

# TRADIE PAY FACT SHEET

## CONSTRUCTION DEBT RECOVERY



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### OVERVIEW

At Tradie Law we understand the difficult position trade businesses often find themselves in when invoices for their work are not paid in a timely manner. The effect on cash flow and stress caused can be significant.

It is important to appreciate that most work undertaken by trade businesses fall under the ambit of the Construction Contracts Act 2002 ("the Act"). One of the purposes of the Act is to facilitate regular and timely payments between the parties to a construction contract.

To access the Act's processes for recovering construction debt, it is important to first ensure that your invoices qualify as a payment claim under section 20.

### Payment Claims

A payment claim is similar to an invoice, but it must:

1. be in writing;
2. contain sufficient details to identify the construction contract to which the payment relates;
3. identify the particular construction work and the relevant period of time to which the payment relates;
4. state a claimed amount and the due date for payment of that amount;
5. indicate the manner in which the payee calculated the claimed amount; and
6. state that this payment claim is made under this Act.

Payment claims must also be accompanied by:

- An outline of the process for responding to the claim;
- An explanation of the consequences of not responding to the claim; and
- An explanation of the consequences of not paying the claimed amount in full.

These requirements seem simple but are often overlooked. They are however vitally important if you want to increase your chances of recovery.

Once you tick off these requirements, the debtor must either pay the amount sought in the payment claim, or respond with a payment schedule within the required timeframe in the Act, failing which the amount in the payment claim becomes due and payable.

The team at Tradie Law can help you ensure your invoices comply with the Act's requirements regarding payment claims. If your invoices do not comply with the Act, we will provide you with a template that complies.

### Demanding Payment

Once you have your ducks in a row, we will review matters and prepare a Letter of Demand which we will send to the debtor requiring payment. We charge a small fee for this; \$400.00 (plus GST & disbursements). We usually allow 7 working days for payment to be made.

## **The Court Process**

If payment is not made, and the debtor has not complied with the Act's requirements, we will, with your instructions, issue proceedings to recover the debt in the relevant District or High Court. Being Wellington-based is not a problem, we regularly appear in Courts around New Zealand and if we cannot appear we will arrange for a competent lawyer with expertise in this field to make the appearance on our behalf.

We do this by way of a procedure called Summary Judgment. Summary Judgment is available where a party satisfies the court that there is no defence to a claim set out on a statement of claim. In circumstances where the payment claim procedure has not been responded to, Summary Judgment is available, as is a claim for costs against the debtors for having to take this step.

If we consider that your position is sound, and an arguable defence has not been raised we will undertake the summary judgment proceeding for you at no direct cost except Court filing fees, service agent fees and of course any lawyer's costs if we need to engage a lawyer to appear as it is uneconomic for us to travel to that location.

## **Enforcement**

Once we secure judgment we will move to enforcement of the debt and payment. There are several avenues available to achieve this. All you need to know is that we keep going!

## **Our Terms and Conditions**

Our full terms and conditions for acting for you to recover your outstanding debt will be set out in our engagement letter with you. We generally offer this service for debts of \$5,000.00 (this can be one or multiple) and above. However, if your debt is lower than this, we would be happy to talk to you as we may just make an exception as there are plenty of examples where lower debt values are worth pursuing using this process.

## **Other Debt**

Our skill set is not limited to recovery under the Act. Sometimes your debt will not fall under the Act and other procedures or proceedings may be necessary. We are happy to discuss your options if this arises and the likely costs.

**If you require advice or assistance on how to recover outstanding debt under the Construction Contracts Act 2002, get in touch so we can help.**

### **Contact:**

**E**     **[helpdesk@tradielaw.co.nz](mailto:helpdesk@tradielaw.co.nz)**

**W**     **<https://tradielaw.co.nz/tradie-law/contact/>**

**One of our team will be in touch to assist you within 24 hours.**