

What You Need to Know

On 1 August 2022, stage 1 of the reforms brought about by the new Building and Construction (Security of Payment) Act 2021 (WA) (**SOPA**) comes in to force.

The SOPA represents a significant development for the Western Australian construction industry as it:

- Replaces the Construction Contracts Act 2004 (WA) for construction contracts entered into from 1 August 2022
- Introduces a new statutory payment regime that will operate independently of any construction contracts
- Brings about a number of reforms and new statutory requirements impacting principals, contractors and subcontractors alike

In the months leading up to 1 August 2022, our team will provide some brief commentary on the defining features of the SOPA, and what it means for you.

Issue 1: Payment Timeframes

This Spotlight on SOPA focuses on the new time limits under the SOPA to make payment claims, be paid and bring adjudication applications.

Principals, contractors and subcontractors must ensure they are aware of, and comply with the timeframes in the SOPA, as the SOPA introduces a new statutory payment regime that operates independently of any construction contracts.

- **Payment claim:** Must be made on or after the last day of each month during the project, unless the contract provides for earlier timing. A new requirement is that the payment claim must state it is made under the SOPA.
- **Payment schedule:** Must identify the amount to be paid and the reasons for disputing the claim. Issuing a payment schedule is not mandatory, but if a respondent fails to provide a payment schedule within 15 business days of receiving a payment claim, it will become liable to pay the claimed amount on the date for payment.
- **Time for payment:** Unless the contract prescribes an earlier date, payment will be due within:
 - 20 business days after a payment claim is made by a head contractor to a principal
 - 25 business days after a payment claim is made by a subcontractor

The flow chart below summarises the key steps in the payment cycle, including the timeframes that apply in the event of a payment dispute.

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Payment Claim and Adjudication Process Flowchart

