

Enforcing an order issued by the Federal Circuit and Family Court of Australia in NSW (New South Wales)

This fact sheet covers:

- ▶ First Step: Letter of Demand.
 - ▶ Enforcement Option 1: Examination Notice & Examination Order.
 - ▶ Enforcement Option 2: Writ for Levy of Property.
 - ▶ Enforcement Option 3: Garnishee Order.
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1. How to use this factsheet

This factsheet may help you if you want to enforce a final order from your Federal Circuit and Family Court of Australia (**Court**) case where the other party is located in NSW and/or the property you wish to enforce against is in NSW.

A Court order is also called a 'judgment' and can be enforced with the same enforcement methods that are used in the state or territory in which the judgment was made: section 213(2) of the *Federal Circuit Court and Family Court of Australia Act 2021* (Cth).

You should read through all the steps below and then decide on the best method to enforce your court order. 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.

This factsheet was created in conjunction with Redfern Legal Centre and Legal Aid NSW. The information was last updated December 2023 and does not constitute legal advice.

2. First Step for any Enforcement Options - Letter of Demand

Before you enforce your judgment, you should send a Letter of Demand (see template below) enclosing a copy of the judgment made by the Court, to the person that owes you money under the judgment (called the 'judgment debtor'). Give them a reasonable time to comply with that demand after it has been sent, such as 14 days.

Ideally, the Letter of Demand should be sent by post with a tracking identification number and/or delivered by hand by you to the judgment debtor's address. You should keep a copy of the Letter of Demand and (if sent by post), receipt of delivery. This is important so you can prove that the Letter of Demand was sent and received by the judgment debtor.

If the judgment debtor does not respond to the Letter of Demand either by contacting you to make arrangements to pay the monies owed to you, or paying the monies into your bank account, then you will need to decide what next step you will take to enforce the judgment.

[INSERT YOUR ADDRESS]

[INSERT DATE]

[INSERT JUDGMENT DEBTOR'S ADDRESS]

Dear [INSERT],

[INSERT PROCEEDING NAME] – [INSERT PROCEEDING NUMBER]

On [insert date], [Insert name of Judge or Registrar] of the Federal Circuit and Family Court of Australia made an order against you to pay \$[amount] to me (**Order**) (**copy attached**).

You have not complied with the Order.

Please pay \$[insert amount of the Order] into my following account within [insert the number of] days:

Bank: [insert name of your Bank]

Account Name: [insert your account name]

BSB: [insert the BSB number]

Account No. [insert your account number]

If you do not comply with this demand, I will enforce the Order against you, without further notice to you.

Yours sincerely

[Your name]

3. Enforcement Option 1 – Step 1 – Examination Notice

If the judgment debtor does not answer the Letter of Demand, you can prepare an Examination Notice and send it to the judgment debtor.

An Examination Notice is a way of getting financial information about the judgment debtor who owes you money under the judgment.

If the judgment debtor does not complete and return to you the Examination Notice, you can then apply to the Court for an Examination Order.

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 (see Option 3).

3.1 Forms

The Examination Notice is a form that must be accompanied by a Financial Statement for the judgment debtor to fill out.

If the judgment debtor is an individual use Form 51 the first form on pages 6 to 11 below.

If the judgment debtor is a corporation use Form 52 on pages 12 to 17 below.

These forms are NSW Court forms outlined in the Uniform Civil Procedure Rules (**UCPR**). As the judgment is being enforced in NSW, these forms are used in conjunction with Federal Circuit and Family Court forms. The UCPR forms can be found [here](#).

3.2 Filing and service

The Examination Notice should be sent to the judgment debtor under cover of a Letter (see page 5 below).

You can send the 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 Letter of Demand, the Examination Notice, 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

If the judgement debtor is a company you should make sure it is still registered before sending an Examination Notice and continuing with these steps for enforcement.

You can still use this resource for assistance.

3.3 Next steps

You need to give the judgment debtor at least 28 days to respond to any Examination Notice. You should post the Letter and the Examination Notice to the judgment debtor in the same envelope. Before you start counting the 28 days, you should allow 7 working days for regular registered post or 1 for express post. You can send the Letter and 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 to you and tries to negotiate a payment arrangement with you, this does not stop the deadline to comply with the Examination 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 PROCEEDINGS NAME] – [INSERT PROCEEDING NUMBER]

I refer to my letter of demand sent to you on [insert date], which you have not complied with.

The order made by [Insert name of Judge or Registrar] of the Federal Circuit and Family Court of Australia (**Court**) against you to pay me \$[amount] (**Order**) remains outstanding.

Attached is an Examination Notice, which you must complete and return to me within 28 days of receipt of this letter.

If you do not complete and return the Examination Notice to me within this time, I may apply to the Court for an Examination Order against you, without further notice to you.

I reserve all my rights to enforce the Order.

Yours sincerely,

[Your name]

EXAMINATION NOTICE – INDIVIDUAL

COURT DETAILS

Court **Federal Circuit and Family Court of Australia**
Division **Small Claims Division**
Registry **Sydney**
Case number **SYGxxxx/20xx**

TITLE OF PROCEEDINGS

Plaintiff **[Your name]**

[First] defendant **[The Respondent's name]**
#Second defendant #Number of
defendants (if more than two)

ISSUING DETAILS

Issued for **[Your name] [Plaintiff] (judgment creditor)**
Contact name and telephone **[Your name and telephone]**
Contact email **[Your email address]**

NOTICE TO JUDGMENT DEBTOR

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

Address **[The Respondent's address]**

The court gave judgment against you on **[insert date of 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 based on the advice in 3.3]**.

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.

The court registry for limited procedural information.

SIGNATURE

Signature of or on behalf of party if
not legally represented

Capacity

[e.g., solicitor, authorised officer, role of party]

Date of signature

Financial Statement

INCOME (weekly unless otherwise stated)

Your average weekly income after tax from salary or wages	\$
Social security benefits/pensions (include family payments etc)	\$
All other income (e.g., self-employed income, interest, dividends, rent or trust distributions)	\$
TOTAL	\$

EMPLOYMENT DETAILS

What is the name of your employer?

What is the address of your employer?

SUBURB

POSTCODE

Is your salary or wage paid by your employer into an account in a bank or financial institution?

If you answered yes to the previous question, identify the institution, branch, BSB and account number.

PROPERTY OWNED BY YOU

		CURRENT VALUE
Home	PROPERTY ADDRESS	\$
	VALUE OF EQUITY, IF ANY	\$
Other property	PROPERTY ADDRESS	\$
	VALUE OF EQUITY, IF ANY	\$
Funds in banks/ financial institutions, including funds held in off-set accounts	INSTITUTION, BRANCH, BSB AND ACCOUNT NUMBER	\$
	INSTITUTION, BRANCH, BSB AND ACCOUNT NUMBER	\$
Investments	NAME AND TYPE OF INVESTMENT	\$
Motor vehicle	YEAR MAKE	\$
	MODEL REGISTRATION NO	
Household contents		\$
Other personal property	DESCRIPTION AND LOCATION	\$

TOTAL VALUE OF PROPERTY OWNED BY YOU

\$

[Add extra lines, if necessary, so that all details of income and assets are disclosed.]

