

ACT ADJUDICATION APPLICATION FORM
 Building and Construction Industry (Security of Payment) Act 2009 (ACT)

The claimant hereby applies for adjudication under the Act of the referenced payment claim. The documents attached to or submitted with this application form part of this application. Page 1 is the application form. Pages 2 to 4 are not part of the application form.

Note: Under sections 2 and 9(6) of the Act, "This Act commences on 1 July 2010." Therefore only contracts which were formed on or after 1 July 2010 are able to be adjudicated under this Act.

The Claimant must ensure all details are correct and complete.

Claimant's Details –

Name of Claimant:					
Trading Name (if different):					
ABN:		Claimant Contact:			
ACN:		Title	First Name	Last Name	
Business Address:					
Suburb:		State:		Postcode:	
Telephone:	Area Code	Fax:	Area Code		
Mobile:		Email:			

Respondent's Details - Please tick "✓" to authorise receipt of correspondence via **email** to this address above.

Name of Respondent:					
Trading Name (if different):					
ABN:		Respondent Contact:			
ACN:		Title	First Name	Last Name	
Business Address:					
Suburb:		State:		Postcode:	
Telephone:	Area Code	Fax:	Area Code		
Mobile:		Email:			

Contract Details –

Contract date (must be on or after 1/7/2010 – see note above)		Project Location Postcode:	
Project Location Address:			
Project Name:		Contract number <small>(One construction contract only to be adjudicated under each application.)</small>	<small>(If applicable, otherwise leave blank)</small>
Claimant's Business Type	<input type="checkbox"/> Consultant <input type="checkbox"/> Subcontractor <input type="checkbox"/> Contractor <input type="checkbox"/> Supplier	Respondent's Business Type	<input type="checkbox"/> Client <input type="checkbox"/> Head contractor <input type="checkbox"/> Consultant <input type="checkbox"/> Subcontractor <input type="checkbox"/> Contractor <input type="checkbox"/> Supplier
Type of construction work / related goods and services	<small>Eg: Concreting, plumbing, electrical engineering etc.</small>	Reference date: <small>(Refer to http://www.adjudicate.com.au/ACT/act_reference_date.php)</small>	
Payment Claim Date: <small>(Date claim served on respondent)</small>		Payment Due Date:	
Payment Claim Amount: <small>(Incl. GST)</small>		Payment Schedule date: <small>(Date schedule received by claimant)</small>	<small>(If provided)</small>
Amount respondent agreed to pay as per Payment Schedule (if provided):		Application Fee:	\$ NIL
If no Payment Schedule was received – what date was the notice under Section 19(2) notice received by the respondent?			

The claimant is requested to provide two certified copies of the adjudication application (including all attachments) at the time of lodgment with Adjudicate Today. Should the claimant provide only one copy, Adjudicate Today will have the adjudication application (including all attachments) copied at commercial printing rates and will charge the claimant those commercial rates. This application form is provided to assist a claimant to make an adjudication application under the Building and Construction Industry (Security of Payment) Act 2009 (ACT). The use of this form is not mandatory to make an adjudication application.



Have you carefully read **all information** on pages 2, 3 & 4 of this form?

_____ Claimant signature

_____ Print name


_____/_____/_____
Date


If the application is being submitted via fax or email AND is over 50 pages, the claimant is also requested to provide a hard copy of the application. If the application is over 50 pages and a hard copy is not provided, the cost of printing will be charged to the claimant at commercial printing rates.

Please confirm whether a hard copy of the application will be provided:
 To which state office: _____ Yes No

Adjudicate Today Pty Ltd		Ph: 1300 760 297	Fax: 1300 760 220	ABN 39 109 605 021	www.adjudicate.com.au
NSW	QLD	VIC	ACT	TAS	SA
Suite 2 Mona Vale Business 90 Mona Vale Road Mona Vale NSW 2103 nsw@adjudicate.com.au	Level 18 333 Ann Street Brisbane Qld 4000 qld@adjudicate.com.au	Level 23 HWT Tower 40 City Road Southgate Vic 3006 vic@adjudicate.com.au	Level 1 The Realm 18 National Circuit Barton ACT 2600 act@adjudicate.com.au	Level 6 Reserve Bank Building 111 Macquarie Street Hobart Tas 7000 tas@adjudicate.com.au	Level 30 Westpac House 91 King William Street Adelaide SA 5000 sa@adjudicate.com.au

Adjudication Application Index

The Adjudication Application is arranged as follows, with key documents found behind the indicated tabs .

