

Submission No.34

16 June 2014

The Research Director
Transport, Housing and Local Government Committee
Parliament House
George Street
Brisbane Queensland 4000

By post and email: thlgc@parliament.qld.gov.au

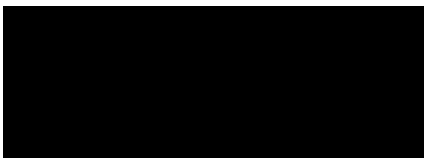
Dear Research Director,

RE: BUILDING AND CONSTRUCTION INDUSTRY PAYMENTS BILL 2014 ("BILL")

1. Thank you for the opportunity to comment on the Bill.
2. I am a senior construction lawyer with over 10 years experience as an adjudicator in the Australian building and construction industry.
3. As a registered adjudicator under the *Building and Construction Industry Payments Act 2004* (Qld) ("**Act**"), I have read the report prepared by Mr Andrew Wallace regarding the Act ("**Wallace Report**") with great interest. I note that the Wallace Report makes various recommendations for the amendment of the Act. Based on the Minister's media release of 9 April 2014 and the Bill, I understand that the Government is proposing to accept most of the recommendations contained in the Wallace Report.
4. I generally support most of the recommendations made in the Wallace Report as I believe they will enhance the operation of the Act and be beneficial to the Queensland building and construction industry. However, I strongly oppose the Government's proposal to completely abolish the Authorised Nominating Authorities under the Act.
5. Based on my extensive experience as a construction lawyer and adjudicator, I have a detailed understanding of the building and construction industry and the vital role that the Authorised Nominating Authorities play in promoting, supporting and achieving the objectives of the Act. In particular, I am familiar with the operation of Adjudicate Today and know that it has invested substantial resources to promote and enhance the operation of the Act. In my view, the experience, professionalism and dedication of Adjudicate Today, as an organisation, make a significant contribution to the effective operation of the Act.
6. By way of example, Adjudicate Today enhances the operation of the Act by:
 - a) Providing useful information and guidance to the claimants and respondents regarding the operation of the Act (e.g. Adjudicate Today has a comprehensive website which contains various useful forms and templates);

- b) Providing expedient and efficient document management services (e.g. Adjudicate Today offers a lockbox service which allows parties to lodge documents electronically 24 hours a day);
 - c) Providing timely and proficient adjudicator selection services (e.g. Adjudicate Today carefully selects an adjudicator for each case on the basis of their skills, qualifications and experience);
 - d) Providing exceptional adjudicator agent services (e.g. Adjudicate Today acts as an adjudicator's agent in all communication between the adjudicator and the parties); and
 - e) Providing ongoing administrative services and support (e.g. Adjudicate Today proof-reads every adjudication decision to ensure that they are of the highest standard).
7. The Government has stated that:
- “These reforms will ensure a fairer and more equitable system for appointing adjudicators and should reduce the adjudication costs.
- They will also provide a better balance between the interests of claimants and respondents and reduce the instance of late claims which will provide greater fairness for all parties.”
8. With respect, it is difficult to see how the abolishment of Authorised Nominating Authorities altogether will achieve a fairer and more equitable system and be beneficial to the industry. In my view, the Government has provided no valid justification for the complete abolishment of Authorised Nominating Authorities.
9. Based on the successful operation of the Act to date, there is compelling evidence to show that the valuable services that the Authorised Nominating Authorities provide have been beneficial to the achievement of the objectives of the Act. However, there is no persuasive evidence at all which warrants the complete abolishment of the Authorised Nominating Authorities. In those circumstances, I am extremely concerned that the proposed abolishment of the Authorised Nominating Authorities will have a detrimental impact on the Queensland building and construction industry.
10. For these reasons, I strongly submit that, on the evidence, there is no valid justification or benefit for the complete abolishment of Authorised Nominating Authorities. Therefore, I would respectfully recommend that the Bill to be amended so that the Authorised Nominating Authorities retain all of their current statutory functions under the Act except the appointment of adjudicators.
11. If you wish to further discuss this letter, please contact me.

Yours sincerely,
KING LAWYERS AUSTRALIA



Navid King
Principal Lawyer