LIABILITIES

Average weekly expenses:

ITEM	WEEKLY AMOUNT
Food	\$
Household supplies	\$
Mortgage/rent	\$
Gas	\$
Electricity	\$
Heating fuel	\$
Rates/levies	\$
Telephone	\$
Motor vehicle	
• Petrol	\$
• Maintenance	\$
• Registration/insurance	\$
Medical/hospital funds	\$
Other insurance (specify)	\$
Fares	\$
Clothing and shoes	\$
Entertainment/hobbies	\$
Education/childcare expenses, including fees and levies	\$
Medical/chemist /pharmaceutical	\$
Hire purchase payments	\$
Credit cards	\$
Other necessary commitments, including weekly payments on other liabilities, listed above (specify)	\$
TOTAL WEEKLY EXPENSES	\$

Other liabilities:

LIABILITIES	NAME OF BANK/INSTITUTION	TOTAL AMOUNT OWED
Home mortgage		\$
Other loans		\$
Credit cards		\$
Credit cards		\$
Other liabilities (specify)		\$
TOTAL		\$

[Add extra lines, if necessary, so that all details of weekly expenses and liabilities are disclosed.]

Does anyone contribute to paying these liabilities (e.g., your spouse/partner)? Yes No

If yes, give the person's details:

Name of person	
----------------	--

Amount of contribution per week	
---------------------------------	--

Do you have any dependants? Yes No

If yes, give details:

--

ADDITIONAL QUESTIONS REGARDING FINANCIAL CIRCUMSTANCES

Do you have any income, assets or liabilities not disclosed in this examination notice?

--

If you answered yes to the previous question, give details of the other income, assets (including their location) or liabilities.

--

What arrangements are you prepared to make to pay this debt?

--

#Additional questions

--

DOCUMENTS TO BE PRODUCED

Copies of the following documents must be attached by the judgment debtor and returned with this notice to the judgment creditor.

- 1 Payslips and/or Government pension/benefits/allowances for the last 3 months.
- 2 Income Tax returns for the last 3 years.
- 3 Evidence of ownership of any real property, personal property including motor vehicles owned by you.
- 4 Current statement for any accounts held by you with banks and/or financial institutions including deposit/savings accounts, home/persons/business loans, credit card, business facilities etc.

SIGNATURE OF JUDGMENT DEBTOR

The information contained in the financial statement in this examination notice is true.

I have attached copies of the documents that I have been asked to produce.

Signature

Date of signature

Telephone

(Include your telephone number if you consent to being contacted by the [#judgment creditor #judgment creditor's solicitor] to clarify any of the information you have provided in this notice.)

EXAMINATION NOTICE – CORPORATION

COURT DETAILS

Court Federal Circuit and Family Court of Australia
Division Small Claims Division
Registry Sydney
Case number SYGxxxx/20xx
Court Federal Circuit and Family Court of Australia

TITLE OF PROCEEDINGS

Plaintiff [Your name]

[First] defendant [The Respondent's name]
#Second defendant #Number
of defendants (if more than
two)
Plaintiff [Your name]

ISSUING DETAILS

Issued for [Your name] [Plaintiff] (judgment creditor)
Contact name and telephone [Your name and telephone]
Contact email [Your email address]

NOTICE TO JUDGMENT DEBTOR

[The Respondent's name] [defendant] (judgment debtor)
Address [Use the Respondent's registered address from ASIC or the one
previously used in the proceedings]

The court gave judgment against you on [insert the 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 [date].

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.

The court registry for limited procedural information.

SIGNATURE

#Signature of legal representative

#Signature of or on behalf of party if not legally represented

Capacity

[e.g., solicitor, authorised officer, role of party]

Date of signature

Financial Statement

INCOME

Estimated gross annual income of business \$

Nature of business

ASSETS

		CURRENT VALUE
Real estate	PROPERTY ADDRESS	\$
	VALUE OF EQUITY, IF ANY \$	
Funds in banks/ financial institutions, including funds held in off-set accounts	INSTITUTION, BRANCH, BSB AND ACCOUNT NUMBER	\$
	INSTITUTION, BRANCH, BSB AND ACCOUNT NUMBER	\$
Investments	NAME AND TYPE OF INVESTMENT	\$
Motor vehicle	YEAR MAKE	\$
	MODEL REGISTRATION NO	
Sundry debtors	The company is owed money by the following people/ companies for the reasons shown:	
	DEBTOR	
	NATURE OF DEBT	\$
	DEBTOR	
	NATURE OF DEBT	\$
	DEBTOR	
	NATURE OF DEBT	\$
Tools and equipment	DESCRIPTION AND LOCATION	\$
TOTAL VALUE OF ASSETS		\$

[Add extra lines, if necessary, so that all details of income and assets are disclosed.]

LIABILITIES

Average annual expenses:

ITEM	AMOUNT
Wages	\$
Materials	\$
Mortgage/rent	\$
Gas	\$
Electricity	\$
Heating fuel	\$
Rates/levies	\$
Telephone	\$
Motor vehicle	
• Petrol	\$
• Maintenance	\$
• Registration/insurance	\$
Other insurance (specify)	\$
Superannuation	\$
Workers compensation	\$
Tax	\$
Credit cards	\$
Hire purchase payments	\$
Other necessary commitments, including payments on other liabilities, listed above (specify)	\$
TOTAL EXPENSES	\$

Other liabilities:

LIABILITIES	NAME OF BANK/INSTITUTION	TOTAL AMOUNT OWED
Mortgage		\$
Other loans		\$
Credit cards		\$
Credit cards		\$
Other liabilities (specify)		\$
TOTAL		\$

[Add extra lines, if necessary, so that all details of expenses and liabilities are disclosed.]

ADDITIONAL QUESTIONS REGARDING FINANCIAL CIRCUMSTANCES

Does the company have any income, assets or liabilities not disclosed in this examination notice?

If you answered yes to the previous question, give details of the other income, assets (including their location) or liabilities.

What arrangements is the company prepared to make to pay this debt?

#Additional questions

DOCUMENTS TO BE PRODUCED

Copies of the following documents must be attached by the judgment debtor and returned with this notice to the judgment creditor.

- 1 Payslips and/or Government allowances for the last 3 months.
- 2 Company Tax returns for the last 3 years.
- 3 Evidence of ownership of any real property, personal property including motor vehicles owned by you.
- 4 Current statement for any accounts held by you with banks and/or financial institutions including deposit/savings accounts, home/persons/business loans, credit card, business facilities etc.
- 5 Balance sheets, profit/loss statements and BAS statements for last 3 months.

SIGNATURE ON BEHALF OF JUDGMENT DEBTOR

The information contained in the financial statement in this examination notice is true.

I have attached copies of the documents that the judgment debtor has been asked to produce.

Signature

Capacity

Date of signature

Telephone

(Include your telephone number if you consent to being contacted by the [#judgment creditor #judgment creditor's solicitor] to clarify any of the information you have provided in this notice.)

4. Enforcement Option 1 – Step 2 - Examination Order

If the judgment debtor does not comply with the Examination Notice within the 28 days, you can file an application with the Court seeking an order for examination.

An examination is a hearing before a Registrar or Judge of the Court, where you can ask questions of the judgment debtor about their financial circumstances to work out if the judgment can be paid and what is the best method of enforcement for you to proceed with.



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 a lump sum payment, followed by instalment payments. Any agreement should be in writing.

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

4.1 Forms

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

1. an [Application in a Proceedings form](#) from the 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. You should attach a copy of the Letter of Demand and Examination Notice that you previously posted to the judgment debtor to the Affidavit; and
3. a [NSW UCPR Form 54](#) - Examination Order – this form is lodged as a Draft Document on the Commonwealth Courts Portal.



Note

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

Examples of each of these completed documents are below. You should amend them to reflect your case and circumstances.

You do not need to complete Part B and C of the Application in Proceeding form as that relates to Family Court proceedings.

