



If they don't pay

What happens if court or tribunal orders are not paid?

There are a number of different orders you can seek to enforce a court or tribunal decision in your favour.

Claims in the Magistrates Court

The Magistrates Court deals with cases where the total claim is not more than \$75,000 (excluding costs). These include:

- claims for debt or damages;
- consumer/trader claims;
- claims for the recovery of real estate property; and
- residential tenancy matters.

See our fact sheet *Going to the Magistrates Court* for more information about the costs and procedures for these types of claims.

If your claim is successful and the order requires money to be paid to you, you become the 'judgment creditor'.

The person who must pay you this money is the 'judgment debtor'. The Magistrate may order the judgment debtor to pay the judgment creditor's court fees and legal costs. The judgment creditor may be allowed to receive interest on the debts owed to them as well.

Decisions of the State Administrative Tribunal

The State Administrative Tribunal (SAT) deals with a range of administrative, commercial and personal matters. It handles disputes about building services, commercial tenancy, residential park tenancy, retirement villages and strata management issues.

While the SAT is not a court, orders made by the SAT are binding on the parties and are enforceable as if made by a court.

The Magistrates Court can enforce monetary orders of the SAT that are not more than \$75,000 (see below). You will need to go to a higher court for a monetary order that is greater than that.

You should seek advice from the staff of the relevant court or a legal practitioner for further information about enforcing an order of the SAT.

Enforcing orders

If the judgment debtor does not pay you by the date agreed or stated in the judgment or monetary order, you can then apply to the Magistrates Court and add the cost of doing so to the debt.

A **means inquiry** must be scheduled to see if the judgment debtor is able to pay the judgment debt. If they are able, you can apply for a **time for payment order** or an **instalment order**. A time for payment order requires the judgment debtor to pay the debt in full on or before a date set by the court. An instalment order requires the judgment debtor to pay the debt by regular instalments as set by the court.

You can also seek a **property (seizure and sale) order**, which means a bailiff can seize and sell as much of the judgment debtor's real estate property or personal property as necessary to pay some or all of the debt.

When the judgment requires the return of property to you (as in some tenancy disputes) a **property (seizure & delivery) order** may be needed. This means a bailiff can seize real estate property or personal property for delivery to you.

When the problem is still not solved

When the judgment debtor still does not make payments according to a time for payment order or an instalment order you must then apply to the court for a **default inquiry**.

If the court decides the judgment debtor has disobeyed an instalment order or a time payment order, they may be guilty of a contempt of court, for which they can be fined or imprisoned.

There are also orders that can seek payment from third parties (**debt appropriation order**) or for the judgment debtor's employer to make regular payments from his or her wages (**earnings appropriation order**).

If the judgment debtor does not have the money or any property to sell to pay the debt, there is nothing more you can do to get the money owed to you; however, credit rating companies in Australia amend their records on people to reflect the debts listed by the Magistrates Court. It is up to debtors to prove they have paid the debt so it no longer affects their credit rating.

Contacting the Magistrates Court

There are more than 20 metropolitan and regional courthouses around Western Australia – you can find their details at www.magistratescourt.wa.gov.au.

The Perth civil registry is at:

Central Law Courts
501 Hay St
PERTH WA 6000

Telephone: (08) 9425 2222

Facsimile: (08) 9425 2777

Email: pmcregistry@justice.wa.gov.au

Department of Mines, Industry Regulation and Safety

Consumer Protection:

1300 304 054

Gordon Stephenson House
Level 2, 140 William Street
Perth Western Australia 6000
Website: www.dmirs.wa.gov.au
Email: consumer@dmirs.wa.gov.au

Regional Offices

Goldfields/Esperance	(08) 9026 3250
Great Southern	(08) 9842 8366
Kimberley	(08) 9191 8400
Mid-West	(08) 9920 9800
North-West	(08) 9185 0900
South-West	(08) 9722 2888

National Relay Service: 13 36 77

Quality of service feedback line: 1800 304 059

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