

Guide to completing the adjudication form

The contents of this guide are designed to assist applicants in completing the adjudication application form (form 15). Please read this guide carefully before completing the form 15. The section number of the guide corresponds to the section numbering in the form 15.

The adjudication form can be accessed at www.qld.gov.au/bodycorporatedisputes.

Accurate information

A copy of your adjudication application form and any attachments will be provided to other parties listed in your application, for example, the respondent, affected parties or the body corporate manager (BCM). It is your responsibility as the applicant to ensure the accuracy of the information provided and to ensure that the information is not defamatory of the respondent or any other persons. Please refer to *sections 297 and 298* of the [Body Corporate and Community Management Act 1997](#) (the Act) in respect of providing false or misleading information/documents to the commissioner or an adjudicator.

If all relevant information is not provided, *section 240* of the Act provides for the commissioner and/or the commissioner's delegate to request further information from you to meet the legislative requirements of the Act.

Read our [Privacy Statement](#) for further information.

Practice directions

The commissioner issues practice directions which provide more detailed information on the policies and processes applying to dispute resolution applications. Practice directions are available on the BCCM website www.qld.gov.au/bodycorporatedisputes.

Checklist

- Have you arranged payment of the prescribed fee? Your options are:
 - www.qld.gov.au/bodycorporatepayments
 - Call 3227 7654 and pay by credit card over the phone
 - Cheque or money order made payable to BCCM
- Have you named the correct parties as the applicant and respondent? (see sections 4 and 5 below)
- Have you attempted to resolve the dispute with the respondent yourself before lodging this application? (see www.qld.gov.au/bodycorporatedisputes under the heading 'Self Resolution')
- Have you obtained a Conciliation Certificate for this dispute? (See section 8 below for circumstances in which a certificate is not required)
- Have you completed all relevant sections on the application form?
- Have all applicants signed and dated the form?
- Have you attached documents necessary to satisfy matters arising under items 4(a), 6, 7, 8 & 9 (if needed)?



<p>Section 1</p> <p>Body corporate / scheme information</p>	<p>In this section, please include:</p> <ul style="list-style-type: none"> the name of your body corporate scheme and its community titles schemes number (CTS) (for example, <i>Seaview CTS 1234</i>); the physical / street address of the scheme (please do not include a PO Box address or the address of the appointed body corporate manager (BCM)); and the number of lots in the scheme and which regulation module is currently recorded on the community management statement (CMS) for the scheme. (If you do not know which regulation module applies, please leave this field blank.) <p>Note: For a copy of your scheme's CMS, the CTS number and details of the plan types and numbers contact the Titles Registry on 13 QGOV (13 74 68) or 1300 255 750.</p>
<p>Section 2</p> <p>Secretary's information</p>	<p>Please list the name, address and contact details for the elected secretary of your body corporate in this section. This information is required as the secretary may be contacted by the BCCM Office after the lodgment of the application.</p> <p>Further contact details such as address and telephone numbers can be obtained by making a written request to the body corporate and paying the prescribed fee. Further information can be found at www.qld.gov.au/bodycorporate under the heading 'Records and regulations'.</p>
<p>Section 3</p> <p>Body corporate manager's information</p>	<p>Please include the name, address and contact details for the appointed BCM of your body corporate (if your body corporate has appointed one). For details of the BCM for your scheme you should refer to the contents of minutes of meetings or other information previously sent to you as an owner.</p> <p>If your body corporate has not appointed a BCM, please indicate this on the form by writing 'self-managed'.</p>
<p>Section 4 (a) and (b)</p> <p>Applicant's information</p>	<p>Section 4(a)</p> <p>Owner and/or occupier is the applicant</p> <ul style="list-style-type: none"> your name, preferred postal address and contact details; and the number of the lot you are the owner and occupier of; and the type of plan under which your scheme is registered. Examples; Building Form Plan (BFP) previously known as a Building Unit Plan (BUP) or Standard Form Plan (SFP) previously known as a Group Title Plan (GTP); and if you are representing a company, organisation or corporation then you should name this entity as the applicant. This may include a caretaking service contractor, letting agent or a service contractor. <p>Note: If you are applying as the owner of a lot, the owner's details must match those details recorded with the Titles Registry. If you are not the registered owner and you wish to make an application as the owner you must provide evidence that you are entitled to be the owner of the lot (<i>section 183 Land Titles Act 1994</i> and the meaning of 'owner' in <i>Schedule 6 Dictionary, Act</i>).</p> <p>Body corporate or committee is the applicant:</p> <ul style="list-style-type: none"> The body corporate for Seaview; or The body corporate committee for Seaview. <p>Note: Please do not enter the details of an individual committee member as the applicant. Your application may be rejected under <i>section 241</i> of the Act, if your dispute is not between one of the combinations as listed in section 5(a) of this guide. If the body corporate or the committee is the applicant, minutes of the meeting containing the resolution authorising the application <u>must</u> be provided.</p> <p>Section 4(b)</p> <p>Tick the capacity in which you are making the application. For example, if you are applying as an owner, tick the box next to the owner. If you are an owner/occupier you may tick both the owner and the occupier boxes.</p>

