

Federal Prompt Payment For Construction Work Regulatory Impact Analysis Statement

Introduction:

The construction industry is significant for the Canadian economy, employing over 1.5 million people and contributing to 7.5% of the GDP. A survey in 2015 found that approximately \$46 billion in payments remained unpaid after the conventional 30 day period, resulting in the introduction of the Federal Prompt Payment for Construction Work Act (the Act) which received royal assent on June 21, 2019.

Intent of the Act:

Starting February 25, 2023, the Department of Public Works and Government Services has released a regulatory impact analysis statement addressing concerns regarding payment timelines and reducing legal costs associated with the resolution of disputes. This statement compliments the Federal Prompt Payment for Construction Work Act and Construction Work Regulations (Dispute Resolution) with a limited time window provided for addressing any relevant comments or inquiries.

Objective of the Act:

Detail and define key administrative aspects related to the *criteria for the designation* of Provinces as well as time limits, interest and circumstances of the *adjudication process*.

Criteria For Designation:

- The submission of a proper invoice.
- Time limits for invoice payments to the contractor and subcontractors.
- For non-payment, the provision of a written notice of non-payment.
- For payment dispute, an adjudication that enables determination within certain time limits.
- A binding determination, unless there is a written agreement, a court order or arbitral award.

Adjudication Process:

- The days that are not counted towards timelines of payment in the adjudication process (e.g. holidays).
- How interest on unpaid amounts is to be calculated such as:
 - Average bank rate, plus 3% per year from due date until receipt of payment.
- Situations where adjudicators can be relieved of the need to adjudicate specific disputes due to:
 - Consolidation, revocation of appointment.
 - Conflict of interest, and or circumstances beyond their control.

Watch this space: Further Adjudication Awareness Bulletins will follow!

Note: This Adjudication Awareness Bulletin is issued for informational purposes only and does not constitute legal advice. Further, Adjudico Inc. is not liable for reliance by any party in respect of any and all statements contained within this Adjudication Awareness Bulletin.