

BREATHING ROOM FOR CLAIMANTS – ADJUDICATION REFORMS GO LIVE UNDER THE QLD SOP ACT

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The Queensland Government recently announced that the adjudication reforms under Parts 2, 3 and 4 of the *Building Industry Fairness (Security of Payment) Act 2017* (QLD) (QLD SOP Act) have commenced as of 17 December 2018. The QLD SOP Act is intended to alter the adjudication process to provide a fairer environment for subcontractors and suppliers. These reforms will have far-reaching implications for participants in the Queensland building and construction industry.

Among its broad reforms, the QLD SOP Act:

- overrides the progress payment claim under the *Building and Construction Industry Payments Act 2004* (QLD) (BCIPA)
- extends the deadline to provide a payment schedule in response to a payment claim made under the QLD SOP Act to 15 business days after receipt of the payment claim
- eliminates the requirement for claimants to issue a 'second chance' notice for failure to provide a payment schedule before making an adjudication application
- extends the deadline to make an adjudication application for failure to provide a payment schedule to 30 business days after the date the employer was required to provide a payment schedule
- extends the deadline to make an adjudication application for stating a smaller amount in a payment schedule than claimed under the relevant payment claim to 30 business days after the claimant receives the payment schedule.

We note that these reforms apply to matters arising from any payment claim issued on or after 17 December 2018. Any payment claims issued before this date must be dealt with under BCIPA. Additional reforms to the Minimum Financial Requirements for contractors under the *Queensland Building and Construction Commission Act* (QLD) will also come into effect on 1 January 2019. We will provide an update on that issue separately.

WHAT THIS MEANS FOR YOU?

Following commencement of these new Parts of the QLD SOP Act, we note the following:

- claimants in the building and construction industry now have a significantly greater amount of time in which to prepare adjudication applications

- existing processes based on the *Payments Act* will need to be reviewed and updated to ensure compliance with the QLD SOP Act.

If you would like assistance on how to adequately address these issues, please contact the K&L Gates Construction Team.

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