

HAVE YOU LOST YOUR JOB?

A legal guide to dismissal from work,
managing on less money
and getting back into the workforce



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INTRODUCTION

Throughout 2009 and 2010 many Queensland workers are likely to become unemployed, some for the first time. This guide is for those people.

If you have been dismissed from work, was it fair and lawful? Is there action you can take? This guide can help you work out your rights and where to go for help.

Has your income dropped significantly? Are you having trouble managing your financial obligations? This guide gives you information you need to manage your money and keep on top of debt.

Being unemployed, even for a short period, is hard. This guide contains tips and contacts to help you through unemployment and get back into work.

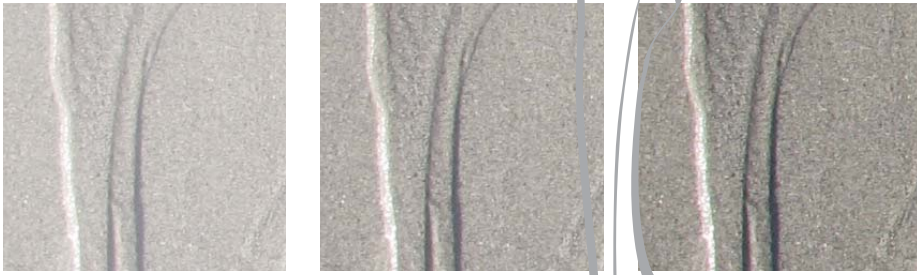
This guide is current at 1 August 2009. There are some changes to credit law scheduled for new loans entered into in late 2009. At the time of writing the changes are expected to begin to apply from August or September 2009. Where these changes may affect you it is noted in the text but the exact detail of the new law was not known at the time of writing.

In any case, this guide is for information only. It cannot replace legal advice. There are free information and advice services for all the legal issues set out in this guide and contact details are provided. You are encouraged to seek advice where necessary.

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CONTENTS

ACKNOWLEDGEMENTS	2
INTRODUCTION	2
DISMISSAL	4
1.1 UNFAIR DISMISSAL	6
1.2 UNLAWFUL DISMISSAL	14
1.3 DISCRIMINATION AND WORKPLACE HARASSMENT	17
1.4 YOUR ENTITLEMENTS	20
1.5 WHERE SHOULD I GO IF I WANT FURTHER INFORMATION?	23
MANAGING ON LESS MONEY	24
2.1 HARDSHIP VARIATIONS TO CREDIT CONTRACTS	25
2.2 OTHER WAYS TO FIND THE MONEY TO PAY A CREDIT CONTRACT	29
2.3 MANAGING OTHER DEBTS AND EXPENSES	32
2.4 HELP TO BUDGET, NEGOTIATE AND ACCESS RELIEF	35
2.5 WHAT WILL HAPPEN IF YOU CANNOT PAY OR MANAGE YOUR DEBTS?	36
2.6 FOR MORE HELP, CONTACT	38
MANAGING UNEMPLOYMENT AND LOOKING FOR WORK	39
3.1 ACCESSING CENTRELINK ENTITLEMENTS	40
3.2 TAKING CARE OF YOUR MENTAL HEALTH AND WELLBEING	41
3.3 GETTING BACK INTO THE WORKFORCE	42
3.4 FOR MORE HELP, CONTACT	44



DISMISSAL

This section will help you to understand the laws on unfair dismissal, unlawful dismissal, discrimination and harassment in the workplace and termination entitlements.

There are a number of federal and state laws dealing with dismissal and it can be confusing trying to understand which laws apply to you.

The table below will help you work out whether you are a National System Employee or a State System Employee. Most employees in Australia are National System Employees as most are employed by a company.

You are a National System Employee if:	You are a State System Employee if:
you are employed by the Commonwealth government;	you are employed by the Queensland government;
you are employed by a corporation (e.g a company with Ltd or Pty Ltd after its name) that makes a substantial part of its income from buying and/or selling goods or services;	you are employed by a partnership; or
you are a flight crew officer, maritime employee or waterside worker;	you are employed by a sole trader.
you are employed by a body corporate of a Territory; or you are employed in connection with an activity undertaken in a Territory.	

If you are still not sure which system covers you, check the name of your employer on your employment contract or call the Fair Work Ombudsman, Wageline or one of the advisory bodies whose contact details are at section 1.5 of this guide.

If you are employed by a not for profit or community organisation, you may either be a National System Employee or a State System Employee, depending on whether your employer is a corporation and the work that is done by your employer. It will normally be necessary to get advice about which system covers you.

1.1 UNFAIR DISMISSAL

If you are a National System Employee and you believe that you have been unfairly dismissed, **Fair Work Australia** (“FWA”) is the body that you should go to for help. If you are a State System Employee, the **Queensland Industrial Relations Commission** (“QIRC”) is the correct body.

FWA and the QIRC are tribunals, similar to courts, however, they specialise in employment and workplace relations matters and deal with those matters in a more informal way. FWA and QIRC have “Members” whose role is similar to that of a judge in a court.

This section will help you to work out whether you may have been unfairly dismissed and if so whether you are able to bring an unfair dismissal claim against your employer.

HAVE YOU BEEN DISMISSED?

Generally, you are taken to be dismissed only if your employer has terminated your employment. For example, your employer may have given you notice that your employment will end on a specific date and they may require you to work out that period, they may have ended your employment immediately and may have paid you for your notice period, or your employer may allege that you have committed serious misconduct and have ended your employment immediately without paying you for the notice period.

You may also be taken to be dismissed if you resigned from your employment because you were forced to because of your employer’s conduct. This is known as constructive dismissal. You can make an application to FWA or the QIRC for unfair dismissal and argue that you were constructively dismissed. The Member dealing with your matter will hear your case and decide whether you were constructively dismissed or simply resigned.

Some examples of the type of action which may lead you to resign and claim that you have been constructively dismissed include:

- that your employer has improperly changed the terms and conditions of your employment, for example, by changing your hours of work or re-distributing your duties; or
- that you are being harassed or bullied in the workplace and your employer does not take any action to prevent it or to stop it from continuing.

There are specific circumstances in which a National System Employee is taken not to have been dismissed:

You have not been dismissed if you were a National System Employee and:
you were employed for a specific period of time, to perform a specific task, or for a specific season and your employment has ended on the completion of that time, task or season;
you were employed under a training arrangement (e.g. an apprenticeship) for a specific period or for the duration of the training arrangement and your employment has ended at the completion of the training arrangement;
your employment has changed (e.g. there has been a change to your job title or job description) but you remain employed by your employer and there was no significant reduction in your pay or duties.

WAS THE DISMISSAL UNFAIR?

A dismissal may be considered to be an unfair dismissal if it was “harsh, unjust or unreasonable”. This is decided by the FWA Member or the QIRC Member who is allocated your matter.

A dismissal may be considered “harsh, unjust or unreasonable” because the reason the employer gave was not sufficient to warrant dismissal or because the process that the employer adopted was unfair.

For example, it may not be a sufficient reason to dismiss a long serving employee who has arrived to work late on only one occasion, but it may be sufficient to dismiss such an employee who has committed only one breach of health and safety rules if it is a serious breach. Procedures may also be relevant, for example, if your dismissal was for a reason related to your capacity or conduct, the Member may look at whether you were given warnings and an opportunity to improve your performance or conduct prior to being dismissed. If your dismissal was for misconduct, the way in which the employer carried out an investigation into that misconduct may be relevant as well as other factors such as whether you were allowed to have a support person present during any meetings to discuss your dismissal.

