



*Hon. Robert Swarten MP
Minister for Public Works, Housing and Racing*

In May 2004 the Building and Construction Industry Payments Act 2004 was passed by State Parliament.

This new legislation which comes into effect from 1 October 2004 is a major step forward for the building and construction industry in Queensland and clearly indicates the Beattie Government's ongoing commitment towards improving the industry in Queensland.

Over the past two years the Queensland Building Services Authority has worked hard to deliver a new system to improve payment outcomes for workers in the building and construction industry.

While I cannot and will not guarantee all parties will get payment 100 per cent of the time, this legislation provides a tool for them to secure interim payment for work performed or goods and services supplied.

The Building and Construction Industry Payments Act 2004 will make a significant difference to the working and payment culture of the building and construction industry and I am proud to bring to the industry this important piece of legislation.

This new rapid adjudication system will help individual parties and the industry with cash flow issues. Above all, the Act gives claimants a quicker and cheaper means of being paid.

I encourage all parties operating in the building and construction industry to fully inform themselves of how the new laws will affect them.

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and construction industry.

What is the Building and Construction Industry Payments Act?

- ❑ The Act establishes statutory rights for persons carrying out construction work or supplying related goods or services under a construction contract. Once a progress payment claim has been made in the manner required by the Act, unpaid parties can take advantage of a new payment dispute resolution process called "Adjudication".

- ❑ **Construction work and the supply of related goods or services includes:**
 - ❑ Building work
 - ❑ Civil engineering
 - ❑ Demolition
 - ❑ Electrical
 - ❑ Hire of plant or equipment
 - ❑ Landscaping
 - ❑ Maintenance
 - ❑ Professional services such as architectural design, surveying and soil testing
 - ❑ Supply of building materials

Who can make a payment claim?

- ❑ Contractors against principles/developers
- ❑ Subcontractors against contractors
- ❑ Suppliers against customers
- ❑ Plant and equipment hirers against clients
- ❑ Consultants against clients

NOTE: The Act cannot be used to claim payment from a home owner who is not an Owner Builder.

Who is a claimant?

A claimant is a person who claims to be entitled to a progress payment for carrying out construction work or providing related goods or services.

Who is a respondent?

A respondent is a person who received the benefit of the claimant's construction work or supply of related goods or services.

Adjudication – what is it?

Adjudication is a rapid but fair process, carried out by a registered Adjudicator to decide the amount, if any, due in respect of a disputed progress payment claim. Only a claimant can lodge an adjudication application.

How do I make sure I can use adjudication?

You must first make a payment claim for any progress payment and include the words "This is a payment claim under the *Building and Construction Industry Payments Act 2004*." You are entitled to use adjudication if a satisfactory response is not received within 10 days.

How do I start an adjudication process?

If you have not been paid or you are unhappy with the payment offer, you can approach an Authorised Nominating Authority (ANA).

What is an Authorised Nominating Authority (ANA)?

An ANA is an organisation registered under the Act to nominate Adjudicators to decide payment disputes.

What is the adjudication process?

- ❑ When an adjudication application is lodged by a claimant, the claimant and respondent both have rights under the Act to present their respective cases to a nominated Adjudicator in writing.
- ❑ The Adjudicator will normally decide an adjudication application within 10 business days from receiving the respondent's response to the payment claim.

What happens after the Adjudicator has made a decision?

- ❑ The Adjudicator must give a copy of the decision to each party.
- ❑ The respondent will normally be required to pay any adjudicated amount to the claimant within 5 business days after being given a copy of the decision.

What happens if the respondent fails to pay the adjudicated amount?

- ❑ The claimant can request the ANA to supply an Adjudication Certificate that confirms the Adjudicator's decision.
- ❑ The claimant can then lodge the Adjudication Certificate in the appropriate court as a judgement debt.
- ❑ The judgement debt is then enforceable in the same way as any court judgement.

GET PAID QUICKER!