

Question: Can an occupier or a body corporate refuse to comply with an Adjudicator's Order?

Answer: No.

Unless an Adjudicator's Order is successfully appealed in the Queensland Civil and Administrative Tribunal, it is binding on the parties involved. Neither an occupier nor a body corporate has the power to decide whether to comply with an Adjudicator's Order.

Failure to comply with an Adjudicator's Order is an offence pursuant to **s.288** of the *Body Corporate and Community Management Act 1997* ('Act'), which is punishable by a maximum penalty of 400 penalty units, which is currently a total of \$57,500 (s.288 of the Act). If either an occupier or a body corporate fails to comply with an Adjudicator's Order, the other party involved in the matter has a right to commence proceedings in the Magistrates Court for Orders:

1. appointing an administrator to perform the obligations under the Orders (**s.287** of the Act); and/or
2. imposing a penalty of up to 400 penalty units. Furthermore, if a body corporate is found guilty of the offence of failing to comply with an Adjudicator's Order, the Magistrates Court has the discretion to impose a penalty five times higher than that for an occupier pursuant to **s.181B** of the *Penalties and Sentences Act 1992*. This could result in a penalty of up to \$287,500 being imposed.

It is therefore extremely important that all occupiers and bodies corporate comply with Adjudicator's Orders to avoid significant costs and penalties being imposed by the Magistrates Court.

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