

2008/2009
WESTERN AUSTRALIA

**REPORT OF THE
CONSTRUCTION CONTRACTS REGISTRAR**

FOR THE YEAR ENDED
30 JUNE 2009

PRESENTED TO THE HON TROY BUSWELL MLA
MINISTER FOR COMMERCE

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**HON TROY BUSWELL MLA
MINISTER FOR COMMERCE**

I have pleasure in presenting the report of the Construction Contracts Registrar for the year ended 30 June 2009.

The Annual Report of the Registrar is submitted pursuant to section 52 of the *Construction Contracts Act 2004*.

PETER GOW
CONSTRUCTION CONTRACTS REGISTRAR

1. INTRODUCTION

The *Construction Contracts Act 2004* (“the Act”) received Royal Assent on 8 July 2004 and was proclaimed on 14 December 2004 to commence operation on 1 January 2005.

The purpose of the Act is to provide security of payment for the building and construction industry by:

- Prohibiting payment provisions in contracts that slow or stop the movement of funds through the contracting chain;
- Implying fair and reasonable payment terms into contracts that are not in writing;
- Clarifying the right to deal in unfixed materials when a party to the contract becomes insolvent; and
- Providing an effective rapid adjudication process for payment disputes.

The *Construction Contracts Regulations 2004* (“the regulations”) were gazetted on 14 December 2004.

The Act provides for the office of the Construction Contracts Registrar and the Minister is to designate a public service officer to be the Registrar. The holder of the office of Executive Director, Building Industry Development, at the Building Commission, is designated to be the Registrar under Section 47(2) of the Act. Mr Peter Gow is acting in this position and continues to fill the role of Registrar.

2. REGISTERED ADJUDICATORS

Under section 48 of the Act, the Registrar may register an individual as a registered adjudicator if the Registrar is satisfied that the individual has the qualifications and experience prescribed by regulation 9 of the regulations. Registered adjudicators may adjudicate payment disputes where an application for adjudication has been lodged in accordance with section 26 of the Act. In the reporting period, 5 individuals applied for registration as an adjudicator, and these individuals have since been registered.

Table 2.1 Number of applications for registration as an adjudicator under the *Construction Contracts Act 2004*

Number of registered adjudicators at 1/7/2009	45
Number of applications 1/7/2008 – 30/6/2009	5
Applications for registration as adjudicators rejected 1/7/2008 – 30/6/2009	0
Number of appointments 1/7/2008 – 30/6/2009	5
Number of resignations 1/7/2008 – 30/6/2009	0
Total number of registered adjudicators at 30/6/2009	50
Number of applications pending at 30/6/2009	0

Table 2.2 Individuals registered as adjudicators under the *Construction Contracts Act 2004*

ADJUDICATOR'S NAME	CERT NO	ADJUDICATOR'S NAME	CERT NO
Graham Anstee-Brook	1	William Lau	26
John Fisher	2	Raymond Gibson	27
Phil Faigen	3	Peter Byrne	28
Richard Machell	4	Colin Touyz	29
Alan Riley	5	Robert Wallis	30
Kevan McGill	6	Vitorio Tassone	31
Scott Ellis	7	John Morhall	32
Antony Ednie-Brown	8	Gavin Brackenreg	33
Roger Davis	9	David Court	34
Kim Doherty	10	Fulvio Prainito	35
Laurie James	11	Zvy (Steve) Lieblich	36
Mark Sheehan	12	Mark Taylor	37
Philip Dyer	13	Graham Morrow	38
Kersh De Courtenay	14	Kevin Windross	39
Adrian Goold	15	Gary Affleck	40
David Aitken	16	Bernard Lynch	41
Mirina Muir	18	Alex Durning	42
Mark Jones	19	Michael Murrey	43
Phillip Evans	20	Rod Perkins	44
Ralph Unger	21	Greg Downing	45
Paul Wellington	22	Thomas Muttrie	46
Michael Charteris	23	Andrew Muller	47
Glynn Logue	24	Auke Steensma	48
Philip Loots	25	John James Hockley	49
		Lyndon Mark White	50

3. PRESCRIBED APPOINTORS

A prescribed appointor is an industry body prescribed in the regulations. Prescribed appointors are authorised to appoint an adjudicator for the adjudication of a payment dispute where an application for adjudication has been served on the prescribed appointor in accordance with section 26 of the Act.

