



# Motor vehicle consumer claim application

CONSUMER AND COMMERCIAL DIVISION | MOTOR VEHICLES LIST

Complete this form to apply to NCAT's Consumer and Commercial Division for orders under Part 6A of the *Fair Trading Act 1987* concerning consumer claims about motor vehicles that are used primarily for private use. Motor vehicle consumer claim applications can also be lodged online with [NCAT Online](#).

## File Number

Office use only

## 1. DISPUTE DETAILS

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**A. WHAT IS THE DISPUTE ABOUT?** Tick the box that best describes your dispute.

- |                                       |   |  |
|---------------------------------------|---|--|
| <input type="checkbox"/> Contractual  | <input type="checkbox"/> Defective / faulty new car | <input type="checkbox"/> New car warranty  |
| <input type="checkbox"/> Overcharging | <input type="checkbox"/> Defective /faulty used car | <input type="checkbox"/> Used car warranty |
| <input type="checkbox"/> Repairs      |   |  |
- Are you making an application that concerns goods or services that you were provided that were funded by the National Disability Insurance Scheme?

**B. PLACE OF CONTRACT**

Where was the motor vehicle purchased or where were the repairs or work carried out? *Include suburb*

**C. DATE OF SUPPLY OR WORK**

Provide the date the motor vehicle was supplied (or the date the last instalment was made) or when the repairs/work was carried out. Time limitations apply.

**Date of supply of the motor vehicle or date when repairs or work were carried out**

**D. REFERRAL OF DISPUTE**

Have you referred the complaint to any of the following? Attach any relevant documentation.

- NSW Fair Trading       Other

## 2. APPLICANT

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Provide your full name as shown on the invoice, purchase or service agreement. For multiple applicants, attach details on a separate sheet. If a company, include Australian Company Number (ACN).

**Full name**

**Postal Address**

**Contact details**

Daytime telephone

Mobile

Email

**Do you want NCAT notices and correspondence emailed to you?**

By ticking this box you agree to receive the notice of hearing and other future correspondence by email. Please ensure the email address provided above is accurate and the email account is checked regularly.

### 3. RESPONDENT

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Who is the application against? Provide details as shown on the purchase agreement. If the respondent is a company or business, please attach a current business name extract or company extract from ASIC. For multiple respondents attach details on separate sheet.

**Full name**

**Postal Address**

**ABN or ACN**

**Dealer / Repairer Licence No**

**Contact details** Daytime telephone

Mobile

Email

Is the respondent is an undischarged bankrupt or in liquidation?  Yes  No

### 4. ORDER DETAILS

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#### A. WHAT ORDERS DO YOU WANT?

Tick the orders you are seeking – time limits apply. The maximum amount you can claim is \$40,000 unless the vehicle is new and substantially for private use. You must estimate a dollar value for the orders you want.

##### Money orders

- An order to pay me the amount of \$
- An order that I do not have to pay the amount of \$

##### Work orders

- An order to provide motor vehicle or services (provide details below) to the approximate value of \$
- An order to do work or provide services (provide details below) to the approximate value of \$
- An order to repair or replace faulty motor vehicle or part (provide details below) to the value of \$

**TOTAL VALUE OF CLAIM** \$

#### B. WHAT ARE YOUR REASONS FOR REQUESTING THE ORDERS?

**You must explain why you are lodging this application and asking for Tribunal orders by providing as much relevant detail as possible.** For example, describe the vehicle, service or repairs, the nature of any defect and the date you discovered the defect, costs of repairs etc. You may attach additional information to this form.

## 5. HEARING

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### A. RELATED FILE NUMBERS

List any previous NCAT file numbers relating to the parties:

### B. UNAVAILABLE DATES

Indicate dates you are unable to attend hearing in the next 6 weeks:

### C. SPECIAL NEEDS

Indicate whether you have any special needs such as a hearing loop or wheelchair access:

### D. INTERPRETER

Do you need an interpreter for the hearing?  Yes  No

If yes, specify language and dialect:

