



Ready reckoner for in-house counsel

Security of Payment Act

Contact

Tom Fletcher 07 3119 6372
tom.fletcher@minterellison.com

Laura MacLeod 07 3119 6181
laura.macleod@minterellison.com

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The following tables paraphrase the process imposed by each Security of Payment Act and are to be used as a guide only and not as a substitute for careful consideration of the relevant legislation and/or formal legal advice to determine the process to be followed under a particular Security of Payment Act.



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
What can be claimed	Payment for construction work carried out, or related goods and services supplied, under a construction contract.	Payment for construction work carried out, or related goods and services supplied, under a construction contract.	Payment for construction work carried out, or related goods and services supplied, under a construction contract.	<p>Payment for construction work carried out, or related goods and services supplied, under a construction contract.</p> <p>However, the following amounts are excluded:</p> <ul style="list-style-type: none"> ▪ amounts for variations which are not agreed (or are agreed but the contract is over the price threshold); ▪ amounts for latent conditions, time-related costs or changes in regulatory requirements; ▪ damages under the contract; ▪ amounts for claims arising other than under the contract. 	An amount in relation to the performance or non-performance by the contractor of its obligations under a construction contract.	Payment for construction work carried out, or related goods and services supplied, under a construction contract.	An amount in relation to the performance or non-performance by the contractor of its obligations under a construction contract.



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Time for payment claim	<p>Within the later of:</p> <ul style="list-style-type: none"> the period worked out under the contract; or twelve months after the construction work or related goods and services were last carried out or supplied. 	<p>Within the later of:</p> <ul style="list-style-type: none"> the period worked out under the contract; or six months after the construction work or related goods and services were last carried out or supplied. 	<p>Within the later of:</p> <ul style="list-style-type: none"> the period worked out under the contract; or six months after the construction work or related goods and services were last carried out or supplied. 	<p>Within the later of:</p> <ul style="list-style-type: none"> the period worked out under the contract; or three months after the reference date. 	<p>In the absence of payment provisions in the contract, at any time after any of the contractor's obligations have been performed.</p>	<p>Within the later of:</p> <ul style="list-style-type: none"> the period worked out under the contract; or twelve months after the construction work or related goods and services were last carried out or supplied. 	<p>In the absence of payment provisions in the contract, at any time after any of the contractor's obligations have been performed.</p>



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
What must be included in a payment claim	<p>A payment claim must:</p> <ul style="list-style-type: none"> identify the construction work or related goods and services; indicate the amount claimed to be due; state that it is made under the NSW Act (if the contract was entered into before 21 April 2014); and include a statement that it has paid its subcontractors (if the claimant is a head contractor). 	<p>A payment claim must:</p> <ul style="list-style-type: none"> identify the construction work or related goods and services; state the amount claimed to be payable; and state that it is made under the Qld Act. 	<p>A payment claim must:</p> <ul style="list-style-type: none"> identify the construction work or related goods and services; indicate the amount claimed to be due; state that it is made under the SA Act. 	<p>A payment claim must:</p> <ul style="list-style-type: none"> identify the construction work or related goods and services; indicate the amount claimed to be due; and state that it is made under the Victorian Act. 	<p>In the absence of payment provisions in the contract, a payment claim must:</p> <ul style="list-style-type: none"> be in writing; be addressed to the party to which the claim is made; state the name of the claimant; state the date of the claim; state the amount claimed; if the claim is by the contractor, itemise and describe the obligations performed relating to the claim in sufficient detail for the principal to assess the claim; if the claim is by the principal, describe the basis for the claim in sufficient detail for the contractor to assess the claim; be signed by the claimant; and be given to the party to which the claim is made. 	<p>A payment claim must:</p> <ul style="list-style-type: none"> identify the construction work or related goods and services; state the amount claimed to be payable; and state that it is made under the ACT Act. 	<p>In the absence of payment provisions in the contract, a payment claim must:</p> <ul style="list-style-type: none"> be in writing; be addressed to the party to which the claim is made; state the name of the claimant; state the date of the claim; state the amount claimed; if the claim is by the contractor, itemise and describe the obligations performed relating to the claim in sufficient detail for the principal to assess the claim; if the claim is by the principal, describe the basis for the claim in sufficient detail for the contractor to assess the claim; be signed by the claimant; and be given to the party to which the claim is made.



