

of keeping the goods and paying the value of the goods, or if the order does give the person that option but the person does not choose to pay for the goods.

If the order gives the person the option of keeping the goods and paying the value of the goods and the person chooses to do that, the order may be enforced in the same way as a money order.

An enforcement 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.

Order to do or not do an act

Where a non-money order that requires a person to do an act or to not do an act and the person fails to comply with the order, the order may be enforced by:

- punishing the person for contempt;
- seizing the person's property; or
- where the order requires the person to do an act, appointing another person to do the act and ordering the person required to do the act to pay the costs and expenses caused by not doing the act.

The costs and expenses may be recovered under an enforcement warrant for a money order.

Suspension of enforcement

A person against whom an enforcement order is made may apply to the court for an order suspending the enforcement of an enforcement order.

To do so, the person must file and serve on the person in whose favour the order is made an application together with a sworn statement at least 7 working days before the application is to be heard.

Note that filing an appeal against a judgement does not affect the enforcement of the judgement unless the party appealing applies for a suspension and the court grants a suspension.

For more information, contact:

**USP Community
Legal Centre**
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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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UNIVERSITY OF THE
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ENFORCEMENT OF NON-MONEY ORDERS



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What is this brochure about?

This brochure is about enforcing court orders or parts of orders that are not money orders, eg orders that do not relate to the payment of money.

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

The procedure for enforcing a non-money order is similar to that for enforcing a money order (see the brochure entitled *Enforcement of money orders*). When a court makes a decision that includes a non-money order, the court asks the person against whom the order is made how he or she proposes to comply with the order. The court must either:

- make an enforcement order; or
- choose a date for an enforcement conference to consider how the person can comply with the non-money order.

Enforcement Conference

When the court chooses the date for the enforcement conference it tells the person that they must:

- come to the enforcement conference on that date; and
- bring with him or her sufficient information that will enable him or her to tell the court how he or she proposes to comply with the order.

If the person against whom the order is made does not have an address for service, the person in whose favour the order is made may be required to serve the other person with the Court

notice setting out the date and time of the enforcement conference.

If the person against whom the order is made does not appear at the enforcement conference, the court may issue a warrant for his or her arrest unless the person had sufficient cause for not attending the conference.

Enforcement order

If the parties have come to an agreement about how the person who is required to comply with the order proposes to do so, the court may make an enforcement order in the terms of the agreement.

The court may also make its own decision about an enforcement order.

Enforcement warrant

If the person required to comply with the order does not follow the enforcement order or other court order, the other party can apply to the court for an enforcement warrant.

A person applying for an enforcement warrant to enforce a non-money order must file and serve an application that has with it 2 copies of the warrant and a sworn statement stating that the person against whom the order was made has not complied with the order and how he or she has not complied.

An enforcement warrant for a non-money order must include:

- the name of the person who must comply with the order;

- the dates, within 1 year of the warrant, that the warrant ends;
- what the warrant authorises; and
- any other necessary information.

The warrant can be issued without a hearing unless the court otherwise orders.

The court must give the warrant to an enforcement officer (eg the Sheriff or a police officer) to be enforced.

An application for an enforcement warrant costs VT3,000, which is paid to the court.

An enforcement warrant may allow a variety of things to happen to ensure compliance with the non-money order, including:

- Enforce possession of land - Authorising an enforcement officer to enter onto land described in the warrant and deliver possession of it to the person named in the warrant as being entitled to it. Such a warrant must be served personally on the person against whom it is made and anyone else who appears to be in possession of the land. It must also be displayed prominently at the entrance to the land.

This sort of warrant cannot be enforced until 7 days after personal service of the warrant and display at the entrance to the land.

- Enforce delivery of goods – the court may issue an enforcement warrant for the delivery of goods if the order for the delivery of goods does not give the person against whom the order is made the option