

Construction Contracts Regulations 2004

Made by the Governor in Executive Council.

1. Citation

These are the *Construction Contracts Regulations 2004*.

2. Commencement

These regulations come into operation on the day on which section 55 of the Act comes into operation.

3. Terms used in these regulations

In these regulations, unless the contrary intention appears —

“**ABN**” means Australian Business Number as defined in section 41 of the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth;

“**ACN**” means Australian Company Number as defined in section 9 of the *Corporations Act 2000* of the Commonwealth;

“**contact details**” has the meaning given in regulation 4.

4. Giving a person’s contact details

If a person is required by these regulations to give the contact details of a person, the person required to give the details must give the address, telephone and facsimile numbers and ABN of the person or the person’s business (or ACN of the person if there is no ABN) to the extent to which the person required to give the details knows those details.

5. Prescribed information in application for adjudication

For the purposes of section 26(2)(a) of the Act, an application to have a payment dispute adjudicated must, in addition to the other information required by section 26(2) of the Act, contain —

- (a) the name of the appointed adjudicator or prescribed appointor and the adjudicator’s or appointor’s contact details;
- (b) the applicant’s name and contact details; and
- (c) the respondent’s name and contact details.

6. Prescribed information in response to an application for adjudication

For the purposes of section 27(2)(a) of the Act, a response to an application for adjudication must, in addition to the other information required by section 27(2) of the Act, contain —

- (a) the name of the appointed adjudicator or prescribed appointor and the adjudicator's or appointor's contact details;
- (b) the applicant's name and contact details; and
- (c) the respondent's name and contact details.

7. Prescribed information in adjudicator's determination

For the purposes of section 36(b) of the Act, an appointed adjudicator's decision must, in addition to the other information required by section 36 of the Act, contain —

- (a) the name of the appointed adjudicator;
- (b) the applicant's name and contact details;
- (c) the respondent's name and contact details; and
- (d) the date and identification number (if any) of the adjudicator's determination.

8. Prescribed information in notice of intention to suspend performance of obligations

For the purposes of section 42(2)(b) of the Act, a contractor's notice of intention to suspend the performance of its obligations must, in addition to the other information required by section 42(2) of the Act, contain —

- (a) the name of the appointed adjudicator;
- (b) the principal's name and contact details;
- (c) the contractor's name and contact details;
- (d) the date and identification number (if any) of the adjudicator's determination;
- (e) the amount to be paid by the principal to the contractor under the determination; and
- (f) the date by which the principal is to pay the amount to the contractor under the determination.

9. Qualifications of registered adjudicators

- (1) For the purposes of section 48(1) of the Act, an individual must have the qualifications and experience set out in subregulations (2), (3) and (4) to be eligible to be a registered adjudicator.
- (2) The individual must —
 - (a) have a degree, from a university or other tertiary institution in Australia, in a course listed in the Table to

this paragraph, or an equivalent qualification from an overseas university or tertiary institution;

Table

Architecture	Building
Engineering	Construction
Quantity surveying	Law
Building surveying	Project management

- (b) be eligible for membership of a professional institution listed in the Table to this paragraph;

Table

The Royal Australian Institute of Architects
Institution of Engineers Australia
Australian Institute of Quantity Surveyors
Australian Institute of Building Surveyors
The Australian Institute of Building
The Institute of Arbitrators and Mediators of Australia
Australian Institute of Project Management

or

- (c) be a builder registered under the *Builders' Registration Act 1939*.
- (3) The individual must have had at least 5 years experience in —
- (a) administering construction contracts; or
 - (b) dispute resolution relating to construction contracts.
- (4) The individual must have successfully completed an appropriate training course which qualifies the person for the performance of the functions of an adjudicator under the Act.
- (5) For the purposes of subregulation (2)(a), a qualification is equivalent to another if the course of study for the first qualification covers approximately the same matters as does the course of study for the second.

10. Adjudicator application fee

For the purposes of section 48(3) of the Act, a fee of \$50 is payable on the application of an individual for registration as a registered adjudicator.

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.
