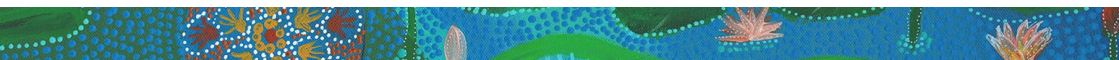




Does someone owe you money?

A guide to help you claim a minor debt
of \$25,000 or less



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Disclaimer

This guide is intended to provide you with information only. If you have a legal problem, you should get legal advice from a lawyer. Legal Aid Queensland believes the information provided is accurate as at November 2024 and does not accept responsibility for any errors or omissions.

We are committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you would like this publication explained in your language, please telephone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. This is a free service.



How can this guide help me?

This guide provides general information about how to recover a debt of \$25,000 or less-known as a minor debt.

The minor debt application process provides a quick and affordable way to help you collect what you are owed. You can do it yourself, without using a lawyer. This guide tells you:

- how to claim the money back you are owed
- the procedure you will go through to collect your debt if you go to the Queensland Civil and Administrative Tribunal (QCAT)
- how to fill in the forms you will need.

What is a minor debt?

A minor debt is when someone owes you \$25,000 or less and you know exactly the amount they owe. A minor debt can be:

- a sum of money you lent to another person
- an 'I owe you' or 'IOU' note
- a cheque that was not cleared because the writer of the cheque did not have enough funds to cover it
- the cost of work done under a written or verbal contract.

Do not use this guide if:

- someone owes you more than \$25,000
- your application is not for a fixed amount
- you are a consumer having problems with a trader about goods or services (refer to Legal Aid Queensland's *Consumer and trader disputes* guide)
- you are in conflict with another trader about goods or services
- you have a claim against a builder for losses associated with residential building work
- you have a dispute about a bond held by the Residential Tenancies Authority
- you are claiming unpaid wages as an employee under the Fair Work Act.

The QCAT has other processes for these claims. For more information visit their website www.qcat.qld.gov.au or call 1300 753 228. Mobile phone users can call (07) 3182 5181.



Do I need to get legal advice?

It can sometimes be difficult to know whether your claim is a minor debt. If you are unsure get legal advice from:

- Legal Aid Queensland – call 1300 65 11 88 (for the cost of a local call from a landline). Mobile phone users can call (07) 3182 5181. Legal Aid Queensland is focused on providing legal advice to financially disadvantaged Queenslanders. To find out more visit www.legalaid.qld.gov.au
- a community legal centre – go to www.legalaid.qld.gov.au or call 1300 65 11 88 to check services in your area
- a private lawyer – call the Queensland Law Society on 1300 367 757 for names of lawyers who can help.



Before you make a minor debt application

If you can settle the case without starting proceedings you will save yourself a lot of time, energy and possibly money.

Before you apply to QCAT, talk to the other person or business involved in the dispute to try to solve the problem. If the two of you need help to work out an agreement, there is a free mediation service provided by the Department of Justice's Dispute Resolution Branch.

The Dispute Resolution Branch has centres throughout the state, where trained mediators bring the people in a dispute together so they can talk over their differences and reach a settlement that suits them both. In regional areas where there is no Dispute Resolution Centre, staff at the local Magistrates Courts act as mediators.

Dispute Resolution Centres:

- **Far North Queensland Dispute Resolution Centre**
(07) 4037 2600 or 1800 671 680 (*toll free outside Cairns*)
- **North Queensland Dispute Resolution Centre**
(07) 4417 8141 or 1800 809 605 (*toll free outside Townsville*)
- **Mackay-Whitsundays Dispute Resolution Centre**
(07) 4889 8402 or 1800 501 576 (*toll free outside Mackay*)
- **Central Queensland Dispute Resolution Centre**
(07) 4887 1760 or 1800 817 927 (*toll free outside Rockhampton*)
- **Wide Bay Dispute Resolution Centre**
(07) 4120 6708 or 1800 681 109 (*toll free outside Hervey Bay*)
- **South Queensland Dispute Resolution Centre**
(07) 3738 7000 or 1800 017 288 (*toll free outside Brisbane*)

If you choose to make an application to the tribunal, you must determine the correct respondent for the application. Check this thoroughly because if you get it wrong, your application will fail. If you are in any doubt, get legal advice.

Who do I make an application against?

The person who makes a minor debt application claim is called the ‘applicant’ and the person or business the application is made against is called the ‘respondent’.

An individual

If the respondent is an individual (not a company or business), determine the person’s correct full name and the address where they live. A post office box number is not enough. You need to name the respondent and their address in your application.

The person you dealt with may have been working for someone else. In that case, you must work out whether it is the business owner or a company that you have to make an application against.

A business

If you are suing a business, you will need to find out the correct trading name for the firm and the names and addresses of all the owners of the firm. Check the trading name in letters, quotes, advertisements or receipts to make sure it is correct. If in doubt, do a search through the Australian Securities and Investment Commission’s (ASIC) Organisations and Business Names database at www.asic.gov.au. You can search some information for free, while other more detailed information is available for a fee.

In the ‘respondents’ section of your application form, list all the business owners’ names “trading as” the business’s trading name.

For example, if you are making an application against plumber Jo Bloggs whose business trades as Bloggies Plumbing, in the respondents section of your application form you would write Jo Bloggs “trading as” Bloggies Plumbing.

A company

If you are suing a company (note: companies have “Ltd”, “Pty” or “Pty Ltd” at the end of their company name) you need to find out the full and correct name of the company, its registered address and Australian Company Number (ACN). You must state the ACN on the claim form, so it is important to get this right. If in doubt, do a search through the ASIC.

Basic information is available by searching the free registers online at www.asic.gov.au/search. More detailed information is available from an ASIC Service Centre or an information broker (a search fee usually applies). To find one in your area go to www.asic.gov.au or call 1300 300 630.

In the ‘respondents’ section of your application form, list the company name and Australian Business Number (ABN) and the registered company address of the company you are claiming against.



How to make a minor debt application

Step 1. Fill out a minor debt claim form

You can pick up a QCAT *Form 3 — Application for minor civil dispute — minor debt* from the QCAT Brisbane registry, your local Magistrates Court or download it from the QCAT website www.qcat.qld.gov.au/resources/forms. You can see a sample of this form on page 25.

Type your answers into the form or print neatly in black or blue pen. Make copies of the completed form.

You will need one copy for the tribunal, one copy for you and one copy for each respondent. Photocopies are acceptable, but you must sign the form before you copy it.

Where there is a space on the form for the orders (decisions) you are seeking, state your claim and the amount you are claiming in one or two sentences.

Where there is a space to state your reasons for seeking those orders, explain your demand fully and simply. Do not make emotional remarks, but rather present the facts about who did what, where and when. Make sure you explain clearly what the respondent agreed to and what they failed to do, as well as how you arrived at the amount of the minor debt. You can provide further details on a separate sheet and attach it to your application. Sign each sheet of paper at the bottom.

To recover a debt:

- Write down who you lent the money to, and the date you lent the money.
- Briefly explain why you lent the money.
- Explain when the money was to be paid back, and if there were any conditions such as interest to be paid.
- Write the date you requested payment.
- Write the date and amount of any payments you have received.

Step 2. Lodge your forms and pay a fee

Give or send the original and copies of the form including any attachments to the QCAT registry. Pay the tribunal's application fee. The registry staff will stamp your forms and give them a number. A scale of fees is available on the QCAT website or by phoning the QCAT registry on 1300 753 228.

The tribunal will give you one copy back of the stamped forms (called a sealed copy) for each respondent.

You may be eligible for a waiver of fees. To apply for a waiver of fees you will need to complete a *Form 49 – Application for waiver of fees by reason of financial hardship*. You can get this form from the registry or download it from the QCAT website.

Where do I lodge my application?

