PANORAMIC

CONSTRUCTION

Australia

LEXOLOGY

Construction

Contributing Editors

Michael S Zicherman and Denis Serkin

Peckar & Abramson

Generated on: July 8, 2025

Contents

Construction

ENVIRONMENTAL REGULATION

CROSS-BORDER ISSUES

UPDATE AND TRENDS

Contributors

Australia

Holding Redlich

Kirsty Smith	kirsty.smith@holdingredlich.com
Kate Milward	Kate.Milward@holdingredlich.com
Kennedi Clayton	kennedi.clayton@holdingredlich.com
Alex Mebrahtu	Alex.Mebrahtu@holdingredlich.com
Hugh Steel	hugh.steel@holdingredlich.com

LOCAL MARKET

Foreign pursuit of the local market

If a foreign designer or contractor wanted to set up an operation to pursue the local market, what are the key concerns they should consider before taking such a step?

Before starting a business in Australia in the construction industry, it is important to know about the relevant legislation, licences and permits, and other business requirements.

Some of the key concerns to be aware of include (but are not limited to):

- construction industry-specific legislation, standards and regulations, including the Competition and Consumer Act 2010 (Cth), the Australian Consumer Law and the National Construction Code;
- required licences and permits, such as building permits and development applications;
- taxation laws, including the goods and services tax and taxable payments reporting requirements;
- security of payment laws relevant to your state or territory;
- state-specific work health and safety laws; and
- insurance requirements, including professional indemnity insurance and public liability insurance.

In Queensland, it is important to understand the licensing and industry requirements under the following legislation:

- Building Act 1975 (Qld);
- Queensland Building and Construction Commission Act 1991 (Qld) (QBCC Act) and associated regulations;
- Building Industry Fairness (Security of Payment) Act 2017 (Qld) (BIF Act) and associated regulations;
- Electrical Safety Act 2002 (Qld);
- Professional Engineers Act 2002 (Qld);
- Architects Act 2002 (Qld); and
- Plumbing and Drainage Act 2018 (Qld).

In New South Wales, the law which deals with regulation of the industry and licensing requirements is:

- Building and Construction Industry Security of Payment Act 1999 (NSW)
- Home Building Act 1989 (NSW);
- Design and Building Practitioners Act 2020 (NSW);
- Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (NSW);

- Building Legislation Amendment (Building Classes) Regulation 2023 (NSW);
- Architects Act 2003 (NSW); and
- Gas and Electricity (Consumer Safety) Act 2017 (NSW).

In South Australia, the primary pieces of legislation relating to licensing are:

- Building Work Contractors Act 1995 (SA);
- Planning, Development and Infrastructure Act 2016 (SA);
- Architectural Practice Act 2012 (SA); and
- Plumbers, Gas Fitters and Electricians Act 1995 (SA).

In Tasmania, the legislation regulating licensing and the industry is:

- Building Act 2016 (Tas);
- Occupational Licensing Act 2005 (Tas);
- Occupational Licensing (Electrical Work) Regulations 2018 (Tas);
- Residential Building Work Contracts and Dispute Resolution Act 2016 (Tas); and
- Architects Act 1929 (Tas).

In Victoria, the law governing licensing and the building industry is as follows:

- Building and Construction Industry Security of Payment Act 2002 (Vic);
- The Domestic Building Contracts Act 1995 (Vic);
- The Building Act 1993 (Vic);
- Professional Engineers Registration Act 2019 (Vic);
- Architects Act 1991 (Vic); and
- Electricity Safety Act 1998 (Vic).

In Western Australia, the applicable legislation for building matters is:

- Architects Act 2004 (WA);
- Building Act 2011 (WA);
- Building Services (Complaint Resolution and Administration) Act 2011 (WA);
- Building Services (Registration) Act 2011 (WA) and associated regulation;
- Building and Construction Industry (Security of Payment) Act 2021 (WA) and associated regulation;
- Electricity (Licensing) Regulations 1991 (WA);
- Home Building Contracts Act 1991 (WA);
- Local Government (Miscellaneous Provisions) Act 1960 (WA); and
- Plumbers Licensing Act 1995 (WA).

In the Australian Capital Territory, the primary pieces of law relating to licensing and building are:

- The Building Act 2004 (ACT);
- The Construction Occupations (Licensing) Act 2004 (ACT);
- Professional Engineers Act 2023 (ACT); and
- Architects Act 2004 (ACT).

In the Northern Territory, the law to be aware of with respect to building matters is:

- The Building Act 1993 (NT) and the associated regulations;
- Architects Act 1963 (NT);
- Electrical Safety Act 2022 (NT);
- Electrical Safety Regulations 2024 (NT); and
- Construction of Contracts (Security of Payments) Act 2004 (NT).

Law stated - 28 April 2025

REGULATION AND COMPLIANCE

Licensing procedures

Must foreign designers and contractors be licensed locally to work and, if so, what are the consequences of working without a licence?

Foreign construction professionals must hold the relevant Australian licences and qualifications to perform construction work in Australia. For construction professionals who have acquired their skills and experience overseas, the recognition of prior learning programmes offers an avenue to have these skills assessed and recognised in Australia and a faster path to the relevant Australian qualifications. Foreign construction professionals must hold an appropriate visa permitting them to work in Australia.

Law stated - 28 April 2025

Competition

Do local laws provide any advantage to domestic contractors in competition with foreign contractors?

Australia has ratified the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which restricts government entities from discriminating against foreign tenderers. Relevantly, the Department for Foreign Affairs and Trade (DFAT) sought submissions from businesses and other interested stakeholders on the CPTPP as part of its mandated three-year General Review, which may result in changes in 2025.

In January 2025, DFAT conducted a Post-Implementation Review (PIR) to assess the appropriateness of the CPTPP as well as the effectiveness and efficiency of the instrument in fulfilling its objectives. The PIR concluded that the CPTPP had met its objective, as it has created greater choices for Australian consumers and expanded economic opportunities for Australian businesses with CPTPP members in the five years after entry into the Agreement.

In any case, jurisdictions in Australia have various local content requirements and policies to promote opportunities for local businesses, and may, in practice, override this requirement. For example, many jurisdictions have policies supporting small- and medium-sized enterprises or local development.

Law stated - 28 April 2025

Competition protections

What legal protections exist to ensure fair and open competition to secure contracts with public entities, and to prevent bid rigging or other anticompetitive behaviour?

Australia has a multi-agency and regulatory approach to combating corruption, bribery, fraud, collusion and other dishonest practices in the construction sector.

Commonwealth, state, and local government procurement is governed by different legislation; however, all have provisions or policies that prohibit bid rigging or other anti-competitive behaviour.

In addition, Australia has Commonwealth legislation, being the Government Procurement (Judicial Review) Act 2018 (Cth), which commenced on 20 April 2019. This Act gives bidders a statutory platform to challenge Commonwealth government tender processes. Similar legislation has also been enacted in:

- New South Wales: Public Works and Procurement Amendment (Enforcement) Act 2018 (NSW); and
- Tasmania: Government Procurement Review (International Free Trade Agreements) Act 2019 (Tas).