## 6. APPLICATION CHECKLIST

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- I have attached a recent ASIC company or business name extract**  
If the respondent a company or business, attach a current business name extract or company extract from ASIC which shows the organisation's registered name and address. Extracts can be purchased online on the [ASIC website](#).
- I have attached all other documents relevant to this application**  
Relevant documents may include receipts, invoice, contract, warranties, photographs etc.
- I have made a copy of this application for my own records**  
Before lodging your application with NCAT you must make a copy of your application for your own records.
- I have attached the application fee**  
Refer to the fee schedule on the [NCAT website](#). Credit card payments can be made by submitting an [authority form](#) with your application. Cheque or money order payments are to be made out to 'NSW Civil and Administrative Tribunal' or 'NCAT'. Payment can be made in person at any NCAT Registry or NSW Service Centre. Concession fee applicants must provide a photocopy of their concession card.
- If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To request a fee waiver please complete the [fee waiver request form](#).

## 7. SIGNATURE

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Applicant's signature or signature of representative.

Name

Position Title (if company)

Signature

Date

### Lodge your Application with the fee at your nearest NCAT Registry

For NCAT Consumer and Commercial Division Registry locations visit the [NCAT website](#). For all NCAT enquires telephone 1300 006 228 or visit [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).

# GUIDE TO COMPLETING THE APPLICATION FORM

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Use the following information to help you complete the NCAT Consumer and Commercial Division application form 'Motor vehicle consumer claim application'. Section headings and numbers match the questions on the form.

## 1. DISPUTE DETAILS

### A. WHAT IS THE DISPUTE ABOUT?

Please select the dispute type that best describes your dispute.

#### National Disability Insurance Scheme

If the dispute concerns goods or services that you were provided that were funded by the National Disability Insurance Scheme (NDIS), please indicate by ticking the box. For more information visit the [NDIS website](#).

### B. PLACE OF CONTRACT

NCAT can only hear matters where the contract was entered into, goods supplied or services given in New South Wales. The place of contract is ordinarily the location where you purchased the vehicle or where the repair work took place. If the place of contract is not clear (such as an internet purchase) you should seek legal advice.

### C. DATE OF SUPPLY OR WORK

Provide the date the motor vehicle was supplied (or the date the last instalment was made) or when the repairs or work was carried out.

#### Time limitations

Time limits apply to consumer claim applications to NCAT. Under the *Fair Trading Act 1987*, NCAT cannot hear and determine a consumer claim if:

- The cause of action giving rise to the claim first accrued more than 3 years ago.
- The goods or services were supplied more than 10 years ago.

Seek independent legal advice if you are unsure whether your application is within the time limits.

### D. REFERRAL OF DISPUTE

Please indicate if your dispute has previously been referred to NSW Fair Trading or another organisation for preliminary dispute resolution. Attach any reports or relevant documentation to your application.

## 2. APPLICANT

You can lodge an application as a **consumer** if a supplier has supplied or agreed to supply goods or services to you, whether under contract or not. Refer to s79O of Part 6A *Fair Trading Act 1987* for the full definition of 'consumer'. Provide your full name as shown on the purchase or service agreement.

#### Do you want NCAT notices and correspondence emailed to you?

By ticking this box you agree to receive all future case-related correspondence by email, including the notice of hearing. To change your email address after the application is lodged, log into [eServices](#) via the NCAT website.

## 3. RESPONDENT

Under the *Fair Trading Act 1987* the respondent must be a **supplier**. A 'supplier' is defined as a person who, in the course of carrying on a business, supplied goods or services. The supplier may be the direct supplier such as the manufacturer or wholesaler.

Note: NCAT cannot hear disputes arising from the private sale of a vehicle. NCAT can only make orders about sales against a motor dealer (section 79E of Part 6A *Fair Trading Act 1987*).

#### Make sure you correctly name the respondent

You must correctly name the parties to an application and provide the registered address for service. This is commonly referred to as a 'legal entity'. Legal entity examples include:

- Corporation (Smith and Jones Pty Ltd)
- Sole trader (Mary Jones trading as Mary's Cupcakes),
- Natural person (John Smith)
- Natural persons in partnership (John Smith and Mary Jones trading as John & Mary Smith Repairs)
- Incorporated association (Smith and Jones Inc).

#### Check if the respondent is bankrupt or in liquidation

NCAT cannot make orders against a business or company that is in liquidation or if bankrupt. Seek independent legal advice before proceeding.

