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IN OTHER NEWS

From the Media

NZ Newswire September 9, 2014, 11:41 am

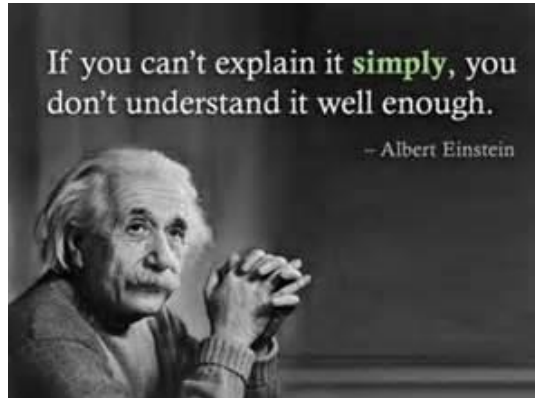
Building and Construction Minister Nick Smith has proposed changes to the Construction Contracts Act that would require retention payments be held in trust, ensuring sub-contractors get paid even if the project fails.

The proposed law change comes after the failure of the Mainzeal group of companies in early 2013 that left subcontractors about \$18 million out of pocket.

Company principal Richard Yan has been fighting in the courts to prevent some of the units being wound up until disputed debts are settled.

Dr Smith said a supplementary order paper is being drafted for the Construction Contracts Amendment Bill, which was before the parliament before it rose

Keeping it simple



The Federation has been criticised at times for being abrupt, brash, and loud and, even would you believe it - bullies! In reality we simply keep it simple so all can understand the issues.

Any fool with enough money can employ a bunch of lawyers to say what they want to say, but Albert Einstein summed it up well by saying “If you can’t explain it simply, you don’t understand it well enough.”

Time and time again we hear people say “lawyers write in a way that only other lawyers can understand,” and it rubs off into letters they send to practitioners. It appears it’s left to interpretation and the comment - “we recommend you seek legal advice” - is the one that rubs us the wrong way.

We HAVE to ask why the PGDB need so many lawyers on their staff. Does the Licensed Building Practitioners Board, or the Electrical Workers Registration Board employ lawyers – and if so how many? Way less than the PGDB we bet.

If legislation and policy is written to regulate an industry then the industry should be able to understand and interpret it, not have to run off to a lawyer to get their opinion. Remember, it is only an opinion because until it is determined in a court then it doesn’t really mean squat.

Keeping it simple is the intelligent move to progress our industry.

Governance is needed to protect us from others

Last week we spoke of the industry needing its own governance to help it return to the high standards it once had. You have organisations like Ministry of Business Innovation and Employment, Accident Compensation Corporation, the Skills Organisation (our ITO), New Zealand Qualification Authority and Energy Safety Service to name a few.

All these organisations affect the way we operate in the industry and we need to let them know how we feel and what we want. So it is not just the Board but others as well that are contributing to the

for the election.

It will impose a trust obligation on retention moneys, prevent the money being used for other purposes and impose penalties when the funds are improperly used, Dr Smith said in a statement.

Retention payments are a portion of the payment withheld from sub-contractors by a developer or main contractor as a lever to ensure any faults or repairs are made good.

The proposed changes to the bill put a "trust obligation" on developers or contractors but stops short of requiring the funds be held in a separate bank account or lawyer's trust fund, which Dr Smith said would make compliance costs too high.

"It ensures that in building contracts, the risks are carried by the developer and the principal contractor rather than by subcontractors who are less well-informed of the viability of a particular project," he said.

Letter to the Editor

Dear Editor

I would like to publicly thank Peter Diver and his team from Peter Diver Plumbers in Christchurch for the tireless efforts they put into seeing some protection given to subcontractor's retentions.

The recent announcement by Minister Nick Smith would have bought a smile to many plumbers, gasfitters and

"industry".

For example were you aware of the new consumer rights remedies? Apparently on 1st January 2015 new regulations come into force that directly affect our industry and it would seem very few people know about them and we will be left to flounder the way we were with the implementation of the gas certification system.

The regulations implement new consumer rights and remedies that were added to the Building Act 2004 by the Building Amendment Act 2013.

This is a summary of what is happening:

The Building Amendment Act 2013 gives effect to Cabinet decisions made in 2010 following a review of the Building Act 2004.

The Building Amendment Act 2013 inserts a new Part 4A into the Building Act 2004 to enhance consumer rights and remedies in relation to residential building work.

