

Building & Construction Industry Security of Payment Information Pack



Documents Include:

- Security of Payment – How MES Can Assist
- MES Client & Case History
- David Glinatsis Profile
- David Glinatsis Capability Statement
- Plumbing SA Magazine – SOP article May – June 2011
- Plumbing SA Magazine – Editorial May – June 2010

The Building and Construction Industry Security of Payment Act 2009

The recent developments in relation the legislation comes as very welcome news.

Following the lead from other states, the introduction of this legislation will greatly relieve the cash flow crisis caused when monies are withheld without proper basis on construction projects.

For over 37 years, I have been engaged by many stakeholders at all levels in the Construction Industry to assist in the resolution of disputes over payment.

My experience has taught me that unless efficient and timely dispute resolution processes are available under the contract, many disputes over payment remain unresolved resulting in severe cash flow problems which have put many subcontractors out of business.

Once the Act commences, the processes of the Act will provide an invaluable tool in accelerating the resolution of disputes as the parties will be able to have the benefit of a focused review of their respective positions by a third party Adjudicator.

Although the decision of an Adjudicator is not final and determinative of the parties ultimate contractual position, the experience of the eastern states is that an Adjudicator's decision does allow cash to flow until the dispute is finally resolved under the contract. Equally importantly however, is the reality that an Adjudicator's decision can help the parties to settle their differences.

The opportunities that arise under the Act are enormous for your members.

Not only will the Act assist with cash flow, but the rigours, time frames and the procedures imposed by the Act will ultimately improve the general quality of contract negotiations, contract administration and standard of performance and conduct of Principals, Contractors, Subcontractors and Suppliers throughout the contractual chain which over time will only serve to benefit the delivery of construction and related services to South Australia and your members.

Benefits of interstate experience

The experience learnt from the eastern states confirms that the Act will have an enormous impact on the construction industry and I am excited by the prospect that I can be part of the implementation of the Act in an industry context once the Act commences.

Some of the lessons learnt from the eastern states however, are sobering.

For example in NSW, the equivalent Act has been in force for over 10 years, yet there are still countless stakeholders in NSW who are not properly aware of the impact that the Act can have on the ill prepared. As a result where the Act is expected to bring relief, the Act can have the opposite effect if not used and applied correctly.

Compliance with the time frames under critical under the Act and any failure to comply with those time frames can have very significant fiscal and corporate governance consequences.

This has been seen in many cases in NSW and Queensland where a failure to comply with a deadline can result in substantial payments having to be made under the Act without a right of challenge and thereby creating various insolvency risks.

How we can help your members

For a number of reasons, I am very keen to ensure that the learnings and experience of the eastern states are acknowledged and embraced in South Australia and that the construction and related industries are properly informed and educated in the processes that are available under the Act.

To that end, our organisation has developed a strategic alliance with Kreisson Legal, a law firm which is based in New South Wales and which is a leader in the provision of legal services and education in the operation of the Security of Payment legislation on the east coast and also affiliated with peak industry bodies in NSW.

I might add that one of the solicitor directors of that firm (David Glinatsis) has already conducted a number of workshop and training seminars to a variety of peak industry bodies in South Australia in the use and implementation of the Act in anticipation of the commencement of the Act which was expected last year.

The insight, breadth and depth of Kreisson Legal is in my view an invaluable asset to our organisation as with their input we have the benefit of hindsight and the experience of the Eastern States which makes us well positioned to provide industry with strategic, focused, practical and seasoned advice on how the Act will and can operate and how the Act can be used to serve and benefit the construction industry.

Our services

I am delighted to be able to offer the services of our organisation to your members in the preparation of Payment Claims under the Act and Adjudication Applications and in providing advice in relation to the processes under the Act and its application to the successful resolution of construction disputes.

