

Australian Governments Security of Payments Legislation Review

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In December 2016 the Commonwealth announced a review of the Security of Payment laws in the building and construction industry, noting the significant differences in approach taken by the state and territory governments.

There is almost universal agreement within industry for a national coordinated response to address the current conflicting and inconsistent set of 8 separate state and territory acts. Not only have governments adopted two fundamentally different models but, in the case of the model that has been adopted in most jurisdictions (i.e. the East Coast Model), the differences between the various legislations have become more pronounced following recent amendments.

Mr Murray's presentation will discuss the key issues and the viewpoints expressed by industry stakeholders on those issues. Specifically, the Review will endeavour to arrive at answers to the following questions:

-) How can the legislative regime best ensure that the party that has carried out construction work can receive prompt payment?
-) How can disputed payment claims best be dealt with?
-) What measures can be taken to improve the adjudication appointment process and how can the quality of adjudication decision making be improved?
-) Should progress payments made to head contractors and trade contractors be paid into a trust account?
-) How should contractual clauses that restrict contractors from obtaining payment for work carried out be dealt with?