<p>Section 5(a)</p> <p>Respondent's information</p>	<p>Naming the respondent Please include the name, postal address and contact details of the other party to your dispute (the respondent).</p> <p>Your dispute must be within the jurisdiction of the BCCM Office (see table below) before it can be dealt with under the Act. Under <i>section 227</i> of the Act, jurisdiction for a dispute exists only between a party mentioned in column one (the applicant) and a party mentioned in column two (the respondent), in each row.</p> <table border="1" data-bbox="400 353 1517 880"> <thead> <tr> <th data-bbox="400 353 895 405">1. You are (the applicant)</th> <th data-bbox="895 353 1007 405"></th> <th data-bbox="1007 353 1517 405">2. They are (the respondent):</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 405 895 465"> <ul style="list-style-type: none"> • an owner, or • an occupier </td> <td data-bbox="895 405 1007 465" style="text-align: center;">and</td> <td data-bbox="1007 405 1517 465"> <ul style="list-style-type: none"> • another owner or occupier; or • the body corporate </td> </tr> <tr> <td data-bbox="400 465 895 495"> <ul style="list-style-type: none"> • the committee </td> <td data-bbox="895 465 1007 495" style="text-align: center;">and</td> <td data-bbox="1007 465 1517 495"> <ul style="list-style-type: none"> • a member of the committee </td> </tr> <tr> <td data-bbox="400 495 895 524"> <ul style="list-style-type: none"> • a member of the committee </td> <td data-bbox="895 495 1007 524" style="text-align: center;">and</td> <td data-bbox="1007 495 1517 524"> <ul style="list-style-type: none"> • the committee </td> </tr> <tr> <td data-bbox="400 524 895 734"> <ul style="list-style-type: none"> • the body corporate </td> <td data-bbox="895 524 1007 734" style="text-align: center;">and</td> <td data-bbox="1007 524 1517 734"> <ul style="list-style-type: none"> • an owner or occupier • a member of the committee • the body corporate manager • the caretaking service contractor • the letting agent • a service contractor • a former body corporate manager** </td> </tr> <tr> <td data-bbox="400 734 895 880"> <ul style="list-style-type: none"> • a member of the committee • the body corporate manager • the caretaking service contractor • the letting agent • a service contractor </td> <td data-bbox="895 734 1007 880" style="text-align: center;">and</td> <td data-bbox="1007 734 1517 880"> <ul style="list-style-type: none"> • the body corporate </td> </tr> </tbody> </table> <p>(**limited to an application about the return of body corporate property only)</p> <p>For example, an owner or occupier may lodge an application against another owner/occupier or the body corporate, but an owner or occupier may not lodge an application directly against the body corporate committee or the body corporate manager.</p> <p>Note: Your application will be rejected under <i>section 241</i> of the Act if your dispute is not between one of the combinations as listed above.</p>	1. You are (the applicant)		2. They are (the respondent):	<ul style="list-style-type: none"> • an owner, or • an occupier 	and	<ul style="list-style-type: none"> • another owner or occupier; or • the body corporate 	<ul style="list-style-type: none"> • the committee 	and	<ul style="list-style-type: none"> • a member of the committee 	<ul style="list-style-type: none"> • a member of the committee 	and	<ul style="list-style-type: none"> • the committee 	<ul style="list-style-type: none"> • the body corporate 	and	<ul style="list-style-type: none"> • an owner or occupier • a member of the committee • the body corporate manager • the caretaking service contractor • the letting agent • a service contractor • a former body corporate manager** 	<ul style="list-style-type: none"> • a member of the committee • the body corporate manager • the caretaking service contractor • the letting agent • a service contractor 	and	<ul style="list-style-type: none"> • the body corporate
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<p>Section 5(b) Status of the respondent</p> <p>Section 5(c) Affected parties</p>	<p>Section 5(b) Please tick the appropriate box to state the status of the respondent.</p> <p>Section 5(c) In addition to the respondent, please give the name and contact details of any other person(s) who may be affected by, or have an interest in the outcome, of your application. For example:</p> <ul style="list-style-type: none"> • a particular person or persons (for example, an adjoining lot owner although this person is not a named respondent); • all owners and occupiers (if the outcome sought will affect all owners and occupiers generally, then write 'all owners') or • a specified class of owners or occupiers sufficient to identify them, if the outcome sought will affect a particular class of owner or occupiers (for example, the lot owners in the canal units, or the lot owners who voted 'no' to the motion). 																		
<p>Section 6 (a) & (b)</p> <p>Evidence of self resolution with the respondent and/or department conciliation</p>	<p>The Act (section 239B(f)) requires that you, as the applicant, must have attempted to resolve the dispute by either internal dispute resolution (self resolution), or self resolution and by department conciliation before an adjudication application can be made. Department conciliation is attempted through this office by lodging a BCCM Form 22 available on our website.</p> <p>The applicant must detail in this section their attempts at internal dispute resolution and provide evidence of these attempts as attachments to the application.</p> <p>Please attach a copy of your Conciliation Certificate or specify the grounds on which you wish to be excused from conciliation. Your application may be rejected if the commissioner believes you have not made a reasonable attempt to resolve the dispute by self resolution and/or department conciliation (section 241(1)(c)(ii)). The commissioner may excuse this requirement in limited circumstances.</p> <p>The legislation sets out preliminary procedures for applications seeking to enforce body corporate by-laws (sections 184-186 of the Act). Practice Direction 6 provides further information on the policies and procedures relating to by-law breaches.</p> <p>If you are seeking an interim order, you must demonstrate self resolution on that as well as the final outcomes sought.</p>																		

