

16 January 2015

Security of Payment Regulation
NSW Fair Trading (Policy)
PO Box 972
PARRAMATTA NSW 2124

Sent via email to: policy@finance.nsw.gov.au

Dear Sir/Madam,

Master Electricians Australia appreciates the opportunity to comment on the proposed changes to the Building and Construction Industry Security of Payment Regulation.

Originating as the Electrical Contractors Association in 1937, MEA has been representing electrical contractors for more than 77 years, making it one of the longest-standing industry associations of its kind. It is a dynamic and modern trade association recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate.

Electrical contractors working on building projects are, for the most part, subcontractors. Following numerous reports from our members of head contractors failing to return retention monies for completed work, MEA has lobbied strongly for a retention money trust account system to be implemented. We applaud the New South Wales for taking the steps to introduce such a system.

Of the options discussed in the Regulatory Impact Statement we support option three which would see the introduction of retention money trust funds. This system would overcome the current disparity whereby principal contractors can earn interest off the retention monies held and delay repayment based on their opinion as to whether a sub-contractor's work is complete. Similar schemes operate effectively in New Zealand and the United Kingdom.

As discussed in the RIS, introducing this system would undoubtedly involve establishment costs; however it would also create a more equitable balance between the interests of principal contractors and the subcontractors engaged on a project who are lawfully entitled to payment for the work they have performed. This system would also continue to protect the rights of consumers by ensuring work is performed to a certain standard in order for funds to be released.

To do nothing or rely on industry self-regulation will not achieve the ultimate end of subcontractors being assured that they will receive rightful payment for the work they have performed. We would not support either of these options that have been canvassed in the RIS.

While the new regulations will currently only apply to large projects, we urge the NSW Government to apply these new laws to all construction projects. Smaller contractors in particular who work on residential projects can least afford to have retention monies held unfairly by principal contractors for a protracted period of time. Extending the application of the new laws to residential projects will preserve the right of all subcontractors' in the construction industry to fair and prompt payment.

In the interests of all construction industry participants, MEA would also ask the NSW government to encourage all state and territories in Australia to adopt similar laws in relation to security of payment. This level of consistency would give confidence to contractors working across state lines that they are abiding by their obligations as well as ensuring security of payment for all industry participants.

Yours sincerely,



Jody McGann
State Manager – NSW/ACT