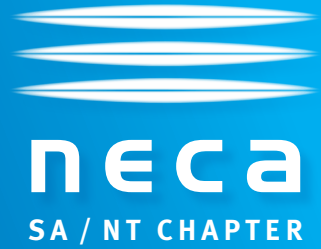


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Security of Payment Guide



**Enhancing your business.
Advancing our industry.**

2019 Security of Payment Seminars
March – May 2019

In association with:





2019 Security of Payment Seminars

Brought to you by the National Electrical and Communications Association: the peak industry body representing electrical and communications contractors Australia-wide from business people to technicians.

The National Electrical and Communications Association (NECA), South Australia / Northern Territory Chapter are pleased to advise that we have been provided with a Grant from the Small Business Commissioner in late 2018 to deliver educational sessions and information to our members on the Security of Payment Act.

These Security of Payment seminars will be delivered in North, South and Central Adelaide by our Member Benefits partner, Fair Work Lawyers. A video recording will be taken and uploaded on the NECA SA/NT website for our regional members to access. A shortened version of the seminar will also be presented at the NECA 2019 Roadshows.

NECA SA/NT would like to thank The Small Business Commissioner for this opportunity and Fair Work Lawyers for assisting with this document and presenting the seminars.

About Fair Work Lawyers

Fair Work Lawyers is an Adelaide-based specialist firm that represents employers and employer associations in employment, workplace and industrial relations, as well as providing specialist advice and representation in construction related matters.

Armed with a wealth of practical experience and know-how, Fair Work Lawyers is committed to making a difference to your business.

Fair Work Lawyers are pleased to provide NECA members with a free first half hour consultation and a discounted rate \$250.00 per hour, plus GST (regular rate \$350.00 per hour, plus GST). NECA members are also entitled to no gap' arrangements for Workers Compensation disputes. Contact Fair Work Lawyers on (08) 8113 5347 or visit their website www.fairworklawyers.com.au

Disclaimer

The information contained within this booklet is general advice, should you require information specific to your circumstances we strongly advise that you seek legal advice or, alternatively, NECA SA/NT members can contact our office on (08) 8272 2966 for further information.

Please contact NECA SA/NT for templates and copies of the documents provided in this booklet.

Contact NECA SA/NT to find out how we can assist you and your business:

Phone: (08) 8272 2966
Fax: (08) 8373 1528

Email: neca@necasa.asn.au
Web: www.neca.asn.au/sa

'Your best source of industry information, assistance and advice.'



REASONS TO BECOME A NECA MEMBER



Marketing



HSEQ



Human Resources



Business Management



Contracts



Technical & Licensing



Industry Information



Apprentices



Industrial Relations



Exclusive Discounts

The National Electrical and Communications Association (NECA) are the peak body representing electrical and communications contractors Australia-wide, from employers and business people to technicians.

Running a business in the 21st Century is not easy. The complex requirements of federal, state and local governments, supply authorities and the need to comply with a range of legislative requirements is almost impossible to keep abreast of without outside help.

NECA's services are tailored to the unique needs of contractors working in the electrotechnology industry. We save members time and money by providing timely information and advice, and practical tools to make business easier, safer and more cost-effective.

NECA employs specialists in industrial relations, workplace health and safety, human resources, education and training, business management and

marketing, technical regulations and technology who are on-hand to offer advice on a range of topics, as well as provide representation and support in industrial relations matters.

The Association actively represents the needs and entitlements of contractors at all levels of government and industry, ensuring members' needs are heard. We work with the industry on a range of levels to ensure a sustainable workforce for all and actively advocate for our members in areas such as licensing, training, regulations and more.

Membership of NECA will ensure you have the necessary tools to save money, stay ahead of

changes, take advantage of opportunities and meet your business goals. We work to establish long-term relationships with our members by understanding their business and providing personalised assistance to each and every member.

NECA also supports apprenticeships and quality training to ensure a bright future for the industry. Our Group Training Organisation, NECA Careers & Apprenticeships (NCA), has been formed specifically for the electrotechnology industry and is committed to providing the right people to fulfil the skills needs of today and for the future.

Benefits of Membership

Industrial Relations and Employee Advice

NECA provides specialist, up-to-date advice and support in a wide range of industrial relations and employment matters, including wage rates, conditions of employment, apprenticeships, contracts of employment, overtime, allowances, disputes, termination of employment, superannuation, long service leave, workers compensation and more.

NECA have staff available for representation in disputes and formal hearings before both State and Federal industrial tribunals.

NECA also assists members in developing and registering workplace agreements appropriate to the needs of their businesses.

Workplace Health and Safety

NECA recognises the importance of having an effective workplace health and safety management system in place. This can be difficult area to manage due to the wide range of legislative requirements and the severe penalties associated with non-compliance.

NECA has developed a HSEQ Management System specifically designed to serve the electrical, communications, refrigeration and air conditioning industries. This system is focused on assisting sole contractors and businesses to take responsibility for the health, safety, environment and quality requirements of their business by providing an integrated and user-friendly management system which can be tailored to your individual needs.

In addition to this, NECA provides a range of resources and specialist advice to assist businesses to address WH&S issues and to help members understand changes to legislation. Areas of assistance include, but are not limited to: safe work method statements, risk assessments, audits, tendering assistance, accreditation, toolbox talks, incident investigations, site inspections, first aid information, improvement and prohibition notices, Workers Compensation and return to work laws.

Commercial and Contracts

It is important that contractors use effective contracts to minimise disputes and ensure adequate protection. NECA has the resources and expertise to help you operate your business more efficiently and profitably through the provision of information, assistance and documentation including: quarterly articles, contract template documents and associated management system, debt collection and payment claims advice, discounted stationery (including terms and conditions, job cards, time sheet booklets, estimating and quotation books, etc.), discounted legal or specialist advice to assist contractors manage business operations.

