

## CONSTRUCTION PAYMENT DISPUTES: ACT QUICKLY

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The construction lawyers at HHG often advise contractors who come to us already involved in a drawn out and expensive payment dispute. Usually such a dispute could have been avoided if the contractor had sought advice as soon as the payment dispute arose, not months later.

When payment disputes arise many contractors are not aware of and therefore do not follow the adjudication process provided for in the *Construction Contracts Act 2004* (WA) and as a result can end up embroiled in protracted litigation unnecessarily.

An adjudication application must be made within 28 days after the payment dispute arises.

Although the adjudicator's decision is binding, either party to the Contract may also apply to resolve the matter in court or use any other dispute resolution mechanism available under the Contract, because the adjudicator only determines the payment application, not the parties' final legal rights.

Some of the benefits of this adjudication process are:

1. The object is to "determine the dispute fairly and as quickly, informally and inexpensively as possible."
2. Unlike in court proceedings, the respondent is unable to use the adjudication to make an off-setting counter-claim against the applicant to delay and add complexity and cost to the process.
3. The adjudicator must act informally and make a determination based solely on the basis of the application and the response if possible.
4. The adjudicator's decision can be enforced in the same manner as a court judgment.
5. The rights of appeal are extremely limited.

If you want further information about this adjudication process you should contact a lawyer with suitable expertise.

This is general information only and does not constitute specific legal advice. If you would like further information in relation to this matter or other legal matters please contact our offices at [reception@hhg.com.au](mailto:reception@hhg.com.au).

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