

# The Adjudicator's Guide

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## What Can The Adjudicator's Guide Do For You?

Adjudication is a skill which must be practised, and the Institute of Arbitrators and Mediators Australia believes all adjudicators must be equipped with quality tools so that they may develop their adjudication skills, and deliver reliable and fair adjudication decisions/determinations.

The authors of *The Adjudicator's Guide* are Queenslanders, and the first edition of *The Adjudicator's Guide* was written to satisfy the elements of Queensland's Certificate in Adjudication.<sup>1</sup> For this reason, *The Adjudicator's Guide* has been written directly in response to Queensland's *Building and Construction Industry Payments Act 2004* ('BCIPA'). However, BCIPA is based on similar legislation which has been in effect in New South Wales (in its current amended form) since 3 March 2003, and in respect of which a significant body of case law has developed. The New South Wales legislation is known as the *Building and Construction Industry Security of Payment Act 1999* ('BCISPA').

<sup>1</sup> The elements are prescribed by s3 and Schedule 1 Part 2 of the *Building and Construction Industry Payments Regulation 2004* (Qld), together with further sub-elements which the Queensland registrar has included in IAMA's conditions of registration as a body which may issue a Certificate in Adjudication under BCIPA. The syllabus for the Certificate in Adjudication under BCIPA is included in Part F (Appendices).

Queensland's BCIPA has adopted many features of NSW's BCISPA: some with slight modification. It follows that the case law that has developed in New South Wales provides insight as to how Queensland's BCIPA provisions are likely to be applied. *The Adjudicator's Guide* analyses the Queensland provisions in the light of the New South Wales cases.

BCISPA is also very similar to Victoria's *Building and Construction Industry Security of Payment Act 2002* ('BCISPAV'), with the most significant difference being that BCISPAV allows respondents to provide security for adjudicated amounts, rather than requiring payment of adjudicated amounts directly to the claimant. Western Australian and Northern Territorial legislation also provides for adjudications of disputed payments for construction work and related goods and services (*Construction Contracts (Security of Payments) Act 2004* (Northern Territory) ('CCANT') and *Construction Contracts Act 2004* (Western Australia) ('CCAWA')).

Although there are many subtle differences between BCIPA, BCISPA, BCISPAV, CCAWA and CCANT, *The Adjudicator's Guide* will provide insight and guidance to adjudicators proceeding under each of these Acts, and a comparative table of the various Acts is included in Part F (Appendices).

