

# ADJUDICATION APPLICATION

## for contracts entered on or after 30 March 2007

### USING THIS SAMPLE FORM

#### Why this is a 'sample' form

The *Building and Construction Industry Security of Payment Act 2002* does not require you to use any particular form.

This form can help you make a complete and valid application that can be processed quickly. You can use it, adapt it for your purposes or decide not to use it at all.

#### Required information

The Act says that the adjudication application must identify the Payment Claim and the Payment Schedule (if any) to which it relates. If your application does not do this, it will not be valid.

#### Before you apply

##### Check the date of your contract

This form can be used only if you and the Respondent entered into a contract on or after 30 March 2007.

If you entered into a contract with the Respondent before 30 March 2007, your rights to adjudication and the rules that you need to follow are different. A sample form for contracts entered before 30 March 2007 is available on the Building Commission's website.

#### When you can make an adjudication application

You may apply for adjudication if you have served a Payment Claim on the Respondent under s 14 of the Act, and the Respondent has responded in one of the following ways.

- a The Respondent has provided a valid Payment Schedule and it shows that the amount that they propose to pay (the 'scheduled amount') is less than the amount you claimed on the Payment Claim (the 'claimed amount').  
**If so, the deadline for lodging your application is 10 business days after you receive the Payment Schedule.**
- b The Respondent has provided a valid Payment Schedule but has failed to pay all or any of the 'scheduled amount' by the due date for payment.  
**If so, the deadline for lodging your application is 10 business days after the due date for payment.**
- c The Respondent:
  - has not provided a valid Payment Schedule, and
  - has not paid any or all of the 'claimed amount' by the due date for payment, and
  - has been notified by you, within 10 business days immediately following the due date for payment, that you intend to apply for adjudication and that they have 2 business days after receiving that notice to provide a Payment Schedule.  
**If so, the deadline for lodging your application is seven business days after you notify the Respondent.**

# NOTES FOR CLAIMANT

## Completing this form

### 1 Authorised Nominating Authority (ANA)

An Adjudication Application must be made in writing to an ANA. A list of ANAs is on the Building Commission's website.

You may choose the ANA. Your contract with the Respondent may specify the ANAs which may be used in the event of a payment dispute. If it specifies three or more ANAs, you must select one of them. If it specifies fewer, or none at all, you can select any ANA from the list on the Building Commission's website.

### 2 Claimant's details

Provide the address of your ordinary place of business.

### 3 Respondent's details

Provide the address of the Respondent's ordinary place of business.

### 4 Contract details

Provide sufficient information to identify the project or site that you worked on, or provided goods or services to.

### 5 Payment Claim details

You must identify the Payment Claim. If you do not, your application will not be valid.

### 6 Payment Schedule details

You must identify the Payment Schedule, if the Respondent has given you one. Otherwise, your application will not be valid.

If the Respondent has not given you a Payment Schedule, you cannot apply for adjudication unless you have notified them that you intended to apply and informed them that they had 2 business days after receiving your notice to provide a Payment Schedule.

### 7 Reason for application

One of these reasons must exist. Otherwise you may not apply for adjudication.

### 8 Submissions relevant to the application

You may make any submissions that are relevant to the application. If necessary, set out your argument and further information in a separate document and attach it to the application.

### 9 List of attachments

You should provide documents which support your submissions. As a guide, the information listed below is relevant to all adjudication applications.

- Construction contract under which the work was done or the goods and services were supplied (if there is a written contract)
- Payment Claim
- Payment Schedule (if any)
- Any further information or points in support of the claim that you want the adjudicator to take into consideration
- Any other relevant documents, such as invoices from suppliers, measurements, test results, quality assurance certificates and expert report.

Attach copies (not originals) of all relevant documents and list them on the form

### 10 Service of documents on Respondent

A copy of this application (including attachments) must be served on the Respondent, preferably at the same time as the original is lodged with the ANA.

The Respondent's copy can be served by delivering it in person, lodging it during normal business hours at the Respondent's ordinary place of business, posting or faxing it to the Respondent's ordinary place of business or in any manner specified in the contract.

The adjudication application is not served until it is received by the Respondent or at the Respondent's ordinary place of business. If it is posted, service is 2 business days after the day in which it was posted. If it is faxed, service is immediate unless the fax is sent after 4pm, in which case service is the next day.

### 11 Authorised Nominating Authority fee

The ANA may charge an application fee. If it does, you must pay it when you lodge the application. Otherwise, the application will not be valid.

Pay by the method instructed by the ANA.

The ANA's fee is distinct from the fees and costs payable to the adjudicator.

### 12 Request for adjudication

Check that the details you have provided are accurate and then sign the application.