The Construction Contracts Amendment Regulations 2005 were gazetted on 1 April 2005, and prescribe eight industry bodies as prescribed appointors. The prescribed appointors, along with the numbers of appointments each made during the reporting period are outlined in Table 3.1.

Table 3.1 Prescribed appointors registered and number of appointments made during the reporting period (1/7/2008 – 30/6/2009)

Certificate Number	Prescribed Appointor	Number of Appointments Made
1	Australian Institute of Building	6
2	The Australian Institute of Quantity Surveyors	0
3	Electrical and Communications Association of Western Australia	0
4	The Institute of Arbitrators and Mediators Australia	57
5	Master Builders Association of Western Australia	38
6	The Royal Australian Institute of Architects	1
7	Australian Institute of Project Management	0
8	Royal Institute of Chartered Surveyors Australasia Pty Ltd	3
	Adjudicator not appointed by Prescribed Appointor	0
	Total	105

No applications for registration of a prescribed appointor were received during the period 1 July 2008 – 30 June 2009.

A list of all prescribed appointors, along with the fees they charge is maintained on the Building Commission website at <http://www.buildingcommission.wa.gov.au>

4. CONSTRUCTION CONTRACTS OPERATIONS

4.1 Applications for Adjudication

The Act provides that if a payment dispute arises under a construction contract any party to the contract may apply to have the dispute adjudicated by a registered adjudicator. One hundred and five (105) applications for adjudication were reported to the Registrar during the reporting period. A summary of the results of these applications is outlined in Table 4.1.

Table 4.1 Applications for adjudication made during the reporting period (1/7/2008 – 30/6/2009)

Adjudications received	105
Number of determinations made	68
Applications for adjudication pending (as at 30/6/2006)	2
Number of applications for adjudication dismissed	25
Number of applications for adjudication withdrawn	10
Number of applications lapsed under section 31(3)	0

Table 4.1A Applications for Adjudications received to Date (2005 – 2009)

Year	Number of Adjudications	Total Value of Payment Claims	Mean value of payment claims
2005 - 2006	29	\$10,485,828.12	\$361,580.28
2006 - 2007	36	\$15,938,123.77	\$442,725.66
2007 - 2008	86	\$98,222,008.65	\$1,142,116.38
2008 - 2009	105	\$35,838,998.23	\$341,323.79

4.2 Amounts claimed, determined, dismissed and withdrawn

A summary of the results of all applications for adjudication made during the reporting period (1 July 2008 – 30 June 2009) is outlined in the tables below.

Table 4.2.1 Amounts claimed during the reporting period (1/7/2008 – 30/6/2009)

Total number of payment claims	105
Total value of payment claims	\$35,838,998.23
Mean value of payment claims	\$341,323.79
Largest single payment claim	\$4,464,817.75
Smallest single payment claim	\$2,024.00

Table 4.2.2 Value of determinations made during the reporting period (1/7/2008– 30/6/2009)

Total number of determinations	68
Total value of determinations	\$24,339,848.30
Mean value of determinations	\$357,938.95
Largest single determination	\$4,464,817.75
Smallest single determination	\$2,024.00

Table 4.2.3 Value of claims dismissed during the reporting period (1/7/2008 – 30/6/2009)

Total number of dismissals	25
Total value of claims dismissed	\$11,391,735.35
Mean value of claims dismissed	\$455,669.40
Largest single claim dismissed	\$2,038,358.27
Smallest single claim dismissed	\$8,997.00