## *Frequently Asked Questions*

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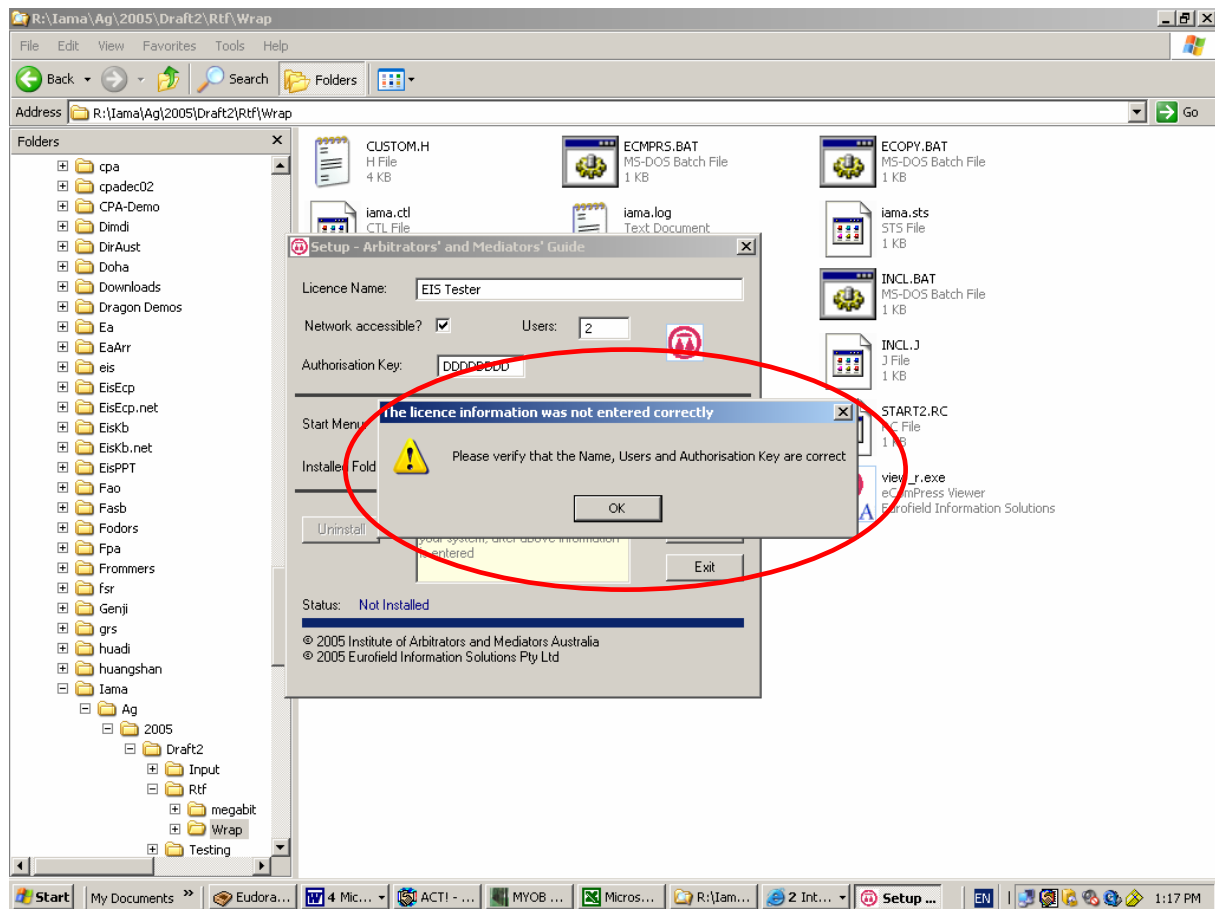
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