Independent organisations, such as the Independent Commission Against Corruption in NSW, also investigate and expose corrupt conduct in the public sector.

Law stated - 28 April 2025

Bribery

If a contractor has illegally obtained the award of a contract, for example, by bribery, will the contract be enforceable? Are bribe-givers and bribe-takers prosecuted and, if so, what are the penalties they face? Are facilitation payments allowable under local law?

A contract that has been illegally obtained, for example by bribery, will generally be unenforceable.

Anti-corruption and bribery offences are governed under the Criminal Code Act 1995 (Cth) (Criminal Code).

From 8 September 2024, the Crimes Legislation Amendment (Combatting Foreign Bribery) Act 2024(Cth) came into effect. The Act aims to ensure that companies implement adequate procedures to prevent such bribery, thereby aligning with international standards and

obligations. Additionally, this Act made amendments to the Criminal Code, including the introduction of a new corporate offence for failing to prevent bribery of a foreign public official by associates of the company.

The amendment also included the expansion of the definition of 'associate' to include employees, agents, contractors and subsidiaries of the company, and any other persons carrying out services on the company's behalf. This new offence holds businesses accountable where they fail to prevent an 'associate' from engaging in such corruption.

Each state and territory has also criminalised public and private bribery under the following acts, with different penalties provided under each:

- New South Wales: section 249B of the Crimes Act 1900 (NSW);
- Victoria: section 176 of the Crimes Act 1958 (Vic);
- South Australia: section 150 of the Criminal Law Consolidation Act 1935 (SA);
- Queensland: sections 442B to 442BA of the Criminal Code Act 1899 (Qld);
- Western Australia: sections 529 to 530 of the Criminal Code Act Compilation Act 1913 (WA);
- Tasmania: section 266 of the Criminal Code Act 1924 (Tas);
- Australian Capital Territory: sections 356 to 357 of the Criminal Code 2002 (ACT); and
- Northern Territory: section 236G to 236K of the Criminal Code Act 1983 (NT).

Facilitation payments, which are defined as payments to encourage a public official to perform his or her duty in a more time-efficient manner, are strongly discouraged by the Australian government. Notwithstanding this position, such payments may constitute a complete defence to an allegation of foreign bribery under section 70.4 of the Criminal Code Act 1995 (Cth). However, distinguishing between lawful facilitation payments and unlawful bribes can be highly challenging in practice.

Law stated - 28 April 2025

Reporting bribery

Under local law, must employees of the project team members report suspicion or knowledge of bribery of government employees and, if so, what are the penalties for failure to report?

There is no specific legislation requiring employees of project teams to report suspicion or knowledge of bribery of government employees, or any penalty for employees who fail to do so. Notwithstanding this, employees are generally encouraged to report bribery and other forms of improper conduct by government employees.

Specifically, the Public Interest Disclosure Act 2013 (Cth) provides a framework for public officials and former public officials to make disclosures about disclosable conduct, which includes bribery, with protections in place for those who make such disclosures. Additionally, the Corporations Act 2001 gives certain people legal rights and protections as whistleblowers, and the Australian Securities and Investments Commission (ASIC) has also released Regulatory Guide 270 to help companies and other entities establish a

whistleblower policy. Further, there is whistleblowing legislation in certain jurisdictions and industries that provides certain protections for those who report corrupt conduct.

Law stated - 28 April 2025

Political contributions

Is the making of political contributions part of doing business? If so, are there laws that restrict the ability of contractors or design professionals to work for public agencies because of their financial support for political candidates or parties?

The making of political contributions is not part of doing business in Australia.

Relationships or associations with public agencies or public sector personnel, or political associations, may need to be disclosed as conflict of interest issues to the public sector procuring agency where relevant.

Law stated - 28 April 2025

Compliance

Is a construction manager or other construction professional acting as a public entity's representative or agent on a project and its employees subject to the same anti-corruption and compliance rules as government employees?

Typically, anti-corruption and compliance rules on construction managers or other construction professionals engaged in a government project are governed by the contract. For example, a government entity can include a provision in a contract requiring the contractor to comply with equivalent anti-corruption laws.

Law stated - 28 April 2025

Other international legal considerations

Are there any other important legal issues that may present obstacles to a foreign contractor attempting to do business in your jurisdiction?

Australia has a strict regulatory framework, which can be difficult to navigate across the three levels of government: Commonwealth, state and local.

Some of the important legal issues that may present obstacles to a foreign contractor attempting to do business in Australia include (but are not limited to):

- foreign investment regulations and policy;
- corporate law regulating forms of business organisations;
- companies and securities regulation;
- taxation and banking laws;

- intellectual property laws;
- privacy laws;
- competition and unfair commercial practices laws;
- labour laws;
- visa and immigration requirements; and
- real property, environmental and planning laws.

Law stated - 28 April 2025

CONTRACTS AND INSURANCE

Construction contracts

What standard contract forms, if any, are used for construction and design? Must the language of the contract be the local language? Are there restrictions on choice of law and the venue for dispute resolution?

Examples of standard contract forms released by Standards Australia used in the construction sector include:

- AS 4000-1997: general conditions of contract;
- AS 4902-2000: general conditions of contract for design and construct;
- AS 4905-2002: minor works contract conditions (superintendent administered); and
- AS 4903-2000: subcontract conditions – design and construct.

Any deviation from the contract will depend on the unique circumstances of the transaction and is commonly reflected in:

- the formal instrument of agreement, which accompanies the contract;
- the body of the contract, as amendments; and
- parts (and annexes) to the contract.

Standards Australia has released a draft update to the AS4000-1997 General Conditions of Contract, known as AS4000-2024 and is the first step in updating the AS4000. The update aims to modernise the style and structure of the contract and incorporate legislative changes that have occurred since the original AS4000-1997 was published. Some of the key proposed changes include:

- insertion of a Formal Instrument of Agreement (FIA);
- amendments to the Dispute Resolution clause;
- redrafting and restructuring of the Definitions and Interpretation sections' new legislative provisions;
- clarification of how the adjustment for actual quantities works;
- replacement of the Evidence of Contract clause with a new Goods and Services Tax (GST) clause; and

- alignment of insolvency provisions with current legislation.

In addition, standard form contracts for specific areas of construction have been made available by different industry bodies, such as the Master Builders Association, the Property Council of Australia and the International Federation of Consulting Engineers. Generally, the language of the contract must be in English and the governing law will generally be the law of the state or territory where the construction works take place. Parties are free to choose the venue for dispute resolution; however, there are industry-accepted institutions, such as the Resolution Institute (formerly the Australian Commercial Disputes Centre).

Law stated - 28 April 2025

Payment methods

How are contractors, subcontractors, vendors and workers typically paid and is there a standard frequency for payments?