Together with Kreisson Legal and the other resources available at our disposal, my organisation can provide the following specific services to your members:

1. A technical and commercial assessment of the merits of claims and entitlements under the Act from a contractors perspective;
2. A legal review if appropriate. A legal review may not be necessary in all circumstances. The need for such a review will be undertaken on a case by case basis;
3. The preparation of Payment Claims and Adjudication Applications utilising our technical expertise and our available legal and other resources;
4. The ability of Kreisson Legal to attend in situ with your members in South Australia where appropriate to help develop Claims and Adjudication Applications and to otherwise act in any legal challenges to determinations of Adjudicators.
5. Under take an Impact analysis of any recoveries under the Act against final contract reconciliations and contractual entitlements.
6. Technical and legal support and services in the event that successful recoveries under the Act result in challenges or other litigation.

Our approach

Our approach is practical and industry focused. We believe that with our alliances we have the breadth and depth to provide a superior service to the Construction and related industries once the Act commences in operation.

We look forward to the opportunities in discussing how we can work with your organisation to assist your membership in the implementation, administration and application of this new and exciting legislation.

We await your reply.

Yours sincerely



A handwritten signature in black ink, appearing to read 'Bruce A Harris', with a large, sweeping flourish above the name.

Bruce A Harris
Consulting Director
M.I.P.A. A.I.R.A.H. F.A.I.C.D. A.I.P.M

Management & Enterprising Solutions Pty Ltd is celebrating 25 years service to the Construction Industry

CLIENT CASE HISTORY 1

Client approached us reporting that the Master Builder was holding the client's Bank Guarantee because he and other sub contractors had not achieved final hand over sign off by the Architect Consulting Engineer.

The client reported that they were '*getting nowhere*' and '*we cannot get any more guarantees from the companies bankers, it's causing cash flow problems*'.

We negotiated a "*once and for all time*" settlement with variation to pay interest and costs.

As a result of the settlement, the Workman liens were removed and the Bank Guarantee was released.

Value to our Client:

\$122,000.00 include interest in full

CLIENT CASE HISTORY 2

A supplier agreed to supply our client with specialist equipment.

Our client agreed to '1/3 deposit up front with 1/3 on delivery'.

When the equipment was delivered it was established that the equipment was not what was ordered and was indeed inferior to the ordered equipment.

The delivery was not accepted by the client after he signed the confirmation of delivery acceptance note.

Our clients proprietor withheld a large retention payment which our client advised '*seriously affected our cash flow*' and would not accept a bank guarantee whilst the issue with the supplier was being addressed.

On behalf of our client we commenced dialogue with the supplier.

At first the supplier was not cooperative until the client commenced an action for damages which included - loss of profit, extension of time costs as a consequence of the equipment not being fit for purpose.

This action was initiated by the client with assistance of Bruce Harris Project Management Pty Ltd which is an associated company, holding an unlimited licence – Civil, Structural, Mechanical, Hydraulic works.

- Contractual Matters
- Performance and Compliance
- Case Proceedings

CLIENT CASE HISTORY 5

Our client advised *'we have expended many tens of thousands of dollars and we are no nearer to solving our construction problems than over 25 years ago'*.

No-one could resolve this embarrassing situation.

Our clients commission was that we take as long as we require to establish *'why our building was moving outwards by the year and is allowing water to enter'*.

After our 3 months of research, archival investigations by experts, a considerable time on the site, comparisons to actual specified to as installed and constructed and has been signed off as being of this work compliant with the documents and contract.

Our report was compiled, submitted and actioned.

Our client made a claim against the PI Insurer of the original professional team they engaged.

Our client was required to withstand the rigors of the highest expert investigations in the world.

Bruce Harris Project Management Pty Ltd served notice the building was unsafe and closed the entire complex.

We achieved:

- demolition of the entire building of near 30 years ago
- reconstruct as per the original specifications and plans as engaged by our clients

The professional architectural and civil engineer team have now dissolved; the builder was put into liquidation well prior to our appointment.

Estimated Expenditure

\$1,500,000.00

CLIENT CASE HISTORY 6

Our client had received a registered demand notice from his bankers calling up 50% of his overdraft immediately.

Our client had in excess of \$300,000 in debtors outstanding up to 9 months with builders / developers all saying *'we will pay you when our clients pay us'*, or *'when the projects are signed off'*.

MES was engaged by the client to recover in excess of \$300,000

In undertaking this work, MES elected to work in the rear office of our client.

All 14 contracts were independently reviewed and assessed by MES.