4.2 Filing and service

Once you have completed the forms, you will need to file the signed documents with the Court.

There should be no filing fee for Small Claims proceedings or Fair Work dismissal or discrimination matter.

Once the application documents have been filed with the Court, a Registrar or Judge of the Court will review the documents and contact you if further evidence is required to be filed/served, the documents need to be amended, and/or confirming the suitable dates for conducting the examination hearing.

After the forms have been reviewed and approved by the Court, the Court will issue you a stamped Examination Order, which you will need to serve, along with the other stamped documents issued by the Court, on the judgment debtor at least 14 days before they are required to attend the examination.



Note

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

4.3 What happens at the examination hearing?

Both you and the judgment debtor must attend the Court for the examination on the date advised by the Court after the documents as filed have been reviewed by the Court.

The judgment debtor can be asked questions about their financial status and must answer all questions under oath.

As the judgment creditor, you will be responsible for asking the questions of the judgment debtor, 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, and how much are they worth?
- Do you have any shares?
- Do you have any credit card debts, personal or business loans?
- What accounts do you have with any banks and/or financial institutions?
- Are you the beneficiary of any trusts?

At the hearing, the Court may:

- Orally examine the judgment debtor as to their financial circumstances.
- Order the judgment debtor to provide the Court with further evidence, including documents, as to their financial position.
- Make an order for the judgment debtor to pay the judgment debt by instalments.
- If the judgment debtor does not attend the examination without notifying the Court, a warrant for non-attendance may be issued by the Court to the judgment debtor.
- Make an order that a party pay any legal costs (if incurred).

Application in a Proceeding

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – CHAPTER 5

Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 – CHAPTER 1, PART 4, DIVISION 1

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

Filed in:

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify) _____

Type of proceedings:

- Family law proceedings
- Migration proceedings
- General federal law proceedings
- Other (specify) _____

Filed on behalf of:

Full name [insert your name] _____

Client ID _____

File number / appeal number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Time _____

IMPORTANT: Information for respondents to the application is on page 4.

Part A About the parties

1 APPLICANT 1

Family name as used now

Given names

APPLICANT 2

Family name as used now

Given names

2 What is your contact address (address for service) in Australia? If you give a lawyer's address, include the name of the law firm.

<input type="text"/>	
State <input type="text"/>	Postcode <input type="text"/>
Phone <input type="text"/>	
DX <input type="text"/>	
Lawyer's code <input type="text"/>	
Email <input type="text"/>	

RESPONDENT 1

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

Respondent's address

<input type="text"/>	
State <input type="text"/>	Postcode <input type="text"/>
Phone <input type="text"/>	

If there is a second applicant or second respondent attach a separate sheet answering this question for Applicant 2/Respondent 2.

Part B About the independent children's lawyer (if appointed)

3	Independent children's lawyer family name	Given names
	<input type="text"/>	<input type="text"/>

4 The contact address (address for service) in Australia for the independent children's lawyer is:

<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>	State	Postcode
<input type="text"/>		
Phone		
<input type="text"/>		
Email		
<input type="text"/>		
Lawyer's code		
<input type="text"/>		

Part C About the orders you are seeking – family law proceedings only

If you are seeking interlocutory orders in family law proceedings, complete this Part.
If you are seeking interlocutory orders in migration or general federal law proceedings, skip this Part and complete Part D.

- 5 What type of orders are you seeking? Mark [X] all boxes that apply.
- | | |
|---|---|
| <input type="checkbox"/> Interlocutory (parenting orders) | <input type="checkbox"/> Interlocutory (financial orders) |
| <input type="checkbox"/> Procedural | <input type="checkbox"/> Other (specify) _____ |
- _____

Do you want this application to be dealt with in the absence of the parties in accordance with Part 5.3 of the Family Law Rules?

- Yes – see the notes below
- No

Notes

- If the respondent objects to the application being determined in the absence of the parties you still must attend the court.
- If the application is to be heard in the absence of the parties each party must file at least 2 days before the hearing a list of documents to be read by the Court and a supporting submission (see rule 5.15 of the Family Law Rules).
- An enforcement hearing cannot be held in the absence of the parties.

Part D The orders you are seeking

6 State the interlocutory orders that you are seeking.

[PLEASE NUMBER EACH ORDER SOUGHT]

1. An order this application be dealt within in the absence of the parties.
2. An order be made in the form attached
3. Such further or other orders as the Court sees fit.

Attach extra pages if you need more space.

Part E Certification

I certify that to the best of my knowledge and information, the orders sought in this application are supported by evidence.

Part F Signature of applicant or lawyer

Signed

Date

	/ /
--	-----

This application was signed by

the applicant/s

lawyer for the applicant/s

This application was prepared by

applicant/s

lawyer

--

PRINT NAME AND LAWYER'S CODE

Please go to page 4 for the Important Notices to the Respondent/s

Important Notices to the Respondent/s

You should seek legal advice about this application.

For all family law applications

If you oppose the orders sought in this application or want the Court to make different orders **you must:**

- file with the Court a *Response to an Application in a Proceeding*; **and**
- serve a copy of the documents filed on each other party not less than 2 days before the Court date shown on page 1 of this form.

You must attend at court on the date shown on page 1 of this form, unless you agree with the applicant's request that the Court determine the application in the absence of the parties. If you object to the applicant's request, you must immediately notify the Court and the other party in writing, telling them of your objection.

If you are required to attend and you do not attend, orders may be made in your absence.

If the application is to be determined in the absence of the parties each party must file at least 2 days before the hearing a list of documents to be read by the court and a supporting submission (see rule 5.15 of the Family Law Rules).

EXAMINATION ORDER

COURT DETAILS

Court **Federal Circuit and Family Court of Australia**
Division **Small Claims Division**
Registry **Sydney**
Case number **SYGxxx/20xx**
Court **Federal Circuit and Family Court of Australia**

TITLE OF PROCEEDINGS

Plaintiff **[Your name]**

[First] defendant **[The Respondent's name]**
#Second defendant #Number of
defendants (if more than two)

Plaintiff **[Your name]**

JUDGMENT DETAILS

Judgment creditor **[Your name] [Applicant]**
Judgment debtor **[Respondent's name] [Respondent]**

ORDER TO ATTEND COURT

Name **[The Respondent's name]**
Address **[The Respondent's address]**

You are ordered to:

Attend Federal Circuit and Family Court of Australia (**Court**) to be examined as to whether any and, if so, what debts are owing to **[the judgment debtor]** and whether **[the judgment debtor]** any and, if so, what other property or other means of satisfying the judgment.

Produce to the Court the following documents or things that are in **[the judgment debtor]** possession or control:

- (a) Current statements for any accounts held by **[the judgment debtor]** with banks and/or financial institutions including deposit/savings accounts, home/personal/business loans, credit card, business facilities etc.
- (b) Evidence of ownership of any real property and personal property including motor vehicles owned by **[the judgment debtor]**.
- (c) **[the judgment debtor's] [income or company]** tax returns and assessment for the last 3 years.

- (d) [the judgment debtor's] payslips and/or statements of Government pension/benefits/allowances for the last 3 months.
- (e) [If corporation – Balance sheets, profit/loss statements and BAS statements for last 3 months].

WHEN AND WHERE TO ATTEND COURT

Date
Time
Place

If you do not attend court on this date at this time and place, you may be arrested.