<p>Section 7</p> <p>What outcome are you seeking?</p>	<p>Please state the outcome which you seek to resolve the matter in dispute. The Act provides that a department adjudicator may make an order about a claimed or anticipated contravention of, or the exercise of rights and powers under, the body corporate legislation or the CMS (section 276).</p> <p>This should be a succinct statement which indicates clearly what outcome you believe would reflect a satisfactory resolution of the dispute for you. If seeking more than one outcome, please number each outcome.</p> <p>There is no authority for an adjudicator to undertake general investigations of concerns in community titles schemes. Each outcome sought must clearly outline the specific action that you require an adjudicator to order. For examples of possible adjudicator's orders please review <i>Schedule 5</i> of the Act.</p> <p>Before an adjudicator makes an order determining the application, the respondent, affected parties and the owners will be given a copy of your application and invited to comment on the orders you are seeking and usually the reasons you give for those orders. In the interests of natural justice, your outcomes must be clear and able to be readily understood by all parties with an interest in the matter.</p> <p>For complex disputes requiring specialist adjudication see Practice Direction 20.</p>
<p>Section 8</p> <p>Interim order</p>	<p>Please review Practice Direction 16 regarding interim order applications.</p> <p>The Act allows an adjudicator to make an interim order if the adjudicator is satisfied on reasonable grounds, that such an order is necessary because of the nature or urgency of the circumstances to which the application relates (section 279). Examples of this include stopping imminent work being carried out where there is a dispute about the validity of the authorisation for such work.</p> <p>The interim order is usually a holding order until a final order on the dispute is made. An application for an interim order is not a means to simply expedite the final order. The applicant must provide evidence of internal dispute resolution regarding the interim outcome sought in addition to the final outcome sought.</p> <p>Please set out the outcome you consider is necessary prior to the making of a final order. This should be a succinct statement indicating what action you want the respondent to take or cease taking pending the determination of the final order.</p> <p>The interim application must establish the urgency of the situation and why the action is needed. Detailed grounds should be given in support of the interim order as well as grounds for a final order (see Section 9).</p>
<p>Section 9</p> <p>Grounds</p>	<p>The Act (section 239B(e)) requires that an applicant provides grounds in detail on which each outcome is sought.</p> <p>You must demonstrate the extent to which the outcomes sought relates to a provision of the legislation, or your scheme's CMS. As the applicant, the responsibility rests with you alone to ensure that your application addresses a legislative issue and to prove your case.</p> <p>A statement of grounds should clearly outline the history and nature of the issue, what action has been taken, and when and why you consider the orders sought should be made. A separate statement should be provided in respect of each outcome sought, ensuring that it clearly refers to any attachments you wish to provide. You need to support any statements you make with relevant documents or evidence such as minutes of meetings, photographs (clear and in colour if possible), plans or sketches, or reports from qualified persons and refer to the attachments in your grounds.</p> <p>If you are seeking an interim order, you must provide a separate statement giving the basis for and urgency of the interim outcome sought.</p>