Payments are generally made electronically.

Australia has state and territory-based Security of Payment legislation that provides contractors and subcontractors with statutory rights to claim and recover progress payments, offering protection against non-payment by principals and upstream parties.

A key feature of these laws is the requirement for regular, time-bound payment cycles, ensuring that contractors are entitled to submit payment claims at defined intervals — typically monthly or as set out by legislation. This framework increases the frequency and reliability of payments, helping maintain steady cash flow throughout a project and reducing the risk of prolonged payment delays.

Where disputes over payment arise in the construction industry, the Security of Payment regime provides a fast-tracked, statutory process for recovering progress payments. It is interim in nature, designed to preserve cash flow during a project, rather than provide a final resolution of disputes.

Under the regime, claimants can seek prompt, temporary payments through an adjudication process that is deliberately quick, informal and limited in scope. Adjudicators make determinations based on the information available within strict time frames, without the procedural rigour of litigation or arbitration.

Importantly, an adjudication determination does not finally determine the parties' rights. Either party may still pursue their claims through more formal dispute resolution avenues, such as court proceedings, arbitration, or expert determination, where all issues can be fully ventilated and final entitlements resolved.

This interim mechanism is a key feature of Security of Payment legislation across Australian jurisdictions (with some variations), and it reflects a policy intent to 'pay now, argue later', promoting liquidity and reducing the risk of insolvency in the construction supply chain.

Law stated - 28 April 2025

Contractual matrix of international projects

What is the typical contractual matrix for a major project in your jurisdiction in terms of the contractual relationships among the various construction project participants? For example, do owners contract directly with contractors or do they contract through construction managers to trade contractors? Are any of the relationships legally defined?

In Australia, the typical contractual structure for major construction projects involves the principal or owner contracting directly with a head contractor. The head contractor is then responsible for engaging subcontractors and subconsultants as needed to deliver the project. These subcontractors and subconsultants do not have a direct contractual relationship with the principal and the head contractor remains contractually liable to the principal for the overall delivery and performance of the works.

Law stated - 28 April 2025

PPP and PFI

Is there a formal statutory and regulatory framework for PPP and PFI contracts?

The statutory and regulatory framework for PPPs differ across Commonwealth, state and local governments.

For Commonwealth and state government agencies, the National PPP Policy and Guidelines apply broadly to offer a consistent framework for delivery of PPPs.

Locally, each government is governed differently. For example, the New South Wales (NSW) Local Government is governed by legislation (Chapter 12, Part 6 of the Local Government Act 1993 (NSW)) and is guided by the NSW Public Private Partnership Policy and Guidelines 2022. In the Australian Capital Territory (ACT), the Capital Framework and Guidelines for Public Private Partnerships guide PPP delivery, and in Queensland, the Queensland PPP Supporting Guidelines apply.

The two primary pieces of Commonwealth legislation which apply on a general basis to PPPs are:

- the Foreign Acquisitions and Takeovers Act 1975 (Cth); and
- the Competition and Consumer Act 2010 (Cth).

There is no formal statutory and regulatory framework for PFIs as this is not a typical form of contract in Australia.

Law stated - 28 April 2025

Joint ventures

Are all members of consortia jointly liable for the entire project or may they allocate liability and responsibility among them?

The allocation of liability and responsibility of joint venture consortium members will depend on the specific terms of the joint venture agreement and potentially the construction contract. Parties are free to allocate liability and responsibility under the contract as they see fit.

Law stated - 28 April 2025

Tort claims and indemnity

Do local laws permit a contracting party to be indemnified against all acts, errors and omissions arising from the work of the other party, even when the first party is negligent?

Local laws do not restrict the freedom of contract. If an exclusion, carve-out of negligence or reduction based on the proportionality of the negligence is not specifically listed, the full indemnity will likely be enforceable by the party who agrees to it. However, an indemnity clause can permit a contracting party to be indemnified against all acts, errors and omissions arising from the work of the other party, even when the first party is negligent.

Certain liabilities, such as under the Australian Consumer Law, cannot be contracted out of.

Law stated - 28 April 2025

Liability to third parties

Where a contractor constructs a building that will be sold or leased to a third party, does the contractor bear any potential responsibility to the third party? May the third party pursue a claim against the contractor despite the lack of contractual privity? Can a contractor's liability to contracting parties and others be limited by contract or law?

In Australia, there is no cause of action or recourse in contract law against a third party that is not privy to the contract (except for any common law or statutory exceptions).

In 2020, NSW passed the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (NSW) (RAB Act), which is aimed at protecting third-party users against defective building work by developers. The definition of developers is broad and includes a person who contracted (whether directly or indirectly) for the building work to be carried out. It also includes a principal contractor as defined under the Environmental Planning and Assessment Act 1979 (NSW).

The purpose of the RAB Act is to provide broad powers to the Secretary of the Department of Customer Service (the Secretary) to:

- issue a stop work order for work being carried out;
- issue a building work rectification order; and
- prohibit the issuing of an occupational certification.

The extra powers provided to the Secretary are aimed at providing further protections for third parties (which are not privy to the contract), such as purchasers of new dwellings or recently built buildings.

Importantly, common law remedies are not limited, such as a product liability negligence claim for a defective building product that causes a party to suffer loss. Other possible actions may include actions under the Australian Consumer Law by a party or the corporate regulator, such as the Australian Securities and Investments Commission, for:

- a breach of safety or information standard;
- misleading or deceptive conduct;
- a breach of a statutory 'consumer guarantee'; or
- loss or damages suffered as a result of a safety defect.

Courts have recently placed restrictions on some common law claims against contractors by subsequent owners.

Law stated - 28 April 2025

Insurance

To what extent do available insurance products afford a contractor coverage for: damage to the property of third parties; injury to workers or third parties; delay damages; and damages due to environmental hazards? Does the local law limit contractors' liability for damages?

In Australia, a policy of insurance will generally not provide coverage to an insured where there has been a contravention of law. Insurance products for contractors will provide coverage for:

- damage to the third party's property;
- injury to workers;
- injury or death to third parties; and
- damage owing to environmental hazards caused by an accident (but not by negligence caused by the contractor).

The equivalent of the Civil Liability Act in each state and territory provides guidance on damages available to a party for claims of negligence. Common law also acts as guidance for damages in negligence claims. However, contractual damages may be unlimited if not specifically capped in the contract.

For injured employees, there is workers' compensation legislation that acts as a guide to damages for the affected party.

Law stated - 28 April 2025

LABOUR AND CLOSURE OF OPERATIONS

Labour requirements

Are there any laws requiring a minimum amount of local labour to be employed on a particular construction project?

There are no laws that specifically require a minimum or certain percentage of labour on a construction project to be locally sourced. The Australian government has, however, taken steps to encourage the hiring of local labour on construction projects by imposing a number of restrictions on the granting of visas to overseas contractors.