If you are in Brisbane you can lodge your form in the Brisbane registry at:

QCAT
Level 11
259 Queen Street
Brisbane Qld 4000

If you are outside of Brisbane, you can lodge your form with your local Magistrates Court.

To find your nearest Magistrates Court, look under “Justice and Attorney-General” in the phone book or visit www.courts.qld.gov.au

Step 3. Notify the other person about your application

You must deliver (serve) a copy of the filed application to the respondent. You need to arrange to have one of the stamped copies of the application forms delivered to the person or business you are claiming against as soon as possible. This is called ‘serving the papers’.

You can do this yourself, but it is often better to pay a private process server or enforcement officer from the Magistrates Court to do it for you.

The QCAT website contains a practice direction for service of documents that explains the procedure if you want to personally serve a document on the respondent(s) yourself. A practice direction is a guideline that provides more information on a specific issue involved with QCAT applications and proceedings.

You can find a process server by:

- asking at the Magistrates Court registry
- looking in the Yellow Pages or other business directories.

How much will it cost to make a claim?

Check the filing fee with the QCAT registry or on the QCAT website www.qcat.qld.gov.au

If you win your case the tribunal can order you be reimbursed for the cost of:

- lodging the application
- hiring a process server
- business name or company search fee
- service fee or service provider fee for electronic lodgement.

In some instances the tribunal can make an order about the legal costs of a lawyer. Usually you need permission from the tribunal to have a lawyer represent you and orders permitting representation are only made in very limited circumstances.

Can I claim interest on the debt?

You can claim interest on the debt at the interest rate agreed on in the original contract, or at a rate the tribunal determines. You should get legal advice about how interest is calculated.

After you have lodged your application

When the respondent chooses to defend themselves

The respondent might not agree with your case and decide to argue their side of the story.

They have 28 days from the date they were served with your form to lodge their response to your application at the QCAT registry or their local Magistrates Court.

To do this they will need to prepare and file a QCAT *Form 7 — Response to minor civil dispute — minor debt*, which is available on the QCAT website. You can see a sample of this form on pages 34 to 38.

In a response, the other party outlines facts that try to disprove the original application. For example, you stated “the contract is a written document dated 1 July 2021”, the other party may say “I deny the contract was a written document dated 1 July 2021 because the copy of the contract is signed and dated 1 July 2020”.

If the respondent doesn’t respond within 28 days

Wait 28 days after the application has been served on the respondent, then call the tribunal to see if the respondent has filed a response. If they have not filed a response, the tribunal can make an order without hearing the evidence from the respondent. This is called a default decision.

To ask for a default decision (also called a judgment), lodge the following forms:

- *Form 6 – Request for a decision by default – minor civil dispute – minor debt* (see sample on pages 43 to 49)
- *Affidavit of service* (or Part B of the Form 6)
- *Affidavit in support of a request for a decision by default* (see sample form on pages 39 to 42).

If the respondent has made any payments after you lodged your application, make that clear in your *Affidavit in support of a request for a decision by default*.

If the tribunal makes an order, they will send a copy of the order to you and the respondent.

You should send the respondent a copy of the order and ask for immediate payment. If the respondent still does not pay the debt, you have enforcement options. You should get legal advice about this.

Reaching an agreement

Even after you have lodged an application, it is never too late to reach agreement. Reaching agreement may save both sides time, money and inconvenience.

In most cases, if your application involves \$1500 or less, your matter will proceed directly to a hearing.

If your application involves more than \$1500, both parties (you and the respondent) will then receive a notice to attend mediation. The notice includes the date, time and location of mediation. The aim of mediation is to get all parties to reach an agreement.

If your matter is not settled at mediation then it will proceed to a hearing.

If you do settle the matter, your mediator will help you to advise the tribunal and confirm the terms of the agreement in writing.

Going to mediation

After you have lodged your application you will receive a notice to attend mediation. The aim of the mediation is to find a solution to the dispute without proceeding to a hearing.

How should I prepare for mediation?

You need to bring every document, invoice, receipt, quotation or other piece of evidence you are relying on and give them to the mediator at the mediation.

Make sure you are organised and have evidence to support the main points of your argument.

Read the application and any documents attached to it.

It is a good idea to come to the mediation prepared to listen to the other party and to negotiate an agreement.

Attending by telephone or videoconference

If you want to participate by phone, contact the number or email address provided on the notice to attend mediation as soon as possible.

Alternatively, complete, sign and file an *Application to attend a proceeding by telephone or video*. This form can also be used to attend any later hearing remotely by telephone or video. You can get a copy of the form from the QCAT website www.qcat.qld.gov.au/resources/forms

Attending in person

Ensure you arrive at least 15 minutes before the start time outlined in the notice of mediation. The other party will be there too.

Find your name or case number on the electronic listing board or list displayed in the registry. Go to the room that has been set aside for your case.

You will be invited into the room once the mediator (the person responsible for conducting the mediation) is ready. The mediation may be conducted by a QCAT mediator or mediator from the Dispute Resolution Centre (established by the Queensland Government to provide a free, confidential and impartial mediation services).

What happens during the mediation?

The mediator will introduce themselves and ask everyone to introduce themselves. Generally the mediation is held in private and the length of the mediation will depend on the complexity of the matter.

The discussions during the mediation cannot be used or referred to at the hearing unless the parties agree.

Be clear and to the point. Do not interrupt the other party or the mediator.

If you do not behave appropriately, you may be removed from the mediation.

The mediator acts as an independent third party and guides the participants through a structured mediation process. The mediator is not there to make a decision about who is right or wrong, but assists both parties in reaching an agreement.

What happens after the mediation?

If the parties reach an agreement the mediator may record the terms of the agreement in writing and make the orders necessary to give effect to the agreement. Each party will then sign the mediation agreement and receive a copy.

A party may request the agreement be made an order of the tribunal. An order is a decision made by QCAT which requires someone to do something (for example, it may require a person to repay a debt).

If you cannot reach an agreement the mediator will work with you to set out what issues are still in dispute and what issues have been resolved. If the parties agree, this will be given to the tribunal for the hearing.



Going to the hearing

Both parties will receive a notice of hearing which includes the time, date and location of the hearing. Be aware that a number of matters will be set for the same timeslot, and you should make sure you allow enough time to attend the hearing.

The aim of the hearing is to make a final decision about your case.

It is generally in your best interest to come to the hearing if the application has been made against you. If you do not attend the hearing, the tribunal may hear and decide the matter anyway, and an order may be made against you.

At the hearing you will tell the member or adjudicator your story. Although the hearing is informal, you are expected to tell your story clearly, in proper sequence, and with enough detail to explain your case.

How should I prepare for the hearing?

You need to give the tribunal all the relevant documents that help support the main points of your case. You need to bring any documents, invoices, receipts, quotations and/or other pieces of evidence you need to prove your case, and give them to the member or adjudicator at the hearing. You should make two copies of any documents you intend to give to the tribunal and have a copy for yourself and one for the other party.

Write down the facts and supporting evidence

The QCAT member or adjudicator makes a decision by listening to the facts and looking at the evidence. Knowing the difference between facts and evidence will help you present your case clearly.

It may help to take a sheet of paper and draw a line down the middle. On the left side, write the facts you want to tell the member or adjudicator. On the right side write the evidence you will use to support your facts.

Facts	Evidence
2 February 2021. Respondent called at my home. I agreed to lend her money.	Own sworn evidence. Bank cover of cheque book showing notes about repayment.
2 February 2021. Paid \$1500 to the respondent.	Own sworn evidence. Evidence of flatmate Fred Jones who was present. Copy of cheque butt dated 2 February 2021.

Evidence can be written (in the form of sworn statements called affidavits), or verbal (when you or your witnesses give statements in the witness box).

Your own evidence, in your own words, is always helpful to your case.

