

## Request for an Adjudication Certificate

Section 26 of the Building and Construction Industry (Security of Payment) Act 2009 (ACT) states that an Adjudication Certificate can be issued "if the respondent fails to pay the whole or any part of the Adjudicated Amount to the claimant under section 25."

**Fees:** The fee to issue an Adjudication Certificate is dependent on the Adjudicated Amount, as follows:

Adjudicated amount	Up to \$15 000	\$15 001 to \$40 000	\$40 001 to \$750 000	over \$750 000
Fee (inc GST)	\$110	\$330	\$550	\$825

The fee **must** accompany this request and is recoverable from the Respondent in the same proportion as the Adjudicator determined is payable by the Respondent.

The Claimant requests Adjudicate Today to provide an Adjudication Certificate under Section 26 of the Building and Construction Industry (Security of Payment) Act 2009 (ACT). Adjudicate Today is the Authorised Nominating Authority to whom the Adjudication Application was made.

### Section 1

Adjudication Application Number: \_\_\_\_\_

Claimant Name: \_\_\_\_\_

Claimant Address: \_\_\_\_\_

Claimant ACN: \_\_\_\_\_ ABN: \_\_\_\_\_

Respondent Name: \_\_\_\_\_

Respondent Address: \_\_\_\_\_

Respondent ACN: \_\_\_\_\_ ABN: \_\_\_\_\_

Adjudicator: \_\_\_\_\_

Date of Adjudication Decision: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Date the progress payment became payable as determined by the Adjudicator: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Adjudicate Today serves a copy of the Decision on both Parties. The Claimant may also opt to serve a copy of the Decision on the Respondent. If you served a copy, what is the date of receipt of the Decision by the Respondent?

(Note: If served by ordinary post, as a matter of caution we suggest you allow 4 business days for delivery)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**Note:** A request for an Adjudication Certificate **cannot** be validly made until after either 5 full business days have elapsed from the date the Decision was served on the Respondent or if the Adjudicator determines a later date, that later date.

Adjudicated amount determined by the Adjudicator: \$ \_\_\_\_\_ including any gst  
 Amount of the Adjudicated Amount which is still unpaid: \$ \_\_\_\_\_ including any gst

**Section 2 (Optional)** Please tick  I do not wish to include interest OR

I wish to include interest and the section below has been completed

The Claimant MAY request Adjudicate Today to specify in the Adjudication Certificate the amount of interest payable (if any) arising from the decision of the Adjudicator. The Claimant must provide:

In respect of the Adjudicated Amount, the Claimant has received these amounts on these dates:

(If no payment has been received – insert "NIL") \$ \_\_\_\_\_ on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

\$ \_\_\_\_\_ on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

The rate of interest determined by the Adjudicator is: (refer to Page 3, Section 2 of this form) \_\_\_\_\_%

The amount of interest due at the date of this application is: \$ \_\_\_\_\_

The amount of interest due daily is: \$ \_\_\_\_\_

**[Please attach a schedule demonstrating how you calculated the interest amount. An example calculation appears on page 3.]**

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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	
nsw@adjudicate.com.au	qld@adjudicate.com.au	vic@adjudicate.com.au	act@adjudicate.com.au	tas@adjudicate.com.au	sa@adjudicate.com.au	

**Section 3 (Optional)**

The Claimant is entitled to recover the Respondent's share of any adjudication fee paid by the Claimant but not reimbursed by the Respondent ("the unpaid share"). In order to recover the unpaid share, please provide the following particulars.

Fees and expenses payable

To the Adjudicator: (adjudication fee) \$ \_\_\_\_\_  
To Adjudicate Today: (fee payable to issue the Adjudication Certificate) \$ \_\_\_\_\_  
Total fees and expenses payable: \$ \_\_\_\_\_  
Proportion which the Adjudicator determined must be paid by the Respondent: \_\_\_\_\_%

Fees and expenses that the Claimant has paid

To the Adjudicator: (adjudication fee) \$ \_\_\_\_\_  
To Adjudicate Today: (fee payable to issue the Adjudication Certificate) \$ \_\_\_\_\_  
Total fees and expenses that the Claimant has paid: \$ \_\_\_\_\_

Fees and expenses that the Claimant has paid on behalf of the Respondent

(Refer to *Proportion which the Adjudicator determined must be paid by the Respondent* above.)

To the Adjudicator: (adjudication fee) \$ \_\_\_\_\_  
To Adjudicate Today: (fee payable to issue the Adjudication Certificate) \$ \_\_\_\_\_  
Total fees and expenses that the Claimant has paid on behalf of the Respondent: \$ \_\_\_\_\_  
Amount, if any, reimbursed by the Respondent: \$ \_\_\_\_\_  
The unpaid share to be certified: \$ \_\_\_\_\_

**Payment**

Please note that the required payment **must clear in the Adjudicate Today bank account** before the certificate can be issued. Please select:

- A cheque for \$ \_\_\_\_\_ will be posted to the Adjudicate Today head office at:  
Suite 2, 90 Mona Vale Road, MONA VALE NSW 2103
- The funds will be transferred via electronic transfer into the following account:  
**BSB : 082 294 Account number: 571 500 017 Account name: Adjudicate Today Pty Limited**  
The transfer receipt will be either faxed to 1300 760 220 or emailed to act@adjudicate.com.au
- Please bill \$ \_\_\_\_\_ to the following credit card. Please select: MasterCard  VISA

Cardholder Name (as it appears on the card): \_\_\_\_\_

Card Number: \_\_\_\_\_

Expiry date: \_\_\_\_\_ Signature: \_\_\_\_\_

**The address that the Adjudication Certificate should be express posted to**

Should the Adjudication Certificate be sent to the address shown on page 1 of the application: ? **Yes**  **No**

If **No**: Please provide the address that the Adjudication Certificate should be sent to:

Company name: \_\_\_\_\_ Contact name: \_\_\_\_\_

Phone: \_\_\_\_\_ Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_


**Declaration**

**Please select:** I am  **the Claimant**  **an authorised representative of the Claimant**

I am authorised to make this application on behalf of the Claimant. I certify that the particulars provided in this application and attachments are true and correct and that copies attached are true copies of the original documents.

