

Debt disputes

Debt disputes involve disagreements with another person, business or company about a fixed or agreed sum of money, up to and including \$25,000.

Examples of a debt dispute

- an unpaid invoice or account
- rent arrears, other than arrears of rent for a residential tenancy
- work done and/or goods supplied with the cost having been agreed beforehand
- money loaned and not repaid
- wages owing
- an IOU
- a dishonoured cheque.

Resolving a debt 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.

Alternatively you can apply to QCAT to resolve your dispute. You can also apply to the Magistrates Court however resolving your dispute in the courts may take longer and cost more than using QCAT.

You may have a consumer, trader or other minor civil dispute if your claim involves a dispute against another person, trader or company and:

- is arising out of a contract for the supply of goods and services, or
- involves the repair of a defect in a motor vehicle, or
- involves damage to property caused by or from the use of a motor vehicle, and
- is valued up to and including \$25,000.

See the **QCAT consumer and trader disputes fact sheet** for more information.

Making an application in relation to a debt dispute

Complete and lodge Form 3 - Application for a minor civil dispute – minor debt.

You can find and lodge 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.

You can make a claim against another person who lives interstate if the debt occurred in Queensland.

When lodging a debt 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.



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 use the services of a Magistrates Court bailiff, commercial agent or process server to serve the documents on your behalf.

Responding to the application

On being served the stamped documents, the other party may file a response to the original application. You can do this by completing and lodging Form 7 Response to minor civil dispute – minor debt.

In a response, the other party outlines facts which try to disprove the original claims. For example, you stated that "the contract is a written document dated 1 July 2008", the other party may say "I deny that the contract was a written document dated 1 July 2008 because the copy of the contract is signed and dated 1 July 2007".

The other party has 28 clear days in which to file a response from the time they are served. It is up to the other party to send you a copy of the sealed response after it is lodged at QCAT.

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.

When no response is received

If the other party fails to lodge a response within 28 days of being served with the application, or they do not resolve the dispute to your satisfaction, QCAT can proceed with the application.

You can apply to QCAT to make a decision by default by lodging Form 6 - Request for decision by default – minor civil dispute – minor debt.

A decision about your case will be made from the paperwork received and you will not be required to attend mediation.

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