

South Australia

## **Building and Construction Industry Security of Payment Bill 2009**

### **Amendment No 1 [Darley–2]—**

Clause 4, page 5, after line 8—

After the definition of *progress payment* insert:

*recognised financial institution* means a bank or any other person or body prescribed by the regulations for the purposes of this definition;

### **Amendment No 2 [Darley–2]—**

Clause 7, page 7, lines 9 to 13 [clause 7(2)]—

Delete subclause (2) and substitute:

(2) This Act does not apply to—

- (a) a construction contract that forms part of a loan agreement, a contract of guarantee or a contract of insurance under which a recognised financial institution undertakes—
  - (i) to lend money or to repay money lent; or
  - (ii) to guarantee payment of money owing or repayment of money lent; or
  - (iii) to provide an indemnity with respect to construction work carried out, or related goods and services supplied, under the construction contract; or
- (b) a construction contract for the carrying out of domestic building work (within the meaning of the *Building Work Contractors Act 1995*) on such part of any premises that the party for whom the work is carried out resides in or proposes to reside in; or
- (c) a construction contract under which it is agreed that the consideration payable for construction work carried out under the contract, or for related goods and services supplied under the contract, is to be calculated otherwise than by reference to the value of the work carried out or the value of the goods and services supplied.

### **Amendment No 3 [Darley–2]—**

Clause 7, page 7, after line 18 [clause 7(3)]—

After paragraph (a) insert:

- (ab) provisions under which a party undertakes to carry out construction work, or to supply related goods and services, as a condition of a loan agreement with a recognised financial institution; or

**Amendment No 4 [Darley-2]—**

Clause 29, page 19, lines 30 to 32 [clause 29(1)(b)]—

Delete paragraph (b) and substitute:

- (b) if no such amount is agreed—the hourly rate (if any) prescribed by regulation in addition to reasonable expenses; or
- (c) if no such amount is agreed and no hourly rate has been prescribed—such amount, by way of fees and expenses, as is reasonable having regard to the work done and expenses incurred by the adjudicator.