

New security of payments laws...learn all about it or pay the price



These tips help explain why all contractors need to attend the upcoming workshops about the tough, new security of payments laws. You will also see why your contract administrators and project managers must also attend.

Tip 1 – Payment Schedules are mandatory unless payment in full is made on time

A person who receives a Payment Claim always has to deliver a Payment Schedule unless they have paid the amount claimed in full before the end of the “response period”. The tricky part is working out what is the “response period” in each case. If you get it wrong, you are *likely to have to pay the full amount claimed even if you object*. And, you could be *fined and face QBCC disciplinary proceedings!*

Tip 2 – Most invoices and progress claims will automatically be Payment Claims

An invoice or progress claim no longer has to be endorsed with the “magic words” to make it a Payment Claim. Consequently the vast majority will be Payment Claims, automatically kicking the Payment Claim system into operation. All other requirements for a Payment Claim are much the same except that a Payment Claim will have to request payment of the claimed amount. Few invoices do not already do this but to make sure your invoices and progress claims qualify, include a statement like, “Please attend to payment by [insert date]”.

Contracting is your focus.
Advising Contractors is ours.

Tip 3 – You have to give Payment Schedules just like your clients

*Most invoices from your suppliers and subcontractors, will likely be Payment Claims. If they are and you do not either pay them or give a Payment Schedule, you could have an adjudication application against you in which you will have **no right to lodge any response** so the adjudicator will decide, without taking into account anything you have to say. Alternatively, you could end up in Court and have **no right to file a meaningful defence**.*

Tip 4 – A claimant no longer has to give a second chance for a Payment Schedule

Under the old Act, there was a requirement to give the recipient of the Payment Claim a second chance to deliver a Payment Schedule before the claimant could go to adjudication or court. *This has now gone.*

There is a requirement to give a warning notice if a claimant intends to start proceedings in Court but the new law does not say that the respondent can still give a Payment Schedule once the time to do so has expired. So it is *even easier to get in trouble if you overlook or miss an invoice or progress claim.*

Tip 5 – Protect your licence

There are a number of new, quite heavy fines and new risks of disciplinary proceedings by the QBCC for breaches of the relevant legislation. In the workshops, we will outline what these are so you know what you have to do, when you have to do it and what you are risking if you do not.

Register for the workshops now

There is much more you need to know, but these simple tips should help explain why you need to come to the workshops where you will learn how to get the most out of the new legislation and not get caught yourself.

To register your interest, send an email to mdunne@mckays.com.au but do it now so you do not miss out.

If you have any questions please do not hesitate to contact Ian Heathwood at McKays on 3223 5942 or by email at iheathwood@mckays.com.au.

> Brisbane Office

Ian Heathwood

P (07) 3223 5942

E iheathwood@mckays.com.au

Michael Cope

P (07) 3223 5939

E mcope@mckays.com.au