Business Management and Marketing

As a NECA member, you will receive up-to-date information, resources and advice on marketing and business management strategies and tips from our qualified staff. This includes, but is not limited to: advice on determining your target market and how to reach them, creating a business plan and managing your business resources (human, financial, physical, and knowledge) as well as marketing your business effectively and efficiently and assistance with your marketing strategies and materials including your website, company profile, social media etc.

Education and Training

A comprehensive calendar of business and technical training programs is offered including: business management, WH&S courses, specialist technical courses, rescue and resuscitation and more. Training is provided in conjunction with preferred training providers and at subsidised rates for NECA members.

In addition to training programs, NECA run information seminars and workshops on trending and important topics in the industry to assist members with issues that affect the efficiencies of their businesses.

Technical and Licensing Support

Members have access to Australian Standards and an array of technical information on our Technical Knowledge Base (TKB). This online searchable database is designed specifically for contractors in SA and NT and contains standards, rules and regulations from the regulator, network operator, safety regulator and licensing boards, updates, codes of practice, and more. In addition, members also receive comprehensive technical and licensing advice.

Furthermore, NECA has direct input into the setting of Australian Standards and licensing provisions with representation on Standards, technical and licensing bodies throughout Australia.

Advocacy

The Association actively represents the needs and entitlements of contractors at all levels of government and industry, ensuring members' needs are heard. Our staff and board members represent NECA SA/NT on a range of committees and working groups to help address major industry issues.

Industry Information

At NECA we understand that being well informed about the changes and developments within our industry can mean the difference between winning and losing a tender and running a successful and competitive business. That is why, as a NECA member, you will receive up-to-date information on current issues and events through a range of publications, sources and events including: membership kit, quarterly newsletters, fortnightly email newsletters, published awards, resource documents, wages and conditions of employment, reference materials, manuals, practical tools, seminars and the NECA website.

Industry Recognition

As a NECA member, your business will gain valuable market exposure from NECA's marketing and networking opportunities including branch meetings, seminars, functions and conferences. Annually, NECA provide members with the opportunity to enter the Awards of Excellence and the Apprentice of the Year Awards, promoting excellence within the electrotechnology industry.

NECA members are also featured on our 'Find Your Local Electrician' website: www.fyle.com.au. Potential customers can search for a NECA electrician in their area, providing another avenue of recognition for our members.

Member Benefits Program

Membership provides automatic access to a range of discounts and deals that can help you save money on selected goods and services, including:

- Host employment of Apprentices with NECA Careers & Apprenticeships (NCA)
- Australian Standards
- industry-specific business stationery
- vehicles and fuel
- insurances designed specifically for contractors
- clothing, tools, construction supplies and instrument calibration
- assistance with payment recovery
- software products designed specifically for contractors
- industry specific training
- legal services
- advertising, websites and sign writing.

Join NECA and reap the rewards of membership

By joining NECA you will be giving your business a significant competitive advantage.

NECA membership is fully tax deductible. The annual membership fee is based on the number of employees.

To join NECA SA/NT contact the office via telephone or email.

Visit www.neca.asn.au/sa for information on the latest developments and the benefits of membership.

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Security of Payment Guide

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DISCLAIMER:

- (1) This presentation and accompanying materials are intended as a guide to the Building and Construction Industry Security of Payment Act 2009 and related case law. The information is not intended as legal advice. It is not intended to be a substitute for the Act, and does not include other information contained in the Act, the case law or other laws. The presentation has been prepared with care but no liability will be accepted in regards to any loss or risk, personal or otherwise, which is incurred as a consequence, directly or indirectly of the use of the materials contained within this presentation.
- (2) This is a complicated Act that contains unique and often misunderstood provisions. Incorrect interpretation of the Act can lead to failed claims or judgment debts filed against respondents. Fair Work Lawyers recommends obtaining advice in relation to any matters that they are unsure about. This presentation is for general information only and is not legal advice. Persons with queries about their own specific circumstances should seek specific advice.
- (3) Without limiting the importance of obtaining legal advice for any claim, this kit should only be used for small payment disputes (that is a dispute over an amount less than \$10,000).

Security of Payment Explained

In South Australia, a statutory right to progress payments for construction and related services work is provided for by the Building and Construction Industry Security of Payment Act 2009 (SA) ("The Act"). The Act is centred on the right to Progress Payments which is implemented by a procedure to enforce those Progress Payments. Adjudication is the dispute resolution process built into the Act which is a practical method of determining, on an interim basis, the liability of a Respondent to pay a Claimant a Progress Payment.

The drafting of the Act was intentionally left broad to encapsulate almost all Construction Work and construction related activities that are covered by Construction Contracts. The coverage of the Act ranges from supply of materials to construction companies and onsite construction to construction related services like engineers, designers, and project managers. Given the range of services and entities covered by the Act specific exceptions had to be included in the drafting. The exemptions pertain to types of entities and types of activities that are not covered by the Act. For example, if the person involved in domestic building work has the intent of living in the premises on completion they are not covered by the Act. However, subcontracts made pursuant to this kind of contract will be covered by the Act. Mineral exploration, including drilling and extracting, are also exempt along with employment and insurance contracts. Below we set out some of the key features of the Act.

1. Time

The Act contains deadlines throughout which must be strictly complied with, as one missed deadline may be the end of a claim. The deadlines and time constraints in the Act are defined in Business Days. Business days are generally Monday to Friday, excluding public holidays and the period between Christmas and New Year. The finality of the deadlines cannot be stressed enough, extensions of time are not granted and failing to meet some of the deadlines can bypass normal legal procedures and entitle a party to a judgment debt. Knowledge is key, particularly for the respondent. Without a basic knowledge of the critical dates a deadline can be missed.