For State System Employees, a dismissal is also an unfair dismissal if it was for an “invalid reason”. Invalid reasons include:

- being temporarily absent from work because of illness or injury (depending upon the length of the absence and whether the employee has notified the employer of the absence) or to engage in specific community service activities;
- reasons relating to union membership;
- filing a complaint against the employer in a court or with a relevant authority;
- making a public interest disclosure;

- refusing to negotiate for or make certain types of agreements; or
- being pregnant, giving birth or applying for parental leave.

For a more detailed list of invalid reasons contact the QIRC.

ARE YOU EXCLUDED FROM BRINGING A CLAIM FOR UNFAIR DISMISSAL?

Even if you believe your dismissal was unfair, you will not be able to bring a claim if you are excluded by law from doing so. As is explained below, there are different grounds on which National or State System Employees may be excluded from bringing unfair dismissal claims.

EXCLUSIONS - NATIONAL SYSTEM EMPLOYEES

You can only bring a claim to FWA for unfair dismissal if you are a National System Employee and if you have been dismissed as explained above. In addition, there are other circumstances in which you may be excluded from bringing an unfair dismissal claim. When the FWA receives your unfair dismissal application, the FWA Member will first consider these circumstances and whether you are excluded.

YOU ARE EXCLUDED FROM BRINGING OR CONTINUING A CLAIM FOR UNFAIR DISMISSAL IF ONE OF THE FOLLOWING APPLIES TO YOU:

1. You have not served the *“Minimum Employment Period”*

All employees must serve a “minimum employment period” with their employer before they are protected from unfair dismissal. The length of this period depends upon the size of your employer.

If your employer had less than 15 full-time equivalent employees at the time of your dismissal, then your employer is considered a “Small Business Employer” and your minimum employment period is 12 months.

If your employer had 15 or more full-time equivalent employees at the time of your dismissal, then your minimum employment period is 6 months.

If you were a casual employee, the length of your employment will not count towards the minimum employment period unless it was on a regular and systematic basis and you had a reasonable expectation of continuing your employment on that basis.

When calculating the numbers of employees, you must take into account:

- yourself;
- any other colleagues who were dismissed at the same time as you;
- any other colleagues still working for the employer; and
- any employees employed by an “associated entity”.

You do not count any casual employees who were not working on a regular basis at the time of your dismissal. An “associated entity” includes for example, a company which owns or is owned by your employing company.

There are also special rules for employees whose employer has sold their business and who were employed by a new employer prior to their dismissal. Such employees may not be able to count all of their period of service with the previous employer. You should contact the FWA or one of the advisory bodies in section 1.5 below for further advice if you think this applies to you.

2. *You earned more than \$108,300 and your employment was not covered by an Award or Enterprise Agreement*

You must be covered by an Award or an Enterprise Agreement or have earned less than the “High Income Threshold”. The High Income Threshold is currently \$108,300 per year. If you earned more than \$108,300 your employment must have been covered by an Award or Enterprise Agreement for you to be eligible to make a claim. If you are unsure about whether an Award or Enterprise Agreement covers you, you can contact Wageline and check. If you earned less than \$108,300 it does not matter (for the purposes of unfair dismissal) whether you are covered by an Award or Enterprise Agreement.

3. *Your employer was a Small Business Employer and they followed the Small Business Fair Dismissal Code*

The Small Business Fair Dismissal Code applies only to Small Business Employers – that is those with less than 15 full-time equivalent employees. If your employer was not a Small Business Employer, it does not matter whether they have complied with the Code or not.

The Code has three sections, covering summary dismissal, other cases of dismissal and procedural matters.

Small Business Fair Dismissal Code	
Summary dismissal	It is fair for an employer to dismiss an employee without notice or warning if the employer believes on reasonable grounds that the employee has committed serious misconduct. Serious misconduct includes theft, fraud, violence and serious breaches of occupational health and safety procedures.
Other dismissal	<p>In other cases, the employer must have a valid reason based on the employee's capacity or conduct to dismiss the employee.</p> <p>The employer must warn the employee verbally or in writing that he/she risks being dismissed if there is no improvement in their conduct.</p> <p>The employer must give the employee an opportunity to respond to the warning and a reasonable chance to rectify the problem.</p>
Procedural matters	<p>In discussions with the employee where dismissal is being contemplated, the employee can have a support person present with them – this person cannot be a lawyer acting in a professional capacity.</p> <p>The employer may be required to provide evidence of their compliance with the Code – e.g. copies of written warnings, termination letter, signed witness statements.</p>

The FWA Member who is allocated to your matter will look at the circumstances of your dismissal and decide whether your former employer followed the Small Business Fair Dismissal Code. If they decide that they did follow the Code, your claim will be dismissed.

4. Your dismissal was for genuine redundancy

If the FWA Member who is allocated your matter decides that you were dismissed for genuine redundancy, your claim will be dismissed.

A genuine redundancy has occurred if operational changes in your employer's business mean that they no longer require the job that you did to be done by anyone. Your employer must also have:

- complied with any requirement set out in an Award or an Enterprise Agreement to consult with you or your union about the redundancy; and
- considered redeploying you to another area of the employer's business or to a company associated with the employer's business.

CHECKLIST FOR NATIONAL SYSTEM EMPLOYEES

You can bring an unfair dismissal claim if:
You were dismissed;
You met the minimum employment period;
You are an Award/Enterprise Agreement employee or you earned less than \$108,300 per year;
Your employer was not required to or did not comply with the Small Business Fair Dismissal Code; and
Your dismissal was not for genuine redundancy.

EXCLUSIONS - STATE SYSTEM EMPLOYEES

If you are a State System Employee, there are two grounds on which you might be able to bring an unfair dismissal claim. One is on the ground that the dismissal was “harsh, unjust or unreasonable” and another is on the ground that the dismissal was for an “invalid reason” (see further above under the heading “Was the dismissal unfair?”).

If you are a State System Employee and you are not claiming that your dismissal was for an invalid reason, you are excluded from bringing an unfair dismissal claim to the QIRC if you were:

- Still working within your probationary period (often 3 months but commonly longer, especially for government employees);
- Engaged as a casual employee for a short period; or
- Engaged for a specific period or to perform a specific task.

If you are a State System Employee, you are excluded from bringing an unfair dismissal claim (whether you are claiming that the dismissal was for an invalid reason or not) if you were:

- Not employed under an industrial instrument or as a public service officer and you earned more than a certain amount, currently \$106,400; or
- An apprentice or trainee.

HOW CAN I MAKE A CLAIM FOR UNFAIR DISMISSAL?

If you decide to make a claim for unfair dismissal, you need to file an application form, along with the required fee with either FWA or the QIRC. For National System Employees, the form must be filed with FWA within 14 days from the date of the termination of your employment. For State System Employees, the form must be filed with the QIRC within 21 days from the date of termination of your employment. These timeframes may be extended in some circumstances, however, it is very important that if you decide to make a claim, that you act quickly following the termination of your employment to comply with this deadline.

WHAT WILL BE DONE WITH MY APPLICATION?

For National System Employees, once FWA receives your application, it will be allocated to a FWA Member who will be responsible for handling your matter. FWA will contact you and your former employer and advise you about how it will deal with the application. You may be called to attend a conference with your former employer and the FWA Member either in person or over the phone to discuss the matter with a view to helping you and your former employer resolve it together. The FWA Member may also decide that it needs to hold a hearing at which witnesses are called and evidence is given to deal with any contested facts.

