

## Adjudication Application (New South Wales)

Made under the Building and Construction Industry Security of Payment Act 1999 (NSW)

| Please complete all details of this application where applicable   |   |   |   |
|--|---|---|---|
| <b>Application scheme</b>  | Fixed fee <input type="checkbox"/>                          | Non-fixed fee <input type="checkbox"/>                    |   |
| <p><i>Please refer to the relevant terms and conditions for each application scheme prior to making an application. The full details for each scheme are included as an appendix to this adjudication application and are available from our website (<a href="http://www.abcdrs.com.au">www.abcdrs.com.au</a>)</i></p> <p><i>Please complete all applicable details below and take care particularly in regard to the business details of the respondent and the contract. All details must be correctly completed.</i></p> |   |   |   |
| Claimant details   |   |   |   |
| Name of business<br><i>(and trading name if applicable)</i>  |   |   |   |
| Business address<br><i>(number, street, suburb, state and postcode)</i>  |   |   |   |
| Postal address   |   |   |   |
| Phone number   |   |   |   |
| Fax number   |   |   |   |
| Email address  |   |   |   |
| Contact person   |   |   |   |
| Claimant type<br><i>(please select one)</i>  | Pty Ltd company <input type="checkbox"/>                    | Limited company <input type="checkbox"/>                  | Partnership <input type="checkbox"/>              |
|  | Sole trader <input type="checkbox"/>                        | Trust <input type="checkbox"/>                            | Incorporated association <input type="checkbox"/> |
| Claimant business type<br><i>(please select one)</i>   | Trade contractor/<br>subcontractor <input type="checkbox"/> | General/main/<br>head contractor <input type="checkbox"/> | Project manager <input type="checkbox"/>          |
|  | Consultant <input type="checkbox"/>                         | Supplier <input type="checkbox"/>                         | Surveyor <input type="checkbox"/>                 |
|  | Designer <input type="checkbox"/>                           | Developer/client <input type="checkbox"/>                 | Other <i>[describe]</i> <input type="checkbox"/>  |
| Claimant trade <i>(i.e. building, tiling, development etc)</i>   |   |   |   |
| ABN / ACN<br><i>(provide both if applicable)</i>   | ABN:  | ACN:  |   |

| Respondent details  |   |   |   |
|---|---|---|---|
| Name of business<br><i>(and trading name if applicable)</i>             |   |   |   |
| Business address<br><i>(number, street, suburb, state and postcode)</i> |   |   |   |
| Postal address  |   |   |   |
| Phone number  |   |   |   |
| Fax number  |   |   |   |
| Email address   |   |   |   |
| Contact person  |   |   |   |
| Respondent type<br><i>(please select one)</i>                           | Pty Ltd company <input type="checkbox"/>                    | Limited company <input type="checkbox"/>                  | Partnership <input type="checkbox"/>              |
|   | Sole trader <input type="checkbox"/>                        | Trust <input type="checkbox"/>                            | Incorporated association <input type="checkbox"/> |
| Respondent business type<br><i>(please select one)</i>                  | Trade contractor/<br>subcontractor <input type="checkbox"/> | General/main/<br>head contractor <input type="checkbox"/> | Project manager <input type="checkbox"/>          |
|   | Consultant <input type="checkbox"/>                         | Supplier <input type="checkbox"/>                         | Surveyor <input type="checkbox"/>                 |
|   | Designer <input type="checkbox"/>                           | Developer/client <input type="checkbox"/>                 | Other <i>[describe]</i> <input type="checkbox"/>  |
|   |   |   | _____ <input type="checkbox"/>                    |
| Respondent trade<br><i>(i.e. building, tiling, development etc)</i>     |   |   |   |
| ABN / ACN<br><i>(provide both if applicable)</i>                        | ABN:  | ACN:  |   |