We established that the builder developers were in fact not complying with the sub contract agreements. In fact it was our view that they did not have any right to hold retentions and unpaid variations as that was our understanding of all contracts we reviewed.

On behalf of the client, we negotiated with the client bankers to withhold action for 4 weeks; all 14 contracts.

Our associate company certified all works were compliant with BCA and regulations, served formal notice of immediate demand for payment in full with all costs included.

In addition and as part of the resolution:

- Workman liens (the legal right to keep or sell somebody else's property as security for a debt) lodged on all projects. The builders developers and their clients were irate and might we add 'disillusioned'
- We formally notified the architects, engineers and clients of our actions
- We collected \$337,000 deposit cleared funds in 1 month from our engagement and today no one is aware that MES was in the engine room of the company. The bankers took MES to dinner with our client

Our clients fearing for the worst scenario, were guarantors 'personally' jointly and severally and would have lost their company, home, motor vehicles if MES failed to succeed

Value to Client in excess of **\$330,000.00**

CLIENT CASE HISTORY 7

MES have over 20 past clients where we have been the 'good Samaritan' resulting in keeping the company afloat, again working in the back room, resolving issues to the affirmative.

CLIENT CASE HISTORY 8

MES were appointed by a National leading Chartered Accounting Practice to manage a manufacturing business and to assist and trade out of financial difficulties.

The manufacturing business was operated for over 6 months; MES reversed the accumulated losses to provide a profit of \$321,000.00 during our time of managing this business which employed over 80 personnel.

This was a very demanding and challenging commission – 7 days per week.

CLIENT CASE HISTORY 9

MES has been engaged on disputed variations to contracts, wherein the sub contractors are heavily leveraged applied to them by builder / developer.

We can report over a 90% success rate of settlement of these variations to contracts.

These range from small claims \$5,000.00 - \$10,000.00 up to larger claims of \$50,000 – \$100,000.00

CLIENT CASE HISTORY 10

Throughout our 40 years of working life within the construction industry, our personal, company experiences throughout Australia. Our personal and company experiences - if 40 years ago we had the Security of Payment Act 2009 our bad debt factor would have reduced by over \$2.5 million.

A basket full of smaller builders who closed the doors on their sub contractor.

All these building companies had one common bottom line denominator – ‘they robbed Peter to pay Paul’ and ‘What happens when there is no Peter?’.

Another recent example is the collapse of another major building company with debts of over \$20 million.

Just think Judy and myself and family, who had given so much back to the industry, could have been still operating our business, enjoying the fruits of retirement.

All we have ever asked is to be paid on time the approved progress claims.

DAVID GLINATSI – SOLICITOR DIRECTOR

David Glinatsis heads the Building and Construction team of Kreisson Legal which provides legal services to the building and construction industries.

Admitted in 1985, David has, during his career, acted in a number of large and complex construction and engineering disputes.

David's expertise covers all forms of dispute resolution including litigation, arbitration, mediation and adjudication under the Building and Construction Security of Payment legislation.

Some of the more recent matters that David has conducted include:

1. Acting for a major Electrical Services Contractor in complex and large infrastructure disputes against two consortium partners and involving the installation of electrical services and structural support in a power station located in Queensland.

The combined value of all the issues in dispute was in excess of **\$25m**.

Those disputes involved:

- (a) the preparation of multiple variation claims ranging in value up to approximately \$4m; prolongation claims and disruption/loss of productivity claims.
- (b) The submission of multiple Payment Claims and Adjudication Applications under the Building and Construction Industry Payments Act 2004 (Qld)

- (c) Litigation in the Supreme Court of Queensland against one consortium partner, as a consequence of challenges to two separate Adjudication Determinations.

2. Acting for Major Electrical Services Contractor in a substantial offshore infrastructure project in respect of disputed contractual claims in excess of \$7m.

With the assistance of a number of consultants and engineers David was responsible for the preparation of substantial contractual claims involving engineering related variation claims and prolongation and disruption/loss of productivity claims.

3. Acting for a Construction Company in a complex New South Wales Supreme Court Reference hearing following a series of successful Security of Payment Determinations.

The combined value of the issues in dispute amounted to approximately \$4.5m.