The QIRC will deal with applications from State System Employees. A conciliation conference will be called and will be chaired by a QIRC Member. The goal of the conciliation conference is to assist you and your former employer to resolve the matter yourselves. If the matter cannot be resolved at conciliation, the QIRC Member will issue a certificate which states the Member's opinion on the merits of your application and their recommendations for whether the matter should be discontinued or how it should be dealt with. Once you receive this certificate you have 6 months in which to elect to have the matter determined in a formal hearing, called "arbitration", at which a QIRC Member will decide if you were dismissed unfairly.

WHAT REMEDIES CAN BE ORDERED BY FWA?

After considering the circumstances of your dismissal and checking that you are not excluded from continuing your claim, the FWA Member may decide to grant you a remedy. The primary remedy is re-instatement of your employment. If your employment is reinstated, FWA will usually order that you be compensated for the wages you lost because your employment was unfairly terminated. However, if the FWA Member does not consider re-instatement appropriate, they may order the employer to pay you compensation, for example, for the salary that you would have received had you remained in their employment.

The maximum amount of compensation which can be awarded is either 6 months' pay or half of the high income threshold (currently \$108,300) whichever is less. So for example, if you were earning \$50,000 per year, the maximum amount which FWA could order the employer to pay would be \$25,000. This is an absolute maximum and normally FWA would order an employer to pay much less depending on the circumstances of your employment with the former employer and your dismissal.

WHAT REMEDIES CAN BE ORDERED BY THE QIRC?

If the QIRC finds that your dismissal was unfair, the primary remedy which can be ordered is re-instatement to the position you were in prior to being dismissed or re-employment in another position. The QIRC will only consider ordering an employer to pay compensation if it is impractical to re-instate or re-employ you. For example, they may find it is impractical if the relationship between you and your former employer has completely broken down and you could not continue on in a working relationship. Because re-instatement or re-employment is the primary remedy you must apply for

these remedies in your application. You cannot apply for compensation at the outset. As with the federal system, if your employment is reinstated, the employer will usually be ordered to compensate you for the wages you lost because your employment was unfairly terminated.

The maximum amount of compensation which can be awarded by the QIRC depends on whether you were employed under an industrial instrument or not (for example, an Award or an individual or collective Agreement). If you were employed under an industrial instrument, the maximum amount which can be awarded is 6 months' pay. If you were not employed under an industrial instrument, the maximum amount is the lesser of 6 months' pay or a prescribed amount, which is currently \$53,200.

1.2 UNLAWFUL DISMISSAL

This section explains the circumstances in which your dismissal may be unlawful. Unlawful dismissal is different to unfair dismissal in that you must be able to show that your dismissal was for a specific reason. In addition, although unlawful dismissal matters are first dealt with by FWA, if they cannot be settled during a meeting between the parties, they are ultimately dealt with by the Federal Court in a formal hearing.

If you have already brought an unfair dismissal claim (whether you are a National or State System Employee) which has either been decided by the FWA or QIRC or is still being dealt with, you cannot bring an unlawful dismissal claim as well. If you have already brought an unfair dismissal claim and you are considering bringing an unlawful dismissal claim as well you should seek advice from FWA or one of the advisory bodies at section 1.5.

National System Employees have broader rights to claim unlawful dismissal than State System Employees. This is explained further below.

WHAT IS UNLAWFUL DISMISSAL? - NATIONAL SYSTEM EMPLOYEES

It is unlawful to dismiss a National System Employee because:
they have a “workplace right”, they have (or have not) exercised a workplace right or they propose to (or not to) exercise a workplace right;
the employee is (or is not) a member or officer of a union or because they have (or have not) engaged in industrial activities;
of the employee’s race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin; and
the employee is temporarily absent from work because of illness or injury.

WHAT IS A WORKPLACE RIGHT?

A workplace right is:

- a benefit, role or responsibility that you have under a law, workplace instrument (e.g. your contract of employment, an Award or Enterprise Agreement) or an order made by an industrial body. For example, the right to take parental leave, or a right under an Award to be paid overtime;
- a right to begin or participate in a process or a proceeding. For example, the right to make a flexible working request to your employer, to attend a conference at FWA or to participate in the negotiation of an Enterprise Agreement with your employer; or
- a right to make a complaint or inquiry in relation to your employment. For example, to make a complaint or an inquiry to the Fair Work Ombudsman because you believe your employer is not paying you correctly or to make a complaint to your employer about workplace harassment.

By way of example, it would be unlawful to dismiss an employee because they made a complaint or they propose to make a complaint about not being paid correctly to the Fair Work Ombudsman or because they participated in a conference at FWA.

WHAT IS UNLAWFUL DISMISSAL? –STATE SYSTEM EMPLOYEES

State System Employees are also protected from unlawful dismissal and may bring a claim to FWA based, on the following grounds.

It is unlawful to dismiss a State System Employee because:
the employee is temporarily absent from work because of illness or injury;
of the employee's trade union membership or non-membership or because the employee participates in trade union activities outside working hours or, with the employer's consent, inside working hours;
they act as or seek office as a representative of employees (e.g. a health and safety representative);
they have filed a complaint or are participating in proceedings against the employer or they have recourse to a competent administrative authority (for example, the Fair Work Ombudsman, but not for example, the person's employer);
of the employee's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
of the employee's absence from work during maternity or parental leave or to engage in certain voluntary activities.

HOW DO I MAKE A CLAIM FOR UNLAWFUL DISMISSAL?

If you believe that your dismissal was unlawful, you should fill out an application form, pay the prescribed fee and file the form with FWA within 60 days of your dismissal. FWA may extend this timeframe in some circumstances, however, it is very important that if you decide to make a claim, that you act quickly following the termination of your employment to comply with this deadline.

WHAT WILL FAIR WORK AUSTRALIA DO WITH MY APPLICATION?

FWA will call you and your former employer to a conference to discuss the dispute and the FWA Member who is allocated your matter will try to help you reach an agreement to settle the matter.

If the matter cannot be settled, the FWA Member will issue a certificate stating this.

You must then decide whether you want the matter to be dealt with by a formal hearing in the Federal Court. If you do, you must apply to the Federal Court for the matter to be dealt with there. You have 14 days from the date the certificate is issued to do this. Contact the Federal Court for details on how to have your case dealt with.

WHAT CAN THE FEDERAL COURT DO?

The Federal Court will hear your application and if the judge decides that your dismissal was unlawful they have power to order your former employer to:

- pay a penalty to either you or to the Commonwealth;
- re-instate you to your former position; and/or
- pay you compensation for loss you have suffered as a result of your unlawful dismissal. For example, the judge may order that your former employer pay you compensation for loss of earnings that you would have received if you had not been dismissed.

1.3 DISCRIMINATION AND WORKPLACE HARASSMENT

If you believe you were discriminated against or harassed in the workplace prior to your dismissal or that your employer dismissed you for a discriminatory reason, you may be able to bring a complaint to the **Anti-Discrimination Commission of Queensland** (“ADCQ”), the **Australian Human Rights Commission** (“AHRC”) or to **Workplace Health and Safety Queensland**.

Generally, you can bring a complaint or claim to only one body or tribunal. So for example, you may not be able to bring both an unfair dismissal claim to FWA and a discrimination complaint to the ADCQ or a complaint to both the ADCQ and the AHRC. Before you take any action, consider carefully which forum you would like to bring your complaint to and if necessary seek legal advice.

WHAT TYPES OF UNFAIR TREATMENT ARE UNLAWFUL?

To be able to bring a discrimination complaint you must be able to show that you were treated unfairly in the workplace because of your sex, relationship or parental status, race, religious or political belief or activity, impairment, trade union activity, lawful sexual activity, pregnancy, breastfeeding needs, family responsibilities, gender identity, sexuality or age.

