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- The Research Director
- Transport, Housing and Local Government Committee
- Parliament House
- George St
- Brisbane Qld 4000

I am writing to you as a very concerned Sub-Contractor/ Builder over the proposed changes to the Building & constructions Payment Act 2004. BCIPA

On the 9th of April I received a media release that caused great concern, as information followed from QBCC and others I became even more so.

The proposed amendments will be introduced to Parliament mid-year with approval if granted coming into force late 2014.

I am asking that these amendments are reviewed further, if some of the changes proposed come into effect , the Act may as well be torn up, it will be mostly useless to the Sub-contractors it is claiming to support and protect.

The amendment of greatest concern is the proposed allowance for a second response to the payment schedule provided by the respondent, to the payment claim. At present the claimant puts in a payment claim – The respondent replies with a payment schedule and this is the evidence used in an adjudication process.

Proposed amendments, allowing for the respondents to have a second right of reply to their payment schedule in an adjudication process is a dangerous doorway and open for abuse.

It has also been inferred that lower claim amounts will be excluded from this new rule if the claims are not complex? But the problem iswhat is regarded as complicated, is anything that includes delay issues or latent conditions.

As the majority of adjudications brought forth are over such issues, it means in most cases the adjudication will be regarded as complex. This means the sub-contractor/ Claimant will be left at the mercy of the second response from the respondent with no right of reply.

This seemingly simple addition to the adjudication process will make the entire BCIPA act relatively useless for the sub-contractor and will also increase the timeline for a resolution and payment to the sub-contractor, this amount of power should not be given to the respondent.

Statistics already shows the battles faced in getting paid for those in the construction industry, with the Sub-contractor usually, the weaker party being mistreated the most. Some stronger parties quite often use delay tactics on payments and sometimes use threat and manipulation to keep the sub-contractor onsite even though they are not paying them. Duress can be common practice for some

The mental anguish that these sub-contractors suffer is incredible, with the construction industry showing statistically some of the highest mental health, relationship and lifestyle issues of any industry.

Sub-contractors are in general a silent lot. The majority are occupied running their businesses, they do not have or take the time to lobby for themselves, nor should they, when this acts principal role was to protect them.

All this could change mid-year.

Statistics show, there are approximately 80,000 sub-contractors/ contractors in the construction industry with many more in support industries that are protected by this legislation the majority are small to medium business or sole traders that tend to employ a maximum of 10.

*Apparently there was only 120 responses to the discussion paper referred too, I do not regard this as enough input to influence some of the drastic changes proposed to the legislation

The questions used to base these amendments on, were not even received in any form by many of the licenced sub-contractors I spoke too, even though they were supposed to have sent to all licence holders.

The time frame for the response was also timed for very early in the year.

As well I regarded some of the questions as loaded and confusing, if you did not have much experience with the workings of the Act, then you did not have much chance on even answering them.

I do not think legislation of such gravity should be passed under these circumstances and without further input.

The entire reason the Act was originally set up was to help protect Sub-contractors who were being devastated by some building companies with in house lawyers and deep pockets that can afford to play games when avoiding paying sub-contractors.

Sub-contractors are not even entitled to an upfront deposit before they start works. A job can be completely finished, with them wearing the cost for their men, supplies and equipment before they even put in a claim for payment.

Many of them have been completely ruined by the delay tactics employed by some companies

The BUILDING AND CONSTRUCTION INDUSTRY PAYMENTS ACT 2004 was meant to be a simple way for sub-contractors to get paid on a more level playing field, if these changes happen it will be useless to us.

ALSO: As far as Sub-contractors ever being educated on their rights under the act, this has never happened, many still do not know of, or use the act correctly.

I have chosen since 2004 to educate myself on the act at my own expense and time and have met many wonderful sincere ANAs and adjudicators in the process that value the act and use it very wisely for the purpose it was intended and I have been helped by many.

This Act needs to be protected , not changed to lean towards, the very ones the BCIPA act was set up to protect sub-contractors from.

I also want the freedom to choose my ANA/ adjudicator body, not have it appointed by a bureaucratic body. At a time when the sub-contractor is under incredible stress and very vulnerable, they should be able to have someone they are comfortable with.

If you take away the independence of the process you add to the bureaucracy and red tape, not reduce it and by putting it in the hands of a few it may cause more problems than it rectifies.

Some of These changes will put sub-contractors at a distinct disadvantage and should not be adopted.

Please consider you choice when reviewing these changes, ask for more time and if possible investigate for further.

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Respectfully submitted

Juanita Gibson