



Queensland

# **Building and Construction Industry Payments Amendment Bill 2014**





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# Building and Construction Industry Payments Amendment Bill 2014

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**2014**

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**A Bill**

for

***An Act to amend the *Building and Construction Industry Payments Act 2004* for particular purposes***

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	<b>The Parliament of Queensland enacts—</b>	1
<b>Clause 1</b>	<b>Short title</b>	2
	This Act may be cited as the <i>Building and Construction Industry Payments Amendment Act 2014</i> .	3 4
<b>Clause 2</b>	<b>Commencement</b>	5
	This Act commences on a day to be fixed by proclamation.	6
<b>Clause 3</b>	<b>Act amended</b>	7
	This Act amends the <i>Building and Construction Industry Payments Act 2004</i> .	8 9
<b>Clause 4</b>	<b>Amendment of s 4 (Effect of giving notice of claim of charge under Subcontractors' Charges Act 1974)</b>	10 11
	(1) Section 4(4)(a), 'section 18(5)'—	12
	<i>omit, insert—</i>	13
	section 19(2)	14
	(2) Section 4(4)(b), 'section 19(2)(a)(i)'—	15
	<i>omit, insert—</i>	16
	section 19(3)(a)(i)	17
	(3) Section 4(4)(d)(ii), 'an authorised nominating authority'—	18
	<i>omit, insert—</i>	19
	the registrar	20
	(4) Section 4(5), '34 or'—	21
	<i>omit.</i>	22
<b>Clause 5</b>	<b>Amendment of s 17 (Payment claims)</b>	23
	(1) Section 17(2)—	24



*insert—*

- (d) must identify whether it is a standard payment claim or complex payment claim.

(2) Section 17(4) to (6)—

*omit, insert—*

- (4) A claimant can not serve more than 1 payment claim for each reference date under the construction contract, but may include in any payment claim an amount that has been the subject of a previous payment claim.

**Clause 6 Insertion of new s 17A**

After section 17—

*insert—*

**17A Time requirements for payment claims**

- (1) This section applies if a claimant serves a payment claim on a respondent.
- (2) Unless the payment claim relates to a final payment, the claim must be served within the later of—
  - (a) the period, if any, worked out under the relevant construction contract; or
  - (b) the period of 6 months after the construction work to which the claim relates was last carried out or the related goods and services to which the claim relates were last supplied.
- (3) If the payment claim relates to a final payment, the claim must be served within the later of the following—
  - (a) the period, if any, worked out under the relevant construction contract;

[s 7]

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	(b) 28 days after the end of the last defects liability period, if any, worked out under the relevant construction contract;	1 2 3
	(c) 6 months after the later of—	4
	(i) completion of all construction work to be carried out under the relevant construction contract; or	5 6 7
	(ii) complete supply of related goods and services to be supplied under the relevant construction contract.	8 9 10
	(4) In this section—	11
	<i>defects liability period</i> , for a construction contract, means the period, if any, worked out under the contract as being the period—	12 13 14
	(a) starting on the day the construction work is completed or the related goods and services are supplied; and	15 16 17
	(b) ending on the last day any omission or defect in the construction work or related goods or services may be rectified.	18 19 20
	<i>final payment</i> means a progress payment that is the final payment for construction work carried out, or for related goods and services supplied, under a construction contract.	21 22 23 24
<b>Clause 7</b>	<b>Amendment of s 18 (Payment schedules)</b>	25
	Section 18(4) and (5)—	26
	<i>omit.</i>	27
<b>Clause 8</b>	<b>Insertion of new s 18A</b>	28
	After section 18—	29
	<i>insert—</i>	30

<b>18A Time requirements for payment schedules</b>	1
(1) This section applies if a respondent serves a payment schedule on a claimant.	2 3
(2) The payment schedule, if it relates to a standard payment claim, must be served on the claimant within the earlier of—	4 5 6
(a) the time required, if any, by the relevant construction contract; or	7 8
(b) 10 business days after the payment claim is served.	9 10
(3) The payment schedule, if it relates to a complex payment claim, must be served on the claimant within the earlier of—	11 12 13
(a) the time required, if any, by the relevant construction contract; or	14 15
(b) whichever of the following applies—	16
(i) if the claim was served on the respondent 90 days or less after the reference date to which the claim relates—15 business days after the claim is served;	17 18 19 20 21
(ii) if the claim was served on the respondent more than 90 days after the reference date to which the claim relates—30 business days after the claim is served.	22 23 24 25 26

