

How much does adjudication cost?

Adjudication is a low cost alternative to court actions and there are no application fees for claims under \$50,000. Claims over \$50,000 attract a single application fee of \$242. The parties are also liable for adjudicator fees and expenses.

For smaller claims, there are fixed adjudicator fees starting from \$770. Contact the Queensland Law Society ANA for further information.

Contact

Enquiries about the adjudication process and application forms can be obtained from the Dispute Management Centre:

dmc@qls.com.au
P 3842 5914
Fax 3220 0616

**All references to 'days' means 'business days', eg not a gazetted public holiday or a Saturday or Sunday.*

Looking for a solicitor?

You can find one via the Queensland Law Society referral service at qls.com.au or phone 1300 367 757.



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



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A guide to settling
payment disputes

Building and construction work

public information



Settling disputes over payment of work done can be difficult and slow. The Building and Construction Industry Payments Act 2004 (BCIPA) provides a process known as adjudication which can rapidly determine your payment dispute. The Queensland Law Society Authorised Nominating Authority (ANA) can assist you in your application for adjudication.

Are you someone in the construction industry who has carried out work but has not been paid?

If so, you should consider adjudication under the *Building and Construction Industry Payments Act 2004* (BCIPA) to quickly settle your dispute. This process can be used by anyone who has provided

- construction work in Queensland
- goods and services for construction work in Queensland.

Some conditions apply as to who and what services are provided, eg the adjudication process does not apply for work provided to a resident owner. The Queensland Law Society ANA can assist you in your application for adjudication.

What is the Queensland Law Society ANA?

The Queensland Law Society ANA can process your application for adjudication. It:

- has no application fee for claims under \$50,000
- is a completely independent organisation
- has experienced staff who will support you in your initial enquiries and will quickly and efficiently process the application
- can provide all relevant forms you need for the adjudication application and response.

Unlike some other ANAs, our accredited adjudicators live in Queensland and each has more than 10 years' legal experience in building and construction.

Why choose adjudication?

Choosing adjudication rather than going to court cannot only save cost and time but it may enable you to maintain a relationship with the other party. The process provides a strict timeframe in which an adjudicator is required to make a binding decision.

What do I have to do?

The first step is to serve a *payment claim* for work done or supplied goods and services to the person or company that has contracted for your work, services or goods. A payment claim identifies you as the claimant and must include:

- the name and contact details of the party owing you money (the "respondent")
- clear identification and details of the work undertaken or goods or services provided
- the full amount owing including GST, interest or retentions
- the wording "This is a payment claim made under the *Building and Construction Industry Payments Act 2004*".

The respondent then has to deliver a response to you, known as a *payment schedule*, within 10 days* of your claim. The payment schedule must outline if, when and how your claim will be paid.

What if they argue my claim?

If they refuse to pay the outstanding amount and either:

- deliver a payment schedule to you within ten days stating that they refuse to pay the whole amount, you can apply to an ANA for adjudication or
- fail to deliver a payment schedule or the outstanding payment by the due date, you can choose to
 - either apply for adjudication after serving a s21(2) notice on the respondent that you intend to apply for adjudication and they have 5 days to provide a payment schedule, that means you give the respondent a second chance to provide a payment schedule
 - or you can go to court for a judgment.

What does the adjudicator do?

Rapid adjudication can be conducted by an independent and qualified adjudicator from the Queensland Law Society.

Once you have applied for adjudication, the adjudicator accepts the application and will make a decision within 10 days unless both parties agree to an extension. You will not be meeting the adjudicator so you should ensure that you clearly state your case in writing and provide all relevant documentation as the adjudicator bases their decision on the written material they receive from the parties.

The adjudicator's decision

If the adjudicator decides that the respondent must pay you (the claimant) and the respondent fails to do so, the claimant can obtain an adjudication certificate from the ANA which the application has been lodged with. The certificate can be filed in court and enforced like a judgment.

