

# Enforcing a Federal Circuit Court order in NSW (New South Wales)

## This fact sheet covers:

- ▶ [Examination Notice](#)
- ▶ [Examination Order](#)
- ▶ [Writ for Levy of Property](#)
- ▶ [Garnishee Order](#)

## 1. How to use this factsheet

This factsheet may help you if you live in NSW and want to enforce a Federal Circuit Court (FCC) order. A FCC order is also called a 'judgment'.

You should read through all the steps below and then decide on the best method to enforce your judgment. This factsheet has examples of the completed forms that you need to use for each method.

Once you have decided on the best method, you can review the additional resources and download copies of the necessary documents.

**Note:** If you have an FCC judgment you are able to use the same enforcement methods that are used in the State or Territory in which the judgment was made. Therefore, some NSW court forms can be used in the FCC for enforcement. This factsheet will tell you when you can use a NSW court form and when you need to use a FCC form. In NSW court forms the applicant is called the 'plaintiff' and the respondent is called 'the defendant'.

### NOTE

We have outlined in this self-help resource the most simple and inexpensive methods of enforcing a judgment debt for Small Claims. Please note there may be other enforcement methods available to you.

You may be asked to file a Notice of Motion for some of the below forms. These can be found on the Uniform Civil Procedure Rules (UCPR) NSW [website](#) and completed using the information in the other forms.

This factsheet was made in conjunction with Redfern Legal Centre and Legal Aid NSW.

## 2. Examination Notice

An Examination Notice is a way of getting financial information about the person who owes you money under the judgment (called the 'judgment debtor'). If the judgment debtor does not answer the Examination Notice, you can then apply to the Court for an Examination Order.

It is a good first step to send a Letter of Demand (see the template on below on page 3) with an Examination Notice to try and obtain information that can help you decide which enforcement method to use.

You do not need to go through the examination process if you already have information about the judgment debtor that you can use to enforce the judgment. For example, if you already know what bank they use, you can apply for a garnishee order straight away.

### 2.1 Forms

- If the judgment debtor is an individual complete [Form 51](#) – Examination Notice – Individual.
- If the judgment debtor is a company complete [Form 52](#) – Examination Notice – Corporation.
- The full Examination Notice will include the 3-page Financial Statement, which is not shown below. The 3-page financial statement is for the judgment debtor to complete after you send them the form.

### 2.2 Filing and service

You can send an Examination Notice directly to the judgment debtor without needing to file it or have it stamped by a Court. This means you do not have to pay a filing fee. You should keep a copy of the Examination Notice, Letter of Demand and (if sent via post), receipt of delivery. This will be useful if you need to prove to the Court that you have taken this step.

#### NOTE

You can use [this](#) resource can help you check if the judgment debt is still registered before proceeding with enforcement and what to do if they aren't.

### 2.3 Next steps

You need to give the judgment debtor at least 28 days to respond to any Examination Notice. You should post the Examination Notice to the judgment debtor and allow 4 days for the postage, before you start counting the 28 days. You can send the Examination Notice by email if you and the judgment debtor have agreed that documents can be served by email.

If the judgment debtor responds and tries to negotiate a payment arrangement, this does not stop the deadline to comply with the Notice. This means you can still apply for an Examination Order as explained below if no agreement is reached.

[INSERT YOUR ADDRESS]

[INSERT DATE]

[INSERT JUDGMENT DEBTOR'S ADDRESS]

Dear [INSERT],

**[INSERT PROCEEDING NAME] – [INSERT PROCEEDING NUMBER]**

I refer to the above matter and confirm that on [insert date] the [Court] ordered that you pay me \$[amount] by [insert the date when the judgment should be paid]. I **enclose** a copy of the order.

I confirm that I have not received payment as ordered. I now request that you complete and return to me the attached Examination Notice and Financial Statement within [number of days] of receipt of this letter.

If you do not complete and return the Examination Notice within this time, I may apply to the Court for an Examination Order against you.

I reserve all my rights to pursue enforcement of the judgment debt without further notice.