SEAL AND SIGNATURE

Court seal
Signature
Capacity Registrar
Date

JUDGMENT CREDITOR'S DETAILS

Name [Your name]

Contact details for judgment creditor acting in person or by authorised officer

Address for service # [unit/level number] # [building name]
 [The judgment creditor must give an address for service. This must be an address in NSW unless the exceptions listed in UCPR 4.5(3) apply.]
 [street number] [street name] [street type]
 [suburb/city] [state/territory] [postcode]

Telephone

#Fax

Email

Part B About you (the deponent)

Family name (as used now)/Title/Organisation	Given names
[redacted]	[redacted]

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

[redacted]	[redacted]	[redacted]
[redacted]	State	Postcode

Part C Evidence

- Set out the facts divided into consecutively numbered paragraphs. Each paragraph should be confined to a distinct part of the subject matter.
- Attach extra page(s) if you need more space. Make sure that the page containing the signature (Part E or F) is always the last page of the form. You and the witness to your affidavit must sign the bottom of each additional page.

I, [your name] of [insert address, including State or Territory] and [insert occupation or unemployed] affirm/swear [cross out what is not applicable]:

1. I am the applicant/judgment creditor in these proceedings.
2. I make this affidavit from my own knowledge and from information I have obtained through my dealings with the respondent/judgment debtor.
3. On [insert date], [insert name of Judge or Registrar] of the Federal Circuit and Family Court of Australia made an order in these proceedings against the respondent/judgment debtor requiring [he/she/it] to pay \$[amount] to me (**Order**).
4. On [insert date], I served a Letter of Demand on the respondent/judgment debtor enclosing the Order and requested payment of the monies in accordance with the Order (**Letter of Demand**). Annexed and marked "A" is a copy of the Letter of Demand that was served on the respondent/judgment debtor on [insert date].
5. I caused the Letter of Demand to be served on the respondent/judgment debtor at [his/her last known residential/business address or registered office, if a corporation], [insert address], as follows:
 - a. at approximately, [insert time] on [insert date], I placed the Letter of Demand with the Order into a [registered express post] envelope addressed to the respondent/judgment debtor's [last known residential/business address or registered office, if a corporation] of [insert address];
 - b. I sealed the envelope containing the Letter of Demand and the Order; and
 - c. I then delivered the envelope by hand to the [express] post [box or office] at [insert location of post box].
6. The tracking number for the envelope containing the Letter of Demand and the Order was [insert number].
7. On [insert date], I went to the website of Australia Post, <https://auspost.com.au/mypost/track/#/search>, and entered the tracking number [insert number] of the envelope containing the Letter of Demand and the Order into the search box on that webpage.
8. Annexed and marked "B" is a copy of the search results of the [registered express post] envelope with tracking number [insert tracking number], which confirms that the Letter of Demand and the Order were delivered to the respondent/judgment debtor's [last known residential/business address or

- [registered office, if a corporation] at [insert address] at [insert time] on [insert date].
9. No payments have been made to reduce the Order.
 10. The respondent/judgment debtor is liable to pay the Order.
 11. The amount payable under the Order (including any prior enforcement costs but excluding interest after judgment under section 212 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth)) as at the date of this affidavit is \$[amount owed not including interest].
 12. Interest payable under section 212 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth) is \$[amount of interest].
 13. The amounts claimed for costs in respect of this order are:
 - a. Service fees (if incurred) \$
 - b. [Other e.g., filing fees if you had to pay for filing] \$
 - c. **TOTAL** \$
 14. Annexed and marked “C” is a copy of the Letter and the Examination Notice (**Documents**) that were served on the respondent/judgment debtor on [insert date].
 15. I caused the Documents to be served on the respondent/judgment debtor at [his/her last known residential/business address or registered office, if a corporation], [insert address], as follows:
 - a. at approximately, [insert time] on [insert date], I placed the Documents into a [registered express post] envelope addressed to the respondent’s [last known residential/business address or registered office, if a corporation] of [insert address];
 - b. I sealed the envelope containing the Documents; and
 - c. I then delivered the envelope by hand to the [express] post [box or office] at [insert location of post box].
 16. The tracking number for the envelope containing the Documents was [insert number].
 17. On [insert date], I went to the website of Australia Post, <https://auspost.com.au/mypost/track/#/search>, and entered the tracking number [insert number] of the envelope containing the Documents into the search box on that webpage.
 18. Annexed and marked “D” is a copy of the search results of the [registered express post] envelope with tracking number [insert tracking number], which confirms that the Documents were delivered to the respondent/judgment debtor’s [last known residential address or registered office] at [insert address] at [insert time] on [insert date].
 19. [Outline any additional steps (if any) made to bring the Examination Notice to the attention of the respondent/judgment debtor and any acknowledgement by the respondent/judgment debtor that they knew about the Examination Notice].
 20. The respondent/judgment debtor has not completed or returned the Examination Notice to me.
 21. The respondent/judgment debtor has not provided sufficient answers or documents, in response to the Examination Notice to me.
 22. I believe that the respondent/judgment debtor lives or works at [insert the address you served the original court documents on or the current address for service].
 23. The Order has not been set aside, varied, or stayed by any order of the Court under rules 17.05(2) or 25.12 of the *Federal Circuit and Family Court of Australia (Division 2) (General Federal Court) Rules 2021* (Cth).
 24. I believe the information contained in this affidavit is true and correct.

Part D Signature

I swear* /affirm* the contents of this affidavit are true

Signature of Deponent

Place Date / /

Before me (signature of witness)

Full name of witness (please print)

- Justice of the Peace
- Notary public
- Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by deponent/s
 lawyer

[Empty box for signature or stamp]

5. Enforcement Option 2 - Writ for levy of property

A writ for the levy of property (**Writ**) is an order made by the Court, which is then enforced by the NSW Sheriff, who is instructed to seize and sell at auction, property belonging to the judgment debtor to the amount of the judgment. After payment of the Sheriff's fees, the money from the sale of the goods is then used to pay the judgment debt.

If your claim is less than \$20,000 (the NSW Small Claims threshold), you can only apply for a Writ against certain personal property but not land such as a judgment debtor's house and/or land. For more information see https://courts.nsw.gov.au/documents/factsheets/call_per_fee_creditor_information.pdf

5.1 Forms

To apply for a Writ of property, you will need to file:

1. an [Application in a Proceeding form](#) from the Court outlining the orders you are seeking;
2. a supporting [Affidavit](#) outlining the amount outstanding and location(s) of the property you are seeking to have seized; and
3. draft [NSW UCPR Writ for the Levy of Property Form 66](#) – this form is lodged as a Draft Document on the Commonwealth Courts Portal.

If you have additional information that may help the Sheriff, like the type of property or if the judgment debtor has pets, when they are usually home, you can insert that information the bottom of Page 4 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.

You do not need to complete Part B and C of the Application in Proceeding form as that relates to Family Court proceedings.



Warning – Limitation period for writs

A Writ is valid and can be enforce for 12 months once it is issued. You can apply for another if it expires but you will need to provide an explanation to the Court by way of an affidavit as to why the Writ was not enforced within that time.

5.2 Filing and service

Once you have completed the forms, you will need to file the documents with the Court.

There should be no filing fee for Small Claims proceedings or Fair Work dismissal or discrimination matter.

Once the application documents have been filed with the Court, a Registrar or Judge of the Court will review the documents and contact you if further evidence is required to be filed/served, the documents need to be amended and/or issue the Writ.

A Registrar or Judge of the Court will then enter the orders as requested in the Application and issue a sealed Writ to the Federal Circuit and Family Court Sheriff who will provide it to the NSW Sheriff's Office closest to the judgment debtor's address.

You do not need to serve the judgment debtor with a copy of the Writ.

