

Methods of Enforcement of Judgment Debt

Order for Examination

Including obtaining an order for examination, including drawing/typing/checking of notice of motion.

An order for examination is served on the judgment debtor by a process server and orders the judgment debtor to appear before the Court to provide financial circumstances.

Examination of Judgment Debtor

Including examination of judgment debtor by solicitor at Court hearing.

An examination hearing is conducted before the Court where the judgment debtor provides full details of financial circumstances. A solicitor will appear to cross examine the judgment debtor to confirm the debtor's capacity to attend to payment of the judgment debtor. The results of an examination hearing can then be utilised to decide the appropriate method of enforcement.

Examination of Judgment Debtor

Including issue of warrant for arrest of judgment debtor including drawing/typing/checking of notice of motion for issue of warrant.

If the judgment debtor fails to appear at the examination hearing a request for arrest of the judgment debtor can be filed to order the judgment debtor to appear to provide the requested information. The sheriff will locate, arrest and deliver the judgment debtor to the nearest Court to proceed with the examination hearing.

Writ of Execution

Including taking instructions, preparing documents and filing notice of motion for writ of execution including drawing/typing/checking of notice of motion and affidavit.

Upon filing of a writ of execution, the writ is referred from the Court to the nearest office of the sheriff closest to the judgment debtor's place of residence. The sheriff will attend at the judgment debtor's residence to review the personal property owned by the judgment debtor and provide a report as to items available for seizure and sale by the sheriff's office, the proceeds of the sale of the judgment debtor's personal property is then applied towards the judgment debt.

If the proceeds of the sale of the personal property obtained by seizure of the sheriff's office are insufficient to meet payment of the judgment debtor a writ against real property can then be issued to make application for the sale of the judgment debtor's real property with proceeds of sale to be applied to the judgment debt.

Garnishee Order

A garnishee order is served on the judgment debtor's employer ordering payment be made directly from the employer to the judgment creditor in satisfaction of the judgment debt.

Bankruptcy Notice

A bankruptcy notice is filed with the Australian Financial Security Authority (AFSA) and personally served on the judgment debtor. The judgment debtor is given a 21 day period to make arrangements to finalise the judgment debt. If the judgment debtor fails to pay the judgment debt upon expiry of the 21 day period a creditor's petition is filed to have the judgment debtor declared bankrupt.