It is also unlawful for your employer to treat you unfairly because you are associated with someone from one of these groups. For example, it is unlawful to treat you unfairly because you have a disabled child or you care for a disabled relative.

Discrimination may be direct or indirect.

Direct discrimination is where you are dealt with unfairly based on one of the grounds listed above. For example, your employer dismisses you because you are pregnant and want to take maternity leave.

Indirect discrimination happens where your employer’s rule, policy or practice applies to everyone equally but results in you being disadvantaged because of one of the grounds above. If the rule, policy or practice is not considered “reasonable” then it may be indirect discrimination. For example, an employer has a rule that it does not allow any employees to work part-time or to work flexible hours. This may particularly impact upon those who have family responsibilities. However, if the employer can show that their rule of not allowing employees to work part-time or flexibly is reasonable in the circumstances, then it is not discrimination.

WHAT TYPES OF DISCRIMINATION ARE ALLOWED?

Not all forms of discrimination are unlawful and there are a number of exemptions in the legislation, including that employers may impose “genuine operational requirements” for a position. For example, a requirement of a religious school that its teachers are of that religion or a requirement to employ women to carry out body searches of other women.

Contact the ADCQ or AHRC for further information on the types of discrimination which may be allowed.

WHAT TYPE OF TREATMENT IS “WORKPLACE HARASSMENT”?

Workplace harassment may be committed by an employer, co-worker, client, customer or member of the public and is conduct which is repeated, unwelcome and unsolicited and which both the victim and a reasonable person would find to be offensive, intimidating, humiliating or threatening.

Some examples include ridiculing, abusing or criticizing a person loudly and in front of others, sabotaging a person’s work by hiding their work equipment or not passing on messages or spreading gossip or false rumors about a person.

WHERE SHOULD I GO FOR HELP IF I THINK I HAVE BEEN DISCRIMINATED AGAINST?

If you think you have been discriminated against, you could make a complaint to the ADCQ or the AHRC. In your complaint, you should give as much information as possible about why you believe you have been discriminated against by your employer. Both bodies deal with complaints by first assessing them. They may ask you or your employer for further information and will decide whether the complaint fits within the law. If they believe it does, they will first call a conference with you and your former employer to discuss the matter and try to help you to settle it. If the matter cannot be settled, it may proceed to a hearing to determine whether you have been discriminated against.

Contact the ADCQ or the AHRC for further details on how to lodge your complaint.

WHERE SHOULD I GO FOR HELP IF I THINK I HAVE BEEN HARASSED AT WORK?

If you think you have been a victim of workplace harassment (except if you think you have been sexually harassed) you could make a complaint to Workplace Health and Safety Queensland. Once you lodge your complaint, an investigator may investigate it and if they decide that the employer has not met its health and safety obligations the investigator may issue the employer with advice or a direction on how to correct the problem and also has power to issue infringement notices and prosecute the employer for more serious breaches.

If you believe you have been sexually harassed in the workplace, you may take your complaint to the ADCQ.

Alternatively, if you believe that the bullying or harassment carried out against you was based upon your sex, disability, race, age, sexual preference, criminal record, trade union activity or political opinion, you can make a complaint to the AHRC.

Contact Workplace Health and Safety Queensland, the ADCQ or the AHRC for further details on how to lodge your complaint.

HOW LONG DO I HAVE TO LODGE A COMPLAINT WITH THE ADCQ OR AHRC?

You must lodge your complaint with the ADCQ or the AHRC within 12 months of the conduct about which you are complaining.

1.4 YOUR ENTITLEMENTS

WHAT ARE YOUR ENTITLEMENTS IF YOU ARE DISMISSED?

Generally, if you were a full-time employee and not dismissed for serious misconduct, you will be entitled to receive notice of dismissal or to be paid in lieu of that notice. Certain types of employees including casuals, those employed for a specified time, task or season, and those employed under a training arrangement (but not apprentices) may not be entitled to notice or pay in lieu of notice.

You may also be entitled to have the following payments made on termination of your employment:

- payment to you for annual leave or long service leave which you have accrued but not yet taken;
- payment to you of redundancy pay, if applicable;
- payment to your superannuation fund for superannuation contributions.

The amount you receive will depend on the terms of your employment contract, individual agreement, Enterprise Agreement or Award. If your employment documentation is silent on whether you are to receive these types of payments or you do not have such a document applying to your employment, there are federal and state laws which require employers to meet minimum obligations to pay notice, redundancy pay, annual and long service leave entitlements and superannuation contributions and these may apply to your employment.

If you are not sure about whether you have received the correct entitlements, you should contact your union, the **Fair Work Ombudsman, Queensland Workplace Rights Ombudsman, Wageline** or visit the **Queensland Association of Independent Legal Services** website to find a community legal centre in your area for help (see section 1.5 for contact details).

WHAT SHOULD I DO IF I DO NOT RECEIVE THE CORRECT ENTITLEMENTS?

If you believe that your employer has not paid you the correct entitlements on termination of your employment you have a few options, including asking a government body for assistance or trying to recover the unpaid funds yourself. Your options depend on whether you are a National System Employee or a State System Employee.

National System Employees	State System Employees
<p>1. Contact the Fair Work Ombudsman. The Fair Work Ombudsman has powers to investigate certain breaches of Federal workplace relations laws, employment contracts, Awards, Enterprise Agreements and other documents and may be able to help you to recover your unpaid entitlements. For example, if your employer did not pay you the correct amount of notice or redundancy pay, they may be able to help you to recover this money.</p>	<p>1 .If you have not received the correct notice pay, contact the Fair Work Ombudsman. The Fair Work Ombudsman has powers to investigate unpaid notice claims for State System Employees and may be able to help you to recover your money.</p> <p>For other types of entitlements, an inspector from the Queensland Department of Employment and Industrial Relations has powers to investigate unpaid entitlements claims and may also be able to help you to recover those entitlements. Contact Wageline for further information and advice on how to begin this process.</p>
<p>2. If you would like to try to recover your unpaid entitlements yourself, you may be able to commence a small claim in the Fair Work Division of the Federal Magistrates Court. The maximum amount which can be claimed under the small claims procedure is \$20,000. You can only use the small claims procedure if you are making a claim for certain types of entitlements. Contact one of the advisory bodies in section 1.5 for further advice or the Federal Magistrates Court for further information on starting such a claim.</p>	<p>2. If you have not received the correct notice pay and you would like to try to recover the money yourself, you can commence a small claim in the Fair Work Division of the Federal Magistrates Court. Contact one of the advisory bodies in section 1.5 for further advice or the Federal Magistrates Court for further information on starting such a claim.</p>
<p>3. Alternatively, if the amount you are claiming is less than \$7,500, you can commence a minor debt claim in the Queensland Magistrates Court. Legal Aid Queensland publishes a self-help kit to guide you. It can be accessed at: www.legalaid.qld.gov.au</p>	<p>3. For other unpaid entitlements (including notice pay), if the amount claimed is less than \$7500, State System Employees may commence a minor debt claim in the Queensland Magistrates Court. Legal Aid Queensland publishes a self-help kit to guide you. It can be accessed at: www.legalaid.qld.gov.au</p>

<p>4. If your employer has not been making superannuation contributions on your behalf, you should also report the matter to the Australian Taxation Office.</p>	<p>4. State System Employees may also make an application for recovery of unpaid entitlements (including superannuation contributions) to the Queensland Industrial Relations Commission. This can be a simple and quick way of recovering unpaid entitlements as parties are first called to a conference with a QIRC member to try to settle the matter without having a hearing. If matters cannot be settled then they may proceed to a formal hearing. Contact the QIRC for details on how to begin such an application.</p>
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HOW LONG DO I HAVE TO BRING A CLAIM TO RECOVER MY UNPAID ENTITLEMENTS?

