

Building and Construction Industry Security of Payment Act 2002 (Vic)

ADJUDICATION APPLICATION

To: Rialto Adjudications Pty Ltd (Authorised Nominating Authority)
 Level 40, 140 William Street, Melbourne Vic 3000
 Ph: 1300 986 440 Fax: 03 8678 1100 Email: applications@rialtoadjudications.com.au

And To: The Respondent

Claimant Details:

Name of Claimant:			
ABN:		ACN:	
Contact Name:			
Ordinary Place of Business:			
Suburb:	State:	Postcode:	
Telephone:	Email:		
Facsimile:	Mobile:		

Respondent Details:

Name of Respondent:			
ABN:		ACN:	
Contact Name:			
Ordinary Place of Business:			
Suburb:	State:	Postcode:	
Telephone:	Email:		
Facsimile:	Mobile:		

Project Details:

Name of Project:			
Address of Project:			
Suburb:	State:	Postcode:	
Contract Number:			
Description of Works:			

Claim Details:

Type of Claim:		
Payment Claim	Performance Security Claim	Performance Security Claim made in conjunction with a Payment Claim
Yes/No:	Yes/No:	Yes/No:

Date of actual service of the Claim:	
Date the Claim was taken to be served:	
Due date for payment under the Contract and/or Act:	
Total Amount of Claim \$:	
Date of Payment Schedule/Performance Security Schedule:	
Amount Respondent Proposes to Pay/Release \$:	
Date of Section 18(2) or 18A(2) Notice (if no Payment Schedule/Performance Security Schedule):	
If the Claim includes a claim for return of performance security, state the <u>type</u> of Security	

Service of Adjudication Application on the Respondent:

Date you Served a complete copy of the Application on the Respondent:	
Method of Service (e.g. email, by hand, post):	

The Claimant applies for adjudication under *the Building and Construction Industry Security of Payment Act 2002 (Vic)*.

Signed on behalf of the Claimant:

Date:

A complete copy of the Adjudication Application, including all attachments must be Served on the Respondent by the Claimant, within 3 business days of service on Rialto Adjudications Pty Ltd.

Application Checklist

Copies of the following documents should be submitted with this Adjudication Application:

1. Index
2. Submissions of the Claimant
3. The Payment Claim/Performance Security Claim (including any supporting documents submitted in support of the Claim)
4. The Payment Schedule/Performance Security Schedule (including any supporting documents served with the Schedule)
5. Section 18(2) or 18A(2) Notice (if applicable)
6. The Contract (if not a written Contract, include in your Submissions document details of how and when the verbal Contract was formed and any terms agreed)
7. Further supporting documents which may include, for example:
 - a. Correspondence
 - b. Invoices
 - c. Meeting minutes
 - d. Diary notes
 - e. Photographs
 - f. Other documents/information
8. Details of how and when a complete copy of the Adjudication Application was served on the Respondent

Information for the Respondent:

1. The respondent may, subject to having provided a payment schedule/performance security schedule under section 15, 17E, 18 or 18A of the Act, lodge with the adjudicator a response to the Claimant’s Application for Adjudication (the “Adjudication Response”) at any time within –
 - a. 5 business days after receiving a copy of the Application for Adjudication; or
 - b. 2 business days after receiving notice of an adjudicator’s acceptance of the application – whichever time expires later.
2. The Adjudication Response –
 - a. Must be in writing; and
 - b. Must identify the Adjudication Application to which it relates; and
 - c. Must include the name and address of any relevant principal of the respondent; and
 - d. May contain any submissions relevant to the response that the respondent chooses to include.
 - e. May not contain a reason for withholding payment if that reason was not set out in the payment schedule.
3. **A complete copy of the Adjudication Response must be served on the Claimant within 3 business days of service on the adjudicator.**

Critical notes

1. **Date a payment claim is taken to be served – time to provide a payment schedule:**

- If a claimant serves a progress payment claim on a person before the earliest date (as provided for in the contract, or if the contract does not make express provision, calculated in accordance with the Act):
 - The progress payment claim is **NOT** invalid.
 - The progress payment claim is taken to be served on the earliest date.
 - **The time within which a person may serve a payment schedule does not commence until the earliest date.**

- **What is the earliest date that a progress payment claim can be served?**
A progress payment claim may be served:
 - On and from the last day of the named month in which construction work was first carried out or related goods and services provided; and
 - On and from the last day of each subsequent named month that further construction work was carried out or related goods and services provided.
 - If the contract provides for an earlier date, on and from that date.
 - If a notice of termination is served on a party to a construction contract or a construction contract is terminated by agreement, on and from the day on which the contract provides is the day on which the contract is terminated.
 - For works performed or goods and services provided between 1 December and 21 December, a progress payment claim may be served on and from 22 December.
 - for works performed or goods and services provided between 22 December and 31 December, a progress payment claim may be served on and from 31 January in the following year.

2. **Date a performance security claim is taken to be served – time to provide a performance security schedule:**

- If a claimant serves a performance security claim on a person before the earliest date (as provided for in the contract, or if the contract does not make express provision, calculated in accordance with the Act):
 - The performance security claim is **NOT** invalid.
 - The performance security claim is taken to be served on the earliest date.
 - **The time within which a person may serve a performance security schedule does not commence until the earliest date.**

- **What is the earliest date that a performance security claim can be served?**
A performance security claim under the SOP Act may be served:
 - A day that is at least 20 business days after the end of the relevant defects liability period for the construction work carried out or related goods or services supplied under the construction contract to which the performance security relates;
 - On or after a day, or on or after the day of the occurrence of an event (if any), specified in the construction contract.

3. **Time to provide a payment schedule or performance security schedule in response to a Section 18(2) Notice or Section 18A(2) Notice:**

- The respondent has **5 business days** after service of the Notice to provide a payment schedule.