Any foreign labourers or contractors must enter the country under an appropriate class of visa. As of 7 December 2024, the Skills in Demand visa (Subclass 482) (SID) replaced the Temporary Skills Shortage visa (Subclass 482). This change was introduced as part of the Migration Amendment (2024 Measures No.1) Act 2024(Cth) which aimed to modernise Australia's migration framework and address critical shortages. In comparison, the new SID visa offers simplified migration processes, ensures fair pay, reduces work experience requirements and provides a clearer pathway to obtaining permanent residency. For a foreign labourer or contractor to be eligible for the SID visa, it must be established that the employer cannot find a suitably skilled Australian worker to fill the role.

There are also no laws that specify the minimum number of employees that should be on a construction project at any one time. However, there is guidance around the maximum number of contractors on the project at any one time. This is typically set out in a contractor's work health and safety management plan, which is required by the principal contractor of a construction project.

Notably, there may be Australian standard guidelines or internal company work health and safety policies that apply for specific construction trade work that requires a minimum number of people to carry out the work; for example, high-risk works, such as working with overhead power lines.

Law stated - 28 April 2025

Local labour law

If a contractor directly hires local labour at any level for a project, are there any legal obligations towards the employees that cannot be terminated upon completion of the employment?

Under the Fair Work Act 2009 (Cth) (Fair Work Act), employees have a number of minimum entitlements, meaning employers must comply with them. Upon termination of a contract of employment, the employer will be able to terminate all obligations except for any outstanding wages or remuneration owing, accrued leave entitlements, redundancy payment and the notice period (which can be paid in lieu of notice). Other contractual obligations may survive the termination of a contract, but this will rest on the contractual terms.

Employers must also consider the National Employment Standards (NES) regulated through the Fair Work Ombudsman. The standards clarify the mandatory minimum employment requirements for all employees. A non-exhaustive list of protections by the NES include an entitlement to maximum weekly hours, categories of leave, superannuation contributions and notice of termination or redundancy.

Whether an employer must pay redundancy will depend on the size of the business. Additionally, the amount an employee receives in a redundancy payout and the notice period depends on the employee's period of continuous service.

Law stated - 28 April 2025

Labour and human rights

What laws apply to the treatment of foreign construction workers and what rights do they have? What are the local law consequences for failure to follow those laws?

Construction workers are protected by a synergy of employment and immigration laws that protect their rights and ensure fair treatment. The Migration Act 1958 (Cth) governs the different types of visas that foreign workers can apply for, and imposes rules on employers such as prohibiting the employment of a foreign worker without a visa. Furthermore, the Fair Work Act dictates to employers the rights it must afford foreign construction workers during their respective employment.

Project Agreements and Designated Area Migration Agreements (DAMAs) are two other mechanisms which allow employers to sponsor foreign workers in Australia, and therefore offer further protection to foreign workers. Project agreements are designed for large-scale resource projects. These agreements allow project owners or nominated companies to negotiate an umbrella agreement with the Australian Government, covering the entire construction phase of the project. DAMAs are geographically based migration agreements intended to support economic performance in regional areas of Australia. DAMAs enable regions to supplement the Australian workforce and fill recognised skill shortages with overseas workers.

Foreign construction workers are entitled to work in Australia under a foreign working visa. The conditions of their visa will stipulate the type of work they can do and the hours during which they can work. Some visas even restrict foreign workers from working in certain areas to encourage them to work in rural or remote areas. Once foreign workers are accepted to work in Australia under a foreign working visa, they are bound to comply with all local, state and Commonwealth laws. Failure to do so could result in a civil or criminal action being brought against them.

Law stated - 28 April 2025

Close of operations

If a foreign contractor that has been legally operating decides to close its operations, what are the legal obstacles to closing up and leaving?

Foreign contractors who start up legal operations in Australia will need to obtain a specific type of visa, for example a Business Owner Visa (Subclass 890) or a Business Innovation and Investment (Permanent) Visa (Subclass 888). Due to the heightened legal risks, these types of visas require the foreign contractor to meet eligibility criteria which are typically much harder to meet than for other visas available to foreign workers.

When a business decides to close (whether owned by a foreign contractor or not) there will likely be termination payments that are applicable to those contracts that are in force. There will also be important legal obstacles to close out, such as:

- paying employees, suppliers and contractors;
- finalising any lease obligations;
- retaining important business records;
- terminating payments for any enforceable contracts; and
- paying out any tax obligations.

Immigration law in Australia is a very specialised area of law and legal advice should always be sought from an immigration law specialist before setting up a business.

Law stated - 28 April 2025

PAYMENT

Payment rights

How may a contractor secure the right to payment of its costs and fees from an owner? May the contractor place liens on the property?

In Australia, a contractor may secure the right to payment for its costs and fees through both contractual mechanisms and statutory rights. One of the primary statutory avenues is the Security of Payment regime, which provides a fast-tracked process for recovering progress payments during the life of a construction project.

The regime grants contractors, subcontractors and suppliers who perform construction work or supply related goods and services a statutory entitlement to claim and receive progress payments, even in the absence of clear contractual terms. If a payment claim is disputed or unpaid, the claimant may initiate adjudication, a deliberately quick and informal process designed to preserve cash flow. Adjudicators make interim determinations based on limited submissions, typically within strict timeframes, enabling claimants to obtain payment far more rapidly than through traditional litigation or arbitration.

Importantly, the Security of Payment regime is interim in nature — meaning it does not prevent parties from later pursuing final resolution of payment disputes through the courts or other dispute resolution forums. The guiding principle of the legislation is to 'pay now, argue later', thereby supporting liquidity and financial stability across the construction supply chain.

Some jurisdictions in Australia have legislated statutory charges that allow subcontractors in particular circumstances to register a charge over land to secure payment. However, such rights are not uniform across all Australian jurisdictions and are not as commonly relied upon as the Security of Payment framework.

Law stated - 28 April 2025

‘Pay if paid’ and ‘pay when paid’

Does local law prohibit construction contracts from containing terms that make a subcontractor’s right to payment contingent on the general contractor’s receipt of payment from the owner, thereby causing the subcontractor to bear the risk of the owner’s non-payment or late payment?

Under the Security of Payment regime in Australia, 'pay when paid' provisions are expressly prohibited and unenforceable. These clauses typically seek to make a subcontractor’s right to payment conditional upon the head contractor first receiving payment from the principal or another upstream party.

The relevant legislation — across most Australian jurisdictions — voids any contract provision that makes payment contingent on the payer first being paid by a third party.

This prohibition is a fundamental part of the policy objective of the Security of Payment legislation: to ensure fair and reliable cash flow throughout the construction industry, particularly for subcontractors, who are most vulnerable to upstream payment delays or disputes.

Law stated - 28 April 2025

Contracting with government entities

Can a government agency assert sovereign immunity as a defence to a contractor’s claim for payment?

There is no legislation which currently protects the government from not paying contractors for work validly performed.