Yours sincerely,

[Your name]

## EXAMINATION NOTICE – INDIVIDUAL

### COURT DETAILS

Court Federal Circuit Court of Australia  
List Small Claims List (if applicable)  
Registry Sydney  
Case number SYGxx/20xx

### TITLE OF PROCEEDINGS

Plaintiff [Your name]  
Defendant [The Respondent's name]

### ISSUING DETAILS

Issued for [Your name], plaintiff (judgment creditor)  
Contact name and telephone [Your name] [Your number]  
Contact email [Your email]

### NOTICE TO JUDGMENT DEBTOR

[The Respondent's name], defendant (judgment debtor)

Address [Insert the judgment debtor's address]

The court gave judgment against you on [insert date from order]. The judgment is still unsatisfied.

You must:

- Complete the financial statement at the end of the document about your current income, assets, and liabilities.
- Make copies of the documents and things that you have been asked to produce and attach the copies to the examination notice.
- Sign the examination notice.
- Send the signed examination notice and the copies of the documents and things to the judgment creditor at the judgment creditor's address for service by [insert a date at least 28 days from the day after you send this document by registered post].

If you do not comply, you may be ordered to attend court to provide this information to the court. If you are required to attend court to provide this information, additional costs will be incurred.

You can get further information on how to respond to this notice from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).
- The court registry for limited procedural information.

## **SIGNATURE**

Signature of or on behalf of party  
if not legally represented

Capacity

Plaintiff

Date of signature

## EXAMINATION NOTICE – CORPORATION

### COURT DETAILS

Court Federal Circuit Court  
Registry Sydney  
Case number SYGxx/20xx

### TITLE OF PROCEEDINGS

Plaintiff [Your name]  
Defendant [The Respondent's name]

### ISSUING DETAILS

Issued for [Your name], plaintiff (**judgment creditor**)  
Contact name and telephone [Your name] [Your number]  
Contact email [Your email]

### NOTICE TO JUDGMENT DEBTOR

[The Respondent's name], defendant (**judgment debtor**)

Address [Use the registered address from ASIC (Australian Securities and Investments Commission)]

The court gave judgment against you on [insert date of the order]. The judgment is still unsatisfied.

You must:

- Complete the financial statement at the end of the document about your current income, assets, and liabilities.
- Make copies of the documents and things that you have been asked to produce and attach the copies to the examination notice
- Sign the examination notice.
- Send the signed examination notice and the copies of the documents and things to the judgment creditor at the judgment creditor's address for service by [insert a date at least 28 days from the day after you send this document by registered post].

If you do not comply, you may be ordered to attend court to provide this information to the court. If you are required to attend court to provide this information, additional costs will be incurred.

You can get further information on how to respond to this notice from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).
- The court registry for limited procedural information.

## **SIGNATURE**

Signature of or on behalf of party  
if not legally represented

Capacity

Plaintiff

Date of signature

### 3. Examination Order

If the judgment debtor does not comply with the Examination Notice within 28 days, or in the amount of time you specified in the Notice, you can file an order for examination in the Federal Circuit Court.



#### Tip - negotiating settlement

An Examination Order may encourage the judgment debtor to negotiate a settlement. If this occurs, you could negotiate an agreement such as an upfront lump sum payment, followed by instalment payments in writing and have that agreement filed in Court before the examination.

Agreeing on instalments may increase your chances of being paid in full as it allows the judgment debtor to pay down the debt over time.

#### 3.1 Forms

To seek an order for examination you will need to complete:

1. An [Application in a Case form](#) from the Federal Circuit Court outlining the orders you are seeking.
2. An [Affidavit](#) outlining the steps you have taken to enforce the judgment, any payments that have been made, and when you sent the Examination Notice.
3. Attach a copy of the Examination Notice that you previously posted to your employer to the Affidavit; and
4. A NSW UCPR [Form 54 – Examination Order](#).

#### NOTE

Justice Connect has a fact sheet on [how to prepare an affidavit](#).

The information usually found in the UCPR Notice of Motion is taken out and put into the Application in a Case and the Affidavit. This makes it suitable for filing in the FCC. Examples of each of these completed documents are below. You should amend them to reflect your case and circumstances.

#### 3.2 Filing and service

Once you have completed the forms, you will need to file the signed documents with the FCC. You should not have to pay for filing, if you are in the Small Claims Division.

