

## Payment Claim – Sample Form

This sample form can help you to prepare a payment claim under the *Building and Construction Industry Security of Payment Act 2002*.

### WHY THIS IS A ‘SAMPLE’ FORM

The *Building and Construction Industry Security of Payment Act 2002* (the SOP Act) does not require you to use any particular form for a payment claim.

This form can help you to prepare a payment claim. You can use it, adapt it for your purposes, or decide not to use it at all.

### BEFORE YOU START

#### Check your time limit to make a claim

The time limit within which you must serve the payment claim on the respondent depends on the type of payment you are claiming.

A **progress payment** for work done or goods or services calculated in accordance with a reference date must be claimed within the period provided by the contract or three months after the reference date – whichever is the later.

A **final, single or one-off payment** must be claimed within the period provided by the contract or, if no such period is specified, three months after the reference date.

#### Reference dates

The reference date is the date on which a claim for a progress payment may be made or by reference to which the amount of a progress payment may be calculated.

If the contract specifies the reference date, or how to determine it, you must comply with it.

If the contract does not specify the reference date or how to determine it, the following

reference dates apply.

- **Progress payments** – 20 business days after work was first carried out or goods or services were first supplied. Subsequent payment claims may then be made every 20 business days until the job is completed.
- **Single or one-off payments** – the day after the work was last carried out or the goods or services were last supplied under the contract.
- **Final payments** – the day after the end of any period under the contract for rectifying defects or omissions, or the day after the final certificate is issued. If neither of these applies, the reference date is the day after the work was last carried out or the goods or services were last supplied under the contract.

### REQUIRED INFORMATION

A payment claim **must**:

- identify the construction work or related goods and services to which the payment relates
- indicate the amount of money that you claim is due (the ‘claimed amount’)
- include the ‘Security of Payment Statement’:  
*‘This is a payment claim under the Building and Construction Industry Security of Payment Act 2002.’*

### SERVING THE PAYMENT CLAIM ON THE RESPONDENT

The payment claim must be served on the respondent within the time required by the contract or the SOP Act.

The payment claim can be served by delivering it in person to the respondent, lodging it during normal business hours at the respondent’s ordinary place of business, posting or faxing it to

the respondent's ordinary place of business, or in any manner specified in the contract.

The payment claim is not served until it is received by the respondent or at the respondent's ordinary place of business. If it is posted, service is two business days after the day on which it was posted. If it is faxed, service is immediate unless the fax is sent after 4pm, in which case service is the next day.

## NOTES FOR THE CLAIMANT

### Completing this Form

#### Security of Payment Statement

Ensure the payment claim includes the Security of Payment Statement. The payment claim **must** include this statement.

#### 1 Claimant's Details

Provide the name of the person or company that entered into the contract with the respondent and provide the contact details for your ordinary place of business.

#### 2 Respondent's Details

Provide the name of the person or company that entered into the contract with you and the contact details for their ordinary place of business.

#### 3 Project/Site/Job Description

Provide sufficient information to identify the project or site that you worked on, or provided goods or services to.

#### 4 Payment Claim Number

For future reference, it is useful to assign the payment claim a number.

#### 5 Payment Type

Specify the type of payment you are claiming.

You can claim for the following types of payments under the SOP Act.

- Payment based on a reference date. This refers to a payment based on a reference date determined by the contract or specified in the SOP Act. State the period of time the claim covers.
- Milestone payment. This refers to a payment based on an event or a date specified by the contract.
- Single or one-off payment.
- Final payment.

#### 6 Due Date

The due date is the date specified by the contract or, if not specified by the contract, 10 business days after the payment claim is made.

#### 7 Payment Claim Summary

Specify the amount you claim is due. The payment claim **must** include this information.

#### 8 Construction work done or related goods and services for which this claim is made

You must identify the construction work or related goods and services to which the progress payment relates. The payment claim **must** include this information.

The tables distinguish between work done or goods or services supplied within the scope of the original contract and anything you have done for the respondent which is a variation to the contract.

#### 9 List of Attachments

Attach any relevant information to support the claimed amount e.g. contract, completion certificates and delivery dockets. List the attached documents on the form.

#### 10 Signature of Claimant

Check that the details you have provided are accurate and then sign the form.

## ADDITIONAL INFORMATION

### Claimable variations

The payment claim may include amounts for variations to the contract.

The SOP Act specifies which variations may be claimed in a payment claim, and which may not. Variations which may be claimed are called claimable variations.

Claimable variations include variations on which the parties agree and some disputed variations. All agreed variations may be included in a payment claim. Some disputed variations may be claimed in payment claim if the parties do not agree about certain matters which are specified in the SOP Act.

For more information, see the VBA's website.

### Excluded amounts

The payment claim must not include any 'excluded amount'.

An excluded amount is:

- any amount that relates to a variation of the construction contract that is not a claimable variation
- any amount (other than a claimable variation) claimed under the construction contract for compensation due to the happening of an event, including any amount relating to latent conditions, time related costs and changes in regulatory requirements
- any amount claimed for damages for breach of the construction contract or for any other claim for damages arising under or in connection with the contract
- any amount in relation to a claim arising at law other than under the construction contract.



