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# **Victorian SOPA 2026: Practical implications for Principals, Superintendents & PMs**

**Disclaimer:**

The intention of this paper is to provide a practical PM and superintendent perspective on the Victorian Security of Payment reforms and their implications for contract administration. It is not legal advice and should not be relied upon as a substitute for legal, contractual or project specific advice. The application of the Building and Construction Industry Security of Payment Act 2002 (Vic) will depend on the terms of the relevant contract, the status of the project, the nature of the claim and the specific facts and circumstances.

Principals, superintendents, project managers and other project participants should seek independent legal advice before making decisions about payment claims, payment schedules, performance security, adjudication, notices, time bars or other rights and obligations under the Act.

# Victorian SOPA 2026: Practical Implications for Principals, Superintendents & PMs

## Executive Summary

### What the Act Is For (in one paragraph)

SOPA is designed to keep money flowing on construction projects. It provides a statutory right to progress payments and now also a statutory pathway to recover performance security, supported by a fast, interim adjudication process based on the principle “pay now, argue later.” Adjudication decisions are interim only and do not finally determine contractual rights, but they are immediately enforceable.

### Key changes effective 15 April 2026

The 2025/2026 amendments to the Victorian Building and Construction Industry Security of Payment Act 2002 (Vic) represent the most significant reform since 2006. They materially change how payment claims, payment schedules, performance security and adjudication must be managed across all construction contracts, including existing contracts, for acts occurring from 15 April 2026 onward.

At a high level, the reforms strengthen cashflow protections, shift disputes toward merits-based assessment, and significantly increase the consequences of poor contract administration for principals and superintendents.

### What Has Changed from 15 April 2026

#### 1. *Broader claims – no more “excluded amounts”*

All amounts due under or in connection with a contract can now be claimed, including variations, delay costs, latent conditions and damages. Principals can also raise set-offs (e.g. LDs, defect costs) in payment schedules. This is considered a foundational change resulting in more comprehensive payment claims.

#### 2. *Monthly entitlement – reference dates abolished*

The amendments remove the concept of a contractually determined “reference date” for progress claims and replace it with a statutory entitlement to serve one payment claim per calendar month. Early claims are no longer invalid: serving a claim before a contract’s scheduled date is now acceptable – by law it is deemed served on the earliest date it could have been served, thereby counting as that month’s claim. Final payment claims can now be served up to 6 months after completion or termination of the contract (extended from the previous 3-month limit). There is an important December/January exception which allows a claim for work done up to 21 December to be served from 22 December of that year, and if not, then the next claim can be made from 1 February of the following year (skipping the January period).

#### 3. *Christmas shutdown recognised*

The definition of “business day” now excludes 22 December to 10 January, pausing SOPA timeframes over the shutdown period.

#### 4. *Faster payment – 20 business-day cap*

The maximum period for payment of a progress claim (or release of performance security) is now 20 “business days” from the date the claim is served. Any contractual clause allowing a longer period is void to the extent it exceeds 20

business days, and if a contract does not specify a payment timing, the default statutory due date is 10 business days after the claim's service (meaning the Principal may have to pay even sooner in the absence of an agreed period). Payment and security release terms are capped at 20 business days from claim service. Longer contractual periods are void. If timing is silent, a 10 business day default applies. Pay-when-paid mechanisms are further curtailed.

**5. *Payment schedules are decisive***

All reasons for withholding payment must be included in the payment schedule. No new reasons can be raised later in adjudication. Failing to serve a payment schedule on time means the Principal is liable for the full claimed amount, with only a limited 5-day "second chance" after an adjudication warning.

**6. *Unfair time bars can be ignored***

The introduction of section 13A into the SOP Act, which allows adjudicators (and other decision-makers, including courts, arbitrators, and experts) to declare certain contract notice requirements "unfair" and therefore of no effect. Specifically, if a time-bar clause's compliance requirements are found to be ***not reasonably possible*** or ***unreasonably onerous***, the clause can be ignored and cannot be used to automatically deny a claim. This shifts the focus from rigid procedural compliance to substantive merit. It is worth remembering that time bars which are reasonable and feasible can still be enforced. So it is unwise to rely solely on technical defences, and principals should both assert the time-bar and concurrently (without prejudice) assess claims on their merits in case the time-bar is later deemed unfair.

