

# Application for Authorisation as a Nominating Authority

*Building and Construction Industry  
Security of Payment Act 2009 (Tas)*

Completed applications must be submitted by email addressed to:

Director of Building Control  
cbosinfo@justice.tas.gov.au

**All schedules must be completed. Failure to do so will delay consideration of the application.**

**Please note:**

This information is for guidance only and is not to be taken as an expression of the law. It should be read in conjunction with the *Building and Construction Industry Security of Payment Act 2009* and any other relevant legislation. Copies of the legislation are available on the Internet at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

This application was produced by staff from Consumer, Building and Occupational Services.

We welcome your feedback on this application. Send to: [cbosinfo@justice.tas.gov.au](mailto:cbosinfo@justice.tas.gov.au)

## **Application for authorisation as a Nominating Authority**

The Applicant applies to the Security of Payments Official pursuant to section 31(1) of the *Building and Construction Industry Security of Payment Act 2009* (the Act) for authorisation as an nominating authority (NA).

The applicant acknowledges that it is a condition of authorisation that it demonstrates its capacity to comply with conditions as issued by the Security of Payments Official from time to time, pursuant to section 31(4) the Act.

In support of this application, the Applicant provides the information in Schedules A to E and provides an executed declaration and undertakings which support the Applicant's future compliance with the Conditions of Authorisation, the Act and any Regulations.

### **Applicant Undertakings**

If the Security of Payments Official authorises the Applicant to nominate adjudicators for the purposes of the Act, the Applicant undertakes:

1. to comply with the Conditions of Authorisation, the Act and any Regulations
2. to provide information reasonably requested by the Security of Payments Official about any aspect of the adjudication process
3. to use any online adjudication reporting system required by the Security of Payments Official
4. to promptly notify the Security of Payments Official of any change to any particulars contained in the Applicant's application.

**Applicant Declaration**

The Applicant declares and affirms that all statements and information contained in this application are true and correct.

SIGNED By.....in the presence of)

)

)

Signature of Applicant

)

Signature of witness

.....

Name of Witness (block letters)

THE COMMON SEAL OF .....was affixed in the presence of<sup>1</sup>:

.....

Signature of authorised person

.....

Office held

.....

Name of Applicant (block letters)

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<sup>1</sup> If the Applicant is a corporation, the application should be executed under seal of the corporation.

## Schedule A Applicant Details

Name of Applicant: .....

Trading Name (if different):.....

Contact Person .....

Position in Organisation: .....

Registered business address: .....

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Postal Address (if different): .....

.....

.....

ABN: .....

Telephone: .....

Fax:.....

Email.....

Website Address: .....

### **NA Contact details for Security of Payments Official website**

Name of NA: .....

Business address: .....

Postal Address (if different): .....

Telephone: .....

Fax: .....

Email: .....

Website: .....

**1. Supporting documentation**

The applicant is required to set out a brief summary of its background, experience and qualifications, including a profile of its management and membership, professional or industry connections, number of members and any other information which will assist the Security of Payments Official to determine whether the applicant should be granted authorisation.

**2. Certificate of incorporation, registration, articles of association etc.**

Where the applicant is a corporation or incorporated association, the applicant is required to attach its certificate of incorporation or registration, memorandum and articles or constitution and any other document evidencing the formation of the applicant. If the applicant trades under the banner of a business name it should provide a copy of the Tasmanian business names certificate as evidence of current registration of the name.

**3. Applicant's financial information**

Applicants are required to attach documents detailing their financial position, including their Financial Statement for the preceding financial year and latest Balance Sheet.

## **Schedule B**

### **Professional Conduct**

**1. Probity:**

Provide information which demonstrates that the NA and its directors and officers are fit and proper people to perform the functions of an NA under the Act<sup>2</sup>.

**2. Procedural fairness:**

Demonstrate policy and procedures which:

- evidence the applicant's capacity to perform its functions as an NA in accordance with the requirements of procedural fairness; and
- support and maintain the independent exercise of an adjudicator's responsibilities under the Act<sup>3</sup>.

**3. Conflict of interest**

**3.1 Before nomination or appointment of adjudicators**

Demonstrate policy and procedures which

- identify and resolve conflicts of interest in performing its function as an NA; and
- identify and resolve conflicts of interest for any adjudicator it considers for nomination or appointment.

**3.2 After nomination or appointment of adjudicators**

Demonstrate policy and procedures which identify the action expected of an adjudicator who becomes aware of any conflict between the adjudicator and either the claimant or the respondent.

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<sup>2</sup> The factors to consider in determining whether a person is 'fit and proper' are outlined in the Conditions of Authorisation

<sup>3</sup> The requirements of procedural fairness are set out in the Conditions of Authorisation.

## **Schedule C**

### **Management of Adjudication Process**

The applicant is required to provide detailed information which demonstrates its capacity to manage the adjudication process in accordance with the Act and the Conditions of Authorisation.

#### **1. General responsibility for the adjudication process**

Demonstrate practices and procedures that deliver an adjudication process that addresses the requirements set out in Condition 5.1 of the Conditions of Authorisation.

#### **2. Management of Documents and Notices**

Demonstrate practices and procedures which ensure management of the documents and notices relating to the adjudication process, in accordance with Conditions 5.2 to 5.4 of the Conditions of Authorisation.

#### **3. Nomination of Adjudicators**

Demonstrate practices and procedures for the selection and nomination of adjudicators that addresses the requirements set out in Condition 5.5 of the Conditions of Authorisation. This will include:

- the administrative processes for dealing promptly with applications for nomination.
- the steps and criteria on which each decision to nominate will be made.
- who will actually make the decision to nominate (for example, delegations).
- the precautions the Applicant has in place to ensure probity in nominating.

#### **4. Quality of adjudication**

Demonstrate a quality assurance system that supports consistent and reliable adjudicator selection, training and monitoring in accordance with Condition 5.6 of the Conditions of Authorisation. This will include:

- information about the adjudicators available for nomination; their qualifications and industry experience.
- policies and procedures which ensure that adjudicators nominated by the applicant possess the skills and knowledge set out in the Adjudicator Core Competencies at Appendix 2 of the Conditions of Authorisation, and ensure the adjudicators' skills remain up to date.
- policies and procedures which ensure that adjudicators nominated by the applicant perform their functions under the Act in compliance with the requirements of the Adjudicator Standards of Conduct at Appendix 1 of the Conditions of Authorisation.

#### **5. Privacy and Confidentiality**

Demonstrate a quality assurance system that ensures the security of all confidential information and protection of personal information to the standards required by Condition 3 of the Conditions of Authorisation.



## **Schedule D**

### **Complaints Procedures**

The applicant is required to provide a detailed outline of its complaints procedure that demonstrably meets the requirement set out in Condition 7 of the Conditions of Authorisation.

## **Schedule E**

### **Applicant's Fee Structure**

The applicant is required to provide a detailed outline of the applicant's fees and fee structures. This will include but is not limited to:

- the method by which they will charge a fee for their work as NAs.
- any costs to parties to the adjudication and an outline of payment procedures.
- any fee or financial arrangement between the NA and nominated adjudicators.
- any fee or financial arrangement not included in the above between the parties and nominated adjudicators.