



Home building application

CONSUMER AND COMMERCIAL DIVISION | HOME BUILDING LIST

Complete this form to apply to NCAT's Consumer and Commercial Division for orders about residential building work under the *Home Building Act 1989*. Home building applications can also be lodged online with [NCAT Online](#).

File Number

Office use only

1. DISPUTE DETAILS

A. HAVE YOU ATTEMPTED TO RESOLVE THE DISPUTE WITH NSW FAIR TRADING?

The *Home Building Act 1989* requires all home building disputes be referred in the first instance to NSW Fair Trading.

- Yes** – If yes, please attach a copy of the letter from NSW Fair Trading
- No** – If no, contact NSW Fair Trading on 13 32 20 before lodging this application

B. ADDRESS OF BUILDING WORK

Address where residential building work has been undertaken? *Include suburb*

- Are you making an application that concerns goods or services that you were provided that were funded by the National Disability Insurance Scheme?

2. APPLICANT

Provide your full name or company name as shown on the contract. If a business or company, include the ABN or ACN and your position title. *For multiple applicants, attach details on a separate sheet.*

Applicant type Home owner Trader Owner-builder Insurer

Full name

Postal Address

ABN or ACN

Contractor's Licence No

(if applicable)

Contact details

Daytime telephone

Mobile

Email

- Do you want NCAT notices and correspondence emailed to you?**

By ticking this box you agree to receive the notice of hearing and other future correspondence by email. Please ensure the email address provided above is accurate and the email account is checked regularly.

3. RESPONDENT

Who is the application against? Provide details as shown on the contract. If the respondent is a company or business, please attach a current business name extract or company extract from ASIC. *For multiple respondents attach details on separate sheet.*

Respondent type Home owner Trader Owner-builder Insurer

Full name

Postal Address

ABN or ACN

Contractor's Licence No

(if applicable)

Contact details Daytime telephone

Mobile

Email

Is the respondent is an undischarged bankrupt or in liquidation? Yes No

4. ORDER DETAILS

A. WHAT ORDERS DO YOU WANT?

Tick the orders you are seeking – time limits apply. Rectification is the preferred outcome – refer to page 5 for information about seeking orders for the rectification of defective work (sections 48MA and 48O *Home Building Act 1989*).

The maximum amount you can claim is \$500,000.

Work orders

- Order to do work or services as stated below to the approximate value of \$
- Order to supply the specified services (listed below) to the approximate value of \$
- Order to deliver, return or replace the specified goods as stated below to the approximate value of \$

You must provide information specifying the work or services that you want supplied, delivered or replaced.

Money orders

- Order that I do not have to pay the amount of \$
- Order to pay the amount of \$

Is this amount compensation for loss because of a breach of statutory warranty? Yes No

Other orders

- Order to allow my appeal against a decision of the insurer \$
- Other order not mentioned \$

The jurisdiction limit for home building matters is \$500,000

TOTAL VALUE OF CLAIM \$

If your claim is for more you should seek legal advice

B. WHAT ARE YOUR REASONS FOR REQUESTING THE ORDERS?

You must explain why you are lodging this application and asking for Tribunal orders by providing as much relevant detail as possible. For example, list the defect, its location and an estimate of the cost to repair (e.g. Leaks/roof/\$5000). Additional information may be attached to this application (e.g. copy of rectification order).

C. INSURANCE DETAILS

Please provide details of your statutory building insurance or statutory public indemnity insurance. If you have insurance relating to the building work please attach a copy of the certificate to this application form.

Policy number

Has the insurer been notified? Yes No (if no why?)

D. CONTRACT DETAILS

If you have a contract in relation to the building work please complete the information below and attach a copy of the contract to this application form.

Date contract was signed by owner and building contractor

The work commenced on _____ **and was completed on** _____
(or last date builder worked on site)

Contract amount is: \$

How much of the contract amount have you paid or been paid? \$

How much do you still owe under the contract? \$

Has either party issued any notice under contract? Yes No

5. HEARING

A. RELATED FILE NUMBERS

List any previous NCAT file numbers relating to the parties:

B. UNAVAILABLE DATES

Indicate dates you are unable to attend hearing in the next 6 weeks:

C. SPECIAL NEEDS

Indicate whether you have any special needs such as a hearing loop or wheelchair access:

D. INTERPRETER

Do you need an interpreter for the hearing? Yes No

If yes, specify language and dialect:

