



An Roinn Gnó, Fiontar agus Nuálaíochta  
Department of Business, Enterprise and Innovation

# Construction Contracts Act, 2013

## Information Booklet

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## Introduction

The Construction Contracts Act, 2013 applies to certain construction contracts entered into after the 25th July 2016 in accordance with Statutory Instrument No. 165 of 2016 entitled 'Construction Contracts Act, 2013 (Appointed Day) Order 2016'. The provisions of the Construction Contracts Act, 2013 provide, subject to some exceptions, new legal rights and obligations on the parties to a construction contract. The Act imposes new minimum contractual provisions in relation to payments arising under a construction contract. If a payment dispute does arise between the parties, either party will have the right to refer the payment dispute for adjudication, which will be concluded within a set timeframe.

The Minister of State at the Department of Business, Enterprise and Innovation, Mr. Pat Breen T.D., has published a Code of Practice governing the conduct of adjudications in accordance with section 9 of the Construction Contracts Act, 2013. The Code of Practice sets out the detailed requirements concerning the conduct of adjudication and it is binding on all Adjudicators operating under the Construction Contracts Act, 2013 in accordance with section 6(8) of the Act.

The purpose of this information booklet is to provide guidance on the main provisions of the Construction Contracts Act, 2013 together with the Code of Practice governing the conduct of adjudications. It is not intended to be a legal interpretation of the Act or of its provisions. No liability shall attach to the Minister of State at the Department of Business, Enterprise and Innovation, to the Chairperson of the Construction Contracts Adjudication Panel or to the Department of Business, Enterprise and Innovation for any errors or omissions in this booklet.

Further information on the Construction Contracts Act, 2013 is available at [www.dbei.gov.ie](http://www.dbei.gov.ie).

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## Section 1

### What is a construction contract as defined by the Construction Contracts Act, 2013?

The Construction Contracts Act, 2013 applies to certain construction contracts entered into after the 25th July 2016 in accordance with the 'Construction Contracts Act, 2013 (Appointed Day) Order 2016', Statutory Instrument No. 165 of 2016. The Construction Contracts Act, 2013 encompasses applicable construction contracts whether or not the law of the State is the applicable law in relation to the construction contract or the parties to the contract purport to limit or exclude its application. Certain contracts are excluded however under the Construction Contracts Act, 2013.

A construction contract, **for the purposes of the Construction Contracts Act, 2013**, is an agreement (whether oral or written) between an Executing party and another party<sup>1</sup>, where the Executing party is engaged for any one or more of the following activities:

- carrying out construction operations by the Executing party;
- arranging for the carrying out of construction operations by one or more other persons, whether under subcontract to the Executing party or otherwise;
- providing the Executing party's own labour, or the labour of others, for the carrying out of construction operations.

A construction contract also includes an agreement, in relation to construction operations, to do work or provide services ancillary to the construction contract such as:

- architectural, design, archaeological or surveying work;
- engineering or project management services; or
- advice on building, engineering, interior or exterior decoration or on the laying-out of landscape.

The **"Executing party"** in relation to a construction contract means:

- where the parties to the construction contract are a contractor and the person for whom the contractor is doing work under the contract<sup>2</sup>, the contractor; or
- where the parties to the construction contract are a contractor<sup>3</sup> and a subcontractor, the subcontractor; or
- where the parties to the construction contract are two subcontractors, whichever of the subcontractors agrees to execute work under the contract<sup>4</sup>.

The definition of a **"Subcontractor"** is a person (or company) to whom the execution of work under a construction contract is subcontracted by the contractor or another subcontractor.

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<sup>1</sup> the Act refers to this party as the "Other party". References in this booklet to the Other party, means the party which is not the Executing party under the construction contract. There may be more than one "Other party" to a construction contract.

<sup>2</sup> the Act refers to this contract as a "Main contract".

<sup>3</sup> the Act refers to this contract as a "Subcontract".

<sup>4</sup> the Act also refers to this contract as a "Subcontract".

