

Seven steps in an adjudication under the Construction Contracts Act 2002

1. The first step is to prepare a notice of adjudication and serve this on the respondent(s). The requirements for a notice of adjudication are set out in section 28 of the Act. The notice of adjudication must include the full scope of matters that are being claimed. The notice of adjudication will establish the jurisdiction of the adjudicator. If a matter in dispute is not contained in the notice of adjudication, the adjudicator will have no jurisdiction to address that matter. The matters for consideration in the notice of adjudication are contained in s28 to 32 of the act.
2. Appoint an adjudicator as prescribed in s33 of the act. If the parties have agreed on the choice of adjudicator then a nomination form can be sent to that adjudicator and must be attached to the notice of adjudication. The person nominated to act as adjudicator must respond, within two working days, and indicate whether they are willing and able to act. A claimant can secure the appointment of an adjudicator, without any agreement or consultation with any other party, by making application for an appointment to be made by an authorised nominating authority. Recommended Authorised Nominating Authorities include;
Arbitrators and Mediators Institute of NZ.
<https://www.aminz.org.nz/request-an-appointment>
Building Disputes Tribunal
<https://buildingdisputestribunal.co.nz/adjudication/apply-for-adjudication/>
The appointment is complete when the nominated adjudicator serves a notice of acceptance on the parties in accordance with s35A. The adjudicator must confirm that they are eligible according to the criteria in s34 of the Act.
3. Serve an adjudication claim in accordance with s36 of the act. The adjudication claim must be consistent with the items of claim listed in the notice of adjudication and contain **all relevant** information that the claimant has to present to the adjudicator. All documents needed to support the claim must be attached so that there is a total package of information that the adjudicator is to consider. The adjudication claim must be served on the other parties at the same time as it is sent to the adjudicator and within **5 working days** of receiving the adjudicator's notice of acceptance.
4. The respondent must serve a written response to the adjudication claim in accordance with s37 of the act, typically within **5 working days** of receiving the adjudication claim or such other time available under section 37.
5. Under s37A the claimant is entitled to serve a written reply to the respondent's response, to the adjudication claim, within **five working days** after the copy of the response is served on the claimant under section 37 (3).
6. An adjudicator may allow the respondent up to **2 working days** to serve a rejoinder to the claimant's reply, as described in section 37(4)(b). On receipt of the claimant's reply, the respondent must immediately decide if they will make application to file a rejoinder, because there is no scope for the adjudicator to extend the two day provision of s 37(4)(b).

7. The adjudicators determination. The adjudicators decision is called a determination and must be delivered within 20 working days after the time of service of the response. The time may be extended to 30 days by the adjudicator or by agreement with the parties under s46(2).

The adjudicators determination is binding on the parties unless

- (a) The matter is later determined by arbitration or by court proceedings
- (b) Agreement is later reached by the parties or by mediation.

The adjudicators determination is enforceable by a court, the contractor may suspend work if the terms of the determination are not complied with or the claimant may seek enforcement by entry as a judgement in the District Court.

Adjudication forms and resources

1. AMINZ Adjudication Protocol.
2. Construction Contracts Act 2002, Section 28, How to Initiate adjudication.
3. Information that must be sent out in all notices of adjudication (Form 2 Construction Contracts Amendment Regulations 2015).
4. Appointing Steve Alexander as adjudicator. Find form [here](#).