Law stated - 28 April 2025

Statutory payment protection

Where major projects have been interrupted or cancelled, do the local laws provide any protection for unpaid contractors who have performed work?

In Australia, a contractor may secure the right to payment for its costs and fees through both contractual mechanisms and statutory rights. One of the primary statutory avenues is the Security of Payment regime, which provides a fast-tracked process for recovering progress payments during the life of a construction project.

The regime grants contractors, subcontractors and suppliers who perform construction work or supply related goods and services a statutory entitlement to claim and receive progress payments, even in the absence of clear contractual terms. If a payment claim is disputed or unpaid, the claimant may initiate adjudication, a deliberately quick and informal process designed to preserve cash flow. Adjudicators make interim determinations based on limited submissions, typically within strict timeframes, enabling claimants to obtain payment far more rapidly than through traditional litigation or arbitration.

Importantly, the Security of Payment regime is interim in nature — meaning it does not prevent parties from later pursuing final resolution of payment disputes through the courts or other dispute resolution forums. The guiding principle of the legislation is to 'pay now, argue later', thereby supporting liquidity and financial stability across the construction supply chain.

Some jurisdictions in Australia have legislated statutory charges that allow subcontractors in particular circumstances to register a charge over land to secure payment. However, such rights are not uniform across all Australian jurisdictions and are not as commonly relied upon as the Security of Payment framework.

There are statutory limitation periods for when the claim for payment can be made. In New South Wales, Tasmania and Australian Capital Territory, the claim must be made within 12 months of carrying out the construction works or supplying the related goods and services. In Victoria, the period is three months, and in Queensland, South Australia and Western Australia the period is six months. The outlier is the Northern Territory, where there is no limitation period for making a claim for payment after the contractor has performed its obligations.

Various jurisdictions also provide a mechanism for subcontractors to lodge a charge over money owed from the principal or owner to the head contractor. However, the prospect of securing payment in this manner may depend on a variety of matters, including the circumstances in which the project was interrupted or cancelled. If it resulted from the head contractor's insolvency, there is the prospect that no amount will be owed by the owner to the head contractor where the owner has claim for damages or contractual set-offs against the head contractor.

Law stated - 28 April 2025

FORCE MAJEURE

Force majeure and acts of God

Under local law are contractors excused from performing contractual obligations owing to events beyond their control?

Force majeure in Australia is a contract law right and has not been settled under common law or enacted into statute. Therefore, the parties must define a force majeure event in their contract and include relevant clauses as to the impact of such an event.

Examples of events that could be considered a force majeure events include floods, fires and other natural disasters.

Law stated - 28 April 2025

DISPUTES

Courts and tribunals

Are there any specialised tribunals that are dedicated to resolving construction disputes?

Construction disputes are often heard first by bodies established by the state or territory government (eg, NSW Fair Trading or the Queensland Building and Construction Commission). Where these bodies are unable to resolve these disputes, the tribunal in the state or territory may have jurisdiction to hear these matters. In some instances, the tribunal may not have jurisdiction, in which case the parties may have the matter heard in the relevant court (depending on the monetary value).

While rectification orders can be the preferred outcome in residential building disputes, the orders given by the state's or territory's tribunal or the courts will depend on the facts of the dispute and the remedy sought.

In addition, the Security of Payment regimes in the various states and territories have established a legislative adjudication process through which the parties resolve disputes.

The Supreme Court of Queensland has established, as of March 2024, a designated Building, Engineering and Construction List to improve the conduct of large and complex litigation in relation to building, engineering and construction issues.

Law stated - 28 April 2025

Discovery and disclosure

To what extent do local proceedings include discovery or disclosure?

In local proceedings, discovery or disclosure, which refers to the exchange of information and documents between parties, generally involves a duty to make available all documents that are relevant to a fact in issue. The extent of disclosure in local proceedings differs between jurisdictions and the type of matter before the court. Disclosure generally occurs after the close of pleadings and the specific rules for disclosure are heavily jurisdiction-dependent, although it is an ongoing obligation. Most jurisdictions have judicial practice directions concerning this process that supplement the relevant court rules.

There are limited exceptions to the requirement to disclose documents, such as documents that are subject to legal professional privilege or without prejudice privilege.

Importantly, however, unlike in other Australian jurisdictions, any document containing an expert's opinion (regardless of whether it is a draft or commissioned on a party's behalf by their lawyers under privilege) will be disclosable in Queensland legal proceedings.

Law stated - 28 April 2025

Dispute boards

Are dispute boards (DBs) used? Do they issue decisions or only recommendations? Are their decisions treated as mandatory, advisory, final or interim? Do they have dispute avoidance roles?

DRBs are more frequently used in large infrastructure projects due to the expense involved in appointing and retaining the DRB. The status of DRB decisions depends largely on the contractual framework agreed upon by the parties. Typically, their decisions can be one of the following.

- Advisory: This is the most common status. The DRB provides non-binding recommendations that the parties are encouraged to follow but are not legally required to accept.
- Interim binding: In some cases, the contract may specify that DRB decisions are binding unless and until overturned by litigation or arbitration. This approach encourages compliance during the project to keep works progressing.
- Final and binding: Rare in Australia. DRBs are generally not empowered to make final binding decisions unless both parties expressly agree to it in the contract.

Overall, DRBs are usually treated as advisory or interim binding mechanisms designed to encourage early resolution of disputes and avoid escalation.

Contracts for residential construction projects do not typically involve a DRB. However, in each state and territory, there are different government departments that facilitate construction disputes relating to residential building work and certain non-residential building work. For example, Queensland has the Queensland Building and Construction Commission, and New South Wales (NSW) has NSW Fair Trading. In Victoria, the Domestic Building Dispute Resolution Victoria is available to resolve residential building disputes.

These departments attempt to resolve the dispute in the first instance by inspecting the works and determining if the alleged defects are in fact defective building works. After an inspection is carried out, the department will decide who is at fault and what action is required.

A decision made by the above bodies may involve a direction for the builder or contractor to carry out rectification works. Notably, a decision made is not treated as final, but if the builder or contractor fails to carry out the rectification works, the body may impose corrective actions, depending on the state or territory, such as:

- a direction to rectify the defective building work by a certain date;
- a fine to the person who carried out the building work;
- demerit points in respect of their building licence; or
- publishing details of non-compliance.

A party that is not satisfied with the result of the decision may take the decision to a tribunal or, where the tribunal has no jurisdiction, initiate court proceedings.

Law stated - 28 April 2025

Mediation

Has the practice of voluntary participation in professionally organised mediation gained acceptance and, if so, how prevalent is the practice and where are the mediators coming from? If not, why not?

The practice of voluntary participation in professionally organised mediation has gained acceptance in the construction sector in Australia. This practice tends to be adopted as an alternative dispute resolution step prior to any form of binding (fault-finding) dispute resolution, such as expert determination and arbitration. Most contracts include clauses

regarding the mediator selection process. For example, the clause may specify that the mediator is to be nominated by the Resolution Institute. The rules relating to such mediation are usually incorporated into the contract by reference.

