

# Enforcing orders

Orders made by NCAT are binding and legally enforceable. If orders are made in your favour and they are not being complied with, there are enforcement options available.

## Enforcing money orders

### Step 1: Request a certified money order

Call or write to NCAT requesting a 'certified money order'. This is a signed and sealed copy of NCAT's orders for the payment of money. A certified money order can be requested at any time after a money order is made.

### Step 2: Register with the Local Court

You can register online via the NSW Online Registry website or take the certified money order to a NSW Local Court (or NSW District Court for amounts over \$100,000). The certified money order can then be registered as a judgment of the Local Court. The Local Court will charge a filing fee for this service.

### Step 3: Enforce judgment through Local Court

With the registered judgment, you can start enforcement action through the Local Court to try to get the money you are owed. Enforcement action may include applying for a 'garnishee order' to have money taken from the judgment debtor's wages or bank accounts, or a 'writ for the levy of property' to authorise the Sheriff to seize and sell property belonging to the debtor to pay the debt.

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**Visit the [LawAccess NSW website](#) for a step by step guide to enforcing NCAT money orders through the Local Court**

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## Warrants for possession

A 'warrant for possession' authorises a Sheriff's Officer to enter the premises and take all steps necessary to remove the tenant, co-tenant or resident and their goods from the premises.

If NCAT has made an order for termination and possession, and the tenant, co-tenant or resident does not leave the premises, you can request a warrant for possession.

In agricultural tenancy and retail lease matters, NCAT will issue you with the certified copy of the order of possession for enforcement through the Supreme Court.

### How to request a warrant

The warrant request can only be made after the date of possession has passed, and **within 30 days** from the date of possession. Where orders are made for immediate possession a warrant can be requested as soon as the orders are served.

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**Warrant for possession request forms are available on the NCAT website**

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### Can I still apply for a warrant after 30 days?

If you request a warrant outside the 30 day time period, the matter will be listed as soon as possible before the Tribunal to determine whether the warrant should be issued. The Tribunal will consider whether the parties have entered into a new tenancy. If a lengthy period of time has passed you should seek independent legal advice.

### What do I do with the warrant?

The warrant will be provided to you in a sealed envelope. **DO NOT OPEN THE ENVELOPE.**

Take the unopened envelope to a Sheriff's Office as soon as possible (or immediately). The warrant must be executed within 28 days of the date of issue. A fee will be payable to execute the warrant. The Sheriff's Office will then carry out the warrant of possession in accordance with their guidelines.



## Common questions about warrants

### ***Is the tenant notified about the warrant?***

Yes. The tenant, co-tenant or resident will receive a letter from NCAT advising them that a warrant for possession has been issued and that they should expect a Sheriff's Officer to turn up at the premises.

### ***I opened the warrant by mistake***

Opening the warrant envelope invalidates the warrant and it cannot be executed by the Sheriff's Office. Return the original warrant to NCAT with a written request and include a statutory declaration explaining what happened.

### ***I lost or did not receive the warrant***

Send a written request to NCAT for a new warrant and include a statutory declaration explaining what happened.

### ***The Sheriff was unable to execute the warrant***

Sometimes the Sheriff's Office is unable to execute the warrant within the 28 day timeframe. This may be due to public holidays, the unavailability of a Sheriff's Officer, or where a stay order has been made pending appeal proceedings.

Return the original warrant to NCAT with a written request for a new warrant and include a statutory declaration detailing the date you gave the warrant to the sheriff and the reason why it could not be executed in time.

## Renewal of proceedings

If NCAT makes an order to do work or take action, and the order is not complied with within the period specified, you can apply to NCAT to renew the proceedings.

A renewal of proceedings means that you are asking NCAT to consider changing the original orders into a money order, or in limited circumstances a further work order. You can seek to renew one or all of the orders made in the original proceedings.

A renewal of proceedings application may be lodged for any Consumer and Commercial Division matter except for strata and community schemes.

### **How to apply for a renewal of proceedings**

The renewal of proceedings application form is available on the NCAT website. The application form

must be lodged within the time specified in the original order or, if no time specified, within 12 months of the date for compliance as set out in the original order.

A fee is payable with a renewal of proceedings application, being the same amount as the original application. If the fee is not paid the application will be rejected and dismissed without a hearing.

## Strata and community schemes orders

NCAT can impose a pecuniary (civil) penalty on anyone who does not comply with orders made by NCAT in a strata and community schemes matter.

To request that a penalty be imposed for the contravention of an order, complete and lodge a 'Strata and Community Schemes Application for Tribunal Orders'. An application fee is payable. Forms and the current fee schedule are available on the NCAT website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).

## Orders made against home building licence holders

If NCAT has made orders against a licensed home building contractor or building consultant, NSW Fair Trading will be advised of the order.

The builder must then notify NSW Fair Trading in writing as soon as possible when they have complied with the order (for example, when they have completed the work or paid the money).

If the licence holder fails to comply with an order to pay money in respect of a building claim, their licence may be suspended. A licence holder's failure to comply with NCAT orders will appear on NSW Public Register and they will be unable to renew their licence.

## Contact NCAT

**1300 006 228 | [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au)**

For more information and assistance visit the NCAT website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au) or contact NCAT on **1300 006 228**.