

# Enforcement Orders in the Federal Circuit and Family Court of Australia.



Article by Townsville Family Lawyer, Jodi Dingwall.

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## Let me tell you a story...

This is a story about the enforcement of a Court Order and the client who didn't take the advice they were given by their lawyer.

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## What happened?

Once upon a time, there was a client who had a Court Order. The Order stated that they were to pay spousal maintenance to their former spouse for four years subject to certain terminating events.

Sometime after the order was made, the client's employment circumstances changed. The client contacted their solicitor and was *provided advice to immediately apply to the court to vary the terms of the spousal maintenance order.*

The client chose not to do this. They didn't want to spend the money on legal fees and despite being told the former spouse could enforce the order, they didn't think anything would come of it. And so, the client stopped paying spousal maintenance as they felt they could no longer afford to pay the amount ordered.

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## Months went by...

And then one day, an enforcement warrant officer knocked on the client's door unexpectedly with an Enforcement Warrant approved by the Federal Circuit and Family Court of Australia, in hand. The Enforcement Warrant allowed the warrant officer to seize and sell the client's property.

*The Enforcement Order was able to be obtained from the Court without the client's knowledge.*

As the client was unable to make payment of his outstanding spousal maintenance obligations under the original court order, the warrant officer was able to seize the client's motor vehicle, firearms and jewellery and sell them so that the debt accrued for unpaid spousal maintenance could be paid.

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## What is an Enforcement Warrant?

An Enforcement Warrant can be sought from the Court without notice to the person that is required to pay monies under a court order. Once obtained, the warrant enables an enforcement warrant officer to help a person (the payee) to enforce the obligation a person has (the payer) to pay money ordered by the Court.

The Warrant enables an enforcement warrant officer to attend upon the payer to seize and sell assets so that the payee receives the monies that were ordered to be paid to them.

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## Moral of the Story

There are a few things to learn here.

- If you are Ordered to pay money under a Court Order and your circumstances change where you are unable to comply with the Court Order, you should seek legal advice from an experienced lawyer. Find out what your options are and whether you can apply to the Court to seek a change to your orders.
  - If your lawyer advises you have grounds for a change to the order and that you should immediately apply to the court for a variation to the order – take their advice!
  - This was a situation where it would have been far cheaper for the client to pay for a lawyer to seek a variation of the spouse maintenance order – instead of doing nothing.
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