While there is no filing fee payable to the Court, the Sheriff will charge:

- an administrative fee;
- an execution fee per address visited for the judgment debtor;
- a percentage of the money made from auctioning the goods; and
- any related costs, for example towing a car.

Any fees or costs payable by you to the NSW Sheriff's Office will be added to the judgment debt then paid from the proceeds of the auction, if carried out. The amounts can be found here: <https://courts.nsw.gov.au/office-of-the-sheriff-of-nsw/sheriff-s-forms-and-fees.html>

5.3 Seizure of property

Once the Writ has been issued by the Court, the NSW Sheriff will attend the judgment debtor's address to seize their personal goods to satisfy the judgment debt owed to you.

The NSW Sheriff must also give a copy of the Writ to the judgment debtor or leave it at their property in an obvious place.

If the NSW Sheriff is successful, the seized items will be sold at a public auction, and the proceeds to the amount of the judgment debt owing will be given to you after the NSW Sheriff's fees have been paid.

The NSW 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 apply to the Court to pay the judgment debt by instalments or negotiate a payment plan with you.

5.4 How may the judgment debtor respond?

Once served with the Writ by the NSW Sheriff, the judgment debtor may take steps to avoid the sale of their property by:

1. paying the amount owing to you under the judgment;
2. applying to the Court to set aside the judgment, but only if the judgment was a default judgment; and/or
3. making an application to the Court to:
 - 3.1 pay the judgment by instalments; and/or
 - 3.2 disagree with the amount of the judgment debt that they still have to pay, for example if they have paid you some money since the Writ was issued to the NSW Sheriff.



Warning – Items the sheriff cannot seize

The NSW Sheriff is only allowed to seize certain items. The items the NSW Sheriff

Application in a Proceeding

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – CHAPTER 5
 Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 – CHAPTER 1,
 PART 4, DIVISION 1

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

Filed in:

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify) _____

Type of proceedings:

- Family law proceedings
- Migration proceedings
- General federal law proceedings
- Other (specify) _____

Filed on behalf of:

Full name [insert your name] _____

Client ID _____

File number / appeal number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Time _____

IMPORTANT: Information for respondents to the application is on page 4.

Part A About the parties

1 APPLICANT 1

Family name as used now

Given names

APPLICANT 2

Family name as used now

RESPONDENT 1

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names
[Redacted]

Given names
[Redacted]

2 What is your contact address (address for service) in Australia? If you give a lawyer's address, include the name of the law firm.

[Redacted]
State [Redacted] Postcode [Redacted]
Phone [Redacted]
DX [Redacted]
Lawyer's code [Redacted]
Email [Redacted]

Respondent's address

[Redacted]
State [Redacted] Postcode [Redacted]
Phone [Redacted]

If there is a second applicant or second respondent attach a separate sheet answering this question for Applicant 2/Respondent 2.

Part B About the independent children's lawyer (if appointed)

3 Independent children's lawyer family name [Redacted] Given names [Redacted]

4 The contact address (address for service) in Australia for the independent children's lawyer is:

[Redacted]
[Redacted]
State [Redacted] Postcode [Redacted]
Phone [Redacted]
Email [Redacted]
Lawyer's code [Redacted]

Part C About the orders you are seeking – family law proceedings only

If you are seeking interlocutory orders in family law proceedings, complete this Part. If you are seeking interlocutory orders in migration or general federal law proceedings, skip this Part and complete Part D.

5 What type of orders are you seeking? Mark [X] all boxes that apply.

<input type="checkbox"/> Interlocutory (parenting orders)	<input type="checkbox"/> Interlocutory (financial orders)
<input type="checkbox"/> Procedural	<input type="checkbox"/> Other (specify) _____

Do you want this application to be dealt with in the absence of the parties in accordance with Part 5.3 of the Family Law Rules?

Yes – see the notes below

No

Notes

- a) If the respondent objects to the application being determined in the absence of the parties you still must attend the court.
- b) If the application is to be heard in the absence of the parties each party must file at least 2 days before the hearing a list of documents to be read by the Court and a supporting submission (see rule 5.15 of the Family Law Rules).
- c) An enforcement hearing cannot be held in the absence of the parties.

Part D The orders you are seeking

6 State the interlocutory orders that you are seeking.

[PLEASE NUMBER EACH ORDER SOUGHT]

1. An order this application be dealt within in the absence of the parties.
2. The issue of a writ for the levy of property against the respondent/judgment debtor in the form attached.
3. Such further or other orders as the Court sees fit.

Attach extra pages if you need more space.

Part E Certification

I certify that to the best of my knowledge and information, the orders sought in this application are supported by evidence.

Part F Signature of applicant or lawyer

Signed	Date
	/ /

This application was signed by the applicant/s lawyer for the applicant/s

This application was prepared by applicant/s lawyer

PRINT NAME AND LAWYER'S CODE

Please go to page 4 for the Important Notices to the Respondent/s

WRIT FOR LEVY OF PROPERTY

COURT DETAILS

Court	Federal Circuit and Family Court of Australia
Division	Small Claims Division
Registry	Sydney
Case number	SYGxxx/20xx

TITLE OF PROCEEDINGS

Plaintiff	[Your name]
[First] defendant	[The Respondent's name]
#Second defendant #Number of defendants (if more than two)	

JUDGMENT DETAILS

Judgment creditor	[Your name] [Applicant]
Judgment debtor	[Respondent's name] [Respondent]
Date judgment took effect	[Insert date on order]

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	#[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 212 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth) 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 #originally issued on	[Leave this blank]
Issued at	[Leave this blank]
Signature	[Leave this blank]
Capacity	[Leave this blank]
Date writ received by Sheriff	[Leave this blank]

RENEWAL DETAILS

This writ continues to be in force for the period specified in the terms of the renewal order below or such further time as is permitted under UCPR 39.20.

Writ renewed on	[Leave this blank]
Decision maker	[Leave this blank]
Terms of renewal order	[Leave this blank]
Issued at	[Leave this blank]
Signature	[Leave this blank]
Capacity	[Leave this blank]
Date writ received by Sheriff	[Leave this blank]

[on separate page]

JUDGMENT CREDITOR'S DETAILS

Name [insert your name]

Address for service # [unit/level number] # [building name]
[street number] [street name] [street type]
[suburb/city] [state/territory] [postcode]

Telephone

#Fax

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.

Part B About you (the deponent)

Family name (as used now)/Title/Organisation

Given names

--	--

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

	State	Postcode

Part C Evidence

- Set out the facts divided into consecutively numbered paragraphs. Each paragraph should be confined to a distinct part of the subject matter.
- Attach extra page(s) if you need more space. Make sure that the page containing the signature (Part E or F) is always the last page of the form. You and the witness to your affidavit must sign the bottom of each additional page.

I, [your name] of [insert address, including State or Territory] and [insert occupation or unemployed] affirm/swear [cross out what is not applicable]:

1. I am the applicant/judgment creditor in these proceedings.
2. I make this affidavit from my own knowledge and from information I have obtained through my dealings with the respondent/judgment debtor.
3. On [insert date], [insert name of Judge or Registrar] of the Federal Circuit and Family Court of Australia made an order in these proceedings against the respondent/judgment debtor requiring [he/she/it] to pay \$[amount] to me (**Order**).
4. On [insert date], I served a Letter of Demand on the respondent/judgment debtor enclosing the Order and requested payment of the monies in accordance with the Order (**Letter of Demand**). Annexed and marked "A" is a copy of the Letter of Demand that was served on the respondent/judgment debtor on [insert date].
5. I caused the Letter of Demand to be served on the respondent/judgment debtor at [his/her last known residential/business address or registered office, if a corporation], [insert address], as follows:
 - at approximately, [insert time] on [insert date], I placed the Letter of Demand with the Order into a [registered express post] envelope addressed to the respondent/judgment debtor's [last known residential/business address or registered office, if a corporation] of [insert address];
 - I sealed the envelope containing the Letter of Demand and the Order; and
 - I then delivered the envelope by hand to the [express] post [box or office] at [insert location of post box].
6. The tracking number for the envelope containing the Letter of Demand and the Order was [insert number].