After the forms have been stamped by the Court, you will need to personally serve a copy of the forms on the judgment debtor at least 14 days before they are required to attend the examination. This date will be listed on the front of the documents.

#### NOTE

Justice Connect has a fact sheet on [how to serve documents](#).

#### 3.3 What happens at the examination hearing?

Both you and the judgment creditor must attend the Court for the examination on the date advised by

the Court. The judgment debtor can be asked questions about their financial status and must answer all questions under oath. If they refuse to do so, they may be charged with contempt of court.

You will be responsible for asking the questions though the Registrar may assist if they think it appropriate. Some possible questions to ask are:

- Are you currently working? If so, how much do you earn?
- Who is your employer?
- Do you own a home or investment property? How much is it worth? Do you have a mortgage?
- Do you own any other assets like cars, motorbikes, boats? What are the make and model?
- Do you have any shares?
- Do you have any credit card debts, personal loans?
- What bank/s accounts do you have?

At the hearing, the Court may:

- Orally examine the judgment debtor as to their financial circumstances.
- Order the judgment debtor to supply the Court with further evidence as to their financial position.
- Make an order for the judgment debtor to pay the judgment debt by instalments.
- Issue another enforcement method.
- Issue a warrant for non-attendance by the judgment debtor.
- Make an order that a party pay any legal costs (if incurred).

**FEDERAL CIRCUIT COURT OF  
AUSTRALIA**

**REGISTRY: SYDNEY**

File number: SYGxx/20xx
COURT USE ONLY
Court Location
Court date
Court time

[Your name]  
Applicant

[The Respondent's name]  
Respondent

## APPLICATION IN A CASE

This application is made by (name): [Your name]

### Court date

This application is listed for hearing at the Court location on the date and at the time specified in the 'Court Use Only' box above.

All parties or their legal representatives should attend this hearing, at which the Court may hear and determine relevant issues or may give directions for the future conduct of the proceeding.

Filed on behalf of	[Your name]	- Applicant		
Prepared by	[Your name]	- Applicant	Lawyer's code	N/A
Name of law firm	N/A			
Address for service in Australia	[Your address]			
	State		Postcode	
Email	[Your email]		DX	N/A
Tel	[Your number]	Fax	N/A	Attention

-----  
(for) Registrar

Date: ...../...../.....

**Orders sought**

1. That the Respondent attend court to be examined as to whether any and, if so, what debts are owing to the Respondent and whether the Respondent has any and, if so, what other property or other means of satisfying the judgment.
2. The Respondent produce the documents listed in the attached affidavit.
3. Such further or other orders as the Court sees fit.

**Signature of person applying or lawyer**

-----  
 Signed by (print name)  
 person applying or lawyer for person applying  
 Date: ...../...../.....

**Addresses of parties** (List the names and addresses for service of all the other parties to the proceeding and the name and address of any other person intended to be served with the application in the case.)

<b>Name</b>	<b>Address</b>
[Insert Respondents' name]	[Use the same address you have previously used]
[Insert name of Director (if applicable)]	

Form approved by the Chief Judge pursuant to Subrule 2.04(1A) for the purpose of Subrule 4.08(1).

**FEDERAL CIRCUIT COURT OF AUSTRALIA**

**REGISTRY: SYDNEY**

File number: SYGxx/20xx
COURT USE ONLY
Court Location
Court date
Court time

[Your name]  
Applicant

[The Respondent's name]  
Respondent

**AFFIDAVIT**

Filed on behalf of	[Your name] - Applicant		
Prepared by	[Your name] - Applicant	Lawyer's code	N/A
Name of law firm	N/A		
Address for service in Australia	[Your address]		
	State	Postcode	
Email	[Your email]	DX	N/A
Tel	[Your number]	Fax	N/A
		Attention	

**Name of deponent:** [Your name]

**Date affirmed:** ...../...../.....

I, [Your name] of [Insert address, including State or Territory] and [Insert occupation] affirm:

1. I am the judgment creditor.
2. No payments have been made to reduce the judgment debt.
3. The amount payable under the judgment (including any prior enforcement costs but excluding interest after judgment under section 77 of the *Federal Circuit Court of Australia Act 1999* (Cth)) as at the date of this affidavit is \$[amount owed not including interest].
4. Interest payable under section 77 of the *Federal Circuit Court of Australia Act 1999* (Cth) is \$[amount of interest].

