letter, I have not received full or part payment of the amount you owe me under the [QCAT/Magistrates Court] order.

If you do not pay me the amount you owe me within [insert] days, by [insert specific date], I reserve my rights to commence enforcement action against you in the Magistrates Court to recover the amount, without further notice to you. I will also seek costs against you for the additional cost of taking enforcement action.

[Insert details for payment]

Yours faithfully

[Your name]

[Your address]

Example 1: Letter of Demand

1 March 2022

Sam Jones
1 Sunshine Road
Brisbane 4000 QLD

Attention: Sam Jones
By email and post: Sam.Jones@gmail

Dear Mr Jones

Letter of demand - Queensland Civil and Administrative Tribunal (QCAT) 0000100/01

I refer to the QCAT order in matter number 000100/01 dated 1 January 2022

I note:

- On 1 January 2021, you attended my residence to quote and measure a carpet for my living room.
- On 1 February 2021, you invoiced me for a total of \$10,000 payable by me. I paid this amount to you on the same day, 1 February 2021.
- On 1 March 2021, you delivered a carpet, as per the photos **attached**. However, the goods delivered were defective, as the fitted carpet was not the correct size and was not the design I chose.
- On 2 March 2021, I communicated these issues to you by email. You refused to go ahead with the order and told me you would refund my funds at your convenience when you received the defective items.
- On or around 5 March 2021, I returned the goods. However, you did not refund me. I continued attempting to discuss obtaining the goods and/or the refund up to and until sometime in November 2021. However, you did not engage in any such further discussions.
- On 1 December 2021 I started proceedings against you in QCAT by filing an application for a minor civil dispute. The amount I claimed was \$10,000.
- On 1 January 2022, QCAT made an order requiring you to pay me a total amount of \$10,000 within 28 days of the order.

As at the date of this letter, I have not received full or part payment of the amount you owe me under the QCAT order.

If you do not pay me the amount you owe me within 14 days, by **15 March 2022**, I reserve my rights to commence enforcement action against you in the Magistrates Court to recover the amount, without further notice to you. I will also seek costs against you for the additional cost of taking enforcement action.

While I am currently not seeking additional interest, if I am forced to take enforcement action in the Court, I will apply for an order which reflects the additional interest owing at that date.

My bank account details for payment by direct deposit are as follows:
Acct No 12345678; BSB: 000-000

Yours faithfully,

John Smith

1 Brisbane Road
Brisbane 4000 QLD
John.smith@gmail

Template 2: Blank letter attaching Statement of Financial Position

DATE

Debtor's name
Debtor's address

Attention: Debtor's name
By email: Debtor's email address

Dear [Debtor's name]

Statement of Financial Position - Form 71

I refer to the [insert details of the Money Order, including if you have registered a QCAT Money Order in the Court] *[Optional – If you have already sent a letter of demand]* and my letter of [Date of letter of demand].

[Insert any facts as relevant, e.g. if the debtor has not responded to a letter of demand, or if they have refused to pay]

I enclose a [Form 71/Form 71A] Statement of Financial Position.

I give you notice under rule 807 of the *Uniform Civil Procedure Rules 1999* (Qld) that I require you to complete and return the [Form 71/Form 71A] Statement of Financial Position to me within 14 days (by [insert date 14 days from date of letter]).

If you fail to respond within the time stipulated or do not provide sufficient information, I intend to apply to the Court to summon you to an Enforcement Hearing.

You can read more about the Statement of Financial Position and can complete it online by visiting the Court website: <https://www.courts.qld.gov.au/going-to-court/money-disputes/statement-of-financial-position>

[Optional – if you have not already done so, you may consider making a demand for payment of the judgment amount by a certain date as well, including details of how the payment should be made.]

Yours faithfully

YOUR NAME

Your address
Your email

Example 2: Letter attaching Statement of Financial Position

16 March 2022

Sam Jones
1 Sunshine Road
Brisbane 4000 QLD

Attention: Sam Jones
By email: Sam.Jones@gmail

Dear Mr Jones

Statement of Financial Position - Form 71

I refer to the QCAT order in matter number 000100/01 dated 1 January 2022, which I registered in the Brisbane Magistrates Court on 1 March 2022 (see **enclosed** copy of registered QCAT order) and my letter of demand dated 1 March 2022.

You did not respond to my letter of demand dated 1 March 2022, and to date I still have not received any payment of the amount you owe me under the QCAT order.

I **enclose** a Form 71 Statement of Financial Position.

I give you notice under rule 807 of the *Uniform Civil Procedure Rules 1999* (Qld) that I require you to complete and return the Form 71 Statement of Financial Position to me within 14 days (by **30 March 2022**).

If you fail to respond within the time stipulated or do not provide sufficient information, I intend to apply for an Enforcement Hearing.

You can read more about the Statement of Financial Position and can complete it online by visiting the Court website: <https://www.courts.qld.gov.au/going-to-court/money-disputes/statement-of-financial-position>

Yours faithfully
John Smith
1 Brisbane Road
Brisbane 4000 QLD
John.smith@gmail

MAGISTRATES COURT OF QUEENSLAND

Registry: Brisbane

Number: M100/22

Applicant: JOHN SMITH

AND

Respondent SAM JONES

STATEMENT OF FINANCIAL POSITION

Enforcement creditor: JOHN SMITH

Enforcement debtor: SAM JONES

Instructions for enforcement debtor completing statement:

- You must complete this statement and return it to the enforcement creditor at 1 Brisbane Road, Brisbane QLD 4000 within 14 days after you received it.
- If you fail to return the completed statement you may be liable to punishment for contempt of court.
- All questions must be answered.
- Use the word 'Nil' if appropriate.
- If you would like to complete this form electronically, a copy can be found on the Queensland Courts website at <https://www.courts.qld.gov.au/about/forms?root=84820> (then open Form 71). You will need to print your completed form to sign it and send it to the enforcement creditor. Where Yes No appears, double click then select 'Not checked' or 'Checked' as appropriate.
- If you are completing this form manually, where Yes No appears, tick or cross the appropriate box.
- Estimates can only be given if, after reasonable enquiry, you are unable to give an accurate answer. Any estimates should have the letter 'E' inserted before the amount shown.
- **If you are completing this form manually and you need more room to answer any of the questions, attach a separate page with your answers.**

PART 1—INCOME

1.1	Are you currently employed? Yes <input type="checkbox"/> No <input type="checkbox"/> If 'no', please go to Item 1.10	
1.2	What is your employer's name:	
1.3	What is your employer's address:	
1.4	What is your occupation or position:	
1.5	When did your current employment commence?	
1.6	What is the amount of all payments actually received by you from this employment (after deduction of tax) currently per week? (If the amount varies from week to week, state a typical amount.)	
1.7	What are the dates of receipt of the last four payments in Item 1.6?	
1.8	Are these Item 1.6 payments made directly into an account with a bank or financial institution? Yes <input type="checkbox"/> No <input type="checkbox"/> If 'yes', for each employment payment state:	
	• the name of the bank or financial institution	
	• the name of the account	
	• the BSB number	
	• the account number	
1.9	If any regular deductions are made from the payments detailed in Item 1.6, other than for tax, what is the purpose and weekly amount of each deduction?	
1.10	On what date did your last period of employment end?	