7. On [insert date], I went to the website of Australia Post, <https://auspost.com.au/mypost/track/#/search>, and entered the tracking number [insert number] of the envelope containing the Letter of Demand and the Order into the search box on that webpage.
8. Annexed and marked “B” is a copy of the search results of the [registered express post] envelope with tracking number [insert tracking number], which confirms that the Letter of Demand and the Order were delivered to the respondent/judgment debtor’s [last known last known residential/business address or registered office, if a corporation] at [insert address] at [insert time] on [insert date].
9. No payments have been made to reduce the Order.
10. The respondent/judgment debtor is liable to pay the Order.
11. The amount payable under the Order (including any prior enforcement costs but excluding interest after judgment under section 212 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth)) as at the date of this affidavit is \$[amount owed not including interest].
12. Interest payable under section 212 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth) is \$[amount of interest].
13. The amounts claimed for costs in respect of this order are:
 - o Execution fees \$[insert]
 - o Solicitor fees \$Nil
 - o [Other e.g., filing fees if you had to pay for filing] \$
 - o **TOTAL \$**
14. I believe that the respondent/judgment debtor is located at [insert the address you served the original court documents on or the current address for service].
15. The Order has not been set aside, varied, or stayed by any order of the Court under rules 17.05(2) or 25.12 of the *Federal Circuit and Family Court of Australia (Division 2) (General Federal Court) Rules 2021* (Cth).
16. Through my dealings with or searches conducted on the respondent/judgment debtor, I am aware of the following additional information that may assist the NSW Sheriff’s Office:

ADDITIONAL INFORMATION TO ASSIST SHERIFF’S OFFICE	
Short description of claim	[Write a short description of what the judgment is for]
Best time of day to contact the respondent/judgment debtor	[Provide these details (if known)]
Respondent/judgment debtor’s telephone number (if known)	[Provide the judgment debtor’s telephone number/s (if known)]
Provide specific details of any property owned by the respondent/judgment debtor that may be seized	[Provide these details of any items of property that the judgment debtor owns, for example make and model of their car]
Are there any animals or anything else at the premises that might pose a threat to the health and safety of Sheriff’s officers?	[Provide these details (if known)]

17. I believe the information contained in this affidavit is true and correct.

Part D Signature

I swear* /affirm* the contents of this affidavit are true

Signature of Deponent

Place Date / /

Before me (signature of witness)

Full name of witness (please print)

Justice of the Peace

Notary public

Lawyer

This affidavit was prepared / settled by deponent/s
 lawyer

PRINT NAME AND LAWYER'S CODE

6. Enforcement Option 3 - Garnishee Orders

There are two types of Garnishee Orders, for:

- wages or salary, which requires an employer to deduct a certain amount from the judgment debtor's wage or salary, and pay it to you; and
- debts requiring a party, usually a financial institution or bank, to deduct a certain amount from any account they hold for the judgment debtor and pay it to you.

If the judgment debtor is a corporation, you should apply for a Garnishee Order for Debts against their 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, and/or
- a Garnishee Order for Debts against their personal account.

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



Note

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

6.1 Forms

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

1. an [Application in a Proceeding](#) form from the FCFCoA;
2. a supporting [Affidavit](#) outlining the amount outstanding, the garnishee's details and any interest payable; and
3. a draft [NSW UCPR Garnishee Order for debts](#) – Form 70 (see pages 48 to 51 below) or a Garnishee Order for wages or salary – Form 71 (see pages 52 to 56 below).

These forms are lodged as a Draft Document on the Commonwealth Courts Portal.

You do not need to complete Part B and C of the Application in Proceeding form as that relates to Family Court proceedings.

6.2 Filing and service

Once you have completed the forms, you will need to file the documents with the Court.

There should be no filing fee for Small Claims proceedings or Fair Work dismissal or discrimination matter.

Once the application documents have been filed with the Court, a Registrar or Judge of the Court will review the documents and contact you if further evidence is required to be filed/served to determine

how you reasonably believe a debt accrues from the judgment debtor, the documents need to be amended and/or issue a Garnishee Order.

A Registrar or Judge of the Court will then enter the orders as requested in the Application and issue a sealed Garnishee Order to you.

After the sealed Garnishee Order is received, you will need to serve a copy of sealed Garnishee Order on the garnishee.

You can serve the sealed Garnishee Order as provided to you by the Court on the garnishee by:

- sending it, via post, to its head office with tracking identification; or
- personally, delivering it to the office of the garnishee (i.e., branch of the financial institution or bank).

You do not have to give a copy of the Garnishee Order to the judgment debtor.

6.3 Next steps

If you have served the Garnishee Order, the judgment debtor may promptly file an application with the Court to object to that order before any money is taken from their accounts, wages and/or salary. In this case, it may be appropriate time to seek additional help from a solicitor.

If you have served the sealed Garnishee Order for Debts on the garnishee, 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 and any other money it receives for the judgment debtor up until the judgment is paid in full or the money has been exhausted.

If you have served the sealed Garnishee Order for Wages or Salary, the garnishee must pay you some of the money from the judgment debtor's wages or salary until the judgment debt is paid, but the garnishee must leave the judgment debtor a set amount per week (the current amount can be found on the Local Court [website](#)).

Once the money is deducted, if part of the Garnishee Order remains unsatisfied, the judgment debtor can apply for further orders if necessary.

The garnishee is also allowed to take a small fee from the judgment debtor's account for administration expenses for complying with the Garnishee Order.

If the garnishee fails to pay or ignores your Garnishee Order, you may file an application with the Court to decide whether the garnishee is liable to pay the debt. To take this step, it may be helpful to

get legal assistance. If the Court finds the garnishee liable, you will get judgment in your favour against the garnishee for part or all of the debt.



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.

Application in a Proceeding

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – CHAPTER 5

Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 – CHAPTER 1, PART 4, DIVISION 1

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

Filed in:

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify) _____

Type of proceedings:

- Family law proceedings
- Migration proceedings
- General federal law proceedings
- Other (specify) _____

Filed on behalf of:

Full name [insert your name] _____

Client ID _____

File number / appeal number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Time _____

IMPORTANT: Information for respondents to the application is on page 4.

Part A About the parties

1 APPLICANT 1

Family name as used now

Given names

APPLICANT 2

Family name as used now

Given names

2 What is your contact address (address for service) in Australia? If you give a lawyer's address, include the name of the law firm.

State	Postcode
Phone	
DX	
Lawyer's code	
Email	

RESPONDENT 1

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

Respondent's address

State	Postcode
Phone	

If there is a second applicant or second respondent attach a separate sheet answering this question for Applicant 2/Respondent 2.

Part B About the independent children's lawyer (if appointed)

3

Independent children's lawyer family name	Given names

4 The contact address (address for service) in Australia for the independent children's lawyer is:

State	Postcode
Phone	
Email	
Lawyer's code	

Part C About the orders you are seeking – family law proceedings only

If you are seeking interlocutory orders in family law proceedings, complete this Part. If you are seeking interlocutory orders in migration or general federal law proceedings, skip this Part and complete Part D.