<b>Clause 9</b>	<b>Replacement of s 19 (Consequences of not paying claimant if no payment schedule)</b>	27 28
	Section 19—	29
	<i>omit, insert</i> —	30

[s 10]

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- 19 Consequences of not paying claimant if no payment schedule** 1  
2
- (1) This section applies if a respondent served with a payment claim does not serve a payment schedule on the claimant within the time that the respondent may serve the schedule on the claimant. 3  
4  
5  
6  
7
- (2) The respondent becomes liable to pay the claimed amount to the claimant on the due date for the progress payment to which the payment claim relates. 8  
9  
10  
11
- (3) If the respondent fails to pay the whole or any part of the claimed amount on or before the due date for the progress payment to which the payment claim relates, the claimant— 12  
13  
14  
15
- (a) may— 16
- (i) recover the unpaid portion of the claimed amount from the respondent, as a debt owing to the claimant, in any court of competent jurisdiction; or 17  
18  
19  
20
- (ii) make an adjudication application under section 21(1)(b) in relation to the payment claim; and 21  
22  
23
- (b) may serve notice on the respondent of the claimant's intention to suspend, under section 33, carrying out construction work or supplying related goods and services under the construction contract. 24  
25  
26  
27  
28
- (4) A notice under subsection (3)(b) must state that it is made under this Act. 29  
30

- Clause 10 Amendment of s 20 (Consequences of not paying claimant under payment schedule)** 31  
32
- (1) Section 20(1)(b)— 33
- omit, insert—* 34

	(b) the respondent serves a payment schedule on the claimant within the time that the respondent may serve the schedule on the claimant; and	1 2 3 4
(2)	Section 20(4)— <i>omit.</i>	5 6
<b>Clause 11</b>	<b>Insertion of new s 20A</b>	7
	Part 3, division 1—	8
	<i>insert—</i>	9
	<b>20A Notice required before starting proceedings to recover unpaid portion as a debt</b>	10 11
	(1) This section applies if a claimant—	12
	(a) may, under section 19(3)(a)(i), start proceedings to recover an unpaid portion of a claimed amount as a debt owing to the claimant; or	13 14 15 16
	(b) may, under section 20(2)(a)(i), start proceedings to recover an unpaid portion of a scheduled amount as a debt owing to the claimant.	17 18 19 20
	(2) The claimant can not start the proceedings unless—	21 22
	(a) the claimant first gives the respondent notice, within 20 business days immediately following the due date for payment, of the claimant’s intention to start the proceedings; and	23 24 25 26 27
	(b) the notice states that the respondent may serve a payment schedule on the claimant within 5 business days after receiving the notice; and	28 29 30 31
	(c) the respondent does not serve the payment schedule on the claimant within the time required under paragraph (b).	32 33 34



	(e) must be accompanied by the fee prescribed by regulation for the application; and	1 2
(4)	Section 21(6), ‘authorised nominating authority to which an adjudication application is made’—	3 4
	<i>omit, insert</i> —	5
	registrar	6
<b>Clause 13</b>	<b>Amendment of s 23 (Appointment of adjudicator)</b>	7
	Section 23(1), ‘an authorised nominating authority’—	8
	<i>omit, insert</i> —	9
	the registrar	10
<b>Clause 14</b>	<b>Replacement of s 24 (Adjudication responses)</b>	11
	Section 24—	12
	<i>omit, insert</i> —	13
	<b>24 Adjudication responses</b>	14
	(1) This section applies if—	15
	(a) an adjudicator accepts a claimant’s adjudication application under section 23; and	16 17 18
	(b) the respondent served a payment schedule on the claimant within the time that the respondent may serve the schedule on the claimant.	19 20 21 22
	(2) The respondent may give the adjudicator a response to the adjudication application (the <i>adjudication response</i> ).	23 24 25
	(3) The adjudication response—	26
	(a) must be in writing; and	27
	(b) must identify the adjudication application to which it relates; and	28 29

[s 14]

