

## **Rialto Adjudications Pty Ltd Complaints Policy and Procedure Statement:**

### **Introduction**

Rialto Adjudications welcomes performance feedback from any party to an adjudication, we are always looking for ways to improve.

Parties who are considering making a complaint about an Adjudication Determination should be aware that an Authorised Nominating Authority has no power under the Act to make any change to an Adjudication Determination.

### **Request for Correction, Section 24 of the Act:**

An adjudicator has very limited power to make any change to an Adjudication Determination under the Act.

Section 24 of the Act provides, so far as is relevant, as follows:

#### ***24 Correcting mistakes in determinations***

*(1) An adjudicator may correct a determination made by him or her if the determination contains—*

- (a) a clerical mistake; or*
- (b) an error arising from an accidental slip or omission; or*
- (c) a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the determination; or*
- (d) a defect of form.*

*(2) The correction may be made—*

- (a) on the adjudicator's own initiative; or*
- (b) on the application of the claimant or the respondent.*

Changes under Section 24 of the Act are generally said to be limited to correcting a typographical error or mathematical miscalculation.

If a party believes that there is an error in the Adjudication Determination, that can be corrected under Section 24 of the Act, they should write to the adjudicator, copied to the other party, and detail the correction they are seeking. It is for the adjudicator to determine if there is an error that is to be corrected under this section of the Act.

The adjudicator may, before deciding if a correction is to be made, provide the other party to the adjudication an opportunity to make submissions on the requested correction.

The adjudicator has no power under the Act to reconsider or change any determination of jurisdiction, fact or law in the Adjudication Determination.

### **Review of Adjudication Determination, Division 2A of the Act:**

The Act provides for a Review of Adjudication Determination in some circumstances. The threshold for review is:

An Application for Review of Adjudication Determination may only be made by the **Respondent** when:

1. The Adjudicated Amount exceeds \$100,000.00
2. The Respondent provided a Payment Schedule to the Claimant within the time specified in Section 15(4) or 18(2)
3. On the ground that the Adjudicated Amount included an Excluded Amount
4. If the Respondent identified that amount as an Excluded Amount in the Payment Schedule or the Adjudication Response
5. If the Respondent has paid to the Claimant the Adjudicated Amount, other than the amounts alleged to be Excluded Amounts
6. The Respondent has paid the amounts alleged to be Excluded Amounts into a designated Trust Account

An Application for Review of Adjudication may only be made by the **Claimant** when:

1. The Adjudicated Amount exceeds \$100,000.00
2. The adjudicator failed to take into account a relevant amount in making an Adjudication Determination because it was wrongly determined to be an Excluded Amount

### **Policy and Procedure:**

The Security of Payment scheme is a statutory process. Only a court has jurisdiction to review an Adjudication Determination and decide if the adjudicator has fulfilled, or made an error, in the execution of their duties under the Act. If a party believes that the adjudicator has made an error, they should seek expert legal advice.

Should Rialto Adjudications receive a complaint that, for legal reasons, we are unable to assist with, the complainant will be promptly advised in writing.

Rialto Adjudications continually monitors the performance of our adjudicators, including the outcome of any related court proceedings. We may at any time, irrespective of a complaint made, require an adjudicator to undertake additional training, or remove them from our panel of adjudicators.

1. Rialto Adjudications Pty Ltd undertakes to comply with this Complaints Policy and Procedure Statement.
2. Any person may make a complaint in writing (the complaint) to Rialto Adjudications Pty Ltd, at any time, in relation to:
  - any process of Rialto Adjudications Pty Ltd in relation to or arising out of the Act
  - any conduct by any officer or personnel of Rialto Adjudications Pty Ltd
  - any conduct by an adjudicator nominated by Rialto Adjudications Pty Ltd, or
  - any other relevant matter concerning Rialto Adjudications Pty Ltd, including, for the avoidance of doubt, any complaint against Rialto Adjudications Pty Ltd as an ANA.
3. Complaints should be made, in writing, to Rialto Adjudications Pty Ltd's director ("the Director"), Greg Bowman.
4. The Director will conduct an independent investigation into the complaint and provide an initial written report to the person making the complaint within 5 business days. If the complaint is such that further time is required to complete the investigation, an estimate of the further required time will be provided at that time. A final response to the complaint will be delivered as soon as possible, but in any event within 6 weeks of receipt of the initial written complaint. The final report will provide for appropriate remedies and sanctions where the complaint is proved.

5. A copy of the complaint will be provided to the adjudicator and, where appropriate, to the other party to the adjudication. A response will be requested and considered as part of the investigation.
6. In the event that a complaint being made to Rialto Adjudications Pty Ltd, against Rialto Adjudications Pty Ltd as an ANA, the following further process will be followed:
  - The Director will contact the person making the complaint within 5 business days after providing the results of their independent investigation referred to in paragraph 4 above. If the complaint is about the director, an independent, suitably qualified person will conduct the investigation.