

Instructions for completing

Request for a decision by default in matters other than minor civil dispute

When you can make a request for a decision by default

- You can **only** make a request if:
 - (a) no response and/or counter-application has been filed within the time allowed for a response and/or counter-application; 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) damages
 - (b) restitution
 - (c) a declaration that a term of a contract is of no effect
 - (d) avoidance of a policy of insurance under the statutory insurance scheme, or
 - (e) an order for rectification or completion of defective or incomplete work.
- You can claim interest at a rate specified under a 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 it to your application (if you haven't already filed it).
- 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).
- If a rate has not been agreed or provided in a contract, you can ask for interest at the rate prescribed by practiced direction. At the moment, the prescribed rate is 10% p.a. from the day the amount claimed became due to the day of the decision by default.
- You must show your calculations for claiming interest.
- If you instructed a lawyer to make the application and request a default decision, you can seek legal costs in accordance with the scale of costs applying in the Magistrates Court under the Uniform Civil Procedure Rules, rule 691. As an example, at the moment you can seek \$600 for instructions to make an application and \$140 for obtaining a default decision for a dispute involving an amount between \$2,501 and \$5,000.
- You will need to prove that you have served a copy of the application on the respondent by filing an affidavit from the person who served the application.
- If the respondent is a company, attach a copy of the company search as evidence of the address for service

Request may be lodged

You must lodge the request for a decision by default at the courthouse or QCAT registry at which you filed the original application.

Form Number 37 (version 2)
Queensland Civil and Administrative Tribunal Rules 2009 (rule 60)

Request for a decision by default in matters other than minor civil dispute

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

For office use only

Case number:

Date:

Registry:

Sent to:

Fee paid:

Rec no:

PART A APPLICANT'S AND RESPONDENT'S DETAILS

Applicant

Respondent

Case number (if known):

Registry

PART B DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

1. 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.

PART B DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

2. I want the tribunal to order the respondent to pay to me the amount of \$
(please tick the boxes if you are also seeking payment of the following costs to you)

plus the application fee \$

plus legal costs – instructions to make application and obtaining decision by default \$

plus interest at the rate of
insert interest rate either:

• specified under a contract or agreement, or

• if no agreement, the rate prescribed by practice direction: %

No. of days from date money due / / (date)

to date of this application for decision by default (days)

Amount owing x interest rate x $\frac{\text{no. days } \input{type="text"}}{365}$ = \$

Total \$

PART C YOUR REASONS FOR SEEKING ORDERS FROM THE TRIBUNAL

Please provide details where prompted below.

1. Notice of the application was given to the respondent on / / as shown by

the affidavit of
(name of person who served the application)

filed on / / (date).

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

3. A response has not been given to me at the address for notice provided in my application. I have filed an affidavit proving that the respondent has had notice of this application in the tribunal (attach a company search if applicable).

4. The respondent has not paid the amount claimed by me as shown by my affidavit filed with this request.

5. I instructed a lawyer to make the application against the respondent and to obtain the default decision (if applicable).

PART C YOUR REASONS FOR SEEKING ORDERS FROM THE TRIBUNAL

(continued)

If you are also seeking the payment of interest, please tick the appropriate box below.

- I am claiming interest under section 14 of the QCAT Act at the rate prescribed by practice direction.
- I am claiming interest at the rate agreed with the respondent by way of contract or verbal agreement.

Note that if you are claiming an agreed rate, you will need to provide evidence of this contract or verbal agreement in an affidavit.

PART D CHECKLIST AND SIGNATURE

- I have completed all questions on the form according to the instructions
- I have attached relevant supporting documentation
- I am ready to proceed with this request.

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.

SIGN AND DATE HERE

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

Applicant/s sign here

Date

If more than one applicant is named all must sign the application.