Arrange witnesses

You can ask relevant witnesses who can support your case, to attend the hearing. If they are reluctant, you can apply to the tribunal to compel them to attend by serving a QCAT *Form 38 – Witness hearing notices: application for notice requiring witness to attend hearing or produce document/thing at hearing*. This is a notice from the tribunal demanding they attend the hearing (see sample on pages 50 to 54) or produce documents that could be used as evidence.

If your witness is reluctant, and forced to attend the hearing through the notice to attend, this action may upset them and in turn they may not give helpful evidence. So weigh this up carefully before you initiate a notice.

Only QCAT can order a person to attend a hearing or to produce documents by issuing an attendance notice. QCAT may charge a fee for this service. If a person is willing to attend or produce a document you do not need to apply to QCAT.

The witness does not have to attend unless you give them sufficient money to pay their costs of attending, for example money to cover their reasonable transport costs.

Practice your presentation

It can help to practice what you want to say in front of family and friends. Have your documents in order so that when you mention one it is ready to show at the right time. If you mention an important fact a witness can support, say you have a witness who can talk about this matter later. Have any evidence or photographs labelled and ready to show at the right time.

Listen to what your friends say. If your story is too long, cut out unnecessary details. If listeners cannot understand a point, put in details to make it clear.

What do I do on the day of the hearing?

Before you arrive

- Find out the tribunal's address and check the location on a map.
- Organise transport to the tribunal, allowing time to arrive half an hour before the hearing.
- Look clean, neat and respectable.
- Bring all of your documents including the application form, affidavits and other evidence.
- Bring a pen and some note paper to record anything you might want to remember later to say to the member or adjudicator when the appropriate moment arises. It is ok to read from notes in the hearing room.

-
- As hearing rooms can feel daunting, especially the first time, you may appreciate the support of a friend or family member. Ask them to attend the tribunal with you.

When you arrive

- Meet your witnesses outside the tribunal at least 15 minutes before your scheduled hearing time.
- Find your name or case number on the electronic listing board or list displayed in the registry.
- Wait for your hearing outside the hearing room.
- You will be called into the hearing room when the member or adjudicator is ready to begin.

When you are called

- Speak clearly and follow the member or adjudicator's instructions.
- Address the member or adjudicator as “Sir” or “Madam”; address a judge or magistrate as “Your Honour”.
- The member or adjudicator may ask if there is any chance you and the respondent could reach an agreement about your dispute. If the answer is yes, then you will be directed outside to negotiate privately with the other person.
- If you reach an agreement the member or adjudicator will record the terms of the agreement.
- If you cannot reach an agreement the hearing will continue before the member or adjudicator.

What happens at the hearing?

You tell your story and present your evidence

- Before you tell the member or adjudicator your side of the story, you will be asked to swear an oath or affirm (promise) to tell the truth. It is a crime to give false evidence before the tribunal.

-
- The member or adjudicator may ask you questions during your presentation.
 - When you have finished, the respondent can ask you questions.

Your witnesses give their evidence

- Witnesses wait outside the hearing room until they are called one at a time. Each witness is required to swear an oath or affirm to tell the truth. You can then ask your witness questions. For example, if the witness is there to support your story that you loaned Mary Johanssen \$9500 you could ask: “Do you remember when Mary Johanssen came to my house to ask for a loan? Can you tell the tribunal what happened?”.
- The member or adjudicator may question your witnesses at any time while they provide their evidence.
- When you and the member or adjudicator have finished questioning the witnesses, the respondent may also question them.

The respondent provides their evidence

- When all your witnesses have finished giving their evidence, the respondent will take an oath or affirm to tell the truth and give their side of the story.
- The member or adjudicator can question the respondent at any time. You may not interrupt but you should take notes about anything you disagree with so you can raise this with them when you are asking your questions.
- When the respondent finishes their side of the story, you can ask them questions.

The respondent’s witnesses provide their evidence

- The respondent’s witnesses will be called into the hearing room one at a time to give their evidence.
- The respondent may question the witnesses at any time while they provide their evidence.
- When the member or adjudicator and the respondent have finished questioning the respondent’s witnesses, you may also question them.

What if the hearing takes place and I (or the respondent) could not attend?

You should make every attempt to attend the hearing date and time scheduled by the tribunal. If circumstances that prevent you from attending the hearing arise before the scheduled hearing date, advise the tribunal by fax, email or in writing as soon as possible. The respondent can also take this action. If you have a sound reason the tribunal may adjourn the hearing. A sound reason would have to be something like a medical emergency where circumstances were beyond your control.

If the hearing has already taken place, ask the tribunal for a *Form 43 — Application for reopening, correction, renewal or amendment*.

The member's or adjudicator's decision

After hearing everyone's evidence, the member or adjudicator will make a decision. The member or adjudicator might:

- agree with your case
- agree with the respondent's case
- agree with only part of your case.

After the member or adjudicator has made a decision, they will make an order you and the respondent must follow.

After the order is made

If the tribunal orders the respondent to pay the debt (in whole or in part) but the respondent does not follow the order, you can enforce the order in the Magistrates Court.

You need to file in the Magistrates Court a copy of the order that has been made by QCAT and an affidavit about the amount still owing. If any money has already been paid off the amount owing under the order, you will need to tell the Magistrates Court about that in the affidavit.

Once you have lodged these documents in the Magistrates Court, the decision is taken to be an order of the Magistrates Court and can be enforced in the same way as an order of the Magistrates Court.

You will need to get legal advice about enforcement.

Can I appeal the decision?

Before you can appeal a QCAT minor debt decision you must ask for permission from the QCAT internal appeal tribunal to appeal the decision. To ask permission you will need to submit a *Form 39 — Application for leave to appeal or appeal*. You can get a copy of this form from the QCAT registry or the QCAT website.

You should get legal advice before seeking leave to appeal any decision.

Sample documents and forms

- Sample 1** Application for minor civil dispute — minor debt
- Sample 2** Response to minor civil dispute — minor debt
- Sample 3** Affidavit in support of a request for a decision by default
- Sample 4** Request for decision by default — minor civil dispute — minor debt
- Sample 5** Witness hearing notices: application for notice requiring witness to attend a hearing or produce document/thing at a hearing

Sample 1: Application for minor civil dispute – minor debt

QCAT

Queensland Civil and Administrative Tribunal

Form Number 3 (version 5)

Queensland Civil and Administrative Tribunal Act 2009 (Qld) (section 33)

For office use only

Case number	
Date	
Registry	
Fee	
Date paid	
Receipt number	

This form can be completed and lodged online at:
qcat.qld.gov.au/resources/forms/our-online-services/start-an-application-for-a-minor-debt-dispute

Application for minor civil dispute – minor debt

Application fees apply – visit qcat.qld.gov.au/resources/fees-and-allowances for details

Part A

APPLICANT'S DETAILS (full contact details must be supplied) (for multiple applicants attach details on a separate sheet)

The applicant is the party who is making this application. If the applicant is not an individual then you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper applicants.

Name

John Edward Gee

ACN/ABN (if applicable)

Postal Address

10 Green Street

Suburb Yeronga

State/Territory Qld

Postcode 4104

Contact details (MUST be provided)

0412 345 678

Mobile

Alternative number

john@fake.com.au

Email

Do you identify as Aboriginal or Torres Strait Islander?

☐ No

☐ Yes, Torres Strait Islander

☐ Yes, Aboriginal

☒ Yes, both Aboriginal and Torres Strait Islander

If you want someone to represent you in any proceedings before the Tribunal you must complete [Form 56](#) - Application for leave to be represented. You are not required to seek leave if you are a child or a person with impaired capacity. Visit the QCAT website for more information about [legal advice and representation](#).