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- (c) may contain the submissions relevant to the response the respondent chooses to include. 1  
2
- (4) If the adjudication application is about a standard payment claim, the adjudication response can not include any reasons for withholding payment unless those reasons were included in the payment schedule when served on the claimant. 3  
4  
5  
6  
7
- (5) If the adjudication application is about a complex payment claim, the adjudication response may include any reasons for withholding payment whether or not those reasons were included in the payment schedule when served on the claimant. 8  
9  
10  
11  
12

**24A Time requirements for adjudication response** 13

- (1) Subsection (2) applies for an adjudication response to an adjudication application about a standard payment claim. 14  
15  
16
- (2) The respondent must give the adjudicator the adjudication response within the later of the following to end— 17  
18  
19
  - (a) 10 business days after receiving a copy of the adjudication application; 20  
21
  - (b) 7 business days after receiving notice of the adjudicator’s acceptance of the adjudication application. 22  
23  
24
- (3) Subsections (4) to (7) apply for an adjudication response to an adjudication application about a complex payment claim. 25  
26  
27
- (4) The respondent must give the adjudicator the adjudication response within the later of the following to end— 28  
29  
30
  - (a) 15 business days after receiving a copy of the adjudication application; 31  
32



- 
- (b) 12 business days after receiving notice of the adjudicator’s acceptance of the adjudication application.
  - (5) However, the respondent may apply to the adjudicator for an extension of time, of up to 15 additional business days, to give the adjudication response.
  - (6) The application must—
    - (a) be made within the later of the following to end—
      - (i) 5 business days after receiving a copy of the adjudication application;
      - (ii) 2 business days after receiving notice of the adjudicator’s acceptance of the adjudication application; and
    - (b) be in writing; and
    - (c) include the reasons for requiring the extension of time.
  - (7) If the application is granted, the respondent may give the adjudicator the adjudication response no later than the end of the extension of time granted by the adjudicator.
  - (8) A copy of an adjudication response must be served on the claimant no more than 2 business days after it is given to the adjudicator.

**24B Reply to new reasons for withholding payment**

- (1) This section applies if, under section 24(5), the respondent includes in an adjudication response reasons for withholding payment that were not included in the payment schedule when served on the claimant (the *new reasons*).
- (2) The claimant may give the adjudicator a reply to the new reasons (the *claimant’s reply*) within 15

[s 15]

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business days after receiving a copy of the adjudication response. 1  
2

(3) However, the claimant may apply to the adjudicator for an extension of time, of up to 15 additional business days, to give the claimant's reply if, because of the complexity or volume of the new reasons, an extension of time is required to adequately prepare the claimant's reply. 3  
4  
5  
6  
7  
8

(4) The application must— 9

(a) be made within 5 business days after receiving a copy of the adjudication response; and 10  
11  
12

(b) be in writing; and 13

(c) include the reasons for requiring the extension of time. 14  
15

(5) If the application is granted, the claimant may give the adjudicator the claimant's reply no later than the end of the extension of time granted by the adjudicator. 16  
17  
18  
19

(6) A copy of the claimant's reply must be served on the respondent no more than 2 business days after it is given to the adjudicator. 20  
21  
22

**Clause 15 Replacement of s 25 (Adjudication procedures) 23**

Section 25— 24

*omit, insert—* 25

**25 Adjudication procedures 26**

(1) Subject to the time requirements under section 25A, an adjudicator must decide the following as quickly as possible— 27  
28  
29

(a) an adjudication application; 30

(b) applications for extensions of time under this part. 31  
32

- 
- (2) An adjudicator must not consider an adjudication response or a claimant's reply unless it was given to the adjudicator within the time that the respondent or claimant may give it to the adjudicator.
- (3) For a proceeding conducted to decide an adjudication application, an adjudicator—
- (a) must decide whether he or she has jurisdiction to adjudicate the application; and
  - (b) may ask for further written submissions from either party and must give the other party an opportunity to comment on the submissions; and
  - (c) may set deadlines for further submissions and comments by the parties; and
  - (d) may call a conference of the parties; and
  - (e) may carry out an inspection of any matter to which the claim relates.
- (4) If a conference is called, it must be conducted informally and the parties are not entitled to any legal representation.
- (5) The adjudicator's power to decide an adjudication application is not affected by the failure of either or both of the parties to make a submission or comment within time or to comply with the adjudicator's call for a conference of the parties.
- (6) If an adjudicator decides the payment claim for the adjudication application has been incorrectly identified as a complex payment claim, the adjudicator must continue to decide the application as if it related to a complex payment claim.
- (7) If an adjudicator decides the payment claim for the adjudication application has been incorrectly
-