PART 1–INCOME

1.11	What was the length of your last period of employment?	
1.12	What is the name of your last employer	
1.13	What is the address of your last employer	
1.14	What was the value of your average weekly earnings (after deduction of tax) during your last period of employment?	
1.15	Are you in receipt of any pension, benefits, annuities or other similar payment from any government department, former employer, superannuation fund or other body? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'no', please go to Item 1.17.	
	If 'yes', in respect of each source of such payment/s state:	
	<ul style="list-style-type: none">the source of the payment (e.g. CentreLink)	
	<ul style="list-style-type: none">the nature of the payment (e.g. disability pension)	
	<ul style="list-style-type: none">the value per week of the amount actually received	
	<ul style="list-style-type: none">the amount (if any) deducted for tax	
1.16	Are these Item 1.15 payments made directly into an account with a bank or financial institution? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If so, for each payment state:	
	<ul style="list-style-type: none">the name of the bank or financial institution?	
	<ul style="list-style-type: none">the name of the account	
	<ul style="list-style-type: none">the BSB number	
	<ul style="list-style-type: none">the account number	

PART 1–INCOME

1.17 Are you self-employed? Yes No

If 'yes', state:

- your occupation
- the total amount received by you as a self-employed person during the last financial year
- the total amount of expenditure incurred by you in earning income during that financial year

1.18 In the last 12 months, did you receive any income from any of the following sources, and if so, what was the total amount of each received in the last 12 months or the last financial year (specifying the relevant period):

- dividends
- interest from banks, building societies, credit unions, other financial institutions, shares, etc.
- sale of shares
- money from trusts or estates
- drawings from business, partnership, company and trusts
- rent payments
- board payments
- worker's compensation payments
- maintenance payments (child or spouse)
- any other income from any source (give details)

PART 1–INCOME

1.19 Are you wholly or partly dependent on any other person for financial support? Yes No

If 'yes', what is the:

- | | |
|---|--|
| • name of that person? | |
| • relationship of that person to you? | |
| • average weekly value of that support? | |

1.20 Is any other person wholly or partly dependent on you for financial support? Yes No

If 'yes', what is the:

- | | |
|---|--|
| • name of that person? | |
| • relationship of that person to you? | |
| • average weekly value of that support? | |

1.21 Are you are expecting to receive a lump sum payment in the foreseeable future? Yes No

If 'yes', what is the:

- | | |
|-----------------------------|--|
| • source of the payment? | |
| • amount of the payment? | |
| • expected date of receipt? | |

1.22 Provide copies of your notices of assessment (from the Australian Taxation Office) for the last 2 years ending 30 June.

PART 2–EXPENSES

2.1 Do you incur any expenses in obtaining any of the income disclosed above, other than expenditure in earning income from self-employment? Yes No

If 'Yes' what are the:

PART 2—EXPENSES

	<ul style="list-style-type: none"> • details of expenses incurred? 	
	<ul style="list-style-type: none"> • average annual or weekly value of each expense? 	
2.2	Do you (not your employer on your behalf) make contributions to any superannuation fund/s? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, what is the:	
	<ul style="list-style-type: none"> • name of each such fund? 	
	<ul style="list-style-type: none"> • total contribution by you in the last 12 months to each such fund? 	
2.3	What are your average weekly personal expenses for the categories listed below?	
	<ul style="list-style-type: none"> • food and household supplies 	
	<ul style="list-style-type: none"> • accommodation expenses (including rent, board, hospital, nursing home etc. but excluding mortgage payments) and state to whom these expenses are paid 	
	<ul style="list-style-type: none"> • rates, body corporate levies, and land tax 	
	<ul style="list-style-type: none"> • home maintenance and repairs 	
	<ul style="list-style-type: none"> • lay-by payments 	
	<ul style="list-style-type: none"> • electricity, gas, telephone (including mobile telephones) and internet expenses 	
	<ul style="list-style-type: none"> • mortgage payments 	
	<ul style="list-style-type: none"> • child care 	
	<ul style="list-style-type: none"> • child maintenance actually paid 	
	<ul style="list-style-type: none"> • medical, dental, optical, ambulance and 	

PART 2—EXPENSES

	pharmacy	
	<ul style="list-style-type: none"> • clothing and shoes 	
	<ul style="list-style-type: none"> • school fees and other educational expenses 	
	<ul style="list-style-type: none"> • insurance policy premiums - specify types of insurance as well as amounts 	
	<ul style="list-style-type: none"> • public transport fares 	
	<ul style="list-style-type: none"> • vehicle expenses (including registration, insurance, maintenance and running expenses) 	
	<ul style="list-style-type: none"> • entertainment and other recreational expenses 	
	<ul style="list-style-type: none"> • union or association fees 	
	<ul style="list-style-type: none"> • any other weekly expenses - give details 	
2.4	<p>Do you have any goods or assets (not real property) subject to a lease or hire purchase agreement? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If yes, <i>provide</i> a copy of each lease or hire purchase agreement.</p> <p>If yes, for each lease or hire purchase agreement state:</p>	
	<ul style="list-style-type: none"> • the subject goods or assets 	
	<ul style="list-style-type: none"> • the name of the hire purchase company or lessor 	
	<ul style="list-style-type: none"> • when and in what amounts periodic payments are required to be made 	
	<ul style="list-style-type: none"> • the balance owing under the hire purchase agreement 	
	<ul style="list-style-type: none"> • how much has been paid under the 	

PART 2—EXPENSES

	lease or hire purchase agreement to date	
	<ul style="list-style-type: none">• The commencement date and term of the lease	
	<ul style="list-style-type: none">• The residual value, if any, of the lease property	

PART 3—ASSETS

3.1	Do you own or have any other interest in any land (including any house, home unit, farm, or tenancy of any property) either alone or with another or others? Yes <input type="checkbox"/> No <input type="checkbox"/> If 'yes', for each piece of land:	
	<ul style="list-style-type: none">• what is the location and real property description of the land?	
	<ul style="list-style-type: none">• what interest do you have in it (e.g. owner, tenant)?	
	<ul style="list-style-type: none">• do you hold that interest alone?	
	<ul style="list-style-type: none">• if not, who else has an interest in the land, and what is the extent of their interests?	
	<ul style="list-style-type: none">• what is the value of your interest in the land?	
3.2	Do you have any money in bank accounts, building societies, credit unions or similar financial institutions? Yes <input type="checkbox"/> No <input type="checkbox"/> If 'yes', for each account:	
	<ul style="list-style-type: none">• what is the name of the institution?	
	<ul style="list-style-type: none">• what name is the account in?	
	<ul style="list-style-type: none">• what is the account number?	

PART 3—ASSETS

	<ul style="list-style-type: none"> what is the current amount in the account? 	
3.3	<p>Do you have any life insurance policies? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'yes', for each policy:</p>	
	<ul style="list-style-type: none"> what is the name of the insurer? 	
	<ul style="list-style-type: none"> what is the policy number? 	
	<ul style="list-style-type: none"> what is the surrender value? 	
3.4	<p>Do you own any shares or debentures? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'yes', for each holding state:</p>	
	<ul style="list-style-type: none"> the name of the corporation which has issued the shares or debentures 	
	<ul style="list-style-type: none"> the description and number of the shares or debentures 	
	<ul style="list-style-type: none"> the current market value of the shares or debentures 	
3.5	<p>Do you hold an interest in any business, partnership, etc.? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'yes', for each state:</p>	
	<ul style="list-style-type: none"> the name of the business/partnership 	
	<ul style="list-style-type: none"> the current market value of the business/partnership 	
	<ul style="list-style-type: none"> the name of the holder of any other interest and the extent of that interest 	
3.6	<p>Do you have an interest in any deceased estate or trust? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'yes', for each identify:</p>	
	<ul style="list-style-type: none"> the name of the estate or trust 	

PART 3—ASSETS

	<ul style="list-style-type: none"> the nature and extent of the interest 	
	<ul style="list-style-type: none"> the value of the interest 	
3.7	Do you have an interest in any superannuation fund? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If yes, state:	
	<ul style="list-style-type: none"> the name of the fund 	
	<ul style="list-style-type: none"> the nature and present value of the interest 	
	<ul style="list-style-type: none"> the date and amount of expected distributions from the fund, and <i>provide</i> a statement from the Trustee of the fund as to the value of the interest 	
3.8	Is there any money owing to you from any source? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'yes', for each debt owed state:	
	<ul style="list-style-type: none"> whether the money is owing under an agreement in writing. If so, <i>provide</i> a copy of the agreement. 	
	<ul style="list-style-type: none"> who owes you the money 	
	<ul style="list-style-type: none"> the amount owed 	
	<ul style="list-style-type: none"> when the debt is likely to be repaid 	
3.9	Do you have any money on hand? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'yes':	
	<ul style="list-style-type: none"> what is the amount? 	
	<ul style="list-style-type: none"> where is the money held? 	
3.10	Do you own any vehicles? Yes <input type="checkbox"/> No <input type="checkbox"/>	

PART 3–ASSETS

	If 'yes', for each vehicle state the make, model, year, registration number and current market value.	
3.11	Do you own any caravans, boats, trailers, jet skis or other similar items? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'yes', for each item state the make, model, year, registration number and current market value.	
3.12	Do you own any furniture and/or other household goods (e.g. whitegoods, appliances)? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	<ul style="list-style-type: none">• Identify significant items• What is the estimated value of these items?	
3.13	Do you own any jewellery and/or other personal effects? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	<ul style="list-style-type: none">• Identify significant items• What is the estimated value of these items?	
3.14	Do you own or have any interest in any property of any kind, including intellectual property (e.g. business or product names, trademarks, computer software, domain names), goodwill, stock in trade, livestock, artwork other than as set out above? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'yes', identify each item of property and give its estimated value.	

