



Advice from Alan

Building Payment Claims

by Alan Knowsley, consultant, Rainey Collins Lawyers

The 'Payment Claim' process in the Construction Contracts Act (CCA) is a pay-now, argue-later scheme and can be a powerful tool in assisting cash flow in the building industry. The law provides for the builder to put in a claim for work done under the building contract. The owner has a limited time to either pay or formally challenge the claim. If they do not put in a formal challenge (a 'Payment Schedule'), then the full amount of the Payment Claim must be paid. The owner cannot defend any claim for payment for any reason.

The Act applies to contracts for carrying out construction work, which includes construction, alteration, repair, maintenance, and demolition. It also includes design, engineering, and quantity surveying work.

The Payment Claim process provides for regular and timely payments during the course of a building project. Payment Claims are generally issued once per month, or when the contract provides. The builder issues Payment Claims for work done. The owner for whom the building works are being undertaken must respond within a strict timeframe by either paying in full or issuing a Payment Schedule

and paying a lesser amount if any of the Payment Claim is disputed.

A detailed invoice can suffice as a Payment Claim. However, all of the following requirements must be met for each Payment Claim: it must be in writing, contain sufficient details to identify the contract to which it relates, identify the work and relevant period to which the Payment Claim relates, state the claimed amount and the due date for payment, indicate how the claimed amount was calculated (for example, by attaching or incorporating a spreadsheet table), and state on the document that it is a Payment Claim made under the CCA.

The Act requires all Payment Claims to be accompanied by an outline of the process for responding to that claim; and an explanation of the consequences of not responding to it, and not paying the claimed amount, or the scheduled amount, in full (whichever is applicable). The outline and explanation must be in writing, and in the prescribed form ('Form 1 - Information that must accompany all Payment Claims').

I will cover how to respond to a Payment Claim with a Payment Schedule in next month's column.