2. Progress Payment Rights

The Act contains four operative parts, Part 2 gives rise to the right to progress payments. Part 2 of the Act creates the concept of a reference date, a point in time where a person or entity is entitled to receive a Progress Payment. The default position of the Act sets the Reference Date as the last day of every calendar month. This date can be negotiated by the parties in the Construction Contract as required. The Reference Date does not need to be recurring and can be sporadic, this means that there is some flexibility when negotiating Construction Contracts although anti-avoidance provisions prevent absurd contract demands.

The Progress Payment must be made within 15 Business Days of the Reference Date. However, similarly to the Reference Date, this is the standard the Act provides for and an agreed Construction Contract can alter the Due Date for payment. The deadlines set by the Act or the Construction Contract are strict and the failure to meet these deadlines can have significant consequences. The Claimant who has not been paid has rights to interest on unpaid Progress Payments and legal remedies over some plant and materials which were supplied by the Claimant.

Where the Construction Contract does not specify the Due Date for payment the only way for a Claimant to activate their right to interest and legal remedies over some plant and material is to Serve a Payment Claim on the Respondent. If, however, the Due Date for payment is stated in the Construction Contract the rights of the claimant will automatically occur if a Progress Payment is not made. The method for determining the amount payable is stated in the Act. The determining factors for the amount payable are the rates or agreed prices in the contract and any variations or value of the variations to the Construction Contract.

3. Serving a Payment Claim

Part 3 of the Act sets out the process for recovering Progress Payments. A person entitled to a Progress Payment must Serve a Payment Claim on the party liable to make the Progress Payment. The party Serving the Payment Claim is the Claimant and the party who is liable to pay is the Respondent.

In order to be valid, a Payment Claim must satisfy three criteria. First, the Payment Claim must clearly identify the Construction Work or related goods and services to which the Payment Claim relates. Second, the Payment Claim must state the amount that is being claimed. Third, the Payment Claim must state that it is made under the Act.

The three criteria above are the minimum level of information provided in a Payment Claim. The Respondent must be able to understand the origin of the Payment Claim and be provided with adequate information to respond. All Payment Claims need to be assessed on a case by case basis and may require substantially more details to satisfy the requirement to 'clearly identify' the basis of the Claim. A template Payment Claim is included in this claims kit.

4. Responding to a Payment Claim

A response to a Payment Claim must be made within 15 Business Days or as stipulated in the Construction Contract. The Respondent can either choose to pay the amount claimed or dispute the claim in whole or part. Where the respondent chooses to dispute the claim, they must provide the claimant with a Payment Schedule. Valid Payment Schedules must:

- Clearly identify the Payment Claim
- Indicate the amount of payment (if any) that the respondent proposes to make (“the Scheduled Amount”), and
- If the Scheduled Amount is less than the amount being claimed, provide reasons and evidence as to why any of the Payment Claim is disputed and reasons as to why payment is being withheld.

The Respondent must provide a Payment Schedule within 15 business days. Where the Claimant is not provided with a Payment Schedule the amount claimed becomes a debt due to the Claimant, which may be enforced in a trial court or, at the Claimant's election, they may consider adjudication.

As you will read in this Guide, the Payment Schedule must be prepared carefully as any information that is left out of the Payment Schedule cannot be raised in future adjudication. This is where document management is key, as having all documents referenced and available for the adjudication is required.

5. Adjudication

The adjudication process is commenced by the Claimant where they have not received a Payment Schedule in response to the Payment Claim or the Payment Schedule is not agreed upon. Under the Act an Authorised Nominating Authority (ANA) must be used for the adjudication. You will find a list of ANA's contained at the back of this Guide. Where a Payment Schedule agrees to an amount but the amount is not paid the Claimant can also lodge an Adjudication Application.

When an adjudication application has been made, the ANA, which is used for the adjudication process, will usually appoint an adjudicator within two (2) Business Days and the Respondent's response lodged within five (5) day of the claim being lodged, unless there has been a delay appointing the adjudicator. This puts pressure on the Respondent to produce a submission in support of their Payment Schedule.

The adjudicator determination is usually made ten (10) Business Days after the Respondent has lodged their adjudication response in writing, if they are permitted. The adjudicator has the power to order further written submissions, inspection of works or to organise a conference call. However, neither party should rely on them. Rather they should ensure that all relevant information is contained in their written submissions. The adjudicator determines when any amount is payable, who pays for the adjudication and if interest will be applied to the amount.

If the final determination calls for a payment to the Claimant, the adjudicator will usually order those payments be made within

five (5) Business Days. Failure to pay the Claimant gives rise to the Claimant's right to enforce the Adjudicated Amount as a judgment debt. Once the claimant has applied to enforce the amount as a judgment debt, interest will start accruing on the Adjudicated Amount and the Claimant can serve a notice to suspend works. The right to suspend works should be used sparingly given that it does not give a right to extensions of time.

6. Legislation

South Australia was the last of the Australian jurisdictions to enact security of payment legislation. The South Australian Act is similar in form and substance to one of the older New South Wales' Acts. The general rule is that the Act that applies is the State or Territory's Act where the actual building is being constructed. Each of the states and territories has its own legislation:

Construction Contracts (Security of Payment) Act 2005 (NT)

Building and Construction Industry (Security of Payment) Act 2009 (ACT)

Building and Construction Industry Security of Payment Act 2009 (TAS)

Construction Contracts Act 2009 (WA)

Building and Construction Industry Payments Act 2004 (QLD)

Building and Construction Industry Security of Payment Act 2002 (VIC)

Building and Construction Industry Security of Payment Act 1999 (NSW)

Entities operating across multiple Australian jurisdictions need to understand which legislation is applicable to the construction work or related service they are providing. It is essential to have systems in place to be able to deal with a security of payment claims as it is clear from all jurisdictions that timeframes and document management are of paramount concern.

