



SOPA Amendments Set to commence 21 October 2019

Introduction

The NSW State Government have confirmed that **21 October 2019** will be the date when new amendments to the *Building and Construction Industry Security of Payment Act 1999 (Act)* will take effect.

The amendments will affect all contracts entered after 21 October 2019 and will focus on increasing protection to subcontractors.

All prudent construction companies and subcontractors should understand these changes and make sure that their contracts comply. We recommend that all contract administrators review the amendments to ensure internal processes comply. The key amendments are outlined below. Please call **Construction Legal** if you have any questions.

Key Changes

1. Reference date

The concept of "Reference Dates" has been removed. A payment claim may be served on or from the last day of the month that work was performed.

2. Termination

Claims can continue to be made after termination. This means that head contractors and principals will no longer be able to terminate construction contracts before the final payment claim reference date accrues.

3. Endorsement

Payment claims under the Act must now explicitly state that they are a claim made under the Act.

4. Residential building contracts no longer exempt

The Act will now apply to all residential building contracts which head contractors enter into with "mums and dads".

5. Payment terms

Head Contractors are now required to pay all subcontractors no later than 20 business days from the date of the claim. Previously the timeframe was 30 business days.

6. Liquidation

If a claimant is in liquidation they will not be entitled to serve a payment claim for work done and will be taken to have withdrawn any active adjudication application.

7. Penalties increase

The amendments impose harsher penalties on corporations. If a head contractor fails to provide a supporting statement with a payment claim, the penalty for a company is now 1000 penalty points equating to \$110,000. The penalty for an individual is 200 penalty points, equating to \$22,000.

Managers and directors are now exposed to criminal prosecution for committing an offence under the Act.

More Information

For more information on building security of payment laws, contact **Construction Legal** as per below.

Contact

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