5. The amounts claimed for costs in respect of this writ are:
  - a. Service fees (if incurred) \$
  - b. [Other e.g. filing fees if you had to pay for filing] \$
  - c. TOTAL \$
6. An Examination Notice was served on the Respondent on [date]. [Outline any additional steps made to bring the Examination Notice to the attention of the Respondent and any acknowledgement by the Respondent that they knew about the Examination Notice].
7. The Respondent has not completed or returned the Examination Notice.
8. The Respondent has not provided sufficient answers or documents, in response to the Examination Notice.
9. I believe that the Respondent lives or works at the following address: [the address you served the original court documents on or the current address for service].
10. The judgment is not stayed by an order of the court, by an instalment order or by a suspension under sections 86 or 90 of the *Legal Profession Uniform Law Application Act 2014* that has not been ended.

## 4. Writ for levy of property

A writ for the levy of property is an order for a Sheriff to take and sell, at auction, property belonging to the judgment debtor. The money from the sale of the goods is then used to pay the judgment debt.

If your claim is in the Small Claims division, you can only apply for a writ for the levy of property against personal property but not land such as a judgment debtor's house.

### 4.1 Forms

To apply for a writ for the levy of property, you will need to file:

1. an [Application in a Case form](#) from the FCC;
2. A supporting [Affidavit](#) outlining the outstanding amount and location(s) of the property you are seeking to have seized; and
3. a NSW UCPR [Form 66 – Writ for the Levy of Property](#).

The information usually found in the UCPR Notice of Motion is taken out and put into the Application in a Case and the Affidavit. This makes it suitable for filing in the FCC.

If you have additional information that may help the Sheriff, like the type of property or if the judgment debtor has dogs, you can copy the table at the bottom of Page 4 of the [Form 65](#) at the end of your affidavit (as shown below). Examples of each of these completed documents are below. You should amend them to suit your case and circumstances.

### 4.2 Filing and service

Once you have completed the forms, you will need to file the documents with the FCC. They will be stamped by the Court Registrar. You can then send a copy of the documents to the Sheriff.

You do not need to serve the judgment debtor with a copy of the writ. When you provide the writ to the sheriff, you will need to pay the sheriff's execution fee.

In addition to the filing fee, the Sheriff will charge:

- o 3% of the money made from auctioning the goods; and
- o any related costs, for example, towing a car.

You can add these amounts to the judgment debt.

### 4.3 Seizure of property

Once the forms have been filed, the sheriff will attend the judgment debtor's address to seize their personal goods to satisfy the judgment debt owed to you. The sheriff must also give a copy of the writ to the other party or leave it in an obvious place.

If the Sheriff is successful, the seized items will be sold at a public auction, and the proceeds to the value of the judgment debt owing will be given to you.



#### **Warning - Limitation period for writs**

A writ is valid and can be enforced for 12 months once it is issued. You can apply for another if it expires.

The sheriff should act reasonably and will not usually take items immediately, but will allow the judgment debtor to stop the sale of the items if they negotiate for a payment plan of the judgment debt by instalments.

#### 4.4 How may the judgment debtor respond?

The judgment debtor may take the following steps to avoid the sale of their property:

- Pay the amount owing.
- Apply to set aside the judgment, but only if the judgment was a default judgment.
- Make an application to pay by instalments.
- Disagree with the amount of the judgment debt that they still have to pay, for example if they have paid you some money since you filed the writ for levy of property.



#### **Warning - Items the sheriff cannot seize**

The sheriff is only allowed to seize certain items. The items the sheriff cannot seize include:

- property that does not belong to the judgment debtor
- anything being rented
- anything on hire purchase payments
- clothes
- kitchen or bedroom furniture
- tools of trade, professional instruments or reference books worth less than \$2,000

**FEDERAL CIRCUIT COURT OF AUSTRALIA**

**REGISTRY: SYDNEY**

File number: SYGxx/20xx
COURT USE ONLY
Court Location
Court date
Court time

**[Your name]**  
Applicant

**[The Respondent's name]**  
Respondent

**APPLICATION IN A CASE**

This application is made by (name): **[Your name]**

**Court date**

This application is listed for hearing at the Court location on the date and at the time specified in the 'Court Use Only' box above.