**7. *Performance security now regulated***

Sections 17A–17G of the SOP Act now give contractors a statutory right to claim the release of performance security once contractual conditions for release are met. In practice, this means a contractor can serve a "performance security claim" much like a payment claim, typically after Defects Liability Period (DLP) expiry or other release milestone, to demand return of their security. The principal must then issue a "Performance Security Schedule" responding to that claim within 10 business days, similar to a payment schedule, either agreeing to release or stating reasons for any refusal or partial release. There is no automatic right under the amended Act to force an early (interim) release at Practical Completion or for other securities like "offsite materials" unless the contract itself provides for one – the new statutory scheme primarily ensures final security is released when due (commonly at end of DLP). Recourse to security now requires at least 5 business days' written notice – surprise calls are no longer permitted.

**8. *Electronic service confirmed***

Email and electronic service of SOPA documents is expressly permitted and applies retrospectively.

**Practical Implications for Principals, Superintendents & PMs**

- **Be proactive:** SOPA obligations are triggered by contractor claims, but teams should be ready at all times. Early or unexpected claims are now valid.
- **Payment schedules are the critical risk point:** They are the final statement of position for adjudication. Poorly reasoned schedules increase payment risk.
- **Merit matters more than process:** Time bars, silence or technical defences are no longer reliable on their own.

- **Performance security management must be disciplined:** Notices, registers and response timelines are now statutory.
- **Adjudication is interim but enforceable:** Errors can be corrected later through subsequent claims or final account, but only after payment, which could incur significant commercial cost.

### Implementation Tools – Templates to Support Compliance

Key templates to be updated and developed by Principals and Superintendents include:

- **Payment Schedule Template** – structured to capture all reasons for withholding payment, with clear links to contract clauses and evidence (critical given the “no new reasons” rule).
- **Variation and EOT Registers** – live registers recording status, assessment and reasons, to support payment schedules and defend set-offs or delay positions.
- **Performance Security Register** – tracking security held, release triggers and timing to manage statutory release obligations.
- **Performance Security Schedule Template** – mirroring payment schedules, to respond to statutory security release claims within 10 business days.
- **Notice of Intention to Have Recourse to Security** – a compliant notice under new s.17H, supporting lawful calls on retention or bank guarantees.
- **EOT Claim Assessment Checklist** – a consistent framework for assessing time claims on both procedural compliance and substantive merit (e.g. cause, mitigation, critical path, concurrency).
- **Updated Contract Clauses & Guidance** – revised payment, notice (e.g. time bars) and security clauses aligned with SOPA, supported by internal guidance so project teams apply the new regime consistently.
- **Holiday Period Guidance** – a short reference note explaining how SOPA deadlines operate over the 22 December – 10 January shutdown.
- **Program Tracking and Rate of Progress Templates** – regular program updates and rate-of-progress letters documenting actual progress, slippage and the Superintendent’s contemporaneous view of performance.

### References (Executive Summary):

- MinterEllison – “Changes to Victoria’s Security of Payment regime have now commenced” (Technical Update, 15 April 2026) – [minterellison.com](https://minterellison.com)
- Ashurst – “Significant amendments to Victoria’s Security of Payment Act are now in effect” (Legal Update, 23 April 2026) – [ashurst.com](https://ashurst.com)
- Holding Redlich – “A major shake up of the Victorian security of payment regime” (Insight, updated 13 Nov 2025 & 15 April 2026) – [holdingredlich.com](https://holdingredlich.com)
- Tsirogiannis Lawyers – “Changes to Security of Payment Act – Part 2 – What can now be included in a Payment Claim?” (Nicholas Tsirogiannis, 2025) – [tsirogiannis.com.au](https://tsirogiannis.com.au)
- Victorian Building Authority (VBA) – “Changes to the SOP Act – Changes to the SOP scheme” (Official Guidance, 2026) – [vba.vic.gov.au](https://vba.vic.gov.au)

