



## Merry Christmas – Here's a Payment Claim

This time of the year sees a spike in the number of progress claims as jobs wind down. Many of these will be framed as Payment Claims under the Building and Construction Industry Payments Act (BCIPA).

If the receiver of a Payment Claim fails to respond within ten business days with a Payment Schedule, then the issuer of the Payment Claim is entitled to a Judgment for the sum claimed as a statutory debt. Given that many businesses will have staff members absent over the Christmas break; this poses a particular risk to the recipients of Payment Claims.

The process under BCIPA is quite strict and failure to comply may result in liability for a Judgment. The object of BCIPA is of course to ensure that issuers of Payment Claims are entitled to receive, and be able to recover in a speedy and effective process, any Progress Claims following the undertaking of construction work.

### **Recipients of Payment Claims at this time of the year should not fail to check their validity and compliance with the formal requirements of the Act, namely:**

- it must identify the construction work and related goods and services to which the claim relates;
- it must state the amount payable;
- it must state that the claim is made under the BCIPA; and
- it must be served as a formal notice on the recipient's registered address.

Once the validity of the Payment Claim is ascertained, the next step is to determine whether the claim is for an amount which should be paid or challenged. The proper response, if there is some disagreement as to the amount claimed, is a formal Payment Schedule and reply within the ten business days. Failure to do so within ten business days will preclude the bringing of any counterclaim against the issue of the Payment Claim and a defence cannot be raised in relation to matters under the Building Contract.

Accordingly, we urge all of our clients to treat Payment Claims urgently and with proper respect. As lawyers experienced in Building & Construction Industry disputes, and the BCIPA process and its complexities, **msl | michael sing lawyers** can help you by providing comprehensive advice in relation to the issuing of Payment Claims and responses by way of Schedules.

For assistance with all your legal needs, email us at [info@msslawyers.com.au](mailto:info@msslawyers.com.au) or visit our website [www.msslawyers.com.au](http://www.msslawyers.com.au). Alternatively, contact our professional team at our Gold Coast or Brisbane office.



**Michael Sing**, Managing Director of **msl**, has over 25 years of extensive experience in commercial and construction litigation, insurance matters, property and business transactions representing both plaintiff and defendant clients in all jurisdictions in Queensland. He has represented local government in public liability and contractual dispute resolution work for over 15 years. Michael has also successfully conducted substantial superior court litigation involving contractual and property disputes for individual investors, builders, developers and property owners.

**Gold Coast Office**

9 Ouyan Street  
Bundall QLD 4217  
PO Box 9073 GCMC QLD 9726  
T +61 7 5597 8888  
F +61 7 5597 8899

**Brisbane Office**

Level 10, 410 Queen Street  
Brisbane QLD 4000  
PO Box 3246 Brisbane QLD 4001  
T +61 7 3229 6099  
F +61 7 3226 9001