[s 15]

---

identified as a standard payment claim, the 1  
adjudication application is taken to be 2  
withdrawn. 3

**25A Time requirements for adjudication 4  
proceedings 5**

- (1) An adjudicator must not decide an adjudication 6  
application until after the end of the following 7  
periods that apply for the application— 8
- (a) the period within which the respondent may 9  
give an adjudication response to the 10  
adjudicator; 11
  - (b) the period within which the claimant may 12  
give a claimant’s reply to the adjudication 13  
response. 14

*Note—* 15

Only a complex payment claim may involve a claimant’s 16  
reply—see section 24B. 17

- (2) An adjudicator must decide an adjudication 18  
application relating to a standard payment claim 19  
within 10 business days after the earlier of— 20
- (a) if the adjudicator was given an adjudication 21  
response—the date on which the adjudicator 22  
receives the response; or 23
  - (b) if the adjudicator was not given an 24  
adjudication response—the date on which 25  
the adjudicator should have received the 26  
response. 27
- (3) An adjudicator must decide an adjudication 28  
application relating to a complex payment claim 29  
within 15 business days after— 30
- (a) if the adjudicator was given an adjudication 31  
response and was not also given a claimant’s 32  
reply—the date on which the adjudicator 33  
receives the response; or 34

- (b) if the adjudicator was given an adjudication response and was also given a claimant’s reply—the date on which the adjudicator receives the reply; or 1  
2  
3  
4
- (c) if the adjudicator was not given an adjudication response—the date on which the adjudicator should have received the response. 5  
6  
7  
8
- (4) Despite subsections (2) and (3), if the claimant and respondent agree in writing to the adjudicator having further time (the *agreed time*) to decide an adjudication application, the adjudicator must decide the application within the agreed time. 9  
10  
11  
12  
13
- (5) The claimant and respondent may agree to the further time under subsection (4) before or after the expiry of time under subsection (2) or (3). 14  
15  
16

**25B Extension of time requirements by adjudicator** 17

- (1) This section applies if— 18
  - (a) an adjudication application relates to a complex payment claim; and 19  
20
  - (b) in the opinion of the adjudicator, the claimant and respondent attempt, but fail, to reach agreement under section 25A(4). 21  
22  
23
- (2) The adjudicator may, despite section 25A(3), decide the application within 5 business days after the time the adjudicator would otherwise have to decide the application under section 25A(3). 24  
25  
26  
27  
28

**Clause 16 Amendment of s 30 (Consequences of not paying claimant adjudicated amount)** 29  
30

- (1) Section 30(1)(a), ‘authorised nominating authority to whom the adjudication application was made’— 31  
32  
*omit, insert—* 33

[s 17]

---

	registrar	1
(2)	Section 30(4), ‘request the authorised nominating authority’—	2
	<i>omit, insert</i> —	3
	ask the registrar	4
(3)	Section 30(6), ‘authorised nominating authority’—	5
	<i>omit, insert</i> —	6
	registrar	7
<b>Clause 17</b>	<b>Amendment of s 32 (Claimant may make new application in certain circumstances)</b>	8
	Section 32(1)(b), ‘section 25(3)’—	9
	<i>omit, insert</i> —	10
	section 25A or 25B	11
<b>Clause 18</b>	<b>Amendment of s 33 (Claimant may suspend work)</b>	12
	Section 33(2), ‘section 19(1)’—	13
	<i>omit, insert</i> —	14
	section 19(2)	15
<b>Clause 19</b>	<b>Replacement of s 34 (Authorised nominating authority’s fees)</b>	16
	Section 34—	17
	<i>omit, insert</i> —	18
	<b>34 Incorrectly identified standard and complex payment claims</b>	19
(1)	Subsection (2) applies if, under section 17(2)(d), a claimant incorrectly identifies a complex payment claim as a standard payment claim.	20
(2)	The payment claim is taken to be a standard payment claim for the purpose of part 3 unless	21

and until an adjudicator decides the payment claim has been incorrectly identified under division 2.