# Detailed Analysis and Practical Implications

## 1. History and Purpose of the SOP Act (Victoria)

- **Origin and Aim:** Victoria introduced the *Building and Construction Industry Security of Payment Act 2002* (“SOP Act”) in 2002, following a model first pioneered in NSW. The SOP Act’s core purpose is to improve cash flow for contractors and suppliers by securing prompt interim payments for construction work and providing a fast, low-cost dispute resolution process for unpaid claims. In simple terms, the SOP Act ensures that if someone does construction work or supply related goods/services under a construction contract, they have a statutory right to regular progress payments – even if the contract’s payment terms or the other party’s practices are slow. It also now grants a statutory right to recover performance security (e.g. retention money or bank guarantees) once the work is complete and relevant contractual obligations are met. The Act establishes an adjudication system: an expedited, “lawyer-light” procedure to resolve payment disputes on an interim “pay now, argue later” basis, *without prejudice to final court or arbitration rights*. [[vba.vic.gov.au](http://vba.vic.gov.au)]
- **Evolution:** Significant amendments were made in 2006 (introducing concepts like the “reference date” and “excluded amounts”) to refine the regime. However, after industry feedback and a 2023 inquiry into subcontractor protections, the Victorian Parliament passed the *Building Legislation Amendment (Fairer Payments on Jobsites and Other Matters) Act 2025* in November 2025. This ushered in the most substantial SOP Act reforms since 2006, aimed at aligning Victoria with other states. Most reforms commenced on 15 April 2026 by proclamation and apply to existing contracts prospectively (with transitional exceptions for claims or adjudications already in progress), thereby fundamentally reshaping Victoria’s Security of Payment framework.

### References (History & Purpose):

- Victorian Building Authority (VBA) – “*Security of Payment*” (Overview & Purpose of SOP Act) – [vba.vic.gov.au](http://vba.vic.gov.au)
- Holding Redlich – “*A major shake up of the Victorian security of payment regime*” (Background & Bill introduction, 18 Sep 2025) – [holdingredlich.com](http://holdingredlich.com)
- Ashurst – “*Significant amendments to Victoria’s Security of Payment Act are now in effect*” (Historical context & reforms, 23 April 2026) – [ashurst.com](http://ashurst.com)

## 2. Key Reforms Effective 15 April 2026

- **Abolition of “excluded amounts” – broader claims:** The prior restrictions on certain claimable items (the “excluded amounts” regime, which barred claims for unapproved variations, time-related costs, damages, etc.) have been repealed. Now any amount due under or in relation to the contract can be claimed under SOPA, including disputed variations, prolongation or delay costs, latent condition costs, and damages claims (all previously excluded). Principals can also raise set-offs (like liquidated damages or defect costs) in their payment schedules, since those are no longer automatically excluded. *Bottom line:* Expect more comprehensive (and potentially larger) payment claims, covering all sources of entitlement.
- **Monthly payment claims (reference dates removed):** The concept of a single contractual “reference date” as a precondition to claim is gone. Instead, a contractor or consultant now has a statutory entitlement to serve one payment claim per calendar month (and one final claim after completion or termination). A claimant now has a right to serve a payment claim “on and from the last day” of each month in which construction work was carried out under a construction contract. What this means? The contract no longer governs when a payment claim can be served under the Act. Payment claims can now be served on the last day of each month if work was carried out in that month. The imposition of contractual conditions precedent in relation to when payment claims may be made under a contract is also irrelevant to when a payment claim may be served under the Act.

An early payment claim (served before a contractually stipulated date) is no longer invalid – it will simply count as that month’s claim. The outer time limit for serving a payment claim has been extended from 3 months to 6 months after completion or termination of the contract. (*Note:* The Act also provides special rules for December: a claim for work done up to 21 Dec can be served from 22 Dec, and otherwise the next monthly claim can be made from 1 Feb, effectively skipping the shutdown period.)\*

### ***Practical Example (Principal’s Perspective):***

*Scenario: You are a principal expecting the contractor’s April progress claim on the last day of April (as per usual monthly cycle). However, the contractor unexpectedly emails you their payment claim on 20 April – ten days earlier than scheduled.*

Under the post-15 April 2026 SOPA, you cannot dismiss this early claim as invalid or tell the contractor to re-submit it later. The law treats that 20 April claim as effectively served on 30 April, which is “the earliest day it could have been served” according to the contract/Act. This means:

- **Mark the Effective Date:** For your records, note that 30 April is the deemed service date of the claim. This is when all statutory timeframes will be counted from, even though you physically received the claim on the 20th.
- **Payment Schedule Timing:** You still prepare a Payment Schedule addressing the claim, but your 10-business-day deadline to serve it runs from 30 April, not 20 April. (Of course, if you’re ready earlier, you can respond sooner – but legally you have until around mid-May to issue the schedule, preserving the full response period.)
- **Payment Timing:** Similarly, if the contract’s payment terms allow (or default to) say 15 business days, that timeline begins on 30 April as well. Regardless,

no payment term can exceed 20 business days from 30 April under the new law.

