QCAT
Queensland **Civil and Administrative Tribunal**

Form Number 6 (version 4)
Queensland Civil and Administrative Tribunal Rules 2009 (rule 60)

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

Refer to the attached instructions prior to filling out this form.

This form must be filed at the registry where your application was filed.

For office use only	
Case number:	
Date filed:	
Registry:	

PART A APPLICANT'S AND RESPONDENT'S DETAILS

Applicant

Respondent

PART A MATTER DETAILS

Case number

Registry at which the original minor debt application was lodged.

DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

I want the tribunal to make a decision in default of the respondent filing a response to my application for payment of a debt or liquidated demand of money.

CHECKLIST

- ☐ I have completed all parts to this form
- ☐ I have completed and signed every page of Part B (or I have already filed a *Form 9 - Affidavit of service*)
- ☐ I have completed and signed Part C including the final page
- ☐ I have attached supporting documents where required
- ☐ I am ready to proceed with this application

PART B AFFIDAVIT OF SERVICE

PLEASE TICK THE APPLICABLE BOX

Note: If you (or another person) have already filed a Form 9 - Affidavit of service then you do not need to complete Part B.

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

☐ I rely on the affidavit of service as per Part B of this form *(please complete parts B and C)*.

PLEASE COMPLETE ALL DETAILS

I, _____

(insert full name of person making affidavit)

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

_____

_____ **Postcode** _____

state on oath / solemnly and sincerely affirm and declare:

On the DD / MM / 20YY at _____ am / pm,

I served _____

(insert name of person or entity/s served)

a copy of _____

(insert name of document/s)

filed on DD / MM / 20YY at the Queensland Civil and Administrative Tribunal

_____

(insert tribunal address)

AS FOLLOWS

(complete service details in the relevant parts below - sections B1, B2, B3, B4 and B5 as applicable)

PART B1 PERSONAL SERVICE

Note: personal service is required for applications for minor civil dispute - minor debt claims.

1. I delivered the copy to ☐ him ☐ her ☐ them

personally at *(insert address)*

_____

_____ **Postcode** _____

2. I identified the person served by _____

_____

_____

(insert means of identification)

_____ _____

Person making affidavit to sign *Person taking the affidavit to sign (qualified witness)*

PART B2 SERVICE OF A COMPANY

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

	Postcode	

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

	Postcode	

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

(insert method of service)

PART B3 OTHER SERVICE

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

(insert method of service)

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

(insert method of service)

PART B4 DOCUMENT SERVED

Please tick one of the following options:

☐ I have attached to this form a copy of the document served, or

☐ I have already filed the document which is named above in Part B.

PART B5 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.

Person making affidavit to sign	*Person taking the affidavit to sign (qualified witness)*

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

PART C AFFIDAVIT OF DEBT

I, _____

(insert full name of person making affidavit)

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

_____

_____ **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.

   (Complete the table below.) The amount of $ _____ remains owing to me.

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

5. I have this day spoken with _____

   (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.

   The amount of $ _____ remains owing to the applicant.

6. I have this day spoken with _____

   (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.

   (Complete the table below.) The amount of $ _____ remains owing to the applicant.

7. Table of payments (if applicable)

Date	Payment
Select Date	
Select Date	
Select Date	
Select Date	
Select Date	
Select Date	
Select Date	

_____ _____

Person making affidavit to sign *Person taking the affidavit to sign (qualified witness)*

DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

I want the tribunal to order the respondent to pay the amount of $
(Insert the amount owing as stated in Part C)

Date when the amount owing became due DD/MM/ 20YY

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: % 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.
You can ask for interest to be determined by the tribunal at the rate prescribed by practice direction. You may also refer to the interest calculator available at www.courts.qld.gov.au.

In either case:-

☐ I have calculated the amount of the interest up to the date of this application as $

I also want to claim these amounts:-

☐ the filing fee $

☐ CITEC Confirm service fee for electronic filing $

☐ bailiff / sheriff / service fee $

☐ Australian Securities and Investments Commission (ASIC) business name extract or company extract search fee $

The total amount of my claim is: $

SIGNATURE

Sworn (or **affirmed**) by *(insert full name)*

on DD / MM / 20YY at *(place)*

in the presence of:

Person making affidavit to sign

Person taking the affidavit to sign (qualified witness)

Print name

Commissioner for declarations / solicitor / justice of the peace

Instructions for completing

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:
  (a) no response has been filed within 28 days of service of your application on the respondent, and
  (b) 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:
  (a) restitution,
  (b) a declaration that a term of a contract is of no effect,
  (c) avoidance of a policy of insurance under the statutory insurance scheme, or
  (d) 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, that they have 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).

PART B AFFIDAVIT OF SERVICE

Please complete details of service of the application. You must complete all relevant sections of Part B and sign every page in the presence of a qualified witness.

Please note: Part B must be completed by the person who served the application on the respondent. If another person served the respondent then they must complete a *Form 9 - Affidavit of Service*. If you have already filed a *Form 9 - Affidavit of Service* proving service of the application then you do not need to complete Part B.

- You must deliver a copy of the application to the respondent personally. Refer to the *Queensland Civil and Administrative Tribunal Rules 2009* and QCAT practice directions for service requirements.
- Insert your full name and residential or business address or place of employment.
- If the entity served is not an individual then you must use the correct name, for example:
  - a company name, including the company's ABN or ACN. You must attach a copy of the ASIC Company Extract showing the company's registered office.

Instructions for completing *(continued)*

- a business name regardless of whether it is registered. Where the business has an ABN you must include this number. You must also attach a copy of the ASIC Business Name Extract showing the business' registered office.
- a State agency name, for example a Queensland Government department.

- If the respondent has an ACN or ABN then you must attach copy of an ASIC search showing the company name, ACN or ABN and the address for service.

PART C AFFIDAVIT OF DEBT DETAILS

- You must complete Part C and detail the amount outstanding with this application. The amount claimed must be the same as the *Form 3 - Application for minor civil dispute - minor debt*.
- You must provide all of the required information in Part C and sign in the presence of a qualified witness.

Interest

- You can claim interest at a rate specified under the contract or agreed between you and the respondent. You will need to prove that agreement.
- If the rate was in a contract, you will need to attach a copy, or evidence of that agreement to your application (if you haven't already filed it).
- If a rate has not been agreed or provided in the agreement, you can ask for interest at the rate prescribed by practice direction. You may also refer to the interest calculator available at www.courts.qld.gov.au

SIGNATURE

Each page of Part B (if completed) and Part C must be signed.

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

(a) a justice of the peace, commissioner for declarations or notary public under the law of Queensland, 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.

REQUESTS MUST BE FILED

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. However you should keep a copy for yourself.

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 – 100 penalty units.

YOUR INFORMATION

QCAT collects your contact details for the purposes of compliance with the *Queensland Civil and Administrative Tribunal Act 2009* in relation to proceedings in QCAT. QCAT may contact you to seek your assistance in research to assist in the evaluation of the operation of QCAT. You are not obliged to participate in feedback or surveys. If you do participate no identifying particulars will be published. QCAT will not disclose your contact details or any other personal information to a third party unless required by law.