

Adjudication Response – Sample Form

This sample form can help you to prepare an adjudication response 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 an adjudication response.

This form can help you to prepare an adjudication response. You can use it, adapt it for your purpose, or decide not to use it all.

BEFORE YOU START

When you can make an adjudication response

You may lodge a response to the claimant’s adjudication application only if you provided a payment schedule to the claimant within the time specified by the SOP Act.

Your adjudication response must be lodged with the adjudicator within:

- five business days after receiving a copy of the application, or
- two business days after receiving notice of an adjudicator’s acceptance of the application
- whichever is the later.

Relevant principal

A relevant principal is any person who has engaged the respondent under a contract to provide construction work, goods or services, if the work that the claimant has done or the goods or services that the claimant has supplied under the contract to the respondent is, or is part of or incidental to, the construction work, goods or services that the respondent was engaged to

carry out or supply.

The adjudicator must notify any relevant principal of the adjudication application.

Submissions relevant to the adjudication response

The adjudication response may contain any submissions relevant to the response that the respondent chooses to include. Copies of documents relevant to the submissions should be attached.

The respondent should make the adjudicator aware of any reasons for withholding payment which were provided in the payment schedule. The adjudicator is required to inform the claimant of these reasons, following which the claimant has two business days to lodge a response to those reasons with the adjudicator.

REQUIRED INFORMATION

An adjudication response **must**:

- identify the adjudication application to which it relates
- include the name and address of any relevant principal of the respondent
- include the name and address of any other person who the respondent knows has a financial or contractual interest in the matters that are the subject of the adjudication application
- identify any amount of the payment claim that the respondent alleges is an excluded amount.

SERVING THE ADJUDICATION RESPONSE ON THE CLAIMANT

A copy of the adjudication response (including attachments) must be served on the claimant, preferably at the same time as the original is

lodged with the adjudicator. The claimant's copy of the response can be served by delivering it in person, lodging it during normal business hours at the claimant's ordinary place of business, posting or faxing it to the claimant's ordinary place of business or in any manner specified in the contract.

The adjudication response is not served until it is received by the claimant or at the claimant's ordinary place of business. If it is posted, service is two business days after the day in 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. Provide the contact details for your ordinary place of business.

NOTES FOR THE RESPONDENT

Completing this Form

1 Adjudication Application Details

An adjudication response must identify the adjudication application to which it relates. The adjudication response **must** include this information.

2 Respondent's Details

Provide your name and contact details for your ordinary place of business.

3 Relevant Principal

Provide the name(s) of any relevant principal. The adjudication response **must** include this information.

4 Other Relevant Persons

The adjudication response must provide details of any company or individual (other than a relevant principal) who you know has a financial or contractual interest in the matters that are the subject of the adjudication application. The adjudication response **must** include this information.

5 Payment Schedule Details

If you have not given the claimant a payment schedule within the time required by the SOP Act you may not lodge an Adjudication Response.

6 Reasons for Withholding Payment

Clearly identify any new reasons for withholding payment. If you identify any new reasons, the adjudicator must inform the claimant. The claimant will then have two business days to lodge a response to those reasons with the adjudicator.

7 Excluded Amounts

Your adjudication response **must** identify any amount of the payment claim that you allege is an excluded amount.

8 Submissions Relevant to the Response

Provide any relevant information or argument in response to the claim that you want the adjudicator to take into consideration.

If necessary, set out your argument and further information in a separate document and attach it to the application.

9 List of Attachments

You should provide documents which support your submissions.

10 Signature of Respondent

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

ADDITIONAL INFORMATION

Claimable variations

The payment claim may include amounts for variations to the contract.

The SOP Act specifies which variations may be claimed in a payment claim, and which may not.

Variations which may be claimed are called claimable variations.

Claimable variations include variations on which the parties agree and some disputed variations. All agreed variations may be included in a payment claim. Some disputed variations may be claimed in payment claim if the parties do not agree about certain matters which are specified in the SOP Act.

For more information, see the VBA's website and [Fact Sheet 4: Claimable Variations and Excluded Amounts](#).

Excluded amounts

The payment claim must not include any 'excluded amount'.

An excluded amount is:

- any amount that relates to a variation of the construction contract that is not a claimable variation
- any amount (other than a claimable variation) claimed under the construction contract for compensation due to the happening of an event, including any amount relating to latent conditions, time related costs and changes in regulatory requirements
- any amount claimed for damages for breach of the construction contract or for any other claim for damages arising under or in connection with the contract
- any amount in relation to a claim arising at law other than under the construction contract.

ADJUDICATION RESPONSE – SAMPLE FORM

1 Adjudication Application Details

Claimant	
(ANA)	
Adjudicator nominated by ANA	
Application number assigned by ANA	
Date you received a copy of the application	DD/MM/YYYY
Date you received notice that the Adjudicator accepted the application	DD/MM/YYYY

2 Respondent's Details

Company	
Contact Person	
Address	
Phone	Fax

3 Relevant Principal

Company	
Contact Person	
Address	
Phone	Fax

4 Other Relevant Persons

Company	
Contact Person	
Address	
Phone	Fax

5 Payment Schedule Details

Date of Payment Schedule	DD/MM/YYYY
Date the Payment Schedule was provided to the Claimant	DD/MM/YYYY
Amount claimed in Payment Claim (the 'claimed amount')	\$
Amount you propose to pay (the 'scheduled amount')	\$
Amount withheld	\$

6 Reasons For Withholding Payment

Are there any reasons for withholding payment that you did not include in the Payment Schedule?	
<input type="checkbox"/> No	
<input type="checkbox"/> Yes	Set out the amounts and reasons in your submissions relevant to the response.

7 Excluded Amounts

Do you allege that any amount of the payment claim is an 'excluded amount'?	
<input type="checkbox"/> No	
<input type="checkbox"/> Yes	Total amount \$ Identify all alleged 'excluded amounts' in your submissions relevant to the response.

8 Submissions Relevant to the Response

9 List of Attachments

10 Signature of Respondent

Signature of Respondent
Date DD/MM/YYYY