- **One Claim Per Month:** Because the contractor already used their April entitlement with this early claim, they cannot send another April claim on the 30th. Treat the early claim as April's sole payment claim.

**Bottom line:** As the client/principal, take any early-served payment claim seriously. It's valid – just time-shifted. You should log the claim immediately but understand that the statutory “clock” (for your schedule and payment) starts ticking from the proper month-end date. The new SOPA prevents ambush by ensuring you don't lose response time, but it also eliminates the old tactic of invalidating claims over timing technicalities.

- **“Business day” redefined (Christmas shutdown):** The Act's definition of “business day” now excludes 22 December to 10 January (inclusive) each year. No SOPA deadlines run during this period, providing relief from the year-end holiday time pressure and effectively pausing claim and response clocks over the break.
- **Faster payment deadlines (20 business day cap):** Payment terms are now capped by statute: progress payments (and any adjudicated amounts or security release payments) must be paid within 20 business days after the claim is served. Any contract clause allowing a longer payment period has no effect to the extent it exceeds 20 business days. If a contract is silent on timing, or if it has a longer period specified, it is voided by the Act, and the default due date of 10 business days from the claim date applies. (*The Act also expands the prohibition on “pay-when-paid” provisions.*) It is worth noting that the 20-day cap refers to “business days,” which in practice is about 4 calendar weeks; many older contracts had 30-60 day terms, which are now curtailed.
- **Payment schedules locked down (“no new reasons”):** Respondents can no longer introduce new reasons or defences in an adjudication that were not included in the original Payment Schedule. The payment schedule is now the final opportunity to state all reasons for withholding payment of each item – any reason omitted is treated as waived and cannot be raised later. (*Victorian law previously allowed “new reasons” in adjudication responses; this has been abolished to align with other states.*) A slight grace has been added: if a respondent misses the 10 business day deadline for a payment schedule, they now have 5 extra business days to issue a “second chance” payment schedule after receiving a notice of intention to adjudicate. This is a fallback only – failing to schedule on time remains highly risky, as missing the initial deadline means automatic liability for the full claim (plus an adverse costs risk in any attempted recovery via court). [[vba.vic.gov.au](http://vba.vic.gov.au)]
- **Unfair notice-based time bars:** A new section 13A empowers adjudicators, courts, arbitrators or experts to declare contract notice requirements “unfair” – and thus of no effect – if compliance was unreasonable or onerous. This means harsh time bars (e.g. extremely short claim notice deadlines or multi-step notice processes that completely extinguish rights for technical non-compliance) can be overridden. Contractors are no longer automatically shut out of claims just because a notice was late if the notice clause is deemed “unfair” in those circumstances. Remember, each time-bar clause will be evaluated on its own merits – only those found “unfair” in the specific circumstance will be set aside, while reasonable notice requirements remain enforceable.

- Performance security – statutory release mechanism:** The amendments introduce sections 17A–17G, giving contractors a statutory right to claim release of performance security (retention money or bank guarantees) once contractual conditions for release are satisfied. If a contract doesn't specify a release time, the Act implies default release timing (e.g. final security must be released within 20 business days after the end of the defects liability period, and a contractor can trigger this via a SOPA “performance security claim”). *Importantly, the Act's new mechanism does not automatically create a right to interim security release at Practical Completion – partial release at PC still depends on what the contract provides. However, once a valid performance security claim is made under SOPA, the principal must respond with a Performance Security Schedule within 10 business days or be liable to release the full amount claimed. (In practice, “performance security” is defined broadly to include typical bank guarantees, bonds or retention monies provided under a construction contract. Thus, off-site materials bonds or other contract security instruments would generally fall under this regime.)*
- Notice before recourse to security:** A new section 17H requires a party seeking to draw on a performance security to first give at least 5 business days' written notice of intention. The notice must identify the contract, the contractual basis for recourse, the amount (if partial), and the circumstances justifying the call. Recourse without such notice is unlawful, and any contract terms purporting to bypass this notice requirement are overridden by the Act. Principals can no longer call security “without warning.”
- Service of documents – modernised:** The Act now expressly allows electronic service of SOPA documents (claims, schedules, notices, etc.), clarifying that service by email or other electronic means is legally effective. This change was made retrospectively (from the Act's Royal Assent date, 13 November 2025), validating e-service on existing projects even if older contract terms didn't permit it. (*“Royal Assent” means the formal approval of the Bill by the Governor of Victoria – the step which made the 2025 Amendment Act law.*)