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Time for payment schedule / notice of dispute	<p>Within the earlier of:</p> <ul style="list-style-type: none"> the time required by the contract; or 10 business days of receiving a payment claim. 	<p>In response to standard payment claims (<\$750,000 excl GST), within the earlier of:</p> <ul style="list-style-type: none"> the time required by the contract; or 10 business days of receiving a payment claim. <p>In response to complex payment claims (>\$750,000 excl GST), within the earlier of the time required by the contract or whichever of the following applies:</p> <ul style="list-style-type: none"> 15 business days of receiving the claim (if the claim was served 90 days or less after the relevant reference date); 30 business days of receiving the claim (if the claim was served more than 90 days after the relevant reference date). 	<p>Within the earlier of:</p> <ul style="list-style-type: none"> the time required by the contract; or 15 business days of receiving a payment claim. 	<p>Within the earlier of:</p> <ul style="list-style-type: none"> the time required by the contract; or 10 business days of receiving a payment claim. 	<p>Within:</p> <ul style="list-style-type: none"> the time required by the contract; or if the contract does not have payment provisions, 14 days of receiving a payment claim. 	<p>Within the earlier of:</p> <ul style="list-style-type: none"> the time required by the contract; or 10 business days of receiving a payment claim. 	<p>Within:</p> <ul style="list-style-type: none"> the time required by the contract; or if the contract does not have payment provisions, 14 days of receiving a payment claim.



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
What must be included in a payment schedule / notice of dispute	<p>A payment schedule must:</p> <ul style="list-style-type: none"> identify the relevant payment claim; indicate the amount (if any) the respondent proposes to pay; and if the scheduled amount is less than the claimed amount, indicate why and give reasons for withholding payment. 	<p>A payment schedule must:</p> <ul style="list-style-type: none"> identify the relevant payment claim; state the amount (if any) the respondent proposes to pay; and if the scheduled amount is less than the claimed amount, state why and give reasons for withholding payment. 	<p>A payment schedule must:</p> <ul style="list-style-type: none"> identify the relevant payment claim; indicate the amount (if any) the respondent proposes to pay; and if the scheduled amount is less than the claimed amount, indicate why and give reasons for withholding payment. 	<p>A payment schedule must:</p> <ul style="list-style-type: none"> identify the relevant payment claim; indicate the amount (if any) the respondent proposes to pay; and if the scheduled amount is less than the claimed amount, indicate why and give reasons for withholding payment. 	<p>A notice of dispute must:</p> <ul style="list-style-type: none"> be in writing; be addressed to the claimant; state the name of the party giving the notice; state the date of the notice; identify the relevant payment claim; if the claim is being rejected because it is not made in accordance with the contract, then give reasons why; if the claim is being disputed, the notice must identify each item of the claim that is disputed and give reasons why; and be signed by the party giving the notice. 	<p>A payment schedule must:</p> <ul style="list-style-type: none"> identify the relevant payment claim; state the amount (if any) the respondent proposes to pay; and if the scheduled amount is less than the claimed amount, indicate why and give reasons for withholding payment. 	<p>A notice of dispute must:</p> <ul style="list-style-type: none"> be in writing; be addressed to the claimant; state the name of the party giving the notice; state the date of the notice; identify the relevant payment claim; if the claim is being rejected because it is not made in accordance with the contract, then give reasons why; if the claim is being disputed, the notice must identify each item of the claim that is disputed and give reasons why; and be signed by the party giving the notice.



