

NCAT Procedural Direction 5

ACCEPTANCE OF HOME BUILDING CLAIMS

This Procedural Direction applies to:	Proceedings in the Consumer and Commercial Division
Effective Date:	1 August 2017
Replaces Procedural Direction:	NCAT Consumer and Commercial Division Procedural Direction 2 (24 December 2013)
Notes:	You should ensure that you are using the current version of this Procedural Direction. A complete set of Procedural Directions and Guidelines is available on the Tribunal website at www.ncat.nsw.gov.au

Introduction

1. This procedural direction constitutes a direction, for the purposes of s 48J(b) of the *Home Building Act 1989* (NSW) (the HB Act), as to which building claims lodged in the Consumer and Commercial Division are to be accepted by the Principal Registrar without investigation by an inspector under Div 2 of Pt 3A of the HB Act.
2. As President of the Tribunal, I have issued this direction under s 26 of the *Civil and Administrative Tribunal Act 2013* (NSW) (the NCAT Act).

Certain building claims must be rejected

3. Under s 48J of the HB Act, the Principal Registrar must reject any application for determination of a building claim unless:
 - (a) the Principal Registrar is satisfied that the subject matter of the building claim has been investigated under Div 2 of Pt 3A of the HB Act, s 48J(a); or
 - (b) the President has directed that the building claim be accepted without such an investigation having been made, s 48J(b).

Certain building claims are to be accepted without investigation

4. I direct the Principal Registrar to accept building claims in the categories set out below even if the Principal Registrar is not satisfied that the subject matter of the claim has been investigated under Div 2 of Pt 3A of the HB Act:
 - (a) Claims that are appeals against a decision of an insurer under a contract of insurance required to be entered into under the Act;
 - (b) Claims for recovery of a debt by a contractor;
 - (c) Cross-claims;
 - (d) Claims where the time for lodging a claim is due to expire within 3 months;
 - (e) Claims involving unlicensed contractors;
 - (f) Claims by a trader against a subcontractor regarding defective work;
 - (g) Claims against owner-builders regarding defective work;
 - (h) Claims involving companies that have been de-registered;
 - (i) Claims against companies or individuals who have gone into administration, liquidation or bankruptcy.

Can other building claims be the subject of a direction?

5. This direction does not preclude the President from giving a direction, for the purposes of s 48J(b) of the HB Act, in respect of a particular building claim or another category of building claims, if it appears to the President that it is appropriate to do so.

Revocation of previous direction

6. I hereby revoke NCAT Consumer and Commercial Division Procedural Direction 2, Acceptance of Building Claims, made on 24 December 2013 by my delegate, the Deputy President and Head of the Consumer and Commercial Division.

(Sgd)

Wright J

President

1 August 2017