#### Attach a company or business name extract

If the respondent a company or business, please attach a current business name extract or company extract from the Australian Securities and Investment Commission (ASIC) which shows their registered name and address. Extracts can be purchased online on the [ASIC website](#).

Note: The free summary information on the ASIC website is not sufficient as it does not contain address details

## 4. ORDER DETAILS

### A. WHAT ORDERS DO YOU WANT?

Tick the type of orders you are seeking. You may request more than one order. If you are seeking a work order you must specify what you want fixed or provided.

If a claim is made against more than one respondent (for example, the repairs are carried out but the manufacturer's parts are defective) the Tribunal may make orders that one respondent pay money to another or supply/return goods to another respondent.

#### Have you indicated the total amount that you are claiming?

You must estimate a dollar amount for the orders you want. The jurisdictional limit for motor vehicle consumer claims is \$40,000 unless the vehicle is new and substantially for private use there is no limit (Section 79S of Part 6A *Fair Trading Act 1987*).

## **B. WHAT ARE YOUR REASONS FOR REQUESTING THE ORDERS?**

You must explain why you are lodging the application and seeking orders from the Tribunal. Your reasons must be detailed enough so that the respondent can understand what the dispute is about. Attach additional information on a separate sheet if there is insufficient space. You should also include copies of the documents you will rely on such as reports, receipts, contracts and quotes.

## **5. HEARING**

### **A. RELATED FILE NUMBERS**

If you are involved in an NCAT matter or have been involved in a matter previously relating to these parties, list all previous file numbers.

### **B. UNAVAILABLE DATES**

List any dates you are unable to attend a hearing in the next 6 weeks. Work, training and study commitments are generally not accepted. Note: Your unavailability may affect the timely listing of the matter.

### **C. SPECIAL NEEDS**

If you have a special need please specify on the application form. Otherwise contact NCAT and ask to speak to a Deputy Divisional Registrar to discuss your individual requirements.

### **D. INTERPRETER REQUIRED**

NCAT provides interpreters at hearings upon request. If you need an interpreter for the hearing, tick the box and specify the language and dialect required.

## **6. APPLICATION CHECKLIST**

Use this checklist to ensure you have correctly completed the application form.

### **I have attached a recent ASIC company or business name extract**

If the respondent is a company or business, please attach a company extract or business name extract from ASIC which shows their registered name and address. Extracts can be purchased online on the [ASIC website](#).

### **I have attached all other documents relevant to this application**

Include all relevant information with your application. Refer to the information below on evidence and supporting materials. Do not include any confidential information with your application as copies of your attachments will be provided to the respondent.

### **I have made a copy of this application for my own records**

Before lodging your application with NCAT you must make a copy of your application for your own records.

### **I have attached the application fee**

You must pay the application fee when lodging your application. The fee schedule is available on the [NCAT website](#).

Credit card payment can be made by submitting an authority form with your application. Cheque or money order payments are to be made out to 'NSW Civil and Administrative Tribunal' or 'NCAT'. Payments can be made in person at any NCAT Registry or Service NSW Centre.

If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To request a fee waiver please complete the [fee waiver request form](#).

## **7. SIGNATURE**

You must print your name and sign and date the application form. If you are a company, include your position title (for example, 'company secretary').

## **EVIDENCE AND SUPPORTING MATERIALS**

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At the hearing depending on the orders you want, you will need to provide evidence to support your application. These documents will be provided to the other party. If they are not included with your application, you will have to bring copies to the hearing for the other party. You should not provide any information you do you want disclosed to the other party

### **Take written proof of the contract or sale invoice and copies of:**

- Receipts and payment records
- Warranties in relation to the motor vehicle or repairs
- Finance documents (if relevant)
- The motor vehicle registration certificate
- Correspondence between parties
- Reports or correspondence from NSW Fair Trading, NRMA etc.

### **Bring documents to prove your claim such as:**

- Photographs stating the condition and state of repair of the motor vehicle (or of other comparable motor vehicles if relevant)
- Copies of any quotes, accounts or receipts of work carried out or to be carried out
- Statements, statutory declarations or affidavits that support your case.