

BUILDING DISPUTES TRIBUNAL: BRIEFING



BUILDING DISPUTES TRIBUNAL
TE TĀHĀPUNUIA KĀO NĀGA TAUTOHE WHARE

Process Summary

Adjudication under the Construction Contracts Act 2002

Step 1	<p>Initiation of adjudication (s28)</p> <p>Claimant initiates adjudication process by serving a notice of adjudication on every party to the construction contract and the owner of the construction site where the owner's liability and approval for a charging order is sought (s28).</p>
Step 2	<p>Selection of adjudicator (s33)</p> <p>The claimant must either:</p> <ul style="list-style-type: none">(a) request a person chosen by agreement of the parties after the dispute arose to act as adjudicator; or(b) request a nominating body chosen by agreement of the parties after the dispute arose to select an adjudicator within five working days after service of the notice of adjudication; or(c) request an ANA chosen by the claimant (such as BDT) to select an adjudicator between two and five working days after service of the notice of adjudication <p>Important:</p> <ul style="list-style-type: none">(1) There is no requirement under the Act for a claimant to seek the agreement of the respondent to select the adjudicator. The claimant can secure the immediate appointment of an adjudicator by BDT without any discussion or consultation with any other party to the adjudication on the second day after service of the notice of adjudication by completing the online application form.(2) Where approval for the issue of a charging order over the construction site is sought, the appointment of the adjudicator must be made by an ANA (s38A).

Step 3	<p>Appointment of adjudicator (s35)</p> <p>A person requested to act as adjudicator must within two working days of a request indicate whether he or she is willing and able to act.</p> <p>If the person is willing and able to act he or she must serve a notice of acceptance.</p>
Step 4	<p>Referral of dispute to adjudication by claimant (s36)</p> <p>Claimant must serve the adjudication claim and supporting documents on the adjudicator within five working days of receipt of the notice of acceptance and on every other party to the adjudication either immediately before or after they are served on the adjudicator.</p>
Step 5	<p>Response to adjudication claim (s37)</p> <p>Respondent may serve a written response and any supporting documents on the adjudicator within five working days of receipt of the adjudication claim, and on every other party to the adjudication either immediately before or after they are served on the adjudicator. The time period may be extended by agreement of the parties or with the consent of the adjudicator where an application is made before the expiry of five working days.</p>
Step 6	<p>Reply to response to adjudication claim (s37A)</p> <p>Claimant may serve a written reply to the respondent's response to the adjudication claim on the adjudicator within five working days after receipt of the response, and on every other party to the adjudication either immediately before or after they are served on the adjudicator. The time period may not be extended by agreement of the parties or by the adjudicator.</p>
Step 7	<p>Rejoinder to the claimant's reply (s37A(4))</p> <p>The adjudicator may allow the respondent to serve a rejoinder to the claimant's reply within two working days after receipt of the reply. An application to serve a rejoinder must be made, and, subject to approval being granted, the rejoinder must be served within two working days of receipt of the reply. The time period may not be extended by agreement of the parties or by the adjudicator.</p>
Step 8	<p>Adjudicator's Determination (ss38-51)</p> <p>The adjudicator must make his or her determination within 20 working days of receipt of the respondent's response.</p> <p>The adjudicator may extend the time for making the determination to 30 working days or any other period with the agreement of the parties</p>

Step 9**Respondent must comply with adjudicator's determination (s58)**

If not, enforcement provisions apply (ss 59-60, s71, s71A and ss-73-79):

Claimant may:

- (a) recover unpaid amount from the party liable to make payment as debt due in any court and the actual and reasonable costs of recovery; and/or
- (b) give notice and suspend work, and/or
- (c) apply to District Court for determination to be entered as a judgment; and/or
- (d) obtain charging order against construction site.

**BDT
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This briefing is only intended to provide readers with an overview summary of the subject matter. It is not intended to be comprehensive or a substitute for independent legal advice.

For further information or enquiries as to Building Disputes Tribunal's services, please contact us via our [online](#) contact form or by email to registrar@buildingdisputestribunal.co.nz.

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