DOCUMENT	TAB No. 
The Adjudication Application Form Available at: http://www.adjudicate.com.au/pdf/act_adj_application_interform.pdf	Tab No. _____
Written submissions Refer to sections 3ai & 3aii of attached checklist	Tab No. _____
Payment Claim Refer to section 3bi & 3bii of attached checklist	
i. The Payment Claim	Tab No. _____
ii. Written confirmation of date and method by which the claimant served the Payment Claim on the respondent	Tab No. _____
Payment Schedule (if served) Refer to section 3ci & 3cii of attached checklist	
i. The Payment Schedule	Tab No. _____
ii. Written confirmation of date and method of claimant's receipt of the Payment Schedule from the respondent	Tab No. _____
Section 19(2) Notice (if no Payment Schedule served) Refer to sections 1ci , 1cii & 1ciii and 3di and 3dii of attached checklist	
i. The Section 19(2) notice	Tab No. _____
ii. Written confirmation of date and method of the respondent's receipt of the Section 19(2) notice	Tab No. _____
Any supporting documents Refer to sections 3e & 3f of attached checklist	
i. The Construction Contract/record of oral agreement	Tab No. _____
ii. Other supporting documents (may be over various tabs)	Tab No. _____

Use of this index template is not mandatory, but may assist both the compilation and processing of an adjudication application. The claimant may prefer to refer to page numbers instead of inserting tabs.

Notes for the guidance of the claimant and the respondent.
All documents **MUST** be attached to the application form.

Note: Under sections 2 and 9(6) of the Act, "This Act commences on 1 July 2010." Therefore only contracts which were formed on or after 1 July 2010 are able to be adjudicated under this Act.

(For debts which relate to contracts formed before 1 July 2010, claimants may wish to consider seeking legal advice on the most suitable method of recovering payment.)

The times provided in the Act for service of documents are strict. If the times are not observed exactly, the adjudication application may be invalid or the Adjudicator may be unable to consider an adjudication response. Times are in business days. The Act's Dictionary states that **business day** does not include 27, 28, 29, 30 or 31 December.

1) Under section 19 of the Act, the time for lodging an adjudication application is:

- a) Where the claimant received a Payment Schedule within 10 business days and the claimant disputes any reasons for non payment – 10 business days from the day of receipt of the Payment Schedule;
- b) Where the claimant received a payment schedule within 10 business days showing that an amount will be paid and the claimant did not seek adjudication and the amount was not paid on the due date for payment – 20 business days from the due date for payment;
 - i) Applications must be submitted after the due date for payment in (b). Applications lodged on or prior to the due date for payment may be invalid.
- c) where the claimant DID NOT receive a Payment Schedule within 10 business days and the whole or any part of the Payment Claim was not paid on the due date for payment, the claimant must give the respondent a second opportunity to provide a Payment Schedule before the claimant can make an adjudication application, as follows:
 - i) the claimant has 20 business days from the due date for payment to notify the respondent, by way of a notice under section 19(2) of the Act, of the claimant's intention to apply for adjudication,
 - (1) the notice under section 19(2) must be received by the respondent after the due date for payment in (c). Section 19(2) notices received on or prior to the due date for payment may be invalid; and
 - ii) the respondent has 5 business days to provide a Payment Schedule; and
 - iii) the claimant has 10 business days after receipt of the Payment Schedule to make the application. If the respondent does NOT provide a payment schedule, the application must be made within 10 business days of the expiry of the 5 business days period provided to the respondent.

- Please refer to section 15 of the Act for clarification of the meaning of the term "Payment Claim".
- Please refer to section 16 of the Act for clarification of the meaning of the term "Payment Schedule".
- A copy of the Act is available at http://www.adjudicate.com.au/pdf/act_2009_Act.pdf
- The notice under section 19(2) is available at [http://www.adjudicate.com.au/pdf/act_adj_section_19\(2\)_notice_interform.pdf](http://www.adjudicate.com.au/pdf/act_adj_section_19(2)_notice_interform.pdf)

2) The claimant must include with the adjudication application, the application fee, if any, payable to Adjudicate Today. Currently our application fee is \$0:00.

3) The claimant may attach to the adjudication application copies of:

- a) i) A **written submission** by the claimant evidencing
 - (1) that the claimant carried out under the construction contract work or related goods and services for which payment is claimed,
 - (2) that the amount claimed is due and unpaid and how it is calculated and
 - (3) the value of the work or related goods and services for which payment is claimed.The submission should also respond to the reasons, if any, given by the respondent for withholding payment and should provide evidence or arguments to refute the respondent's reasons for withholding payment;

Important:

ii) Submissions are essentially arguments in support of the Claimant's case. The Adjudicator cannot be expected to assume that something said by the Claimant in a letter or minutes of a meeting or other supporting document, is true. As supporting documents usually don't speak for themselves, in the written submissions, the Claimant should state what each supporting document is (see b-f below) and how the Claimant contends that the supporting document supports the Claimant's case. The written submissions may include legal arguments, arguments on the interpretation of the contract or other arguments. If the Claimant wants to contend that something in a supporting document is true, the Claimant should say so in the written submissions. If the Claimant fails to do so the Adjudicator might draw the inference that the Claimant is not prepared to argue that the statement is true.

