

Adjudication Application (Victoria)

Building and Construction Industry Security of Payment Act 2002

Please complete all details of this application where applicable			
Application Scheme	Fixed Fee <input type="checkbox"/>	Non-Fixed Fee <input type="checkbox"/>	
<p><i>Before you apply, please read the relevant terms and conditions for the scheme you are applying for (see page 5 & 6).</i></p> <p><i>Fill in all sections that apply to you. Take extra care when completing the business details and contract information. Make sure all details are correct.</i></p>			
Claimant Details			
Name of business (and trading name if applicable)			
Business Address (number, street, suburb, state and postcode)			
Postal Address			
Phone Number			
Email Address			
Contact person			
Claimant Type (Please select one)	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 (please select one)	Trade Contractor/ Subcontractor <input type="checkbox"/>	General/ Main/ 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 <input type="checkbox"/> Describe:
Claimant Business Type (please select one)			
ABN / ACN (Provide both if applicable)	ABN:	ACN:	
Claimant Advisors	Claim preparer <input type="checkbox"/>	Consultant <input type="checkbox"/>	Solicitors <input type="checkbox"/>
	None <input type="checkbox"/>	Not known <input type="checkbox"/>	

Respondent Details			
Name of business (and trading name if applicable)			
Business Address (number, street, suburb, state and postcode)			
Postal Address			
Phone Number			
Email Address			
Contact person			
Respondent Type (Please select one)	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 (please select one)	Trade Contractor/ Subcontractor <input type="checkbox"/>	General/ Main/ 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 <input type="checkbox"/> Describe:
Respondent Trade (i.e. building, tiling, development etc)			
ABN / ACN (Provide both if applicable)	ABN:	ACN:	
Respondent Advisors	Claim preparer <input type="checkbox"/>	Consultant <input type="checkbox"/>	Solicitors <input type="checkbox"/>
	None <input type="checkbox"/>	Not known <input type="checkbox"/>	
Project Details			
Project Name			
Project Address (including postcode)			
Contract details			
Contract Number			
Contract Type (Written, Oral, Part Written / Part Oral)			
Date Contract Formed			

Claim details			
Claim Type (Please select one)	Payment Claim <input type="checkbox"/>	Performance s Security Claim <input type="checkbox"/>	Payment Claim and Performance Security Claim <input type="checkbox"/>
Date of Claim			
Date Claim served on Respondent			
Date the Claim was taken to be served			
Due Date for Payment			
Reference date for payment			
Payment Schedule Served?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Date of Payment Schedule/ Performance Security Schedule			
Date Payment Schedule served on Claimant			
Payment Claim Amount (exGST)			
Payment Schedule Amount/ Security amount respondent proposes to release (exGST)			
Notice of intent to apply for adjudication served?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
If yes, did notice allow respondent two business days to file a payment schedule per section 18 (2)(b) of the Act	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Date of section 18(2) or 18A(2) notice (where no payment schedule/performance security schedule);			
Type of security where a Claim includes a claim for return of performance security			
Adjudication application			
Date full copy of adjudication was served on the respondent			

Application Checklist

Please make sure you consider the following items	
This application refers to a valid payment claim	<input type="checkbox"/>
This application refers to a valid security performance 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 (if applicable)	<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 should also be accompanied by relevant submissions (e.g. legal submissions, statutory declarations, emails, previous invoices, expert reports, other relevant communication)	<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"/>
A copy of the adjudication application, including all attachments must be served on the respondent by the claimant, within three business days of service on RICS	<input type="checkbox"/>

Please note the following:

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

The claimant is applying for adjudication under section 18 of the Building and Construction Industry Security of Payment Act 2002 for a progress payment related to a Payment Claim and/or a Performance Security

Claim

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

Signed (Claimant):

Date:

Terms & Conditions of Application (VIC)

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

Pro Bono Adjudication Application

- 1.1. The payment claim, to which this application relates, must be less than \$1,500.00 AUD inclusive of GST.
- 1.2. Acceptance of this adjudication application on pro bono terms is at the absolute discretion of the RICS DRS.
- 1.3. RICS DRS may, at its sole discretion, decide whether an application qualifies for pro bono adjudication. This decision will be based on issue complexity, the number of disputes, and the volume of documentation.

Fixed Fee Adjudication Application

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

Band	Payment Claim Range (\$)	Adjudication Fee (\$)	Total Adjudication Fees (\$) (inc. GST & Disbursements charge)
1	0 – 5,000	1,000.00	1,100.00
2	5,001- 10,000	1,455.00	1,600.00
3	10,001 – 20,000	2,000.00	2,200.00
4	20,001 – 40,000	3,100.00	3,410.00

Table 1.