### References (Key Reforms):

- Ashurst – *“Significant amendments to Victoria's Security of Payment Act are now in effect”* (Key Reforms summary, 23 April 2026) – [ashurst.com](https://www.ashurst.com)
- Victorian Building Authority (VBA) – *“Changes to the SOP scheme”* (Outline of all main changes, 2026) – [vba.vic.gov.au](https://vba.vic.gov.au)
- Holding Redlich – *“A major shake up of the Victorian security of payment regime”* (Bill's key changes, updated 2025/2026) – [holdingredlich.com](https://www.holdingredlich.com)
- Tsirogiannis Lawyers – *“Changes to Security of Payment Act – Part 3 – When does payment now need to be made?”* (Payment timing & 20-day cap, 2025) – [tsirogiannis.com.au](https://www.tsirogiannis.com.au)

### 3. What These Changes Mean for Principals, Superintendents, and Client-Side PMs

The 2026 SOPA amendments significantly change day-to-day contract administration for those on the client/principal side. In many ways, they reinforce good practice – but now lapses carry higher risks, as statutory obligations tighten and technical defences narrow. Key practical implications include:

- **Be Proactive – Don't Wait for Claims:** Under SOPA, the onus is on claimants to serve claims (payment or security) to trigger your obligations. However, as a *best practice*, Superintendents and client-side PMs should proactively prepare for these claims rather than react last-minute. Stay on top of project progress, keep drafts of payment schedules ready, and even consider issuing regular contractual progress certificates in line with your contract (many standard contracts like AS4000 require monthly certificates even if the contractor hasn't submitted a claim). This way, if a contractor serves an early or unexpected claim, you're already prepared to respond.
- **Payment Schedules as the “Final Word”:** All reasons for withholding payment must now appear in the Payment Schedule. When issuing a payment schedule on behalf of a principal (or as Superintendent), treat it as a final, comprehensive defence document. New arguments cannot be raised later in adjudication that weren't already in the schedule. So itemise every reason for each contested item, citing contract clauses or evidence as needed. *Example:* If withholding money for defective work or delays, explicitly state those reasons (e.g. “\$X withheld for defects – see Defect List dated \_\_\_”) in the schedule. If relying on a time bar or other clause, mention it in the schedule. Develop a robust Payment Schedule template with space for detailed reasons and train your teams to gather necessary substantiation quickly (since payment schedules are due within 10 business days of a claim's service – by law, excluding the 22 Dec–10 Jan period). Remember, missing the 10-business-day payment schedule deadline means you become liable to pay the full claimed amount on its due date, and you lose any chance to contest that claim in a SOPA adjudication. (Your ultimate contractual defences can still be raised in later litigation or arbitration, but after you have paid – the Act explicitly preserves those final rights.) While a “second-chance” 5-day notice exists, that should be a last resort. Never miss the original 10-day deadline.
- **Performance Security – New Claims & Schedules:** *Be prepared to handle Performance Security Claims much like payment claims.* Contractors and consultants can now use SOPA to formally claim the release of retention money or return of bank guarantees, especially after project completion (e.g. end of the Defects Liability Period). If the Principal receives a *performance security claim*, it must issue a Performance Security Schedule within 10 business days (analogous to a payment schedule, stating how much security will be released and all reasons for withholding any portion). Failure to respond in time means the Principal must release the full security amount claimed. Superintendents/PMs should create a template Performance Security Schedule and maintain a register of securities (type, amount, held by whom, release dates) so any claim for release can be answered promptly. Additionally, the new 5-day notice before calling on security means if the Principal intends to draw on a contractor's security (e.g. for defects or LDs), it must first give written notice at least 5 business days in advance. *Action:* Have a template “Notice of Intention to Have Recourse to Security” ready, and make this notice step part of your workflows – no more surprise or same-day calls on security.