The practice of mediation is generally desirable for parties to avoid lengthy and costly court proceedings. It may facilitate a non-adversarial resolution to issues that arise between parties involved in the construction project. Failing mediation, parties may have other avenues of recourse before appearing before the courts, such as through the specialist building and construction commissions and tribunals established in each state and territory.

Additionally, mediation is often used because most jurisdictions impose mandatory mediation before court proceedings are initiated, and before a proceeding is set down for trial.

For parties wanting to locate a mediator, there are many organisations that employ certified mediators who solely specialise in construction and commercial disputes. Additionally, many mediators who mediate disputes in the building and construction sector are barristers with experience in that area.

Law stated - 28 April 2025

Confidentiality in mediation

Are statements made in mediation confidential?

Typically, parties will sign a confidentiality agreement, prior to carrying out mediation or signing an agreement at the end of the mediation, that contains a confidentiality clause to ensure that any matters discussed are kept confidential. The agreement will generally deal with the confidentiality of any discussions held to ensure that the parties are barred from raising the discussions in formal proceedings. Where there is no agreement or clause to this effect, state and territory legislation also prevents settlement discussions from being admitted as evidence, as they are generally without prejudice.

It is common to go through a mediation institute, such as the Resolution Institute, and adopt their rules by reference. The Mediation Rules of the Resolution Institute have confidentiality obligations set out in Rule 4.

Nevertheless, the protection of confidentiality in mediation is not absolute. There are exceptions where the admission of confidential communication may be permitted (perhaps the most prevalent examples are a fraudulent misrepresentation made during mediation or to prove the existence or terms of a settlement agreement when a party breaches that agreement).

Law stated - 28 April 2025

Arbitration of private disputes

What is the prevailing attitude towards arbitration of construction disputes? Is it preferred over litigation in the local courts?

Arbitration is a commonly used method of alternative dispute resolution in construction disputes in Australia. It is often used in disputes involving international parties or where the default position under the contract is for arbitration to apply as a method of dispute resolution. For example, arbitration is the default position in Australian standard contracts such as AS4000, AS4902, AS4905 and AS4300.

Arbitration is often considered a more efficient and strategic alternative to litigation in complex building disputes. One of its key advantages lies in the ability to appoint arbitrators with specific expertise in the subject matter, offering a level of technical understanding that may not be available in court. Arbitration proceedings are also typically private and confidential, making them attractive for parties seeking to protect sensitive commercial information or reputations. The process is generally flexible, allowing parties to tailor procedures, select the venue, and agree on timelines — contributing to faster resolution in many cases. Furthermore, arbitral awards are usually final and binding, with limited rights of appeal, which can bring greater finality to disputes.

However, apart from the above benefits, arbitrations over complex disputes are not dissimilar to litigation in terms of expense and duration.

Law stated - 28 April 2025

Governing law and arbitration providers

If a foreign contractor wanted to pursue work and insisted by contract upon international arbitration as the dispute resolution mechanism, which of the customary international arbitration providers is preferred and why?

A common international arbitration provider for Australian projects (with international elements) is the Australian Centre for International Commercial Arbitration, and a common set of rules to adopt is the UNCITRAL Arbitration Rules (though the rules chosen can depend on the place where the arbitration will take place).

The International Arbitration Act 1974 (Cth) alongside the uniform commercial arbitration legislation of each state and territory, allows the UNCITRAL Model Law to have the force of law in Australia. The commercial arbitration legislation includes:

- Commercial Arbitration Act 2013 (Qld);
- Commercial Arbitration Act 2010 (NSW);
- Commercial Arbitration Act 2017 (ACT);
- Commercial Arbitration Act 2011 (Vic);
- Commercial Arbitration (National Uniform Legislation) Act 2011 (NT);
- Commercial Arbitration Act 2011 (SA);
- Commercial Arbitration Act 2011 (Tas); and
- Commercial Arbitration Act 2012 (WA).

However, the default position will generally be dependent upon the standard-form contract (unless it is amended). For example, under the Australian Standard contracts (eg, AS 4000, 4902 and 4905), the arbitration rules are the Rules for the Conduct of Commercial

Arbitrations of the Institute of Arbitrators and Mediators Australia. Other popular rules include those by the International Chamber of Commerce, the International Centre for Dispute Resolution and the International Bar Association.

Regarding jurisdiction, Australian parties generally prefer a Commonwealth country because of the similarities with the rule of law, and those countries' courts are likely to have adopted the UNCITRAL Model Law. Popular jurisdictions include London, Paris, Singapore, Hong Kong, Geneva, New York and Stockholm.

Resistance to using a particular jurisdiction will be associated with an unstable rule of law and a poor justice system without respectable and trusted judges.

Law stated - 28 April 2025

Dispute resolution with government entities

May government agencies participate in private arbitration and be bound by the arbitrators' award?

Government agencies in Australia are able to participate in private arbitration and can subsequently be bound by the arbitrator's award.

In certain situations, government agencies will prefer arbitration, when they are concerned about the sensitivity of the matter, owing to the confidential nature of arbitration. With respect to confidentiality, the International Arbitration Act 1974 (Cth) contains a confidentiality regime for Australian seated arbitrations, which applies on an opt-out basis. Provided the parties do not opt out of this regime, neither the parties nor the tribunal can disclose 'confidential information' except in certain circumstances, including when:

- all parties consent to disclosure;
- disclosure is allowed by an order of the tribunal;
- disclosure is required to establish or protect legal rights of a party; or
- disclosure is required by law.

Law stated - 28 April 2025

Arbitral award

Is there any basis upon which an arbitral award issued by a foreign or international tribunal may be rejected by your local courts?

Australian courts generally uphold foreign arbitral awards, and the relevant legislative framework is the 1958 New York Convention on the Recognition and Enforcement of Arbitration Awards and the International Arbitration Act 1974 (Cth). Both of these provide an exhaustive and discretionary set of circumstances in which a court can refuse to enforce a foreign arbitral award; however, these are very limited and, provided the award creates a remedy, the court should apply the rules for enforcement.

Courts may elect not to acknowledge arbitral awards in certain jurisdictions if legislation prohibits an arbitration clause in the contract. In certain Australian jurisdictions, arbitration clauses are prohibited in residential building contracts (eg, under the Domestic Building Contracts Act 1995 (Vic)). If a court were to decide whether an arbitration was binding when arbitration was clearly not permitted, it may find the determination null and void if it has jurisdiction to do so.

Law stated - 28 April 2025

Limitation periods

Are there any statutory limitation periods within which lawsuits must be commenced for construction work or design services and are there any statutory preconditions for commencing or maintaining such proceedings?

