

Question on Notice
No. 173
Asked on Tuesday, 18 February 2020

MR J BLEIJIE ASKED MINISTER FOR HOUSING AND PUBLIC WORKS; MINISTER FOR DIGITAL TECHNOLOGY; MINISTER FOR SPORT (HON M DE BRENNI)

Will the Minister advise what action the Palaszczuk Government is taking to protect subcontractors like O'Brien Plumbing Maroochydore - who was recently left unpaid following collapse of the head contractor and lost \$80,000 for work completed - to ensure security of payment for sub-contractors who work on projects valued below \$1m?

ANSWER

The Queensland Government has delivered significant reforms to protect subcontractor payments in the building industry.

The first stage of these reforms was implemented through the *Building Industry Fairness (Security of Payment) Act 2017* (the BIF Act) which commenced on 10 November 2017.

In addition to project bank accounts, which apply to government building contracts valued at \$1 million or more, the BIF Act introduced a range of reforms to benefit all subcontractors, regardless of the value of work performed. This included modernising subcontractors' charges provisions to make them easier to use; introducing new offences for avoiding contractual obligations and for failing to release retention monies in line with a contract; and enhancing the Queensland Building and Construction Commission's (QBCC) enforcement powers.

The BIF Act also provides fairer progress payment provisions, to limit payment delays and expedite the resolution of payment disputes. All subcontractors receive these protections – there is no longer a requirement to 'opt-in'.

The BIF Act also laid the groundwork for the new Minimum Financial Requirements for licensing (MFR) framework, which was progressively introduced in 2019. The MFR framework supports the improved financial health of licensees and better equips the QBCC to detect and mitigate the impacts of insolvency and corporate collapse.

The *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2020* (the Bill), was introduced on 5 February 2020 and is currently before the Transport and Public Works Committee for detailed consideration.

The Bill builds upon and enhances current protections, by requiring head contractors, when making a payment claim, to declare that all subcontractors have been paid or to identify subcontractors who have not been paid, with penalties applying for providing false or misleading declarations.

To help secure payment of an adjudicated amount, the Bill provides a mechanism for a claimant to require a party higher in the contractual chain to withhold payment from the respondent.

The Bill also includes amendments to create a new offence for failing to pay a scheduled amount by the due date and to expand the existing offence for failing to release retention monies so that it applies to other forms of security, such as bank guarantees.

Finally, the Bill further enhances the regulatory oversight capabilities of the QBCC through a stronger compliance framework for MFR and provisions that allow audit programs for the BIF Act.