Definitions

the Act	Means the Building and Construction Industry Security of Payment Act 2009 (SA).
Adjudicated Amount (sections 4 and 22)	Means the amount of a progress payment that an adjudicator determines to be payable
Adjudication Application (sections 4 and 17)	Means an application made for adjudication of a Payment Claim made by a Claimant, which to be valid under the Act must meet the following criteria: <ul style="list-style-type: none"> • Be in writing, and • Be made to an Authorised Nominating Authority, and • Identify the Payment Claim and the Payment Schedule (if any) to which it relates, and • Be accompanied by an application fee (if any) that is set by the Authorised Nominated Authority, and • Depending on whether or not a Payment Schedule is provided by the Respondent be made within the applicable certain timeframe (refer to pages 16 and 17).
Authorised Nominating Authority (sections 4 and 29)	Means a person authorised under the Act to nominate persons to determine Adjudication Applications. A list of Authorised Nominating Authorities is referred to on page 19.
Business Address	Means a person's ordinary place of business.
Business day (section 4)	Means any day other than: <ul style="list-style-type: none"> • A Saturday, Sunday or public holiday; or • 27, 28, 29, 30 or 31 December; or • Any other day on which there is a Statewide shut-down of the operations of the building and construction industry.
Construction Contract (section 4)	Means a contract or other arrangement under which one party undertakes to carry out Construction Work, or to supply Related Goods and Services, for another party.
Construction Work (sections 4 and 5)	Means the work referred to on page 8.
Claimant (sections 4 and 13)	Means the person who serves the Payment Claim.
Due Date (sections 4 and 11)	Means the date by which a Construction Contract determines that a Progress Payment becomes due and payable or, if there is no date set, on the date occurring 15 Business Days after a Payment Claim is made.
Payment Claim (sections 4 and 13)	Means a Progress Payment claim, which to be valid under the Act must meet the following criteria: <ul style="list-style-type: none"> • Identify the Construction Work (or related goods and services) to which the progress relates, with sufficient information for the Respondent to make an informed decision about the nature of the claim, and • Indicate the amount that is claimed, and • State the claim is made under the Act.

Payment Schedule (sections 4 and 14)	<p>Means a payment schedule provided in response to a Payment Claim, which to be valid under the Act must:</p> <ul style="list-style-type: none"> • Identify the Payment Claim to which it relates, and • Indicate the amount of payment (if any) that the Respondent proposes to make (the Scheduled Amount), and • If the Scheduled Amount is less than the amount being claimed, the schedule must indicate why the Schedule Amount is less, and the reasons for withholding payment.
Progress Payment (sections 4 and 8)	<p>Means a payment which a person is entitled to on and from each Reference Date under a Construction Contract because the person has either undertaken to carry out Construction Work under the contract, or has undertaken to supply related goods and services under the contract.</p> <p>A Progress Payment includes the following types of payments:</p> <ul style="list-style-type: none"> • The final payment for Construction work carried out (or for related goods and services supplied) under a Construction contract, and • A single or one-off payment for carrying out Construction Work (or for supplying Related Goods and Services) under a Construction Contract, and • A payment that is based on an event or date (known as a 'milestone payment').
Reference Date (section 4)	<p>Means the date by which a Construction Contract determines that Progress Payment can be made or, if there is no date set, the last day of each calendar month. If progress payment claims were properly served following completion of works, current case law indicates that there is only one Reference Date (i.e. only one payment claim can be served in respect of the final claim).</p>
Related Goods and Services (sections 4 and 6)	<p>Means goods and services referred to on page 8.</p>
Respondent (section 4)	<p>Means the person on whom a Payment Claim is served.</p>
Scheduled Amount (section 4 and 14)	<p>Means the amount of a Progress Payment the Respondent proposes to make in its Payment Schedule.</p>
Service or Serve (section 34)	<p>Means the process of providing documents to other party(s). Under the Act there are four methods in which service can be satisfied:</p> <ul style="list-style-type: none"> • Delivering it to the person personally, • Lodging it during normal office hours at the person's ordinary place of business, • Sending it by post or fax addressed to the person's ordinary place of business, or • In any other manner, as may be provided under the construction contract. <p>Service may also be effected:</p> <ul style="list-style-type: none"> • Under other legislation, or • If there is evidence that the Respondent has in fact received it.