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Consequences of not serving a payment schedule / notice of dispute	<p>The respondent becomes liable to pay the full amount of the payment claim.</p> <p>If the respondent fails to pay, the claimant may:</p> <ul style="list-style-type: none"> proceed to adjudication; or recover the unpaid portion of the payment claim in a court as a debt owing. <p>To adjudicate, the claimant must first give the respondent a notice within 20 business days following the due date for payment giving the respondent a second opportunity to provide a schedule. The respondent then has 5 business days to serve the schedule.</p> <p>If the respondent still fails to respond, the claimant can adjudicate.</p>	<p>The respondent becomes liable to pay the full amount of the payment claim.</p> <p>If the respondent fails to pay, the claimant may give the respondent a notice within 20 business days following the due date for payment giving the respondent a second opportunity to provide a schedule. The respondent then has 5 business days to serve the schedule.</p> <p>If the respondent still fails to respond, the claimant's options are to:</p> <ul style="list-style-type: none"> proceed to adjudication; or recover the unpaid portion of the payment claim in a court as a debt owing. 	<p>The respondent becomes liable to pay the full amount of the payment claim.</p> <p>If the respondent fails to pay, the claimant may:</p> <ul style="list-style-type: none"> proceed to adjudication; or recover the unpaid portion of the payment claim in a court as a debt owing. <p>To adjudicate, the claimant must first give the respondent a notice within 20 business days following the due date for payment giving the respondent a second opportunity to provide a schedule. The respondent then has 5 business days to serve the schedule.</p> <p>If the respondent still fails to respond, the claimant can adjudicate.</p>	<p>The respondent becomes liable to pay the full amount of the payment claim.</p> <p>If the respondent fails to pay, the claimant may:</p> <ul style="list-style-type: none"> proceed to adjudication; or recover the unpaid portion of the payment claim in a court as a debt owing. <p>To adjudicate, the claimant must first give the respondent a notice within 10 business days following the due date for payment giving the respondent a second opportunity to provide a schedule. The respondent then has 2 business days to serve the schedule.</p> <p>If the respondent still fails to respond, the claimant can adjudicate.</p>	<p>The respondent becomes liable to pay the full amount of the payment claim.</p> <p>If the respondent fails to pay, the claimant may proceed to adjudication.</p> <p>There is no right to a default debt if the respondent does not respond to the payment claim.</p>	<p>The respondent becomes liable to pay the full amount of the payment claim.</p> <p>If the respondent fails to pay, the claimant may:</p> <ul style="list-style-type: none"> proceed to adjudication; or recover the unpaid portion of the payment claim in a court as a debt owing. <p>To adjudicate, the claimant must first give the respondent a notice within 20 business days following the due date for payment giving the respondent a second opportunity to provide a schedule. The respondent then has 5 business days to serve the schedule.</p> <p>If the respondent still fails to respond, the claimant can adjudicate.</p>	<p>The respondent becomes liable to pay the full amount of the payment claim.</p> <p>If the respondent fails to pay, the claimant may proceed to adjudication.</p> <p>There is no right to a default debt if the respondent does not respond to the payment claim.</p>



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Claimant's right to suspend if not paid	<p>If the respondent does not pay:</p> <ul style="list-style-type: none"> the payment claim amount (where no payment schedule given); the scheduled amount; or the adjudicated amount, <p>on 2 business days' notice until 3 business days after the respondent has remedied its defaults.</p> <p>The respondent becomes liable for any loss or damage sustained by the claimant as a result of removing any work from the claimant due to the claimant's decision to suspend the works.</p> <p>A claimant is not liable for any losses suffered by the respondent due to the claimant's suspension.</p>	<p>If the respondent does not pay:</p> <ul style="list-style-type: none"> the payment claim amount (where no payment schedule given); the scheduled amount; or the adjudicated amount, <p>on 2 business days' notice until 3 business days after the respondent has remedied its defaults.</p> <p>The respondent becomes liable for any loss or damage sustained by the claimant as a result of removing any work from the claimant due to the claimant's decision to suspend the works.</p> <p>A claimant is not liable for any losses suffered by the respondent due to the claimant's suspension.</p>	<p>If the respondent does not pay:</p> <ul style="list-style-type: none"> the payment claim amount (where no payment schedule given); the scheduled amount; or the adjudicated amount, <p>on 2 business days' notice until 3 business days after the respondent has remedied its defaults.</p> <p>The respondent becomes liable for any loss or damage sustained by the claimant as a result of removing any work from the claimant due to the claimant's decision to suspend the works.</p> <p>A claimant is not liable for any losses suffered by the respondent due to the claimant's suspension.</p>	<p>If the respondent does not pay:</p> <ul style="list-style-type: none"> the payment claim amount (where no payment schedule given); the scheduled amount; or the adjudicated amount, <p>on 3 business days' notice until 3 business days after the respondent has remedied its defaults.</p> <p>The respondent becomes liable for any loss or damage sustained by the claimant as a result of removing any work from the claimant due to the claimant's decision to suspend the works.</p> <p>A claimant is not liable for any losses suffered by the respondent due to the claimant's suspension.</p>	<p>If the respondent does not pay:</p> <ul style="list-style-type: none"> the adjudicated amount, <p>on 3 days' notice until 3 days after the amount is paid.</p> <p>A claimant is not liable for any losses suffered by the respondent due to the claimant's suspension.</p>	<p>If the respondent does not pay:</p> <ul style="list-style-type: none"> the payment claim amount (where no payment schedule given); the scheduled amount; or the adjudicated amount, <p>on 2 business days' notice until 3 business days after the respondent has remedied its defaults.</p> <p>The respondent becomes liable for any loss or damage sustained by the claimant as a result of removing any work from the claimant due to the claimant's decision to suspend the works.</p> <p>A claimant is not liable for any losses suffered by the respondent due to the claimant's suspension.</p>	<p>If the respondent does not pay:</p> <ul style="list-style-type: none"> the adjudicated amount, <p>on 3 working days' notice until 3 working days after the amount is paid.</p> <p>A claimant is not liable for any losses suffered by the respondent due to the claimant's suspension.</p>