PART 4–LIABILITIES

4.1	Have you mortgaged or charged any property? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'yes', provide a copy of the mortgage or charge and for each mortgage or charge state:	
	<ul style="list-style-type: none">• if registered, its registered number and date of registration	
	<ul style="list-style-type: none">• name of mortgagee or chargee	
	<ul style="list-style-type: none">• details of the encumbered property	
	<ul style="list-style-type: none">• total amount owing	
4.2	Do you have any bank loans or overdrafts? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'yes', for each loan/overdraft, state:	
	<ul style="list-style-type: none">• the name of the bank or financial institution	
	<ul style="list-style-type: none">• total amount owing and limit of the overdraft	
	<ul style="list-style-type: none">• the frequency (e.g. weekly, monthly) and the average amount of the payments	
	<ul style="list-style-type: none">• if the loan or overdraft is secured against any asset – give details.• any minimum requirements for repayment	
4.3	Do you have any credit cards? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If 'yes', for each card state:	
	<ul style="list-style-type: none">• name of the financial institution which issued the card	
	<ul style="list-style-type: none">• the debit balance of the card	

PART 4—LIABILITIES

4.4 Do you owe anyone any money other than as disclosed above (including tax liabilities)?

Yes No

If 'yes', state:

- the name of the creditor
- the amount owing
- the frequency and amount of any regular repayments
- when the debt is payable

- *provide* a copy of any relevant agreements

4.5 Have you guaranteed the debts of any other person or corporation? Yes No

If yes, state:

- the names of the principal debtor and the creditor
- whether the guarantee was wholly or partly in writing and, if so, *provide* a copy of the written instrument and state the monetary limit of the guarantee

PART 5—PROPOSAL FOR PAYMENT

5.1 Do you have any proposal for the payment or satisfaction of the debt to the enforcement creditor? Yes No

If 'yes', what do you propose?

VERIFICATION OF STATEMENT

_____ of _____
(Full name of deponent) *(residential or business address or place of employment), (occupation or other description)*

states on oath [*or: solemnly and sincerely affirms and declares*]:

- The information set out in this statement is true, and correct to the best of my knowledge and belief. Where I have given an estimate in this statement, it is given in good faith to the best of my knowledge and belief.
- To the best of my knowledge and belief I have no income, property or financial resources other than as set out in this statement.

Sworn [*or: affirmed*] by *(full name)* on *(date)* at *(place)* in the presence of:

(Signature of deponent)

(Signature of person taking statement)

.....

.....

(Full name of Deponent/Enforcement debtor) *(Full name of Witness)*

.....

.....

Deponent

Insert qualifications of Witness

Lawyer / J.P. / Comm. Dec / Notary Public /etc.

(Certificate of reading or signature where required under Rule 433 UCPR) :

- *The Witness, by signing, certifies that this statement of the enforcement debtor's financial position was read in the presence of the deponent who both seemed to understand it and signified that he or she made the statement but was incapable of reading it. (See R433(1) UCPR)*
- *The Witness, by signing, certifies that this statement of the enforcement debtor's financial position was read in the presence of the deponent who both seemed to understand it and signified*

*that he or she had made the affidavit but
was physically incapable of signing it.
(See Rule 433(2) UCPR)*

Template 3: Blank Form 9 Application for Enforcement Hearing

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

APPLICATION

TAKE NOTICE that the Applicant (the **Enforcement Creditor**) is applying to the Court for the following orders:

1. The Respondent (the **Enforcement Debtor**) be summoned to attend an Enforcement Hearing in this Court pursuant to rule 808 of the *Uniform Civil Procedure Rules 1999* (Qld) (**UCPR**) at a time and place to be ordered by the Court to give information and answer questions about the Enforcement Debtor's property and other means of satisfying the order debt under the Money Order dated [date of your Money Order], and to produce the documents listed in the Schedule below:

Schedule

[List documents you are seeking from the Debtor regarding their financial position]

2. [Optional: only include if necessary] The Enforcement Debtor complete and return to the Enforcement Creditor a Statement of Financial Position in the approved form at least 4 business days before the date of the Enforcement Hearing.
3. That the Enforcement Debtor pay the Enforcement Creditor's costs (if any) of the application.

This application will be heard by the Court at [Insert address of relevant Court].

on: _____ at _____

Filed in the [INSERT] Registry on _____:

Registrar:

APPLICATION

Filed on Behalf of the Applicant

Form 9, Version 1

Uniform Civil Procedure Rules 1999

Rule 31

Your name

Your Address

Your Phone No

Your Email

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the Application the Applicant intends to rely on the following affidavits:

1. Affidavit of [YOUR NAME] sworn/affirmed [date affidavit sworn or affirmed].

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED (Insert Estimate)
Hours/Minutes

Signed: [Sign here]

Description: [Your name]
Applicant/Enforcement Creditor

Dated: [INSERT]

This application is to be served on:

Respondent/Enforcement Debtor

[Debtor's name]

[Debtor's address]

Example 3: Form 9 Application for Enforcement Hearing

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: M100/22

Applicant/Enforcement Creditor: **JOHN SMITH**

AND

Respondent/Enforcement Debtor: **SAM JONES**

APPLICATION

TAKE NOTICE that the Applicant (the **Enforcement Creditor**) is applying to the Court for the following orders:

1. The Respondent (the **Enforcement Debtor**) be summoned to attend an Enforcement Hearing in this Court pursuant to rule 808 of the *Uniform Civil Procedure Rules 1999* (Qld) (**UCPR**) at a time and place to be ordered by the Court to give information and answer questions about the Enforcement Debtor's property and other means of satisfying the order debt under the Money Order dated 1 January 2022, and to produce the documents listed in the Schedule below:

Schedule

- a. Copies of statements for accounts held in financial institutions (such as banks or credit unions) for the previous 3 months, including statements for any loan or mortgage accounts;
 - b. Copies of documents relating to the ownership of any property or business that the Enforcement Debtor has an interest in, including, but not limited to, share scripts, debentures, unit trust scripts, title deeds, vehicle registration papers and rates notices;
 - c. Copies of any statements as to wage or salary income, including copies of 4 previous payslips (if applicable) and/or a current statement from Centrelink detailing the type and amount of any benefits received, as well as copies of any other documents showing other income such as commissions and royalties;
 - d. Copies of any documents showing debts the Enforcement Debtor owes to someone else, or someone else owes to the Enforcement Debtor.
2. The Enforcement Debtor complete and return to the Enforcement Creditor a Statement of Financial Position in the approved form at least 4 business days before the date of the Enforcement Hearing
 3. The Enforcement Debtor pay the Enforcement Creditor's costs (if any) of the application.

APPLICATION
Filed on Behalf of the Applicant
Form 9, Version 1
Uniform Civil Procedure Rules 1999
Rule 31

John Smith
1 Brisbane Road
Brisbane QLD 4000
(07) 3232 0202
John.smith@gmail

This application will be heard by the Court at 363 George Street, Brisbane
on: _____ at _____

Filed in the Brisbane Registry on _____ :

Registrar:

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the Application the Applicant intends to rely on the following affidavits:

1. Affidavit of John Smith sworn 6 April 2022.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 30 Minutes

Signed: *John Smith*

Description: John Smith
Applicant/Enforcement Creditor

Dated: 6 April 2022

This application is to be served on:
Respondent/Enforcement Debtor
Sam Jones
1 Sunshine Road
Brisbane QLD 4000

Template 4: Blank Form 46 Affidavit to
support Application for Enforcement
Hearing

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor: [Insert your name]

AND

Respondent/Enforcement Debtor: [Insert Debtor's name]

AFFIDAVIT

[Your name] of [Your address], [Your profession] states on oath [or: solemnly and sincerely affirms and declares]:

- 1. I am the applicant and Enforcement Creditor in this matter.
2. [Set out the rest of the body of the affidavit in numbered paragraphs]

[If the Enforcement Debtor does not live or carry-on business in the district of this Court:]

- 3. To the best of my knowledge, the Enforcement Debtor does not reside or carry on business within the [name of Court registry] Magistrates Court district.
4. It is not practicable to have the enforcement hearing in a district in which the Enforcement Debtor resides or carries on business because [Give reasons].
5. In accordance with Rule 811(4) of the Uniform Civil Procedure Rules 1999 (Qld), I undertake to the Court to pay conduct money to the Enforcement Debtor.