Definitions *continued...*

Construction Work	<p>Means any of the following work:</p> <ul style="list-style-type: none"> • the construction, alteration, repair, restoration, maintenance, extension, demolition or dismantling of buildings or structures forming, or to form, part of land (whether permanent or not); • the construction, alteration, repair, restoration, maintenance, extension, demolition or dismantling of works forming, or to form, part of land, including walls, roadworks, power-lines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for purposes of land drainage or coast protection; • the installation in any building, structure or works of fittings forming, or to form, part of land, including heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply, fire protection, security and communications systems; • the external or internal cleaning of buildings, structures and works, so far as it is carried out in the course of their construction, alteration, repair, restoration, maintenance or extension; • any operation that forms an integral part of, or is preparatory to or is for rendering complete, work of the kind referred to in paragraph (a), (b) or (c), including— <ul style="list-style-type: none"> ○ site clearance, earth-moving, excavation, tunnelling and boring; and ○ the laying of foundations; and ○ the erection, maintenance or dismantling of fences or scaffolding; and ○ the prefabrication of components to form part of any building, structure or works, whether carried out on-site or off-site; and ○ site restoration, landscaping and the provision of roadways and other access works; • the painting or decorating of the internal or external surfaces of any building, structure or works; <p>Construction Work, however, does not include the following work:</p> <ul style="list-style-type: none"> • the drilling for, or extraction of, oil or natural gas; • the extraction (whether by underground or surface working) of minerals, including tunnelling or boring, or constructing underground works, for that purpose;
Related Goods and Services	<p>Means any of the following goods and services:</p> <ul style="list-style-type: none"> • goods of the following kind: <ul style="list-style-type: none"> ○ materials and components to form part of any building, structure or work arising from construction work; ○ plant or materials (whether supplied by sale, hire or otherwise) for use in connection with the carrying out of construction work; • services of the following kind: <ul style="list-style-type: none"> ○ the provision of labour to carry out construction work; ○ architectural, design, surveying or quantity surveying services in relation to construction work; ○ building, engineering, interior or exterior decoration or landscape advisory or technical services in relation to construction work; • project management services in relation to construction work; • contract management services in relation to construction work; • consultancy services in relation to construction work.

Notes

[illegible]

Contract Ready Reckoner

Contract Milestones	Date
Quote Sent	
Quote Accepted (if applicable)	
Contract Signed	
Contract Reference Date	
Due date for payment	
Time limits for variations claims <i>What information do you need to provide for a valid variation claim under the contract?</i>	Date _____ Days _____ <ul style="list-style-type: none"> • • •
Time limits for extension of time claims <i>What information do you need to provide to be granted an extension of time under the contract?</i>	Date _____ Days _____ <ul style="list-style-type: none"> • • •
Time limits for any other types of claims (insert if applicable)	Date _____ Days _____
When work commences/commenced	
Date for completion	
When practical completion reached	
End of defects liability period	

Progress Claim	Date served	Reference date	Due date for payment	Was this a Payment Claim
Claim #1				
Claim #2				
Claim #3				
Claim #4				
Claim #5				

Variation Claims	Date claim required to be provided under the contract?	What documented evidence do you have for the variation?
Variation #1		
Variation #2		
Variation #3		
Variation #4		
Variation #5		

Extensions of time (EOT) Description	Date of delay	Date required to provide written notice by?	Date provided with response to claim for EOT

Template Payment Claim

<on letterhead>

PARTY DETAILS

TO:	[insert]
ABN:	[insert]
ACN:	[insert]
Business Address:	[insert]
Phone:	[insert]
FROM:	[insert]
ABN:	[insert]
ACN:	[insert]
Business Address:	[insert]
Phone:	[insert]

CONTRACT DETAILS

Project:	[description of project]
Reference Date:	[date claim can be made from, as per contract OR if no date is determined by the contract insert the last day of the month in which you last performed work]
Due date:	[due date for payment, as per contract OR if no date is determined by the contract insert: "15 business days from service of this claim"]

CONTRACT SUM:	\$ [insert amount] (excl GST)
VARIATIONS:	\$ [insert amount] (excl GST)
TOTAL AMOUNT PAYABLE UNDER CONTRACT:	\$ [insert amount] (excl GST)
TOTAL AMOUNT PAID TO DATE:	\$ [insert amount] (excl GST)
TOTAL AMOUNT OF THIS PAYMENT CLAIM:	\$ [insert amount] (excl GST)

BREAKDOWN OF PAYMENT CLAIM (inclusive of GST)

a. [Insert description of item]	\$ [insert amount]
b. [Insert description of item]	\$ [insert amount]

The construction work or related goods and services in respect of which this Payment Claim is made and the method of calculation of the total amount of the claim are set out in the Attachments to this Payment Claim.

Signed: _____ Date: [INSERT]

THIS IS A PAYMENT CLAIM MADE UNDER THE BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT 2009 (SA)

ATTACHMENTS

1. [insert documents supporting claim e.g. copies of invoices, summary of outstanding payments, variation schedule]

Template Payment Schedule

<on letterhead>

A. PARTY DETAILS

TO:	[insert]
ABN:	[insert]
Business Address:	[insert]
FROM:	[insert]
ABN:	[insert]
Business Address:	[insert]

B. PARTY DETAILS

Project:	[description of project]
Contract:	[quote number or contract relevant to the works]
Payment Claim No:	[insert if identified on the payment claim otherwise insert: 'not identified']
Date of Payment Claim:	[date of the payment claim]
Date of Receipt of Payment Claim:	[date you received the payment claim]
Reference date:	[insert the reference date if identified on the payment claim, otherwise insert: 'not identified']
Date Payment Schedule Due:	[date set out by the contract, OR if no time is specified by the contract the date will be 15 business days after the date of receipt of the payment claim]

C. FINANCIAL SUMMARY

CONTRACT SUM:	\$ [insert amount] (excl GST)
APPROVED VARIATIONS:	\$ [insert amount for variations you have approved] (excl GST)
Set offs e.g. Defects, works taken out and liquidated damages	\$ [insert the amount for set offs applicable] (excl GST)
TOTAL AMOUNT PAYABLE UNDER CONTRACT:	\$ [insert amount]
TOTAL AMOUNT PAID TO DATE:	\$ [insert amount]
SCHEDULED AMOUNT (amount Payable)	\$ [insert amount] (excl GST)

continued over page....

Template Payment Schedule *continued...*

continued from previous page....

