

Schedule of penalties under the Building Industry Fairness (Security of Payment) Act 2017 - current as at 1 January 2019:

Item	Section	Description	Civil Penalty:			Criminal Penalty:
			Maximum Penalty Units	Maximum \$ value equivalent for Individual (1)	Maximum \$ value equivalent for Corporation (2)	Maximum period of imprisonment
1	21(2)	Principal's failure to notify the commissioner of related entity subcontractor beneficiary within 5 business days.	50	6,527.50	32,637.50	-
2	21(4)	Head contractor's failure to notify commissioner and principal about related entity within 5 business days.	200	26,110.00	130,550.00	-
3	23(1)	Head contractor's failure to open three trust accounts.	500	65,275.00	326,375.00	-
4	23(7)	Head contractor's failure to establish trust accounts within 20 business days of the start date.	500	65,275.00	326,375.00	-
5	24(1)	Head contractor's failure to ensure the particular requirements of trust accounts	500	65,275.00	326,375.00	-
6	24(2)	Head contractor's failure to ensure principal can view account information	200	26,110.00	130,550.00	-
7	25	Head contractor's failure to ensure account's name include the words 'trust account'.	200	26,110.00	130,550.00	-
8	26(2)	Head contractor's failure to notify the principal of trust account's opening, closing or name change within 10 business days.	200	26,110.00	130,550.00	-
9	27(2)	Principal's failure to deposit payments into the general trust account.	200	26,110.00	130,550.00	-
10	27(4)	Head contractor's failure to deposit the amount paid to it by the principal, into the trust account as soon as practicable.	200	26,110.00	130,550.00	2 years
11	28	Head contractor's failure to ensure amount paid into account is not for other purposes	200	26,110.00	130,550.00	1 year
12	29(2)	Head contractor's failure to make payments to subcontractor beneficiaries only from a trust account	200	26,110.00	130,550.00	1 year
13	30(2)	Head contractor's failure to deposit shortfall into trust as soon as it becomes aware that there is an insufficient amount available.	100	13,055.00	65,275.00	1 year
14	31(1)	Head contractor withdrawing an amount from a trust account for other purposes.	300	39,165.00	195,825.00	2 years
15	31(2)	Head contractor's failure to repay to the trust account all amounts withdrawn for other purposes as soon as practicable.	300	39,165.00	195,825.00	2 years
16	32(1)	Head contractor withdrawing an amount to pay itself where there is insufficient funds available in the trust account after the withdrawal to pay all amounts due to be paid to subcontractor beneficiaries.	300	39,165.00	195,825.00	2 years
17	33(3)	Head contractor paying a claimant when there continues to be insufficient amounts held in the trust account without taking account of proportional payment under s33(2).	100	13,055.00	65,275.00	1 year
18	34(1)	Head contractor's failure to hold retention for subcontractor beneficiary in retention trust account.	200	26,110.00	130,550.00	2 years
19	34(2)	Head contractor withdrawing any part of the amount from the retention account except in accordance with the subcontract or order of a court.	300	39,165.00	195,825.00	2 years

20	34(3)	Head contractor's failure to ensure an amount held in the retention account is identifiable as being held for the subcontractor beneficiary.	100	13,055.00	65,275.00	-
21	34A(1)	Head contractor withdrawing retention without cause.	300	39,165.00	195,825.00	2 years
22	36(1)	Head contractor's failure to transfer an amount to the disputed funds account when a payment dispute occurs.	200	26,110.00	130,550.00	1 year
24	36(6)	Head contractor's failure to immediately inform the subcontractor beneficiary of when the amount was transferred into the disputed funds account.	50	6,527.50	32,637.50	-
25	36A	Head contractor's failure to identify disputed funds is identifiable as being held for beneficiary.	100	13,055.00	65,275.00	
26	36B(1)	Head contractor's withdrawal from disputed funds without cause.	300	39,165.00	195,825.00	2 years
27	36C	Head contractor's failure to return or withdraw disputed funds.	50	6,527.50	32,637.50	
28	38(1)	Head contractor dissolving the PBA when it is required for a building contract.	500	65,275.00	326,375.00	1 year
29	40(1)	Head contractor investing funds held in trust.	200	26,110.00	130,550.00	1 year
30	45(1)	Head contractor's failure to keep written records of all transactions involving amounts held in trust for a PBA.	300	39,165.00	195,825.00	1 year
31	45(3)	Head contractor's failure to retain a copy of the PBA records for a period of not less than 7 years.	300	39,165.00	195,825.00	1 year
32	49(2)	Head contractor's failure to give the subcontractor the PBA information before entering into a subcontract.	200	26,110.00	130,550.00	1 year
33	50(2)	Head contractor's failure to give prescribed information to principal within 5 business days of entering into a subcontract.	200	26,110.00	130,550.00	-
34	50(3)	Head contractor's failure to advise principal of a change in prescribed information given to the principal, within 5 business days after becoming aware of the change.	200	26,110.00	130,550.00	-
35	51(2)	Head contractor's failure to ensure a copy of the information contained in the payment instruction to the financial institution is given to the principal and the subcontractor beneficiary, as soon as practicable.	100	13,055.00	65,275.00	-
36	51(4)	Head contractor giving false or misleading information about its instructions to the financial institution.	200	26,110.00	130,550.00	-
37	52(2)	Head contractor's failure to inform the commissioner of any discrepancies in the payment instruction as soon as possible.	100	13,055.00	65,275.00	-
38	55(1)	Head contractor's failure to give the principal, as soon as practicable, the information the principal will require to act as trustee.	200	26,110.00	130,550.00	1 year
39	55(2)	Head contractor's failure to inform, as soon as practicable, the relevant financial institution that the principal will act as trustee of the PBA.	50	6,527.50	32,637.50	-
40	55(3)	A person with information the principal will require to act as trustee of the PBA failure to give the principal information which the principal requests in writing.	50	6,527.50	32,637.50	-

(1) 1 Penalty Unit = \$130.55 (current from 1 July 2018)

(2) *Penalties and Sentences Act 1992* (Qld), s 181B. - up to 5 x individual penalty