Sample 1: Application for minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part A

APPLICANT'S DETAILS (continued) (full contact details must be supplied) (for multiple applicants attach details on a separate sheet)

Name		ACN/ABN (if applicable)
<input type="text"/>		<input type="text"/>
Postal Address		
<input type="text"/>		
<input type="text"/>		
Suburb	<input type="text"/>	State/Territory <input type="text"/> Postcode <input type="text"/>
Contact details (MUST be provided)		
<input type="text"/>	<input type="text"/>	<input type="text"/>
Mobile	Alternative number	Email
Do you identify as Aboriginal or Torres Strait Islander?		
<input type="checkbox"/> No	<input type="checkbox"/> Yes, Torres Strait Islander	
<input type="checkbox"/> Yes, Aboriginal	<input type="checkbox"/> Yes, both Aboriginal and Torres Strait Islander	

Part B

RESPONDENT'S DETAILS (full contact details must be supplied) (for multiple respondents attach details on a separate sheet)

The respondent is the party against whom the original application was made. If the respondent is not an individual then you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper respondents.

Name		ACN/ABN (if applicable)
<input type="text" value="Mary Johansen"/>		<input type="text"/>
Postal Address		
<input type="text" value="20 Turra Street"/>		
Suburb	<input type="text" value="Toowong"/>	State/Territory <input type="text" value="Qld"/> Postcode <input type="text" value="4066"/>
Contact details (MUST be provided)		
<input type="text" value="0498 765 432"/>	<input type="text"/>	<input type="text" value="mary@fake.com.au"/>
Mobile	Alternative number	Email

Sample 1: Application for minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part B

RESPONDENT'S DETAILS (continued) (full contact details must be supplied) (for multiple respondents attach details on a separate sheet)

Name		ACN/ABN (if applicable)
<input type="text"/>		<input type="text"/>
Postal Address		
<input type="text"/>		
<input type="text"/>		
Suburb	<input type="text"/>	State/Territory <input type="text"/> Postcode <input type="text"/>
Contact details (MUST be provided)		
<input type="text"/>	<input type="text"/>	<input type="text"/>
Mobile	Alternative number	Email

Sample 1: Application for minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part C

ORDER AND REASONS DETAILS

I am claiming the following amounts:

- ☒ the amount owing \$ 3,500.00
- ☒ date when the amount owing became due: 02 / 12 / 2021
Date Month Year

I also want to claim interest on the amount owing from the date when the debt became due to the date of the Tribunal's final decision. Choose from the rate which applies:

- ☐ the rate I agreed with the respondent (attach agreement): % p.a.

OR

- ☐ If there is no agreement with the respondent about the interest to be paid, the interest will be determined by the Tribunal. Refer to the interest calculator available at courts.qld.gov.au/courts-calculator/calculator

In either case:

- ☐ I have calculated the amount of the interest up to the date of this application as \$ Amount owing
% Interest rate p.a.
Dates to
Period interest payable

Sub-total on which the filing fee is calculated: \$

I also want to claim these amounts:

- ☐ the filing fee \$ 127.50
- ☐ bailiff / sheriff / service fee (to serve the documents on your behalf) \$ 53.40
- ☐ [Australian Securities and Investment Commission \(ASIC\)](#) business name extract or company extract search fee \$

The total amount of my claim is: \$ 3680.90

Why are you seeking payment of the total amounts?

You **MUST** provide as much detail as possible, including details of any written or verbal agreement. You **MUST** attach copies of all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs. If you do not provide this information your application may be dismissed. *If there is insufficient space please attach additional pages.*

1. I lent the respondent \$9,500.00 on 2 February 2021 to purchase a motor vehicle.
2. The money was lent to the respondent on the basis that the respondent would pay the amount in full by 2 December 2021.
3. I received \$6000.00 on 29 November 2021 from the respondent.
4. There were no discussions in relation to charging interest.
5. I have not received any further payment from the respondent.

Sample 1: Application for minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part D ASSISTANCE AT THE TRIBUNAL HEARING

Will you require an interpreter at the hearing?

- ☐ Yes - please specify language or Auslan:
- ☒ No

Do you have any of the following needs?

- | | |
|---|---|
| <input type="checkbox"/> wheelchair/mobility access | <input type="checkbox"/> speech impairment |
| <input type="checkbox"/> hearing impairment/loss | <input type="checkbox"/> vision impairment/loss |
| <input type="checkbox"/> other | |

If you have ticked any of these boxes, please provide details below.

CHECKLIST

- ☒ I have completed all of the questions on this application.
- ☒ I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- ☒ I have attached copies all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.
- ☒ I am aware that the prescribed fee must be paid at time of lodgement.
- ☒ I am ready to proceed with this application.

WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

Sample 1: Application for minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Sign and date here (if more than one applicant is named, then all must sign)

The information in this application is true to the best of my knowledge.

Applicant/s sign here

John Gee

Date

16/12/2021

Print your name/s here

John Edward Gee

Lodgement Details

Deliver to:

Queensland Civil and
Administrative Tribunal
Floor 11, 259 Queen Street
Brisbane Qld 4000
OR

your local Magistrates Court.

To find your local courthouse visit:

courts.qld.gov.au/contacts/courthouses

Mail to:

Queensland Civil and
Administrative Tribunal
GPO Box 1639
Brisbane Qld 4001
OR

your local Magistrates Court.

To find your local courthouse visit:

courts.qld.gov.au/contacts/courthouses

WARNING TO RESPONDENTS

You must respond to this application by completing and lodging [Form 7 – Response to minor civil dispute – minor debt](#) within twenty eight (28) days after you are given a copy of the application.

Otherwise, the applicant may apply to the Tribunal for a decision by default against you.

Sample 1: Application for minor civil dispute – minor debt cont'd



Queensland Civil and Administrative Tribunal

INSTRUCTIONS FOR COMPLETING FORM 3

Application for minor civil dispute – minor debt

A minor debt is where another person, business or company owes you \$25,000 or less (excluding interest) and the amount is a fixed or an agreed sum of money.

A minor debt can be:

- a sum of money you lent to another person;
- an 'I owe you' or 'IOU' note;
- a cheque that was not cleared because the writer of the cheque did not have enough funds to cover it;
- the cost of work done under a written or verbal contract.

Do not use this form if:

- someone owes you more than \$25,000 (excluding interest);
- your application is not for a fixed amount;
- you are a consumer having problems with a trader about goods or services;
- you are in conflict with another trader about goods or services;
- you have a claim against a builder for losses associated with residential;
- building work;
- you have a dispute about a bond held by the Residential Tenancies Authority

Identify and naming parties

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

Fees

You must pay the prescribed application fee when lodging your application. Visit the QCAT website for [application fees](#).

Cash payments can be made in person at the QCAT Brisbane registry or your local Magistrates Court.

Cheque or money order payments are to be made out to 'Department of Justice and Attorney-General'.

Credit card payments can be made by submitting a [Credit card payment authorisation form](#) with your application and can only be accepted by post or in person.

You may apply to QCAT for a waiver of the fee on the grounds of financial hardship. To apply, you **MUST** complete and lodge [Form 49 - Application for fee waiver or appeal fee reduction by reason of financial hardship](#). If you are eligible for a waiver you will not be required to pay the fee.

Sample 1: Application for minor civil dispute – minor debt cont'd



Queensland Civil and Administrative Tribunal

Lodging your application form

Before you lodge your application with QCAT you must make **two (2)** photocopies of the application and all attached supporting documents and lodge these together with your original application. An extra copy is required for each additional respondent. If you file your documents in person or by post, you must include a stamped self-addressed A4 envelope.

Giving copies to the respondent

You must give (serve) a copy of the application to the respondent/s no later than 90 days after you lodge the application. You can check the lodgement date by looking at the date stamp on your application form.

If you cannot serve the application on the respondent you must complete a [Form 42 – Application to extend or shorten time limit or waiver of compliance with procedural requirement](#).

You can serve the application personally, by post or by using the services of a Magistrates Court bailiff, commercial agent or process server. Visit the QCAT website for information [on serving applications and documents](#).

Once the respondent has been served, you must complete [Form 9 Affidavit of service](#). An affidavit is a statement sworn under oath/affirmation in the presence of a commissioner of declarations, justice of the peace or a lawyer. The affidavit is required to prove the application has been given to the respondent.