### 1.1 What contracts are excluded under the Act?

The Construction Contracts Act, 2013 does not apply to a contract if:

- the value of the contract is not more than €10,000; or
- the contract relates only to a dwelling which has a floor area not greater than 200 square metres, and one of the parties to the contract is a person who occupies, or intends to occupy, the dwelling as his or her residence; or
- it is a contract between a State authority and its partner in a public private partnership arrangement - as defined in the State Authorities (Public Private Partnership Arrangements) Act, 2002; or
- it is a contract of employment (within the meaning of the Organisation of Working Time Act, 1997).

### 1.2 What are construction operations?

Construction operations **for the purposes of the Act** mean any activity associated with construction, including operations of any one or more of the following descriptions:

- construction, alteration, repair, maintenance, extension, demolition or dismantling of buildings, or structures forming, or to form, part of the land (whether permanent or not);
- construction, alteration, repair, maintenance, extension, demolition or dismantling of works forming, or to form, part of the land, including (without prejudice to the foregoing) walls, road works, power-lines, telecommunications apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;
- installation in any building or structure of fittings forming part of the land, including (without prejudice to the foregoing) systems of heating, lighting, air-conditioning, thermal insulation, ventilation, power supply, drainage, sanitation, water supply or fire protection, or security or communications systems;
- external or internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
- operations which form an integral part of, or are preparatory to, or are for rendering complete, such operations as are previously described in this section (1.2), including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection, maintenance or dismantling of scaffolding, site restoration, landscaping and the provision of roadways and other access works and traffic management;
- painting or decorating the internal or external surfaces of any building or structure;
- making, installing or repairing sculptures, murals and other artistic works that are attached to real property; and
- where the following items are **supplied** under a contract which **also provides for their installation**:
  - building or engineering components or equipment; or
  - materials, plant or machinery; or

- components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or for security or communications systems.

However, **for the purposes of the Act**, construction operations **do not include the manufacture or delivery to a construction site of:**

- building or engineering components or equipment;
- materials, plant or machinery; or
- components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or for security or communications systems.

## Section 2

### Payments under a construction contract

The provisions concerning payments under a construction contract are set out in section 3 of the Construction Contracts Act, 2013. The Act states that a construction contract shall provide for:

- the amount of each interim payment to be made; and
- the final payment to be made; or
- an adequate mechanism for determining those amounts.

In accordance with the Act, a construction contract shall also provide for:

- the payment claim date for each amount due; or
- an adequate mechanism for determining the payment claim date for each amount due; and
- the period between the payment claim date for each such amount and the date on which the amount is due to be paid.

**If a main contract does not provide for the above mentioned matters, then the terms detailed in the Schedule to the Act shall apply to the contract. The terms of the Schedule are set out in full in Appendix 1 to this booklet.**

**All subcontracts shall comply with the terms detailed in the Schedule to the Act. The terms of the Schedule are set out in full in Appendix 1 to this booklet.**

A subcontract can make more favourable provision for the Executing party than is detailed in the Schedule to the Act.

There is a general prohibition in section 3(5) of the Act that a provision in a construction contract is ineffective if it provides that the payment of an amount due to an Executing party or the timing of such a payment is conditional on the making of a payment by a person who is not a party to the construction contract. There are exceptions to this general prohibition which only apply **after the occurrence of any of the following circumstances**:

- (i) where the other person is a company, other than an unregistered company, and where:
  - a) its winding up has commenced pursuant to sections 579, 580(1), and 586(1)(2) of the Companies Act, 2014<sup>5</sup>; or
  - b) a petition has been presented to wind it up pursuant to sections 569 and 1402(1)(3) of the Companies Act, 2014; or
  - c) a receiver has been appointed in respect of any of its property or assets; or

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<sup>5</sup> Source: *Tables of Origins and Destinations, Companies Act, 2014* published by the Department of Business, Enterprise and Innovation ([www.dbei.gov.ie](http://www.dbei.gov.ie)) and subject to the disclaimer notice contained in the *Tables*. The Companies Act, 2014 consolidates the previous Companies Acts, which date from 1963 to 2013, into one Act. The Companies Act, 2014 came into effect on 1 June, 2015. This note applies to all references to the Companies Act, 2014 referred to in this booklet.