| Contract and project details   |  |
|--|--|
| Project name   |  |
| Project address  |  |
| Project type<br><i>(e.g. building apartments)</i>  |  |
| Contract number  |  |
| Contract type <i>(Written, oral, part written / part oral)</i>   |  |
| Date contract formed   |  |
| Payment claim reference number   |  |
| Date of payment claim  |  |
| Date payment claim served on respondent  |  |
| Due date for payment   |  |
| Date notice of intent to apply for adjudication served on respondent <i>(if applicable, refer to section 17(2)(a) of the Act)</i>                        |  |
| Payment schedule served?   | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Date of payment schedule   |  |
| Date payment schedule served on claimant   |  |
| Payment claim amount<br><i>(inc GST)</i>   |  |
| Payment schedule amount<br><i>(inc GST)</i>  |  |
| Service of this application  |  |
| The date claimant served this application on the respondent OR the date claimant intends to serve this application<br><i>(including all submissions)</i> |  |

## Application Checklist

| Please make sure you consider the following items   |                          |
|---|--------------------------|
| This application refers to a valid payment claim  | <input type="checkbox"/> |
| This application is accompanied by a copy of the payment claim  | <input type="checkbox"/> |
| This application is accompanied by a copy of the payment schedule <i>(if applicable)</i>  | <input type="checkbox"/> |
| A copy of the relevant contract is included. If a written contract does not exist, a document referring to the terms of the verbal agreement  | <input type="checkbox"/> |
| This application may also be accompanied by relevant submissions <i>(e.g. legal submissions, statutory declarations, emails, previous invoices, expert reports, faxes, other relevant communication)</i>    | <input type="checkbox"/> |
| This application contains information regarding the service of documents on the respondent, including the payment claim, notice of intent to apply for adjudication as well as the adjudication application | <input type="checkbox"/> |
| If this application is subject to the fixed-fee adjudication regime, I have included my fixed fee with the application  | <input type="checkbox"/> |

**Please note the following:**

- The claimant **is required** to serve a copy of the adjudication application (including all attachments) to the respondent.
- If it is not served on the same day, the applicant will immediately notify the Authorised Nominating Authority of the date of service upon the respondent and provide evidence of service.
- Withdrawal of adjudication application prior to release of final decision will incur a charge on the **claimant**.

The claimant hereby applies for adjudication under section 17 of the Building and Construction Industry Security of Payment Act 1999 (NSW) of the progress payment to be made in respect to the payment claim.

**By signing this application, the claimant submits that all information entered above is correct, particularly with regard to contact and business details for both parties.**

|                            |  |       |  |
|----------------------------|--|-------|--|
| Signed <i>(claimant)</i> : |  | Date: |  |
|----------------------------|--|-------|--|

## Terms and Conditions of Application (NSW)

Please make yourself aware of the following terms and conditions for the adjudication regime you are applying under.

### 1. Fixed-fee adjudication application

1.1. The fees for the fixed-fee adjudication regime are shown in Table 1 below:

**Table 1.**

| Band | Payment claim range | Adjudication fee | Total adjudication fees (inc GST & Disbursements charge) |
|------|---------------------|------------------|--|
| 1    | 0 – 6,500           | 700.00           | <b>770.00</b>  |
| 2    | 6,501 – 15,000      | 1,050.00         | <b>1,155.00</b>  |
| 3    | 15,001 – 25,000     | 2,050.00         | <b>2,255.00</b>  |
| 4    | 25,001 – 40,000     | 3,150.00         | <b>3,465.00</b>  |
| 5    | 40,001 – 60,000     | 4,150.00         | <b>4,565.00</b>  |
| 6    | 60,001 – 100,000    | 5,650.00         | <b>6,215.00</b>  |

1.2. The fixed fees shown above include:

- 1.2.1. The fees and expenses of the nominated adjudicator and the Authorised Nominating Authority (ABC DRS).
- 1.2.2. The cost of an adjudication certificate, if required.
- 1.2.3. Goods and Services Tax (GST).
- 1.2.4. Disbursements up to the value of \$50.00 excluding GST for fixed fee bands 1 through to 6 (see above table).

