

Members Newsletter

DECEMBER 2018

Protect yourself by ensuring your retentions are held

Recent high-profile collapses in the sector, such as Ebert Construction in August and most recently Corbel Construction, have demonstrated how important it is to ensure you, your business, and your livelihood is protected.

You can do this by ensuring retentions are being held appropriately and in accordance with the law.

Nearly one third of construction companies in New Zealand don't seem to be complying with the retentions law. The New Zealand Specialist Trade Contractors Federation (NZSTCF), Registered Master Builders Association (RMBA), and Civil Contractors New Zealand (CCNZ) are advising all subcontractors to protect themselves by:

- Obtaining written confirmation, for every contract, that your retentions are being held appropriately. Wherever possible, this should be in a separate bank account; and
- Reading [RMBA's Lead Contractor Guidelines](#) to help you better understand the risk you are taking on when signing contracts

While we are actively engaging with Government to ensure those who are not complying with the law are held to account, it is up to us all to take responsibility for protecting ourselves in this volatile environment.

We will be issuing regular updates on this, and other important issues that affect you.

If you have any specific questions or concerns about retentions, please contact your member organisation for further information and advice.

Advocating on your behalf with Government stakeholders

NZSTCF members carry out the majority of work on New Zealand construction sites, our voice is critical to developing solutions for the sector.

We have begun a long-term programme focused on strengthening the NZSTCF voice with sector and government stakeholders. Importantly, this engagement lays the foundation for NZSTCF to have a seat at the table in discussions about the changes required and updates to core regulations.

Over the past four months, we have met with key Government stakeholders, including:

- Hon Phil Twyford – Minister for Housing and Urban Development
- Hon Jenny Salesa – Minister for Building and Construction
- Andrew Bayly – National Party Spokesperson for Building and Construction
- Hon Paul Goldsmith – National Party spokesperson for Economic & Regional Development
- David Seymour – Leader of the ACT Party
- Anna Butler and Katrina Quickenden – Building System Performance and Building Policy team, Ministry of Business, Innovation, and Employment (MBIE)

- John Ivil – Government Procurement, Ministry of Business, Innovation, and Employment (MBIE)

As a result, NZSTCF will now be involved in:

- The upcoming review of the new retention's regime (Construction Contract Amendment Act 2015) being undertaken by MBIE; and
- The upcoming review of Government Procurement Guidelines being undertaken by MBIE

Better Managing Risk

Everyone in the sector needs to take responsibility for better managing risk. Rick Herd, CEO of Naylor Love, spoke passionately about this at the Constructive Forum in August this year, saying “We have to say no and push back on unfair terms and conditions. It's up to you, not government. Say no. Turn the job down. This is a big mind-set change”.

It is our responsibility to ensure we understand the risk we are taking on when we sign contracts – this must become mandatory for both lead and sub-contractors. We need to demand we are given the time and information we need to get it right. This will help put a stop to the race to the bottom, where no one benefits.

NZSTCF are actively working with the Vertical Construction Leaders group on Construction Health & Safety NZ (CHASNZ), and we are extending our discussions into risk management. We are also working with Civil Contractors Federation, Institute of Quantity Surveyors, NZ Institute of Building and others at the Construction Industry Council. We look forward to providing you an update on these discussions in the New Year.

In August, RMBA launched its [lead contractor guidelines](#) to help the sector better manage risk. These will continue to be updated. In the absence of any government guidelines, we strongly encourage you to read these and ensure the contractors you are working with are following them.

WHAT WE'RE FIGHTING FOR



PROCUREMENT MODELS

We are working with the sector to ensure fair and enforceable Government Procurement Guidelines

Early contractor involvement, starting at the contract negotiations

Allow time to understand the project and associated risks

Move to a relationship model rather than the current competitive model

Reward training and innovation rather than just the lowest price

Require proof of liquidity for contractors



RETENTIONS

We are working with MBIE to review the CCA Act

Ensuring clear government backed guidelines on retentions

Enforceable regulation

Advocating for prosecution where there are failings

