

## APPLICATION TO COMMISSIONER FOR DECISION

Section 54FC of the Northern Territory of Australia *Building Act* and regulation 19 of the Building (Resolution of Residential Building Work Disputes) Regulations

### Information:

Pursuant to section 54FC of the *Building Act*, a current owner of a residential building may apply to the Commissioner of Residential Building Disputes about a consumer guarantee dispute. A consumer guarantee dispute is a dispute between a current owner and a residential builder who has carried out prescribed residential building work, and in circumstances prescribed by regulation 18 of the Building (Resolution of Residential Building Work Disputes) Regulations. The circumstance prescribed by regulation 18 is that there must be no contractual relationship between the current owner and builder. The contractual relationship will be considered at an end if the work has been completed and the parties consider the contractual obligations have been fulfilled, or where there is a dispute between the parties and the relationship has broken down irretrievably.

SECTION 1 – APPLICANT/OWNER			
NAME of APPLICANT/OWNER: If a company provide a contact name			
DAY TIME PHONE NUMBER		MOBILE PHONE NUMBER	
POSTAL ADDRESS			FAX NUMBER
EMAIL ADDRESS			

The work the subject of this dispute was (tick which box applies):

- Performed under a contract between me/us and the builder
- Purchased by me/us as a subsequent owner

SECTION 2 – RESPONDENT/BUILDER	
NAME of RESPONDENT/BUILDER: If a company provide a contact name	
If you are unable to locate the builder, you must make a statement to that effect and provide concise details of the steps taken to locate the builder	
The builder's registration number	

Section 54FC - *Building Act*; and regulation 19 - Building (Resolution of Residential Building Work Disputes) Regulations

Date Approved 27 September 2017

DAY TIME PHONE NUMBER		MOBILE PHONE NUMBER	
FAX NUMBER			
EMAIL ADDRESS			
POSTAL ADDRESS			

SECTION 3 - DETAILS OF PROPERTY			
LOT/PORION NUMBER		LOCATION e.g. Town of Darwin	
PROPERTY ADDRESS			

SECTION 4 - EFFECTIVE PERIOD FOR MAKING APPLICATION		
<p><b>Note:</b> an application may only be made during the effective period for consumer guarantees. Applicants should refer to Regulation 7 of the Building (Resolution of Residential Building Work Disputes) Regulations. Please take the time to read the questions carefully, as incorrectly completed applications may take longer to process and you may be required to provide further information. If you require assistance completing the form, please contact the office of the Commissioner of Residential Building Disputes (contact details available at <a href="http://www.consumeraffairs.nt.gov.au">www.consumeraffairs.nt.gov.au</a>).</p> <p><b>Please choose which date is relevant to your circumstance -</b> For example:</p> <ul style="list-style-type: none"> <li>if your claim relates to non-completion of building work, please choose the date that is relevant to your circumstance under that subheading and provide relevant evidence;</li> <li>if your claim relates to defective work, please choose the date that is relevant to your circumstance under that subheading and provide relevant evidence;</li> <li>if your claim relates to <i>both</i> non completion and defective work, please specify both relevant dates.</li> </ul> <p><b>For allegations of <i>non-completion</i> of building work</b></p>		
<b>Specify the start date relevant to your circumstances</b>	<b>Date</b>	<b>Evidence attached</b>
<b>Non-completion (non-completion period)</b>		
If the builder has started to carry out the work – the day the builder completely ceases to do so		
If the builder has not started to carry out the work and the contract specifies a starting date – on the specified starting date		
If the builder has not started to carry out the work and the contract does not specify a starting date – on the date the contract was entered into		
<p><b><i>This information is required as an applicant has <u>90 days</u> from after the day or date mentioned above to make the application to the Commissioner of Residential Building Disputes about incomplete work (other timeframes apply in relation to defective work – see page 3)</i></b></p>		

**The effective period for allegations of defective work is the total of the construction period, and the defect period**

For allegations of *defective work* and where the work has not been completed (*construction period*)

Specify the <u>start</u> date relevant to your circumstances	Date	Evidence attached
If there is a contract for the work – on the day the contract for the building work was entered into		
If there is no contract for the work – on the day the building permit is granted for the work		

Specify the <u>end</u> date relevant to your circumstances	Date	Evidence attached
If an Occupancy Permit was required - the date on which the Occupancy Permit was granted		
If an Occupancy Permit was not required - the date on which all declarations required under the <i>Building Act</i> were made i.e. builders declaration		
If the work has not been completed within the two years permitted by the building permit (which does not include any extension to the original building permit) the day on which the first building permit expired		

***This information is required to calculate the defect period (1 year non-structural and 6 year structural), that follows completion of the work (the construction period). The defect period starts immediately after the last day of the construction period.***

***Note, that if the current owner becomes aware of the alleged defective work within 30 days before the end of the defect period, the defect period is extended for 30 days after the current owner became aware of the defect.***

**Example:**

If an Occupancy Permit was required for relevant residential building work, and was granted on 1 July 2013 –

- the consumer guarantees in relation to non-structural defects would expire on 2 July 2014; and
- the consumer guarantees in relation to structural defects would expire on 2 July 2019.