Table 4.2.4 Value of claims withdrawn during the reporting period (1/7/2008 – 30/6/2009)

Total number of claims withdrawn	10
Total value of claims withdrawn	\$107,414.18
Mean value of claims withdrawn	\$10,741.42
Largest single claim withdrawn	\$93,994.58
Smallest single claim withdrawn	\$13,420.00

4.3 Construction occupations subject to applications for adjudication

Of 105 applications for adjudication made during the reporting period, a broad range of occupations was involved, as outlined in table 4.3.1. The range of claim size for each industry is outlined in table 4.3.2.

Table 4.3.1 Adjudication applications by industry (reporting period 1 July 2008 – 30 June 2009)

Industry	Number of claims	% of claims
Architecture	3	2.86%
Bricklaying	1	.95%
Building Commercial	32	30.48%
Building Residential	30	28.57%
Cabling	1	.95%
Ceiling Fixing	1	.95%
Civil Engineering	4	3.81%
Cleaning Services	1	.95%
Concrete Works	2	1.90%
Earth Works	4	3.81%
Electrical	3	2.86%
Fabrication	2	1.90%
Fencing	1	.95%
Painting	2	1.90%
Pipe Work	1	.95%
Plastering	1	.95%
Removal of Plastic Coating	1	.95%
Roofing	2	1.90%
Scaffolding	2	1.90%
Steel Fabrication	1	.95%
Transportable Housing	1	.95%
Windows	1	.95%
Not Construction Contract	8	7.62%
	105	100%

Table 4.3.2 Payment claims made by industry for the Reporting period 1 July 2008 – 30 June 2009

Industry	Highest Fee for adjudication	Lowest fee for adjudication	Mean fee for adjudication
Architecture	\$3,410.00	\$1,776.50	\$2,485.17
Bricklaying	\$1,100.00	\$1,100.00	\$1,100.00
Building Commercial	\$17,702.30	\$550.00	\$4,320.71
Building Residential	\$10,248.70	\$499.50	\$3,186.32
Cabling	\$3,000.00	\$3,000.00	\$3,000.00
Ceiling Fixing	\$7,744.00	\$7,744.00	\$7,744.00
Civil Engineering	\$10,889.90	\$7,412.45	\$9151.18
Cleaning Services	\$1,000.00	\$1,000.00	\$1,000.00
Concrete Works	\$3,980.00	\$2,362.00	\$3,171.00
Earth Works	\$7,213.70	\$1,210.00	\$3,717.68
Electrical	\$9,317.00	\$2129.60	\$6,253.87
Fabrication	\$4,000.00	\$1,500.00	\$2,750.00
Fencing	\$720.00	\$720.00	\$720.00
Not Construction Contracts Act	\$3,911.00	\$880.00	\$1,983.88
Painting	\$6,292.00	\$1,500.00	\$3,896.00
Pipe Work	\$7,284.00	\$7,284.00	\$7,284.00
Plastering	\$1,100.00	\$1,100.00	\$1,100.00
Removal of Plastic Coating	\$720.00	\$720.00	\$720.00
Roofing	\$720.00	\$525.00	\$622.50
Scaffolding	\$12,711.00	\$2,689.00	\$7,700.00
Steel Fabrication	\$3,920.00	\$3,920.00	\$3,920.00
Transportable Housing	\$2,420.00	\$2,420.00	\$2,420.00
Windows	\$4,400.00	\$4,400.00	\$4,400.00

4.4 The costs of adjudication

Adjudicators are responsible for setting their own fees. Details of fees are updated annually and published on Building Commission webpage – <http://www.buildingcommission.wa.gov.au>

Table 4.4.1 indicates the number of claims made, the total costs for adjudication in each value range, as well as the highest, lowest, and the average fee for adjudication for each value range for the reporting period.