- b) i) The Payment Claim;
- ii) Written confirmation of the date and method by which the claimant served the Payment Claim on the respondent (eg: facsimile transmission report, postal details including postal address, etc);

Notes for the guidance of the claimant and the respondent.
 All documents **MUST** be attached to the application form.

- c) i) The Payment Schedule;
 ii) Written confirmation of the date and method of the claimant's receipt of the Payment Schedule from the respondent (eg: facsimile, post etc);
 - d) i) If required to be served, the section 19(2) notice (see Guidenote 1 c above);
 ii) The confirmation of the date and method of the respondent's receipt of the section 19(2) notice from the claimant (eg: facsimile transmission report, postal details including postal address, etc);
 - e) The construction contract (which may be a formal contract document, an exchange of letters, a quotation and acceptance or a record of an oral agreement) under which the payment claim is made;
 - f) Any other supporting documents (eg: certificates, test results, delivery dockets, invoices, photographs, expert reports, written statements etc);
 - g) A list of all attachments.
- 4) The claimant is requested to provide two certified copies of the adjudication application (including all attachments) at the time of lodgment with Adjudicate Today. Should the claimant provide only one copy, Adjudicate Today will have the adjudication application (including all attachments) copied at commercial rates and will charge the claimant those commercial rates.
- 5) The respondent may lodge a response to the adjudication application ONLY if the respondent served a payment schedule under the Act [see s.22(3) of the Act]. The response must be served on the adjudicator on or before the later of:
- a) 7 business days after receiving a copy of the adjudication application; or
 - b) 5 business days after receiving notice of the adjudicator's acceptance of the adjudication application.

The notes under section 3 concerning submissions and attachments apply equally to the adjudication response.

6) Payment claims involving multiple contracts

Note that only **one construction contract** (written or oral) may be adjudicated under each adjudication application. If lodging two or more adjudication applications at the same time with Adjudicate Today, the claimant should:

- prepare and compile the adjudication applications for acceptance by possibly separate adjudicators
- bind the hard copies of each adjudication application separately (where hard copies are being lodged)
- effect a separate electronic transmission for each application (where electronic copies are being lodged)

7) Please retain a copy of any documents submitted in hard copy

The Act does not provide a requirement for adjudicators to make documents submitted available for return to the parties at the close of an adjudication. If the adjudicator has for example entered markings onto documents submitted, the adjudicator may decide to withhold the documents from return to the parties so as not to allow sight of working comments.

As it is ultimately at the adjudicator's discretion whether documents lodged are made available for return to the parties, parties are advised not to rely upon the adjudication documents being made available for return.

In any instance, any party lodging adjudication documents is generally advised to both:

1. as a matter of caution retain a copy of any documents lodged with Adjudicate Today and
2. consider submitting copies of documents to the adjudicator rather than originals unless absolutely necessary.

If a party does hope to have documents returned it is encouraged to include a note to the adjudicator expressing interest in having the documents returned at the close of the adjudication.

General

This information is necessarily brief. The claimant and the respondent should not rely upon it but should study the Act and perhaps obtain expert advice. Unless invited by the Adjudicator [see s.23(4)(a) of the Act], the claimant and the respondent have no right to make further submissions after lodging their respective adjudication application and adjudication response. Consequently it is most important that the initial submissions are complete.

A copy of the *Building and Construction Industry (Security of Payment) Act 2009* (ACT) is available at:
http://www.adjudicate.com.au/pdf/act_2009_Act.pdf

This adjudication application may be lodged with any Adjudicate Today state office:

SW	QLD	VIC	ACT	TAS	SA
Suite 2	Level 18	Level 23	Level 1	Level 6	Level 30
Mona Vale Business	333 Ann Street	HWT Tower	The Realm	Reserve Bank Building	Westpac House
90 Mona Vale Road	Brisbane QLD 4000	40 City Road	18 National Circuit	111 Macquarie Street	91 King William Street
Mona Vale NSW 2103		Southgate VIC 3006	Barton ACT 2600	Hobart TAS 7000	Adelaide SA 5000