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Who can lodge an adjudication application	The claimant.	The claimant.	The claimant.	The claimant.	Either party.	The claimant.	Either party.



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Time for adjudication application	<p>Within:</p> <ul style="list-style-type: none"> 10 business days after the payment schedule, if the scheduled amount is less than the claimed amount; or 20 business days after the due date for payment, if the respondent has failed to pay the scheduled amount. <p>If the respondent has failed to provide a payment schedule:</p> <ul style="list-style-type: none"> the claimant may serve notice of an intended adjudication application within 20 business days after the due date for payment; and if the respondent does not provide a payment schedule within 5 business days, the claimant may apply for adjudication within 10 business days. 	<p>Within:</p> <ul style="list-style-type: none"> 10 business days after the payment schedule, if the scheduled amount is less than the claimed amount; or 20 business days after the due date for payment, if the respondent has failed to pay the scheduled amount. <p>If the respondent has failed to provide a payment schedule:</p> <ul style="list-style-type: none"> the claimant may serve notice of an intended adjudication application within 20 business days after the due date for payment; and if the respondent does not provide a payment schedule within 5 business days, the claimant may apply for adjudication within 10 business days. 	<p>Within:</p> <ul style="list-style-type: none"> 15 business days after the payment schedule, if the scheduled amount is less than the claimed amount; or 20 business days after the due date for payment, if the respondent has failed to pay the scheduled amount. <p>If the respondent has failed to provide a payment schedule:</p> <ul style="list-style-type: none"> the claimant may serve notice of an intended adjudication application within 20 business days after the due date for payment; and if the respondent does not provide a payment schedule within 5 business days, the claimant may apply for adjudication within 15 business days. 	<p>Within 10 business days after the payment schedule, if:</p> <ul style="list-style-type: none"> the scheduled amount is less than the claimed amount; or the respondent has failed to pay the scheduled amount. <p>If the respondent has failed to provide a payment schedule:</p> <ul style="list-style-type: none"> the claimant may serve notice of an intended adjudication application within 10 business days after the due date for payment; and if the respondent does not provide a payment schedule within 2 business days, the claimant may apply for adjudication within 5 business days. 	<p>Within 28 days after a 'payment dispute' arises.</p>	<p>Within:</p> <ul style="list-style-type: none"> 10 business days after the payment schedule, if the scheduled amount is less than the claimed amount; or 20 business days after the due date for payment, if the respondent has failed to pay the scheduled amount. <p>If the respondent has failed to provide a payment schedule:</p> <ul style="list-style-type: none"> the claimant may serve notice of an intended adjudication application within 20 business days after the due date for payment; and if the respondent does not provide a payment schedule within 5 business days, the claimant may apply for adjudication within 10 business days. 	<p>Within 90 days after a 'payment dispute' arises.</p>



