

# Proclamation—Building Industry Fairness (Security of Payment) Act 2017

Explanatory notes for SL 2018 No. 15

made under the

*Building Industry Fairness (Security of Payment) Act 2017*

## General Outline

### Short title

Proclamation commencing certain sections of the *Building Industry Fairness (Security of Payment) Act 2017*.

### Authorising law

Section 2 of the *Building Industry Fairness (Security of Payment) Act 2017* (the Act).

### Policy objectives and the reasons for them

Section 2 of the Act provides for the commencement of provisions that did not commence on assent, to commence on a day to be fixed by proclamation.

The objective of the Proclamation is to commence the following provisions of the Act on 1 March 2018:

- chapter 1, other than section 1, 2 and 3(2)(b) to (d)
- chapter 2
- chapter 6
- chapter 7, other than section 201(2)(b) to (g)
- section 211, other than section 211(1)(a)(ii) and (5)
- section 307(1), other than to the extent it omits the definition *demerit matter*
- schedule 2.

Chapter 1 provides for the Act's commencement, the main purpose of the Act, the Act's application and operation, and interpretation of the Act.

Chapter 2 governs the use of project bank accounts in the building and construction industry.

Chapter 6 includes various provisions about legal proceedings carried out under the Act, such as the requirement for enforcement action to comply with prescribed

guidelines, the use of evidence in proceedings and that penalties and fines paid under the Act are to be paid to the Queensland and Construction Commission (QBCC).

Chapter 7 enables the chief executive or the QBCC commissioner to approve forms for use under the Act. It also provides for the delegation of the commissioner's powers, the ability to make a regulation under the Act, and prevents an individual from contracting out of their responsibilities under the Act.

Section 211 provides a transitional regulation-making power to make provision about a matter in order to allow or facilitate the doing of anything to achieve the operation of the Act in relation to PBAs, or where the Act does not make provision or sufficient provision. Section 211 and any transitional regulation made under this section expire one year after the day of their commencement.

Section 307 inserts definitions for 'contract price', 'demerit points', 'direction to rectify or remedy', 'influential person', minimum financial requirements' in Schedule 2 to reflect changes made to the *Queensland Building and Construction Commission Act 1991* by the Act.

Schedule 2 contains the dictionary for the Act.

## **Achievement of policy objectives**

Commencing the provisions of the Act referred to above, particularly Chapter 2, will implement Phase 1 of PBAs, which relates to Government building and construction projects (excluding engineering) valued at between \$1-10 million. The commencement of the definitions, some miscellaneous provisions, the transitional regulation-making power and provisions relating to legal proceedings will support the implementation of PBAs.

## **Consistency with policy objectives of authorising law**

The Proclamation is consistent with the objectives of the Act.

## **Inconsistency with policy objectives of other legislation**

There is no inconsistency with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

The policy objectives can only be achieved by making the Proclamation.

## **Benefits and costs of implementation**

As outlined in the explanatory notes to the Act, any costs arising from implementation of the Act will be met from existing resources.

## **Consistency with fundamental legislative principles**

The Proclamation is consistent with fundamental legislative principles.

## **Consultation**

The Queensland Productivity Commission was consulted in the development of the proclamation.