D. BREAKDOWN OF PAYMENT CLAIM

	Amount Payable
a. [insert specific invoice reference number]	\$ [insert amount (if any) payable otherwise insert: 0.00]
Reasons for Reduction in Claim:	
1. [brief description of the work] was included in the original scope of works set out in [document reference]: Include any extract to the document reference that provides support that the works were included in the original scope of works	
2. Further or in the alternative, a variation was not sought, obtained or agreed, and is not otherwise payable pursuant to any contract between the parties.	
3. Further or in the alternative, the variation claim is excessive, over-exaggerated and unreasonable (both in terms of the rates used and work purported to have been performed). No detailed support documents or evidence of the variation claim has been provided for further consideration.	

Note: The above 'reasons for reduction in claim' provide an example response if the reason for reduction is based on the position that the variation works being claimed were included in the original scope of works. If there are different concerns with respect to the variation works, we strongly recommend that you seek legal advice.

E. SET OFFS AGAINST PAYMENT CLAIM

	Amount Payable
a. Defects	-\$ [insert amount for damages/cost of rectification due to defective works]
The Claimant is liable for the cost and loss caused by rectifying the claimant's work and their failure to perform work in accordance with the contract, plans, and specifics of these amounts are based on the estimate quote provided and photos (attached) and previous correspondence between the parties	
b. Works taken out	-\$ [Insert amount for works taken out]
c. Liquidated damages	-\$ [Insert amount for Liquidated damages]
Signed: _____	Dated: [INSERT]

ATTACHMENTS

[insert documents supporting schedule e.g. a variation summary, an unapproved variation summary, defect photos, rectification quotation]

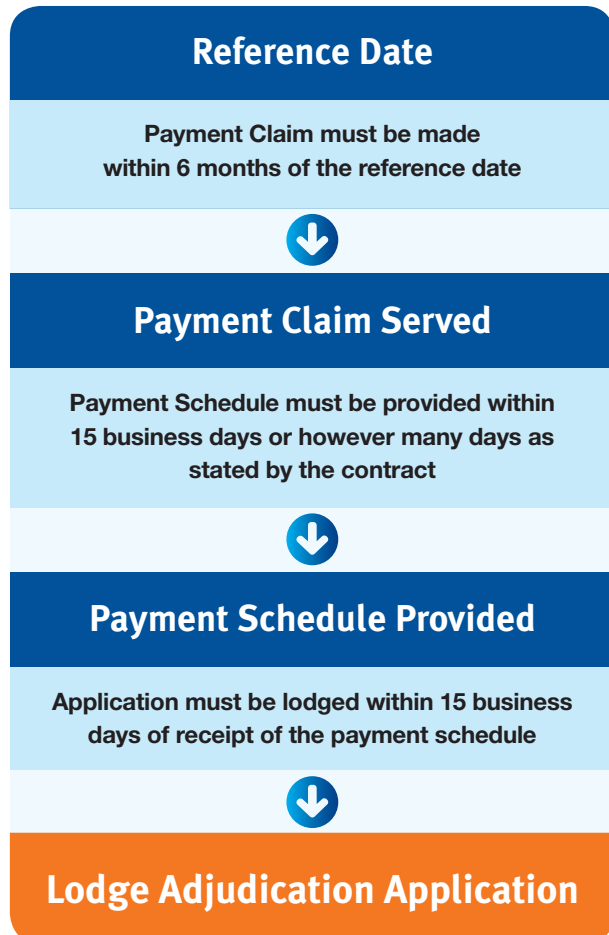
Notes

[illegible]

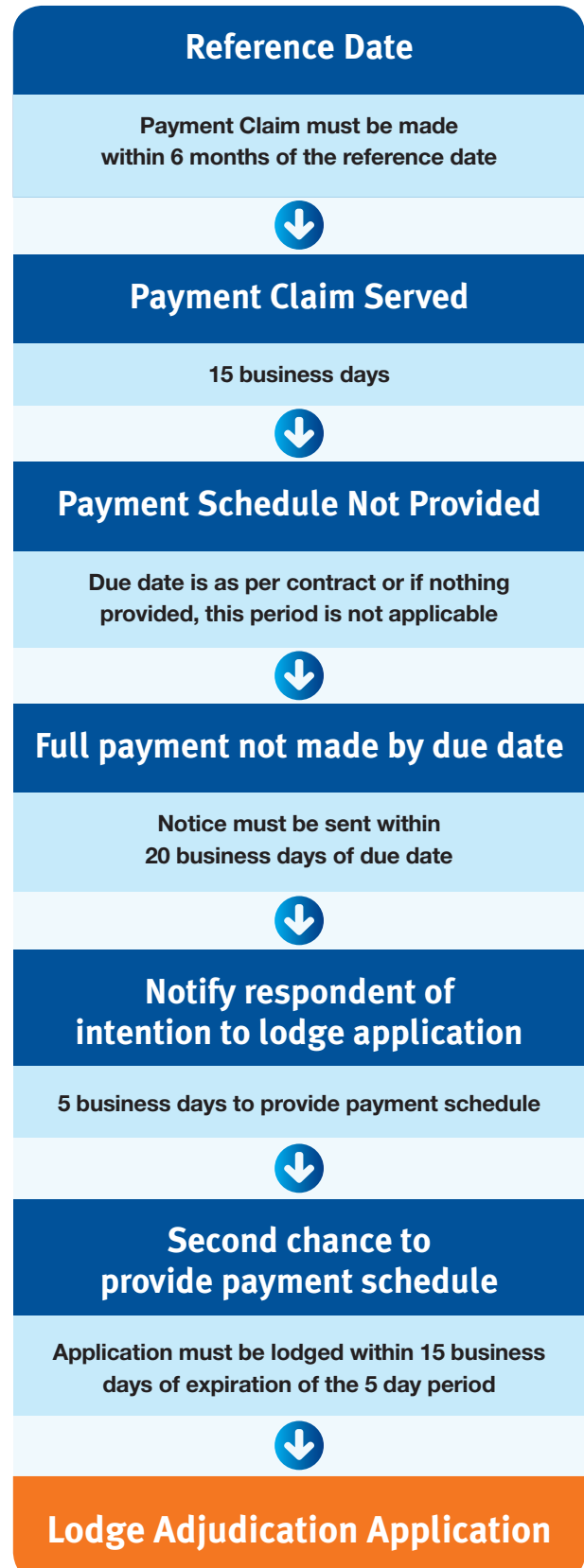
The Payment Claim Process

The Payment Claim Process has 3 separate factual scenarios. Each of which will entail a different process of response. Option 1 is where the Respondent provides a payment schedule. Option 2 shows the process where the Respondent does not provide a Payment Schedule. Option 3 is where the Respondent has provided a Payment Schedule but has not paid the scheduled amount.