## SECTION 5 - WHAT ORDERS ARE SOUGHT?

The Commissioner of Residential Building Disputes may only make orders for a builder to rectify defective work, and complete incomplete work. Where there are circumstances that make it impracticable for the builder to rectify or complete the work, the Commissioner also has the power to order compensation for the completion of incomplete work, or compensation for the rectification of defective work.

Please specify the type of order sought and approximate value:

### Type of order:

- Order/s for the builder to rectify defective work.
- Order/s for the builder to complete incomplete work.
- Order/s for the builder to both complete incomplete work, and rectify defective work.
- Order/s for the builder to pay an amount of money as compensation for incomplete or defective work.

### Approximate value:

- An order for the builder to do work to the approximate value of; OR
- An order for the builder to pay me an amount as compensation to rectify defective or incomplete work.

**Note:** The limit of jurisdiction of the Commissioner of Residential Building Disputes is \$100,000. If your claim is for more, or the Commissioner forms the opinion that the matter involves complex questions of fact or law, your claim may be referred to the Northern Territory Civil and Administrative Tribunal.

## SECTION 6 - EVIDENCE OF DISPUTE

The Commissioner of Residential Building Disputes can only make orders where there is no contractual relationship between the parties. Parties that are in a contractual relationship should refer to their dispute resolution clauses and or seek legal advice.

***You are also strongly encouraged to seek legal advice if you intend to take steps to end your contract. Conduct that demonstrates an intention to end a contract, or steps taken to terminate a contract where there is no legal right for that party to do so, can have very serious consequences for that party.***

Please provide the date the contractual relationship ended i.e. date the relationship was considered to be irretrievably broken down, or date the contract finished, and facts to support that statement.

Date you first became aware of the alleged contravention?

**Note:** This date may be used to determine if the effective period for the consumer guarantees is extended by up to 30 days.

Have you previously made a consumer guarantee dispute application? If yes, please provide concise details of the alleged contravention in that application, and the outcome.

Provide copies of -

- any correspondence between you and the Respondent;
- the certificate of Residential Building Cover/Fidelity Certificate (if applicable);
- any other evidence you may have, e.g., photos, reports etc.

## SECTION 7 - DESCRIPTION OF WORK

### TYPE OF CONSTRUCTION ACTIVITY

New

Extensions

Renovations with an extension

Change of use


Building Permit Number

Please provide a brief description of the work and intended use:


### BUILDING CLASSIFICATION

**Class of Building** (Building Code of Australia Part A3) – tick which applies

Class 1a (for example, a house, townhouse, duplex)

Class 2 no more than three (3) residential storeys (for example, units, flats)

Class 10 attached building and constructed at the same time as the above Class 1a or 2 building (for example, a garage, carport)

Class 10 retaining wall (whenever constructed) that is not attached to a Class 1a or Class 2 building referred to above, but on which the integrity of such a building depends.

**CONTRACT**

Is the prescribed residential work being carried out under a building contract?  Yes  No

If yes, attach a copy of the contract (including any specifications, plans or variations) to the application, unless you are a subsequent owner.

If no, or if you are a subsequent owner, attach a copy of any relevant plans, specifications, diagrams, or other documents pertaining to the build.

**SECTION 8 - DESCRIPTION OF ALLEGED CONTRAVENTION**

<b>Concise description of alleged contravention of consumer guarantees</b>			
<b>The alleged contravention has resulted in incomplete work, or a defect that is:</b>  (Tick relevant box/es)	<b>Structural</b>	<b>Non-structural</b>	<b>Incomplete work</b>

You **MUST** also complete the complaint schedule at the end of this document.

**SECTION 9 - APPLICATION**

I/we, ..... the Applicant(s) hereby:-

Apply to the Commissioner of Residential Building Disputes to make a decision and associated order or orders about an alleged contravention of the consumer guarantees that has allegedly resulted in defective or incomplete work. I/we acknowledge that a copy of this application will be sent to the Respondent, if accepted.