Some of the detail of the new rights and remedies is required to be prescribed in regulations.

The regulations set:

- *a minimum price for residential building work (\$20,000) that requires a written contract and provision of a checklist and disclosure information*
- *the contents and form of information that building contractors must provide to clients, including default contract terms (see Appendices)*
- *infringement offences and fees for failing to comply with the requirements of Part 4A of the Building Act 2004*
- *the commencement date for Part 4A of the Building Act 2004 and the regulations to be 1 January 2015.*

Apparently making the regulations is one of the pre-conditions set by Cabinet in 2010 that must be in place before a new risk-based consenting system can be activated. The risk based consenting system is supposed to deliver significant cost reductions (in the order of \$140 million) across the whole building consent system.

Enhanced consumer rights and remedies and risk-based consenting are the key regulatory changes apparently required to achieve the Government's objectives. If this is anything like the gas certification scheme it will only create increased costs across the industry.

The new consumer rights and remedies are a significant change for the construction sector and require as much lead-in time as possible to inform the sector about the changes before they come into force.

Apparently a commencement date of 1 January 2015 will give the Ministry of Business, Innovation and Employment ("the Ministry") sufficient time to provide information and education to the sector about the content of the regulations so the sector is prepared for

drainlayers.

Still not 100% ideal - (that would involve wholly independent trust accounts); it goes a good way to making subbies retentions "safe".

Peter Diver and his team worked tirelessly on this since the Mainzeal crash and it is thanks to people like him that news like this has come.

Cheers

Ed

Yes writer Peter and his crew deserve our vote of thanks for all the hard work they have done. They are a great example of what can be achieved if the effort is put into an issue and if the numbers get behind it and support the people pushing the issue. They possibly didn't get everything they wanted but they did achieve a great result.

Donations

Don't forget to make a donation.

The Federation has survived on donations for four years now and continue to fight for the industry to ensure us fairness and equality.

We operate for a year on about what we all pay to the Board to operate for a day.

You might not always see flashy victories posted like the Board does but it's the issues that we prevent that also count - the accountability we force on the Board as the Government seems to accept their actions as being mistakes. Please make a donation as there is a huge amount of work

when the regulations come into force.

The new consumer rights and remedies, will place the obligation on building contractors, (plumbers, gasfitters and drainlayers included) to communicate better with their clients and take responsibility for reducing the information irregularities.

Building contractors will need some time, and support from the Ministry, to become familiar with the changes and develop good practices for meeting their obligations.

This is a link to the site which will explain the issues in more detail <http://www.dbh.govt.nz/regulations-consumer-rights-cabinet-paper>

Yes more rights and remedies for the consumer but we don't see anything to protect the tradesperson from bad debtors or to help us recover money or even our costs. This is another example of the need for industry Governance.

As more regulation is imposed on the industry practitioners will target their work away from it. In this case the costs to practitioners will increase and only medium to large sized businesses will have the resources to comply with the regulations and as prices are dictated by supply and demand the fewer people in the market for this work the more the prices will increase. This reminds us of a passage from an unknown writer that we wrote about a few years ago:

Democracy's Achilles Heel

The masses want the state to provide for them in every way and the politicians who promise the most largesse (hand-outs) are the ones who get elected.

They in turn give the people what they want, which places an ever increasing burden on the most productive members of society.

Sitting back doing nothing is no longer an option in our industry as we end up paying for our reliance and belief in others.

Joining and Supporting the Plumbers Gasfitters and Drainlayers Federation



Strong words, but it is exactly what we need to do. Being a voice in the industry is a help but having a voice and being positioned to take action is what we need.

As an industry we can't sit back any longer and let others line their pockets off our misery. It's time to step up and get others involved.

To join the Federation go to <http://www.pgdf.co.nz/sign-up> to sign up on line or send the following information to

to be done going forward to industry governance.

Send a cheque made out to the: Plumbers Gasfitters and Drainlayers Federation,

or

Make a direct deposit at any ANZ Bank, deposit on line through internet banking

or

Set up a monthly direct credit.

Account: National Bank
06 0773 0319398 00

Cheques can be posted to: Plumbers Gasfitters and Drainlayers Federation, 3 Jupiter Grove, Trentham, Upper Hutt 5018

information@pgdf.co.nz

- First Name :
- Last Name :
- Business Name :
- PGDB registration # :
- Licence Classes :
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