Table 4.4.1 – Highest, lowest, & mean fees for the range of claims

Range of Claims	Total fees for adjudication	Highest fee for adjudication	Lowest fees for adjudication	Mean Fees for adjudication
\$1 - \$9,999	\$25,917.85	\$1,500.00	\$720.00	\$1,364.10
\$10,000 - \$24,999	\$34,493.30	\$6,09.55	\$499.15	\$2,653.32
\$25,000 - \$99,999	\$71,544.05	\$7,744.00	\$880.00	\$2,649.78
\$100,000 - \$249,999	\$73,596.80	\$17,702.30	\$900.00	\$6,133.07
\$250,000 - \$499,999	\$58,849.20	\$7,284.00	\$1,980.00	\$3,923.28
\$500,000 and over	\$115,239.28	\$15,000.00	\$1,320.00	\$6,065.23

These data demonstrate that the costs of adjudication increase with the value of the claim.

5. ADJUDICATION TRAINING COURSES

One of the qualifications for registered adjudicators under regulation 9(4) of the regulations is the successful completion of an appropriate training course, which qualifies the person for the performance of the functions of an adjudicator under the Act.

The Registrar has approved four adjudication-training courses:

- Institute of Arbitrators & Mediators Australia Training course
- Minter Ellison-Clifton Coney Group Adjudication Training course
- Australian Institute of Quantity Surveyors (WA Chapter) and Jackson McDonald Lawyers in conjunction with the Master Builders Association
- Royal Institution of Chartered Surveyors (RICS) Dispute Resolution Service

A number of individuals registered interest in attending an adjudication training course during this period, and as a result the Institute of Arbitrators & Mediators Australia conducted a two day training course on Friday 5th and Saturday 6th December 2008 at Trinity College in Crawley.

6. FORUMS

No public forums on the Act were conducted in the 2008-09 period. The Registrar made presentations at a number of forums arranged by related institutes or associations, whose members utilise the provisions and the requirements of the Act and regulations.

Further to these forums, both adjudicators and appointers have suggested proposals for review of certain provisions and requirements under the legislation. These proposals will form part of the review of the legislation which is proposed for 2010 pursuant to Section 56 of the Act.

Queensland hosted a security of payment legislation forum in February 2009, at which representatives from all jurisdictions attended, except for New South Wales and South Australia. This forum provided an opportunity to discuss developments in the law in each jurisdiction and also to identify similarities between the jurisdictions with the view of potentially harmonising security of payment provisions into a national framework.

7. WEBPAGE AND PUBLICATIONS

The Registrar has maintained a *Construction Contracts Act 2004* webpage on the Building Commission website: <http://www.buildingcommission.wa.gov.au>. This webpage is regularly updated with registered Adjudicators' contact details, rates and profiles and prescribed appointors' contact details and rates and details of adjudicator training courses.

Brochures entitled "Introduction to the *Construction Contracts Act 2004*"; and a "Information for Homeowners about the *Construction Contracts Act 2004*" are available for download from the webpage. The webpage also provides a series of information sheets, a *Code of Conduct for Adjudicators*, and *Practice Guidelines for Registered Adjudicators and Prescribed Appointers*. Links are also provided to PDF versions of the Act and regulations and the previous Annual Report.

8. MATTERS REFERRED TO THE STATE ADMINISTRATIVE TRIBUNAL

8.1 Conflict of interest

A conflict of interest may arise through the appointed adjudicator having a material personal interest in a payment dispute or in the contract under which a dispute has arisen. Section 29(3) of the Act provides that, if during the course of an adjudication, a party to a payment dispute becomes aware of a conflict of interest, and this occurs before the adjudicator's decision or determination is made, then that party may apply to the State Administrative Tribunal (SAT) to have the adjudicator disqualified.

There were nil matters referred to SAT in relation to an appointed adjudicator's alleged conflict of interest during the current reporting period.