- d) a petition has been presented for the appointment of an examiner under section 510 of the Companies Act, 2014 in relation to it;
- (ii) where the other person is an unregistered company, its winding up has commenced pursuant to sections 1328 and 1329 of the Companies Act, 2014;
- (iii) where the other person is an individual or partnership, an application has been made for adjudication under the Bankruptcy Act, 1988 (as amended) in relation to it;
- (iv) a winding up or similar order has been made by a court in relation to the other person; and
- (v) any event corresponding to those specified above that has occurred under the law of any State to which Council Regulation (EC) No. 1346/2000 of 29 May 2000<sup>6</sup> on insolvency proceedings applies.

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<sup>6</sup> Official Journal of the European Union No. L160, 30 June 2000, p.1. Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (Official Journal No. L141, 5 June 2015, p.19.), will apply to insolvency proceedings opened after 26 June 2017 and repeals Regulation 1346/2000. Regulation 1346/2000 will continue to apply to insolvency proceedings which fall within the scope of that Regulation and which have been opened before 26 June 2017.



## Section 3

### What is required in a Payment Claim Notice and a response to a contested Payment Claim Notice?

The Construction Contracts Act, 2013 requires an Executing party to deliver a payment claim notice<sup>7</sup> to the Other party or to a person specified under the construction contract who is acting for the Other party, no later than 5 days after the payment claim date. The payment claim date is the date on which a payment claim in relation to an amount due under the construction contract is required to be made.

A payment claim notice is a notice specifying the:

- amount claimed;
- period, stage of work or activity to which the payment claim relates;
- subject matter of the payment claim; and
- basis of the calculation of the amount claimed.

If the Other party or the person who received the payment claim notice on behalf of the Other party contest that the amount claimed by the Executing party is due and payable the Other party or person who received the Payment Claim Notice is required to respond to the Executing party, not later than 21 days after the payment claim date setting out:

- the reason(s) why the amount claimed by the Executing party in the payment claim notice is disputed, including any claim for loss or damage arising from an alleged breach of any contractual or other obligation of the Executing party; and
- the amount, if any, that is proposed to be paid to the Executing party and the basis of how that amount is calculated.

It may be possible for the parties to the construction contract to reach agreement as to the amount to be paid to the Executing party. **However, if no such agreement is reached by the payment due date, the Other party is required to pay the Executing party the amount, if any, which the Other party proposed to pay in its response to the contested payment claim notice. This payment shall be made by the payment due date in accordance with section 4(3)(b) of the Construction Contracts Act, 2013.**

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<sup>7</sup> The parties to a construction contract may agree on the manner by which notices under the Construction Contracts Act, 2013 are to be delivered to each other. If there is no such agreement, a notice may be delivered by post or by any other effective means.

## Section 4

### Right to suspend work for non-payment under a construction contract

Section 5 of the Act stipulates that if any amount due under a construction contract is not paid in full by the Other party by the payment due date, the Executing party may suspend work under the construction contract by giving a notice in writing to the Other party. The written notice shall specify the grounds on which it is intended to suspend work and shall be delivered to the Other party:

- not earlier than the day after the day on which the amount concerned is due; and
- at least seven days before the proposed suspension of work is to begin.

The Executing party may **not** suspend work after:

- the payment of the amount due by the Other party; or
- a 'Notice of Intention to Refer the Payment Dispute for Adjudication' has been served either by the Executing party or by the Other party under section 6 the Construction Contracts Act, 2013 in relation to the amount concerned. (See Section 5 of this booklet concerning adjudication).

