

Security of Payment Warnings Abolished

The [Building and Construction Industry Security Of Payment Amendment Act 2013](#) is proclaimed to commence on 21 April 2014.

The Building and Construction Industry Security of Payment Act 1999 was amended by the Building and Construction Industry Security of Payment Amendment Act 2013. The amendments will not apply to construction contracts entered into before 21 April 2014. The Act applies to all construction contracts entered into by owners corporations for work on the common property.

The principal changes which affect owners corporations are as follows:

- Owners corporations will now be a principal under the main contract with the head contractor.
A progress payment is to be made by a principal to a head contractor 15 business days after a payment claim is made or such earlier date as may be provided by the contract.
- It is no longer possible to contractually extend the period for the making of the payment.
The contractor is no longer required to endorse a payment claim made under the Act in any way. This means that you must treat every invoice or payment claim under a construction contract or any construction arrangement as being subject to the Act.
- You will need to immediately enquire from your principal on receipt of any invoice for construction work, whether there is a dispute in relation to payment and, if there is, ensure that a payment schedule is prepared and served on the contractor within 15 business days of receipt of the invoice. Failure to do so will remove any

- right to withhold any part of the payment claim.
- Head contractors must now serve a supporting statutory statement with a payment claim which must include a declaration to the effect that all subcontractors have been paid.
 - Failure to serve a supporting statement leaves the head contractor liable to a fine up to \$22,000.00 but does not invalidate the payment claim.

For NSW strata legal or levy collection advice please contact us [here](#) or call 02 9562 1266, we're happy to assist.