

Building and Construction Industry Security of Payment Regulation 2008

[2008-139]



Status Information

Currency of version

Current version for 21 April 2014 to date (accessed 7 May 2014 at 15:36).

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical notes](#)

Staged repeal status

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2014

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 21 April 2014.

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1 Name of Regulation

This Regulation is the *Building and Construction Industry Security of Payment Regulation 2008*.

2 Commencement

This Regulation commences on 1 September 2008.

Note. This Regulation replaces the *Building and Construction Industry Security of Payment Regulation 2001* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

(1) In this Regulation:

the Act means the *Building and Construction Industry Security of Payment Act 1999*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Recognised financial institutions

Each person or body that is a **body regulated by APRA**, within the meaning of the *Australian Prudential Regulation Authority Act 1998* of the Commonwealth, is prescribed for the purposes of the definition of **recognised financial institution** in section 4 of the Act.

4A Supporting statements

- (1) For the purposes of the definition of **supporting statement** in section 13 (9) of the Act, the form contained in Schedule 1 is prescribed.
- (2) A reference to an amount due and payable in a supporting statement does not include a reference to an amount in dispute between the head contractor and a subcontractor. Any subcontractors with whom an amount is in dispute with the head contractor must be separately identified in the attachment to the supporting statement.
- (3) A reference to an amount due and payable in a supporting statement includes a reference to a retention amount due and payable.
- (4) The requirement for a head contractor to provide a supporting statement under section 13 (7) of the Act relates only to those subcontractors or suppliers directly engaged by the head contractor.
- (5) Any payments referred to in a supporting statement that are due and payable and not in dispute must be paid in full before any declaration in the prescribed form is signed.

Schedule of subcontractors for which an amount is in dispute and has not been paid				
Subcontractor	ABN	Contract number/ identifier	Date of works (period)	Date of payment claim (head contractor claim)

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments

Building and Construction Industry Security of Payment Regulation 2008 (139). GG No 56 of 23.5.2008, p 3953. Date of commencement, 1.9.2008, cl 2. This Regulation has been amended as follows:

2011	(89)	Building and Construction Industry Security of Payment Amendment Regulation 2011. LW 25.2.2011. Date of commencement, 28.2.2011, cl 2.
2014	(185)	Building and Construction Industry Security of Payment Amendment (Supporting Statement) Regulation 2014. LW 11.4.2014. Date of commencement, 21.4.2014, cl 2.

Table of amendments

Cl 4A	Ins 2014 (185), Sch 1 [1].
Cl 5	Ins 2011 (89), cl 3.
Sch 1	Ins 2014 (185), Sch 1 [2].