- **Flexibility in Claim Timing – Stay Alert:** A payment claim can now be served at any time during the month; it is no longer tied to a fixed contractual “reference date.” Only **one payment claim per calendar month is permitted**, which gives contractors flexibility on timing (for example, serving a claim on the 25th rather than waiting until month-end). If a claim is served earlier than the earliest date permitted, it is not invalid—by law it is deemed to be served on the earliest date it could have been served, and it counts as that month’s claim.

For principals and superintendents, this means early receipt of a claim does not accelerate statutory timeframes. The 10-business-day payment schedule deadline and the 20-business-day payment deadline run from the deemed service date, not the early delivery date. Internally, log the actual date the claim is received, note the deemed service date, and notify the team immediately. An early claim is valid only in respect of work carried out up to the date of the claim, and no further claim can be served for that month. Always diarise the payment schedule due date and payment due date by reference to the deemed service date, as soon as a claim is received.

- **Fast Payment Cycle – Make Sure Your Finance Team Can Respond In Time:** Payments must now be processed faster. The statutory 20-business-day outside limit for payment (from claim service) is shorter than many traditional contract terms, so principals must adjust. Crucially, the clock starts when the payment claim is served, not when an invoice is issued. Under the SOP Act, the obligation to pay is not contingent on receiving a tax invoice – the payment claim itself triggers the due-date countdown. (For government projects, it’s fine to require an invoice for admin reasons, but the statutory due date still runs from the claim’s receipt.) Streamline internal approvals and payment workflows: ensure that once a payment schedule is done, the approved amount can be certified and paid well within 20 business days. Set internal targets (e.g. aim to pay by 15 business days) to provide a safety margin. Missing the payment deadline not only accrues interest but also could allow the contractor to suspend work under SOPA rights until they’re paid. Also, double-check that no contract clause ties your payment timing to “upstream” events or longer periods – such clauses are now void, and in their absence 10 business days may apply by default, requiring even quicker payment.
- **Expanded Claimable Items – Diligent Contract Admin:** Contractors can now include formerly “excluded” items (like disputed variations, latent conditions, EOT-related costs, damages) in their SOPA payment claims. Principals must be ready to address these substantively in the payment schedule. This makes robust project record-keeping more critical than ever: ensure your variation register and EOT/delay register are up to date and detailed. For every variation, know its status (approved, rejected, under assessment) and the reason for any rejection. For each EOT or delay claim, document the evaluation (granted vs. denied days, plus reasons such as concurrency or lack of merit). If a contractor claims delay costs or other contentious items in a payment claim, they can no longer be dismissed as “excluded” – the Superintendent/Principal must respond to these on merits (or include any legitimate set-offs). *Tip:* Attach updated Variation and EOT Status Schedules to each payment schedule, showing the status of each claim and your position (with brief reasoning). For liquidated damages (LDs) and defect costs now allowable as set-offs, be prepared to include and justify these: e.g. state the number of LD days, rate, and calculation; or identify the defect, the estimated rectification cost, and evidence of notice to the contractor. This level of detail in

payment schedules not only preserves set-off rights in adjudication, it also helps demonstrate a genuine dispute if matters proceed to court.

