

Section 18(2) Notice – Notice of intention to apply for adjudication and opportunity to provide payment schedule

This sample form can help you to prepare a section 18(2) notice under the *Building and Construction Industry Security of Payment Act 2002*.

WHY THIS IS A 'SAMPLE' FORM

The *Building and Construction Industry Security of Payment Act 2002* (the SOP Act) does not require you to use any particular form for a section 18(2) notice.

This form can help a claimant to prepare a section 18(2) notice that notifies the respondent of the claimant's intention to apply for adjudication and the respondent's opportunity to provide a payment schedule.

REQUIRED INFORMATION

A section 18(2) notice **must** notify the respondent of the claimant's intention to apply for adjudication of the payment claim.

The section 18(2) notice gives the respondent an opportunity to provide a payment schedule to the claimant within two business days after receiving the claimant's section 18(2) notice.

When is a section 18(2) notice required

A claimant is required to notify the respondent of the claimant's intention to apply for adjudication of the payment claim **when**:

- the respondent fails to provide a payment schedule to the claimant, **and**
- the respondent fails to pay the whole or any part of the claimed amount by the due date for payment.

In those circumstances the claimant cannot make an adjudication application **unless** the claimant has given the respondent a notice under section 18(2) of the SOP Act.

Ensure the section 18(2) notice is provided within time

A section 18(2) notice **must** be served on the respondent **within** 10 business days immediately following the due date for payment.

The due date for payment is the date specified in the contract or, if not specified by the contract, 10 business days after the payment claim is made.

PROCEDURAL INFORMATION

The claimant's entitlement to make an adjudication application

Where the respondent fails to provide a payment schedule to the claimant and fails to pay the whole or any part of the claimed amount by the due date for payment, a claimant may make an adjudication application **only if**:

- the claimant notifies the respondent of the claimant's intention to apply for adjudication of the payment claim, **and**
- that notice is provided **within** 10 business days immediately following the due date for payment, **and**
- the respondent has been given an opportunity to provide a payment schedule to the claimant within two business days after receiving the claimant's notice under section 18(2).

Adjudication application

A claimant that has served a section 18(2) notice may make an adjudication application – whether or not the respondent provides a payment schedule – **within five business days** after the end of the two day period referred to in the section 18(2) notice.

The claimant must make the adjudication

application within five business days **after**, but not before, the end of the two day period referred to in the section 18(2) notice.

SERVING THE SECTION 18(2) NOTICE ON THE RESPONDENT

A section 18(2) notice can be served by delivering it in person to the respondent, lodging it during normal business hours at the respondent's ordinary place of business, posting or faxing it to the respondent's ordinary place of business, or in any manner specified in the contract.

The section 18(2) notice is not served until it is received by the respondent or at the respondent's ordinary place of business. If it is posted, service is two business days after the day on which it was posted. If it is faxed, service is immediate unless the fax is sent after 4pm, in which case service is the next day.

NOTES FOR THE CLAIMANT

Completing a section 18(2) notice

1 Claimant's Details

Provide the name of the person or company that entered into the contract with the respondent and provide the contact details for your ordinary place of business.

2 Respondent's Details

Provide the name of the person or company that entered into the contract with you and the contact details for their ordinary place of business.

3 Payment Claim Details

Identify the payment claim number, if used, and provide sufficient information to identify the project or site that you worked on, or provided goods or services to.

Identify the contract number, if applicable, and relevant contract details.

Specify the claimed amount – the amount you claimed in the payment claim.

The due date for payment is the date specified in the contract or, if not specified by the contract, 10 business days after the payment claim is made.

Specify the date the payment claim was served on the respondent.

4 Notice requirements

The notice **must** notify the respondent that the claimant intends to apply for adjudication of the payment claim.

The notice must include sufficient information and be served in a manner that meets the procedural information and requirements of a section 18(2) notice, including:

- notifying the respondent of the claimant's intention to apply for adjudication of the payment claim, and
- advising the respondent that they have an opportunity to provide a payment schedule to the claimant within two business days after receiving the claimant's notice under section 18(2), and
- advising that whether or not the respondent provides a payment schedule the claimant may make an adjudication application within five business days after the end of the two day period referred to in the notice.

5 Signature of Claimant

Check that the details you have provided are accurate and then sign the notice.

SAMPLE SECTION 18(2) NOTICE – NOTICE OF INTENTION TO APPLY FOR ADJUDICATION AND OPPORTUNITY TO PROVIDE PAYMENT SCHEDULE

1 Claimant’s Details

Company	
Contact Person	
Address	
Phone	Fax

2 Respondent’s Details

Company	
Contact Person	
Address	
Phone	Fax

3 Payment Claim Details

Payment Claim Number	
Project/Site/Job Description	
Contact Number (if applicable)	
Date of Contract	DD/MM/YYYY
Base contract	\$
Claimable variations	\$
Total (the ‘claimed amount’)	\$
Due Date for Payment	DD/MM/YYYY
Date Payment Claim served on Respondent	DD/MM/YYYY

4 Notice requirements

NOTICE UNDER SECTION 18(2) OF THE BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT 2002

This is a notice under section 18(2) of the *Building and Construction Industry Security of Payment Act 2002*.

The respondent is notified that the claimant intends to apply for adjudication of the payment claim referred to above.

The respondent is advised that they have an opportunity to provide a payment schedule to the claimant within two business days after receiving this notice.

The respondent is advised that whether or not the respondent provides a payment schedule the claimant may make an adjudication application within five business days after the end of the two day period referred to above.

5 Signature of Claimant

Signature of Claimant	
Date	DD/MM/YYYY