Regardless of the severity of a defect or the cost involved in rectifying it, any legal claim — whether brought by or against a party — must be commenced within the applicable limitation period set out in each jurisdiction's Limitation of Actions legislation. These laws impose strict deadlines for initiating legal proceedings, and failure to commence within the prescribed timeframe can result in a claim being permanently barred.

In most Australian states and territories, actions for breach of contract or tort (such as negligence) must be commenced within six years of the date on which the cause of action arises. For breach of contract claims, this generally occurs at the time the breach itself happens, not when the defect is discovered. This can be problematic in cases involving latent defects, where the issue may only come to light many years after the contractual breach occurred — by which point the claim may already be out of time.

By contrast, in negligence claims, the cause of action accrues when actual damage is suffered. In the context of latent defects, this means that time may not start running until the defect causes damage that becomes discoverable by reasonable diligence. This distinction can, in some cases, allow for a longer window in which to bring a claim, depending on when the damage becomes apparent.

The following is the relevant legislation by state:

- Limitation Act 1969 (NSW);
- Limitation of Actions Act 1958 (Vic);
- Limitation of Actions Act 1974 (Qld);
- Limitation Act 1985 (ACT);
- Limitation of Actions Act 1936 (SA);
- Limitation Act 1974 (Tas);
- Limitation Act 1981 (NT); and
- Limitation Act 2005 (WA).

However, in most jurisdictions there is also a statutory long stop date of 10 years applicable to building disputes.

This is a legal mechanism that sets an absolute time limit within which claims can be brought — regardless of when the defect is discovered or when the damage occurs. It is designed to provide certainty and finality for builders, developers and professionals by preventing indefinite exposure to legal claims.

The long stop limitation periods are not found in the usual Limitations of Actions Acts in each state and territory. Instead, the long stop limitation periods sit within building-specific legislation as follows:

- section 142 of the Building Act 2004 (ACT);
- section 6.20 of the Environmental Planning and Assessment Act 1979 (NSW);
- section 160 of the Building Act 1993 (NT);
- section 159 of the Planning, Development and Infrastructure Act 2016 (SA);
- section 327 of the Building Act 2016 (Tas); and
- section 134 of the Building Act 1993 (Vic).

In Queensland and Western Australia, there is no statutory long stop limitation period.

Law stated - 28 April 2025

ENVIRONMENTAL REGULATION

International environmental law

Is your jurisdiction party to the Stockholm Declaration of 1972? What are the local laws that provide for preservation of the environment and wildlife while advancing infrastructure and building projects?

Yes, Australia ratified the Stockholm Declaration on 20 May 2004, and it entered into force on 18 August 2004.

Australia has addressed a number of the principles set out in the Declaration across various local planning instruments and state legislation. For example, in New South Wales (NSW), theEnvironmental Planning and Assessment Act 1979 (NSW) and the Protection of the Environment Operations Act 1997 (NSW) ensure that various controls are in place to protect the environment and wildlife when a development is carried out. Importantly, in New South Wales, amending legislation also now makes it an offence under those Acts to acquire financial or economic benefits from the commission of an environmental offence, and a court can order compensation payments to be made by corporations or their directors equivalent to the financial benefit gained from that offence.

There is also specific legislation that deals with the conservation of nature, such as national parks and wildlife, which is consistently referenced throughout the relevant state and territory planning legislation.

Law stated - 28 April 2025

Local environmental responsibility

What duties and liability do local laws impose on developers and contractors for the creation of environmental hazards or violation of local environmental laws and regulations?

Each state and territory in Australia imposes different liabilities on developers and contractors, but, across the board, penalties may apply for a breach of the local environmental laws or regulations. Parties can also be instructed to carry out remedial action to rectify any environmental damage caused.

The amount of the fine depends on the type and severity of the offence. For example, in Victoria, a person who illegally deposits litter from a construction site could be fined up to 100 penalty units (A$19,759 as at 2025). In contrast, a person who illegally deposits industrial waste could be fined up to 10,000 penalty units (A$1,975,900.00 as at 2025). The value of penalty units also changes each financial year.

There is a long list of duties and liability, but they generally relate to:

- air pollution;
- water pollution;
- noise pollution; and
- land pollution, including depositing and transporting waste.

Law stated - 28 April 2025

CROSS-BORDER ISSUES

International treaties

Is your jurisdiction a signatory to any investment agreements for the protection of investments of a foreign entity in construction and infrastructure projects? If so, how does your model agreement define 'investment'?

Australia is a signatory to numerous free trade agreements (FTA) with its key trading partners, including the Korea–Australia FTA and China–Australia FTA. These FTAs contain an investor-state dispute settlement provision that allows a contracting party from one country to submit to the jurisdiction of certain international arbitration rules and the selection of a seat. This is a major step for international investors, as FTAs provide enforceable protection to have a dispute adjudicated.

For example, in the Hong Kong–Australia FTA, the characteristics of an 'investment' have been broadly defined to include 'commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk'. The Investment Agreement between Australia and Hong Kong, which builds on the FTA, also includes a provision for compensation to be paid in certain circumstances where there is the expropriation of an investment. It is important to look at the exact definition of 'expropriation' from one agreement to another. This will help determine if the investment is actually taken away, instead of transferred from one party to another (which may not amount to expropriation).

Law stated - 28 April 2025

Tax treaties

Has your jurisdiction entered into double taxation treaties pursuant to which a contractor is prevented from being taxed in various jurisdictions?

Australia has entered into over 40 bilateral tax treaties with different countries and/or jurisdictions to prevent double taxation occurring.

A full list of the income tax treaties can be found on the Australian Tax Office's website.

Law stated - 28 April 2025

Currency controls

Are there currency controls that make it difficult or impossible to change operating funds or profits from one currency to another?

Australia does not have any currency controls in place that prohibit the flow of currency into or out of the country.

Law stated - 28 April 2025

Removal of revenues, profits and investment

Are there any controls or laws that restrict removal of revenues, profits or investments from your jurisdiction?

There are no restrictions on removing money from Australia, except for reporting obligations for physical cash transactions of A$10,000 or more. Where there is an international transfer over A$10,000 (or the foreign currency equivalent), a threshold transaction report must be submitted to the Australian Transaction Reports and Analysis Centre. While there are no explicit restrictions on moving monies from Australia, repatriating profits, revenues or investments requires navigating and understanding taxation laws, compliance requirements and strategic planning. Therefore, it is imperative an expert tax professional is consulted to ensure regulatory compliance and optimisation of financial outcomes.

Law stated - 28 April 2025

UPDATE AND TRENDS

Emerging trends

Are there any emerging trends or hot topics in construction regulation in your jurisdiction?

National

At a national level, there has been a particular focus on climate impacts in the construction sector. On 17 September 2024, the Treasury Laws Amendment (Financial

Market Infrastructure and Other Measures) Act 2024(Cth) came into effect. As of 1 January 2025, large Australian companies are required to implement new financial disclosures relating to climate impacts. A gradual implementation of the scheme has been adopted, with an initial focus on large and medium-sized construction companies, but it is expected to be in full force by 2028.

