

## INITIATION OF ADJUDICATION

Adjudication is initiated by a claimant serving a “written notice” of the claimant’s intention to refer a dispute to adjudication on the other party or parties to the construction contract and on any non-respondent owner if a determination of owner’s liability and an approval for the issue of a charging order in respect of a construction site owner by him or her are being sought.

The wording of the notice of adjudication is very important, especially the nature and brief description of the dispute, as generally the adjudicator is confined to considering matters contained within it. The jurisdiction of an adjudicator stems from the notice of adjudication. If the notice is defective in some way, then this may affect jurisdiction of the adjudicator to hear the matter or some parts of the matter.

The adjudication cannot start unless a notice has been served on the respondent and it is essential the wording of the notice specifies the matters in dispute.

The notice of adjudication does not have to contain all the details of the dispute, merely a brief description of it. The claimant will have the opportunity to provide more detail in the written claim which may be accompanied by other supporting documents.

**Claimants are advised to consider engaging a lawyer to assist in the writing of the notice of adjudication.**

**The notice must state:**

- (1) The date of the notice**
- (2) The nature and a brief description of the dispute and of the parties involved**
- (3) Details of where and when the dispute arose**
- (4) The relief or remedies sought**
- (5) The construction contract details, including the names and addresses of the parties to the contract and, if available, addresses for the service of notices.**

**If a notice of adjudication is served on a residential occupier as a party in a residential construction contract, the notice must also prominently set out:**

- (6) a statement of the residential occupier’s rights in the adjudication**
  - (7) a brief explanation of the adjudication process.**
- (See Form 2 of the Construction Contracts Regulations 2003)**

**If the claimant is seeking the adjudicator’s approval of a charging order (applicable to commercial construction contracts only) the notice of adjudication must state:**

- (8) whether the adjudicator’s approval is being sought for the issue of a charging order over the construction site owned by the respondent**
- (9) whether the extent of the owner’s liability is to be determined or is known, and the adjudicator’s approval is being sought for issue of a charging order when the owner is not the respondent.**

The relevant clause that the notice of adjudication must comply with is s28.

*s28 How to initiate adjudication*

- (1) *Adjudication is initiated by a claimant serving written notice of the claimant's intention to refer a dispute for adjudication (the notice of adjudication) on –*
- a. The other party or parties to the construction contract; and*
  - b. The owner if-*
    - i. A determination of an owner's liability is sought under section 30(a); and*
    - ii. An approval for the issue of a charging order is sought under section 30(b).*
- (2) *The notice of adjudication must state –*
- a. The date of the notice:*
  - b. The nature and a brief description of the dispute and of the parties involved:*
  - c. Details of where and when the dispute arose:*
  - d. The relief or remedy that is sought:*
  - e. Whether approval for the issuing of a charging order under section 29 is being sought:*
  - f. Whether a determination of an owner's liability under section 30(a) and an approval for the issue of a charging order under section 30(b) are being sought:*
  - g. Details sufficient to identify the construction contract to which the dispute relates, including-*
    - i. The names and addresses of the parties to the contract; and*
    - ii. If available, the addresses that the parties have specified for the service of notices.*

Link to notice of adjudication Commercial

[http://www.adjudicator.co.nz/files/7\\_NA\\_commercial.pdf](http://www.adjudicator.co.nz/files/7_NA_commercial.pdf)

Link to notice of adjudication Residential

[http://www.adjudicator.co.nz/files/8\\_NA\\_residential\\_occupier.pdf](http://www.adjudicator.co.nz/files/8_NA_residential_occupier.pdf)