



Western Australia

Building and Construction Industry (Security of Payment) Act 2021

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Building and Construction Industry (Security of Payment) Act 2021

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Defined terms

Western Australia

Building and Construction Industry (Security of Payment) Act 2021

An Act to provide an effective and fair process for securing payments under construction contracts in the building and construction industry, and for related purposes.

Part 1 — Preliminary

Division 1 — Introductory

1. Short title

This is the *Building and Construction Industry (Security of Payment) Act 2021*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 (but only Division 1) — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 5 (but only Division 1 and only section 98) — on the day after assent day;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Object of Act

- (1) The object of this Act is to provide an effective and fair process for securing payments to persons who undertake to carry out construction work, or to supply related goods and services, in the building and construction industry.
- (2) That object is achieved primarily by —
 - (a) giving those persons a statutory entitlement to progress payments; and
 - (b) establishing an expedited procedure for making claims for progress payments, for responding to those claims and for the adjudication of disputed claims; and
 - (c) ensuring money is held on trust if it has been retained to secure the performance of the contractual obligations of those persons; and

- (d) giving those persons other statutory entitlements, including the right to suspend work or supply if not paid and to access retained money by substituting a performance bond.

[Divisions 2 and 3 have not come into operation.]

[Parts 2-4 have not come into operation.]

Part 5 — Nominating authorities, adjudicators and review adjudicators

Division 1 — Authorisation of nominating authorities

[88-97. Have not come into operation.]

98. Making and determining applications for authorisation before commencement of Division

- (1) An application for authorisation as a nominating authority may be made and determined under this Division before all the provisions of this Division come into operation.
- (2) The application may be made and determined as if all of the provisions of this Act had come into operation, but any determination of the application does not have effect until all of the provisions of this Division come into operation.

[Division 2 has not come into operation.]

[Parts 6 and 7 have not come into operation.]

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Notes

This is a compilation of the *Building and Construction Industry (Security of Payment) Act 2021*. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Building and Construction Industry (Security of Payment) Act 2021</i> Pt. 1 Div. 1 and Pt. 5 Div. 1 (s. 98 only)	4 of 2021	25 Jun 2021	Pt. 1 Div. 1: 25 Jun 2021 (see s. 2(a)); Pt. 5 Div. 1 (s. 98 only): 26 Jun 2021 (see s. 2(b))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
<i>Building and Construction Industry (Security of Payment) Act 2021</i> (other than Pt. 1 Div. 1 and s. 98)	4 of 2021	25 Jun 2021	Pt. 1 Div. 2 and 3, Pt. 2, Pt. 3 (other than s. 57, 59-61 and 65), s. 88-97, Pt. 5 Div. 2, Pt. 6 (other than s. 118) and Pt. 7 (other than s. 123 and 124 and Div. 2): 1 Aug 2022 (see s. 2(c) and SL 2022/78 cl. 2(2)(a)); s. 57 and 65, Pt. 4 (other than s. 87), s. 118, 123 and 124 and Pt. 7 Div. 2: 1 Feb 2023 (see s. 2(c) and SL 2022/78 cl. 2(2)(b)); s. 59-61 and 87: 1 Feb 2024 (see s. 2(c) and SL 2022/78 cl. 2(2)(c))

Defined terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
assent day	2