

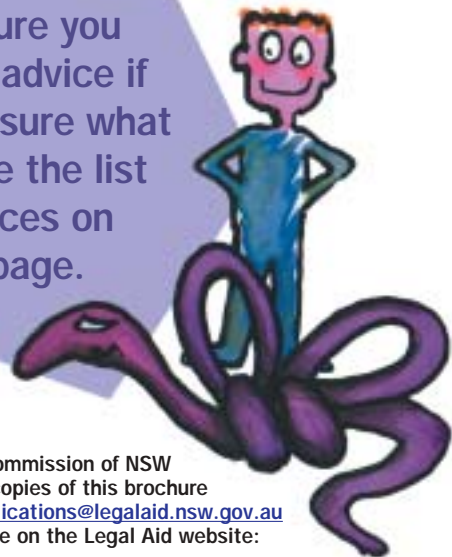
If you owe someone money, you should do something about it.



Even if you don't agree how much you owe or don't think you owe the money, you should do something.

This brochure explains some of the legal steps to take if you are in dispute about amounts under \$60,000.

Make sure you get legal advice if you aren't sure what to do. See the list of services on next page.



Produced by the Legal Aid Commission of NSW Publications Unit. For more copies of this brochure call 9219 5028 or email publications@legalaid.nsw.gov.au This brochure is also available on the Legal Aid website:

www.legalaid.nsw.gov.au

The centres and services listed below give free advice.

Legal Aid provides a free 20 minute interview for credit and debt advice. To make an appointment ring your nearest Legal Aid office (listed at right). If you need further help, Legal Aid may pay a lawyer to represent you if:

- the matter in dispute is over \$3,000
- the debt is a consumer debt
- you meet our means test
- your case is likely to succeed.

LAWAccess NSW can be reached on **1300 888 529** Monday to Friday 9am–5pm.

Chamber Registrars in most Local Courts provide free legal assistance. They can also help you with court documents. Ring your nearest Local Court to find out when you can see the Chamber Registrar.

Financial Counsellors assist people with debt problems by providing free information and advice on options available and negotiating with creditors. Ring Credit Help Line on 1800 808 488 for information about your nearest financial counsellor.

Community Legal Centres provide free legal advice and information about a range of matters including credit/debt. For information about your nearest centre, call 9318 2355 or visit www.nswclc.org.au.

The Consumer Credit Legal Centre specialises in credit/debt matters. For legal advice, call **9212 4111**

Hours: Tuesday 10.00am–12.30pm
Thursday 2.00pm–4.30pm

Debt Hotline: 1800 808 488

Hours: Monday to Friday 9.30am–4.30pm

Call **LAWAccess NSW 1300 888 529** for help over the phone, or your nearest Legal Aid office to arrange a free advice interview.

HEAD OFFICE
323 Castlereagh St
SYDNEY NSW 2000
Tel: 9219 5000
Fax: 9219 5935

BANKSTOWN
Civic Tower
Cnr Rickard Rd & Jacobs St
BANKSTOWN 2200
Tel: 9707 4555
Fax: 9708 6505

BLACKTOWN
85 Flushcombe Road
BLACKTOWN 2148
Tel: 9621 4800
Fax: 9831 5597

BURWOOD
74-76 Burwood Road
BURWOOD 2134
Tel: 9747 6155
Fax: 9744 6936

CAMPBELLTOWN
171-179 Queen St
CAMPBELLTOWN 2560
Tel: 4628 2922
Fax: 4628 1192

COFFS HARBOUR
4 Park Avenue
COFFS HARBOUR 2450
Tel: 6651 7899
Fax: 6651 7897

DUBBO
64 Talbragar Street
DUBBO 2830
Tel: 6885 4233
Fax: 6885 4240

FAIRFIELD
25 Smart Street
FAIRFIELD 2165
Tel: 9727 3777
Fax: 9724 7605

GOSFORD
37 William Street
GOSFORD 2250
Tel: 4324 5611
Fax: 4324 3503

LISMORE
29 Molesworth Street
LISMORE 2480
Tel: 6621 2082
Fax: 6621 9874

LIVERPOOL
Interdell Centre
47 Scott Street
LIVERPOOL 2170
Tel: 9601 1200
Fax: 9601 2249

MANLY
39 East Esplanade
MANLY 2095
Tel: 9977 1479
Fax: 9977 3357

NEWCASTLE
51-57 Bolton Street
NEWCASTLE 2300
Tel: 4929 8801
Fax: 4929 3347

Civil Law Centre
300 King Street
NEWCASTLE 2300
Tel: 4921 8801
Fax: 4921 8866

NOWRA
55-57 Berry St
NOWRA 2541
Tel: 4422 4351
Fax: 4422 4340

ORANGE
121 Byng Street
ORANGE 2800
Tel: 6362 8022
Fax: 6361 3983

PARRAMATTA
91 Phillip Street
PARRAMATTA 2150
Tel: 9891 1600
Fax: 9689 1082

PENRITH
95 Henry Street
PENRITH 2750
Tel: 4732 3077
Fax: 4721 0572

SUTHERLAND
Endeavour House
3-5 Stapleton Ave
SUTHERLAND 2232
Tel: 9521 3733
Fax: 9521 8933

