

Garnishee Order

There are two types of Garnishee orders:
One for debts and one for wages/salary.

A Garnishee Order for Debts is used to garnishee money that is owed to the debtor, for example, rental income (either from the letting agent or from the tenant directly). The letting agent or tenant will be required to pay amounts which were either held in a trust account or which were owed to the debtor as at the day of service of the garnishee order. The garnishee order is effective for one attachment only. A fresh garnishee order will need to be filed if full payment is not made.

A Garnishee Order for Wages/Salary is used to garnishee the wage or salary of the debtor directly from the debtors employer. This garnishee order will have effect until the debt has been paid in full. Should the letting agent/tenant or employer not comply with the terms of the Garnishee Order, we may issue a Garnishee Summons, which will require the garnisheered person or company to attend court and explain why they did not comply with the Garnishee Order, and why the debt should not now be recoverable from them.

Examination Notice

An Examination Notice is a tool by which we may obtain information as to the debtor's financial circumstances. The debtor is required to complete a financial statement detailing assets and liabilities. Information obtained from this statement may assist in determining the most effective method of enforcement.

Should the Examination Notice not be returned within the required time, an Examination Summons may be issued, which requires the debtor to attend court and give a reason as to why the debtor did not comply with the terms of notice. The debtor will also be required to complete the financial statement at that time.

Bankruptcy

For debts where the amount of the judgment/s against an individual is over \$2000.00, you may decide to commence bankruptcy proceedings against the debtor. In cases where there is more than one judgment against the debtor, the judgments may be combined, and one bankruptcy notice is issued.

Winding Up

For debts where the amount of the judgment(s) against a company is over \$2000.00, you may wish to issue a Creditor's Statutory Demand and commence winding-up proceedings, if the demand is not complied with within 21 days of service.

We trust that this overview is of assistance to you in outlining the basics of the debt collection process.

Whatever your debt recovery needs, no matter how great or small, we welcome the opportunity to provide you with an in-house demonstration of "Levies Online", our "one stop" solution for your debt recovery needs.



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Institute of Strata Title
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Debt Recovery Overview

A Complete Debt Recovery Process

We are pleased to provide you with this brief outline of the debt recovery process, based on our combined experience of over 29 years in the industry.

From a letter of demand to bankruptcy, we are able to customise a procedure to assist you with your debt recovery needs for strata title, community and neighbourhood associations, and company title properties.

There are three initial steps which may be taken when first commencing recovery action: final phone call(s) to the debtor, the issue of a letter of demand or the issue of a Statement of Claim.

Which of these steps are taken, will be determined by your current arrears procedure, and your specific requirements.

Final phone call(s)

Giving a debtor one last window of opportunity to finalise the debt or make arrangements for payment.

Letter of Demand

A formal request for payment of a debt, which acts as a final warning before commencement of legal proceedings. Some managing agents issue their own letter of demand prior to instructing us.

Statement of Claim

The initiations of proceedings to recover the debt through the Court system. Once that Statement of Claim has been served, the debtor has an opportunity to apply to the Court to pay by instalments or to file a defence.

Any application to pay by instalments will be considered by the Court, which may make the Order or refuse the application. Should the order be made, you may file an objection to the making of the Order, and that objection will then be heard in open Court. If the instalment application is refused, the debtor will be notified by the Court.

Judgment

If full payment or contract is not made by the debtor after service of the Statement of Claim, default judgment may be applied for. Doing this registers the debt with the Court and may also affect the credit rating of the debtor, as credit reference companies have access to the Courts records.

Once judgment has been entered, there are several ways to enforce that judgment. These are:-

- Writ for Levy of Property
- Garnishee Order for Debts or Wages/Salary
- Examination Notice
- Bankruptcy/Winding up

Writ for Levy of Property

A Writ for Levy of Property is a request for the Office of the Sheriff to attend an address provided to them and tag goods that belong to the debtor, for removal at a later date. Once these goods have been removed they will be sold at public auction. The proceeds of the sale of those goods will be used to pay the debt with any residual returned to the debtor. If the debtor does not have enough personal property to meet the debt, the Writ may seize the debtor's real estate to satisfy the debt, by way of Writ on Land.