5 What type of orders are you seeking? Mark [X] all boxes that apply.

- | | |
|---|---|
| <input type="checkbox"/> Interlocutory (parenting orders) | <input type="checkbox"/> Interlocutory (financial orders) |
| <input type="checkbox"/> Procedural | <input type="checkbox"/> Other (specify) _____ |

Do you want this application to be dealt with in the absence of the parties in accordance with Part 5.3 of the Family Law Rules?

- Yes – see the notes below
- No

Notes

- a) If the respondent objects to the application being determined in the absence of the parties you still must attend the court.
- b) If the application is to be heard in the absence of the parties each party must file at least 2 days before the hearing a list of documents to be read by the Court and a supporting submission (see rule 5.15 of the Family Law Rules).
- c) An enforcement hearing cannot be held in the absence of the parties.

Part D The orders you are seeking

6 State the interlocutory orders that you are seeking.

[PLEASE NUMBER EACH ORDER SOUGHT]

1. An order this application be dealt within in the absence of the parties.
2. A garnishee order be made against [name of the financial institution/bank or employer] for debts in the amount of \$[amount of judgment] in the form attached.
3. Such further or other orders as the Court sees fit.
The Court notes:
4. The proposed garnishee is [name of the financial institution/bank or employer] of [insert address of garnishee].
5. The proposed garnishee order is in relation to the following account: [Remove this order if you are applying against an employer]
a. [Insert the name of the bank]
b. Account name: [Insert the account name]
6. Any debts are or are reasonably likely to be owed by the garnishee to the respondent/judgment debtor because the respondent/judgment debtor holds an account with the garnishee.

Attach extra pages if you need more space.

Part E Certification

I certify that to the best of my knowledge and information, the orders sought in this application are supported by evidence.

Part F Signature of applicant or lawyer

Signed	Date
	/ /

This application was signed by

the applicant/s

lawyer for the applicant/s

This application was prepared by

applicant/s

lawyer

Please go to page 4 for the Important Notices to the Respondent/s

PRINT NAME AND LAWYER'S CODE

GARNISHEE ORDER FOR DEBTS

COURT DETAILS

Court **Federal Circuit and Family Court of Australia**
Division **Small Claims Division**
Registry **Sydney**
Case number **SYGxxxx/20xx**

TITLE OF PROCEEDINGS

Plaintiff **[Your name]**

[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/judgment debtor's financial institution or bank]**

Address of garnishee **[The financial institution or banks' address]**

Judgment debtor **[Insert respondent/judgment debtor's name]**

Address of judgment debtor (if known) **[Insert respondent/judgment debtor's address]**

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 \$**[amount outstanding under judgment]** 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.

The court registry for limited procedural information.

ISSUING DETAILS

Garnishee order made on	[Leave this blank]
Issued at	[Leave this blank]
Signature	[Leave this blank]
Capacity	[Leave this blank]

JUDGMENT CREDITOR'S DETAILS

Name	[insert your name]		
Address for service	# [unit/level number]	# [building name]	
	[street number]	[street name]	[street type]
	[suburb/city]	[state/territory]	[postcode]

Telephone

#Fax

Email

Important information for the garnishee

Please read this notice and the garnishee order for debts very carefully.

Attached to this notice is a garnishee order for debts issued out of a New South Wales court.

The order requires you (**the garnishee**) to pay money you are holding on behalf of or owe to the judgment debtor to the judgment creditor in satisfaction of the judgment debt.

The garnishee order takes effect from when it is served on you.

Time within which payment to be made

Payment must be made to the judgment creditor within 14 days after the date of service of this order or, if the order attaches a debt that falls due after that date, within 14 days after the date on which the debt falls due.

Making payments

Payment must be made to the judgment creditor at the address specified in the garnishee order.

You are entitled to retain a maximum of \$13.00 to cover your expenses in complying with the garnishee order. Any amount that you retain for expenses does not operate to reduce the judgment debt.

Any amount paid under one or more garnishee orders must not, in total, reduce the amount of the aggregate debt that is due and accruing from the garnishee to the judgment debtor to less than the standard workers compensation weekly benefit (section 118A Civil Procedure Act 2005). This amount is adjustable – refer to the WorkCover NSW website <http://www.workcover.nsw.gov.au> to determine the applicable rate.

A payment to the judgment creditor must be accompanied by a statement showing:

The amount attached under the garnishee order.

How much of that amount has been retained by you for your expenses.

How much of the amount has been paid to the judgment creditor.

What if there is no debt due or accruing?

If you believe that there is no debt payable by you to the judgment debtor at the time of service of this order you may serve a statement to that effect on the judgment creditor. The statement must be in the approved form and set out the reasons you believe that there is no debt payable. Approved forms are available from the UCPR website at www.ucprforms.nsw.gov.au or at any NSW court registry.

Debts yet to accrue

If the garnishee order attaches a debt that is due for payment to the judgment debtor more than 28 days after service of this order on you, you must, within that period of 28 days, serve notice of that fact on the judgment creditor. The notice must specify the date on which the debt is, or is likely to be, due for payment to the judgment debtor and, if the amount of the

debt is less than the unpaid amount of the judgment debt specified in the garnishee order, the amount of the debt.

Lien or claim of third person

If you claim that some person, other than the judgment debtor, is or may be entitled to any money paid under the garnishee order, any debt attached by the garnishee order or any charge, lien or other interest in any such money or debt, you may apply to the court to determine your claim.

When garnishee not obligated to pay amount to judgment creditor

A garnishee order does not operate to attach to a debt if the debt is an amount of less than \$20 standing to the credit of the judgment debtor in a financial institution.

GARNISHEE ORDER FOR WAGES OR SALARY

COURT DETAILS

Court Federal Circuit and Family Court of Australia
Division Small Claims Division
Registry Sydney
Case number SYGxxxx/20xx

TITLE OF PROCEEDINGS

Plaintiff [Your name]

[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/judgment debtor's employer]
Address of garnishee [The employer's address]
Judgment debtor [Insert respondent/judgment debtor's name]
Address of judgment debtor (if known) [Insert respondent/judgment debtor's address]

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.

The court registry for limited procedural information.

ISSUING DETAILS

Garnishee order made on [Leave this blank]
Issued at [Leave this blank]
Signature [Leave this blank]
Capacity [Leave this blank]

JUDGMENT CREDITOR'S DETAILS

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

Important information for the garnishee

Please read this notice and the attached garnishee order for wages or salary very carefully.

Attached to this notice is a garnishee order for wages or salary issued out of a New South Wales court.

The order requires you (**the garnishee**) to make payments from any wage or salary that is payable by you to the judgment debtor to the judgment creditor in satisfaction of the judgment debt.

The garnishee order takes effect from when it is served on you and will continue to operate until the judgment debt is paid unless the court otherwise orders.

#A garnishee order addressed to the Crown that attaches to wages or salary binds the Crown.

Time within which payments to be made

Payments must be made within 14 days after the date on which the wage or salary is due to be paid to the judgment debtor.

Making payments

Payment must be made to the judgment creditor at the address specified in the garnishee order.

You are entitled to retain a maximum of \$13.00 to cover your expenses in complying with the garnishee order. Any amount that you retain for expenses does not operate to reduce the judgment debt.

Any amount paid under one or more garnishee orders must not, in total, reduce the net weekly amount of any wage or salary received by the judgment debtor to less than the standard workers compensation weekly benefit (section 122 Civil Procedure Act 2005). This amount is adjustable – refer to the WorkCover NSW website www.workcover.nsw.gov.au to determine the applicable rate.