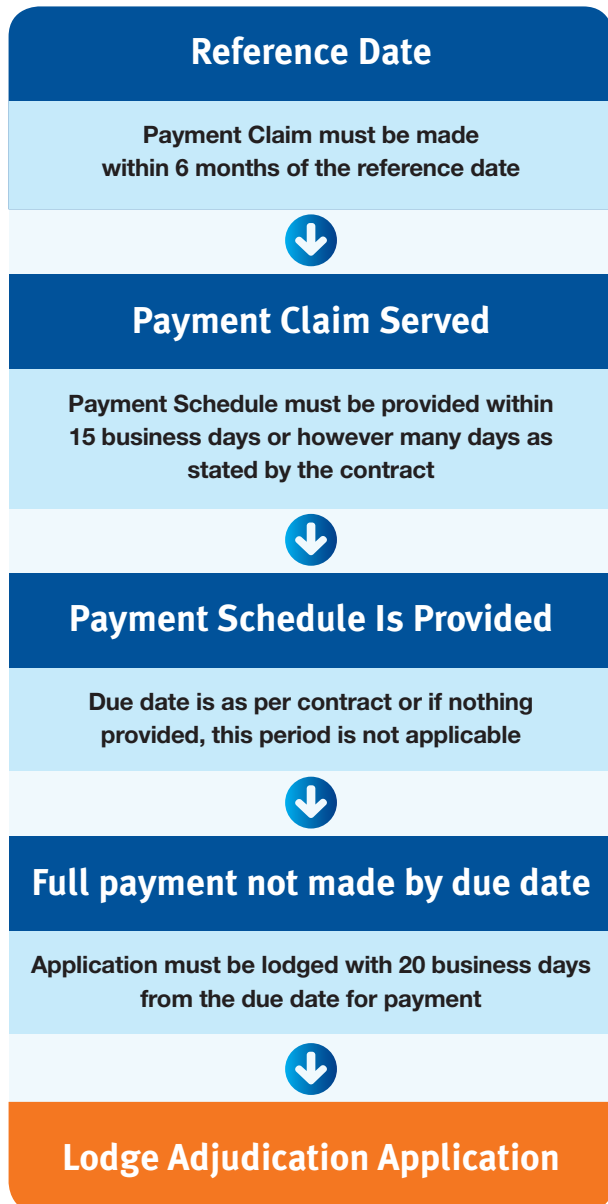
Where the Respondent has provided a Payment Schedule



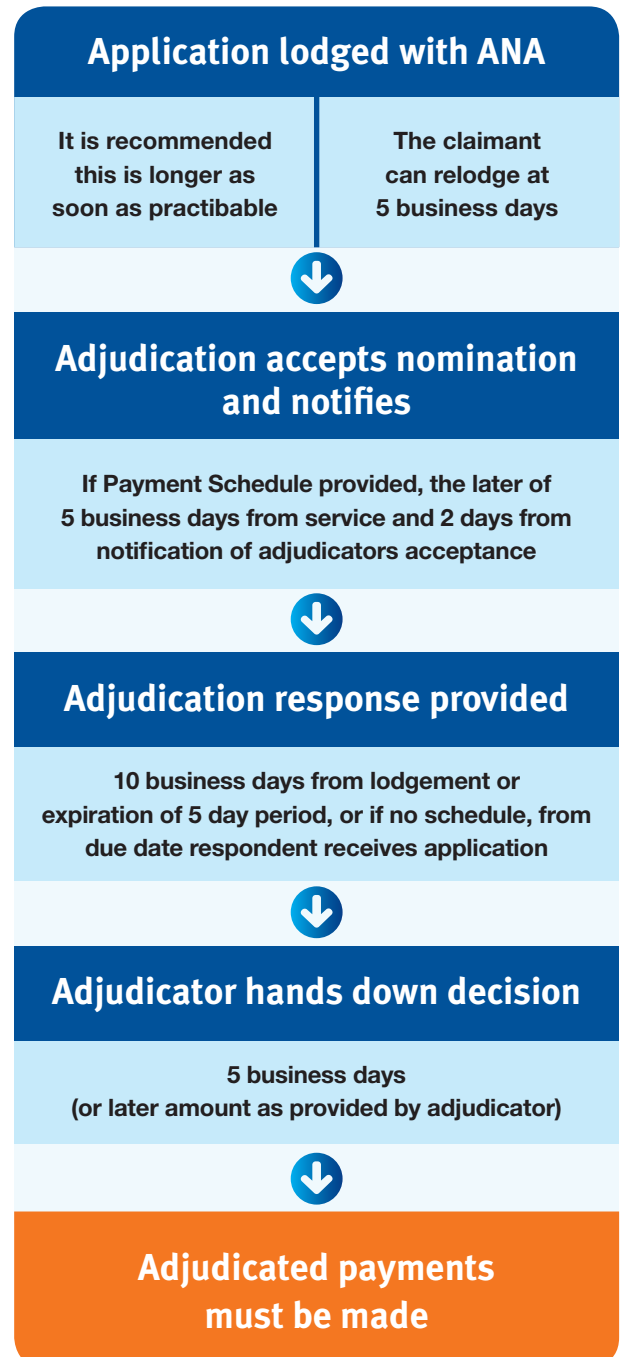
Where the Respondent does not provide a Payment Schedule