TAMWORTH
454-456 Peel St
TAMWORTH 2340
Tel: 6766 6322
Fax: 6766 8303

WAGGA WAGGA
Best Place, Morrow St
WAGGA WAGGA 2650
Tel: 6921 6588
Fax: 6921 7106

WOLLONGONG
73 Church Street
WOLLONGONG 2500
Tel: 4228 8299
Fax: 4229 4027



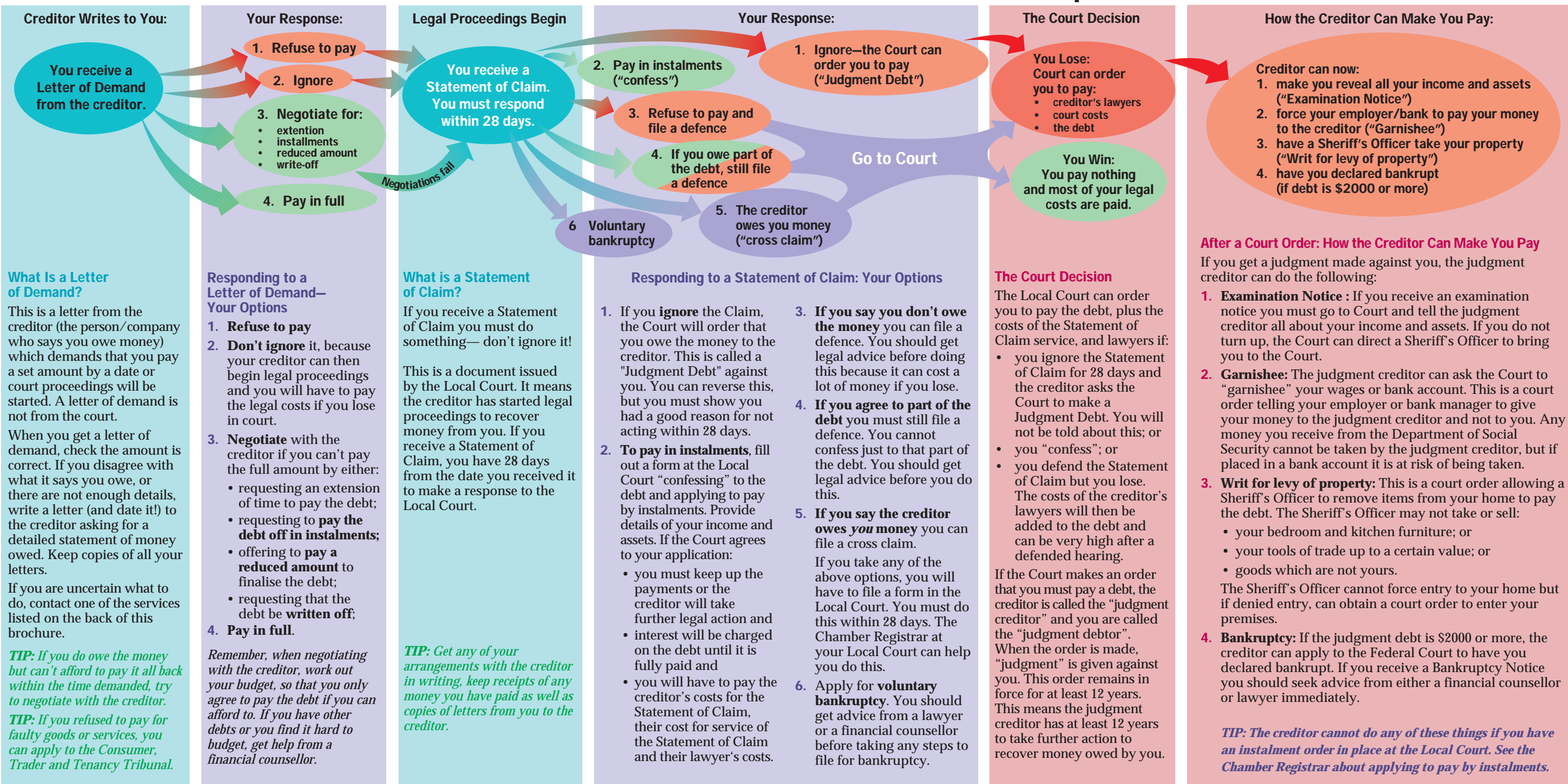
People who are hearing/speech impaired can communicate with us through TTY **9219 5126** or by calling the **National Relay Service (NRS)** on **133 677**.

Are you being squeezed for a debt?



Advice from **Legal Aid**
NEW SOUTH WALES

Debt and the Court Process—What Are Your Options?



What Is a Letter of Demand?