The respondent has 28 days from the date they were served to file a response to your application. To do so they need to complete and lodge [Form 7 – Response to minor civil dispute – minor debt](#).

Visit the QCAT website for [information on responding to an application](#).

What if the respondent doesn't respond?

If the respondent doesn't respond to your application within 28 days, you may be able to apply to QCAT for a 'default decision' to end the matter. A default decision is where the Tribunal makes an order without hearing the evidence from the respondent. To apply for a default decision you will need to lodge the following forms:

- [Form 6 - Request for decision by default - minor civil dispute - minor debt](#)
- [Form 9 - Affidavit of Service or Part B of the Form 6 - Request for decision by default - minor civil dispute](#).

Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given.

Information about where to seek legal advice is available at [Where to seek legal advice](#).

Witnesses

If you have a witness whose evidence you rely upon to support your claim, that person should complete an affidavit setting out their evidence and attach it to your claim. Your witness may be required to answer questions at the hearing. If the witness cannot attend the hearing in person, they **MUST** be available by telephone.

Withdrawing an application

An application can be withdrawn if you no longer wish to proceed to have the dispute decided by the Tribunal. An application can be withdrawn at any time prior to the final hearing and determination of the application by lodging a [Form 58 – Application for leave to withdraw an application or referral / Notice of withdrawal of application or referral](#) online. Visit the QCAT website for more information on how to [withdraw an application](#).

Sample 1: Application for minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

Sample 2: Response to minor civil dispute – minor debt

QCAT

Queensland Civil and Administrative Tribunal

Form Number 7 (version 3)

Queensland Civil and Administrative Tribunal Rules 2009 (Qld) (rule 45)

For office use only	
Case number	
Date filed	
Registry	

This form can be completed and lodged online at
qcat.qld.gov.au/resources/forms/our-online-services/respond-to-a-minor-debt-dispute

Response to minor civil dispute – minor debt

This form **MUST** be filed at the registry where the original application was filed

Part A APPLICATION AND MATTER DETAILS

Applicant (the party who made the original application)

John Edward Gee

QCAT case number

MCD789-21

Location of Registry (the QCAT registry or Magistrates Court where the original application was made)

Brisbane

Part B RESPONDENT'S DETAILS (your full contact details must be supplied)

The respondent is the party against whom the original application was made. If the respondent is not an individual then you must use the proper full company or full name of the State agency or department. If your business name has been named as the respondent, you must disclose the names of all persons, partners, or companies that carry on business under that business name.

Name

Mary Johanssen

ACN/ABN (if applicable)

Postal Address

20 Turra Street

Suburb Toowong

State/Territory Qld

Postcode 4066

Contact details (MUST be provided)

0498 765 432

Mobile

Alternative number

mary@fake.com.au

Email

Do you identify as Aboriginal or Torres Strait Islander?

☒ No

☐ Yes, Torres Strait Islander

☐ Yes, Aboriginal

☐ Yes, both Aboriginal and Torres Strait Islander

If you want someone to represent you in any proceedings before the Tribunal you must complete [Form 56 - Application for leave to be represented](#). You are not required to seek leave if you are a child or a person with impaired capacity. Visit the QCAT website for more information about [legal advice and representation](#).

QCAT

Part B

Name

Postal Address

Suburb

State/Territory

Postcode

Contact details (MUST be provided)

Mobile

Alternative number

Email

Part C

Tick the relevant response and provide details if applicable. If there is not enough space, please attach details on a separate sheet. You **MUST** attach copies of all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.

☐

If applicable, I admit I owe:

☒

I admit the following allegations in the application:

Those contained in paragraphs 1, 2, 3 and 4 of the application.

Sample 2: Response to minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part C DETAILS OF RESPONSE *(continued)*

☐ If applicable, I dispute that I owe: \$

☒ I dispute the following allegations in the application, for the reasons set out below:

The allegation in paragraph 5 of the application that no further payment has been received as:

1. On 29 November 2021 the applicant and I made an oral agreement that I would pay him \$6,000.00 by 2 December 2021 and give him my Suzuki motorbike registration AB 456.
2. I paid by bank cheque the sum of \$6,000.00 on 29 November 2021.
3. The Suzuki motorbike's registration was transferred to the applicant on 30 November 2021.
4. The Suzuki motorbike was physically delivered to the applicant on 30 November 2021.
5. I say that I have paid the applicant the full amount owing as per our agreement.

Part D ASSISTANCE AT THE TRIBUNAL HEARING

Will you require an interpreter at the hearing?

☐ Yes - please specify language or Auslan:

☒ No

Do you have any of the following needs?

- | | |
|---|---|
| <input type="checkbox"/> wheelchair/mobility access | <input type="checkbox"/> speech impairment |
| <input type="checkbox"/> hearing impairment/loss | <input type="checkbox"/> vision impairment/loss |
| <input type="checkbox"/> other | |

If you have ticked any of these boxes, please provide details below.

Sample 2: Response to minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

CHECKLIST

- ☒ I have completed all of the questions on this response.
- ☒ I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- ☒ I have attached all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.
- ☒ I am ready to proceed.

WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

Sign and date here (if more than one respondent is named, then all must sign)

The information in this response is true to the best of my knowledge.

Respondent/s sign here

Mary Johanssen

Date

04/01/2022

Print your name/s here

Mary Johanssen

Lodgement Details

IMPORTANT: This form MUST be filed at the registry or local courthouse where the original application was filed.

Deliver to:

Queensland Civil and Administrative Tribunal
Floor 11, 259 Queen Street
Brisbane Qld 4000
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses

Mail to:

Queensland Civil and Administrative Tribunal
GPO Box 1639
Brisbane Qld 4001
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses

Sample 2: Response to minor civil dispute – minor debt cont'd



Queensland Civil and Administrative Tribunal

INSTRUCTIONS FOR COMPLETING FORM 7

Respond to minor civil dispute – minor debt

A minor debt dispute is a disagreement between you and another person, business or company about an agreed and fixed amount of money up to \$25,000 (excluding interest).

If you have been served with a minor debt application and are listed as a respondent you must lodge a response to the application. You have 28 days from the day you were given a copy of the application to lodge your response. If you do not lodge a response, the applicant can seek a decision by default. Visit the QCAT website for information about responding to an application.

What is a response?

A response is where you outline facts which try to disprove the original claims. You should include any supporting documentation or evidence to support your response.

Identify and naming parties

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

Lodging your response

Before you lodge your application with QCAT you must make **two (2)** photocopies of the application and all attached supporting documents and lodge these together with your original application. An extra copy is required for each additional respondent. If you file your documents in person or by post, you must include a stamped self-addressed A4 envelope.

Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given.

Information about where to seek legal advice is available at [Where to seek legal advice](#).

Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

Sample 3: Affidavit in support of a request for a decision by default

QCAT

Queensland Civil and Administrative Tribunal

Instructions for completing

Affidavit in support of a request for a decision by default

General instructions

Copies of the affidavit and providing copies to other parties

Only one copy of this affidavit supporting a request for a default decision and all attachments needs to be lodged.

Important note: Do not use this form if you are applying for an electronic decision by default.

Affidavits must be lodged

The affidavit must be lodged at the same Magistrates Court or QCAT registry at which you filed the original application.

PART A

If there is insufficient space for the names of either applicant or respondent, you may attach additional pages with similar details.

PART D SIGNATURE

Please sign in the presence of a person who is authorised by the *Oaths Act 1867* to take an affidavit:

- (a) a justice, commissioner for declarations or notary public under the law of the State, the Commonwealth or another State,
- (b) a lawyer,
- (c) a conveyancer, or another person authorised to administer an oath, under the law of the state, the Commonwealth or another state,
- (d) if the affidavit is taken outside Australia — a person authorised to administer an oath under the law of the place in which the affidavit is taken.

Each page must be signed.