You must bring a claim within 6 years of the amount becoming payable.

What should I do if I think my employer cannot afford to pay my entitlements?

If your former employer has gone into liquidation or bankruptcy, you may be able to claim your unpaid entitlements from the government under the **General Employee Entitlements and Redundancy Scheme** (“GEERS”).

Contact the GEERS hotline for more information on the scheme.

1.5 WHERE SHOULD I GO IF I WANT FURTHER INFORMATION?

Organisation	Contact number	Website
Government Bodies		
Anti-Discrimination Commission of Queensland	1300 130 670	www.adcq.qld.gov.au
Australian Human Rights Commission	1300 565 419	www.hreoc.gov.au
Australian Taxation Office	13 10 20	www.ato.gov.au
Fair Work Australia	1300 799 675 3000 0399	www.fwa.gov.au
Federal Court of Australia	(07) 3248 1100	www.federalcourt.gov.au
Federal Magistrates Court	(07) 3248 1100	www.fmc.gov.au
General Employee Entitlements and Redundancy Scheme	1300 135 040	www.workplace.gov.au/geers
Office of the Fair Work Ombudsman	13 13 94	www.fwo.gov.au
Queensland Workplace Rights Ombudsman	1300 737 841	www.workplacerrights.qld.gov.au
Wageline	1300 369 945	www.wageline.qld.gov.au
Workplace Health and Safety Queensland	1300 369 915	www.deir.qld.gov.au/workplace
Advisory bodies		
Australian Council of Trade Unions	1300 362 223	www.actu.asn.au
Queensland Association of Independent Legal Services		www.qails.org.au
Queensland Working Womens' Service	1800 621 458	www.qwws.org.au
Young Workers Advisory Service	1800 232 000	www.ywas.org



MANAGING ON LESS MONEY

This section will help you understand some practical and legal options for managing to live on a reduced income until you find further work.

2.1 HARDSHIP VARIATIONS TO CREDIT CONTRACTS

Credit contracts which are regulated by the Consumer Credit Code (the Code) can be varied when the debtor (the person who owes the money) suffers a temporary hardship because of illness, unemployment or other reasonable cause, which affects his or her capacity to make repayments.

From late 2009, the *Consumer Credit Code* will no longer apply to new loan contracts. New loans will be regulated by the *National Consumer Credit Protection Act 2009* and the *National Credit Code*. The new law will offer consumers with new loans a greater number of protections and will apply to a wider range of loans. We have included some information about this new law in this section but we recommend that a solicitor is consulted if you have problems with a loan entered into in the later part of 2009.

WHAT CREDIT CONTRACTS DOES THE CONSUMER CREDIT CODE APPLY TO?

The Code applies to credit contracts which are provided to individuals and the money is to be used entirely or predominately (more than half) for household or domestic purposes. The Code applies to loans of all amounts. However, for a consumer to apply for a hardship variation, the loan must be less than the hardship threshold, which is usually in the early to mid \$300,000s. The amount changes regularly. Current information on the threshold amount can be found on the Consumer Credit Code website.

http://www.creditcode.gov.au/display.asp?file=/content/hardship_threshold.htm

The new *National Credit Code* will also apply to new loans for the purchase or renovation of an investment property. The threshold amount that allows a consumer to apply for a variation due to hardship will be increasing to \$500,000 under the new national legislation. This new threshold will not apply to already existing loans.

Credit contracts to which the *Code* applies include personal and domestic:

- Credit cards;
- Home loans for the primary place of residence;
- Car loans;
- Personal loans;
- Most goods leases; and
- Some sales by installments.

The Code does not apply to:

- Credit for investment purposes;
- Loans for business purposes;
- Short term credit contracts which are repaid in less than 62 days where the interest, fees and charges do not exceed 5% of the credit advanced and the maximum interest charges would not equate to more than 24% per annum;

- Credit without express prior agreement such as overdrawn accounts where no overdraft agreement exists;
- Credit for which only account charges are payable;
- Joint credit and debit facilities;
- Bill facilities;
- Insurance premiums by instalments;
- Pawnbrokers, which are covered by a different legislative scheme;
- Trustees of estates;
- Employee loans;
- Margin loans.

WHAT CHANGES CAN BE MADE?

A consumer who requires a temporary variation to their credit contract due to hardship can ask for:

- An extension to the term of the loan and a reduction of the periodic payments; or
- A postponement of the requirement to make payments; or
- An extension to the term of the loan with a reduction of the periodic payment and a postponement of the requirement to make payments.

You must be able to show that the change you ask for will actually help you to pay the money back over time. It is also necessary to prove that you expect your current hardship to be temporary only and that you have a reasonable capacity to overcome the cause of the hardship (such as finding another job). An important part of a hardship application is the ability to show the lender a plan that sets out how the arrears on a loan will be paid off.

You cannot ask for the interest rate to be reduced and interest will generally accrue at the ordinary contracted rate for the period of any variation. This means that even though you may not have to make payments for a period, the interest will still be charged to the account and the amount that will need to be paid back will be more over time.

Some lenders publically announce their intention to give certain variations due to hardship upon request. At the time of writing, some of the major banks have agreed to allow people who become unemployed up to 12 months postponement of payments on their home loan. Your lender should be able to tell you whether they are one of the lenders offering this arrangement.

It is good to know what lenders will offer as variations but it is also important to remember that the legislation says you can ask for what you need to get yourself through this time of financial hardship. If you think you will need a different arrangement than the lender's suggestion, you can ask for that.

If your temporary hardship goes on for longer than you first thought or your problems change during the variation period, you can ask for a further period of variation. Do not

accept the incorrect information provided by some lenders that you are only entitled to one variation to your loan due to hardship during the course of your loan.

WHAT WILL THE LENDER DO AFTER IT RECEIVES MY APPLICATION?

The new National Credit Code will make it compulsory for lenders to respond in writing to hardship variation applications made for loans covered by that Code.

At the moment, however, some lenders respond in writing and others do not. In some cases, the lender only responds in writing when a variation is made and often does not respond at all when the application is rejected. It is important to keep calling your lender every few days to find out what is happening to your proposal.

The lender must record any changes in writing and provide you with a written notice of the changes within 30 days after the changes are made.

WHAT HAPPENS IF THE LENDER DOES NOT AGREE WITH MY PROPOSAL AND WILL NOT ALLOW THE VARIATION?

If the lender rejects your proposed variations and you cannot negotiate a suitable arrangement, you can apply to the court and ask the court to order a variation. In some cases, you can make a complaint to the Financial Ombudsman Service (FOS) or the Credit Ombudsman Service Limited (COSL) before bringing your application to a court.

WHEN IS IT POSSIBLE TO MAKE A COMPLAINT TO AN OMBUDSMAN ABOUT REJECTION OF A HARDSHIP VARIATION PROPOSAL?

If your lender is a member of COSL you can make a complaint to that service and ask COSL to review the lender's decision. COSL will consider whether the hardship is in fact temporary and will negotiate with the lender if it believes that the lender ought to have made a different decision. Complaints to COSL are free.

Lenders choose whether to be a member of that service. Some lenders are members of a different Ombudsman service, such as the Financial Ombudsman Service, which will not take complaints about failure to allow a hardship variation at this time. Some lenders currently choose not to be members of any dispute resolution services at all.

The new *National Consumer Credit Code* will change this and require all lenders to be a member of an external dispute resolution scheme. This amendment will allow all borrowers with Code regulated loans entered into from late 2009 to have the ability to access an independent review of any hardship applications that are rejected by a lender.