[OR: If the Enforcement Debtor does live or carry-on business in the district of this Court:]

- 6. To the best of my knowledge, the Enforcement Debtor [resides/carries on business] within the [name of Court registry] Magistrates Court district.

[If the Statement extends over more than one page, at the foot of the first and every other page except the last:]

Page 1

.....
Deponent

.....
Witness

[At the end of the body of the Statement:]

[If this Statement is being sworn in accordance with the Oaths Act 1867 requirements before a special witness (either remotely and/or using electronic signature/s) DO NOT USE the contents below. INSTEAD use Form 001A Special Witness Jurat for Uniform Civil Procedure Rules 1999 forms.]

The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.

I understand that a person who provides a false matter in an affidavit commits an offence.

Example 4: Form 46 Affidavit to support
Application for Enforcement Hearing

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: M100/22

Applicant/Enforcement Creditor:

JOHN SMITH

AND

Respondent/Enforcement Debtor:

SAM JONES

AFFIDAVIT

John Smith of 1 Brisbane Road, Brisbane QLD 4000, Labourer, states on oath:

1. I am the Applicant and Enforcement Creditor in this matter.
2. On 1 January 2022, the Queensland Civil Administrative Tribunal (**QCAT**) made an order that the Enforcement Debtor pay me \$10,000 plus interest. **Exhibit JS1** to this affidavit is a copy of the QCAT decision.
3. On 1 March 2022, I registered the QCAT order at the Brisbane Magistrates Court. **Exhibit JS2** to this affidavit is a copy of the Magistrates Court document confirming the QCAT decision was registered.
4. To date, the Enforcement Debtor has not paid any of the money described in the QCAT order, being \$10,000 plus interest.
5. On 1 March 2022, I sent a letter of demand to the Enforcement Debtor. **Exhibit JS3** to this affidavit is a copy of the letter.
6. On 16 March 2022, I sent a letter to the Enforcement Debtor giving notice that I require him to complete and return a Form 71 Statement of Financial Position. **Exhibit JS4** to this affidavit is a copy of the letter and the attached blank Form 71 Statement of Financial Position.

Page 1

John Smith

Sally Sun

.....
Deponent: John Smith

.....
Witness: Sally Sun

AFFIDAVIT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 46, Version 2 – approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 431

John Smith
1 Brisbane Road
Brisbane 4000 QLD
(07) 3232 0202
Johnsmith@gmail

7. To date, I have not received a completed Form 71 Statement of Financial Position from the Enforcement Debtor.
8. To the best of my knowledge, the Enforcement Debtor resides within the Brisbane Magistrates Court district.

The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.

I understand that a person who provides a false matter in an affidavit commits an offence.

<p>SWORN by)</p> <p style="padding-left: 40px;">John Smith)</p> <p>.....)</p> <p>[insert full name of deponent])</p> <p>At <u>Brisbane</u>)</p> <p>[insert place where deponent is located])</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><i>John Smith</i></p> <p>.....</p> <p>[signature of deponent]</p> <p>6 April 2022</p> <p>.....</p> <p>[date]</p>
---	---	---

<p>BEFORE ME:)</p> <p style="padding-left: 40px;">Sally Sun)</p> <p>.....)</p> <p>[insert full name of witness])</p> <p><u>Justice of Peace</u>)</p> <p>[insert type of witness]¹)</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><i>Sally Sun</i></p> <p>.....</p> <p>[signature of witness]</p> <p>6 April 2022</p> <p>.....</p> <p>[date]</p>
--	---	---

Template 5: Blank Certificate of Exhibit
(attached to Affidavit)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

CERTIFICATE OF EXHIBIT

Exhibit [Reference number] to the affidavit of [Your full name] [sworn/affirmed] on [date]

[Your signature]

[Witness's signature]

.....

.....

[Deponent / Substitute Signatory]

Witness

[Insert full name]

[Insert description of witness]

Note: If the affidavit is taken under r 433, the deponent does not sign.

CERTIFICATE OF EXHIBIT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 47, Version 3 – approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 435

Name:
Address:

Phone No:
Fax No:
Email:

Example 5: Certificate of Exhibit (attached to Affidavit)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: M100/22

Applicant: **JOHN SMITH**

AND

Respondent: **SAM JONES**

CERTIFICATE OF EXHIBIT

Exhibit JS1 to the affidavit of John Smith, sworn on 6 April 2022.

John Smith

Deponent

John Smith

Sally Sun

Witness

Sally Sun, Justice of Peace

CERTIFICATE OF EXHIBIT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 47, Version 3 – approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 435

John Smith
1 Brisbane Road
Brisbane QLD 4000
(07) 3232 0202
John.smith@gmail

Template 6: Form 70 Enforcement Hearing Summons

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

ENFORCEMENT HEARING SUMMONS

Enforcement Creditor: [Your name]

Enforcement Debtor: [Debtor's name]

TO: [Debtor's name]

OF: [Debtor's address]

YOU ARE REQUIRED TO ATTEND an enforcement hearing before the Court at [address of Court] on [insert date] at [insert time] to answer questions about the enforcement debtor's property and other means of satisfying the order debt; and

YOU ARE REQUIRED TO PRODUCE, at the hearing, the following documents and things:-

[Insert description of document or things]

This summons also requires you to complete a statement of the enforcement debtor's financial position. *[Delete this sentence and the note below if not required]*

NOTE: The Statement of Financial Position must be in Form 71 or Form 71A to the *Uniform Civil Procedure Rules 1999*. It must be completed and forwarded to the enforcement creditor at [insert your address] at least 4 business days before the day set for the enforcement hearing.

ENFORCEMENT HEARING SUMMONS
Filed on Behalf of the Enforcement Creditor
Form 70, Version 3
Uniform Civil Procedure Rules 1999
Rule 808

Name:
Address:

Phone No:
Fax No:
Email:

NOTICE

YOU ARE NOTIFIED that the time and place appointed for your attendance and examination is at the Court at [address of court] at [time] on [date].

Date of money order: [Insert date]

Amount outstanding as at [Insert date] is \$[Insert]

IF YOU FAIL TO COMPLY with this summons you may be liable to punishment for contempt of Court.

And further, IF YOU FAIL TO ATTEND a warrant may be issued to arrest you and have you brought before the Court.

ISSUED WITH THE AUTHORITY OF THE MAGISTRATES COURT

Registrar: [Registrar to sign and seal]

Dated: [Insert date]

Example 6: Form 70 Enforcement Hearing Summons

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: M100/22

Applicant: **JOHN SMITH**

AND

Respondent: **SAM JONES**

ENFORCEMENT HEARING SUMMONS

Enforcement Creditor: **JOHN SMITH**

Debtor : **SAM JONES**

TO: Mr Sam Jones

of 1 Brisbane Road, Brisbane in the State of Queensland

YOU ARE REQUIRED TO ATTEND an Enforcement Hearing before the Court

at: the Brisbane Magistrates Court

on: _____

to answer questions about the Debtor 's property and other means of satisfying the order debt; and

YOU ARE REQUIRED TO PRODUCE, at the hearing, the following documents and things:

- a. Copies of statements for accounts held in financial institutions (such as banks or credit unions) for the previous 3 months, including statements for any loan or mortgage accounts;
- b. Copies of documents relating to the ownership of any property or business that you have an interest in, including, but not limited to, share scripts, debentures, unit trust scripts, title deeds, vehicle registration papers and rates notices;
- c. Copies of any statements as to wage or salary income, including copies of 4 previous payslips (if applicable) and/or a current statement from Centrelink detailing the type and amount of any benefits received, as well as copies of any other documents showing other income such as commissions and royalties; and
- d. Copies of any documents showing debts you owe to someone else, or someone else owes to you.