#### 4.1 Impact of the suspension of work on a time limit provided for in a construction contract

If the ability of the Executing party to complete work for the Other party within a contractual time limit is affected by the suspension of work, the period of suspension shall be disregarded for the purpose of computing the contractual time limit, unless the suspension of work is unjustified in the circumstances. If the ability of a subcontractor to complete work within a contractual time limit is affected by the suspension of work, the period of suspension shall be disregarded for the purpose of computing the contractual time limit.

## Section 5

### What is adjudication and how to access adjudication?

A payment dispute **for the purposes of the Act** is any dispute relating to payment arising under the construction contract. Adjudication as a dispute resolution methodology provides a mechanism for resolution of a payment dispute where the dispute is referred by one of the parties to an independent third party, an Adjudicator, who will make a decision on the dispute.

Section 6 of the Construction Contracts Act, 2013 provides a right for any party to a construction contract to refer a payment dispute for adjudication. The Minister of State at the Department of Business, Enterprise and Innovation has published a Code of Practice governing the conduct of adjudications under section 9 of the Construction Contracts Act, 2013. The Code of Practice is binding on all Adjudicators operating under the Construction Contracts Act, 2013 in accordance with section 6(8) of the Act.

#### 5.1 Notice of Intention to Refer a Payment Dispute for Adjudication

A party to a construction contract may commence adjudication pursuant to section 6(2) of the Act by serving a written 'Notice of Intention to Refer a Payment Dispute for Adjudication' on the other party or parties to the construction contract under which an individual payment dispute arises. The party which serves the notice is known as "the Referring party" and the party which receives the notice is known as the "Responding party". There may be more than one Responding party in a payment dispute.

A 'Notice of Intention to Refer a Payment Dispute for Adjudication' shall include:

- the name, address and contact details of each party to the construction contract;
- relevant details of the payment dispute to include the amount in dispute (even if the amount is zero), the nature of the payment dispute, and the site address;
- a copy of the relevant payment claim notice and any response to that payment claim notice, as provided for in section 4 of the Act; and
- relevant details to identify the construction contract and any supporting information that may assist an Adjudicator in understanding the nature of the payment dispute. Where a written construction contract exists, this must be attached.

#### 5.2 Appointment of Adjudicator – where the parties can agree as to whom to appoint

The parties to a construction contract may jointly agree to appoint an Adjudicator of their own choice and he/she may be:

- a person referred to in the construction contract to perform that role; or
- a person from the Construction Contracts Adjudication Panel appointed by the Minister of State at the Department of Business, Enterprise and Innovation; or
- another suitably qualified person.

An agreement as to whom to appoint as the Adjudicator should normally be reached in the period of five days after the 'Notice of Intention to Refer a Payment Dispute for Adjudication' is served. A list of the current members of the Construction Contracts Adjudication Panel is available at [www.dbei.gov.ie](http://www.dbei.gov.ie).

A person who is requested to accept an appointment as Adjudicator following an agreement by the parties shall, within two days of such a request and prior to accepting the appointment, write to the parties to ask them to disclose any information indicating any potential conflict of interest that may arise from the person's appointment as Adjudicator. The prospective Adjudicator shall, at the same time provide the parties with his/her proposed terms and conditions of appointment, including the basis for his/her fees, costs and expenses.

Each party shall within three days of the communication from the prospective Adjudicator decide if the appointment is to proceed and inform the prospective Adjudicator in writing of their decision. If the appointment of the prospective Adjudicator is to proceed, the prospective Adjudicator shall write to each party to accept the appointment and the date of the letter of acceptance sent to the parties shall be deemed to be the date on which the appointment of the Adjudicator is made.

The Adjudicator shall notify the Construction Contracts Adjudication Service of the Department of Business, Enterprise and Innovation that he/she has been appointed to a payment dispute under the Act, without disclosing the names of the parties to the dispute. This information will be used only for the purpose of compiling statistical information relating to the Act.

The parties may jointly agree to revoke the Adjudicator's appointment in accordance with section 6(18) of the Act. If the parties agree to revoke the appointment of the Adjudicator in accordance with section 6(18) of the Act for whatever reason, the parties shall be jointly and severally liable for the payment of the reasonable fees, costs and expenses incurred by the Adjudicator up to the date of the revocation of the appointment.

