



Lead.Connect.

# Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2020

J O'Dwyer / February 2020



## Introduction

Master Electricians Australia (MEA) is the trade association representing electrical contractors recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. Our website is [www.masterelectricians.com.au](http://www.masterelectricians.com.au)

MEA supports the changes made to the Bill in broad terms. MEA specific interest is in relations to the operation and commencement of the changes to Security of Payment within the Bill. In particular

- simplify the operation of PBAs
- require that only one project trust account be established by the head contractor for every eligible contract
- allow for one retention trust account per contractor or eligible principal to be established to protect retention monies
- remove the requirement to establish a disputed funds trust account and instead introduce other protective measures.

MEA also supports the Governments moves to introduce trust account requirements to be extended to eligible contracts as follows:

- from 1 July 2020, project and retention trusts will apply to government and Hospital and Health Services' building contracts valued at \$1 million or more (excluding GST)
- from 1 July 2021, project and retention trusts will also apply to private sector and local government building contracts valued at \$10 million or more (excluding GST)
- from 1 January 2022, project and retention trusts will also apply to private sector and local government building and construction contracts valued at \$3 million or more (excluding GST)
- from 1 July 2022, project and retention trusts will apply to all building and construction contracts valued at \$1 million or more (excluding GST)
- retention trust accounts for cash retentions will apply for all phases where a project trust is also required, and in the final phase, will apply to all parties holding cash retentions down the contractual chain where the head contract requires a project trust.

MEA wishes to ensure that electrical and other sub trade work not covered by the QBCC regulation is considered and defined as "building work" to enact the protection of the Bill. The complex interrelationship of current legislation, this bill and the transition to Trust accounts must ensure that there is no loop hole that may allow unscrupulous parties to avoid liability. We seek confirmation from Departmental Officers to ensure that this is the intent and that this definition is achieved in all interactions of legislation.

We recognise this Bill is a significant investment and will take time to introduce but it is imperative that education and implementation is a key focus of the QBCC and other Government Departments. It is also imperative that a Bipartisan approach be achieved

between the Government and Opposition parties to ensure its longevity and ensure the full effect of the legislation is achieved.

MEA seeks to ensure a significant amount of resources for the implementation and education of inspectors and investigators to ensure common understanding and consistency. The Electrical industry also need educating about how the changes will affect their relationships with builders and principals and will also need significant upskilling and education.

Minimum Financial Requirements (MFR's) have begun and MEA have observed encouraging signs, however we have observed that implementation and communication with the whole of industry is difficult. It is imperative for regulators to engage as many communication channels as possible, in multiple locations to ensure the messages and requirements are being understood. Given the schedule we believe it is imperative that budgets in each of the next 3 years have resources allocated for significant and ongoing education across the whole Building Industry.

MEA also wish to highlight that this implementation will have significant influence in other states and territories and may serve as a model in how significant change can be implemented as they contemplate roll out for their own states changes to security of payment.

MEA is supportive of other changes in the Bill however given those changes are predominately affecting other professions within the building industry we will leave commentary on those changes to other associations and stakeholders within the industry.



**Jason O'Dwyer**

**Master Electricians Australia**