ENFORCEMENT HEARING SUMMONS
Filed on Behalf of the Enforcement Creditor
Form 70, Version 3
Uniform Civil Procedure Rules 1999
Rule 808

John Smith
1 Brisbane Road
Brisbane QLD 4000
(07) 3232 0202
John.smith@gmail

This summons also requires you to complete a statement of the enforcement debtor's financial position.

NOTE: The statement of financial position must be in Form 71 or Form 71A to the *Uniform Civil Procedure Rules*. It must be completed and forwarded to the enforcement creditor at 1 Brisbane Road, Brisbane QLD 4000 within 4 business days before the day set for the Enforcement Hearing.

NOTICE

YOU ARE NOTIFIED that the time and place appointed for your attendance and examination is at the Court at 363 George Street, Brisbane, at _____ am/pm on _____

Date of Money Order : 1 January 2022

Amount outstanding as at 6 April 2022 is \$10,000.00

IF YOU FAIL TO COMPLY with this summons you may be liable to punishment for contempt of Court.

And further, **IF YOU FAIL TO ATTEND** a warrant may be issued to arrest you and have you brought before the Court.

ISSUED WITH THE AUTHORITY OF THE BRISBANE MAGISTRATES COURT

Registrar:

Dated:

Template 7: Blank Form 46 Affidavit of
Service of Enforcement Hearing
Summons

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

AFFIDAVIT

[Deponent's name] of [Deponent's address], [Deponent's profession] states on oath [or: solemnly and sincerely affirms and declares]:

1. [Set out the body of the affidavit in numbered paragraphs]

[If the Affidavit extends over more than one page, at the foot of the first and every other page except the last:]

Page 1

.....

Deponent

.....

Witness

[At the end of the body of the Affidavit:]

[If this Affidavit is being sworn in accordance with the Oaths Act 1867 requirements before a special witness (either remotely and/or using electronic signature/s) DO NOT USE the contents below. INSTEAD use Form 001A Special Witness Jurat for Uniform Civil Procedure Rules 1999 forms.]

The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.

I understand that a person who provides a false matter in an affidavit commits an offence.

AFFIDAVIT

Filed on Behalf of the Applicant/Enforcement Creditor
Form 46, Version 2, approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 431

Name:

Address:

Phone No:

Fax No:

Email:

SWORN / AFFIRMED by)
)
)
 [insert full name of deponent]) [signature of deponent]
)
 at.....)
 [insert place where deponent is located])
) [date]

BEFORE ME:)
)
)
 [insert full name of witness])
) [signature of witness]
)
 [insert type of witness]¹)
) [date]
)
 [insert witness's place of employment]^{*2})
 *delete if not applicable)
)

[who certifies that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit. (If required: see R. 433(1)).

[who certifies that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit, but was physically incapable of signing it. (If required: see R.433(2)).

¹ Insert the witness's capacity that makes them eligible to witness the affidavit under s16A Oaths Act 1867. For example, lawyer, justice of the peace, commissioner for declarations

² For example, the name of the law practice for the lawyer, the name of the government department of the government legal officer, the name of the law practice for a justice of the peace who witnesses documents for a law practice, etc

Example 7: Form 46 Affidavit of Service of Enforcement Hearing Summons

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: M100/22

Applicant/Enforcement Creditor:

JOHN SMITH

AND

Respondent/Enforcement Debtor:

SAM JONES

AFFIDAVIT

John Smith of 1 Brisbane Road, Brisbane QLD 4000, Labourer, states on oath:

1. I am the Applicant and Enforcement Creditor in this matter.
2. On 9 April 2022 at 7:15pm, I attended 1 Sunshine Road, Brisbane, which to the best of my knowledge is the Enforcement Debtor’s residential address.
3. I knocked on the door and a man who I know to be Sam Jones, the Enforcement Debtor, opened the door.
4. I said “Sam Jones?”, and he answered “Yes, what do you want, John?”
5. I handed the Enforcement Debtor a copy of the Enforcement Hearing Summons filed in these proceedings and a blank Form 71, and he took the documents in his hand. **Exhibit JS1** to this affidavit is a copy of the documents I handed to the Enforcement Debtor
6. The Enforcement Debtor asked me “What’s this?” to which I responded, “I’m serving you with a summons because you haven’t paid what you owe me. You have to come to court for an enforcement hearing. The details are in those papers.”

Page 1

John Smith

Sally Sun

.....
Deponent: John Smith

.....
Witness: Sally Sun

AFFIDAVIT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 46, Version 2 – approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 431

John Smith
1 Brisbane Road
Brisbane 4000 QLD
(07) 3232 0202
Johnsmith@gmail

7. I then left the property.

The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.

I understand that a person who provides a false matter in an affidavit commits an offence.

SWORN by)
John Smith) *John Smith*
.....)
[insert full name of deponent]) [signature of deponent]
)
At Brisbane) 10 April 2022
[insert place where deponent is located])
) [date]
)

BEFORE ME:)
Sally Sun)
.....)
[insert full name of witness])
) [signature of witness]
)
Justice of Peace)
[insert type of witness]¹) 10 April 2022
)
) [date]
)
)
)

Template 8: Blank Form 9 Application for Enforcement Warrant or Instalment Order

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

APPLICATION

TAKE NOTICE that the Applicant (the **Enforcement Creditor**) is applying to the Court for the following orders:

1. An enforcement warrant for [Insert description of type of warrant] be issued under rule [Insert] of the *Uniform Civil Procedure Rules 1999* (Qld).

OR

[For order for payment by instalments:] An instalment order be made under rule 868 of the *Uniform Civil Procedure Rules 1999* (Qld) requiring the Respondent (the **Enforcement Debtor**) to pay the Enforcement Creditor by instalment payments.

2. The Enforcement Debtor pay the Enforcement Creditor's costs (if any) of the application.

[For enforcement warrant:] The Applicant requests that this application be dealt with by the Registrar without a formal hearing, pursuant to rule 817(5) of the UCPR.

OR

[For order for payment by instalments:] The Applicant requests that this application be dealt with by the Registrar without a formal hearing under rule 868 of the UCPR.

Filed in the [INSERT] Registry on _____:

Registrar:

APPLICATION
Filed on Behalf of the Applicant
Form 9, Version 1
Uniform Civil Procedure Rules 1999
Rule 31

Your name
Your Address
Your Phone No
Your Email

On the hearing of the Application the Applicant intends to rely on the following:

1. Form 74 Statement of [Insert your name] sworn/affirmed on [date statement sworn or affirmed].

Signed: [Sign here]

Description: [Your name]
Applicant/Enforcement Creditor

Dated: [INSERT]

This application is to be served on:

Respondent/Enforcement Debtor

[Debtor's name]

[Debtor's address]

Example 8: Form 9 Application for Enforcement Warrant or Instalment Order

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: M100/22

Applicant/Enforcement Creditor: **JOHN SMITH**

AND

Respondent/Enforcement Debtor: **SAM JONES**

APPLICATION

TAKE NOTICE that the Applicant (the **Enforcement Creditor**) is applying to the Court for the following orders:

1. An enforcement warrant for redirection of earnings be issued under rule 817 of the *Uniform Civil Procedure Rules 1999* (Qld) (**UCPR**).
2. The Respondent (**Enforcement Debtor**) pay the Enforcement Creditor's costs (if any) of the application.

The Applicant requests that this application be dealt with by the Registrar without a formal hearing, pursuant to rule 817(5) of the UCPR.

