

BUILDING & CONSTRUCTION INDUSTRY (SECURITY OF PAYMENT) ACT 2009 AUSTRALIAN CAPITAL TERRITORY FLOWCHART

Reflecting amendments which commenced on 11 March 2024

Pink background on flowchart
= Payment Schedule NOT served process

Blue background on flowchart
= Payment Schedule served process

Claimant prepares & serves Payment Claim on or from an applicable date

Respondent has 10 business days after receipt of the Payment Claim (or shorter period if provided by construction contract) to prepare & serve a Payment Schedule

Respondent FAILS to serve a Payment Schedule on Claimant within time.
[In this case follow the flowchart steps with the PINK and YELLOW background]

Full or any part of claimed amount NOT paid by Due Date for Payment

Full Payment made by Due Date for Payment. Process under the Act complete

OR

Respondent serves a Payment Schedule on Claimant within time.
[In this case follow the flowchart steps with the BLUE and YELLOW background]

Claimant accepts Payment Schedule

Claimant disputes Payment Schedule

Full or any part of scheduled amount NOT paid by Due Date for Payment

Full Payment made by Due Date for Payment. Process under the Act complete

OR

Claimant chooses Adjudication as faster and cheaper alternative to court action

Claimant may also suspend work on giving 2 business days notice

Claimant has 20 business days from Due Date for Payment to prepare & serve Adjudication Notice, also known as s.19(2) notice re no Payment Schedule

Respondent has 5 business days from receipt of Adjudication Notice [s.19(2) notice] to prepare & serve Payment Schedule

Claimant has 20 business days from Due Date for Payment to prepare & serve Adjudication Application on Adjudicate Today

Claimant may also suspend work on giving 2 business days notice

Respondent does not serve Payment Schedule within 5 business days of receipt of Adjudication Notice [s.19(2) notice]

Respondent serves Payment Schedule within 5 business days. As Payment Schedule now issued, process reverts to "Payment Schedule Served"

Claimant has 10 business days after the 5 business days from expiry of Adjudication Notice [s.19(2)] to prepare & serve Adjudication Application on Adjudicate Today

Respondent has no right to serve an Adjudication Response as did not serve a Payment Schedule within 5 business days of receipt of Adjudication Notice [s.19(2) notice]

Claimant has 10 business days to prepare & serve Adjudication Application on Adjudicate Today from date of receipt of the Payment Schedule. If an Adjudication Notice was served [s.19(2)], the time is 10 business days from the date of service of the Payment Schedule within the 5 business day period

Respondent may serve an adjudication response before the later of either 7 business days from receipt of Adjudication Application or 5 business days after receiving notice of Adjudicator's acceptance of the Application, whichever is the later. Respondent must provide copy to Claimant within 2 days of Adjudicator

Adjudication Decision
The Adjudicator has 10 business days to decide the Application from the date of receipt of the Adjudication Response or the date the Response would have been due or, if the Respondent has no right to serve an Adjudication Response, 10 business days after the Respondent receives a copy of the Application.
Time may be extended by agreement of both parties

Respondent must pay any adjudicated amount either within 5 business days of service of the Decision on the Respondent or by Due Date for Payment, whichever is the later

Respondent does NOT pay full or any part of adjudicated amount, including any adjudication fees & interest

OR

Full adjudicated amount, including interest & adjudication fees, paid.
Payment Process under the Act complete

Claimant may suspend work on giving 2 business days notice

Claimant applies for and obtains Adjudication Certificate from Adjudicate Today

Court Registrar enters Judgement of Adjudication Certificate. Enforcement of Court Decision.
Payment Process under the Act complete

Legend for Flowchart Activities:

Pink background
= Payment Schedule NOT Served process

Blue background
= Payment Schedule Served process

Light yellow background
= Adjudication & Enforcement process

Claimant Action

Respondent Action

Major Milestone