

Proclamation - *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024*

Explanatory notes for Subordinate Legislation 2024 No. 84

made under the

Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024

General Outline

Short title

Proclamation commencing the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024* except Part 4 sections 36, 39 and 41(2) and 41(3) (the Proclamation)

Authorising law

Section 2 of the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024* (BIFOLA Act 2024)

Policy objectives and the reasons for them

The objective of the Proclamation is to fix 1 July 2024 as the commencement date for all sections of the BIFOLA Act 2024 except those related to GST on retention amounts (i.e. Part 4 sections 36, 39 and 41(2) and 41(3) which are intended to commence at a later date).

Section 2 of the BIFOLA Act 2024 provides that the Act commences on a day fixed by Proclamation.

The BIFOLA Act 2024 was passed by the Legislative Assembly on 16 April 2024 and received Royal Assent on 26 April 2024. The BIFOLA Act 2024 makes amendments to the following Acts:

- *Architects Act 2002*
- *Building Act 1975*
- *Building Industry Fairness (Security of Payment) Act 2017*
- *Plumbing and Drainage Act 2018*
- *Professional Engineers Act 2002*
- *Queensland Building and Construction Commission Act 1991*.

The amendments contained in the BIFOLA Act 2024 will:

- support continued implementation of trust accounts through clarifying and simplifying matters – this includes clarifying that retention amounts include GST (where applicable)
- implement recommendations of the Queensland Building and Construction Commission Governance Review 2022 (QBCC Governance Review)
- clarify existing provisions, improve registration and regulatory processes, support industry and consumers and facilitate QBCC’s ability to share information with the Department of Housing, Local Government, Planning and Public Works (DHLGPPW).

Achievement of policy objectives

The policy objectives will be achieved by making the Proclamation to fix the commencement date for all sections of the BIFOLA Act 2024 except those related to GST on retention amounts (i.e., Part 4 sections 36, 39 and 41(2) and 41(3)).

Consistency with policy objectives of authorising law

The Proclamation is consistent with the main objects of the BIFOLA Act 2024, that is to help people working in the building and construction industry in being paid for the work they do. It is also consistent with the objectives of other Acts amended by the BIFOLA Act 2024.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making the Proclamation. These issues cannot be addressed administratively or by other policy means.

Benefits and costs of implementation

The benefit of the Proclamation is to fix the commencement date for the BIFOLA Act 2024 which serves to simplify and clarify the trust account framework’s application. Making the Proclamation is not expected to incur additional costs for industry.

Any government costs arising from commencement of the BIFOLA Act 2024 provisions will be met from existing resources.

Consistency with fundamental legislative principles

The Proclamation is consistent with fundamental legislative principles.

Consultation

Broad stakeholder consultation has continued throughout the development of the BIFOLA Act 2024 and BIFOLA Regulation amendments. This includes consultation with the Ministerial Construction Council, which consists of key industry stakeholders, and the Trust Account Framework Implementation Steering Committee. Dedicated consultation has also occurred with accounting professional bodies and software providers.

In accordance with the Queensland Government Better Regulation Policy, an Impact Analysis Statement (IAS) has been prepared and approved by the Director-General, DHLGPPW and Minister for Housing, Local Government and Planning and Minister for Public Works. The IAS found, in summary, that making the Proclamation is machinery in nature and does not add any additional burden. It facilitates commencement of the BIFOLA Act 2024 provisions which continue to support industry through clarifying and simplifying matters under the framework. Therefore, no further regulatory impact assessment is required.