HOW DO YOU TAKE THE MATTER TO COURT?

An application to the court requesting a court ordered variation can be made to a Magistrates Court. Legal advice should be sought if court action is being considered. There is also a self help kit available from Legal Aid Queensland which provides sample court documents and information to help you through this process.

The *National Consumer Credit Protection Act 2009* will change the court and the process for hardship variation applications made in relation to loans covered by the new law. If your loan was entered into in late 2009, you will need legal advice about which process is right for you. It is expected that, for Queensland consumers, the new process will make these court applications easier and cheaper.

WHERE CAN YOU GET MORE INFORMATION AND HELP WITH HARDSHIP VARIATION APPLICATIONS?

Legal Aid Queensland and your local community legal centre can give you advice about hardship variation applications. A financial counselor can help you to work out whether this is the right choice for you.

Legal Aid Queensland maintains a comprehensive publication which has more detailed information, sample letters and forms. If you need to take your application to court you should get specific legal advice.

<http://www.legalaid.qld.gov.au/Publications/Factsheets+and+guides/Self-help+kits/Are+you+struggling+to+pay+a+loan/>

2.2 OTHER WAYS TO FIND THE MONEY TO PAY A CREDIT CONTRACT

If you are considering any of the options set out in this subsection it is important that you get financial and legal advice. In most cases, a financial counselor will be the best person to assist you. In addition to the options set out here there may be a number of other available sources of money which may suit your situation.

IS EARLY RELEASE OF SUPERANNUATION RIGHT FOR YOU?

In some circumstances it is possible to access some of your money that is held in superannuation, even though you have not yet reached the retirement age. There are very limited grounds for accessing superannuation early and you should talk to your superannuation fund about their rules. If your case does not meet the requirements of your fund's rules, they may suggest that you apply to the Australian Prudential Regulation Authority (APRA) because you can also access superannuation through APRA on different grounds than those directly allowed by your superannuation fund.

Generally it is not sufficient that you find yourself short of money. Superannuation funds generally require you to show that there are particular expenses (such as mortgage repayments) that you are unable to make because of your financial hardship. You can access up to \$10,000 in any one year.

It is important to understand the money held in superannuation is protected if you go bankrupt or have proceedings taken against you to enforce a debt, but if you take that money out it will not be protected anymore. For this reason, it is important that you seek financial and legal advice before accessing superannuation as it may not be in your long term financial interest to access superannuation if it only delays and does not prevent your house or goods being repossessed.

WILL A MORTGAGE RELIEF LOAN FROM THE QUEENSLAND DEPARTMENT OF HOUSING HELP?

If you exhausted your other options, including applying for a hardship variation from your lender, and you are still unable to meet your home loan repayments, you can enquire with the Department of Housing about a mortgage relief loan.

The Department of Housing will require you to meet certain eligibility criteria including:

- your hardship must be temporary, such as the loss of a job;
- you must have a home valued at less than \$450,000 and own no other real estate;
- there must be enough equity in your home to secure the debt to the Department of Housing; and
- you must be paying more than 30% of your household income towards your home loan.

If you meet the criteria and the Department of Housing approves your application, they may provide an interest free loan to cover part of your repayments for up to six months, up to a maximum amount of \$12,000. You will not normally be required to make repayments for the first 12 months but you will need to do so after that. Payments will be in addition to your normal loan repayments.

CAN YOU CLAIM ON AN INSURANCE POLICY?

If you have income protection, unemployment, consumer credit or another relevant insurance product you should check your policy document and telephone your insurer to determine whether you can make a claim in your current circumstances.

If you have superannuation or other savings you may have entered into an insurance policy through your fund manager. Again, check the policy and telephone your superannuation or other fund to work out whether you can make a claim that may assist you.

WHAT ARE REFINANCING AND DEBT CONSOLIDATION?

REFINANCING

Refinancing is when a debtor borrows from another lender to pay out their current loan and any arrears. If a borrower is in arrears and the arrears are going to be repaid by refinancing some people rush into refinancing without considering the interest rate and other terms of the new loan. Some people refinance to get a lower interest rate but they incur exit fees and charges from their old lender along with application fees from the new lender. If a mortgage broker is involved there may be fees associated with their service too.

DEBT CONSOLIDATION

Debt consolidation is borrowing money from a single lender to pay back a larger number of lenders.

Some people find managing a single repayment easier than repaying many different creditors. Great care needs to be taken because some sorts of debts are easier to manage if they stay with the company with whom they were incurred. For example, access to a telecommunication company's hardship policy will be lost if the debt is paid out by a consolidation loan.

The interest rate, fees and charges, and other terms of the loan product also need to be considered.

Advice from a financial counselor or a trusted independent and licensed financial advisor should be sought before refinancing or using debt consolidation. There may be better choices for you.

Remember that not all lenders are the same. Choosing a lender should be a carefully considered and informed decision. Do not be rushed into making a decision about a loan, refinancing a loan or debt consolidation. Rather than consolidating or refinancing a debt, options such as prioritising the payments of debts should be explored with a financial counselor before you make a decision on how to proceed.

2.3 MANAGING OTHER DEBTS AND EXPENSES

It is important to assess your whole financial situation. Help is available from financial counselors.

This section sets out some ways to deal with particular sorts of debt and common household expenses.

ARE YOU PAYING MONEY TO TELECOMMUNICATIONS AND AMENITIES COMPANIES?

Many people prioritise essential services when budgeting on a reduced income. It is important to keep paying (or make arrangements with) companies with whom you wish to have an ongoing relationship. It is also important to talk to the particular provider that you have a contract with.

Telecommunication companies and companies providing amenities such as gas and electricity have policies for dealing with customers experiencing financial hardship.

It is important to talk to the provider as soon as possible and as honestly as you can when you find yourself in financial hardship. In many cases the provider will negotiate payments with you and should tell you about their hardship policy if you ask about it.

If the provider seems unable to help you, or you cannot agree on a way to manage the situation that is suitable for you, you can complain to the relevant ombudsman service. There is an expectation that telecommunication companies and other utility providers work with you when you experience hardship that is outside your control.

If you are dealing with a provider and are working out an arrangement, make sure you ask that no further debt collection activity take place while you are negotiating. It is also important to request that any repayment arrangements that you enter into with a service provider are put in writing and that you receive a written copy of the arrangements that have been agreed upon.

Some energy providers prefer the customer to approach them with the assistance of a financial counselor. This is generally more desirable for customers too because the financial counselor can look at their whole financial situation and make representations to the provider to get the best and most manageable arrangement for the particular customer.

TELECOMMUNICATIONS (TELEPHONE, MOBILE PHONE AND INTERNET) COMPANIES

All telecommunications companies are members of the Telecommunication Industry Ombudsman (the TIO). The TIO expects all telecommunications companies to give you a summary of the hardship policy if you ask. The telecommunications company should also assess your eligibility to access options under its hardship policy.

If an agreement is made with you about payment or changes to the contract, the company must tell you and explain the details to you. If you keep to the agreement, the company should not take further action against you to recover that debt. You should request that a copy of this agreement is given to you in writing.

Sometimes the arrangement will involve the provider allowing additional time to pay or facilitating payment by instalments. Sometimes the company will allow you to make changes to your contract which can reduce the costs either temporarily or for the long term. An example of this is a telecommunication company changing a contract to provide for incoming and emergency calls only.