6. APPLICATION CHECKLIST

- I have attached a recent ASIC company or business name extract**
If the respondent a company or business, attach a current business name extract or company extract from ASIC which shows the organisation's registered name and address. Extracts can be purchased online on the [ASIC website](#).
- I have attached all other documents relevant to this application**
Relevant documents may include receipts, contracts or work orders etc.
- I have made a copy of this application for my own records**
Before lodging your application with NCAT you must make a copy of your application for your own records.
- I have attached the application fee**
Refer to the fee schedule on the [NCAT website](#). Credit card payments can be made by submitting an [authority form](#) with your application. Cheque or money order payments are to be made out to 'NSW Civil and Administrative Tribunal' or 'NCAT'. Payment can be made in person at any NCAT Registry or NSW Service Centre. Concession fee applicants must provide a photocopy of their concession card.
- If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To request a fee waiver please complete the [fee waiver request form](#).

7. SIGNATURE

Applicant's signature or signature of representative.

Name

Position Title (if company)

Signature

Date

Lodge your Application with the fee at your nearest NCAT Registry

For NCAT Consumer and Commercial Division Registry locations visit the [NCAT website](#). For all NCAT enquires telephone 1300 006 228 or visit www.ncat.nsw.gov.au.

GUIDE TO COMPLETING THE APPLICATION FORM

Use the following information to help you complete the NCAT Consumer and Commercial Division Home building application form. Section headings and numbers match the questions on the form.

1. DISPUTE DETAILS

If your claim is complex due to the nature of the claim and the amount involved, you are strongly encouraged to seek independent legal advice before proceeding.

A. NSW FAIR TRADING

Contact NSW Fair Trading on 13 32 20 before lodging this application. Attach proof you have approached Fair Trading about the dispute to the application (for example, correspondence, rectification order, inspection report).

The *Home Building Act 1989* requires all home building disputes be referred in the first instance to NSW Fair Trading. Exceptions are set out on the [NCAT website](#).

B. ADDRESS OF BUILDING WORK

This is the address of the premises that is the subject of the residential building work.

National Disability Insurance Scheme

If the dispute concerns goods or services that you were provided that were funded by the National Disability Insurance Scheme (NDIS), please indicate by ticking the box. For more information visit the [NDIS website](#).

2. APPLICANT

Applicant type

The applicant is the person, business or company that is lodging the application. Tick the box that best describes who you are.

Applicant details

Enter your name as shown on the contract or agreement. If you are a corporation or business lodging the application, include your ACN and registered address or principal place of business for services of notices.

Do you want NCAT notices and correspondence emailed to you?

By ticking this box you agree to receive all future case-related correspondence by email, including the notice of hearing. To change your email address after the application is lodged, log into [eServices](#) via the NCAT website.

3. RESPONDENT

Respondent type

The respondent is the person, business or company who you are lodging the application against. Tick the box that best describes the respondent.

Make sure you correctly name the respondent

You must correctly name the parties to an application and provide the registered address for service. This is commonly referred to as a 'legal entity'. Legal entity examples include:

- Corporation (Smith and Jones Pty Ltd)
- Sole trader (Mary Jones trading as Mary's Cupcakes),

- Natural person (John Smith)
- Natural persons in partnership (John Smith and Mary Jones trading as John & Mary Smith Repairs)
- Incorporated association (Smith and Jones Inc).

Check if the respondent is bankrupt or in liquidation

NCAT cannot make orders against a business or company that is in liquidation or if bankrupt. Seek independent legal advice before proceeding.

Attach a company or business name extract

If the respondent a company or business, please attach a current business name extract or company extract from the Australian Securities and Investment Commission (ASIC) which shows their registered name and address. Extracts can be purchased online on the [ASIC website](#).

Note: The free summary information on the ASIC website is not sufficient as it does not contain address details

4. ORDER DETAILS

A. WHAT ORDERS DO YOU WANT?

Tick the orders you want and provide the dollar amount of your claim. If you are seeking a work order you must specify what you want fixed or provided.

Rectification of building work

Under the *Home Building Act 1989* the Tribunal is to have regard to the principle that rectification of defective work by the responsible party is the preferred outcome (s 48MA). The Tribunal may make an order even if it is not the order that the applicant asked for (s 48O).

Have you indicated the total amount that you are claiming?

You must provide a dollar amount for the orders you want. The jurisdictional limit for home building claims is \$500,000. Claims in excess of \$500,000 should be made to the NSW District Court or NSW Supreme Court.

