

Payment Claim: Enforce Your Right to Recover Payment Under the Security of Payment Act

The Building and Construction Industry Security of Payment Act 1999 (NSW) enables persons who carry out construction work, or supply related goods and services, to recover progress payments by the simple act of serving a Payment Claim. Find out what goes into a valid Payment Claim, and how you can validly serve the same.

What is a Payment Claim?

A payment claim is a document that you need to serve on the person owing you money (a.k.a. the "Respondent"), to start enforcing your right to collect progress payments for construction work performed, or for related services rendered, or for goods supplied.

What Makes a Payment Claim, Valid?

There's not one single Payment Claim form you need to adhere to. What matters is the content.

To be valid, your Payment Claim must contain the following:



1. the **description of works** performed, or goods supplied/services rendered



2. the **claimed amount**



3. the fact that it is **made pursuant to the *Building and Construction Industry Security of Payment Act 1999*** (NSW)

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The Right Legal Advice.**

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Those details are crucial. Without them, your Payment Claim would be unenforceable.

Payment Claim Checklist

Aside from the three essential requirements above, your Payment Claim must also include a Reference Date.

- The Reference Date could either be:
 - A. the date for making progress claims as per your contract; or
 - B. the last day of each month (if your contract doesn't provide dates for making progress payments).
- The claimant (you) can only give the respondent a Payment Claim on and after each reference date.
- Only one Payment Claim can be made for each reference date.
- But, a Payment Claim which had been previously served, but had not been paid in whole or part, can be made part of a new Payment Claim, for a later Reference Date.

How Do I Validly Serve a Payment Claim?

Once your Payment Claim is completed with all the necessary details, it should be served on the Respondent (the person who owes you money) at their ordinary place of business, through any of the following means:

- by personally handing them the Payment Claim
- by courier
- by sending the Payment Claim by express, platinum, or ordinary post
- by sending the Payment Claim by fax, if agreed to in the contract
- by Email provided by them, or
- by any other means agreed upon in your contract

How We Can Help

Should you need more information, or would like assistance in preparing and serving a valid Payment Claim, feel free to give us a call. Our specialist construction lawyers will be able to help you through the entire Security of Payment process.

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