This decision in this matter is particularly important because it is one of the first substantive cases that has dealt with the relative interests of a Builder and Principal in a claw back by the Principal of monies received by a Builder under the Building and Construction Industry Security of Payments Act 1999 (NSW) (**SOPA**).

The case involved multiple variation claims, prolongation claims and disruption/loss of productivity claims.

This newsletter provides a summary and general overview only. It is not intended to be comprehensive nor does it constitute legal advice.

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4. Acting for a major Club against a Construction Company in a Supreme Court Reference hearing with a combined dispute value of \$3.5m.

The matter was complex and dealt with multiple engineering issues including the provision of fire and mechanical services.

5. Acting in a number of engineering disputes regarding the installation of cabling for electrical and communication services in New South Wales and Queensland.

A number of these matters have been referred to David by NECA NSW which is the peak industry for Electrical Contractors in New South Wales.

These matters have involved the submission of complex Payment Claims under SOPA and which required the preparation of substantive evidence and expert reports and legal submissions.

In addition David has acted in a number of matters in the Supreme Court of New South Wales involving challenges to Determinations of Adjudicators under SOPA.

A number of these matters have contributed to the development of the law.

Further, David regularly provides advices and training in the form of structured workshops to clients and the members of peak industry bodies as to how to properly prepare payment claims under SOPA and how to better manage construction and engineering contracts and contractual and other disputes.

In more recent times David has delivered workshop presentations to peak industry groups in South Australia and the ACT in preparation of the introduction of Security of Payment legislation.

David has substantial knowledge of the construction and power industries and is regularly provides advice to the General Counsel of NECA and its members.

In addition David also provides legal advice and assistance to the members of AMCA New South Wales which is the peak industry body for Mechanical and Fire Services Contractors in relation to SOPA and contract related issues.

David's experience has well equipped him to provide commercial and strategic advice in the conduct of litigation, the management of risk and the resolution of disputes.

For more information please contact:

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Practical Advice – Commercial Outcomes

July 2011

Commercial in confidence

CAPABILITY STATEMENT

for

**provision of Legal Services to Subcontractors in
South Australia in Security of Payment and
related matters**

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OUR FIRM

Kreisson Legal is a provider of premium legal services to the construction and engineering industries.

Kreisson Legal has acted in a number of major infrastructure, construction and engineering disputes ranging in value between \$5,000 to \$30 million under Security of Payment legislation in the Eastern States.

NO matter is too small or too large or complex for Kreisson Legal.

Our firm is centrally located in the Sydney CBD and employs dedicated lawyers who are passionate about their work and do excellent work for their clients.

Our team undertakes work throughout Australia and has over 10 years experience in the operation of Security of Payment legislation.

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OUR EXPERIENCE

Our solicitors have extensive experience in both the front end and back end of the construction and engineering industries and have been involved in complex legal and technical matters relating to:

- An off shore infrastructure and detention centre
- Power station in Queensland
- Industrial and distribution sites
- A major recreational and sporting club
- Waste water treatment plants, power plants, substations and co-generation plants
- Tunneling and infrastructure
- Mining camps in Queensland
- Commercial warehouses, office and residential tower buildings
- Shopping centres
- Schools, hospitals, Universities and Aged Care Facilities
- Commercial warehouses and offices
- Residential and cluster developments



OUR TEAM

1. The head of our Construction and Engineering Team is David Glinatsis, Solicitor Director, who has been legal practitioner for 25 years.
2. David Glinatsis will be the lead lawyer responsible for any legal services that would be provided by Kreisson Legal to the Subcontractor.
3. Where required from time to time David will be assisted by:
 - (a) a Senior Associate who has approximately 18 years post admission experience as a Construction Lawyer;
 - (b) other construction lawyers employed by Kreisson Legal;
 - (c) technical support from our panel consultants and engineers on an as required basis who in a support role enable Kreisson Legal to provide:
 - (i) legal services that are contextually and technically relevant to the issue in dispute;
 - (ii) a multi disciplinary approach to the preparation and formulation and testing of evidence, claims, responses, legal submissions and overall legal and commercial strategy;
 - (d) Independent experts which would be engaged separately;