8.2 Adjudicator's decision

Under section 46(1) of the Act, a person who is aggrieved by a decision made by a registered adjudicator under section 31(2)(a) to dismiss an application for adjudication may apply to the SAT for a review of the decision.

There were four applications to SAT seeking to review a decision of an adjudicator in relation to a payment dispute in the current reporting period.

Merym Pty Ltd and Methodist Ladies College [2008] WASAT 164

The State Administrative Tribunal concluded that the failure to certify a progress claim did not result in the amount of the claim becoming payable, unless the claim had been properly submitted with supporting evidence and such other information as might reasonably be required by the superintendent. It was therefore necessary to consider the particular claims in dispute.

In relation to a variation order for extra costs associated with the excavation of rock, the State Administrative Tribunal found that the claim had been incorporated in a previous progress claim and had been rejected by the superintendent. As no further evidence or information had been provided when the claim was repeated, no entitlement arose through the payment mechanism provisions of the contract. Although the adjudicator had purported to make the decision to dismiss as part of his consideration of the merits of the claim, after expressly deciding that the application did not fall to be dismissed under s 31(2)(a) of the *Construction Contracts Act 2004*, the State Administrative Tribunal concluded that it had to be properly characterised as a decision to dismiss on that basis. The decision in that respect was therefore a reviewable decision but it was concluded that the adjudicator was correct in arriving at his conclusion that the claim had been made out of time. Accordingly, the application had to be dismissed in respect of that aspect of the matter.

The State Administrative Tribunal concluded that the other three variations in dispute had not been the subject of a formal claim for a progress payment. However, it was concluded that the adjudicator had not dismissed these claims on that basis. The claims had been dismissed on the basis that there had been a lack of compliance with the requirements of the contract and a lack of any supporting information as would reasonably be required by the superintendent.

The State Administrative Tribunal concluded that the adjudicator was correct in dismissing the claims on this basis because it was readily apparent from correspondence between the parties that the superintendent rejected the underlying basis of the claims. Accordingly, unless new evidence was provided in support of the claims, it was self evident that the superintendent would not be able to certify the claims for payment. Accordingly, the failure to certify did not give rise to an entitlement to payment of the amounts claimed. A decision to terminate on that basis was held to constitute a decision made under s 31(2)(b) of the *Construction Contracts Act 2004* which is not a reviewable decision. That aspect of the claim therefore also failed.

An order was made dismissing the application

Match Projects Pty Ltd and ARCCON (WA) Pty Ltd [2009] WASAT 56

The Tribunal applied the criteria as set out in ***O'Connor and Town of Victoria Park*** [2005] WASAT 161 in determining whether or not to grant the extension of time. In relation to each relevant factor, the Tribunal found as follows.

The Tribunal found that the period of delay was seven weeks; alternatively, depending upon the date on which a valid adjudication application was taken to have been delivered, a period of five weeks. The Tribunal concluded that a delay of seven weeks, or five weeks, in the context of legislation which required an entire adjudication process to be generally completed within 28 days, was a lengthy delay. In the course of determining the length of delay, the Tribunal concluded a proposed basis of review in which it was submitted that the Tribunal should determine whether the adjudication application was to be deemed to be dismissed under s 31(3) of the *Construction Contracts Act 2004* (WA) was not susceptible to the Tribunal's jurisdiction. The Tribunal held that it was appropriate that any extension of time be limited to proposed grounds of review which were arguable on their merits, and also arguably within jurisdiction, and therefore that the application would be refused in respect of this particular proposed basis of review.

The Tribunal was satisfied that a good explanation had been provided for the delay. Until the Supreme Court handed down the decision in ***O'Donnell Griffin Pty Ltd v John Holland Pty Ltd*** [2009] WASC 19, the applicant reasonably believed that it had no right of review consistent with the earlier decision of the Tribunal in ***Diploma Construction Pty Ltd and Esslemont Nominees Pty Ltd*** [2006] WASAT 350.