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 3: Affidavit in support of a request for a decision by default cont'd

QCAT

Queensland Civil and Administrative Tribunal

Affidavit in support of a request for a decision by default

Refer to attached instructions at the front of this form prior to filling out this form.

For office use only	
Case number:	
Date:	
Registry:	
Sent to:	

PART A

APPLICANT'S AND RESPONDENT'S DETAILS

Applicant

John Edward Gee

Respondent

Mary Johanssen

PART B

CASE NUMBER

Case number

Registry

Brisbane

John Gee

Person making affidavit to sign

Karen Jones

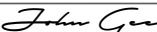
Person taking the affidavit to sign

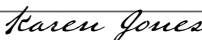
Affidavit in support of a request for a decision by default – page 1 of 3

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 3: Affidavit in support of a request for a decision by default cont'd

PART C DETAILS																	
I. <input type="text" value="John Edward Gee"/> <small>(insert full name of person making affidavit)</small>																	
of <small>(insert residential or business address, or place of employment)</small>																	
<input type="text" value="10 Green Street"/>																	
<input type="text" value="Yeronga"/>	Postcode <input type="text" value="4104"/>																
state on oath / solemnly and sincerely affirm and declare:																	
Complete 1 or 2 if you are the applicant:																	
1. The respondent has not paid the amount claimed by me. The amount of \$ <input type="text" value="3,500.00"/> remains owing to me.																	
2. The respondent has paid the following amounts to me in part satisfaction of this application. Complete the table in number 5. The amount of \$ <input type="text" value="3,500.00"/> remains owing to me.																	
Complete 3 or 4 if you are the solicitor/agent/director of the applicant:																	
3. I have this day spoken with <input type="text"/> <small>(insert name and role of person) being the person who has custody and control of the records of the applicant and they informed me and I believe that the respondent has not paid the amount claimed by the applicant.</small> The amount of \$ <input type="text"/> remains owing to the applicant.																	
4. I have this day spoken with <input type="text"/> <small>(insert name and role of person) being the person who has custody and control of the records of the applicant and they informed me and I believe that the following amounts have been received from the respondent in part satisfaction of this application. Complete the table in number 5. The amount of \$ <input type="text"/> remains owing to the applicant.</small>																	
5.																	
<table border="1"><thead><tr><th>Date</th><th>Payment</th></tr></thead><tbody><tr><td><input type="text" value="DD/MM/YYYY"/></td><td></td></tr><tr><td><input type="text" value="DD/MM/YYYY"/></td><td></td></tr><tr><td><input type="text" value="DD/MM/YYYY"/></td><td></td></tr><tr><td><input type="text" value="DD/MM/YYYY"/></td><td></td></tr><tr><td><input type="text" value="DD/MM/YYYY"/></td><td></td></tr><tr><td><input type="text" value="DD/MM/YYYY"/></td><td></td></tr><tr><td><input type="text" value="DD/MM/YYYY"/></td><td></td></tr></tbody></table>	Date	Payment	<input type="text" value="DD/MM/YYYY"/>		<input type="text" value="DD/MM/YYYY"/>		<input type="text" value="DD/MM/YYYY"/>		<input type="text" value="DD/MM/YYYY"/>		<input type="text" value="DD/MM/YYYY"/>		<input type="text" value="DD/MM/YYYY"/>		<input type="text" value="DD/MM/YYYY"/>		
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<input type="text" value="DD/MM/YYYY"/>																	


Person making affidavit to sign


Person taking the affidavit to sign

Affidavit in support of a request for a decision by default – page 2 of 3

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 3: Affidavit in support of a request for a decision by default cont'd

Warning

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.
Maximum penalty for such an offence – \$10,000.

SIGNATURE

Sworn (or affirmed) by (insert full name)

John Edward Gee

on 29 / 01 / 2012 at (place) Brisbane

in the presence of:

John Gee

Person making affidavit to sign

John E Gee

Print name

Karen Jones

Person taking the affidavit to sign

Commissioner for declarations / solicitor /
justice of the peace

Affidavit in support of a request for a decision by default – page 3 of 3

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 4: Request for decision by default – minor civil dispute – minor debt

QCAT

Queensland Civil and Administrative Tribunal

Form Number 6 (version 5)

Queensland Civil and Administrative Tribunal Rules 2009 (Qld) (rule 60)

For office use only

Case number	
Date filed	
Registry	

Request for decision by default – minor civil dispute – minor debt

This form MUST be filed at the registry where your original application was filed

Part A APPLICATION AND MATTER DETAILS

Applicant *(the party who made the original application)*

John Edward Gee

Respondent *(the party against whom the original application was made)*

Mary Johanssen

QCAT case number

MCD789-21

Location of Registry

(the QCAT registry or Magistrates Court where the original application was made)

Brisbane

Sample 4: Request for decision by default – minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part B AFFIDAVIT OF SERVICE

An affidavit of service is used to prove that you have provided a copy of any document/s to the other party/parties.

PLEASE TICK THE APPLICABLE BOX

☐ A **Form 9 - Affidavit of service** has already been filed (please proceed to Part C)

OR

☒ I rely on **THIS** affidavit of service (please complete ALL the details below)

I, John Edward Gee

(insert full name of person making affidavit)

of (insert residential or business address, or place of employment)

10 Green Street

Suburb Yeronga

State/Territory Qld

Postcode 4066

state on oath / solemnly and sincerely affirm and declare:

On the 20 / 12 / 2021 at 11.04 am/pm,
Day Month Year

I served Mary Johanssen

(insert name of person or entity/s served)

a copy of Application for minor civil dispute - minor debt

(insert name of document)

☒ I have attached a copy

filed on 16 / 12 / 2021

Day Month Year

at the Queensland Civil and Administrative Tribunal

Level 11, 259 Queen Street, Brisbane Qld 4001

(insert Tribunal address)

YOU MUST PROVIDE DETAILS OF THE SERVICE IN ONE OF FOLLOWING THREE SECTIONS.
PLEASE COMPLETE THE SECTION THAT IS RELEVANT TO YOUR APPLICATION.

1. Personal service on an individual

(note: personal service is required for minor civil dispute - minor debt applications)

I personally delivered the copy to ☐ him ☒ her ☐ them

at (insert address)

20 Turra Street

Suburb Toowong

State/Territory Qld

Postcode 4066

I identified the person served by (insert means of identification)

Asking the person who answered the front door if they were Mary Johanssen to which they said 'yes'.

John Gee

Person making affidavit to sign

Karen Jones

Person taking the affidavit to sign (qualified witness)

Sample 4: Request for decision by default – minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

2. Service on a company

☐ I personally delivered a copy to a director of the company, namely:

Suburb State/Territory Postcode

☐ I left a copy at the company's registered office, namely:

Suburb State/Territory Postcode

☐ I posted a copy to the company's registered office, namely:

Suburb State/Territory Postcode

☐ I served the copy otherwise in accordance with section 109X of the *Corporations Act 2001* (Commonwealth), namely:

(insert method of service)

3. Other service

☐ I served the copy in another way in accordance with the service practice direction, namely by:

(insert method of service)

☐ I served the copy in accordance with the Tribunal's direction, namely by

(insert method of service)

Interstate service (You MUST complete this part if you served the document interstate)

Please tick the applicable box:

☐ I did attach the notice under the *Service and Execution of Process Act 1992* (Commonwealth) to the document.

☐ I did not attach the notice under the *Service and Execution of Process Act 1992* (Commonwealth) to the document.

John Gee

Person making affidavit to sign

Karen Jones

Person taking the affidavit to sign (qualified witness)

Sample 4: Request for decision by default – minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part C AFFIDAVIT OF DEBT (this section must be completed)

I,
(insert full name of person making affidavit)
of (insert residential or business address, or place of employment)

Suburb State/Territory Postcode

state on oath / solemnly and sincerely affirm and declare:

1. The application against the respondent is for \$ as a debt or liquidated demand of money.

2. I have not received a response to the application from the respondent.

Complete 3 OR 4 if you are the applicant:

3. The respondent has not paid the amount claimed by me.

The amount of \$ remains owing to me.

4. The respondent has paid the following amounts to me in part satisfaction of the claim (please complete the table below). The amount of \$ remains owing to me.

Date	Payment

Complete 5 OR 6 if you are solicitor/agent/director of the applicant:

5. I have this day spoken with (insert the name and role of the person)

being the person who has custody and control of the records of the applicant and they informed me, and I believe, that the respondent has not paid the amount claimed by the applicant.

The amount of \$ remains owing to the applicant.

6. I have this day spoken with (insert the name and role of the person)

being the person who has custody and control of the records of the applicant and they informed me, and I believe, that the following amounts have been received from the respondent (please complete the table below). The amount of \$ remains owing to the applicant.

Person making affidavit to sign

Person taking the affidavit to sign (qualified witness)

Sample 4: Request for decision by default – minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part D DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

I am claiming the following amounts:

- ☐ the amount owing (as stated in Part C) \$ 3,500.00
- ☐ date when the amount owing became due: 02 / 12 / 2021
Date Month Year

I also want to claim interest on the amount owing from the date when the debt became due to the date of the Tribunal's final decision. Choose from the rate which applies:

- ☐ the rate I agreed with the respondent (attach agreement): % p.a.

OR

- ☐ If there is no agreement with the respondent about the interest to be paid, the interest will be determined by the Tribunal. Refer to the interest calculator available at courts.qld.gov.au/courts-calculator/calculator

In either case:

- ☐ I have calculated the amount of the interest up to the date of this application as \$
Amount owing
%
Interest rate p.a.
Dates to
Period interest payable

Sub-total on which the filing fee is calculated: \$

I also want to claim these amounts:

- ☐ the filing fee \$ 127.50
- ☐ bailiff / sheriff / service fee (to serve the documents on your behalf) \$ 53.40
- ☐ [Australian Securities and Investment Commission](#) (ASIC) business name extract or company extract search fee \$

The total amount of my claim is: \$ 3,680.90

John Gee
Person making affidavit to sign

Karen Jones
Person taking the affidavit to sign (qualified witness)

Sample 4: Request for decision by default – minor civil dispute – minor debt cont'd

QCAT

Queensland Civil and Administrative Tribunal

CHECKLIST

- ☒ I have completed all relevant parts to this form.
- ☒ I have completed Part B (or I have already filed a Form 9 - Affidavit of service)
- ☒ I have completed Part C and Part D.
- ☒ I have attached all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.
- ☒ I am ready to proceed with this application.

WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

SIGNATURE

Sworn/Affirmed by (insert full name):

John Edward Gee

On the 29 / 01 / 2022 at (place) Brisbane
Day Month Year

John Gee

Person making affidavit to sign

In the presence of:

Karen Jones

Person taking the affidavit to sign (qualified witness)

Commissioner for Declarations/Solicitor/
Justice of the Peace

Karen Anne Jones

Print name

Lodgement Details

Deliver to:

Queensland Civil and
Administrative Tribunal
Floor 11, 259 Queen Street
Brisbane Qld 4000
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses

Mail to:

Queensland Civil and
Administrative Tribunal
GPO Box 1639
Brisbane Qld 4001
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses



Queensland Civil and Administrative Tribunal

INSTRUCTIONS FOR COMPLETING FORM 6

Request for decision by default – minor civil dispute – minor debt

When can you make a request for a decision by default?

- You can only make a request if:
 - no response has been filed within 28 days of service of your application on the respondent; and
 - your claim is for a fixed amount of money.
- You cannot get a decision by default if your application, or any part of it, is for:
 - restitution;
 - a declaration that a term of a contract is of no effect;
 - avoidance of a policy of insurance under the statutory insurance scheme; or
 - an order for rectification or completion of defective or incomplete work.

To apply for a decision by default you must provide:

- affidavit evidence that the application has been served on the respondent;
- evidence that the respondent has not responded to the application within the time frame allowed;
- details of the amount claimed in default and that there is an amount outstanding.

Important note: Do not use this form if you are applying for an electronic decision by default.

Supporting documents

You must attach all supporting documents to this application if you have not already filed the documents with the [Form 3 – Application for minor civil dispute – minor debt](#).

If you had a verbal agreement, you will need to file an affidavit providing evidence of this agreement (if you haven't already filed it).

Filing requests for decisions by default

You must file the request at the same Magistrates Court or QCAT registry at which you filed the original application. No extra copies of the request and attachments are needed. You should make a copy for yourself.

Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given.

Information about where to seek legal advice is available at [Where to seek legal advice](#).

Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the Queensland Civil and Administrative Tribunal Act 2009. We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

Sample 5: Witness hearing notices: application for notice requiring witness to attend a hearing or produce document/thing at a hearing

QCAT

Queensland Civil and Administrative Tribunal

Form Number 38 (version 3)
Queensland Civil and Administrative Tribunal Act 2009 (Qld) (section 97)

For office use only	
Case number	
Date	
Registry	
Fee	
Date paid	
Receipt number	

Witness hearing notices: application for notice requiring witness to attend a hearing OR produce document/thing at a hearing

Application fees apply – visit qcat.qld.gov.au/resources/fees-and-allowances for details

Part A	APPLICATION AND MATTER DETAILS
Applicant <i>(the party who made the original application)</i>	
<input type="text" value="John Edward Gee"/>	
Respondent <i>(the party against whom the original application was made)</i>	
<input type="text" value="Mary Johanssen"/>	
QCAT case number	
<input type="text" value="MCD789-21"/>	
Part B	DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL
1. Requiring a person to attend the hearing	
I/We the applicant(s)/respondent(s) <input type="text" value="John Edward Gee"/>	
<i>(insert name of party applying)</i>	
apply to the Tribunal for a notice to:	
<input checked="" type="checkbox"/> require a person to attend the hearing/proceeding before the Tribunal at <input type="text" value="10.30"/> am/pm,	
on the <input type="text" value="23"/> / <input type="text" value="03"/> / <input type="text" value="2022"/>	
<i>Day Month Year</i>	
Please provide details of the person you want the Tribunal to require to attend:	
Name	
<input type="text" value="Fred Jones"/>	
Postal Address	
<input type="text" value="60 Apple Street"/>	
Suburb <input type="text" value="Holland Park"/> State/Territory <input type="text" value="Qld"/> Postcode <input type="text" value="4121"/>	
Is the person a child? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Form 38 – Application for notice requiring witness to attend or produce a document of thing

Page 1 of 3

Sample 5: Witness hearing notices: application for notice requiring witness to attend a hearing or produce document/thing at a hearing cont'd

QCAT

Queensland Civil and Administrative Tribunal

Part B DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL (continued)

Please provide the reasons why the person is required to attend the hearing to give evidence:

Mr Fred Jones is a former flatmate who witnessed the agreement on 2 February 2021 that was entered into between the respondent and myself.

2. Requiring a person to produce a document or other thing

I/We the applicant(s)/respondent(s)
(insert name of party applying)

apply to the Tribunal for a notice to:

☐ require a person to produce a document or other thing for the Tribunal at am/pm,
on the / /
Day Month Year

Please provide details of the person you want the Tribunal to require to produce a document/thing:

Name

Postal Address

Suburb State/Territory Postcode

Is the person a child? ☐ Yes ☐ No

Please provide the details of what document/thing:

Please provide the reasons why you are requesting the witness to produce the document/thing and explain why it may be relevant to the proceeding:

NOTE: If the Tribunal requires the attendance of a person, or the production of a document or other thing, you will be required to pay an amount prescribed by regulation to the recipient of the order.

Sample 5: Witness hearing notices: application for notice requiring witness to attend a hearing or produce document/thing at a hearing cont'd

QCAT

Queensland Civil and Administrative Tribunal

CHECKLIST

- ☒ I have completed all of the questions on this application.
- ☒ I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- ☒ I have attached all relevant documents.
- ☒ I am aware that the prescribed fee must be paid at time of lodgement.
- ☒ I acknowledge that I may be required to pay conduct money and witness expenses.
- ☒ I am ready to proceed with this application.

WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

Sign and date here (if more than one applicant is named, then all must sign)

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

14/02/2022

Print your name/s here

John Edward Gee

Lodgement Details

Deliver to:	Mail to:
Queensland Civil and Administrative Tribunal Floor 11, 259 Queen Street Brisbane Qld 4000 OR your local Magistrates Court. To find your local courthouse visit: courts.qld.gov.au/contacts/courthouses	Queensland Civil and Administrative Tribunal GPO Box 1639 Brisbane Qld 4001 OR your local Magistrates Court. To find your local courthouse visit: courts.qld.gov.au/contacts/courthouses

Sample 5: Witness hearing notices: application for notice requiring witness to attend a hearing or produce document/thing at a hearing cont'd



Queensland Civil and Administrative Tribunal

INSTRUCTIONS FOR COMPLETING FORM 38

Hearing notices: application for notice requiring witness to attend a hearing or produce document/thing at a hearing

Use this form if you believe a person should attend your hearing to provide evidence or produce documents, you can apply to QCAT to order this person to attend or produce the documents.

Only QCAT can order a person to attend a hearing or to produce documents by issuing an attendance notice. QCAT may charge a fee for this service.

If a person is willing to attend or produce a document you do not need to apply to QCAT.

Pursuant to section 97 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) the Tribunal may, by written notice, require a person to:

- attend at a stated hearing of a proceeding to give evidence; or
- produce a stated document or other thing for the Tribunal at a hearing of a proceeding.

You must state in the application form the reasons why you are requesting the document or information, or why the person is to be required to attend the hearing.

Important note: this application should be made with sufficient time before a Tribunal hearing date. The Tribunal may not issue the notice to produce or attend if there is insufficient time before a hearing for a notice to be issued. For example, applications should be submitted at least seven (7) days before the hearing.

Copies of the application and providing copies to other parties

For a minor civil dispute, two (2) copies must accompany the application form and all attachments.

For all other cases, except some children's or guardianship matters, three (3) copies must accompany the application form and all attachments. For some children's and guardianship matters, additional copies are not required.

When there is more than one respondent, extra copies of the application form and attachments are required for each additional respondent.

You must give a copy of the application to all parties to the proceeding as soon as practicable, and no later than seven (7) days after the application is filed. Visit the QCAT website for information [on serving applications and documents](#).

Fees

You must pay the prescribed application fee when lodging your application. Visit the QCAT website for [application fees](#).

Cash payments can be made in person at the QCAT Brisbane registry or your local Magistrates Court.

Cheque or money order payments are to be made out to 'Department of Justice and Attorney-General'.

Credit card payments can be made by submitting a [Credit card payment authorisation form](#) with your application and can only be accepted by post or in person.

You may apply to QCAT for a waiver of the fee on the grounds of financial hardship. To apply, you

Sample 5: Witness hearing notices: application for notice requiring witness to attend a hearing or produce document/thing at a hearing cont'd

QCAT

Queensland Civil and Administrative Tribunal

MUST complete and lodge [Form 49 - Application for fee waiver or appeal fee reduction by reason of financial hardship](#). If you are eligible for a waiver you will not be required to pay the fee.

Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

Legal words and phrases explained

We have described these words as we use them in this guide. If you are still not sure what a certain term means, get legal advice.

Adjudicator — a decision maker of the Queensland Civil and Administrative Tribunal.

Affidavit — a statement sworn under oath in the presence of a commissioner of declarations, justice of the peace or a lawyer.

Affirm (affirmation) — a spoken declaration where you promise to tell the truth when giving information or evidence to the tribunal or writing it in an affidavit. You can make an affirmation if you do not want to swear an oath on a Bible or other sacred book.

Applicant — a person who makes an application to the tribunal.

Contract — an agreement between two people, which the law recognises as legally binding.

Dispute resolution — a procedure designed to resolve disputes between people. It usually involves people working out their difference in a non-court setting with an independent mediator helping them to come to an agreement.

Evidence — the proof needed to support your side of the story. Evidence is usually given verbally in the tribunal.

Filing documents — see Lodging documents.

Hearing —where evidence is given to the tribunal from all people involved in a case and a decision is made.

Justice of the peace — a person recognised by law who helps with the legal process by witnessing documents and other duties. This is the person you must ask to witness you signing your affidavit.

Legal costs — the costs involved in taking a case to the tribunal, such as the costs of lawyers and the cost of filing documents with the tribunal.

Lodging documents — the process where documents are received and accepted by the tribunal. The person lodging the documents may need to pay an application fee. Usually the tribunal will stamp its seal on the filed document.

Magistrate — the name for the decision maker in the Magistrates Court. You call the magistrate ‘Your Honour’.

Magistrates Court — the Magistrates Court deals with civil claims up to \$150,000.

Mediation — a dispute resolution process run by an independent third person, who helps people to reach agreement through the process of discussion and negotiation, without entering into the content of the dispute.

Member — a decision maker of the Queensland Civil and Administrative Tribunal.

Oath — ‘taking the oath’ means swearing on the Bible or other sacred book that you will tell or have told the truth. If you do not believe in the Bible or other sacred book, you can affirm that the content of the affidavit is true.

Order — an order is made by the tribunal requiring a person to do something, eg repay a debt.

Party — a person involved in the dispute, eg the applicant (you) and the respondent.

Process server — a person who delivers or ‘serves’ tribunal documents by handing them to the person concerned.

Respondent — the person or business you have a claim against.

Served — the process where a person is presented with official tribunal documents.

Queensland Civil and Administrative Tribunal (QCAT) — a tribunal dealing with minor debts of \$25,000 or less, disputes of \$25,000 or less between consumers and traders, or traders and traders, motor vehicle property damage claims, tenancy disputes and disputes under the *Manufactured Homes (Residential Parks) Act 2003*.

Trader — a person, or business entity, who carries on a business of supplying goods or services and is not regarded as a professional (for example, doctors, dentists and lawyers are professionals).

Witness — a person who saw or heard something about your case and is called to give this evidence before the tribunal.

[illegible]

[illegible]

[illegible]

Your local Legal Aid Queensland office

Brisbane

44 Herschel Street
BRISBANE Q 4000

Bundaberg

3rd Floor
WIN Tower
Cnr Quay & Barolin Streets
BUNDABERG Q 4670

Caboolture

Ground Floor
Kingsgate
42 King Street
CABOOLTURE Q 4510

Cairns

Level 2
Cairns Square Complex
42-52 Abbott Street
CAIRNS Q 4870

Inala

Level 1
Inala Commonwealth Offices
20 Wirraway Parade
INALA Q 4077

Ipswich

Level 7, 117 Brisbane Street
IPSWICH Q 4305

Mackay

Ground Floor
17 Brisbane Street
MACKAY Q 4740

Maroochydore

Ground Floor
M1 Building
1 Duport Avenue
MAROOCHYDORE Q 4558

Mount Isa

6 Miles Street
MOUNT ISA Q 4825

Rockhampton

Ground Floor
35 Fitzroy Street
ROCKHAMPTON Q 4700

Southport

Level 2
7 Bay Street
SOUTHPORT Q 4215

Toowoomba

1st Floor
154 Hume Street
TOOWOOMBA Q 4350

Townsville

Level 4
Northern Securities Building
22 Walker Street
TOWNSVILLE Q 4810

Woodridge

1st Floor, Woodridge Place
Cnr Ewing Road and
Carmody Street
WOODRIDGE Q 4114



For more information about our services visit legalaid.qld.gov.au
or phone 1300 65 11 88 or 1300 650 143 (Aboriginal and Torres Strait Islander Information Line)