The annual sustainability report must include the following information:

- climate statements report for the year (including any notes);
- any other statements relating to 'matters concerning environmental sustainability'; and
- director's declaration about the statements and the notes.

The climate statement and accompanying notes must disclose information regarding:

- material financial risks and opportunities relating to the climate;
- metrics and targets of the entity related to scope 1, 2 and 3 greenhouse emissions (measured in accordance with the National Greenhouse and Reporting Act 2007 (Cth));
- risk management and governance policies and strategies in relation to the risks, opportunities, metrics and targets; and
- amounts of scope 3 emissions (prescribed by Australian Sustainability Reporting Standards 2).

Further, on 29 November 2024, the Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2024 (Cth) (the Amendment Act) was passed by the Australian Parliament. This law updates Australia's existing anti-money laundering (AML) and counter-terrorism financing (CTF) framework to better detect and prevent criminal activity and to align with international standards set by the Financial Action Task Force (FATF).

The Amendment Act makes three key changes:

- expands the AML/CTF regime to cover more high-risk services, particularly those offered by so-called 'tranche two' entities (such as lawyers, accountants, and real estate professionals);
- modernises the regulation of digital currency and virtual assets, ensuring the law keeps pace with evolving payment technologies; and
- simplifies and clarifies existing rules, aiming to reduce regulatory burden and help businesses more effectively combat financial crime.

The Amendment Act was developed following extensive consultation. Between April 2023 and June 2024, over 270 submissions were received and more than 100 meetings were held with stakeholders across business, law enforcement and regulatory agencies.

Victoria

The Australian construction industry continues to grapple with issues related to cladding. There have been several disastrous building fires caused by non-compliant combustible cladding, leaving owners with substantial costs and escalating insurance premiums.

In July 2024, Cladding Safety Victoria (CSV) published its Research Analysis, Compliance in Building Design report. The CSV report entailed a review of the original plans and permits for 1,000 privately owned apartment buildings with combustible cladding. It found that key professionals, such as architects, draftspersons, fire safety engineers and building surveyors were responsible for the widespread misapplication of combustible cladding. The CSV report also makes numerous recommendations to improve the understanding of compliance requirements.

New South Wales

The New South Wales (NSW) building and construction industry is set for a massive overhaul following the introduction of the draft NSW Building Bill 2024. The draft Bill seeks to repeal nine existing Acts and consolidate them into one. The NSW Government sought comments from local government and industry groups, with submissions closing on 18 October 2024. The Building Commission NSW is expected to release supporting regulations in late 2025, which will answer many of the key questions. The draft Bill is yet to be finalised or introduced into parliament.

Queensland

On 10 February 2025, the Queensland Government introduced the Building Regulation Renovation, otherwise known as the 'Building Reg Reno', which is broken up into multiple phases (or tranches) to ensure a smooth implementation.

Tranche 1 paused further roll out of trust accounts on private projects worth less than A$10 million to alleviate pressure on smaller contractors. Prior to this development, the Building Industry Fairness (Security of Payment) Act 2017(Qld) implemented a trust account framework that required all eligible construction contracts in Queensland to have a trust account. Importantly, however, the trust account framework continues to apply to:

- eligible Queensland Government contracts worth more than A$1 million; and
- contracts valued at A$10 million or more.

On 7 March 2025, the Building and Other Legislation Amendment Regulation 2025(Qld) was notified. It makes amendments (as part of tranche 2) to regulations prescribed in various legislative frameworks, including:

- removing Minimum Financial Requirements reporting obligations for around 50,000 small-scale licensees;
- extending the compliance period for new occupational licensing and upskilling requirements in passive fire protection and related fields until May 2030;
- waiving occupational licensing fees for plumbers conducting fire protection work; and
- maintaining existing regulatory requirements for building certifiers and homeowners.

Tranches 3 and 4 focus on long-term improvements and further building reforms. The Queensland Government has reinstated the state's Productivity Commission and tasked it with conducting a review into Queensland's building and construction industry. The tranche 3 and 4 reforms will complement the Productivity Commission's review.

South Australia

In October 2024, the South Australian Government sought community feedback in relation to proposed protections for home buyers as part of the Building and Construction Industry Review. The options under consideration include (reproduced from the SA Consumer and Business Services' website):

- a regulatory scheme for developers;
- a registration or licensing scheme for building inspectors;
- a binding rectification order scheme, administered by Consumer and Business Services (CBS), to resolve building disputes about defective work quickly and cost effectively without parties going to court;
- the transfer of domestic building work disputes from the Magistrates Court to the South Australian Civil and Administrative Tribunal (SACAT), to allow for faster and cheaper dispute resolution;
- increased penalties for parties who fail to attend compulsory conciliation conferences for building disputes; and
- limitation or regulation of the use of 'sunset' clauses to terminate off-the-plan contracts.

Western Australia

In Western Australia, registration of building engineers commenced on 1 July 2024 in accordance with the Commerce Regulations Amendment (Building Services) Regulations 2023(WA). All individuals practising in civil, structural, mechanical and fire safety engineering must be registered by 1 July 2027.

Tasmania

Tasmania continues to build toward its 2030 Strong Plan for Tasmania's Future initiative. On 1 October 2024, the Tasmanian Government announced changes to the National Construction Code in Tasmania. The changes include bathroom-specific requirements for new residential buildings. Furthermore, in February 2025, the Tasmanian Government also announced plans to introduce legislation to Parliament that will cut down on unnecessary building red tape, with an initial focus on plumbing approval requirements.

Northern Territory

On 30 September 2024, the Northern Territory Government introduced Building Note 113: Energy Efficiency. It replaced Building Note 68 and provides guidance on the application of the National Construction Code energy efficiency provisions in the Northern Territory.

Australian Capital Territory

In the Australian Capital Territory, the Building and Construction Legislation Amendment Act 2023(ACT) was introduced to improve integrity in the building and construction industry and strengthen the effectiveness of the Australian Capital Territory's building regulatory system.

From 11 March 2024:

- unrestricted electricians were permitted to apply to Access Canberra for a licence endorsement to perform electrical wiring work on a declared distributed energy source (eg, installation of rooftop solar, inverters and batteries); the licence endorsement to undertake this work was made mandatory from 11 September 2024;
- the regulator's powers were expanded to provide electrical inspectors with powers in relation to not only electrical equipment or installations that are a source of danger, but also those that have the potential to become a source of danger; and
- changes to ensure timely payment for construction work, implementing maximum payment timeframes where contracts are silent or specify a longer period for payment than the statutory timeframe.

Other reforms that commenced in late 2024 include:

- new regulations for medical gas systems to address safety risks with their installation, testing and maintenance; and
- amendments to the Building Act 2004(ACT), including to enhance accountability and transparency, clarify regulatory oversight and improve approval criteria.

Law stated - 28 April 2025