

# Payments for construction

**ALAN KNOWSLEY**  
LEGAL MATTERS



The Construction Contracts Act provides a simple process for how and when payments are due for construction work.

The construction work covered by the act is wide ranging and includes most work carried out in building, altering and maintaining a house, larger structures and infrastructures such as roads and utilities.

It also includes most work carried out by plumbers.

**Getting paid – payment claims**

When entering into a construction contract you can either negotiate the terms of payment as a part of the contract, or rely on the default payment provisions in the act.

It is important to ensure that the payment obligations in your contract are clearly set out. If you do not negotiate the terms of payment under your construction contract, the default payment provisions in the act will apply.

These entitle the party who is owed payment for construction

work to be paid in instalments as the work is completed. To ensure you get paid and avoid disputes, you must issue a valid payment claim under the act.

To be considered valid a payment claim must:

- be in writing;
- include sufficient details to identify the construction contract to which it relates;
- identify the construction work and relevant period to which it relates;
- state the amount claimed and provide a due date for payment;
- state how the amount was calculated by you;
- state that the payment claim is made under the act.

The payment claim must also be accompanied by a written notice which outlines the process for the payer to respond to the claim. The notice must also explain the consequences of the payer failing to respond to or pay the claimed amount in full.

**Disputing payment – payment schedules**

A client served with a valid payment claim must pay the claimed amount in full or, if they dispute the amount claimed, issue a valid payment schedule to the contractor within 20 working days. To be considered valid and



Know your rights when it comes to construction contracts.

PHOTO: ROBERT BAYER

**“Adjudication is a fast track resolution process.”**

comply with the act, a payment schedule must:

- be in writing;
  - identify the payment claim to which it relates;
  - state the scheduled amount the payer is willing to pay.
- If the scheduled amount the payer is willing to pay is less than the amount in the payment claim, the payment schedule must also state:

- how the payer calculated the scheduled amount;
  - why there is a difference between the amount claimed and the scheduled amount;
  - the party’s reason why they are withholding payment.
- If the client fails to pay the payment claim in full by the due date or issue a valid payment schedule, the contractor may suspend work and enforce the claimed amount as a debt due as well the legal costs of enforcement.

**Resolving disputes – adjudication**

If there is a dispute between parties to the construction contract, they can refer the dispute to adjudication.

An adjudicator can make a decision which is binding on all parties to the contract that is enforceable as a court judgment.

Adjudication is a fast track resolution process. However, the act does not prevent a party from filing a claim in the courts or for arbitration of their dispute.

Column courtesy of RAINEY COLLINS LAWYERS, phone 0600 733 494 or email aknowsley@raineycollins.co.nz.

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**OPEN HOMES WEEK ENDING 19 FEBRUARY**

**SUNDAY**

By Negotiation	97 Castor Crescent, Cannons Creek - 3 brms, separate lounge, garage	12.00-12.40pm
Deadline Sale	3/2 The Top Gallant, Whitby - 2 brms, single garage, townhouse	1.00-1.30pm
Deadline Sale	13 Quinn Grove, Ranui - 3 brms, study, rumpus, handy location	1.00-1.30pm
BEO \$260,000	44 Kokiri Crescent, Porirua - 3 brms, some TLC required RV \$275,000	1.00-1.40pm
\$999,000	14 Park Avenue, Titahi Bay - beachfront, 3 brms, study, double garage	2.00-2.30pm
Deadline Sale	37 Spur Grove, Titahi Bay - 3 brms, garage, views	2.00-2.30pm
Deadline Sale	12 Queen Charlott Drive, Aotea - 3 bedrooms, stunning kitchen, garage	2.00-2.30pm
Deadline Sale	9 Semaphore Lane, Whitby - 4 brms, study, 3 bathrooms, garaging	2.00-2.40pm