### **5.3 Appointment of Adjudicator – where the parties cannot agree as to whom to appoint**

If the parties cannot jointly agree as to whom to appoint as an Adjudicator in the period of five days referred to above, then a party to the construction contract may apply, in writing only, to the Chairperson of the Construction Contracts Adjudication Panel requesting the appointment of an Adjudicator to the payment dispute.

Dr. Nael Bunni is the Chairperson of the Construction Contracts Adjudication Panel and the contact details to submit an application for the appointment of an Adjudicator by the Chairperson are available on the website of the Department of Business, Enterprise and Innovation at [www.dbei.gov.ie](http://www.dbei.gov.ie).

An application to the Chairperson of the Construction Contracts Adjudication Panel shall include:

- the name, address and contact details of each party to the construction contract;
- relevant details of the payment dispute to include the amount in dispute (even if the amount is zero), the nature of the payment dispute, and the site address;
- a copy of the 'Notice of Intention to Refer a Payment Dispute for Adjudication', which was served on the Responding party/parties including any accompanying documents attached to that Notice;
- the date as to when the 'Notice of Intention to Refer a Payment Dispute for Adjudication' was served on the Responding party/parties and how this was done; and
- relevant details to identify the construction contract and any supporting information that may assist an Adjudicator in understanding the nature of the payment dispute. Where a written construction contract exists, this must be attached.

**It is the responsibility of the applicant to also send a copy of the application to the respondent party/parties at the same time as the application is submitted to the Chairperson of the Construction Contracts Adjudication Panel.**

If the Chairperson of the Construction Contracts Adjudication Panel is requested to appoint an Adjudicator to a payment dispute, that appointment shall be made by the Chairperson and notified in writing by the Construction Contracts Adjudication Service of the Department of Business, Enterprise and Innovation to the parties normally within seven days after the receipt of the application to the Chairperson. This is subject to the need, if any, of the Chairperson and/or the Construction Contracts Adjudication Service to obtain additional information or clarification(s) about the payment dispute from the applicant or his/her representative. The date of the letter from the Construction Contracts Adjudication Service to the parties shall be deemed to be the date on which the appointment of the Adjudicator is made.

An Adjudicator appointed by the Chairperson to a payment dispute shall, within two days of such appointment, request the parties in writing to disclose any information indicating any potential conflict of interest that may arise from his/her appointment as Adjudicator. The Adjudicator shall at the same time provide the parties with his/her terms and conditions of appointment, including the basis for his/her fees, costs and expenses.

The parties may jointly agree to revoke the Adjudicator's appointment in accordance with section 6(18) of the Act. If the parties agree to revoke the appointment of the Adjudicator for any reason, the parties shall be jointly and severally liable for the payment of the reasonable fees, costs and expenses incurred by the Adjudicator up to the date of the revocation of the appointment.

#### **5.4 Formal referral of a payment dispute to an Adjudicator**

Once the appointment of an Adjudicator has been made (either an agreed appointment between the parties or an appointment made by the Chairperson of the Construction Contracts Adjudication Panel), it is then the responsibility of the **Referring party** to formally refer the payment dispute to the Adjudicator, in writing, **within seven days of the date of the appointment of the Adjudicator**.

The formal referral of the payment dispute to the Adjudicator shall include:

- the name, address and contact details of each party to the construction contract;
- relevant details of the payment dispute to include the amount in dispute (even if the amount is zero), the nature of the payment dispute, and the site address;
- a copy of the 'Notice of Intention to Refer a Payment Dispute for Adjudication', which was served on the Responding party/parties including any accompanying documents attached to that Notice;
- the date as to when the 'Notice of Intention to Refer a Payment Dispute for Adjudication', was served on the Responding party/parties and how this was done;
- the contentions on which the Referring party intends to rely upon to support their case; and
- relevant details to identify the construction contract and any supporting information that may assist an Adjudicator in understanding the nature of the payment dispute. Where a written construction contract exists, this must be attached.

