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Construction Contracts Act

Changes to the Construction Contracts Act 2002 are expected to come into force towards the end of the year, so contractors should prepare now.

IN JANUARY, the government introduced a Bill to amend the Construction Contracts Act 2002. The aim of the Bill is to streamline disputes and to have construction disputes dealt with faster and in a more cost-effective manner. The Construction Contracts Amendment Bill 2013 is intended to come into force on 1 November 2013.

Key changes proposed

A key proposal is to remove the distinctions and different requirements in the Act for commercial and residential projects, including removing the separate definitions of residential construction contracts and commercial construction contracts.

Currently in the payment claim process, a contractor must provide additional information sheets to residential occupiers advising them how to respond to payment claims.

The proposed changes will require contractors to provide the payment claim process information sheets regardless of the nature of their customers.

Contractors will also have greater rights to take steps against residential owners. Currently, certain remedies are not available under the Act for residential construction contracts, including the right to suspend work for non-payment and the ability to

obtain a charging order over a residential property.

Another key change is to widen the definition of construction work to include design, engineering and quantity surveying work.

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How to ensure compliance

If the proposed amendments are enacted, it will be important for contractors to ensure that their documentation is up to date on 1 November 2013.

If, for example, a contractor fails to serve a commercial client with the additional information relating to payment claims after that date, the payment claim will not comply.

Changes to adjudication decisions

The amendments also look to make the enforcement of adjudication decisions more readily available. Under the current Act, it

is possible to enforce decisions relating to payment claims by entering the adjudication decision as a judgment. However, it is not possible to enforce decisions relating to the rights and obligations of the contracting parties the same way.

Under the proposed amendments, however, a party will be able to enforce an adjudication of rights and obligations if the adjudicator has specified a date for compliance and the other party has not complied with that date.

The time period for an opposing party to object to the entry of an adjudicator's decision as a judgment will also reduce from 15 working days to 5 working days.

Changes will enhance Act

The Construction Contracts Act 2002 is an important tool for contractors, and these amendments should enhance the Act's usefulness. Although the changes have not yet been passed, contractors should ensure that they are ready to implement the changes when they come into force. ▶

Note This article is not intended as legal advice. For further information, please contact the Harkness Henry Building and Construction team on (07) 838 2399 or email build@harkness.co.nz.