ENERGY (ELECTRICITY AND GAS) COMPANIES

Energy providers in Queensland must assist their customers when the customer tells the company that they are experiencing temporary financial hardship. They can tell customers whether there are any rebates or grants available and also make a plan to deal with payments already due. If a customer accesses the financial hardship program with an energy supplier they may also be able to access government assistance to prevent any imminent disconnection.

If your energy provider is unhelpful, will not provide ready access to their hardship program, or you cannot make an arrangement with them that is suitable for your needs you can complain to the Energy Ombudsman Queensland (EOQ). The EOQ provides a complaint handling and mediation service to energy consumers.

DO YOU HAVE AN OUTSTANDING STATE PENALTIES ENFORCEMENT REGISTRY DEBT?

The State Penalties Enforcement Registry (SPER) collects certain fines, including traffic and parking fines, on behalf of the state of Queensland. SPER also collects fines which have been ordered by the court in criminal proceedings.

SPER debts are different from other debts. In addition to the same sorts of enforcement processes available to ordinary debtors, SPER debts can result in imprisonment if not paid. These are the only debts that can lead to imprisonment. For vehicle related debts, including parking fines, SPER can suspend your drivers licence if the debt remains unpaid. SPER matters also do not proceed in the same way as enforcement of other debts.

If you have a SPER debt, it is important to attend to management of this debt. If you do not have enough money to pay a SPER debt in one payment, you can ask SPER to agree to a payment by installments arrangement. It is also sometimes possible to convert a fine to a period of unpaid community service. This is called a fine option order and involves 1 hour of community service for every \$15 (for debts incurred prior to 1 January 2009) or \$20 (for debts incurred after 1 January 2009) owed.

ARE YOU PAYING CHILD SUPPORT?

If you are paying child support, it is very important to inform the Child Support Agency as soon as your income changes, especially if your income reduces more than 15%. Your income estimate may be changed and the amount you need to pay may also reduce. Any changes to the amount you need to pay will only be effective from the date that you told the Child Support Agency about the changes to your circumstances.

More information is available from the Child Support Agency. If you need legal advice about your child support obligations Caxton Legal Centre has a specialist child support solicitor available by appointment.

2.4 HELP TO BUDGET, NEGOTIATE AND ACCESS RELIEF

DO YOU NEED HELP BUDGETING AND ACCESSING RELIEF?

If you need help to work through the options available to you or you are struggling to make your reduced income meet the payment obligations that you have, you can speak to a financial counselor.

Financial counselors are free and independent community workers especially trained and experienced in helping people in financial difficulty. You can find a financial counselor by telephoning any of the financial counseling organisations at the end of this chapter.

Financial counselors can help with budgeting, planning and negotiation with creditors. They can provide advice about most of the strategies explained above and help you to decide which option is best for you. Financial counselors also have access to other welfare relief options including vouchers for some specific expenses. The ideal time to visit a financial counselor is as early as possible. You do not need to be suffering hardship to access their help and support.

2.5 WHAT WILL HAPPEN IF YOU CANNOT PAY OR MANAGE YOUR DEBTS?

DO YOU HAVE DEBT COLLECTORS CHASING YOU?

Debt collectors are either employed by the creditor or belong to a company which has been engaged by the creditor or has bought your debt from your creditor. It is reasonable for a debt collector to telephone you up to three times per week (during reasonable hours – usually between 7:30am (9am on weekends) and 9pm) if it is necessary to do so, to visit you if you are unable to be contacted any other way, to write you letters and to demand that you pay the money that you owe.

It is unreasonable for a debt collector to:

- Threaten you or anyone else, block your way, stand over or intimidate you;
- Assault you, damage your property or threaten to assault you or damage your property;
- Remain on your property after you ask him or her to leave or to trespass at any time;
- Shout at you, insult you, make derogatory comments or behave offensively towards you;
- Talk to your co-workers, children under 18, family members or other people about your situation or otherwise draw attention to your situation without your permission;
- Lie to you or misrepresent the law to you (for example, threatening you with criminal action or jail or say that you must pay someone else's debt) or misrepresent what you can do (for example, telling you that you cannot defend court proceedings or that enforcement will happen without a court order);
- Misrepresent who they are and where they are from (for example, saying they are a police officer or a lawyer).

There are many other examples of inappropriate and unlawful debt collection activity. If you are being harassed by a debt collector keep a diary and get legal advice. You can complain to the Australian Competition and Consumer Commission (ACCC) or the Australian Securities and Investment Commission (ASIC) about inappropriate and unlawful debt collector activity. All the ordinary criminal laws apply to debt collectors too. If you are threatened or are assaulted, telephone the police.

CAN THE CREDITOR TAKE LEGAL ACTION TO RECOVER A DEBT?

All sorts of creditors can take civil legal action to recover a debt that has not been paid back. Civil legal action can result in orders:

- allowing the creditor to access savings, wages and other income;
- to sell goods and property; or
- to pay the debt by installments.

In some cases, creditors will take action to send a person bankrupt. Except for some SPER debts (explained above) you cannot be jailed for a debt. Many debts can result in an adverse listing on a person's credit rating.

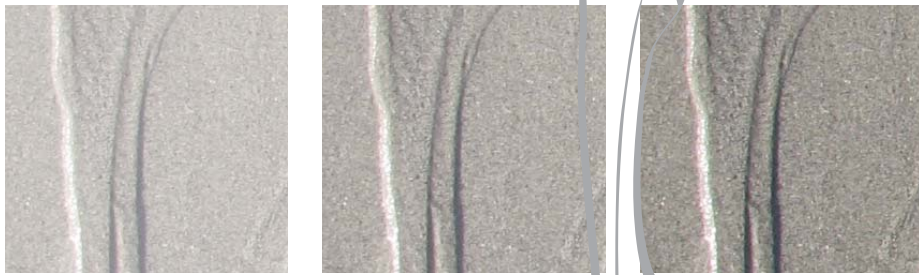
Most creditors are unable to access Centrelink or Department of Veterans Affairs payments without your permission. Most ordinary household furniture and appliances, tools of trade and a car to a certain value, and other items are also protected from enforcement proceedings.

You can look at the Insolvency Trustee Service Australia website for information about the current value limits for cars and for information about the sorts of things you will be entitled to keep, no matter what happens.

If you receive any legal documents or court documents, or if you are worried about legal action being commenced, you can get free confidential legal advice from your local community legal centre or from Legal Aid Queensland.

2.6 FOR MORE HELP, CONTACT

Organisation	Contact number	Website
Government Bodies		
State Penalties Enforcement Registry	1300 365 635	www.sper.qld.gov.au
Department of Housing Retail Lending Housing Loans	(07) 3224 7202 1300 654 322	www.public-housing.qld.gov.au
Australian Prudential Regulation Authority	1300 131 060	www.apra.gov.au
Australian Competition and Consumer Commission	1300 302 502	www.accc.gov.au
Australian Securities and Investment Commission	1300 300 630	www.asic.gov.au
Child Support Agency	131 272	www.csa.gov.au
Insolvency Trustee Service Australia	1300 364 785	www.itsa.gov.au
Consumer Credit Code website		www.creditcode.gov.au
Ombudsman Services		
Telecommunications Industry Ombudsman	1800 062 058	www.tio.com.au
Credit Ombudsman Service Limited	1800 138 422	www.creditombudsman.com.au
Financial Ombudsman Service	1300 78 78 08	www.fos.org.au
Energy Ombudsman Queensland	1800 662 837	www.eoq.com.au
Advisory Bodies		
Legal Aid Queensland	1300 65 11 88	www.legalaid.qld.gov.au
Caxton Legal Centre	(07) 3254 1811	www.caxton.org.au
Queensland Association of Independent Legal Services	(07) 3392 0092	www.qails.org.au
Financial Counseling		
Financial Counseling Queensland Network		www.fcqn.asn.au
Lifeline Community Care Queensland Financial First Aid	13 11 51	www.lccq.org.au
Salvation Army Moneycare	(07) 3222 6621	www.salvos.org.au
Relationships Australia	1300 364 277	www.relationships.org.au
Wesley Mission Creditline	1800 808 488	www.wesleymission.org.au



MANAGING UNEMPLOYMENT AND LOOKING FOR WORK

This section provides practical information for accessing Centrelink payments and getting back into the workforce.