Signing the application

You should note the requirements set out in **Section 4(a)** of this guide if you are signing the application form as a representative of a party, including a corporation, or on behalf of the committee or body corporate as the applicant. Evidence of authority to sign on behalf of the named application must be provided. **If the applicant is the body corporate, a committee or general meeting resolution must be included with the application.**

For individual applications, each applicant must sign and date the application. An unsigned or undated application cannot be accepted.

Other matters an applicant should note:

Complex disputes

The Act requires that certain types of disputes (known as complex disputes) must be dealt with either by:

- the Queensland Civil and Administrative Tribunal (QCAT) or
- a specialist adjudicator

Only an application for **specialist adjudicator** may be made to the BCCM Office.

Complex disputes include disputes about:

- a) contractual matters between the body corporate and a caretaking service contractor, letting agent or body corporate manager
- b) the adjustment of lot entitlements and
- c) mentioned in *sections 47AA, 47B, 48, 385, 387, 405, 412, or 133, 149A, 149B or 178* of the Act.

Parties to specialist adjudication must agree in writing on a person who is to be the specialist adjudicator and the method of payment for the specialist adjudicator. This agreement is to be provided with the application. If you have not been able to agree on a specialist adjudicator with the other party, you may consider an application to the QCAT.

The adjudication process

This is a formal process and an adjudicator will make a final order. The order can be enforced in the Magistrate's Court and may be appealed to the QCAT on a question of law. An adjudicator has wide powers of investigation, and may make an order that is just and equitable within jurisdiction. For more detailed information refer to the 'Adjudication' page at www.qld.gov.au/bodycorporatedisputes.

Further assistance

For general information related to the body corporate legislation, contact the Office of the Commissioner for Body Corporate and Community Management **Information Service** on Freecall 1800 060 119 or by visit www.qld.gov.au/bodycorporate.

For **Land Titles** enquiries including information on the community management statement, registrations and plans contact the Titles Registry on 13 QGOV (13 74 68) or 1300 255 750.

For enquiries to the **Queensland Civil and Administrative Tribunal** (QCAT) phone 1300 QLD CAT (1300 753 228) or visit www.qcat.qld.gov.au.

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this document does not constitute legal advice. You are encouraged to obtain independent legal advice if you are unsure of how these laws apply to your situation. If all relevant and accurate information is not provided in the application *section 240* of the Act provides for the commissioner and/or the commissioner's delegate to request further information to meet the legislative requirements of the Act. If further information is requested your application may not proceed until such time as the information has been provided.

Privacy Statement

Adjudication application (form 15)

Important information regarding privacy and access to personal information about an individual

Individuals contemplating lodging an adjudication application, submission or reply should be aware that the Commissioner is required to disclose information to other persons in accordance with the following provisions of the *Body Corporate and Community Management Act 1997* ("the Act").

The Commissioner is required under Section 243 of the Act to provide a copy of the adjudication application to the respondent, the body corporate and each affected person.

Under Section 244 of the Act the Commissioner must give written notice to the applicant advising that the applicant may apply to inspect submissions and make a written reply.

Section 246 of the Act further provides that the Commissioner must, on application by an interested person for an adjudication application, allow the person to inspect or obtain copies of the adjudication application, submissions made about the application or the applicant's reply to submissions.

The effect of the above provisions is to **require** the Commissioner to disclose the contents of an adjudication application, submission or reply - which may contain personal information - to specified persons. While the Commissioner is bound by the *Information Privacy Act 2009*, which imposes obligations on Queensland government agencies in respect of the collection, storage, use and disclosure of personal information, disclosure of personal information in accordance with the above provisions does not breach the *Information Privacy Act 2009* as such disclosure "**is authorised or required under a law**".