Filed in the Brisbane Registry on 3 August 2022

Registrar:

On the hearing of the Application the Applicant intends to rely on the following:

1. Form 74 Statement in support of Application of John Smith sworn 1 August 2022.

Signed: *John Smith*
Description: John Smith
Applicant/Enforcement Creditor
Dated: 3 August 2022

This application is to be served on:
Respondent/Enforcement Debtor
Sam Jones
1 Sunshine Road
Brisbane QLD 4000

APPLICATION
Filed on Behalf of the Applicant
Form 9, Version 1
Uniform Civil Procedure Rules 1999
Rule 31

John Smith
1 Brisbane Road
Brisbane QLD 4000
(07) 3232 0202
John.smith@gmail

Template 9: Blank Form 74 Statement
Supporting Application for Enforcement
Warrant or Instalment Order

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

STATEMENT SUPPORTING APPLICATION FOR ENFORCEMENT WARRANT

Enforcement Creditor: [Insert your name]

Debtor : [Insert Debtor's name]

[Your full name] of [Your residential or business address, or place of employment], [Insert your occupation or other description], states on oath [or solemnly and sincerely affirms and declares]:

1. I am the enforcement creditor.
2. The enforcement creditor obtained a Money Order against the enforcement debtor in the Court on [insert date of Money Order] for an amount of \$[Insert amount of Money Order].
3. *[If payments were made:]* The date and amount of each payment made under the order are as follows: [Insert details of payments made]
4. The costs incurred in previous enforcement proceedings in relation to the order debt are as follows: [Insert details of costs incurred]
5. *[If interest is owing:]* The interest due at the date of swearing this statement is \$[Insert amount of interest due].
6. *[Insert any other details that are necessary to calculate the amount payable under the order at the date of swearing this statement and how the amount is calculated.]*
7. *[If daily interest will accrue after the date of swearing the Statement:]* The daily amount of interest that, subject to any future payment under the order, will accrue after the date of swearing this statement is \$[Insert daily amount of interest].
8. *[Insert any other additional information necessary for the particular type of Enforcement Warrant or order being sought]*

STATEMENT SUPPORTING
APPLICATION FOR ENFORCEMENT WARRANT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 74, version 2 – approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 817

Name:

Address:

Phone No:

Fax No:

Email:

² For example, the name of the law practice for the lawyer, the name of the government department of the government legal officer, the name of the law practice for a justice of the peace who witnesses documents for a law practice, etc

Example 9: Form 74 Statement
Supporting Application for Enforcement
Warrant (Warrant for Redirection of
Earnings)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: M100/22

Applicant: **JOHN SMITH**

AND

Respondent: **SAM JONES**

STATEMENT SUPPORTING APPLICATION FOR ENFORCEMENT WARRANT

Enforcement Creditor: **JOHN SMITH**

Debtor : **SAM JONES**

John Smith of 1 Sunshine Road, Brisbane QLD 4000, Labourer, states on oath:

1. I am the enforcement creditor.
2. The enforcement creditor obtained a Money Order against the enforcement debtor on 1 January 2022 in the Queensland and Administrative Tribunal (**QCAT**) for the amount of \$10,000 plus interest. **Exhibit JS1** to this Statement is a copy of the QCAT decision.
3. On 1 March 2022, I registered the QCAT order at the Brisbane Magistrates Court. **Exhibit JS2** to this affidavit is a copy of the Magistrates Court document confirming the QCAT decision was registered.
4. To date, the enforcement debtor has not made any payments under the order.

Page 1

John Smith

Sally Sun

.....
Deponent: John Smith

.....
Witness: Sally Sun

STATEMENT SUPPORTING
APPLICATION FOR ENFORCEMENT WARRANT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 74, version 2 – approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 817

Name: John Smith
Address: 1 Brisbane Road
Brisbane 4000 QLD
Phone No: (07) 3232 0202
Fax No: N/A
Email: Johnsmith@gmail

5. The costs incurred in previous enforcement proceedings in relation to the order debt are as follows:

- a. \$130.00 paid to the Bailiff of the Magistrates Court on 11 April 2022 for service of Enforcement Hearing Summons on the enforcement debtor

Exhibit JS3 to this affidavit is a copy of the receipt showing payment of the above amount to the Bailiff.

6. The interest due at the date of swearing this statement is \$362.54. **Exhibit JS4** to this affidavit is a copy of the calculation of interest done via the Interest Calculator on the Queensland Courts website on 1 August 2022.

7. The total amount payable under the order as at the date of swearing this Statement is as follows:

Amount of order	\$10,000.00
Costs of enforcement proceedings	\$130.00
Interest	\$362.54
TOTAL	\$10,492.54

8. The daily amount of interest that, subject to any future payment under the order, will accrue after the date of swearing this statement is \$1.88, based on the order amount of \$10,000, the current cash rate of 0.85% and current default rate of 6%.

9. On 11 May 2022, the enforcement debtor swore a Statement of Financial Position which stated that:

- a. The enforcement debtor has been employed by Big Box Store Pty Ltd as a full-time sales assistant since 1 March 2022;
- b. Big Box Store Pty Ltd's address is 100 Commercial Road, Brisbane and the enforcement debtor receives \$900 per week from that employment;
- c. The enforcement debtor also has \$100,000 in a Commonwealth Bank savings account;
- d. The enforcement debtor does not have any other debts or liabilities; and
- e. The enforcement debtor does not have any dependants.

Exhibit JS5 to this affidavit is a copy of the enforcement debtor's Statement of Financial Position sworn on 11 May 2022.

John Smith

Sally Sun

.....
Deponent: John Smith

.....
Witness: Sally Sun

Template 10: Blank Certificate of Exhibit
(attached to Statement Supporting
Application for Enforcement Warrant)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

CERTIFICATE OF EXHIBIT

Exhibit [Reference number] to the Statement of [Your full name] [sworn/affirmed] on [date]

[Your signature]

[Witness's signature]

.....

.....

[Deponent / Substitute Signatory]

Witness

[Insert full name]

[Insert description of witness]

Note: If the affidavit is taken under r 433, the deponent does not sign.

CERTIFICATE OF EXHIBIT

Filed on Behalf of the Applicant/Enforcement Creditor

Form 47, Version 3 – approved on 25 August 2022

Uniform Civil Procedure Rules 1999

Rule 435

Name:

Address:

Phone No:

Fax No:

Email:

Exhibit 10: Certificate of Exhibit (attached to Statement Supporting Application for Enforcement Warrant)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: M100/22

Applicant: **JOHN SMITH**

AND

Respondent: **SAM JONES**

CERTIFICATE OF EXHIBIT

Exhibit JS1 to the Statement of John Smith, sworn on 1 August 2022.

John Smith

Deponent

John Smith

Sally Sun

Witness

Sally Sun, Justice of Peace

CERTIFICATE OF EXHIBIT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 47, Version 3 – approved on 25 August 2022
Uniform Civil Procedure Rules 1999
Rule 435

John Smith
1 Brisbane Road
Brisbane QLD 4000
(07) 3232 0202
John.smith@gmail

Template 11: Blank Form 75 –
Enforcement Warrant for Seizure and Sale
of Property

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

ENFORCEMENT WARRANT - SEIZURE AND SALE OF PROPERTY

Enforcement Creditor: [Insert your name]

Debtor : [Insert Debtor's name]

AMOUNT OWING

The enforcement creditor obtained a judgment on [date] against the enforcement debtor.

The amount outstanding by the enforcement debtor is as follows:-

Judgment amount (including costs, if any)	\$
Less payments	\$ _____
	\$
Plus interest accrued to (date)	\$
Costs of preparing warrant ⁱ	\$ _____
	\$
Plus interest thereafter at \$ (amount) per day [calculated at (percentage) % pursuant to (authority)]	\$
Plus enforcement officer's fees	\$
Plus other incidental expenses (poundage, storage, advertising expenses etc.)	\$ _____
Total owing	\$ _____

ENFORCEMENT WARRANT
SEIZURE AND SALE OF PROPERTY
Filed on Behalf of the Applicant/Enforcement Creditor
Form 75, Version 3
Uniform Civil Procedure Rules 1999
Rule 828

Name:
Address:
Phone No:
Fax No:
Email:

TO ENFORCEMENT OFFICER:

- You are to seize and sell such of the real and personal property (other than exempt property) in which the enforcement debtor has a legal or beneficial interest as will satisfy the total amount owing on the judgment.
- (“exempt property” means - property that is not divisible among yours of a bankrupt under the relevant bankruptcy law as in force from time to time.)
- You are to report in writing to the registrar concerning your execution of this warrant and the results.
- Your attention is drawn to the provisions of Part 4 of Chapter 19 of the Uniform Civil Procedure Rules concerning -
 - Order of selling property;
 - Payment by Debtor before sale
 - Storage before sale;
 - Nature of sale;
 - Sale at best price obtainable;
 - Advertising;
 - Postponement of sale;
 - Accountability for, and distribution of, money received;
 - Reserve price provisions.
- The known property of the enforcement debtor is as follows-

.....

This warrant expires on [date].

This Enforcement Warrant issued at [time] a.m./p.m. on / / .