*Note—*

Section 25(7) states the consequences of an adjudicator deciding that a complex payment claim has been incorrectly identified as a standard payment claim.

- (3) Subsection (4) applies if, under section 17(2)(d), a claimant incorrectly identifies a standard payment claim as a complex payment claim.
- (4) The payment claim is taken to be a complex payment claim for the purpose of part 3.

**Clause 20      Amendment of s 35 (Adjudicator’s fees)**

(1) Section 35(4), from ‘(other’ to ‘25(3)’—

*omit.*

(2) Section 35(5)—

*omit, insert—*

(5) However, subsection (4) does not apply if—

(a) the adjudication application is withdrawn;  
or

(b) the adjudicator decided he or she did not have jurisdiction to adjudicate the application.

(6) Also, if a court finds that the adjudicator’s decision is void and unenforceable, the adjudicator is still entitled to be paid any fees or expenses for the adjudication of the application if the adjudicator acted in good faith in adjudicating the application.

(7) For subsection (4), an adjudicator does not fail to make a decision merely because the adjudicator refuses to communicate the adjudicator’s decision on an adjudication application until the adjudicator’s fees and expenses are paid.

[s 21]

---

	(8) In this section—	1
	<i>adjudicating</i> , an adjudication application,	2
	includes accepting, considering and deciding the	3
	application.	4
<b>Clause 21</b>	<b>Insertion of new ss 35A and 35B</b>	5
	Part 3, division 4—	6
	<i>insert—</i>	7
	<b>35A Matters to be considered in deciding fees</b>	8
	(1) This section applies if an adjudicator is making a	9
	decision about the proportion of the adjudicator’s	10
	fees and expenses to be paid by the claimant and	11
	respondent under section 35(3).	12
	(2) In making the decision, the adjudicator may	13
	consider the following matters—	14
	(a) the relative success of the claimant or	15
	respondent in the adjudication;	16
	(b) whether the claimant or respondent	17
	commenced or participated in the	18
	adjudication for an improper purpose;	19
	(c) whether the claimant or respondent	20
	commenced or participated in the	21
	adjudication without reasonable prospects	22
	of success;	23
	(d) whether the claimant or respondent has	24
	acted unreasonably leading up to the	25
	adjudication;	26
	(e) whether the claimant or respondent has	27
	acted unreasonably in the conduct of the	28
	adjudication;	29
	(f) the reasons given by the respondent for not	30
	making the progress payment the subject of	31
	the adjudication application;	32



- (g) whether the respondent included additional reasons for withholding payment in the adjudication response that were not included in the payment schedule served on the claimant; 1  
2  
3  
4  
5
- (h) whether an adjudication application is withdrawn; 6  
7
- (i) the services provided by the adjudicator in adjudicating the adjudication application, including the amount of time taken to consider discrete aspects of the amount claimed; 8  
9  
10  
11  
12
- (j) another matter the adjudicator considers relevant in making the decision. 13  
14

**35B Withdrawing from adjudication** 15

An adjudication application is taken to have been withdrawn if— 16  
17

- (a) a claimant has served a notice of discontinuation on the adjudicator and respondent; or 18  
19  
20
- (b) a respondent has paid the claimed amount the subject of the adjudication application to the claimant. 21  
22  
23

*Note—* 24

Despite the withdrawal of an adjudication application an adjudicator is still entitled to be paid fees for considering the application—see section 35. 25  
26  
27

**Clause 22 Amendment of s 38 (Registrar’s functions and powers)** 28

- (1) Section 38(2), before paragraph (a)— 29  
*insert—* 30  
    (aa) to refer adjudication applications to adjudicators; 31
- (2) Section 38(2)(a), ‘authorised nominating authorities and’— 32

[s 23]

---

*omit.*

1

(3) Section 38(2)(a), ‘paragraph (b)’—

2

*omit, insert—*

3

paragraph (c)

4

(4) Section 38(2)(aa) to (g)—

5

*renumber* as section 38(2)(a) to (h).

