

Schedule 1 — Form of homeowner’s notice

[r. 6]

NOTICE TO PRINCIPAL FOR HOME BUILDING WORK UNDER SECTION 24(2) OF THE *BUILDING AND CONSTRUCTION INDUSTRY (SECURITY OF PAYMENT)* ACT 2021 (WA)

TAKE NOTICE	<p>By giving you a payment claim, the claimant is seeking to obtain under the Act the claimed amount in full by the due date. If you are unfamiliar with the requirements of the Act, you should seek professional advice on your rights as early as possible.</p> <p>If you do not intend to pay the claimed amount in full by the due date, or if you dispute the claimed amount, then you should give the claimant a payment schedule —</p> <ul style="list-style-type: none">(a) within 15 business days after you are given the payment claim; or(b) if applicable, by the earlier date specified in the construction contract. <p>If you do not give the claimant a payment schedule, and do not make payment in full by the due date, the claimed amount can be enforced against you in a court of competent jurisdiction. In those proceedings, you will not be able to bring any cross-claim against the claimant or raise any defence in relation to matters arising under the construction contract (e.g. the work was not done or was defective) and the judgment given will be on account of the contract price.</p> <p>Alternatively, instead of commencing court proceedings, the claimant may elect to refer the payment claim to an adjudicator under the Act. In that event, the claimant must give you notice of intention to apply for adjudication and you will have another 5 business days to give a payment schedule to the claimant.</p> <p>If you do not propose to make any payment, the payment schedule must indicate \$0 or NIL and indicate why no payment is proposed and, if the reason is that you are withholding payment, the reason(s) for withholding payment.</p> <p>If you propose to pay an amount less than the claimed amount, the payment schedule must indicate the amount to be paid (the <i>scheduled amount</i>) and why that amount is less and, if the reason is that you are withholding payment, the reason(s) for withholding payment.</p>
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	<p>If the scheduled amount you propose to pay under a payment schedule is not paid by the due date, the scheduled amount can be enforced against you in a court of competent jurisdiction or the matter referred to an adjudicator.</p> <p>Under the Act, a payment schedule must:</p> <ul style="list-style-type: none">(a) be given in writing and be in the approved form (if any); and(b) identify the payment claim to which it relates; and(c) indicate the amount of the payment (if any) that you propose to make. <p>Please note that you must include in a payment schedule all the reasons for withholding payment, as you will be limited to the reasons you have provided if the matter is referred to an adjudicator.</p> <p>If you do not give the claimant a payment schedule within the required time, you will not be entitled to give an adjudication response to the adjudicator in the event that the matter is referred to an adjudicator.</p> <p>Under the Act, <i>business day</i> means a day other than:</p> <ul style="list-style-type: none">(a) a Saturday, Sunday or public holiday; or(b) any other day that falls between 22 December in any year and 10 January in the following year (inclusive). <p>You can find further information about the Act on the Building Commissioner's website.</p>
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