If the judgment debt becomes the subject of an instalment order, you are only required to pay the amount payable under the instalment order. You will no longer be able to retain an amount to cover your expenses.

A payment to the judgment creditor must be accompanied by a statement showing:

The amount attached under the garnishee order (i.e., the net wage or salary payable for the pay period less the net weekly amount the debtor is entitled to receive under section 122 Civil Procedure Act 2005).

How much of that amount has been retained by you for your expenses (maximum \$13).

How much of the amount has been paid to the judgment creditor.

What if there is no salary or wage payable?

If you believe that no wage or salary will become payable by you to the judgment debtor you may serve a statement to that effect on the judgment creditor. The statement must be in the approved form and set out the reasons you believe that there is no wage or salary payable. Approved forms are available from the UCPR website at www.ucprforms.nsw.gov.au or at any NSW court registry.

Lien or claim of third person

If you claim that some person, other than the judgment debtor, is or may be entitled to any money paid under the garnishee order, any wage or salary attached by the garnishee order or any charge, lien or other interest in any such money, wage or salary, you may apply to the court to determine your claim.

Affidavit

Family Law Rules 2021 – RULE 8.15
General Federal Law Rules 2021 – RULE 4.04

COURT USE ONLY

Filed in:

Federal Circuit and Family Court of Australia

Type of proceedings:

- Migration proceedings
 Bankruptcy proceedings
 Fair Work proceedings
 Other (specify) _____

Filed on behalf of:

Full name: [insert your name] _____

Client ID _____

File number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Name of person swearing/affirming this affidavit:

[insert your name] _____

Date of swearing/affirming / /

Part A About the parties

APPLICANT 1

Family name (as used now)/Title/Organisation

[redacted]

Given names (as required)

[redacted]

APPLICANT 2

Family name (as used now)/Title/Organisation

Given names (as required)

RESPONDENT 1

Family name (as used now)/Title/Organisation

[redacted]

Given names (as required)

[redacted]

RESPONDENT 2

Family name (as used now)/Title/Organisation

Given names (as required)

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

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State	Postcode
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Phone _____

.....

Lawyer's code _____

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Email _____

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Part B About you (the deponent)

Family name (as used now)/Title/Organisation

Given names

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What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

	State	Postcode

Part C Evidence

- Set out the facts divided into consecutively numbered paragraphs. Each paragraph should be confined to a distinct part of the subject matter.
- Attach extra page(s) if you need more space. Make sure that the page containing the signature (Part E or F) is always the last page of the form. You and the witness to your affidavit must sign the bottom of each additional page.

I, [your name] of [Insert address, including State or Territory] and [Insert occupation or unemployed] affirm/swear [cross out what is not applicable]:

1. I am the applicant/judgment creditor in these proceedings.
2. I make this affidavit from my own knowledge and from information I have obtained through my dealings with the respondent/judgment debtor.
3. On [insert date], [Insert name of Judge or Registrar] of the Federal Circuit and Family Court of Australia made an order in these proceedings against the respondent/judgment debtor requiring [he/she/it] to pay \$[amount] to me (**Order**).
4. On [insert date], I served a Letter of Demand on the respondent/judgment debtor enclosing the Order and requested payment of the monies in accordance with the Order (**Letter of Demand**). Annexed and marked "A" is a copy of the Letter of Demand that was served on the respondent/judgment debtor on [insert date].
5. I caused the Letter of Demand to be served on the respondent/judgment debtor at [his/her last known residential/business address or registered office, if a corporation], [insert address], as follows:
 - a. at approximately, [insert time] on [insert date], I placed the Letter of Demand with the Order into a [registered express post] envelope addressed to the respondent/judgment debtor's [last known residential/business address or registered office, if a corporation] of [insert address];
 - b. I sealed the envelope containing the Letter of Demand and the Order; and
 - c. I then delivered the envelope by hand to the [express] post [box or office] at [insert location of post box].
6. The tracking number for the envelope containing the Letter of Demand and the Order was

- [insert number].
7. On [insert date], I went to the website of Australia Post, <https://auspost.com.au/mypost/track/#/search>, and entered the tracking number [insert number] of the envelope containing the Letter of Demand and the Order into the search box on that webpage.
 8. Annexed and marked “B” is a copy of the search results of the [registered express post] envelope with tracking number [insert tracking number], which confirms that the Letter of Demand and the Order were delivered to the respondent/judgment debtor’s [last known last known residential/business address or registered office, if a corporation] at [insert address] at [insert time] on [insert date].
 9. No payments have been made to reduce the Order.
 10. The respondent/judgment debtor is liable to pay the Order.
 11. The amount payable under the Order (including any prior enforcement costs but excluding interest after judgment under section 212 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth)) as at the date of this affidavit is \$[amount owed not including interest].
 12. Interest payable under section 212 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth) is \$[amount of interest].
 13. The amounts claimed for costs in respect of this order are:
 - a. Service fees \$[insert amount]
 - b. Solicitor fees \$Nil
 - c. **TOTAL** **\$**
 14. The proposed garnishee is identified in the application at [insert the address you served the original court documents on or the current address for service].
 15. The proposed garnishee order is in relation to [wages/salary OR a debt].
 16. Any debts are, or are reasonably likely to be owed by the garnishee to the respondent/judgment debtor because the proposed garnishee is the [employer OR financial institution/bank] of the respondent/judgment debtor.
 17. I have made enquires with [insert details of who did so and how] on [insert date], which confirmed the respondent/judgment debtor continued to [work for OR holds an account with] the garnishee.
 18. The Order is not set aside, varied, or stayed by any order of the Court under rules 17.05(2) or 25.12 of the *Federal Circuit and Family Court of Australia (Division 2) (General Federal Court) Rules 2021* (Cth).
 19. I believe the information contained in this affidavit is true and correct.

Part D Signature

I swear* /affirm* the contents of this affidavit are true

Signature of Deponent

Place	Date	/	/
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Before me (signature of witness)

Full name of witness (please print)

Justice of the Peace

Notary public

Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by deponent/s

lawyer

PRINT NAME AND LAWYER'S CODE

Enforcement action	Summary	Forms and fees
Examination Notice	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"> • Form 51 – Individuals • Form 52 – Corporations Fees: There is no filing fee as it does not need to be filed with the Court.
Examination Order	An order from the Court to require the judgment debtor to attend court and answer questions about their financial situation.	Forms: <ul style="list-style-type: none"> • Application in a Proceeding (FCFCoA) • Supporting Affidavit (FCFCoA) • Form 54 - Examination order Fees: There is no filing fee.
Writ for the Levy of Property by way of writ of execution	A writ for the levy of property is a Court order that instructs the NSW Sheriff to go to the judgment 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"> • Application in a Proceeding (FCFCoA) • Supporting Affidavit (FCFCoA) • Form 66 – Writ for the Levy of Property Fees: <ul style="list-style-type: none"> • Sheriff's execution fee per visit plus percentage of the proceeds of money made from auctioning the seized goods.
Garnishee Orders	A court order requiring someone that holds money for the judgment debtor to instead pay that money to you. Examples of this include an order to garnish money from the judgment debtor's bank account, from their wages, or from people that owe money to them.	Forms: <ul style="list-style-type: none"> • Application in a Proceeding (FCFCoA) • Supporting Affidavit (FCFCoA) • Form 70 - Garnishee Order for Debts • Form 71 – Garnishee Order for Wages or Salary Fees: There is no filing fee.