- **Time Bars Less Reliable – Substantive Assessment Needed:** The new “unfair time bar” rule (SOP Act s.13A) means it can’t be assumed that a contractor’s claim will fail solely because a notice was late or deficient. Superintendents and client-side contract managers should still enforce contractual notice requirements (they remain valid unless deemed “unfair” case-by-case), but when a notice is missed they should do two things: (1) clearly record the time-bar non-compliance (e.g. in a letter or the payment schedule, reserve the right to rely on the time bar); and (2) also assess the claim on its merits (without prejudice). For example, a payment schedule might state: *“Notice of Delay was given outside the 7-day period required by clause \_\_, therefore the claim is time-barred. Without prejudice to that position, the claim has also been assessed as follows on the merits: ...”* – then outline your assessment (did the event actually delay the works on the critical path? was it a contractor-caused issue? is the claimed cost correctly valued and substantiated?). This way, if an adjudicator or court later ignores the time bar as ‘unfair’, your substantive defence is on the record. Key point: Don’t rely only on procedural mis-steps; always have a back-up merits evaluation. Longer term, consider amending your contracts to make notice provisions more reasonable (longer notice periods, simpler steps, and consequences tied to actual prejudice rather than automatic forfeiture) to help them survive scrutiny under s.13A and promotes better project outcomes.
- **Electronic Service = Speed:** With electronic service of SOPA documents now officially allowed, claims or notices can arrive by email and be effective as soon as they hit your inbox. Make sure your team monitors relevant email addresses (including during holidays) so nothing is missed. Conversely, the Principal/Superintendent can serve your *payment schedules* and other responses by email as well, which aids speed and proof of service. The legislative update clarified that these service changes apply retrospectively from the Act’s Royal Assent (13 Nov 2025), so prior email service is validated. (*Royal Assent is when the Governor formally signs the Bill into law.*)
- **Retrospective Application – Current Projects Affected:** These changes apply to existing contracts (not just new ones) for all relevant acts (claims, schedules, etc.) from 15 April 2026 onward. If a payment claim was served before 15 April 2026, or an adjudication was already underway, the old SOPA rules still govern those particular matters – but every new payment claim or notice after commencement falls under the new regime. This retrospective approach is unusual (past SOPA amendments typically exempted existing contracts). Contract administrators may need to shift gears mid-project: ensure everyone on the team (commercial, legal, finance) is aware that the ground rules changed on 15 April 2026 and contracts negotiated under the old regime now have to be administered using the new rules.
- **Adjudication Still Interim – Prevention is Best:** Remember, a SOPA adjudication is an interim determination, not a final arbitral award or court judgment (“pay now, argue later” - The Victorian Building Authority confirms: “The decision is interim and does not affect the parties’ rights and obligations under their contract.”) An adjudicator’s decision requires immediate compliance, but it does not finally determine the parties’ contractual rights (SOPA s 47(1)–(2)). If a contractor wins an adjudication (and the Principal pays as ordered), that doesn’t permanently decide the issue – and the Principal can still contest liability in litigation or arbitration

later, and any amounts paid under SOPA must be taken into account and can be adjusted or repaid in the final resolution (SOPA s 47(3)–(4)). In practice, this means errors or over/under-payments can be corrected later, including through subsequent payment schedules or the final account, provided there is a proper contractual or legal basis for the adjustment. However, correction after the fact is often difficult: an adjudicator’s decision stands and is enforceable in the meantime, and recovery usually requires further disputes or proceedings. This reinforces why Superintendents and adjudicators perform parallel, not competing, roles – like adjudicators, Superintendents are expected to make robust, defensible, merits-based assessments at each payment stage. If a Superintendent fails to properly assess or articulate reasons in a payment schedule, the adjudicator will step into that vacuum and make a “rough and ready” determination instead. Accordingly, it is better to avoid adverse adjudication outcomes by investing the effort early in clear, well-supported payment schedules and contract administration. Treat every payment claim as if it will proceed to adjudication: if a strong, defensible position is not articulated at the schedule stage, an adjudicator may do it later – potentially not in your favour. [[vba.vic.gov.au](http://vba.vic.gov.au)]

- **Consultancy Agreements:** The SOP Act reforms equally apply to professional services contracts (e.g. architect, engineer, project manager agreements) because these are considered “construction contracts” under the Act. Such consultancy agreements often lack a Superintendent, meaning the client/principal is directly responsible for SOPA compliance (issuing schedules, making payments on time, etc.). If you’re managing these contracts, apply the same SOPA discipline as with any construction contract: serve payment schedules within 10 business days, state all reasons, and pay within 20 business days. Consultants, too, can resort to SOPA (for fees, EOT claims, or security release), so the Principal has full exposure. In fact, because there’s no neutral certifier in these contracts, the principal bears all SOPA risk – disciplined, well-documented administration (especially around scope changes, delay claims, and client instructions) is essential to guard against surprises.
- **Diary and Template Updates:** With new deadlines and document types (payment schedules, performance security schedules, recourse notices) now in play, update your project management systems and personal routines. Diarise key statutory timeframes for each active contract: e.g. *10 business days* for payment schedules or performance security schedules; *20 business days* for payment due dates; *5 business days* minimum notice for any security call. Early reminders will ensure nothing slips through the cracks. Also update templates and checklists: for example, when sending a monthly payment certificate or contract administration letter, consider attaching relevant registers (e.g. a variation log, EOT determination log, performance security register) to provide transparency and preserve evidence in case of a dispute. In short, organisation and clarity are now not just best practice – they’re also crucial for SOPA compliance.