1.3. The payment for fixed-fee adjudication must accompany the adjudication application. If payment is not forthcoming with the adjudication application, the adjudication application will be deemed to come under the regular non-fixed ABC DRS adjudication rates.

1.4. The payment of fixed-fee adjudication is non-refundable, except in the cases as explained in term 1.7 herein, or pursuant to section 29(4) of the Building and Construction Industry Security of Payment Act 1999 (NSW).

1.5. In the event of withdrawal of an adjudication application, the outstanding fees will be calculated on the basis of work already completed by the adjudicator at the nominated adjudicator's hourly rate, disbursements at cost, plus a \$300.00 (excluding GST) ANA administrative withdrawal fee. If this calculation is less than the upfront fixed fee, the claimant will be refunded the difference.

1.6. Fixed-fee adjudication does not include any costs associated with conducting a conference or inspections. While the requirement for a conference or inspection occurring pursuant to the adjudication process is rare, if this requirement arises, the fees associated with this requirement will be charged in accordance with the nominated adjudicator's hourly rate.

1.7. ABC DRS reserves the right at its sole discretion to ultimately decide whether an application purporting to come under fixed-fee adjudication qualifies for fixed-fee adjudication. This decision will be based upon complexity of issues, numbers of matters in dispute and the extent of documentation submitted.

- 1.7.1. ABC DRS will confirm to both the claimant and respondent in writing whether or not an application purporting to come under fixed-fee adjudication qualifies for fixed-fee adjudication.
- 1.7.2. If ABC DRS decides an application purporting to come under fixed-fee adjudication **does not qualify** for fixed-fee adjudication, ABC DRS will inform **the claimant** of this fact in writing.
- 1.7.3. In the situation where ABC DRS decides an application does not qualify for fixed-fee, the claimant may withdraw the application by notice in writing to ABC DRS. However, the claimant may elect to have the adjudication continue under normal ABC DRS non-fixed fee adjudication rates.
- 1.7.4. This notice must be received within one (1) business day of being informed that the application is not suitable for fixed-fee adjudication. If this notice is not received, ABC DRS will move to appoint an adjudicator under normal ABC DRS non-fixed fee adjudication rates.

1.8. Disbursements, such as postage, copying, faxing, courier, and other miscellaneous costs, are charged at cost.

- 1.8.1. For payment claims that fall under bands 1 through to 6 (refer to Table 1 above): If the value of disbursements exceeds \$50.00 (excluding GST) on any adjudication application, the parties will be liable for the amount in excess. Payment of these costs is a precondition to the release of the adjudication decision.

**2. Non-fixed fee adjudication**

- 2.1. The following **fee schedule** is relevant to the non-fixed fee adjudication regime.
  - 2.1.1. No application fee is required with non-fixed fee adjudication.
  - 2.1.2. Adjudicator hourly rates are as follows:
    - 2.1.2.1. Grade 1 – \$250.00 excluding GST
    - 2.1.2.2. Grade 2 – \$325.00 excluding GST
    - 2.1.2.3. Grade 3 – \$400.00 excluding GST
  - 2.1.3. The Adjudication certificate fee is \$200 excluding GST.
- 2.2. Withdrawal of adjudication application.
  - 2.2.1. In the event of withdrawal of an adjudication application, the outstanding fees will be calculated on the basis of work already completed by the adjudicator at the nominated adjudicator's hourly rate, disbursements at cost, plus a \$300.00 (excluding GST) ANA administrative withdrawal fee.
  - 2.2.2. The claimant will be responsible for and invoiced the adjudicator's fees and disbursements incurred at time of withdrawal including the administrative withdrawal fee.
- 2.3. Release of adjudication decision.
  - 2.3.1. Upon receiving notification of the adjudicator's decision, ABC DRS will provide both the claimant and the respondent with a tax invoice indicating the hours spent on the adjudication application, the relevant hours charged by the adjudicator, the disbursement costs regarding the application, and any other relevant fee regarding the processing of the adjudication by ABC DRS.
  - 2.3.2. The adjudication decision will not be released by ABC DRS until the relevant fees have been paid in full.

