

Article Information

Author: Ted Williams

Service: Projects & Construction

Sector: Infrastructure

Security of Payment : Ready for the BIF to start?

Since the assent of the Building Industry Fairness (Security of Payments) Act 2017 (BIF) on 10 November 2017, there has been no word from the Queensland Government as to the commencement of the security of payment provisions. Implementation should be expected to start any day now. As the Project Bank Account[i] provisions will be implemented on 1 March 2018, it is reasonable to expect that the security of payment provisions may be proclaimed on 1 March 2018. Principals, contractors, subcontractors and suppliers should ask themselves:

Since the assent of the Building Industry Fairness (Security of Payments) Act 2017 (BIF) on 10 November 2017, there has been no word from the Queensland Government as to the commencement of the security of payment provisions. Implementation should be expected to start any day now. As the Project Bank Account[i] provisions will be implemented on 1 March 2018, it is reasonable to expect that the security of payment provisions may be proclaimed on 1 March 2018. Principals, contractors, subcontractors and suppliers should ask themselves: Am I ready for the BIF

Key changes to Queensland security of payment under BIF

As from the date of assent and regardless of the date of the relevant contract:

1. Payment **claims no longer need to be endorsed** under the Act. However a payment claim must clearly request payment (e.g. by stating it is an 'invoice').
2. An **additional reference date will arise on the contract termination** date where a contract does not contain a post-termination reference date or purports to prevent one from arising.
3. Submission of a **payment schedule is mandatory** unless the respondent pays the claimed amount during the 'response period'[i]. Failure to do so may result in **disciplinary action and a fine**.
4. Claimants are **no longer required to serve a 'second chance' notice** before proceeding to adjudication.
5. Adjudication **responses in respect of 'complex payment claims' can no longer raise new reasons** for withholding payment that were not included in the payment schedule.
6. The time for submitting a payment schedule ('**response period**') and submitting an adjudication application **has been extended**.

The response period will be the earlier of:

- the period stated in the contract for responding to a payment claim or paying the claimed amount; and
- 25 business days after the payment claim is given to the respondent, whichever is the earlier.

Preparing for the BIF

1. Claimants should **ensure that all payment claims bear the word 'invoice'**.
2. Respondents should **provide a payment schedule** (containing detailed reasons for withholding payment where the full claimed amount is not scheduled) in response to every payment claim.
3. Claimants and respondents should **familiarise themselves with the new timing requirements** for submitting payment schedules and adjudication applications.

See our article '[A New "Fairer" Way In Queensland - Building Industry Fairness \(Security Of Payment\) Act](#)' for further details regarding these changes.

BE PREPARED

[i] For more information of Project Bank Accounts, click [here](#).

[i] The response period is the earlier of the period in the contract for responding to payment claim or paying amount claimed, and 25 business days after payment claim received.