NOTICE TO ENFORCEMENT DEBTOR

You may apply to the court to set this warrant aside or to stay its enforcement at any time.

Registrar: (registrar to sign and seal)

Dated:

i Solicitors costs - see Schedules 1, 2 & 3 to the *Uniform Civil Procedure Rules 1999*

Template 12: Blank Form 76 –
Enforcement Warrant for Redirection of
Debt

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]
NUMBER: [INSERT]

Applicant/Enforcement Creditor: [Insert your name]

AND

Respondent/Enforcement Debtor: [Insert Debtor's name]

ENFORCEMENT WARRANT - REDIRECTION OF DEBT

Enforcement Creditor: [Insert your name]
Address: [Insert your address]

Enforcement Debtor : [Insert Debtor's name]
Address: [Insert Debtor's address]

Third Person: [Insert third party's name]
Address: [Insert third party's address]

AMOUNT OWING

The enforcement creditor obtained a judgment on [date] against the enforcement debtor.

The amount outstanding by the enforcement debtor is as follows:-

Judgment amount	\$
Less payments	\$
Plus interest	\$
Plus costs	\$ _____
Total owing	\$ _____ =====

ENFORCEMENT WARRANT
REDIRECTION OF DEBT
Filed on Behalf of the Applicant/Enforcement Creditor
Form 76, Version 3
Uniform Civil Procedure Rules 1999
Rule 840

Name:
Address:
Phone No:
Fax No:
Email:

ENFORCEMENT WARRANT

An enforcement warrant is hereby issued authorising the redirection to the enforcement creditor of a debt belonging to the enforcement debtor from the above third person.

The warrant contains the following conditions:

- (a) That the third person pay to the enforcement creditor the debt due from the third person to the enforcement debtor or so much as will satisfy the total owing under the judgment.
- (b) Payment should be made to the enforcement creditor at the address stated above.
- (c) This warrant expires on [date].

This enforcement warrant issued at _____ a.m./p.m. on / / .

NOTICES TO THIRD PERSON

- Failure to comply with this warrant may be contempt of court and may entitle the enforcement creditor to obtain an order against you.
- After service on you of this warrant you may apply to the court to set it aside or stay execution.
- The filing of that application does not stay operation of the warrant
- If, on the hearing of that application, you dispute liability to pay, the court may decide summarily the question of liability or give directions for the question to be decided.
- Details of debt claimed to exist between the Enforcement Debtor and the Third Person: *[Set out details of the debt]*
- Relationship claimed to exist between the Enforcement Debtor and the Third person: *[Set out details of relationship, e.g. contractor, XYZ project, identify government department, company branch or financial institution involved, etc]*

NOTICES TO ENFORCEMENT CREDITOR

This enforcement warrant must be served on the third person to have effect.

NOTICE TO ENFORCEMENT DEBTOR

You may apply to the court to set this warrant aside or to stay its enforcement at any time.

Registrar: _____ *(Registrar to sign and seal)*

Dated: _____

Template 13: Blank Form 77 –
Enforcement Warrant for Regular
Redirection

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]
NUMBER: [INSERT]

Applicant/Enforcement Creditor: [Insert your name]

AND

Respondent/Enforcement Debtor: [Insert Debtor's name]

ENFORCEMENT WARRANT – FOR REGULAR REDIRECTION

Enforcement Creditor: [Insert your name]
Address: [Insert your address]

Enforcement Debtor : [Insert Debtor's name]
Address: [Insert Debtor's address]

Third Person: [Insert third party's name]
Name of Financial Institution: [Insert name of Financial Institution]
Address: [Insert third party's address]

AMOUNT OWING

The enforcement creditor obtained a judgment on [date] against the enforcement debtor.

The amount outstanding by the enforcement debtor is as follows:-

Judgment amount	\$
Less payments	\$
Plus interest	\$
Plus costs	\$ _____
Total owing	\$ _____
	=====

ENFORCEMENT WARRANT
FOR REGULAR REDIRECTION
Filed on Behalf of the Applicant/Enforcement Creditor
Form 77, Version 3
Uniform Civil Procedure Rules 1999
Rule 848

Name:
Address:
Phone No:
Fax No:
Email:

ENFORCEMENT WARRANT

An enforcement warrant is hereby issued authorising the regular redirection to the enforcement creditor of all or part of a regular debt.

The warrant contains the following conditions: -

- (a) The above third person must deduct the amount of \$. from the specified account each time a regular deposit is made by [Insert name of the fourth party] (the “fourth person”) into the specified account [or in the case of the last deduction, such lesser amount that will result in the total amount owing specified above having been deducted];
- (b) The specified account of the enforcement debtor from which the deduction is to be made is:-

Financial Institution -	[Insert]
Branch -	[Insert]
Account Name -	[Insert]
Style of Account -	[Insert]
Account Number -	[Insert]
- (c) The amount deducted must be paid to the enforcement creditor at the address stated above.
- (d) The deduction from the specified account and the payment to the enforcement creditor must be done within 2 business days after the deposit is made.
- (e) The third person may deduct from the specified account an administration charge of \$. and retain it as a contribution towards the administrative cost of making a payment under this warrant.
- (f) The third person must give the enforcement debtor a notice detailing each deduction.
- (g) This warrant expires on [date].

This enforcement warrant issued at . a.m./p.m. on / / .

NOTICES TO THIRD PERSON

- This enforcement warrant does not come into force until the end of 7 days after the day on which it is served on you.
- After service on you of this enforcement warrant you may apply to the court to set it aside or stay execution (See Rule 819)
- The filing of that application does not stay the operation of the warrant.
- Failure to comply with this warrant may be contempt of court and may entitle the enforcement creditor to obtain an order against you.
- Details of debt claimed to exist between the Enforcement Debtor and the Third Person: *[Set out details of the debt]*

- Relationship claimed to exist between the Enforcement Debtor, the Third Person and any Fourth Person: *[Set out details of relationship, e.g. contractor, XYZ project, identify government department, company branch or financial institution involved, etc]*

NOTICES TO ENFORCEMENT CREDITOR

- This enforcement warrant must be served personally or by post on the enforcement debtor and the third person.
- While this warrant is in force no other enforcement warrant may be issued in relation to the money order , unless a court orders otherwise.
- You may apply to the court to set aside, suspend or vary this warrant.

NOTICES TO DEBTOR

- You must ensure that adequate funds remain in the specified account after each regular deposit for the deduction from the account of the amount specified in this warrant.
- You must notify the enforcement creditor if:-
 - (a) *[Insert name of the fourth party]* (the “fourth person”) discontinues regular payments in the nature of earnings to you; or
 - (b) you close the account or arrange for the fourth person to pay you in another way.
- You may apply to the court to set aside, suspend or vary this warrant.

Registrar: *(registrar to sign and seal)*

Dated:

Template 14: Blank Form 78 –
Enforcement Warrant for Redirection of
Earnings

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]
NUMBER: [INSERT]

Applicant/Enforcement Creditor: [Insert your name]

AND

Respondent/Enforcement Debtor: [Insert Debtor's name]

ENFORCEMENT WARRANT – FOR REDIRECTION OF EARNINGS

Enforcement Creditor: [Insert your name]
Address: [Insert your address]

Enforcement Debtor : [Insert Debtor's name]
Address: [Insert Debtor's address]

Employer of Debtor: [Insert employer's name]
Address: [Insert employer's address]

AMOUNT OWING

The enforcement creditor obtained a judgment on [date] against the enforcement debtor.

The amount outstanding by the enforcement debtor is as follows:-

Judgment amount	\$
Less payments	\$
Plus interest	\$
Plus costs	\$ _____
Total owing	\$
	=====

ENFORCEMENT WARRANT
REDIRECTION OF EARNINGS
Filed on Behalf of the Applicant/Enforcement Creditor
Form 78, Version 3
Uniform Civil Procedure Rules 1999
Rule 858

Name:
Address:
Phone No:
Fax No:
Email:

ENFORCEMENT WARRANT

An enforcement warrant is hereby issued authorising redirection to the enforcement creditor of particular earnings of the enforcement debtor from the above employer.

