

# Building Industry Fairness (Security of Payment) (Postponement) Regulation 2018

Explanatory notes for Subordinate Legislation 2018 No. 178

made under the

*Building Industry Fairness (Security of Payment) Act 2017*

## General Outline

### Short title

*Building Industry Fairness (Security of Payment) (Postponement) Regulation 2018.*

### Authorising law

Section 15DA of the *Acts Interpretation Act 1954*.

Section 2 of the *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act).

### Policy objectives and the reasons for them

The BIF Act was assented to on 10 November 2017. Certain provisions under Chapter 9, parts 1 to 3 and other specific provisions commenced on assent. The provisions of the Act relating to Project Bank Accounts commenced on 1 March 2018. The remaining provisions are to commence by Proclamation, in stages.

Section 15DA(2) of the *Acts Interpretation Act 1954* (AIA) provides that if the majority of the remaining provisions are not proclaimed before 10 November 2018 they will automatically commence on 11 November 2018, unless the period before automatic commencement is extended by regulation.

The objective of the *Building Industry Fairness (Security of Payment) (Postponement) Regulation 2018* (the Postponement Regulation) is to extend the period before automatic commencement of certain provisions of the *Building Industry Fairness (Security of Payment) Act 2017* (the Act), other than—

- (a) section 303A; and
- (b) chapter 9, part 1, divisions 2 and 3.

## **Achievement of policy objectives**

The postponement of the automatic commencement of these provisions is necessary to allow sufficient time for stakeholders to get ready for Stage 2 which covers progress payments, subcontractors' charges and the adjudication registry. Consequently, the BIF Act provisions will be postponed from commencement until 17 December 2018. At this time the supporting regulations prescribed under the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Regulation 2018* will also commence.

## **Consistency with policy objectives of authorising law**

The Postponement Regulation is consistent with the objectives of the Act.

## **Inconsistency with policy objectives of other legislation**

There is no inconsistency with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

The policy objectives can only be achieved by making the Postponement Regulation.

## **Benefits and costs of implementation**

As outlined in the explanatory notes to the *Building Industry Fairness (Security of Payment) Bill 2017*, any costs arising from implementation of the Act will be met from existing resources.

## **Consistency with fundamental legislative principles**

The Postponement Regulation is consistent with fundamental legislative principles.

## **Consultation**

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The Department of Housing and Public Works applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category g – Regulatory proposals that are of a machinery nature).