**CLAIM**

MAGISTRATES COURT OF SOUTH AUSTRALIA

CIVIL JURISDICTION

MINOR CIVIL

**Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.**

First Applicant

First Respondent

**Amount Claimed:**

**If applicable**

Amount Claimed $

Court Fee on Filing $

Service Fee **(Sheriff service only)** $

Solicitor’s Fee $

TOTAL CLAIMED $

**Any other relief Claimed:**

**If any**

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| Applicant |  | | | | |
| **Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))** | | | | |
| Name of law firm / solicitor  **If any** |  | | |  | |
| **Law Firm** | | | **Solicitor** | |
| Address for service |  | | | | |
| **Street Address (including unit or level number and name of property if required)** | | | | |
|  |  |  | |  |
| **City/town/suburb** | **State** | **Postcode** | | **Country** |
|  | | | | |
| **Email address** | | | | |
| Phone Details |  | | | | |
| **Type - Number** | | | | |

**Duplicate panel if multiple Applicants**

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| Respondent |  | | | |
| **Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))** | | | |
| Address |  | | | |
| **Street Address (including unit or level number and name of property if required)** | | | |
|  |  |  |  |
| **City/town/suburb** | **State** | **Postcode** | **Country** |
|  | | | |
| **Email address** | | | |
| Phone Details |  | | | |
| **Type - Number** | | | |
| Service | [……] Sheriff service requested for this Respondent  **If requested mark with an ‘x’** | | | |

**Duplicate panel if multiple Respondents**

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| **Claim Details**  **Mark appropriate sections below with an ‘x’**  Matter Type:  The Applicant makes this Claim against you as set out in the Statement of Claim below.  This Claim is made under section [*number*] of the Building Work Contractors Act 1995.  [……] The Applicant would consider mediation to assist in resolving this Claim.  **Extension of time**  **If applicable**  The Applicant seeks an extension of time to institute this action pursuant to:  [……] section 48 of the Limitation of Actions Act 1936  [……] other:  **State section and Act**  The grounds for seeking an extension are:  **Grounds in separately numbered paragraphs**  1.  I request the matter be heard at [*location*]. |

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| **To the Respondent: WARNING**  **If you wish to defend the claim**, you:   * may file and serve on all parties a Notice of Acting (which will give you access to the file) * **must within**   + **28 calendar days** if you are served **within Australia**; OR   + **30 business days** if you are served **outside Australia**   **from service of this claim file and serve on all parties a defence.**  If you do not do so, after that time **judgment may be entered against you** including orders as to costs. Judgment will allow the person who has obtained judgment to take **enforcement steps**. This may include orders to sell your property.  If you wish to make a counter claim or claim against a third party, you must within the same time file and serve on all parties a counter claim or third party claim as the case may be.  For instructions on how to file a notice of acting and/or defence and how to obtain access to the file, visit https://courtsa.courts.sa.gov.au/?g=node/473. |
| **Pre-Action Steps**  **Mark with an ‘x’ the pre-action steps that have been taken**  [……] Has the Applicant served a notice of claim under the Rules of Court?  [……] Have all Respondents served a response under the Rules of Court?  [……] Have all parties conferred to attempt to resolve the dispute under the Rules of Court? |

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| **Service**  The party filing this document is required to serve it on all other parties in accordance with the Rules of Court. |

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| **Accompanying Documents**  **Mark appropriate sections below with an ‘x’**  Accompanying service of this Claim is a:  [……] Multilingual Notice (mandatory)  [……] Notice to Respondent Served Interstate (mandatory if address of the respondent to be served is interstate)  [……] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)  [……] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)  [……] If other additional document(s) please list them below: |

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| **Note to Parties**  There are usually cost penalties for making an unsuccessful claim or resisting a successful claim.  Because this claim is a ‘minor statutory proceeding’ within the meaning of section 3(1) of the Magistrates Court Act 1991, if an amount of more than $12,000 or an order for work of the value of more than $12,000 is claimed, either party may elect at the first Directions Hearing to remove this matter from the minor civil jurisdiction and then a higher cost scale generally applies and the parties can be represented by a lawyer.  If an amount less than $12,000 or an order for work of the value of less than $12,000 is claimed, or if no election is made, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply. |

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| **STATEMENT OF CLAIM**  This claim is for [*nature of claim*] under the Building Work Contractors Act 1995in respect of a domestic building contract dated [*date*] between the building owner [*name*] andbuilder[*name*].  Legal basis of claim – This claim is for an order under  **Mark appropriate sections below with an ‘x’**  [……] section 36(4)(a) – return of money when contract cancelled.  [……] section 36(4)(b) – payment for materials or services when contract cancelled.  [……] section 37(2) – determination of a warranty claim.  [……] section 38(2) – relief from a harsh or unconscionable term or condition. |
| **Complete either Option A or Option B below** |
| **Option A –**  Summarise your Claim in 100 words or less:   * What happened * The date(s) * Why you say the Respondent is legally responsible for the claim |
| **Option B –**  (If Claim lodged via the Portal, complete and upload a Form 1AS Statement of Claim).  (If Claim lodged over the counter at the Registry, complete the Statement of Claim and Certification below).  **Part 1**  **Introduction by Applicant**  **Summary of claim - Summarise the claim in one or two sentences**  **Part 2**  **Background/uncontroversial matters**  **Facts expected to be agreed in separate numbered paragraphs**  1.  **Part 3**  **Other facts forming the basis of the claim**  **Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.**  1.  **Part 4**  **Orders sought**  **Outline orders sought in separate numbered paragraphs**  1. |

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| **Certification**  **Mark appropriate section below with an ‘x’**  [……] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and itcomplies with the Rules of Court.  [……] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.  …………………………………….  Signature  …………………………………….  Name printed  …………………………………….  Date |