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- (e) Legal Counsel who has worked together with Kreisson Legal and support team on major claims on as required basis to assist with the management of any difficult questions of law and contract interpretation and providing the final legal audit of the claims;
 - (f) The administrative and support teams within the Subcontractor. In this way administrative costs are reduced through the integration into the legal team of any available Subcontractor personnel who would be applied to perform administrative tasks on a delegated basis by Kreisson Legal.
4. As lead lawyer the responsibilities of David Glinatsis will include but not be limited to the following:
- (a) the provision of legal advice, process management, strategic reports and updates to the Subcontractor with regular status reports and costs advice to assist in the Subcontractor's internal reporting obligations to management;
 - (b) the management, preparation and compilation of lay and expert evidence;
 - (c) the relationship management and contact point between Kreisson Legal and the Subcontractor;
 - (d) the management, supervision and completion of the preparation of Variation Claims, Payment Claims under the *Building and Construction Industry Security of Payment Act 2009 (SOPA)(SA)*, Adjudication Applications, Payment Schedules and Responses and any litigation that may follow including any ICC or domestic arbitration hearings or Supreme Court References;
 - (e) undertaking any necessary travel interstate and overseas with the team of Kreisson Legal or the extended legal and expert team to inspect projects, gather evidence, attend to dispute meetings and provide the necessary service to eliminate or reduce senior management attendances away from the projects and the office.



OUR CAPABILITIES

1. Our firm has the flexibility to rapidly increase and reduce its resource allocation depending on the nature of the matter.
2. This means that for the Subcontractor, resources are not needlessly applied where not required and that at all times the appropriate skills set is applied for the management and preparation of any particular matter or issue under the direct supervision and direction of David Glinatsis.
3. In a number of complex matters, David Glinatsis has managed and supervised legal, claims and expert teams comprising of up to 20 people at given peaks as the workload has demanded. Those teams were reduced in size as quickly as they were constituted during expected troughs to relax the cost burden.
4. Further, our team will work on any major matter substantially from your Site or Head Office on a client Venue of Choice basis.
5. This is a unique feature of our service delivery which we replicate for all our major clients. Venue of Choice provides complete transparency on the legal work performed by Kreisson Legal, its consultants and Counsel and provides the necessary *'peace of mind'* for middle-management to be able to report to senior management and the controlling Board.

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6. We have the technology to work remotely with wireless back-to-office support and dictation systems and have by design, structured our business model to be flexible in order to expand our resource base rapidly as work flow demands.
 7. Venue of Choice service delivery has the following advantages for the Subcontractor:
 - (a) We have direct access to your personnel and documents which increases efficiencies in the compilation and formulation of evidence which reduces costs;
 - (b) The costs burden in the preparation of matters can be reduced significantly by use of the administrative support and infrastructure of the Subcontractor;
 - (c) We have access to decision makers and other Subcontractor stakeholders with whom we can discuss elements of the case and obtain urgent and immediate instructions if and when required reducing the risk of staggered instructions and the inefficiencies of having to travel to lawyer's offices;
 - (d) The Subcontractor can monitor progress and costs of the legal services as they are being performed and also assess whether our legal services are being undertaken in the most efficient and effective manner without the concern of "*blind time*" being charged for off site activities by lawyers;
 - (e) The Subcontractor's personnel do not have to leave the premises to spend long hours off site in the offices of lawyers. This enables the Subcontractor's personnel to better manage their projects while at the same time advance the claims and/or response preparation and continue parallel commercial discussions.

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OUR APPROACH

1. The matters in which we have been engaged often require a team to be mobilized at short notice to work either interstate or on site in South Australia within compressed time frames in a “*pressure cooker*” environment often used to describe matters that arise under SOPA.
2. Our team is well conditioned, seasoned and experienced to deal with major disputes whether:
 - (a) The dispute is akin to a “*train wreck*” with little to no relevant documentation, a disenfranchised project team and a lack of meaningful instructions; or
 - (b) The dispute is well documented and resourced and requires surgical precision to dissect and address issues to form a strategic legal and commercial position; or
 - (c) The dispute needs to be agitated in the Courts, whether at any State or at Federal Court level before the matter can proceed or resolve.
3. Our experience and skills base has the flexibility to deal with major claims and to provide a flexible team and appropriate tactical and strategic responses.
4. Our preparation of Claims and/or responses under SOPA and under the contract is robust and consists of the preparation of lay and expert evidence that can be used in a SOPA

context. Our threshold preparation also provides the foundation for evidence that can be relied upon and developed in any subsequent litigation.