The Tribunal also accepted that there existed an arguable case for review. Careful consideration was required to be given to the Supreme Court decision to determine its effect on the practices of the Tribunal and the ambit of the review permitted in this case under s 46 of the *Construction Contracts Act 2004* (WA). Further, there was an arguable issue as to whether the adjudication application had been served in compliance with s 26 of the *Construction Contracts Act 2004* (WA). However, the Tribunal rejected the applicant's submissions that it had the power to review whether the adjudicator had exceeded his jurisdiction by allegedly making a determination in respect of a party alleged not to be a party to the relevant construction contract.

In circumstances in which the respondent's application to the District Court to enforce the adjudication determination was being opposed, and was unlikely to be determined before the proceedings in the Tribunal, it was concluded that the respondent would suffer no real prejudice if an extension of time were to be granted.

The Tribunal accepted that the public interest in determining the ambit of the right of review under s 46 of the *Construction Contracts Act 2004* (WA) and the strictness with which the requirements of s 26 of that Act should be applied, were factors in favour of the grant of the application, although they were secondary to the above primary factors. The Tribunal concluded that strict compliance with the time limit would work an injustice upon the applicant and that an extension of time should be granted but limited to those bases of review which it considered to be arguable

Blackadder Scaffolding Services (AUST) Pty Ltd and Mirac Homes (WA) PTY LTD [2009] WASAT 133

On a proper construction of the legislation, the Tribunal concluded that a payment dispute was triggered either if payment of a claim was not made when it fell due under the contract or when the claim had been rejected wholly or in part. However, as the contract in question did not have a provision as to how and when to respond to a progress claim, the implied provisions set out in Sch 1 Div 5 to the *Construction Contracts Act 2004* (WA) applied. Those provisions obliged the respondent to give notice within 14 days of receipt of the payment claim if it disputed the claim. The respondent had done so, but not within the stipulated timeframe.

The Tribunal held that a late notice of dispute given outside the 14 day period nevertheless operated to trigger the existence of a payment dispute. Consequently, although for different reasons, the adjudicator was correct in concluding that the adjudication application was not served within the required 28 days from the date of the non-complying notice of dispute.

The Tribunal held that it was entitled to determine submissions which had been raised before the adjudicator but not determined by him. On an analysis of the facts, it was determined that the communications between the parties prior to the making of a claim by way of a letter dated 18 December 2008 reflected no more than a process of negotiation between the parties and that it was not possible to identify within that period any formal payment claim which had been made. The respondent's submissions that, in effect, a condition precedent to the making of a valid payment claim had not been met and therefore no valid adjudication application had been made within 28 days of a payment dispute arising, were rejected. The Tribunal held that, on a proper construction, the claim made was one under a construction contract as required by the legislation. It was for the adjudicator to make a determination whether or not there was a liability to make payment because of any non-compliance with the contractual precondition.

The application for review was accordingly refused and the decision of the adjudicator was affirmed

Match Projects Pty Ltd and ARCCON (WA) Pty Ltd [2009] WASAT 134

The Tribunal held that it was not bound by the opinion expressed in the Supreme Court decision *O'Donnell Griffin Pty Ltd v John Holland Pty Ltd* [2009] WASC 19 relating to the scope of decisions which were reviewable under the legislation, because the opinion was not necessary for the purposes of the Court's decision. The Court had not had the benefit of any argument on that particular issue. The Tribunal concluded that on a proper construction of the legislation, and in particular the effect of s 46(2) thereof, that the Tribunal's right of review was limited to a decision to dismiss an adjudication application on any of the grounds referred to in s 26 of the *Construction Contracts Act 2004* (WA). That conclusion was consistent with the reasoning applied to similar legislation in the Northern Territory in *Independent Fire Sprinklers (NT) Pty Ltd v Sunbuild Pty Ltd* [2008] NTSC 46.

