

MAKING A SOPA PAYMENT CLAIM

If you work in the construction industry in New South Wales and your customer has not paid you for the work carried out, you can make a payment claim under the **Building and Construction Industry Security of Payments Act 1999 (NSW)** ('SOPA'). This factsheet outlines the process for making a claim.

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PAYMENT CLAIM PROCESS



1. Serve a valid payment claim on your customer (the responsible entity) on or from the relevant reference date, including the completed construction work (and related goods and services) and the amount owed.
2. The customer must respond with a valid payment schedule within the contract's specified time or 10 business days after receiving the payment claim.
3. If you dispute the payment schedule or the customer fails to provide a payment schedule within the time (or at all), you can apply for adjudication to have an independent party make a binding decision.

VALID PAYMENT CLAIM



A valid payment claim must:

- be in writing and addressed to your customer;
- identify the construction work (or related goods and services) it relates to;
- indicate the amount of the progress payment you claim is due; and
- state that it is made under the SOPA.

Please include a supporting statement confirming that all subcontractors (if any) have been paid in full for the work. Failure to provide this will not invalidate your claim but may result in a penalty under SOPA.

RIGHT TO SUSPEND WORK



You can suspend work if:

- the customer provides a valid payment schedule but does not pay the scheduled amount by the due date;
- the customer does not provide a valid payment schedule within the period allowed and fails to pay the whole or part of the claimed amount before the due date; or
- the matter proceeds to adjudication, and the customer does not pay the adjudicated amount within five business days after the decision (or another date determined by the adjudicator).

WRITTEN NOTICE



If you intend to suspend work, provide a written notice to the customer at least two business days beforehand. The notice must:

- state it is made under the SOPA;
- refer to the relevant payment claim or adjudication; and
- include the fact that you intend to suspend the work in two business days.

Where you rightly suspend work, you will not be liable for any loss or damage the customer suffers as a result of you not carrying out the work during the suspension. However, if you receive payment, then you must lift the suspension within three business days.