5. As we have done for previous clients we prepare contractual claims and Security of Payment Claims and Applications and Responses in contemplation of long term litigation.

We rigorously test the evidence in order to substantiate the claims in readiness where possible for litigation and audit the ethics of the claims and/or responses for the purpose of management compliance and compliance with legal profession certification requirements and our ethical obligations when filing process with the Courts.

This approach results in claims and/or responses which are:

- (i) Robustly tested as to facts, expert evidence and law; and
 - (ii) Under-pinned with substantive evidence; and
 - (iii) Are ethically sound.
6. Our approach is such that where a dispute matures into litigation, our team including Counsel will be up to speed with the matter very quickly to deal with the substantive issues and be in a position to present evidence in proper form at very short notice and in a “*pressure cooker*” situation, particularly in the context of challenges to Determinations made under SOPA, urgent injunctions or stay applications or litigation by Court process or arbitration as the case may be.



OUR COSTS STRUCTURE

Our approach is innovative and resourceful and has resulted in some tremendously successful outcomes for our clients.

In comparison to larger firms our rates are extremely competitive.

Not only are our rates significantly less than those charged by 1st and 2nd tier firms, we pride ourselves in doing a better job for, at times, ½ the cost burden.



CONTACT DETAILS

Contact Details

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Plumbing SA



The Plumbing Industry Association of South Australia Inc.

May / June 2011



- Call Out Fees
- RECS - LRET/SRES - Name Changes
- Compliance, Compliance, Compliance...

The Building and Construction Industry Security of Payment Act 2009

Our Industry has been plagued and crippled by delays in the payment for construction work by:

- Builders
- Contractors
- Developers
- Government and Services
- Institutions and Agencies

Any company or person that engages you to provide construction work or related goods and services will need to comply with this new Act, The Building and Construction Industry Security of Payment Act 2009.

In the view of MES Pty Ltd, this Act will have an enormous impact upon all Claimants and Respondents. I have personally witnessed similar Acts in operation in the eastern states and South Australia is the last state to adopt the legislation.

What one will witness with the new Act

Out goes the argument that we will pay you when we get paid. When the Act commences your company will be given statutory rights for claims made under your contract for construction work and or related goods and services.

Everyone in our industry will be compelled to make their progress payments systems timely, including all who participate in approving claims. The Act will create a statutory right to an approved progress payment.

How we view a claim under this new Act

Your invoice, to be referred to as your 'Payment Claims' will be required to be paid within the terms agreed to under your contract unless the amount is disputed.

If no payment terms have been agreed, payment claims will become due for payment on the date occurring 15 business days after being made under the Act. Your client will be required to provide a Payment Schedule within 15 business days of receipt of the Payment Claim.

If full payment is not to be made, the Payment Schedule must indicate why. If no Payment Schedule is provided within 15 days of receiving the Payment Claim, your client becomes responsible for the full amount of your Payment Claim under the Act.

If payment is not made in full and a Payment Schedule is provided by your client setting out reasons why monies are being withheld, there is a process under the Act to have disputes over payment determined by an adjudicator.

This process can include you formally notifying your client that you intend to apply for adjudication where there is no Payment Schedule or you proceeding directly to adjudication within 15 days after you receive a Payment Schedule.

Your client will have 5 days to provide a Response to the Adjudicator after receiving the adjudication application. Both your adjudication application and your client's response will contain written arguments supported by relevant documents. This is why it is vital that you have your records and book keeping details in order and for them to be correct.

The adjudicator has to make a decision within 10 business days after receiving the Adjudication Response. The adjudicator makes the

determination of the amount of the payment based on the written material presented to the adjudicator.

Once the adjudicator has made a determination, the determination is enforceable as a judgment subject to any successful challenge to the determination in the Supreme Court.