Are you making your application within the time limits?

Time limits apply to certain home building applications.

- For claims for breach of statutory warranties made from 1 March 2015, applications must be lodged:
 - (a) Within 6 years for major defects, or
 - (b) 2 years otherwise
- For applications concerning the supply to or for the claimant of building goods or services:
 - (a) Within 3 years of the last supply, or
 - (b) If not supplied, within 3 years from the date supply was required.
- For all other claims relating to a contract or collateral contract, within 3 years from the date of the contract.
- Appeals about insurance claims must be lodged within 10 years from completion of the work. Generally appeals must be lodged within 45 days of written notification by the insurer that the claim has been rejected.

Home warranty insurance

Consumers with home warranty insurance policies issued after 19 May 2009 and the builder's licence is suspended should contact their insurer to consider lodging a claim before applying to NCAT. Seek independent legal advice as strict time limits apply.

B. WHAT ARE YOUR REASONS FOR REQUESTING THE ORDERS?

You must give a reason for each order you ask for. Your reasons must be detailed enough so that the respondent can understand what the dispute is about. If there is insufficient space, attach additional information on a separate sheet.

Have you provided details of your claim?

These may include:

- Description of the defects/work requiring rectification
- The amount you have paid. Owe or are owed
- When the work commenced and was finalised
- The nature of the dispute
- What you are claiming for (for example, rectification, replacement, payment/refund of money etc).

Home building disputes must involve actual work, such as installing tiling in a bathroom. If your dispute is only about the supply of faulty goods such as tiles, you should lodge a consumer claim.

C. INSURANCE DETAILS

Provide the policy number of the home warranty insurance and indicate whether the insurer has been notified of your application. If not, attach additional information explaining why the insurer has not been notified.

D. CONTRACT DETAILS

Provide details of the contract or agreement, and attach a copy to the application form.

5. HEARING

A. RELATED FILE NUMBERS

If you are involved in an NCAT matter or have been involved in a matter previously relating to these parties, list all previous file numbers.

B. UNAVAILABLE DATES

List any dates you are unable to attend a hearing in the next 6 to 8 weeks. Work, training and study commitments are generally not accepted. Note: Your unavailability may affect the timely listing of the matter.

C. SPECIAL NEEDS

If you have a special need please specify on the application form. Otherwise contact NCAT and ask to speak to a Deputy Divisional Registrar to discuss your individual requirements.

D. INTERPRETER REQUIRED

NCAT can organise an interpreter upon request for parties to proceedings. If you need an interpreter for the hearing, tick the box and specify the language and dialect required.

6. APPLICATION CHECKLIST

Use this checklist to ensure you have correctly completed the application form.

I have attached a recent ASIC company or business name extract

If the respondent is a company or business, please attach a company extract or business name extract from ASIC which shows their registered name and address. Extracts can be purchased online on the [ASIC website](#).

I have attached all other documents relevant to this application

Include all relevant information with your application. Refer to the information below on evidence and supporting materials. Do not include any confidential information with your application as copies of your attachments will be provided to the respondent.

I have made a copy of this application for my own records

Before lodging your application with NCAT you must make a copy of your application for your own records.

I have attached the application fee

You must pay the application fee when lodging your application. The fee schedule is available on the [NCAT website](#).

Credit card payment can be made by submitting an authority form with your application. Cheque or money order payments are to be made out to 'NSW Civil and Administrative Tribunal' or 'NCAT'. Payments can be made in person at any NCAT Registry or Service NSW Centre.

If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To request a fee waiver please complete the [fee waiver request form](#).

7. SIGNATURE

You must print your name and sign and date the application form. If you are a company, include your position title (for example, 'company secretary').

EVIDENCE AND SUPPORTING MATERIALS

At the hearing depending on the orders you want, you will need to provide evidence to support your application. These documents will be provided to the other party. If they are not included with your application, you will have to bring copies to the hearing for the other party.

- Copies of the contract, quotes and variations
- Receipts and payment records
- Copies of notices regarding action in another court or tribunal
- Demands or claims for fees
- Reports from building experts
- Certificates of insurance
- Any correspondence or rectification order issued by NSW Fair Trading
- Witness statements
- Photographs.

These documents will be provided to the other party. You should not provide any information that you do not want disclosed to the other party.

Expert evidence

Experts can be used when evidence of a technical nature is needed. Detailed information about engaging an expert to give evidence or to provide a technical report is available on the NCAT website.