6

**Clause 23 Amendment of s 39 (Delegation by registrar)**

7

Section 39(2)—

8

*omit.*

9

**Clause 24 Omission of s 40 (Acting registrar)**

10

Section 40—

11

*omit.*

12

**Clause 25 Amendment of s 41 (Annual report on operation of Act and registry)**

13

14

Section 41(2)—

15

*omit, insert—*

16

(2) The report may be included in the commission’s annual report.

17

18

(3) Unless the report is included in the commission’s annual report, the Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

19

20

21

22

(4) In this section—

23

*annual report* means an annual report prepared under the *Financial Accountability Act 2009*, section 63.

24

25

26

<b>Clause 26</b>	<b>Omission of pt 4, div 2 (Registration of authorised nominating authorities)</b>	1 2
	Part 4, division 2—	3
	<i>omit.</i>	4
<b>Clause 27</b>	<b>Amendment of s 68 (Form of certificate of registration)</b>	5
	Section 68(a), ‘registrant’s’—	6
	<i>omit, insert—</i>	7
	adjudicator’s	8
<b>Clause 28</b>	<b>Amendment of pt 4, div 4, hdg (Renewals of registrations of authorised nominating authorities and adjudicators)</b>	9 10
	Part 4, division 4, heading ‘authorised nominating authorities and’—	11 12
	<i>omit.</i>	13
<b>Clause 29</b>	<b>Amendment of s 69 (Definitions for div 4)</b>	14
	(1) Section 69, definition <i>registrant</i> —	15
	<i>omit, insert—</i>	16
	<b><i>registrant</i></b> means an adjudicator applying for a renewal of registration as an adjudicator.	17 18
	(2) Section 69, definition <i>registration</i> —	19
	<i>omit, insert—</i>	20
	<b><i>registration</i></b> means renewal of registration as an adjudicator.	21 22
<b>Clause 30</b>	<b>Amendment of pt 4, div 5, hdg (Amendment of registrations of authorised nominating authorities and adjudicators)</b>	23 24 25
	Part 4, division 5, heading ‘authorised nominating authorities and’—	26 27

[s 31]

---

*omit.* 1

**Clause 31 Amendment of s 73 (Definitions for div 5)** 2

(1) Section 73, definition *registrant*— 3

*omit, insert*— 4

*registrant* means an adjudicator applying for amendment of a registration as an adjudicator. 5  
6

(2) Section 73, definition *registration*— 7

*omit, insert*— 8

*registration* means an amendment of a registration as an adjudicator. 9  
10

**Clause 32 Amendment of pt 4, div 6, hdg (Suspension or cancellation of registrations of authorised nominating authorities and adjudicators)** 11  
12  
13

Part 4, division 6, heading ‘authorised nominating authorities and’— 14  
15

*omit.* 16

**Clause 33 Amendment of s 76 (Definitions for div 6)** 17

(1) Section 76, definition *registrant*— 18

*omit, insert*— 19

*registrant* means a person registered as an adjudicator. 20  
21

(2) Section 76, definition *registration*— 22

*omit, insert*— 23

*registration* means registration as an adjudicator. 24



[s 37]

---

*omit, insert—*

1

**registration** means registration as an adjudicator.

2

**Clause 37 Amendment of s 100 (Effect of pt 3 on civil proceedings)**

3

Section 100—

4

*insert—*

5

(4) If, in any proceedings before a court in relation to any matter arising under a construction contract, the court finds that only a part of an adjudicator's decision under part 3 is affected by jurisdictional error, the court must—

6

7

8

9

10

(a) identify the part affected by the error; and

11

(b) allow the part of the decision not affected by the error to remain binding on the parties to the proceeding.

12

13

14

**Clause 38 Omission of s 101 (Adjudicator must give copy of decision to authorised nominating authority)**

15

16

Section 101—

17

*omit.*

18

**Clause 39 Replacement of s 102 (Authorised nominating authority must give information to registrar)**

19

20

Section 102—

21

*omit, insert—*

22

**102 Adjudicator must give information to registrar**

23

An adjudicator must, at the times specified by the registrar, give the registrar—

24

25

(a) a copy of the adjudicator's decisions; and

26

(b) the other information required in the approved form.

