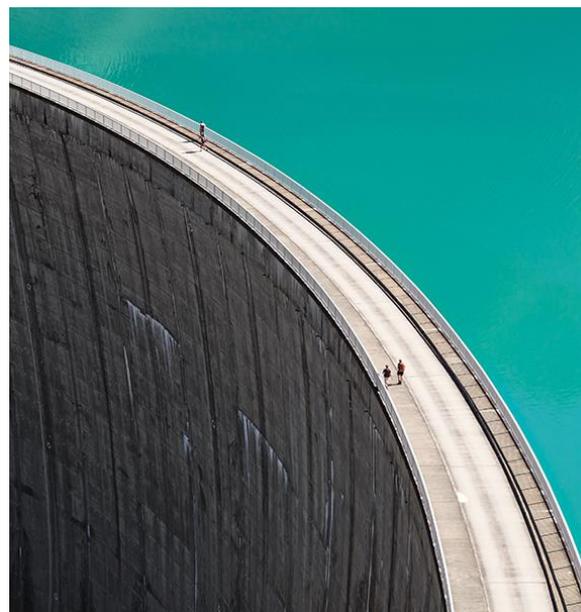


Direct Claims by Subcontractors against Employers

Written by International Construction Team

A summary of contributions from around the world from members of the Cornerstone FIDIC Group on LinkedIn



International Construction Team

Country	Legal System	Direct Claim by the Subcontractor Against the Employer Allowed?	Comments
Australia: - Queensland	Common Law	Yes?	Building Construction Industry Payments Act - a framework for unpaid subcontractors to seek arbitration and Subcontractors Charges Act - which allows an unpaid subcontractor to lodge a charge with the Principal before commencing an action to recover against the contractor. Note that the two acts mentioned above cannot be used in conjunction - it is either one or the other.
Australia:- Northern Territory	Common Law	No	Not since 2004

Country	Legal System	Direct Claim by the Subcontractor Against the Employer Allowed?	Comments
Australia:- Southern Australia	Common Law	Yes	Workers Liens Act 1893
Azerbaijan	Civil Law	Yes	Civil Code 431
Bahrain	Civil/ common law	No	-
Belgium	Civil Law	Yes	-
Bulgaria	Civil Law	No	-
Canada	Common Law (Quebec: Civil Law)	Yes	-
Chile	Civil Law	No	Subcontractor workers are entitled to demand payment of their health insurance, pension



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Country	Legal System	Direct Claim by the Subcontractor Against the Employer Allowed?	Comments
			insurance and their salary from the employer when the subcontractor or main contractor does not pay under a system of solidary responsibility
Denmark	Civil Law	No	Employers may claim directly from subcontractors
England and Wales	Common Law	No	-
France	Civil Law	Yes	Law n°75-1334-December 31, 1975
Hungary	Civil Law	No	In case of public procurement projects, the general contractor get only his part of the contractors fee, if he certifies that subcontractors have been all paid out accordingly
India	Common Law (Goa, Dadra and Nagar and Haveli, Daman and Diu: Civil Law)	No	-
Lebanon	Civil Law	Yes	-
Macedonia	Civil Law	No	
Malaysia	Common law and	Yes	Under Construction

Country	Legal System	Direct Claim by the Subcontractor Against the Employer Allowed?	Comments
	Sharia Law		Industry Payment and Adjudication Act 2012 subcontractor can seek to enforce an adjudication decision against an employer
Oman	Civil Law	Limited	Local labour wages
Peru	Civil Law	No	Some exceptions
Philippines	Civil Law	Limited	Labour only
Poland	Civil Law	Yes	Solidary ResponsibilityThe Employer and the Contractor are solidary responsible for payment to subcontractor
Qatar	Civil Law	Yes	Civil Code Article 702
Romania	Civil Law	Yes	-
South Africa	Civil, common and customary Law	No	-
Spain	Civil Law	Yes	Civil Code Article 1597 with conditions
Sudan	Sharia Law	Yes – To some extent	-
Turkey	Civil Law	yes	-
UAE	Civil Law and Sharia Law	No	There are exceptions