The warrant contains the following conditions:-

- (a) That the employer deduct each pay period from the enforcement debtor's earnings the amount specified below and pay it to the enforcement creditor -

Amount of earnings each pay period after tax	\$
Less amount determined by the Court for necessary expenses and liabilities	\$ _____
Amount to be deducted each pay day	\$
Less administration charge	\$ _____
Amount to be paid to enforcement creditor	\$

- (b) payment of that amount must be made to the enforcement creditor at the address stated above.
- (c) This warrant expires on [date].
- (d) The total amount that the employer must deduct under this warrant is \$

This enforcement warrant issued at _____ a.m./p.m. on / / .

NOTICES TO EMPLOYER

- A notice informing you of the effect of this order and your obligations should have been served on you with this copy of the warrant.
- A copy of the notice that you may use if the enforcement debtor is not employed by you should also have been given to you.
- An employer must not dismiss an employee, or otherwise prejudice an employee in his or her employment, because an enforcement warrant authorising redirection of the employee's earnings has been made. [Maximum penalty - 100 penalty units].

NOTICES TO PARTIES

- This form must be served on the enforcement debtor and the employer.
- A notice in Form 79 and a copy of Form 80 must also be served on the enforcement debtor's employer.
- Either party may apply to the court to set aside, suspend or vary this Enforcement Warrant .

Registrar: (registrar to sign and seal)
Dated:

Template 15: Blank Form 79 – Notice to Employer for Redirection of Earnings

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]

NUMBER: [INSERT]

Applicant/Enforcement Creditor:

[Insert your name]

AND

Respondent/Enforcement Debtor:

[Insert Debtor's name]

NOTICE TO EMPLOYER – FOR REDIRECTION OF EARNINGS

Enforcement Creditor: [Insert your name]

Address: [Insert your address]

Enforcement Debtor : [Insert Debtor's name]

Address: [Insert Debtor's address]

Employer of Debtor: [Insert employer's name]

Address: [Insert employer's address]

NOTICE TO EMPLOYER

- You will have been served with an enforcement warrant redirecting earnings of the above enforcement debtor and naming you as the employer of the enforcement debtor.
- If you are not the enforcement debtor's employer you must immediately give notice, in Form 80, to the registrar and the enforcement creditor.
- If you cease to be the enforcement debtor's employer you must immediately give notice, in Form 81, to the registrar and the enforcement creditor.
- As the enforcement debtor's employer you should note the following matters as to the effect of the enforcement warrant and your obligations: -
 - (1) This enforcement warrant does not come into force until the end of 7 days after the day on which the order was served on you.
 - (2) For each pay day while this warrant is in force, you-
 - (a) must deduct from the enforcement debtor's earnings the amount specified in the warrant and pay it to the person specified in the warrant; and

NOTICE TO EMPLOYER -

REDIRECTION OF EARNINGS

Filed on Behalf of the Applicant/Enforcement Creditor

Form 79, Version 1

Uniform Civil Procedure Rules 1999

Rule 859

Name:

Address:

Phone No:

Fax No:

Email:

(b) may deduct from the enforcement debtor's earnings the administration charge specified in the warrant and retain it as a contribution towards the administrative cost of making payments under the warrant; and

(c) must give the enforcement debtor a notice detailing the deductions.

However in applying Note 2 (a) to the last deduction you must deduct the amount, being no more than the amount specified in the warrant for deduction each pay day, that results in the total amount deducted by you being the total amount for deduction specified in the warrant (See - "amount owing")

A deduction paid or retained by you under the warrant is a valid discharge as between you and the enforcement debtor, to the extent of the deduction of your liability to pay earnings.

- (3) This warrant ceases to have effect -
 - (a) on being set aside; or
 - (b) unless the court orders otherwise, on the making of another order for the enforcement of the money order; or
 - (c) on expiry according to its conditions.
- (4) If a warrant ceases to have effect, the enforcement debtor's employer does not incur any liability by treating the warrant as still in force at any time before the end of 7 days after the day on which a copy of a following order was served on the employer -
 - (a) an order discharging the enforcement warrant; or
 - (b) another order for the enforcement of the judgment.
- (5) If there are 2 or more enforcement warrants in force authorising redirection by you of the enforcement debtor's earnings, you must comply with the warrants according to the respective dates on which they were served on you and disregard a warrant served later in time until a warrant served earlier in time ceases to have effect.
- (6) If an enforcement warrant is varied, it continues to have priority according to the date the original enforcement warrant was served.
- (7)
 - (a) You may apply to the court for directions and the court may make an order or give the directions it considers appropriate.
 - (b) The court may, for example, decide whether payments to the enforcement debtor of a particular class or description specified in the application are earnings.
 - (c) While that application or any appeal from a decision on it is pending, you will not incur any liability for failing to comply with the warrant with respect to that class or description of payments.
- (8) An employer must not dismiss an employee, or otherwise prejudice an employee in his or her employment, because an enforcement warrant authorising redirection of the employee's earnings has been made. Maximum penalty - 100 penalty units.
- (9) Failure to comply with this warrant may be contempt of court and may entitle the enforcement creditor to obtain an order against you.

Registrar: *(registrar to sign and seal)*
(address of registry)

Dated:

Template 16: Blank Form 80 – Notice That Debtor Not Employee

SUPREME¹ COURT OF QUEENSLAND

REGISTRY:

NUMBER:

Plaintiff²: *(As per Claim)*

AND

[First] Defendant³ *(As per Claim)*

AND

[Second Defendant] *(As per Claim)*

NOTICE THAT DEBTOR NOT EMPLOYEE

Enforcement Creditor *(Name)*

Enforcement Debtor *(Name)*

TO: The Registrar
(Name of Court)
(Address)

AND TO: Enforcement Creditor
(Name)
(Address)

An enforcement warrant for redirection of earnings has been served on *(name)* who is specified as the enforcement debtor's employer.

I give you notice that *(name)* is not the employer of the enforcement debtor, because¹:-

(name) has never been the enforcement debtor's employer; or

(name) was the enforcement debtor's employer and such employment ceased on *(date)*.

Signed:
Position:
Company/Firm Name:
Dated:

1 Tick appropriate box.

NOTICE THAT DEBTOR NOT EMPLOYEE
Filed on Behalf of the *(party)*
Form 80, Version 1
Uniform Civil Procedure Rules 1999
Rule 865(2)

Name:
Address:

Phone No:
Fax No:
Email:

¹ For an application in the District Court or a Magistrates Court, substitute “District Court” or “Magistrates Courts” respectively.

² For proceedings commenced by Originating Application for “Plaintiff” substitute “Applicant”

³ For proceedings commenced by Originating Application for “Defendant” substitute “Respondent”

Template 17: Blank Form 82 – Order Authorising Payment by Instalments

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: [INSERT]
NUMBER: [INSERT]

Applicant/Enforcement Creditor: [Insert your name]

AND

Respondent/Enforcement Debtor: [Insert Debtor's name]

ORDER AUTHORISING PAYMENT BY INSTALMENTS

To Enforcement Debtor : [Insert Debtor's name]

To Enforcement Creditor: [Insert your name] of [Insert your address]

AMOUNT OWING

The enforcement creditor obtained a judgment on [date] against the enforcement debtor.
The amount outstanding by the enforcement debtor is as follows:-

Judgment amount	\$
Less payments	\$
Plus interest	\$
Plus costs	\$ _____
Total owing	\$ _____
	=====

ORDER

An order is hereby made authorising satisfaction of the order debt by instalment payments as follows:-

Amount: \$[amount]

Payable: weekly fortnightly monthly other (*specify*)

Commencing on: [date]

This order made at a.m./p.m. on / / .

This order expires on: [date]

ORDER AUTHORISING PAYMENT BY
INSTALMENTS
Filed on Behalf of the Applicant/Enforcement Creditor
Form 82, Version 2
Uniform Civil Procedure Rules 1999
Rule 868

Name:
Address:
Phone No:
Fax No:
Email:

NOTICES TO PARTIES

- Either party may apply to the court to set aside, suspend or vary this order
- Instalments are to be paid to the enforcement creditor at the address shown
- If the enforcement debtor fails to make 2 consecutive payments the authorisation of instalment payments under this order ends and steps may be taken for the enforcement of the total amount owing and unsatisfied costs
- This order ceases to have effect -
 - (a) when set aside; or
 - (b) when the order debt has been satisfied; or
 - (c) unless the court orders otherwise, when any other order for enforcement of the order debt is made.

Registrar: *(registrar to sign and seal)*

Dated: