

Consumer and trader disputes

Consumer disputes involve disputes against another person, trader or company arising out of a contract for the supply of goods and services, valued up to and including \$25,000.

Goods include, for example:

- food
- clothes
- appliances
- furniture.

Services include, for example:

- repairing a defect in a motor vehicle
- car maintenance
- meals served in restaurants
- a haircut by a hairdresser.

If your dispute is against another person, trader or company and is about a fixed or agreed sum of money valued up to and including \$25,000 for example, an unpaid invoice or wages then you may have a debt dispute.

See the **QCAT debt disputes fact sheet** for more information.

Visit the QCAT website for information on **dividing fence and property damage disputes**.

Resolving your dispute

It is recommended that you try and resolve your dispute directly with the other party by contacting them, holding a face-to-face meeting or writing to them.

If you can reach an agreement you should write to the other party confirming the agreement. It is recommended that all parties sign the agreement and keep a copy.

If however, you are unable to agree you can choose to invite the other party to attend mediation. Mediation is a way of settling a dispute without legal action.

The Department of Justice and Attorney-General provides a free mediation service through its Dispute Resolution Branch. During mediation an independent person sits with both parties to assist them in reaching an agreement.

Or you can apply to QCAT to resolve your dispute.

Making an application in relation to a consumer or trader dispute

Complete and lodge Form 1 - Application for a minor civil dispute – consumer disputes.

You can find and lodge these application forms at QCAT's Brisbane office or at your local Magistrates Court (excluding the Brisbane Magistrates Court). The forms are also available on QCAT's website.

When lodging a consumer dispute against a trader or company, it is very important that their correct business details including their full name and address are completed on the application form. This ensures you take action against the right organisation.

Contact the Office of Fair Trading for business name information or the Australian Securities and Investment Commission (ASIC) for company information. A search fee may be charged.

Claims must be lodged within six years of the incident happening.

What happens next?

Once your application and forms have been received QCAT will review the information you provided.

QCAT will return to you copies of your application and forms which have been stamped with the QCAT seal.

You must then deliver (serve) a copy of the stamped documents to the other party. You may serve by post or use the services of a Magistrates Court bailiff, commercial agent or process server to serve the documents on your behalf.

All parties will then receive a notice to attend mediation including the date, time and location of mediation. The aim of mediation is to get all parties to reach an agreement.

If no agreement is reached at mediation, generally the matter will proceed to a hearing and a final decision will be made.

Counter applications

The other party may make an application for the same dispute. For example you may claim they sold you a damaged product and they may claim that the product when sold to you was clearly marked as being slightly damaged.

To make a counter application against the original application, complete and lodge Form 8 – Minor civil dispute - counter-application.

Enforcing QCAT's decision

Even if QCAT makes a decision in your favour you may need to enforce the order, for instance if the other party ignores QCAT's decision.

You can seek enforcement at any Magistrates Court. Enforcement action might mean you get an order to sell the other party's property to satisfy the debt.

Before starting an action you should consider if the other party has any income or assets to pay the debt. If they do not you may not be successful in enforcing your order.

Contact information

QCAT

Address: Level 9, Bank of Queensland Centre,
259 Queen Street, Brisbane, 4000
Post: GPO Box 1639, Brisbane Qld 4001
Phone: 1300 753 228
Email: enquiries@qcat.qld.gov.au
Website: www.qcat.qld.gov.au

The contact details of your local Magistrates Court, are available in the phone book or at www.courts.qld.gov.au.

The contact details for Magistrates Court bailiffs, commercial agents and process servers are also available in the phone book.

Dispute Resolution Branch

Phone: 07 3239 6269 or 1800 017 288 (toll free outside Brisbane)
Website: www.justice.qld.gov.au

Australian Securities and Investment Commission (ASIC)

Phone: 1300 300 630
Website: www.asic.gov.au

Office of Fair Trading

Phone: 13 13 04
Website: www.fairtrading.qld.gov.au

Bailiff-Sheriff Australia

Phone: 07 3247 4568
Website: www.bailiff-sheriffaustralia.com.au