

A GUIDE TO FILING A CLAIM IN QCAT (Queensland Civil & Administrative Tribunal)

QCAT was introduced in December 2009 to assist consumers and businesses in resolving monetary (and other) disputes in a less formal environment to the full Magistrates Court. QCAT favours each party representing themselves in a mediation style process when a debt disputes arises.

Things you should know about QCAT:

- The person making the claim is known as the “Applicant” and the person who owes you the money is the “Respondent” in QCAT.
- QCAT claims cannot exceed \$25,000.00 in value (Debts over \$25,000 must be dealt with in the Magistrates Court or a higher court where appropriate) and they must generally be for a specific amount of money (a “liquidated claim”)
- Filing a claim in QCAT is relatively low cost and Nexus can take care of the process on your behalf. Some, but not all of the costs of filing a QCAT claim can be recovered from the Respondent.
- Where the Respondent is an individual the claim must be served on the Respondent in person. In case of an incorporated entity the claim is usually served by posting a copy of the sealed document to the registered office of the company.
- The Respondent has 28 days from the date on which they are served with the QCAT Minor Debts Claim to either pay you the money they owe or to file a Response (Form 7). If a response is filed QCAT will set down a date for a mediation hearing to attempt to resolve the dispute or to attempt to come to an arrangement for settlement of the debt.
- You will be expected to attend the mediation hearing yourself to explain your claim and to discuss matters relative to your claim with the Respondent and the Mediator. You generally cannot take legal representation with you, and neither can the Respondent.
- If you cannot reach a decision at the mediation, a further date will be set down for hearing of the matter where QCAT will decide whether your claim is valid, and at that point an order will be made either for payment of the debt, payment of part of the debt or the claim may be dismissed if the tribunal believes you have no valid claim. You must attend this hearing yourself as must the other party. In some cases the parties may apply to the court to have legal representation at the hearing, but this application is generally made at time of the Form 7 being filed and it not just a given that the court will agree.
- If the Respondent does NOT file a Response (Form 7) within 28 days of being served with the claim and the debt remains owing, Nexus will file on your behalf an application for a decision by default from QCAT. This decision is generally considered final (although it can be opposed under certain circumstances).
- **A QCAT “Decision” is however NOT a Judgment.** If you wish to enforce the debt against the Respondent by taking further action such as an Enforcement Hearing, Writ of Execution, Bankruptcy etc, you must apply to the Magistrates Court to have the QCAT decision registered as a Judgment. Nexus can also take care of this on your behalf. Once registered as a Judgment by the court, the matter will also be listed on the credit file of the respondent resulting in a serious “black mark” against their name for five years or more. The Respondent may find it difficult to obtain credit, finance or other services in the future as a result of this action.
- QCAT offers a relatively cheap and easy method of allowing the Respondent to file a response and application for mediation resulting in further delays in recovering your money. Respondents might “manufacture” a reason to dispute the claim and this can draw out the process for several months whether their allegations are valid or not.
- The main thing to keep in mind when using the QCAT process is that you will have to take play a role in attending hearings if the Respondent disputes the debt and files an application for mediation. This is however a relatively low cost alternative to the Magistrates Court and according to legislation, it is generally the “proper” place to deal with disputes under \$25,000.00.
- Please note that changes made to the QCAT Act in mid 2016 mean that disputes relating to building matters are now handled differently to regular minor debts claims, we will need to discuss this new process with you if your claim relates to a building dispute. This is particularly important if you of the Respondent hold a QBCC license.
- Nexus is an approved entity under Section 26 of the QCAT Act 2009 meaning that we are approved to file forms electronically through direct online access to the courts e-filing system, this expedites the process of filing a claim as we are not required to attend a court registry to file documents on your behalf.
- This information is provided a broad and general guide to QCAT claims, it is not intended to cover all aspects of the QCAT claim process. Please speak to your Nexus Collections account manager to discuss you claim if you are unclear about any aspect of this process.