All parties or their legal representatives should attend this hearing, at which the Court may hear and determine relevant issues or may give directions for the future conduct of the proceeding.

Filed on behalf of	<b>[Your name]</b> , - Applicant		
Prepared by	<b>[Your name]</b> - Applicant	Lawyer's code	N/A
Name of law firm	N/A		
Address for service in Australia	<b>[Your address]</b>		
	NSW	Postcode	<b>[INSERT]</b>
	State		
Email	<b>[Your email]</b>	DX	
Tel	<b>[Your number]</b>	Fax	N/A
		Attention	

-----  
(for) Registrar  
Date: ...../...../.....

**Orders sought**

1. The issue of a writ for the levy of property against the judgment debtor, [insert Respondent's name].
2. Any other orders that the Court sees fit.

**Signature of person applying or lawyer**

-----  
Signed by (print name)

person applying or lawyer for person applying

Date: ...../...../.....

**Addresses of parties** (List the names and addresses for service of all the other parties to the proceeding and the name and address of any other person intended to be served with the application in the case.)

Name	Address
[Insert Respondents' name]	[Insert the Respondent's address]

Form approved by the Chief Judge pursuant to Subrule 2.04(1A) for the purpose of Subrule 4.08(1).

**FEDERAL CIRCUIT COURT OF  
AUSTRALIA**

**REGISTRY: SYDNEY**

File number: SYGxx/20xx
COURT USE ONLY
Court Location
Court date
Court time

**[Your name]**  
Applicant

**[The Respondent's name]**  
Respondent

## AFFIDAVIT

Filed on behalf of	[Your name] - Applicant		
Prepared by	[Your name] - Applicant	Lawyer's code	N/A
Name of law firm	N/A		
Address for service in Australia	[Your address]		
		State	Postcode
Email	[Your email]	DX	N/A
Tel	[Your number]	Fax	N/A
		Attention	

**Name of deponent:** [Your name]

**Date affirmed:** ...../...../.....

I, [Your name] of [Your address, including State or Territory] and [Your occupation] affirm:

1. I am the judgment creditor.
2. No payments have been made to reduce the judgment debt.
3. I sent the orders dated [insert date the judgment was made] to the Respondent on [insert date] by [email/post] to [address/email].
4. The amount payable under the judgment (including any prior enforcement costs but excluding interest after judgment under section 77 of the *Federal Circuit Court of Australia Act 1999* (Cth)) as at the date of this affidavit is \$[amount owed not including interest].



## WRIT FOR LEVY OF PROPERTY

### COURT DETAILS

Court	Federal Circuit Court of Australia
Registry	Sydney
Case number	SYGxx/20xx

### TITLE OF PROCEEDINGS

Applicant	[Your name]
Respondent	[The Respondent's name]

### JUDGMENT DETAILS

Judgment creditor	[Your name], Applicant
Judgment debtor	[The Respondent's name], Respondent
Date judgment took effect	[Date you obtained your judgment]

### TO THE SHERIFF OF NEW SOUTH WALES AND ALL SHERIFF'S OFFICERS

Location of property	[The address where the property of the Respondent is kept, for example a business address if the Respondent is a business]
Amount of unpaid judgment debt	[\$[insert the amount remaining on the judgment]]
Enforcement costs	\$89.00 [you should confirm this amount]
Interest	[\$[insert amount]]
Total amount to be levied	[\$[insert total]]

Levy on the property of the judgment debtor to the amount referred to above together with any additional costs incurred in executing this writ and interest accruing on the judgment under section 101 of the Civil Procedure Act after the issue of this writ.

This writ is enforceable against any property of the judgment debtor situated in New South Wales. The judgment creditor has nominated the above location at which the judgment debtor is believed to have property.

This writ authorises the execution of the writ at other locations nominated by the judgment creditor on payment of further fees for execution.

This writ does not authorise the Sheriff or Sheriff's officers to sell the land if the amount outstanding under the judgment is less than \$20,000.

Interest is not payable under section 101 if the amount of the judgment is paid in full within 28 days after the judgment takes effect.

### ISSUING DETAILS

This writ continues to be in force for 12 months from the date of issue or such further time as is permitted under UCPR 39.20.

