



PRACTICE DIRECTION 12

Specialist adjudication

Practice directions are issued pursuant to [section 233](#) of the *Body Corporate and Community Management Act 1997* (the Act). They provide directions and information about internal dispute resolution processes and the Commissioner's dispute resolution service. Practice directions must be interpreted and applied consistently with the Act. They do not limit the discretion of the Commissioner or dispute resolution coordinators when assessing individual applications. Anything done by a person for internal dispute resolution or the dispute resolution service is subject to any relevant practice direction.

What is specialist adjudication?

1. Some disputes about the Act cannot be decided by a department adjudicator and instead are decided by a specialist adjudicator. A specialist adjudicator is usually a lawyer with experience in the area of law to which the dispute relates.

Applying for specialist adjudication

2. An application for specialist adjudication must be made on [BCCM form 15](#), with reference to the [Guide to completing the adjudication form](#), and accompanied by the prescribed fee.
3. For a complex dispute, the applicant must provide the following:
 - the name and contact details of the person they are nominating for appointment as the specialist adjudicator for the dispute
 - a statement from the nominee consenting to the appointment
 - a statement from the nominee confirming they have no prior knowledge or involvement with any party to the dispute that could give rise to a possible or perceived conflict of interest in determining the dispute
 - details of the nominee's qualifications, experience and standing to determine the dispute
 - written agreement from the respondent to the nomination and to their remuneration, and
 - written confirmation from the nominee of their agreement to the amount of remuneration.
4. For an application disputing the outcome of an economic reasons resolution in a termination process, the applicant must provide the following:
 - the name and contact details of the nominee for appointment as the specialist adjudicator for the dispute
 - a statement from the nominee consenting to the appointment
 - a statement from the nominee confirming they have no prior knowledge or involvement with any party to the dispute that could give rise to a possible or perceived conflict of interest in determining the dispute
 - details of the nominee's qualifications, experience and standing to determine the dispute, and

- evidence from the body corporate that it is understood it is liable to pay for the specialist adjudicator unless the application is deemed frivolous or vexatious.
5. Where a body corporate is a party to an application for specialist adjudication, a committee resolution is sufficient to demonstrate the body corporate's agreement with the nominee's appointment and remuneration as specialist adjudicator. However, a general meeting resolution may be required if the arrangements for payment of the nominee's remuneration exceeds the committee's spending limit.

Finding a specialist adjudicator

6. If you need help finding a specialist adjudicator, you may wish to contact the Australian College of Strata Lawyers (www.acsl.net.au).

COMMISSIONER FOR BODY CORPORATE AND COMMUNITY MANAGEMENT

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