

## Responding to a Payment Claim

This fact sheet explains a respondent's options in responding to a payment claim under the *Building and Construction Industry Security of Payment Act 2002*.

### THE RESPONDENT'S OPTIONS UNDER THE SOP ACT

Under the *Building and Construction Industry Security of Payment Act 2002*, the respondent may respond to a payment claim in one of two ways:

- If the respondent **agrees** with the payment claim, pay the amount claimed in full, on or before the due date.
- If the respondent **does not agree** to pay the full amount by the due date, give the claimant a payment schedule within 10 days (or sooner, if the contract sets a shorter deadline) setting out what the respondent is willing to pay and why it is different from the amount claimed.

A 'paid when paid' provision in a construction contract has no effect. The claimant cannot be required to wait until the respondent is paid by someone else under another contract.

### THE RESPONDENT FAILS TO RESPOND

#### Court action or adjudication

A respondent who does not provide a payment schedule on time is liable to pay the full amount claimed. If it is not paid on time, the claimant may go to court to recover the full amount as a debt or apply for adjudication.

The respondent may be charged interest on the unpaid amount.

#### Suspension of work

The claimant is also entitled to suspend work or cease supplying related goods or services under the contract until the amount payable has been paid. The claimant must give the respondent three days' written notice of the intention to suspend work.

A claimant who exercises this right in accordance with the SOP Act is not liable for any loss or expense suffered by the respondent as a consequence of the suspension.

#### Lien over unfixd plant and materials

The claimant has the right to exercise a lien in respect of the unpaid amount over any unfixd plant or materials that the claimant has provided in connection with carrying out construction work for the respondent. See [Fact Sheet No. 13: Lien over unfixd plant and materials](#).

The respondent may not fix, remove, sell or otherwise deal with the plant or materials until the claimant is paid the outstanding amount.

### Want to know more?

Please [submit an enquiry](#) or call us on 1300 815 127.

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