



Adjudication Application Index

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

DOCUMENT	TAB No. 
<p>The Adjudication Application form Downloadable from www.adjudicate.com.au/Old/qld_adj_application.pdf</p>	Tab No. _____
<p>Payment Claim Refer to section 3ai & ii of attached checklist</p> <p>i. The Payment Claim</p> <p>ii. Written confirmation of date and method by which the claimant served the Payment Claim on the respondent</p>	<p>Tab No. _____</p> <p>Tab No. _____</p>
<p>Payment Schedule (if served) Refer to section 3bi & ii of attached checklist</p> <p>i. The Payment Schedule</p> <p>ii. Written confirmation of date and method of claimant's receipt of the Payment Schedule from the respondent</p>	<p>Tab No. _____</p> <p>Tab No. _____</p>
<p>Section 21(2) Notice (if no Payment Schedule served) Refer to sections 1ci, ii & iii and 3ci & ii of attached checklist</p> <p>i. The Section 21(2) notice</p> <p>ii. Written confirmation of date and method of the respondent's receipt of the the Section 21(2) notice</p>	<p>Tab No. _____</p> <p>Tab No. _____</p>
<p>Written submissions Refer to section 3di & ii of attached checklist</p>	Tab No. _____
<p>Any supporting documents Refer to sections 3e and 3f of attached checklist</p> <p>i. The Construction Contract / record of oral agreement</p> <p>ii. Other supporting documents</p>	<p>Tab No. _____</p> <p>Tab No. _____</p>

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.

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. In defining **business day**, Schedule 2 of the Act incorporates the meaning of **business day** given in the *Acts Interpretation Act 1954 s.36*. Schedule 2 of the Act therefore provides that a **business day** is any day which is not (a) a Saturday or Sunday or (b) a public holiday, a special holiday or bank holiday in the place in which any relevant act is to be or may be done or (c) 27, 28, 29, 30 or 31 December.

1. Under section 21 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 received 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 full amount 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 21(2) of the Act, of the claimant's intention to apply for adjudication
 - I. the notice under s.21(2) must be received by the respondent after the due date for payment in (c). Section 21(2) notices received on or prior to the due date for payment may be invalid.
 - ii. the respondent has 5 business days to provide a Payment Schedule;
and;
 - iii. the claimant has 10 business days after the expiry of that 5 business day period to apply for adjudication
 - I. adjudication applications must be submitted after the 5th business day in (iii). Applications received on or prior to the 5th business day may be invalid.
 - Please refer to s.17 of the Act for clarification of the meaning of *Payment Claim*.
 - Please refer to s.18 of the Act for clarification of the meaning of *Payment Schedule*.
(The Act is downloadable from www.adjudicate.com.au/QLd/qld_B&C_Ind_Payments_Act_2004.pdf)
 - The notice under s.21(2) is downloadable from www.adjudicate.com.au/QLd/qld_optional_notice.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. 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 etc);
 - b.
 - i. the Payment Schedule, if any;
 - ii. written confirmation of the date and method of the claimant's receipt of the Payment Schedule from the respondent (eg; facsimile, post etc);
 - c.
 - i. if required to be served, the section 21(2) notice (see Guidenote 1.c above)
 - ii. written confirmation of the date and method of the respondent's receipt of the section 21(2) notice from the claimant (eg; facsimile transmission report, postal details etc);
 - d.
 - i. A written submission by the claimant evidencing (i) that the claimant carried out under the contract the work or provided the goods or services for which payment is claimed, (ii) that amount claimed is due and unpaid and how it is calculated and (iii) the value of the work, goods or services for which payment is claimed. The submission should also respond to the reasons, if any, given by the respondent for not paying and should provide evidence or arguments to refute the respondent's grounds for withholding payment.

Notes for the guidance of the claimant and the respondent.
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Important:

- ii. In the written submissions, the claimant should state what each attachment is and how the claimant contends that the attachment supports the claimant's case. Attachments don't speak for themselves. The mere fact that the claimant has said something in correspondence does not mean that it is true. If the claimant wants to contend that something in an attachment is true, the claimant should say so in the submissions.
 - 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. A complete copy of the adjudication application and all attachments and other things accompanying it must be served on the respondent at the same time as it is served upon Adjudicate Today or as soon as possible thereafter.
5. a. The adjudication application may be served on the respondent in accordance with the contract or it may be served in accordance with the Act:
- i. by delivering it to the respondent personally; or
 - ii. by lodging it during normal business hours at the respondent's ordinary place of business; or
 - iii. by sending it by post or facsimile addressed to the respondent's ordinary place of business;
- b. Please note that the adjudicator may request that the claimant provide written confirmation of the date and method of service of the adjudication application on the respondent.
6. The respondent may lodge a response to the adjudication application ONLY if the respondent served a Payment Schedule under the Act [see s.18 of the Act.] The response must be served on the adjudicator on or before the later of:
- a. 5 business days after the respondent receives a copy of the adjudication application; or
 - b. 2 business days after the respondent receives notice of the adjudicator's acceptance of the adjudication application [see s.24 of the Act].

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

General

This information is necessarily very 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. S25(4) 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 Payments Act 2004 (Qld)* is downloadable from:

www.adjudicate.com.au/QLd/qld_B&C_Ind_Payments_Act_2004.pdf

This adjudication application must be lodged with:

Adjudicate Today Pty Limited [ACN 109 605 021]
Level 18, 333 Ann Street BRISBANE QLD 4000
Tel: 1300 760 297 Fax: 1300 760 220
Email: qld@adjudicate.com.au