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Type or print name: \_\_\_\_\_ Phone: \_\_\_\_\_ Title: \_\_\_\_\_

 **Have you ensured that 5 full business days have passed since the respondent's receipt of the Adjudication Decision?**  
Counting the date on which the respondent received the Adjudication Decision as Day 0, this form cannot be validly submitted until at least the **sixth** business day. (Please refer to Section 1 of this form.)

# Notes for the Guidance of Persons making a Request for an Adjudication Certificate

## Section 1

- 1 The request must be lodged with the Authorised Nominating Authority which nominated the Adjudicator.
- 2 The request cannot be made before the expiration of both 5 business days after the Adjudicator's Decision was served on the Respondent and the date (determined by the Adjudicator) as the date on which the progress payment became payable.
- 3 The request cannot be made unless the whole or part of the Adjudicated Amount remains unpaid at the date of the request.
- 4 The request must be accompanied by the fee charged by the Authorised Nominating Authority for issue of the Adjudication Certificate.
- 5 Completion of Sections 2 and 3 of the Application Form is optional.

## Section 2

- 1 Interest **will not** be included in the Adjudication Certificate unless the Claimant completes Section 2.
- 2 Interest must be calculated at the rate determined by the Adjudicator in the Adjudication Decision. Interest is simple interest unless the Adjudicator has determined otherwise.
- 3 In calculating interest, the date upon which the progress payment became payable (as determined by the Adjudicator) should not be included but the date of this application should be included.
- 4 Interest should be calculated only on unpaid amounts. If an amount has been paid, interest is not payable from the date upon which payment was received.
- 5 The interest rate determined by the Adjudicator does not apply to adjudication fees.
- 6

### **RATE PRESCRIBED UNDER THE *COURT PROCEDURES RULES 2006***

The website of the Supreme Court of ACT confirms that the interest rate prescribed under the *Court Procedures Rules 2006* is calculated as follows:

*From 1 July 2010 these rates will be set at 6 monthly intervals and will be ... 6% above the last applicable Reserve Bank cash rate target for post judgement interest.*

As a courtesy, we provide the website address for the Supreme Court of ACT:  
<http://www.legislation.act.gov.au/sl/2006-29/current/pdf/2006-29-vol150.pdf>

### **Calculating interest on amounts owing up to 31 December 2010**

The website for the Supreme Court of ACT confirms that for post-judgment interest for the period commencing 1 July 2010 and ending 31 December 2010 the rate is **10.5% per annum**.

### **Calculating interest on amounts owing from 1 January 2011 to 31 December 2011:**

On 1 January 2011, the website for the Reserve Bank of Australia confirmed that the cash rate last published by the Reserve Bank before 1 January 2011 was 4.75%. On 1 July 2011, the website for the Reserve Bank of Australia confirmed that the cash rate last published by the Reserve Bank before 1 July 2011 was again 4.75%.

On the basis of the above information, Adjudicate Today understands that for amounts owing **from 1 January 2011 to 31 December 2011 inclusive**, the rate prescribed under s.101 of the Civil Procedure Act is **10.75%**.

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### **Calculating interest on amounts owing on or after 1 January 2012:**

On 1 January 2011, the website for the Reserve Bank of Australia confirmed that the cash rate last published by the Reserve Bank before 1 January 2012 was 4.25%.

On the basis of the above information, Adjudicate Today understands that for amounts owing **on or after 1 January 2012**, the rate prescribed under s.101 of the Civil Procedure Act is **10.25%**.

- Note that if the Due Date for Payment as determined by the Adjudicator is prior to **1 January 2011**, the Claimant will need to complete **three individual calculations** in order to determine the total interest payable.

7 The formula which may be used to calculate simple interest payable is as follows:

$$I = A \times \frac{\text{Days}}{366} \times \text{Rate of interest}$$

Where:

**I** = Interest due

**A** = Adjudicated Amount including any gst, as shown on the Adjudication Decision

**Days** = Number of full days which have elapsed since the Due Date for Payment.

The Due Date for Payment is shown on the Adjudication Decision.

<b>EXAMPLE ONLY</b>	<b>Calculation</b>	<b>Interest due</b>
<b>If A</b> = \$100,000 including any gst <b>Days</b> = 31 <b>Rate</b> = 10.25%	<b>then I</b> = \$100,000 x $\frac{31}{366}$ x 10.25%	<b>I</b> = \$868.17

\* Be sure to refer to points 1-7 of Section 2 when calculating interest.

### **Section 3**

- 1 If the Claimant has paid the Respondent's share (or part of the Respondent's share) of the fees of the Authorised Nominating Authority or the Adjudicator, the Claimant should complete Section 3 and provide the Authorised Nominating Authority with proof of payment.
- 2 Proof of payment may be by receipts, a statement by the Claimant's accountant, a statutory declaration or a statement by a person who is able to certify as to payment and non reimbursement.

### **Declaration**

- 1 The Claimant must complete the declaration at the foot of the Application Form.  
If the Claimant is a company then an officer duly authorised by the company should complete the Application Form.
- 2 This Application can be made by post, fax or electronically.

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