..... Applicant's signature	..... 2 <sup>nd</sup> Applicant's signature
..... Applicant's name	..... 2 <sup>nd</sup> Applicant's name
..... Date	..... Date

## SECTION 10 - LODGEMENT AND NOTIFICATION

**Notification to other party:** Pursuant to regulation 23(1)(a) of the Building (Resolution of Residential Building Work Disputes) Regulations, the Commissioner of Residential Building Disputes **MUST** give a copy of this application to the Respondent as soon as practicable after the application is accepted.

### PAYMENT OF FEE:

The application form must be accompanied by a receipt for the payment of the prescribed fee which is set out in Schedule 1 of the Building (Resolution of Residential Building Work Disputes) Regulations.

The fee is payable to the **Receiver of Territory Monies** either by cheque, made payable to the "Receiver of Territory Monies" (RTM) or by credit card or cash (cash by lodging in person only at your local Receiver of Territory Monies Office - **DO NOT SEND CASH VIA MAIL**). The Office of NT Consumer Affairs is **not** able to receive your payment.

The Receiver of Territory Monies has four offices located at:

RTM Casuarina  
The Domain  
16 Scaturchio St  
CASUARINA  
Phone 8943 6219

RTM Darwin  
Level 7, Charles Darwin Centre (CDC)  
19 The Mall  
DARWIN  
Phone 8999 1606 or 8999 1628

RTM Alice Springs  
1st Floor, Alice Springs Plaza  
Todd Street Mall  
ALICE SPRINGS  
Phone 8951 6491

RTM Katherine  
1st Floor, Government Centre  
First St  
KATHERINE  
Phone 8973 8715

### LODGEMENT

The completed application form and receipt for payment of lodgement fee, should be addressed to the Commissioner of Residential Building Disputes and:

#### POSTED TO

Commissioner of Residential Building Disputes  
PO Box 40946  
CASUARINA NT 0811

OR

#### LODGED IN PERSON Monday to Friday 8:00AM to 4:00PM

1st Floor, The Met Building,  
13 Scaturchio St  
CASUARINA  
Phone 8999 1999

Ground Floor, Green Well Building  
50 Bath Street  
ALICE SPRINGS  
Phone 8999 1999 (Darwin)

#### FOR OFFICE USE ONLY

Receipt Number	<input type="text"/>	Date	<input type="text"/>
Amount	<input type="text"/>	Received By	<input type="text"/>

#### PRIVACY STATEMENT

The Commissioner of Residential Building Disputes complies with the Information Privacy Principles scheduled to the *Information Act*. To view the Commissioner's Privacy Statement, please access [www.consumeraffairs.nt.gov.au](http://www.consumeraffairs.nt.gov.au) or call 08 8999 1999

#### DARWIN

1<sup>st</sup> Floor, The Met Building, 13 Scaturchio Street  
PO Box 40949, Casuarina NT 0811  
Tel: (08) 8999 1999 or 1800 019 319  
Fax: (08) 8935 7738

Web: [www.consumeraffairs.nt.gov.au](http://www.consumeraffairs.nt.gov.au) Email: [consumer@nt.gov.au](mailto:consumer@nt.gov.au)

#### ALICE SPRINGS

Ground Floor, Green Well Building  
50 Bath Street  
PO Box 1745, Alice Springs, NT 0871  
Tel: (08) 8924 7052 Fax: (08) 8951 8533

## COMPLAINT SCHEDULE

No.	Item / Location	Description	Attachment (if relevant)	Order sought	Respondent's response
<i>E.g. 1</i>	<i>Lounge room floor</i>	<i>Drummy and cracked tiles to an area of approximately 1m<sup>2</sup></i>	<i>Photo titled 'Tiles 1'</i>	<i>Rectify tiles</i>	<i>Refused because the builder has said the tiles were as instructed by the owner, and contrary to the builder's written advice that they were not suitable</i>



## CHECKLIST:

### CHECKLIST:

Please ensure you have provided **two** hard copies of all of the following documents along with **two** copies of your completed and signed application form. If possible please also lodge any of the following documents electronically (to [consumer@nt.gov.au](mailto:consumer@nt.gov.au)).

- Building Contract
- Building Permit
- Fidelity Certificate (if applicable)
- Occupancy Certificate (if applicable)
- Photographic evidence
- Any relevant reports/quotes/invoices
- Correspondence between the parties
- Completed Application form (including Complaint Schedule)
- Receipt for payment of application fee
- Any other documents you believe would provide evidence for your case.