If payment is still not made by your client after an adjudicator's decision, there is a process within the Act that allows you to suspend work.

The right to suspend under the Act can also arise if your client does not provide you with a Payment Schedule or fails to pay the whole or part of any amount that the respondent agreed to pay in a Payment Schedule provided to you under the Act.

Once the Act commences and for you to trigger the operation of the Act, all you need to do to protect your payment terms is to add to your Progress Claims - that the 'Payment Claim is made in accordance with the Building and Construction Industry Security of Payment Act 2009'.

In triggering the operation of the Act, however, you must make sure that you are ready and your paper work is in order especially if you suspect that there will be dispute over payment.

The provision of documents under the Act must also follow certain requirements and must be served in one of the following ways:

- Personal delivery during normal business hours;
- By facsimile or
- By post;
- In such other way as permitted under the contract;
- Unless permitted by your contract, email is NOT an acceptable form of serving documents under the Act.

It is absolutely vital you have your internal records and billing processes in place and that you ensure that your mail procedures are in order and incoming and outgoing mail is properly recorded.

Check all paperwork and signoff procedures by the designated responsible person. If an envelope appears under the door of your office it must be reviewed immediately as it could be deemed as being hand delivered under the Act even if your office is closed.

We are advised that we can expect assent to the regulations in late 2011.

We will prepare a tool kit to assist industry members.

Please refer to our web site for details:

<http://www.bruceharris.com.au/MES.html>

Bruce A Harris
Consulting Director
MES Pty Ltd

In association with Bruce Harris Project Management Pty Ltd
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Editorial

Apathy or Workload within the Industry?

Firstly, I would like to thank those members who attended the 'Security of Payment' information session, and those who also attended the 'Contract information session' held during the month of March, I hope you gained some valuable information that will assist your business. Secondly, I would like to know why there were a large proportion of members / plumbers who were noticeably unavailable. I would like to assume (dangerous word - I know) that everybody is so busy that they were unavailable due to their workloads.

I would however acknowledge that there would be a percentage of those cases and the remainder would come under the apathy within the plumbing industry banner. The role of an association can be challenged by many, but I believe the scope of an association is;

- to protect their members
- to educate and inform their members
- to lobby on behalf of their members to ensure greater outcomes for both members and industry
- to assist in member development / security with support in areas such as IR, HR, business support, technical support, training and compliance, business profitability and continuous professional development.
- offer service and benefits to members

The list does go on, but I think you get the gist of what I am saying. So, with that in mind, I am going to ask a number of questions to **you** the reader:

Are you one of the 10% that attends additional training offered by the various training organisations (Yes or No)

If you answered - No, you are in the 90% group.

As a plumber over the past 12 months have you had to fix another plumber's work? (Yes or No).

If you answered - No, then is your work meeting the current standards? Or is your work, the work being reworked by other plumbers? If you are confident that your work is compliant and not being reworked then - keep up the good work.

Note: there is increasing evidence that there is more non compliant work being performed by plumbers in 2010 than the past 5 - 10 years. This is

the crux of the issue, the lack of attendance at training programs and the apathy within the industry.

If you answer - Yes, then you understand our concern as an industry association. Before continuing on to the next question, why do some plumbers perform non compliant work, some of the reasons I came up with include;

- Lack of knowledge / training
- Lack of experience
- Lack of estimating / quoting experience which then involves cutting corners to make the job profitable
- Fix the problem and charge accordingly
- Don't really care about the image I portray, in business to make money

Are you aware that National Licensing is being introduced in 2012?

If you answer - No, well you do now, and attending various forms of training to retain your licence may become a standard requirement. So, what does all this mean? The PIA plan and schedule many training programs over a year and we believe that all are designed to benefit you as a plumber / business owner.

The PIA, invest time and resources developing programs that provide security to you the member and the industry as well as trying to maintain a professional image within the community and there are plans to develop more courses that offer greater benefits to you. We encourage you to have a closer look at what **your association** has to offer and participate in the training that will hopefully assist in reversing the trend of poor workmanship being performed in the industry. We thank those members who have communicated their concerns of where the industry is heading if some of these issues are not addressed.



Andrew Clarke
Executive Officer



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