**It is the responsibility of the Referring party to also send a copy of all the documentation to the Responding party/parties at the same time as the documents are sent to the Adjudicator.**

## Section 6

### Adjudication of a payment dispute - procedures and decision

The Code of Practice governing the conduct of adjudications is binding on all Adjudicators operating under the Construction Contracts Act, 2013 (in accordance with section 6(8) of the Act). An Adjudicator in any payment dispute under the Act shall be impartial and independent. He/she shall observe the principles of procedural fairness, which shall include giving each party a reasonable opportunity to put their case and to respond to the other party's case.

For the purposes of the adjudication proceedings, the Adjudicator may:

- request any reasonable supporting or supplementing documents pertaining to the payment dispute detailed in the 'Notice of Intention to Refer a Payment Dispute for Adjudication', and/or in the referral of the payment dispute to the Adjudicator;
- take the initiative in ascertaining the facts and matters required for a decision and make use of his/her own specialist knowledge, if it is appropriate to do so. If the Adjudicator uses any such specialist knowledge he/she shall disclose this to the parties as appropriate;
- appoint experts, assessors or legal advisers, provided that the parties have been notified of their identity and their terms of reference;
- make site visits and inspections or carry out tests, subject to prior notification to the parties and obtaining any necessary consent from a third party or parties;
- invite written submissions/representations and evidence from the parties, if appropriate;
- meet jointly with the parties and their representatives, if any, to enable further investigation;
- hold a teleconference with the parties, with the consent of the parties; and
- hold an oral hearing, where appropriate.

The parties should make every reasonable effort to comply with a request or a direction of the Adjudicator.

**The parties to a payment dispute may at any time jointly agree to revoke the appointment of the Adjudicator and in that circumstance the parties will be jointly and severally liable for the payment of the reasonable fees, costs and expenses incurred by the Adjudicator up to the date of the revocation of the appointment.**

An Adjudicator may resign, for reasonable cause, at any time by giving notice in writing to the parties to the dispute. The parties will be jointly and severally liable for the payment of the reasonable fees, costs and expenses incurred by the Adjudicator up to the date of resignation. The Adjudicator shall notify the Construction Contracts Adjudication Service of the Department of Business, Enterprise and Innovation that he/she has resigned from a payment dispute under the Act, without disclosing the names of the parties to the dispute. This information will be used only for the purpose of compiling statistical information relating to the Act.

### 6.1 Time limit for adjudication

An Adjudicator is ordinarily required to reach a decision on the payment dispute within 28 days of the day on which the referral of the dispute was made to him/her. The period of 28 days may be extended but only in the following circumstances:

- the Adjudicator may extend the period of adjudication by up to 14 additional days, but only with the consent of the party that lodged the dispute with the Adjudicator; and/or
- the parties to the dispute may extend the period of adjudication by agreement between them for such longer period as they consider appropriate.

### 6.2 Decision of an Adjudicator

The decision of an Adjudicator will be in writing and, unless the parties agree otherwise in writing, the decision will include the reasons for the decision. An Adjudicator is required to sign and date the decision.

If a party to the adjudication, without showing sufficient cause, fails to:

- attend a meeting; or
- comply with any directions of the Adjudicator; or
- disclose any information indicating a potential conflict of interest when requested to do so; or
- produce any document or written statement requested by the Adjudicator;

the Adjudicator may:

- (i) continue the adjudication in the absence of a party;
- (ii) continue the adjudication without the document or the written statement requested;
- (iii) draw such inferences from that failure to comply as circumstances may, in the Adjudicator's opinion, be justified;
- (iv) make a decision on the basis of the material properly provided; and
- (v) make a decision apportioning the fees, costs and expenses of the Adjudicator, as appropriate.

### 6.3 Fees, costs and expenses of the adjudication

The parties are required to pay the amount of the **fees, costs and expenses of the Adjudicator, in accordance with the decision of the Adjudicator**. Such fees, costs and expenses shall be reasonable in amount having regard to the amount in dispute, the complexity of the dispute, the time spent by the Adjudicator on the dispute and other relevant circumstances.