**Please Note: Payment Claims with a range greater than \$40,000 will be charged at an hourly rate.*

- 2.2. The fixed fees shown above include:

- The fees and expenses of the nominated adjudicator and the Authorised Nominating Authority (RICS DRS)
- The cost of an adjudication certificate, if required.
- Goods and Services Tax (GST)
- Disbursements up to the value of \$50.00 excluding GST for fixed fee bands 1 through 4 (see above table).

- 2.3. If an adjudication application is withdrawn, any outstanding fees will be calculated based on the work already completed by the adjudicator, to the maximum of the Fixed Fee rate. This will be charged at the adjudicator's nominated hourly rate, plus any disbursements charged at cost, and an ANA administrative withdrawal fee of \$220.00 (including GST).

If the total of these charges is less than the fixed fee, the claimant will be refunded the difference. If the total of these charges is more than the fixed fee, the fee will be capped at the Fixed Fee rate.

- 2.4. The RICS DRS reserves the right, at its sole discretion, to decide whether an application submitted for fixed-fee adjudication, qualifies for fixed-fee adjudication. This decision will be based on the complexity of the issues, number of issues in dispute, and the volume of documentation submitted with the application.

- RICS DRS will notify both the claimant and the respondent in writing whether the application qualifies for fixed-fee adjudication.
- If RICS DRS decides that the application does not qualify for fixed-fee adjudication, it will notify the claimant in writing.
- If the application does not qualify for fixed-fee adjudication, the claimant may withdraw the application by giving written notice to RICS DRS. Alternatively, the claimant may choose to continue with the adjudication at the standard (non-fixed-fee) RICS DRS rates.
- This notice must be received within one (1) business day of the claimant being notified that the application does not qualify for fixed-fee adjudication. If no notice is received within this time, RICS DRS will proceed to appoint an adjudicator at the standard non-fixed-fee rates.

- 2.5. Once the adjudicator has completed their decision, they will notify RICS DRS and both parties of completion of the adjudication, and the Fixed Fee plus disbursements and costs, if any, not covered under the Fixed Fee scheme.

- 2.6. The adjudication decision will not be released by either the adjudicator or RICS DRS until all relevant fees have been paid in full.

Non-Fixed fee adjudication

- 3.1. The following fee schedule is relevant to the Non-Fixed Fee adjudication regime.

- 3.1.1. No application fee is required with non-fixed fee adjudication.

- 3.1.2. Adjudicator hourly rates are as follows:

- Senior Adjudicator - \$400.00 per hour excluding GST
- Intermediate II Adjudicator - \$300.00 per hour excluding GST

- Intermediate I Adjudicator - \$260.00 per hour excluding GST

3.1.3. Disbursements are charged at cost price.

Withdrawal of adjudication application

4.1. If an adjudication application is withdrawn, any remaining fees will be worked out based on the work the adjudicator has already completed. These fees will be charged at the adjudicator's hourly rate, plus any disbursements at cost, and an ANA administrative withdrawal fee of \$220.00 (including GST).

4.2. Release of adjudication decision

4.2.1. Once the adjudicator has completed their decision, they will notify RICS DRS and both parties of:

- the hours spent on the adjudication,
- the fees charged for those hours,
- any disbursement costs, and
- any other fees related to RICS DRS processing the adjudication.

4.2.2. The adjudication decision will not be released by either the adjudicator or RICS DRS until all relevant fees have been paid in full.

Review of Adjudication

5.1. A review adjudication allows a party to ask for a review of an adjudication decision, subject to strict timeframes and additional fees. The process and costs are set out below.

5.2. ANA application fee: \$2,000 plus GST, payable at the time the application is submitted.

5.3. Adjudicator's fee: \$3,500 plus GST for up to 6 hours. Any additional time will be charged at \$600 per hour, excluding GST.

5.4. Review of Adjudication Certificate: \$200 plus GST, payable at the time the review is requested.

5.5. Review process:

- The review application must be made within five (5) business days of the parties receiving the Determination.
- The Review Adjudicator will issue their Determination within five (5) business days of nomination. This timeframe may be extended by a further five (5) business days with the applicant's agreement. Once the review is completed, the Review Adjudicator will issue an invoice for their fee. The Determination will be released once payment has been received.

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

Signature:

Date:

Submission of Application

This adjudication application must be served on the RICS Dispute Resolution Service. It can be done in the following ways. By post or delivery to either of the following addresses:

DRS Main Office	Melbourne Serviced Office
Business/Courier/Postal Address: RICS Dispute Resolution Service Suite 317, 60 Martin Place, Sydney, NSW 2000	Address: Ground Floor, 454 Collins St Melbourne 3000

Or by fax: 1300 953 529

Or by email: drsaus@rics.org

Adjudication Payments

For any payments associated with the adjudication process please find the following details:

Bank Account Name: RICS Australasia Pty Ltd

BSB: 342011 Account Number: 210689001

Swift code: HKBAU2S

Bank name: HSBC Bank Australia Ltd

Please email through remittance advice for proof of service to drsaus@rics.org