

The QLS ANA

The QLS ANA has a panel of qualified and independent adjudicators available to make an adjudication decision within the timeframes set out in the legislation and in accordance with a scale of fees.

The QLS ANA is located at Law Society House, 179 Ann Street, Brisbane.

The QLS ANA is able to provide details of:

- a Form for Adjudication Application by the Claimant
- a Form for Adjudication Response
- scale of Adjudicator's fees
- ANA fees for making an application and issue of a certificate
- practitioners involved in Building and Construction Information will be available on the QLS ANA website:

www.qls.com.au.

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You can also contact the QLS ANA for information by calling 3842 5914 or emailing dmc@qls.com.au.



The information in this brochure is merely a guide and is not meant to be a detailed explanation of the law. The Queensland Law Society recommends you see your solicitor about particular legal problems.



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Queensland Law Society
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The Queensland Law Society (QLS) is an Authorised Nominating Authority (ANA) under the *Building and Construction Industry Payments Act 2004 (Qld)*, the Act. The QLS ANA receives applications for adjudication, appoints adjudicators and will facilitate the process of adjudication.

What is the purpose of the *Building and Construction Industry Payments Act 2004*?

The Act establishes a system of rapid resolution of payment disputes involving building and construction work contracts. Very short time limits are provided for each step in the process.



Who can take advantage of the Act?

Participants in the construction industry entitled to take advantage of the rapid resolution process set out in the Act include contractors, architects, designers, surveyors, engineers, landscapers, decorators and suppliers of goods and services.

What is the adjudication process?

A simplified summary of the process is:

- the claimant delivers a *payment claim*
- the respondent may deliver a response by way of a *payment schedule*
- if there is no response the claimant may choose to go to court for a judgment for payment of the amount claimed or to apply for an adjudication
- if there is a response and either the respondent does not agree that the whole amount is payable, or, agrees it is payable but fails to make payment, the claimant can choose to apply to an ANA for adjudication – an application fee is payable
- the adjudicator's decision is usually made available to the parties on payment of the adjudicator's fees. If it is decided that the respondent must pay the claimant and it fails to do so the claimant can obtain an adjudication certificate which can be filed in court and enforced like a judgement – a fee for issue of the certificate is payable
- the process does not prejudice the right of either party to have other legal issues resolved by a court

Why use the QLS ANA?

An adjudicator's decision is subject to judicial review and any legal error in the adjudication decision may result in court proceedings, an expensive and time-consuming process.

All QLS adjudicators are experienced solicitors who have undergone specialised training, minimising this risk.

The adjudicator's decision

Rapid adjudication is conducted by an independent and qualified adjudicator from the QLS panel.

An adjudicator must decide an adjudication application within a strict timeframe.

The adjudicator bills the parties direct. QLS adjudicators charge in accordance with a scales of fees.

The adjudicator's decision is released upon payment of that invoice in full. The claimant and respondent are both liable for payment of the adjudicator's fees and expenses however the adjudicator may, in the decision, apportion liability for the fees and expenses.

What if the respondent fails to pay?

If the respondent fails to pay the whole or any part of the adjudicated amount within the relevant time the claimant may upon payment of a fee, apply to the ANA for an adjudication certificate.

The claimant can then take steps for enforcement of the amount as a judgement debt in the courts.

Strict compliance with the Act

Strict compliance with the process and formalities is required by the Act. The QLS ANA maintains a database of practitioners with a special interest in building and construction related matters.

Why use a solicitor?

Many solicitors are experienced in matters pertaining to building and construction disputes, some have trained as adjudicators.

Your solicitor will advise you when the adjudication process is appropriate and assist in ensuring compliance with the legislative requirements of the process.