Importantly, there is no authority under these legislative provisions for the Commissioner to censor, withhold or otherwise treat as confidential any information provided in an application, submission or reply – this includes any personal information provided.

A person lodging an adjudication application, submission or reply with this office is therefore responsible for ensuring that the documentation provided contains only information which the person is prepared to have made available to all other parties to the dispute. Information contained in an adjudication application, submission or reply may also be referred to in the adjudicator's decision in the matter. Decisions may be published in a database of decisions that may be made available to the public, including publication to the internet.

<p>Section 4(b)</p> <p>Are you applying as?</p> <p>Refer to guide and <i>section 227</i> of the Act</p>	<p><input type="checkbox"/> an owner</p> <p><input type="checkbox"/> the body corporate</p> <p><input type="checkbox"/> the committee</p> <p><input type="checkbox"/> letting agent</p> <p><input type="checkbox"/> service contractor</p> <p><input type="checkbox"/> an occupier</p> <p><input type="checkbox"/> the body corporate manager</p> <p><input type="checkbox"/> a committee member</p> <p><input type="checkbox"/> caretaking service contractor</p>
<p>Section 5(a)</p> <p>Respondent's information</p> <p>Refer to guide</p>	<p>Name</p> <p>Address</p> <p>Locality / Suburb / State / Postcode</p> <p>Daytime phone / Home phone</p> <p>Mobile / Fax</p> <p>Email</p>
<p>Section 5(b)</p> <p>Is the respondent?</p> <p>Refer to guide and <i>section 227</i> of the Act</p>	<p><input type="checkbox"/> an owner</p> <p><input type="checkbox"/> the body corporate</p> <p><input type="checkbox"/> the committee</p> <p><input type="checkbox"/> letting agent</p> <p><input type="checkbox"/> service contractor</p> <p><input type="checkbox"/> an occupier</p> <p><input type="checkbox"/> the body corporate manager</p> <p><input type="checkbox"/> a committee member</p> <p><input type="checkbox"/> caretaking service contractor</p>
<p>Section 5(c)</p> <p>Are other persons affected by the outcome sought by you?</p> <p>Refer to guide</p>	<p><input type="checkbox"/> Yes (<i>provide details below or attached</i>)</p> <p><input type="checkbox"/> No</p>
<p>Section 6(a)</p> <p>What attempts have you made to resolve your dispute by internal dispute resolution and/or department conciliation</p> <p>Your application may be rejected if you have not attempted internal dispute resolution <u>and</u> department conciliation.</p>	

<p>Section 6(b)</p> <p>Do you have a conciliation certificate?</p>	<p><input type="checkbox"/> Yes <i>(you must attach a copy of the Conciliation Certificate)</i></p> <p><input type="checkbox"/> No <i>(you must attach grounds to be excused from conciliation)</i></p>
<p>Section 7</p> <p>What outcome are you seeking?</p> <p>If insufficient space on this page attach detailed outcomes sought on an A4 page under the heading-</p> <p>7. Outcome sought</p>	
<p>Section 8</p> <p>Interim Order Request (if applicable)</p> <p>Refer to guide & Practice Direction 16</p> <p>If insufficient space on this page attach detailed outcomes sought on an A4 page under the heading -</p> <p>8. Interim order</p>	

Section 9

Grounds

A statement of grounds should clearly outline the history and nature of the issue, what action has been taken and when, and why you consider each of the outcomes sought should be made.

Refer to guide

If insufficient space on this page attach concise and relevant details of the background to the dispute on an A4 page under the heading -

9. Grounds

Warning: Sections 297 and 298 of the Act provide that it is an offence for a person to supply false or misleading information or documents in relation to an application.

The information requested in this form is collected under the authority of the Act. Information in the application and any attachments will be disclosed to other parties in the dispute (Please refer to the Privacy Statement located in the guide to the *adjudication application* for further information). It is collected for the purpose of resolving disputes under the Act and for providing information to the community.

I believe the information given in this application to be true.

Signature _____ **Date** _____

Signature _____ **Date** _____

Note: Each applicant must sign the application. An unsigned or undated application cannot be accepted. If the applicant is a corporation, this form may be signed by a person authorised by the corporation to act on its behalf, and must be accompanied by evidence of authorisation. Additional A4 pages may be attached.

If the applicant is a body corporate, a copy of minutes containing the resolution authorising the application must be provided.

APPLICATION FEE: See our website for [current application fees](#).