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Time for adjudication response	<p>Within the later of:</p> <ul style="list-style-type: none"> 5 business days after receiving the adjudication application; or 2 business days after receiving notice of the adjudicator's acceptance of the application. 	<p>In response to a standard payment claim (<\$750,000 excl GST), within the later of:</p> <ul style="list-style-type: none"> 10 business days after receiving the adjudication application; or 7 business days after receiving notice of the adjudicator's acceptance of the application. <p>In response to a complex payment claim (>\$750,000 excl GST), within the later of:</p> <ul style="list-style-type: none"> 15 business days after receiving the adjudication application; or 12 business days after receiving notice of the adjudicator's acceptance of the application. <p>Note: the respondent may apply to the adjudicator for an extension of up to 15 business days to give the response.</p>	<p>Within the later of:</p> <ul style="list-style-type: none"> 5 business days after receiving the adjudication application; or 2 business days after receiving notice of the adjudicator's acceptance of the application. 	<p>Within the later of:</p> <ul style="list-style-type: none"> 5 business days after receiving the adjudication application; or 2 business days after receiving notice of the adjudicator's acceptance of the application. 	<p>Within 14 days after receiving the adjudication application.</p>	<p>Within the later of:</p> <ul style="list-style-type: none"> 7 business days after receiving the adjudication application; or 5 business days after receiving notice of the adjudicator's acceptance of the application. 	<p>Within 10 working days of receiving the adjudication application.</p>



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Can new reasons be raised in the adjudication response	Reasons for withholding payment must have been raised in the payment schedule.	Standard claim – Reasons must have been raised in the payment schedule. Complex claim – No limit to reasons but claimant has a right to reply to new reasons.	Reasons for withholding payment must have been raised in the payment schedule.	If reasons for withholding payment were not in the payment schedule, the adjudicator must inform the claimant. The claimant then has 2 business days to make submissions.	A respondent is not limited to the reasons raised in its response to the payment claim.	Reasons for withholding payment must have been raised in the payment schedule.	A respondent is not limited to the reasons raised in its response to the payment claim.



	New South Wales	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Northern Territory
Time for adjudication decision	<p>Within 10 business days after the adjudicator accepts the adjudication application.</p> <p>The parties may agree to extend this timeframe.</p>	<p>For a standard payment claim within 10 business days after, and for a complex payment claim within 15 business days after:</p> <ul style="list-style-type: none"> the adjudication response; or the date on which the adjudicator should have received the adjudication response. <p>But if the claimant could reply (to new reasons), within 15 business days after:</p> <ul style="list-style-type: none"> the reply; or the date on which the adjudicator should have received the reply. <p>The parties may agree to extend this timeframe.</p>	<p>Within 10 business days after:</p> <ul style="list-style-type: none"> the adjudication response; or the date on which the adjudicator should have received the adjudication response. <p>The parties may agree to extend this timeframe.</p>	<p>Within 10 business days after the adjudicator accepts the adjudication application.</p> <p>The parties can extend this timeframe by up to 15 business days.</p>	<p>Within 14 days after:</p> <ul style="list-style-type: none"> the adjudication response; or the date on which the adjudicator should have received the adjudication response. <p>The application may be dismissed without consideration of its merits if:</p> <ul style="list-style-type: none"> the contract is not a construction contract; the application was not prepared and served as required; a finding has already been made; or the matter is too complex or there is not enough time to make a decision. 	<p>Within 10 business days after:</p> <ul style="list-style-type: none"> the adjudication response; the date on which the adjudicator should have received the adjudication response; or if no payment schedule was issued, the date the adjudicator accepts the adjudication application. <p>The parties may agree to extend this timeframe.</p>	<p>Within 10 working days after:</p> <ul style="list-style-type: none"> the adjudication response; or the date on which the adjudicator should have received the adjudication response. <p>The application may be dismissed without consideration of its merits if:</p> <ul style="list-style-type: none"> the contract is not a construction contract; the application was not prepared and served as required; a finding has already been made; or the matter is too complex or there is not enough time to make a decision.