Where the Respondent has provided a Payment Schedule but has not paid the scheduled amount



Adjudication Process



Template 17(2) Notice

<on letterhead>

[date]

[name]

[company]

[address]

[address]

By Hand / Registered Post

Dear [name],

Notice of intention to apply for adjudication

On [insert date you delivered payment claim or date tracking shows received the claim], you were served with a Payment Claim pursuant to the Building and Construction Industry Security of Payment Act 2009 (SA) ("the Act") for monies outstanding for works performed at [insert project details].

You have failed to provide a Payment Schedule and, as such, you are now liable to pay the amount owing since the due date for payment has now passed.

You are now advised that pursuant to section 17(2) of the Act you have five business days to provide a Payment Schedule from the date of receiving this notice.

In the event that you fail to provide a payment schedule within the time required or pay the full sum outstanding, we intend to proceed to make an application for Adjudication under the Act without further reference to you.

Yours sincerely,

[name]

[signature block]

Authorised Nominating Authorities

ABC Dispute Resolution Services	Web: www.abcdrs.com.au Fax: 1300 857 384	Phone: 1300 857 383 Email: contactus@abcdrs.com.au
Adjudicate Today	Web: www.adjudicate.com.au Fax: 1300 760 220	Phone: 1300 760 297 Email: sa@adjudicate.com.au
Australian Solutions Centre	Web: www.solutionscentre.com.au Fax: 1300 722 924	Phone: 1300 722 624 Email: info@solutionscentre.com.au
Resolution Institute	Web: www.resolution.institute Fax: 02 9251 3733	Phone: 1800 651 650 Email: nominations@resolution.institute
Master Builders Association of South Australia	Web: www.mbasa.com.au Fax: 08 8231 5240	Phone: 1800 067 466 Email: buildsa@mbasa.com.au
Nominator	Web: www.nominator.com.au Fax: 08 8239 0728	Phone: 08 8267 4800 Email: contact@nominator.com.au
RICS Dispute Resolution Services	Web: www.ricsdrs.com.au Fax: 1300 953 529	Phone: 1300 953 459 Email: drsaus@rics.org

Notes

Notes

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

2019 Events and Initiatives

2019 Roadshow Seminar Series

Seminars will be held in 14 locations throughout South Australia from March to May. These seminars will inform electricians about:

- Australian Standards
- Metering Contestability and the REX Portal
- Electric Shock Reporting
- Security of Payment
- Home Battery Scheme
- Updates to the Service and Installation Rules
- Approved Electrical Products
- MATES In Construction
- Electronic Certificates of Compliance

Training Seminars

In 2019, NECA will be holding several training seminars on topics that are important for those working in the electrotechnology industry. Keep an eye on our eNews, eAlerts and Newsletters to find out what seminar is coming up next and how you can attend to ensure you are keeping informed on commonly faced issues in the industry. Seminars this year will include: 'Tenders and Contracts' with Lynch Meyer, 'Security of Payment' with Fair Work Lawyers, 'Strategy, Planning and Time Management' with Ray Hodge, 'Strategic Planning for Your Business' with KSM Advisory, Asbestos Training with Carter Corporation and more.

NECA Careers & Apprenticeships (NCA)

In 2017 NECA SA/NT established its own Group Training Organisation, NECA Careers & Apprenticeships (NCA) and we employed our first group of apprentices in January 2018. We provide a quality, flexible and cost effective service that collaborates with industry to train and advance the skills of our industry sectors. NECA members will of course receive a discounted charge out rate, which is just another benefit of being a member of the association.

2019 NECA Industry Gala Dinner

The NECA Industry Gala Dinner is the highlight of the NECA SA/NT calendar, where electrical and communications contractors, apprentices, industry and government representatives come together for a night of networking, entertainment, good food and wine to celebrate the achievements of our industry.

Held in the spectacular Panorama Ballroom at the Adelaide Convention Centre on Friday 13 September 2019, the event plays host to the SA/NT NECA Excellence Awards and Apprentice Awards.

2019 NECA Apprentice Awards

A symbol of excellence, the Awards recognise aspiring apprentices for their commitment to the trade, achievements in training, knowledge and future vision for the industry. There are a number of valuable reasons why apprentices should get involved, including the opportunity to be recognised and network with peers and industry, win great prizes and kick start their career. Applications are now open. Visit www.neca.asn.au/sa for more details.

2019 NECA Excellence Awards

The annual NECA Excellence Awards showcase the best electrical and communications projects in Australia, recognising contractors for their outstanding achievements. NECA SA/NT is seeking entries from small, medium and large companies who have excelled in their chosen area. Projects entered can range from below \$1 million to above \$8 million in the domestic, commercial, industrial, Workplace Health and Safety and/or communications areas. This year there are opportunities to submit company awards as well as project awards and the nomination process has been refined significantly to make it easier for members to nominate. Applications are now open. Visit www.neca.asn.au/sa for more details.

For further information on any of the above events or initiatives contact the NECA SA/NT office.

213 Greenhill Road, Eastwood
PO Box 47, Fullarton SA 5063

Phone: (08) 8272 2966 Fax: (08) 8373 1528

Email: neca@necasa.asn.au
Web: www.neca.asn.au/sa



Your Essential Business Partner.



national
electrical and
communications
association



**National Electrical and Communications Association,
South Australia/Northern Territory Chapter**

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