



# Motor dealer unfair contract disputes application

CONSUMER AND COMMERCIAL DIVISION | MOTOR VEHICLES LIST

Complete this form to apply to NCAT's Consumer and Commercial Division for orders under the *Motor Dealers and Repairers Act 2013* about unfair motor vehicle supply contracts or unjust conduct relating to a supply contract.

If you have not attempted mediation you should get advice from the NSW Small Business Commissioner.

## File Number

Office use only

## 1. DISPUTE DETAILS

---

### A. HAS MEDIATION BEEN ATTEMPTED?

Mediation must be attempted before lodging an NCAT application.

- Yes** Please attach section 19 certificate from the NSW Small Business Commissioner
- No** Contact the [NSW Small Business Commissioner](#) on 1300 795 534

### B. PLACE OF CONTRACT

Address where contract was made or entered into.

### C. DATE OF CONTRACT

Insert date contract was entered into:

### D. RELATED FILE NUMBERS

List any previous NCAT file numbers relating to the parties and the current dispute:

## 2. APPLICANT

---

### A. APPLICANT TYPE

Tick the box that best describes the person or corporation making the application.

- Motor dealer       Motor industry group       NSW Small Business Commissioner

### B. APPLICANT'S DETAILS

Provide your name and registered business address as shown on purchase or service agreement. For multiple applicants attach details on a separate sheet.

**Full name:**

**Postal address:**

**ABN or ACN:**

**Licence No:**

**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

---

#### A. RESPONDENT'S DETAILS

Provide details of manufacturer and the registered business address. For multiple respondents attach details on separate sheet. If the respondent is a company or business, please attach a current business name extract or company extract from ASIC.

**Full name:**

**Postal address:**

**Contact details:** Daytime telephone

Mobile

Email

### 4. ORDER DETAILS

---

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

Tick **one** of the orders you are seeking under section 146(1) *Motor Dealers and Repairers Act 2013*.

**Unfair terms of a contract for the supply of motor vehicles**

An order declaring that a term of a supply contract (or class of supply contracts) is an unfair term.

**Unjust conduct in connection with a contract for the supply of motor vehicles**

An order declaring conduct by a manufacturer, in connect with a supply contract or authorised by an unfair term in a supply contract, to be unjust conduct.

#### B. REASONS FOR ASKING FOR THE ABOVE ORDERS?

**Explain why you are lodging this application and asking for NCAT orders by providing as much relevant detail as possible.** You must detail the term/s of the supply contract or class of supply contracts with the manufacturer which are unfair, or the conduct by the manufacturer, in connection with a supply contract, or authorised by an unfair term of a supply contract, which is unjust. If the space below is insufficient please attach additional information.

## 5. HEARING

---

### A. UNAVAILABLE DATES

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

### B. SPECIAL NEEDS

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

### C. INTERPRETER

Do you need an interpreter for the hearing?  Yes  No

If yes, specify language and dialect:

## 6. APPLICATION CHECKLIST

---

- I have attached the section 19 certificate issued by NSW Small Business Commissioner**
- 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**  
Include all relevant information with your application such as invoice, supply contract, correspondence, photographs etc.  
Note: A copy of this application and any attachments will be sent 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**  
Refer to the fee schedule on the [NCAT website](#). Credit card payments can be made by submitting a [credit card authority form](#) with your application. Credit card surcharges apply. 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

---

Applicant's signature or signature of representative.

<b>Name</b>	<b>Position title</b> <i>(if company)</i>
<b>Signature</b>	<b>Date</b>

### 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

---

Use the following information to complete the NCAT Motor Dealer Unfair Contact Disputes application form. Note: Below section headings and numbers correspond with the questions on the application form.

## 1. DISPUTE DETAILS

### A. HAS MEDIATION BEEN ATTEMPTED?

An application to NCAT about unfair motor vehicle supply contracts or unjust conduct relating to a supply contract can only be made if the applicant has first made a complaint to the NSW small Business Commissioner about the matter and the Commissioner has provided a certificate under section 19 of the *Small Business Commissioner Act 2013* (section 144 and 145 *Motor Dealers and Repairers Act 2013* ('the Act')).

This application must be accompanied by a copy of the certificate as provided in section 19 of the Act. Where an application for an original decision is lodged without a certificate from the Small Business Commissioner, the application will not be accepted.

**Note:** If you have not attempted mediation you should contact the [NSW Small Business Commissioner](#) on 1300 795 534.

### B. PLACE OF CONTRACT

NCAT can only hear matters where the supply contract was entered into, goods supplied or services given in New South Wales.

Section 141 of the Act defines a 'supply contract' as a contract (including any documents forming part of or referred to in the contract) between a manufacturer and a motor dealer for the supply of motor vehicles by the manufacturer to the motor dealer for sale by the motor dealer.

### C. DATE OF CONTRACT

Please provide the date of the supply contract with the manufacturer.

### D. 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.

## 2. APPLICANT

### A. APPLICANT TYPE

An applicant may be a motor industry group or the NSW Small Business Commissioner lodging on behalf of a motor dealer or class of motor dealers and application may also be a motor dealer (section 145).

### B. APPLICANT DETAILS

Provide your full name as shown on the supply contract and your full contact details. If you are a business or company, you must include the business or company name and the registered office address.

### 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

The respondent must be a motor vehicle manufacturer (section 141). Please provide full details for the legal entity of the manufacturer.

You must correctly name the parties to an application and the registered address for service. NCAT cannot investigate and find the respondent's details for you

### 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. ORDERS DETAILS

### A. WHAT ORDERS DO YOU WANT?

A motor industry group, the Small Business Commissioner, or a motor dealer may apply to NCAT for a declaration that a term of a supply contract is unfair or that the conduct of a manufacturer is unjust (section 145).

Tick one of the orders that you are seeking under section 146(1) *Motor Dealers and Repairers Act 2013*. You can request only one order.

### B. REASONS FOR REQUESTING THE ORDERS?

You must explain why you are lodging the application and seeking orders from NCAT. 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 the supply contract, photographs, correspondence, etc.

## 5. HEARING

### A. 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.

### B. SPECIAL NEEDS

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

### C. 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

**I have attached the section 19 certificate issued by NSW Small Business Commissioner**

You must attach this certificate to the application otherwise the application cannot be accepted. Contact the NSW Small Business Commissioner on 1300 795 534 for further information.

**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

At the hearing, depending on the orders you want, you will need to provide evidence to support your application.

Bring documents to prove your claim such as:

- supply contract
- finance documents (if relevant)
- correspondents between parties
- photographs.

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 not want disclosed to the other party.

## LEGAL REPRESENTATION

NCAT hearings are conducted as informally as possible, and parties are encouraged to present their own case without representation.

If you wish to be represented, you will be required to seek the leave of the Tribunal before the hearing. Generally, parties can only be legally represented where the amount claimed is more than \$30,000.