

## CLAUSE NOTES

### *Building and Construction Industry Security of Payment Amendment Bill 2015*

- Clause 1:     **Short title**  
Sets out the name of the proposed Act.
- Clause 2:     **Commencement**  
Provides for the commencement of this Bill on Proclamation.
- Clause 3:     **Principal Act**  
Reference to the Act that is being amended.
- Clause 4:     **Section 3 amended**  
The reference to “residential structure” is replaced by the “residential building” to ensure consistency with the Residential Building Work Contracts and Dispute Resolution Bill 2015.
- Clause 5:     **Section 4 amended (Interpretation)**  
This clause inserts the definition of *building practitioner* to ensure consistency with other Acts including the *Building Act 2000* and the amended *Occupational Licensing Act 2005*.  
The definition of *Director* is inserted, the definition of *owner* is inserted to be consistent with other legislation, and the definition of *residential structure* is replaced by the definitions of *residential building* and *residential building work*, to be consistent with the Residential Building Work Contracts and Dispute Resolution Bill 2015
- Clause 6:     **Section 38 Substituted (Provision of adjudication decisions by nominating authorities to Security of Payments Official)**  
Section 38 previously provided for an adjudicator to provide a copy of the determination to the nominating authority who would then forward a copy of the decision to the Security of Payments Official.  
Section 38 also allowed for the Security of Payments Official to submit an annual report to the Building Regulation Advisory Committee – a body which will no longer exist following the completion of the review.  
The new section 38 maintains the provisions relating to copies of the determination, but sets a time limit of 3 working days for forwarding a copy of the decision to the Security of Payments Official.

The nominating authority is also required to include information about any fees required in relation to the adjudication decision. The manner and form of this information may be determined by the Security of Payments Official.

A new Section 38A is inserted that introduces provision for the Security of Payments Official to appoint an expert panel to review an adjudicator's decision.

If a decision is referred for review, the adjudication decision is suspended until the review is complete.

The expert panel may either confirm the adjudication decision or quash the decision or any part of it. The panel may also substitute its own determination which will have the same status as the original decision.

**Clause 7: Section 39 amended (Protection from liability)**

Extends protection from personal liability to include the expert panel members.

**Clause 8: Section 39 amended (Repeal of Act)**

Provisions in this amendment Act will be incorporated into the principal Act, and the amendment Act will expire 365 days after it commences.