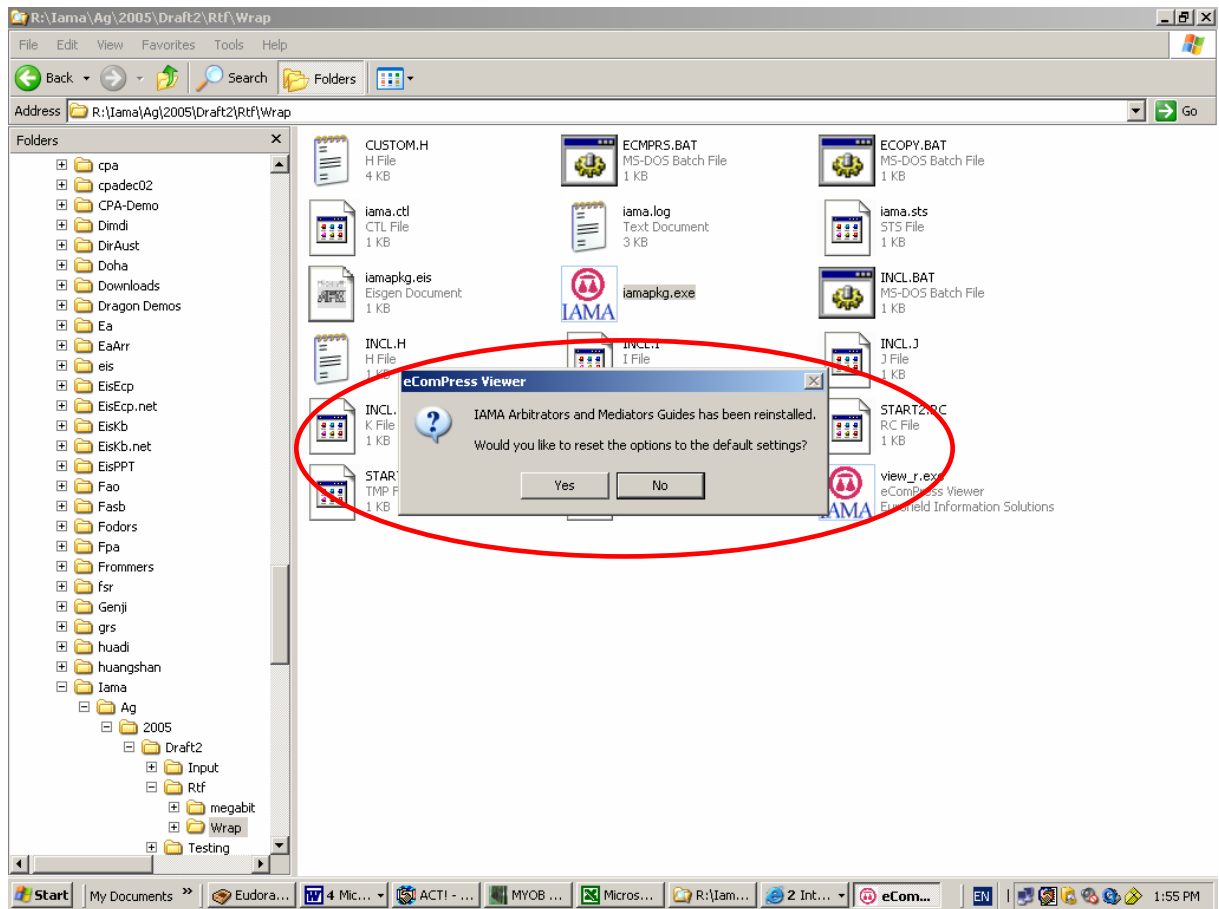
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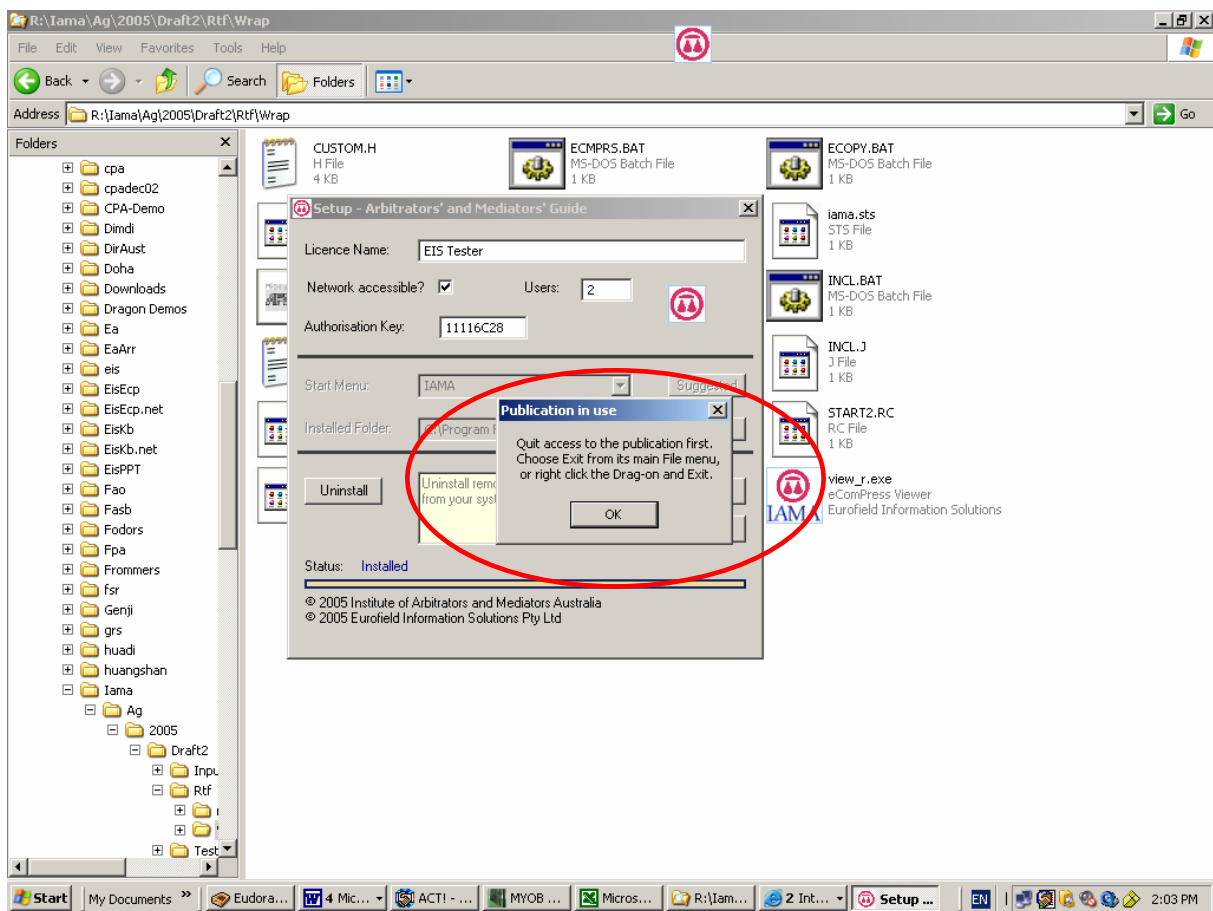
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