*(Golden Rules for PMs/Superintendents: Ultimately, ensure strict adherence to SOPA’s timeframes and requirements, be proactive in administering contracts, and always prepare for the worst-case scenario (adjudication). Prepare timely, thorough payment schedules and merits-based assessments.)*

#### **References (Practical Implications for Principals):**

- Ashurst – “*Significant amendments to Victoria’s Security of Payment Act are now in effect*” (Recommended actions for parties, 23 April 2026) – [ashurst.com](http://ashurst.com)

- Maddocks – “*Security of Payment Reforms commence in April 2026: A Practical Guide to the Key Changes...*” (Implications for claimants & respondents, 14 April 2026) – [maddocks.com.au](http://maddocks.com.au)
- Tsirogiannis Lawyers – “*Changes to Security of Payment Act – Part 4 – Are Time Bars Dead? Not Quite*” (Advice on managing time bars under new s.13A, 2025) – [tsirogiannis.com.au](http://tsirogiannis.com.au)
- Victorian Building Authority (VBA) – “*SOP adjudication*” (Interim nature of adjudication explained, 2026) – [vba.vic.gov.au](http://vba.vic.gov.au)

## 4. Templates & Guidance material (for development)

*(The following templates and tools should be prepared or updated in light of the reforms - detailed drafting for each will follow.)*

- **Payment Schedule Template** – a standardised form capturing all required details: reference to the claim, the scheduled amount for each item, and specific reasons for any differences (with space to reference contract provisions or attach supporting evidence).
- **Variation and EOT Registers** – up-to-date logs tracking all variations (with approval status and amounts) and all extension of time requests (with days claimed, granted/rejected, and reasons), to attach to payment schedules or use internally for quick reference when preparing schedules.
- **Performance Security Register** – tracking security held, release triggers and timing to manage statutory release obligations.
- **Performance Security Schedule Template** – similar to a payment schedule, for responding to SOPA Performance Security Claims, indicating the amount of security to be released (if not full release, with detailed reasons for withholding any remainder).
- **Notice of Intention to Have Recourse to Security** – a standard form letter per new s.17H, specifying the contract, the security amount and type, the contractual basis for recourse, and the circumstances justifying it, to ensure compliance with the 5-business-day pre-recourse notice requirement.
- **EOT Claim Assessment Checklist** – an internal checklist for evaluating extension of time claims, covering both procedural compliance (time bars, ongoing update requirements) and substantive merit factors (qualifying cause of delay, contractor’s mitigation, critical path impact, concurrency, etc.). This ensures consistency and that all grounds for decisions are recorded (vital if an EOT rejection is later challenged).
- **Updated Contract Clauses & Guidance** – review and revise standard contract templates to ensure compliance (e.g. payment terms ≤ 20 business days from date of claim; remove outdated reference date clauses; adjust notice requirements to be reasonable, not onerous and clear). Provide internal guidance notes or training summarising the new SOPA obligations for all project staff, so everyone is aligned with the updated regime.
- **Holiday Period Guidance Note** – a quick reference on how SOPA timelines are affected by the 22 Dec – 10 Jan shutdown, with examples of when payment claims can be served or need to be answered, to help project teams manage deadlines around the holiday period.

- **Program/Progress Assessment & Notices** – regular “rate of progress” reports or letters (e.g. issued monthly) noting program status, any slippages, critical delays, etc., to support potential imposition of LDs and demonstrate ongoing awareness of delays (important if delay claims arise).

#### **References (Templates & Guidance):**

- Maddocks – “*Security of Payment Reforms commence in April 2026: A Practical Guide to the Key Changes...*” (Advising to review and update contracts/processes, 14 April 2026) – [maddocks.com.au](http://maddocks.com.au)
- Tsirogiannis Lawyers – “*Changes to Security of Payment Act – Part 4 – Are Time Bars Dead? Not Quite*” (Advice on adjusting contract practices for notice requirements, 2025) – [tsirogiannis.com.au](http://tsirogiannis.com.au)
- Victorian Building Authority (VBA) – “*Changes to the SOP scheme*” (Overview of new processes such as payment & security schedules, 2026) – [vba.vic.gov.au](http://vba.vic.gov.au)

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