Each party shall pay their own legal and other costs, if any, incurred in connection with the adjudication.



**No liability** attaches to the Minister of State at the Department of Business, Enterprise and Innovation, to the Chairperson of the Construction Contracts Adjudication Panel or to the Department of Business, Enterprise and Innovation in respect of the payment of any fees, costs or expenses of an Adjudicator appointed to a payment dispute under the Construction Contracts Act, 2013, whether that appointment is agreed between the parties themselves or the appointment is made by the Chairperson of the Construction Contracts Adjudication Panel.

#### **6.4 Adjudicator's responsibility to report anonymised details of an adjudication case**

An Adjudicator (regardless of whether appointed to a payment dispute under section 6(3) or section 6(4) of the Act) shall provide information to the Construction Contracts Adjudication Service, Department of Business, Enterprise and Innovation on the details of each adjudication case within 21 days of the completion of the case and without disclosing the names of the parties to the dispute. This information will be used only for the purpose of compiling statistical information relating to the Act.

## Section 7

### What is the status of an Adjudicator's decision?

The decision of an Adjudicator is binding on the parties to the payment dispute unless the parties make a final settlement of their dispute or a different decision is reached in the event that the payment dispute is referred to arbitration or to a court of law.

The decision of an Adjudicator, if binding, is enforceable either by action or, by leave of the High Court, in the same manner as a judgment or order of that Court with the same effect and, where leave is given, judgment may be entered in the terms of the decision.

### 7.1 Right to suspend work due to failure to pay an amount due as determined by decision of an Adjudicator

If an amount is due to an Executing party as a result of an Adjudicator's decision and the amount is not paid in full by the Other party within seven days of the Adjudicator's decision, the Executing party may suspend work under the construction contract by giving notice in writing to the Other party. The written notice shall specify the grounds on which it is intended to suspend work and shall be delivered to the Other party:

- not earlier than seven days after the decision of the Adjudicator; and
- not later than seven days before the proposed suspension of work is to begin.

The Executing party may **not** suspend work after:

- the payment of the amount due by the Other party, or
- the decision of the Adjudicator is referred to arbitration or court proceedings are initiated in relation to the decision of the Adjudicator.

### 7.2 Impact of the suspension of work on a time limit provided for in a construction contract

If the ability of the Executing party or a subcontractor to complete work within a contractual time limit is affected by the suspension of work, the period of suspension shall be disregarded for the purpose of computing the contractual time limit.

## Appendix 1

### Extract from Schedule to the Construction Contracts Act, 2013

#### "Provisions to Apply to Matters Regarding Payments

1. The payment claim dates under a construction contract shall (subject to *paragraph 2*) be as follows:
  - (a) 30 days after the commencement date of the construction contract;
  - (b) 30 days after the date referred to in *clause (a)* and every 30 days thereafter up to the date of substantial completion; and
  - (c) 30 days after the date of final completion.
2. Where a construction contract provides, or the parties to a construction contract otherwise agree, that the duration of the work under the construction contract is or is estimated to be less than 45 consecutive days, the payment claim date shall be 14 days following completion of the work under the construction contract.
3. The date on which payment is due in relation to an amount claimed under a construction contract shall be no later than 30 days after the payment claim date.
4. The amount of an interim payment under a construction contract shall (subject to *paragraph 5*) be the difference between—
  - (a) the aggregate of the gross value (determined in accordance with the construction contract) of the work done under the construction contract at the payment claim date concerned together with any additional amounts in the interim payment under the construction contract, less any deductions from payment provided for by the construction contract, and
  - (b) the aggregate amount of interim payments that have already been made at that payment claim date.
5. The aggregate of payments made under a construction contract shall not exceed—
  - (a) the amount provided for in the construction contract as originally concluded, and
  - (b) amounts provided for by any amendments to that contract agreed between the parties."

**Department of Business, Enterprise and Innovation**

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