27

28

<b>Clause 40</b>	<b>Amendment of s 105 (Evidentiary aids)</b>	1
	(1) Section 105(2)(a)—	2
	<i>omit.</i>	3
	(2) Section 105(2)(b) and (c)—	4
	<i>renumber</i> as section 105(2)(a) and (b).	5
<b>Clause 41</b>	<b>Amendment of s 107 (Protection from liability for adjudicators and authorised nominating authorities)</b>	6
	(1) Section 107, heading, ‘and authorised nominating authorities’—	7
	<i>omit.</i>	8
	(2) Section 107(2)—	9
	<i>omit.</i>	10
<b>Clause 42</b>	<b>Amendment of pt 7, hdg (Transitional)</b>	11
	Part 7, heading, ‘Transitional’—	12
	<i>omit, insert</i> —	13
	<b>Transitional provisions</b>	14
<b>Clause 43</b>	<b>Insertion of new pt 7, div 1, hdg</b>	15
	After part 7, heading—	16
	<i>insert</i> —	17
	<b>Division 1</b>	18
	<b>Transitional provision for Act No. 6 of 2004</b>	19
<b>Clause 44</b>	<b>Insertion of new pt 7, div 2</b>	20
	After section 112—	21
	<i>insert</i> —	22

[s 44]

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<b>Division 2</b>	<b>Transitional provisions for Building and Construction Industry Payments Amendment Act 2014</b>	1
		2
		3
		4
<b>113</b>	<b>Registration of authorised nominating authorities</b>	5
		6
(1)	The registration of an authorised nominating authority ends.	7
		8
(2)	The registrar must refund the amount of the authorised nominating authority's registration fee that, on the ending of an authorised nominating authority's registration, is proportional to the unexpired period of the registration in whole months.	9
		10
		11
		12
		13
		14
(3)	An application for registration or application for renewal of registration made, but not decided, before the commencement is taken to be withdrawn.	15
		16
		17
		18
(4)	The registrar must refund to the authorised nominating authority the amount of the application fee for registration or for renewing his or her registration.	19
		20
		21
		22
(5)	In this section—	23
	<i>application for registration</i> means an application for registration as an authorised nominating authority under repealed section 42.	24
		25
		26
	<i>application for renewal of registration</i> means an application for renewal of a registration under section 70.	27
		28
		29
	<i>commencement</i> means the commencement of this section.	30
		31



<b>114 Applications to authorised nominating authorities for adjudication</b>	1
	2
(1) This section applies to an adjudication application made under section 21, but not yet decided, before the commencement.	3 4 5
(2) The adjudication application must be dealt with and decided under the unamended Act as if this Act had not been amended by the <i>Building and Construction Industry Payments Amendment Act 2014</i> .	6 7 8 9 10
(3) In this section—	11
<i>commencement</i> means the commencement of this section.	12 13
<i>unamended Act</i> means this Act as in force immediately before the commencement of this section.	14 15 16

<b>Clause 45 Amendment of sch 2 (Dictionary)</b>	17
(1) Schedule 2, <i>adjudication certificate</i> , <i>adjudication fees</i> , <i>authorised nominating authority</i> and <i>business day</i> —	18 19
<i>omit</i> .	20
(2) Schedule 2—	21
<i>insert</i> —	22
<i>adjudication certificate</i> means a certificate provided by the registrar under this Act.	23 24
<i>adjudication fees</i> means fees or expenses charged by an adjudicator under this Act.	25 26
<i>business day</i> does not include—	27
(a) a Saturday or Sunday; or	28
(b) a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done; or	29 30 31

[s 45]

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- (c) any day occurring within any of the following periods—
- (i) 22 to 24 December;
  - (ii) 27 to 31 December;
  - (iii) 2 to 10 January.
- complex payment claim*** means a payment claim for any of the following—
- (a) any payment for an amount more than \$750000 or, if a greater amount is prescribed by regulation, the amount prescribed;
  - (b) a latent condition under the relevant construction contract;
  - (c) a time-related cost under the relevant construction contract.
- standard payment claim*** means a payment claim that is not a complex payment claim.
- (3) Schedule 2, definition *adjudication response*, ‘24(1)’—  
*omit, insert—*  
24(2)
- (4) Schedule 2, definition *relevant offence*, paragraph (f), ‘authorised nominating authority or an’—  
*omit.*

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