Writ issued on	[Leave this blank]
Issued at	[Leave this blank]

Signature [Leave this blank]  
Capacity [Leave this blank]  
Date writ received by Sheriff

[on separate page]

### **JUDGMENT CREDITOR'S DETAILS**

Name [Your name]  
Address for service [Your address]

Telephone [Your number]  
#Fax  
Email [Your email]

#Note: Interest is not applicable in relation to a judgment debt for unpaid Local Government rates under section 566(5) of the Local Government Act 1993.

## 5. Garnishee order

There are two types of Garnishee Orders:

1. One for wages or salary which requires an employer to deduct a certain amount and pay it to you; and
2. One for debts requiring a party, usually a bank, to deduct a certain amount from any account they hold and pay it to you.

If the judgment debtor is a business, you should apply for a Garnishee Order for Debts against its business account. If the judgment debtor is an individual, you may be able to apply for a Garnishee Order for Wages or Salary if they are employed. Alternatively, you can use a Garnishee Order for Debts against their personal account.

If you don't know where the judgment debtor is employed or what bank they use, you will probably need to issue an Examination Notice or Order as above.

### 5.1 Forms

To apply for a Garnishee Order for Debts, you will need to complete:

- a) An [Application in a Case form](#) from the FCC;
- b) A supporting Affidavit outlining the amount outstanding, the garnishee's details and any interest payable; and
- c) A NSW UCPR [Form 70 – Garnishee Order for debts](#) or a [Form 71 – Garnishee order for wages or salary](#).



If you know which bank the judgment debtor uses, you can apply for a Garnishee Order even if you don't have their BSB or Account number.

The Garnishee Orders includes a page of information for the garnishee, which is not shown below. The full form needs to be sent to the garnishee.

### 5.2 Filing and service

File the completed forms in the FCC. There is no filing fee. Send a stamped copy of the garnishee order to the garnishee (for example, the judgment debtor's bank or their employer). You do not have to give a copy to the judgment debtor.

### 5.3 Next steps

If you have filed and served a Garnishee Order for Debts, the garnishee must give you any money it holds for the judgment debtor, up to the amount required of the judgment debt. If the garnishee holds less money than the judgment debt, it has to give you whatever amount it holds for the judgment debtor.

If you have filed and served a Garnishee Order for Wages or Salary, the garnishee must pay you some money from the judgment debtor's wages or salary until the judgment debt is paid, but the garnishee must leave the judgment debtor at least \$527.40 per week as at 1 October 2020 (the current amount can be found on the Local Court [website](#)). If the judgment debtor is normally paid fortnightly, they must leave \$1,054.80 for the judgment debtor and give you the rest of the pay. Once the money is deducted, the judgment debtor can apply for an instalment order but this must be approved by the Court.

The garnishee is also allowed to take a further \$13.00 for administration expenses.



**Warning - limit on money to satisfy order**

If the judgment debtor receives Centrelink then all or part of the money in the bank account may be protected from a garnishee order.

**FEDERAL CIRCUIT COURT OF AUSTRALIA**

**REGISTRY: SYDNEY**

File number: <b>SYGxx/20xx</b>
COURT USE ONLY
Court Location
Court date
Court time

**[Your name]**  
Applicant

**[The Respondent's name]**  
Respondent

**APPLICATION IN A CASE**

This application is made by (name): **[Your name]**

**Court date**

This application is listed for hearing at the Court location on the date and at the time specified in the 'Court Use Only' box above.

All parties or their legal representatives should attend this hearing, at which the Court may hear and determine relevant issues or may give directions for the future conduct of the proceeding.

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Filed on behalf **[Your name] - Applicant**  
of  
Prepared by **[Your name] - Applicant** Lawyer's code N/A  
Name of law firm N/A  
Address for service in **[Your address]**  
Australia  
State Postcode  
Email **[Your email]** DX N/A  
Tel **[Your number]** Fax N/A Attention N/A

.....  
(for) Registrar

Date: ...../...../.....