3.1 ACCESSING CENTRELINK ENTITLEMENTS

ARE YOU ELIGIBLE FOR A CENTRELINK PAYMENT?

Centrelink is the main government agency that administers social security pensions and benefits to Australian citizens, permanent residents and some visa holders.

Many people become eligible for a Centrelink payment when they become unemployed. There are payments which are designed to provide a small income while you look for work, payments which can help in the medium term because of a certain need, like having children, and payments to provide longer term security if working again is unlikely because of disability or other reasons.

If your income has recently reduced and you have children, you may become eligible for the Family Tax Benefit or an increased rate of Family Tax Benefit.

Rent assistance may also be available for people in the private rental market.

Sometimes the Child Care Benefit can also be affected, but in a different way. Families that were eligible for a high number of hours of subsidised care may no longer have the same entitlements. Check with Centrelink or the Family Assistance Office.

A Centrelink officer can help you with more information about what you are entitled to claim, and how to make your application. Centrelink also has financial assistance officers available to everyone by appointment.

HOW AND WHEN DO YOU MAKE A CLAIM?

It is important to telephone Centrelink as soon as possible to ask about your entitlements and to make sure that your application is dated from the earliest possible time. You will need to complete forms and should ask for help if forms are difficult for you. Depending on the reason for your unemployment and the payment you are claiming, you may be required to provide Centrelink with a certain documents including identification documentation and/or a separation certificate which must be completed by the employer with whom you were most recently employed.

Sometimes a period without payment will be imposed, particularly if leaving employment was a choice you made. If there is a dispute about whether you chose to leave or were dismissed, you need to talk to Centrelink and may also find it useful to speak to the Welfare Rights Centre or a community legal centre about Centrelink and your entitlements.

3.2 TAKING CARE OF YOUR MENTAL HEALTH AND WELLBEING

The loss of a job can affect other parts of a person's life. Self esteem, a sense of self worth and sometimes interpersonal relations may be affected by work-related issues. Knowing what to expect after a work-related crisis may help you to take care of yourself and your relationships.

ARE YOU FEELING A BIT DOWN?

It is normal to feel less enthusiastic about things after losing a job or having problems at work. Feeling down, sad, worried, stressed and lethargic are all common for short periods of time after losing a job or during a time of unemployment. Usually this is a passing, minor feeling which may be alleviated by exercise, engaging in hobbies, catching up with friends or family and good self care. However, sometimes these feelings persist and may be signs of depression.

WHEN TO SEEK HELP FOR DEPRESSION?

It is important to be alert to the signs of depression. Depression may make the experience of unemployment much worse and make it harder to get back into the workforce again. It may also affect the rest of your life. There is a lot of information about depression, anxiety and other mental health conditions from organisations such as Beyond Blue (www.beyondblue.org.au) or from your general practitioner (GP).

Signs that you may be experiencing depression include persistent:

- Depressed moods for most of the day;
- Loss of interest or pleasure in all activities;
- Weight loss or gain (when not dieting);
- Sleeping difficulties;
- Slowed or fastened movements;
- Tiredness or loss of energy;
- Feelings of worthlessness;
- Difficulty concentrating;
- Thoughts of death.

Depression rarely “just goes away” and usually requires medical and/or psychological assistance. You can seek help from your GP and can also access mental health practitioners (including psychiatrists, psychologists and social workers) privately and/or through the Medicare system with a referral from your GP. See the contacts list at the end of this section for other services and source of information for people concerned about depression.

3.3 GETTING BACK INTO THE WORKFORCE

In 2009 and 2010 lots of people are expected to become unemployed, many for the first time. Many of these people are competent, proficient workers who have a lot to offer the workforce and the community but for whom there is just not enough work.

This situation is expected to pass and most people will make their way back into the workforce again. Staying work ready will help. Keep up with your skills and monitor changes to the way work is done in your field.

If you are out of work for an extended period you may need some help getting back into work again.

ARE YOU ELIGIBLE FOR HELP FROM A JOB SERVICES AUSTRALIA PROVIDER?

From 1 July 2009 the Australian Government is introducing Job Services Australia to replace the Job Network. Job Services Australia Providers help jobseekers find work and access other services.

As well as providing direct assistance, a Job Services Australia Provider can normally also refer job seekers to other organisations that provide specialist support, such as arranging work clothing, providing social work support or help to find secure housing.

ARE YOU CONSIDERING A CAREER CHANGE?

Some people use a period of unemployment to reconsider their career options and to look at further study, retraining or starting a small business.

NEW ENTERPRISE INCENTIVE SCHEME (NEIS)

This scheme is a Department of Education, Employment and Workplace Relations self employment program for unemployed people who wish to start their own independent business. Job Services Australia Providers can help with access to NEIS.

RETRAINING OR STUDYING

If you are considering changing careers, you can get information from TAFE and Australian Apprenticeship Centres and there are also a range of universities offering courses with entry dates throughout the years.

If you have been in the workforce for a while and have not seriously considered university before, it might be worth considering the mature entry requirements at your local university. Life experience counts for a lot and there are bridging courses to get people ready for university.

Australian Apprenticeship Centres can give advice about undertaking an apprenticeship. The Australian Apprenticeships website has a link to the National Skills Needs List which is the Commonwealth Government's list of work types in greatest demand in Australia.

TAFE has a very broad range of courses and most people in Queensland can access courses through a network of large and small TAFE campuses. There are short courses to upskill or maintain competency in a particular field and longer courses to change careers altogether.

HAVE YOU CONSIDERED VOLUNTEERING?

Information about volunteering and volunteer opportunities in your local area and your field of work can be found from Volunteering Queensland. Alternatively, if there is a particular organisation you want to support you can contact them directly and ask about volunteering. A Job Services Australia Provider can also help with some volunteer opportunities, including Greencorps, an environmental volunteering program.

Whilst volunteering is usually at a not-for-profit organisation, some volunteer work is just for your work experience. Many firms, companies and other commercial entities can provide work experience or internships on an unpaid basis for people who approach them. This sort of volunteer work is useful for people wanting to maintain or develop a specialist skill set or who want to see if a particular new career will suit them.

3.4 FOR MORE HELP, CONTACT

Organisation	Contact number	Website
Beyond Blue: the National Depression Initiative	1300 224 636	www.beyondblue.org.au
Centrelink:		
Family Assistance Office	13 61 50	www.centrelink.gov.au
Employment Services	13 28 50	
Welfare Rights Centre	(07) 3847 5532	www.wrcqld.org.au
Australian Association of Social Workers	(07) 3369 9818	www.aasw.asn.au
Department of Education, Employment and Workplace Relations	1800 805 260	www.deewr.gov.au
Australian Apprenticeships	13 38 73	www.
TAFE Queensland	1300 30 82 33	www.tafe.qld.gov.au
Open universities	1300 36 36 52	www.open.edu.au
Volunteering Queensland	(07) 3002 7600	www.volqld.org.au
Lifeline Queensland	13 11 14	www.lccq.org.au
Queensland Tertiary Admissions Centre	1300 467 822	www.qtac.edu.au