



Commencement of the remaining amendments to the *Construction Contracts Act 2004*

Principals, contractors, subcontractors, and suppliers working in the building and construction industry should be aware that the remaining sections 7 and 20 of the *Construction Contracts Amendment Act 2016* will commence operation on Monday 3 April 2017.

From 3 April 2017, the *Construction Contracts Act 2004* (the Act) will prohibit terms in construction contracts requiring payment to be made after 42 days. Section 10 of the Act will now provide that any provision in a construction contract that purports to require a payment to be made more than 42 days after it is claimed is to be read as being amended to require payment **within** 42 days after it is claimed. Section 10 of the Act previously prohibited terms in construction contracts requiring payment to be made after 50 days.

The term **days** in section 10 of the Act is measured in calendar days.

The changes to section 10 of the Act will only apply to construction contracts entered into after 3 April 2017. If the construction contract was in operation prior to this date, the prohibition in the previous section 10 of the Act will continue to apply for the life of that contract.

Where payment is not made under a construction contract entered into after 3 April 2017 within 42 days, the contractor, subcontractor or supplier can seek rapid adjudication of the payment claim. The application for rapid adjudication must be lodged within 90 business days from the conclusion of the 42-day maximum payment term prescribed by the Act, regardless of any longer term that is stated in the contract.

Contractors, subcontractors and suppliers who believe they may be covered by the Act should seek their own professional advice if needed.

Information about the Act, including how to make a payment claim and the rapid adjudication process, can be found on the Building Commission website at www.dmirs.wa.gov.au/building-commission/construction-contracts-act, or phone 1300 489 099, or email cca@dmirs.wa.gov.au.

An online seminar about all the recent changes to the Act, including those to section 10, is also available on the Building Commission website at www.dmirs.wa.gov.au/building-commission/changes-and-reforms-construction-contracts-act.

Disclaimer

The information contained in this bulletin is provided as general information only and should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations you should obtain independent legal advice.

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