

Queensland Legislative Assembly	
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 6 OCT 2017	By Leave <input type="checkbox"/>
MP: HON DE BRENNI	
Clerk's Signature: 	

Building Industry Fairness (Security of Payment) Bill 2017

Explanatory Notes

For additional amendments to be moved during consideration in detail by

The Honourable Mick de Brenni MP
Minister for Housing and Public Works and
Minister for Sport

Short title

The short title of the Bill is the Building Industry Fairness (Security of Payment) Bill 2017.

Objectives of the amendments and reasons for them

Building Industry Fairness (Security of Payment) Bill 2017

“The objectives of the proposed amendments are to:

- ensure that early payments are facilitated and never prevented where made under a construction contract or a payment claim;
- improve security of payment for subcontractors in the building and construction industry by providing for effective, efficient and fair processes for securing payment, including the establishment of a framework to establish Project Bank Accounts;
- modernise and simplify the provisions for making a subcontractors charge;
- increase ease of access to security of payment legislation;
- improve legislation to provide increased ability of the Queensland Building and Construction Commission (QBCC) to provide regulatory oversight to the building and construction industry.”

Achievement of policy objectives

The objectives are achieved by making the following amendments:

- Providing increased clarity to the provisions of the Building Industry Fairness (Security of Payment) Bill 2017 especially regarding terminology and definitions
- Correct minor drafting issues
- Address feedback obtained on the bill.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objective.

Estimated cost for government implementation

There are no additional anticipated financial costs for Government arising from the amendments to be moved during consideration in detail.

Consistency with fundamental legislative principles

The amendments are consistent with the fundamental legislative principles.

Consultation

The amendments have been informed by community, industry and government stakeholder feedback on the Bill, including through submissions to the Public Works and Utilities Parliamentary Committee and at the public hearing of the Committee on 20 September 2017.

Consistency with legislation of other jurisdictions

PBAs have been used on government projects in multiple Australian jurisdictions, including Western Australia, New South Wales and the Northern Territory. PBAs have also been used in England and Scotland. However, these arrangements have generally been implemented administratively. Accordingly, the Bill is state-specific as Queensland is leading the way with legislative reforms of this nature.

Notes on provisions

45 Clause 76 (Responding to payment claim)

Omit and insert:

Clause 76 is amended to provide that if given a payment claim, a respondent must respond to the payment claim by giving the claimant a payment schedule before the end of the response period.

However, the respondent is not required to give the claimant a payment schedule if the respondent pays the amount in the payment claim in full before the end of the response period.

To remove doubt it is declared that nothing in this section prevents the respondent paying an amount to the claimant earlier than the date payment is requested under the payment claim, or giving the claimant the payment schedule before the end of the response period.

The “response period” for responding to a payment claim is the shorter of (a) if the relevant construction contract is written, the period provided for under the contract for (i) responding to the claim; or (ii) paying the full amount stated in the payment claim to the claimant; (b) the period that is 25 business days after the payment claim is given to the respondent.

98A Before clause 201 200B Act does not prevent early payment

A new section 200B is also inserted that provides that nothing in this Act prevents a person paying an amount due under a contract before the latest date allowed under the contract for payment of that amount.