|  |  |       |  |
|--|--|-------|--|
| I confirm that I have read and understand all the relevant terms and conditions for the adjudication scheme under which I am applying. |  |       |  |
| Signed:  |  | Date: |  |

## Submission of Application

This adjudication application must be served on ABC Dispute Resolution Service. It can be done in the following ways.

**By post or delivery** to any of the following addresses:

### ABC DRS Queensland (Main) Office

Business/Courier Address:  
ABC Dispute Resolution Service  
Level 34, 1 Eagle Street, Brisbane QLD 4000  
Postal address: ABC Dispute Resolution Service  
PO Box 307, Waterfront Place, Brisbane QLD 4001  
Phone number: 1300 857 383 Fax number: 1300 857 384  
Office hours: 8.30 am to 5.00 pm (local time)  
Email: [contactus@abcdrs.com.au](mailto:contactus@abcdrs.com.au)

### ABC DRS Canberra Office

Business/Courier/Postal Address:  
ABC Dispute Resolution Service  
Level 1, The Realm, 18 National Circuit, Barton ACT 2600  
Office hours: 8.30 am to 5.00 pm (local time)

### ABC DRS New South Wales Office

Business/Courier/Postal Address:  
ABC Dispute Resolution Service  
Level 5, 115 Pitt Street, Sydney, NSW 2000  
Office hours: 8.30 am to 5.30 pm (local time)

### ABC DRS South Australia Office

Business/Courier/Postal Address:  
ABC Dispute Resolution Service  
Level 2, 70 Hindmarsh Square, Adelaide, SA 5000  
Office hours: 8.30 am to 5.00 pm (local time)

### ABC DRS Tasmania Office

Business/Courier/Postal Address:  
ABC Dispute Resolution Service  
Level 3, 85 Macquarie Street, Hobart, TAS 7000  
Office hours: 8.15 am to 5.15 pm (local time)

**Or by fax:** To 1300 857 384

**Or by email:** [By prior arrangement only – please call] to [contactus@abcdrs.com.au](mailto:contactus@abcdrs.com.au)

## Fixed Fee Adjudication Tax Invoice

If you are nominating for **Fixed-fee adjudication**, ABC DRS requires an upfront payment of the adjudication fees.

Section 2 of the terms and conditions included with this application indicate the relevant fixed-fee costs. The fixed-fee costs are also available on [www.abcdrs.com.au](http://www.abcdrs.com.au).

Please complete the following details. A fixed-fee adjudication application will be deemed invalid if upfront payment is not received with the application (as per the terms and conditions of application).

### Payment method *(tick appropriate)*

|                          |   |
|--------------------------|---|
| <input type="checkbox"/> | Cheque (payable to <b>ABC Dispute Resolution Service</b> )  |
| <input type="checkbox"/> | EFT (Bank details – ABC Dispute Resolution Service BSB: 064 000 Account Number: 1370 7577)<br><i>Please send through remittance advice for proof of service</i> |

### Credit card *(tick appropriate)*

|                          |            |                          |      |
|--------------------------|------------|--------------------------|------|
| <input type="checkbox"/> | MasterCard | <input type="checkbox"/> | Visa |
|--------------------------|------------|--------------------------|------|

### Card details

|             |  |
|-------------|--|
| Cardholder  |  |
| Card number |  |
| Expiry date |  |
| Amount      | \$ <b>(Please remember to include GST)</b> |
| Signature   |  |

Please note that all payments made via an accepted card will attract a 1.66% merchant fee.

**Once this form is completed, it will act as a tax invoice.  
Please retain for tax purposes.**