



26 February 2020

Committee Secretary
Transport and Public Works Committee
Parliament House
George Street
BRISBANE QLD 4000

By Email (Only): tpwc@parliament.qld.gov.au

Dear Secretary

Re: *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2020*

The Queensland Plumbers Union broadly supports the Bill before your Committee.

Security of Payment

As a Union, we stand for fairness.

For workers across Queensland to be paid their wages and entitlements, it's vital that their employers receive payment for work undertaken. In our industry, this means that subcontractors must receive payments in full and on-time. The simple matter of paying someone correctly for their work is the basis of a fair and functioning society, and as a Union we believe that workers must be paid their full entitlements. In turn, we do not support circumstances where subcontracting businesses are left unpaid for works undertaken.

Prior to 2017, Queensland's building and construction payment laws provided certain sections of the industry with the ability to draft contracts in ways that significantly disadvantaged and manipulated subcontractors, created power imbalances and made it next to impossible for subcontractors to lawfully claim payment. The laws and systems facilitated and, in practice, often legalised the avoidance of meeting payment obligations. Following-on from this, subcontractors were often left without access to legal remedies.

The *Building Industry Fairness (Security of Payment) Act 2017* substantially changed the legislative landscape of building and construction payment, going a significant way to achieving greater fairness for subcontractors.

Unions are all too familiar with the issues of non-payment, incorrect payment, and late payment. We support increases to equity and fairness in all workplaces, and this extends to the matter of payment security. We also support efforts which go to rectifying those harmful cultures which promote that it's okay not to pay someone for their work.

When businesses collapse, they leave a trail of unpaid workers in their wake. Laws protecting workers and companies from losing their owed entitlements, including when other businesses along the supply chain collapse, are critical improvements to the status quo. As a Union, we are the ones who pick up the pieces for workers when the devastation of a company 'going under' hits. We help them to access whatever may be left of their entitlements and to find new employment, so that they can put food on the table. We see the effects of industrial legal failures daily, particularly regarding the failures of the

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Federal 'Fair Entitlements Guarantee' (FEG) system which mean that superannuation is often practically unrecoverable when a company goes under.

Payment insecurity for subcontractors inevitably means payment insecurity for workers. When the BIF Act was introduced to Parliament, the Union supported not only the introduction of Project Bank Accounts, but also the broader payment reforms, which included steps towards the security and recoverability of workers' entitlements (importantly, including superannuation). In considering the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2020 (the Bill)*, the Union again supports strengthening laws which go to ensuring that the people who perform the work are paid correctly and on time.

Passive Fire Protection

As the peak Queensland Union responsible for representing plumbers and sprinkler fitters, we have a history of fighting for legislative and regulatory licensing and other frameworks which ensure that work which is critical to the safety of people living and working in buildings in the event of a fire hazard is performed by appropriately and highly qualified and trained professionals.

The Government's recent fire licensing review, among other things, addressed the critical issue of 'passive fire protection' work currently falling within the definition of 'building work', rather than 'fire protection', under the *Queensland Building and Construction Commission Act 1991 (Qld) (QBCCA)*. It's because of this that the work is often not licensed, the required qualifications are often inappropriate, and it's very difficult to enforce, which in turn leads to increased safety risks and high rates of defects. This review saw the Union and all other major stakeholders agree to remedying this issue by amending the QBCCA.

Passive fire protection is a crucial element of a building's response to fire hazards and is therefore critical to community safety. It includes building elements such as the fire doors and shutters you see in essentially every commercial and residential apartment building, fire and smoke walls and ceilings, and other measures such as the installation of fire collars, joint sealing and undertaking penetrations in fire rated walls.

Unfortunately, owing to the regulatory deficiency highlighted through the review, passive fire protection is the leading cause of defects within this sector. When a passive fire element doesn't function properly, the building's entire fire protection response is at risk of failing to operate effectively and efficiently. This work should be recognised within the legislative framework as being equal to other fire protection work. The categorisation of passive work as external to fire protection work critically undermines the safety of people working and living in these buildings, despite the core purpose of this work being to protect the people inside.

The Bill currently proposes to amend the QBCCA in other relevant ways, however this amendment has not been included. We urge the Committee to address this critical safety issue for Queenslanders by recommending that the Bill include a provision amending the QBCCA to incorporate 'passive fire protection' (excluding engineering work) into the definition of 'fire protection' work (and subsequently remove it from defined 'building work'), while importantly ensuring that other non-passive trades (e.g. sprinkler fitting, plumbing and electrical) remain able to undertake the incidental work that they currently perform. This change would ensure the legal framework best facilitates our members' ability to keep Queenslanders safe.

Exemption from Licensing Framework



As a Union which represents and fiercely advocates for licensed trades, we know how important it is to have a comprehensive and effective licensing framework. This ensures that work which is critical to the safety of buildings, and to the functionality of services within buildings, is performed by appropriately trained and qualified individuals. Importantly, this also protects the workers who've undertaken years of education and training so that they can perform this work safely and to a high standard.

Queensland often leads the way in the licensing framework space, however the existing exemption at QBCCA Schedule 1A Clause 8 (*Head contracts to carry out building work*) (though unintentional) potentially undermines this entire framework.

In short, the provision (which applies to all work) exempts persons from the requirement to hold a license where they are engaged directly by an owner or developer. This is clearly contrary to the legislative framework's intent, and potentially undermines security of payment reforms and the licensing structure. The exemption also enables a person or entity to remove themselves from the building and construction licensing system, a system which the security of payment legislative framework works in concert with.

We urge the Committee to recommend that the Bill provide for this exemption to be removed.

Thank you for the opportunity to make a submission on the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2020*. Should you require any further information please contact Gary O'Halloran via [REDACTED].

Kind regards

Gary O'Halloran
State Secretary
Plumbers Union Queensland