**Judgment details**

Date of judgment to be enforced: [date you obtained the judgment]

**Orders sought** (state precisely each order sought)

1. A garnishee order against the [name of the bank or employer] for debts in the amount of \$[amount of judgment]

**Persons affected by orders sought**

[Respondent's name], Judgment Debtor

[Name of the bank or employer], Garnishee

**Details about proposed garnishee**

[Name of the bank or employer]

[Address of the bank or employer]

**Affidavit/s** (Provide details of the affidavit (s) supporting this application.)

This application is supported by an affidavit made by [Your name] dated [date].

. (# Only complete additional details if affidavit already filed in the Court under sub rule 4.05(2). Delete if not required)

**Signature of person applying or lawyer**

.....  
Signed by (print name) .....

person applying or lawyer  for person applying

Date: ...../...../.....

**Addresses of parties** (List the names and addresses for service of all the other parties to the proceeding and the name and address of any other person intended to be served with the application in the case.)

<b>Name</b>	<b>Address</b>

**FEDERAL CIRCUIT COURT OF AUSTRALIA**

**REGISTRY: SYDNEY**

File number: SYGxx/20xx

COURT USE ONLY

Court  
Location

Court date

Court time

**[Your name]**  
Applicant

**[The Respondent's name]**  
Respondent

**AFFIDAVIT**

**Name of deponent:** [Your name]

**Date sworn / affirmed:**

I, [Your name] of [Your address, including State or Territory] and [Your occupation] affirm:

1. I am the judgment creditor.
2. The Respondent is a person liable to pay the judgment.
3. The amount payable under the judgment (including any prior enforcement costs but excluding interest after judgment) as at the date of this affidavit is \$[insert amount].
4. Interest payable at the post judgment interest rate of [insert %] (until [insert the date the interest rate changes – usually 1 August or 31 December]) is \$[insert amount]
5. Interest payable at the post judgment interest rate of [insert %] (until [insert the date the interest rate changes – usually 1 August or 31 December]) is \$[insert amount]
6. The proposed garnishee is identified in the Application in the Case in the section ‘Details About Proposed Garnishee’.
7. The proposed garnishee order is in relation to the following account: **[Remove this point if you are applying against an employer]**

- a. [Insert the name of the bank]
  - b. Account name: [Insert the account name]
8. Any debts are or are reasonable likely to be owed by the garnishee to the judgment debtor because the judgment debtor holds an account with the garnishee.
9. The judgment is not stayed by an order of the court, by an instalment order.

Affirmed by the deponent  
 at (place)  
 on (date)

Before me:

-----  
 Signature of witness

Full name of witness:

Qualification of witness:

.....

Signature of deponent

Form 70  
 UCPR 39.36

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Filed on behalf of [Your name] - Applicant  
 Prepared by [Your name] - Applicant Lawyer's code N/A  
 Name of law firm N/A  
 Address for service in [Your address]  
 Australia  
 State Postcode  
 Email [Your email] DX N/A  
 Tel [Your number] Fax N/A Attention N/A

## GARNISHEE ORDER FOR DEBTS

### COURT DETAILS

Court Federal Circuit Court of Australia  
Registry Sydney  
Case number SYGxx/20xx

### TITLE OF PROCEEDINGS

Applicant [Your name]  
Respondent [The Respondent's name]

### GARNISHEE ORDER

Name of garnishee [This will usually be the Respondent's bank]  
Address of garnishee [The banks' address]  
Judgment debtor [The Respondent's name]  
Address of judgment debtor (if known) [Use the address you have previously served court documents on or search ASIC]

1. It is ordered that all debts that are due or accruing from the garnishee to the judgment debtor at the time of service of this order are attached to the extent of \$[insert amount] to answer a judgment in these proceedings.
2. You are ordered to pay any amount so attached to the judgment creditor within 14 days after the date on which the order is served on the garnishee or, if the debt attached is a debt that falls due after that date, within 14 days after the date on which the debt becomes due.

## NOTICE TO GARNISHEE

Please read the attached information sheet.

If you do not to comply with this garnishee order, the court may give judgment in favour of the judgment creditor against you for the amount of the debt or for the unpaid amount of the judgment debt, whichever is the lesser.

Details of debt[s] attached  
under garnishee order

Financial Institution: [Insert the name of their bank]

Account name: [Include this if you have obtained it]

BSB: [Include this if you have obtained it]

Account number: [Include this if you have obtained it]

You can get further information about this garnishee order from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).
- The court registry for limited procedural information.