The above finding was determinative of the application and required that it be dismissed but the Tribunal went on to express its views on the remaining issues. Although an adjudicator is obliged to dismiss an application for adjudication in the circumstances referred to in s 26, the Tribunal noted that an honest or bona fide exercise of power was not reviewable on the reasoning of *Independent Fire Sprinklers (NT) Pty Ltd v*

Sunbuild Pty Ltd [2008] NTSC 46. But the Tribunal indicated that it was not appropriate to express a view as to whether or not prerogative relief might lie.

Further, the Tribunal concluded that the adjudication application had been properly served. Service had been effected at the principal place of business in Western Australia of the joint venture, which constituted an association of persons, with the result that such service was permitted under s 76 of the *Interpretation Act 1984* (WA). There was also no evidence to suggest that the applicant for the adjudication had known information which should have been included in the application and, accordingly, the application had been prepared in accordance with the requirements of the legislation. The Tribunal rejected submissions that it was not open to the Tribunal to review that aspect of the matter because the question of preparation of the application had not been raised before the adjudicator.

8.3 Registrar's decision

Under section 49 of the Act, a person who is aggrieved by a decision made by the Registrar in relation to the registering of an adjudicator under section 48 of the Act may apply to the SAT for a review of the decision. There were nil matters referred to SAT requesting a reversal of a decision made by the Registrar in relation to the registration of an adjudicator during the current reporting period.

The Registrar may cancel the registration of an individual, as a registered adjudicator, under section 48(5) of the Act if satisfied the individual has ceased to be eligible to be registered or has misconducted, or is incompetent or unsuitable to conduct adjudications. A complaint was received, during the current reporting period, alleging an adjudicator was incompetent or unsuitable to conduct adjudications and therefore requested that the Registrar cancel the adjudicator's registration. An investigation into the particular adjudication found that the adjudication was complicated by peripheral issues and referrals to SAT but the adjudicator did misconduct that adjudication by failing to provide adequate reasons for his determination, with the result that the parties were unable to see why they had been unsuccessful. The adjudicator in question has conducted a number of adjudications without complaint and, from the reading of the reasons he has given in those adjudications, has done so in a competent manner. Therefore, this appeared to be an isolated case and did not reflect that the adjudicator was incompetent or unsuitable to conduct adjudications, and nor did this minor misconduct warrant cancellation of his registration as an adjudicator.

8.4 Indian Ocean Territories

Last year it was reported that the Commonwealth Attorney-General's Department is finalising an arrangement to allow the provisions of the *Construction Contracts Act 2004* to apply in Christmas Island and the Cocos (Keeling) Islands. On 22 September 2008 the Commonwealth Minister for Home Office exercised his power conferred by Section 8G of the *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955* that powers under the applied *Construction Contracts Act 2004* (WA)(CKI)(CI) be vested in the Construction Contracts Registrar, which effectively allows the Registrar to carry out the functions stated in the legislation.

9. CONCLUSION

The primary goal of the legislation is to ensure a mechanism for the rapid adjudication of construction contracts disputes to keep money flowing through the construction industry by avoiding the expense and delay of formal litigation.

The period 2008-09 indicates a significant increase in the number of adjudications, and that there is an upward trend in the number of adjudications over the past 4 years. Similarly, increasing is the number of parties seeking to have adjudications certified by the Registrar for the purpose of enforcing the determinations by a court in accordance with Section 43 of the Act.

The data presented in this report demonstrate that the *Construction Contracts Act 2004* is operating as it was intended, and is making considerable savings, both financial and in time, in resolving construction contracts disputes.

The Building Commission has produced information brochures for construction tradespersons and representatives often attend trade and building shows. The recent grouping of the Builder's Registration Board, the Plumbers Licensing Board and the Painters Registration Board into the Building Commission will provide industry and consumers with better access to information on resolving construction contract payment disputes.