This is a letter from the creditor (the person/company who says you owe money) which demands that you pay a set amount by a date or court proceedings will be started. A letter of demand is not from the court.

When you get a letter of demand, check the amount is correct. If you disagree with what it says you owe, or there are not enough details, write a letter (and date it!) to the creditor asking for a detailed statement of money owed. Keep copies of all your letters.

If you are uncertain what to do, contact one of the services listed on the back of this brochure.

- TIP:** If you do owe the money but can't afford to pay it all back within the time demanded, try to negotiate with the creditor.
- TIP:** If you refused to pay for faulty goods or services, you can apply to the Consumer, Trader and Tenancy Tribunal.

Responding to a Letter of Demand—Your Options

1. **Refuse to pay**
2. **Don't ignore** it, because your creditor can then begin legal proceedings and you will have to pay the legal costs if you lose in court.
3. **Negotiate** with the creditor if you can't pay the full amount by either:
 - requesting an extension of time to pay the debt;
 - requesting to **pay the debt off in instalments**;
 - offering to **pay a reduced amount** to finalise the debt;
 - requesting that the debt be **written off**;
4. **Pay in full.**

Remember, when negotiating with the creditor, work out your budget, so that you only agree to pay the debt if you can afford to. If you have other debts or you find it hard to budget, get help from a financial counsellor.

What is a Statement of Claim?

If you receive a Statement of Claim you must do something— don't ignore it!

This is a document issued by the Local Court. It means the creditor has started legal proceedings to recover money from you. If you receive a Statement of Claim, you have 28 days from the date you received it to make a response to the Local Court.

TIP: Get any of your arrangements with the creditor in writing, keep receipts of any money you have paid as well as copies of letters from you to the creditor.

Responding to a Statement of Claim: Your Options

1. If you **ignore** the Claim, the Court will order that you owe the money to the creditor. This is called a "Judgment Debt" against you. You can reverse this, but you must show you had a good reason for not acting within 28 days.
2. **To pay in instalments**, fill out a form at the Local Court "confessing" to the debt and applying to pay by instalments. Provide details of your income and assets. If the Court agrees to your application:
 - you must keep up the payments or the creditor will take further legal action and
 - interest will be charged on the debt until it is fully paid and
 - you will have to pay the creditor's costs for the Statement of Claim, their cost for service of the Statement of Claim and their lawyer's costs.
3. **If you say you don't owe the money** you can file a defence. You should get legal advice before doing this because it can cost a lot of money if you lose.
4. **If you agree to part of the debt** you must still file a defence. You cannot confess just to that part of the debt. You should get legal advice before you do this.
5. **If you say the creditor owes you money** you can file a cross claim. If you take any of the above options, you will have to file a form in the Local Court. You must do this within 28 days. The Chamber Registrar at your Local Court can help you do this.
6. Apply for **voluntary bankruptcy**. You should get advice from a lawyer or a financial counsellor before taking any steps to file for bankruptcy.

The Court Decision

The Local Court can order you to pay the debt, plus the costs of the Statement of Claim service, and lawyers if:

- you ignore the Statement of Claim for 28 days and the creditor asks the Court to make a Judgment Debt. You will not be told about this; or
- you "confess"; or
- you defend the Statement of Claim but you lose. The costs of the creditor's lawyers will then be added to the debt and can be very high after a defended hearing.

If the Court makes an order that you must pay a debt, the creditor is called the "judgment creditor" and you are called the "judgment debtor". When the order is made, "judgment" is given against you. This order remains in force for at least 12 years. This means the judgment creditor has at least 12 years to take further action to recover money owed by you.

After a Court Order: How the Creditor Can Make You Pay

If you get a judgment made against you, the judgment creditor can do the following:

1. **Examination Notice** : If you receive an examination notice you must go to Court and tell the judgment creditor all about your income and assets. If you do not turn up, the Court can direct a Sheriff's Officer to bring you to the Court.
2. **Garnishee**: The judgment creditor can ask the Court to "garnishee" your wages or bank account. This is a court order telling your employer or bank manager to give your money to the judgment creditor and not to you. Any money you receive from the Department of Social Security cannot be taken by the judgment creditor, but if placed in a bank account it is at risk of being taken.
3. **Writ for levy of property**: This is a court order allowing a Sheriff's Officer to remove items from your home to pay the debt. The Sheriff's Officer may not take or sell:
 - your bedroom and kitchen furniture; or
 - your tools of trade up to a certain value; or
 - goods which are not yours.

The Sheriff's Officer cannot force entry to your home but if denied entry, can obtain a court order to enter your premises.

4. **Bankruptcy**: If the judgment debt is \$2000 or more, the creditor can apply to the Federal Court to have you declared bankrupt. If you receive a Bankruptcy Notice you should seek advice from either a financial counsellor or lawyer immediately.

TIP: The creditor cannot do any of these things if you have an instalment order in place at the Local Court. See the Chamber Registrar about applying to pay by instalments.