## ISSUING DETAILS – [Leave this for the Court to fill in]

Garnishee order made on

Issued at

Signature

Capacity

## JUDGMENT CREDITOR'S DETAILS

Name

[Your name]

Address for service

#[unit/level number]

#[building name] [Your  
address]

[street number]

[street name]

[street number]

[suburb/city]

[state/territory]

[suburb/city]

Telephone

[Your number]

Email

[Your email]

## GARNISHEE ORDER FOR WAGES OR SALARY

### COURT DETAILS

Court **Federal Circuit Court of Australia**  
#Division **Small Claims (if applicable)**  
#List  
Registry **Sydney**  
Case number **SYGxx/20xx**

### TITLE OF PROCEEDINGS

[First] plaintiff **[Your name]**

#Second plaintiff #Number of  
plaintiffs (if more than two)

[First] defendant **[The Respondent's name]**

#Second defendant #Number  
of defendants (if more than  
two)

### GARNISHEE ORDER

Name of garnishee **[This will usually be the Respondent's employer]**

Address of garnishee **[The employer's address]**

Judgment debtor **[The Respondent's name]**

Address of judgment debtor  
(if known) **[Use the address you have previously served court  
documents on or search ASIC]**

It is ordered that any wage or salary that is payable by the garnishee to the judgment debtor from the time of service of this order is attached to the extent of \$**[amount outstanding under judgment]** to answer a judgment in these proceedings.

You are ordered to pay any amount so attached to the judgment creditor within 14 days after the date on which the wage or salary falls due until the amount of \$**[amount outstanding under judgment]** is paid or until the court otherwise orders.

## NOTICE TO GARNISHEE

**Please read the attached information sheet.**

If you do not comply with this garnishee order the court may give judgment in favour of the judgment creditor against you for the amount of the wage or salary or for the unpaid amount of the judgment debt.

You can get further information about this garnishee order from:

A legal practitioner.

Law Access NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).

The court registry for limited procedural information.

## ISSUING DETAILS – Leave this for the Court to fill in

Garnishee order made on

Issued at

Signature

Capacity

## JUDGMENT CREDITOR'S DETAILS

Name	[Your name]		
Address for service	#[unit/level number]	#[building name]	
	[street number]	[street name]	[street type]
	[suburb/city]	[state/territory]	[postcode]
Telephone	[Your number]		
#Fax			
Email	[Your email]		

Enforcement action	Summary	Forms and fees
<b>Examination Notice</b>	A request for financial information from the judgment debtor to find out whether they can pay the debt, and which method of enforcement may be of most use.	Forms: <ul style="list-style-type: none"> <li>• Form 51 – for Individuals</li> <li>• Form 52 – for corporations</li> </ul> Fees: There is no fee as they do not need to be filed
<b>Examination Order</b>	An order from a Court to require the judgment debtor to attend Court and answer questions about their financial situation.	Forms: <ul style="list-style-type: none"> <li>• Form</li> <li>• Application in a Case (FCC)</li> <li>• Supporting Affidavit (FCC)</li> </ul>
<b>Writ for the levy of property by way of writ of execution</b>	A writ for the levy of property is a Court order that allows the sheriff to go to the judgement debtor's house or place of business to seize and sell some of their belongings to pay the judgment debt.	Forms: <ul style="list-style-type: none"> <li>• Form 66 - Writ for the Levy of Property (UCPR)</li> <li>• Application in a Case (FCC)</li> <li>• Supporting Affidavit (FCC)</li> <li>• sheriff's execution fee plus 3% of the proceeds of money made from auctioning the seized goods (as at July 2020)</li> </ul>
<b>Garnishee Order</b>	<p>A court order requiring someone that owes you money to the judgment debtor to instead pay that money to you.</p> <p>Examples of this include an order to garnish money from the other party's bank account, from their wages, or from people that owe money to them.</p>	Forms: <ul style="list-style-type: none"> <li>• Application in a Case (FCC)</li> <li>• Supporting Affidavit (FCC)</li> <li>• Form 70 (garnishee order for debts)</li> <li>• Form 71 (garnishee order for wages or salary)</li> </ul> Fees: There is no filing fee.