

An application for an enforcement warrant costs 3,000VT, which is paid to the Court.

An enforcement warrant may allow a variety of things to happen to ensure payment of the debt, including:

- Order an enforcement officer to take real and personal property from the debtor (not property that the debtor needs to live) and sell it. This can include land but not custom land. The enforcement officer must then send money equal to the amount of the debt to the Court for it to pass on to the creditor and return any extra to the debtor.
- If someone else owes the debtor money, the Court may order that this person pays the money directly to the creditor.
- If the debtor has an account with a financial institution (such as a bank account), and receives regular payments into that account, the Court may order that these payments go directly to the creditor.
- If the debtor has a job, the Court may order their boss to pay some of their wages directly to the creditor.
- If the debtor has shares, stocks, bonds, annuities or something similar, the Supreme Court may make a charge over this. You should get legal advice about this.

### **Can the enforcement warrant be used anywhere in Vanuatu?**

Yes, a warrant can be used anywhere throughout Vanuatu. However, before carrying out the warrant in another district the person enforcing it must take the warrant to the local Magistrate's Court for them to stamp it.

### **What happens if the debtor is dead?**

If the debtor is dead, then the debt can be paid out of the assets of their estate, for example property in their will.

#### **For further information:**

The *Civil Procedure Rules* set out the rules which the Court follows when dealing with cases. These can be found on PacLII

**USP Community Legal Centre**  
PMB 9072, Port Vila  
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**Public Solicitor's Office**  
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<http://pacific.org.vu/vu/rules/CPRules2002/CPRMa.html> or at your local court house.

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The information contained in this brochure is only intended as a guide to the law and is not a substitute for obtaining legal advice. If you have any further questions we strongly suggest you seek legal advice.

Note: This information applies to people who live in, or are affected by, the law as it applies in Vanuatu.

The information in this brochure is current as at 30 June 2006.

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# **ENFORCEMENT OF MONEY ORDERS**



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## What is this brochure about?

This brochure is about enforcing court orders relating to money.

In this brochure, the terms ‘debtor’ and ‘creditor’ will be used. A debtor is the person that the court orders to pay the money. A creditor is the person that will receive the money.

The ‘debt’ is the amount of money that the court has ordered the debtor to pay to the creditor and can include the creditor’s legal costs and interest.

## What do I do when I get a court order requiring someone to pay me money?

When a court makes a decision that includes the payment of money, the court asks the person that has to pay the money how he or she is able to pay. The court must either:

- make an order called an ‘enforcement order’ setting out how and when the money will be paid; or
- choose a date for a meeting called an ‘enforcement conference’ to consider how the person can pay the money.

## What is an enforcement order?

An enforcement order is a court order that says how the debt will be paid. The parties can make an enforcement order by agreement or it can be made by a decision of the court. An enforcement order may:

- give a date when the debtor must pay the money; or
- if there has been an agreement to pay in small amounts, then give the dates and

amounts of the payments.

An enforcement order lasts for six years or until it is paid.

## What is an enforcement conference?

An enforcement conference is held to decide how the debtor will pay the debt.

It must be held within 28 days from the date that the Court made the decision, or as soon as possible after that period.

## What happens at an enforcement conference?

When the Court chooses the date for the enforcement conference it tells the debtor that they must:

- come to the enforcement conference on that date; and
- bring with him or her documents or papers that will give the Court and the creditor an idea of how much money the debtor has.

Note that if the debtor does not have an address for service, the creditor may be required to serve the debtor with the Court notice setting out the date and time of the enforcement conference.

The Court can also order other people to come to this meeting, such as a person’s boss, if it thinks that this is necessary.

If the debtor does not appear at the enforcement conference, the court may issue a warrant for his or her arrest unless the debtor had sufficient cause for not attending the conference.

At the end of the enforcement conference, the

Court must do one of the following four things:

- if the parties have come to an agreement, an enforcement order must be made to reflect this agreement;
- the Court may make it’s own decision about an enforcement order;
- the Court may issue an enforcement warrant; or
- the Court may make another enforcement order about the payment.

## What happens if the debtor still refuses to pay or does not follow the enforcement order?

If the debtor does not follow the enforcement order or other Court order, the creditor can apply to the Court for an enforcement warrant.

An application for an enforcement warrant must be in Form 25 and attach a copy of the enforcement order, 2 copies of the proposed enforcement warrant and a sworn statement (Form 3) made not earlier than 2 business days before filing the application, setting out:

- the date of the enforcement order;
- the amount it orders;
- the date and amount of any payment or payments made under the order;
- the costs of attempting to enforce the order;
- the interest already due and the daily amount of future interest;
- any other information that is necessary to work out the amount of the debt and how it could be paid; and
- any other information needed for the warrant.