

COLLINS INQUIRY into CONSTRUCTION INDUSTRY INSOLVENCY

What will the NSW Government's response mean for subcontractors?

- Cash retention safeguarded via a Retention Trust scheme
- Faster progress payments from head contractors via mandatory '30 days to pay' provisions
- Improved cash flow via new prompt payment provisions
- Direct payment from government for work on government jobs via a Project Bank Account trial
- Improved capacity to penalise head contractors who flout the rules

What did the Collins Inquiry recommend? Four main areas of reform:

- Strengthened Building and Construction Industry Security of Payments Act
- New Building and Construction Commission
- New licensing framework with financial tests for builders
- Statutory construction trusts for all payments

The Government response includes:

Strengthening the security of payments scheme

- Introducing prompt payment provisions for subcontractors to be paid within 30 days
- Enacting a new legal requirement with offence provisions for head contractors who knowingly provide false or misleading information relating to the payment of subcontractors
- Making it easier for subcontractors to recover moneys owed
- Drafting of legislation incorporating these reforms will commence immediately

Developing a trust scheme for cash retention money

- Establishing the first Retention Trust Scheme in Australia to protect subcontractors cash retention moneys
- Administered by the Office of the Small Business Commissioner with legislation to be introduced in the Spring Session 2013

Reforming Government procurement practices

- Subjecting contractors engaged by Government to more comprehensive and more frequent financial assessments
- Implementing a trial of Trust Accounts through Project Bank Accounts used on a limited number of NSW Government construction contracts. Subcontractors will be paid directly by government agencies, rather than the head contractor.

Lifting the financial skills of Industry

- Establishing an Industry Advisory Taskforce to:
 - Develop education campaigns to improve financial management skills in the sector
 - Advise the Government on the impact of reforms and industry's capacity for further reform

The Inquiry's licensing and building commission recommendations

- Government recognises the high levels of industry support for these proposals and the reasoning behind the recommendations
- To ensure that these proposals are properly assessed and understood, the Government has committed to a regulatory impact assessment and cost benefit analysis of these recommendations

Construction Trusts

- Government will trial project bank account trusts on Government contracts, but it is not proposed to progress the construction trust recommendations (other than retentions) more broadly at this time.