

# 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.

## CONTACT US

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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. Ensure it includes the completed construction work 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 SCHEDULE



A valid payment schedule must:

- be in writing and addressed to you;
- identify the payment claim it relates to;
- include the amount (if any) the customer is proposing to pay (i.e. the scheduled amount); and
- where the scheduled amount is less than what you requested in the payment claim, the schedule must include the amount (if any) the customer agrees to pay, the amount the customer does not agree to pay, and why.

## 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; and
- 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; 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 during the suspension. However, if you receive payment, then you must lift the suspension within three business days.