

PROMPT PAYMENT FOR

CONTRACTORS

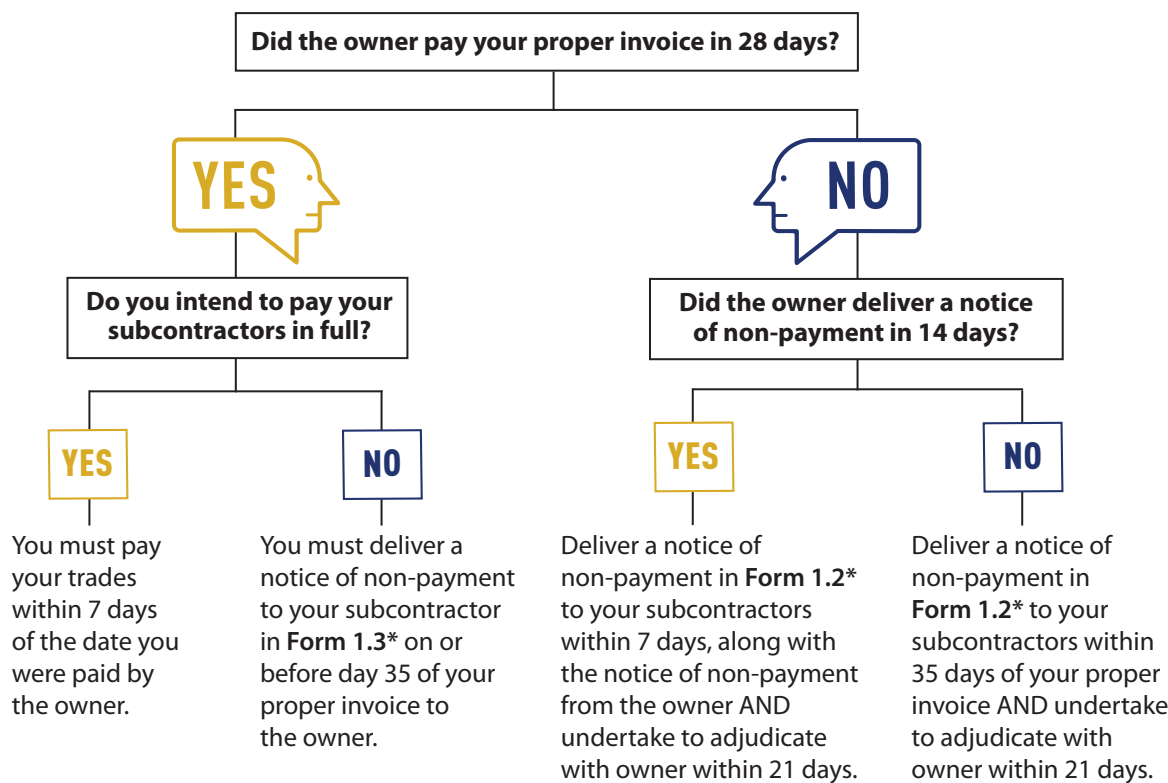
Ontario's *Construction Act* now includes timelines and rules to ensure that contractors and subcontractors are paid on time. Prompt Payment applies to construction contracts entered into on or after Oct. 1, 2019, with few exceptions. It applies to invoices you give to owners, and invoices you receive from subcontractors.

See the fact sheet **Prompt Payment & Adjudication 101** to determine if Prompt Payment applies to your contract.

Prompt Payment Timelines

The owner has two choices of action:

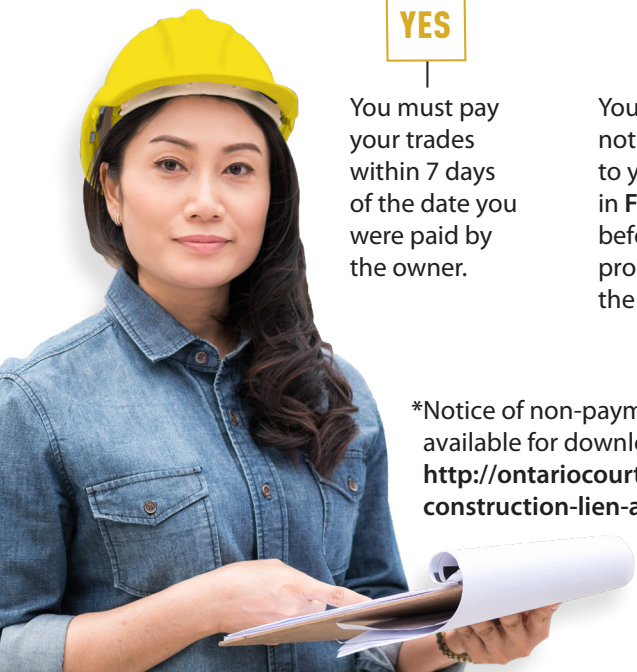
- If the owner intends to pay your invoice, they must do so **within 28 calendar days** of the date they received your proper invoice.
- If the owner disputes all or part of your proper invoice, they must give you a notice of non-payment within **14 calendar days** of receiving the invoice. The notice must be in **Form 1.1***.



*Notice of non-payment forms are available for download at <http://ontariocourtforms.on.ca/en/construction-lien-act-forms/>

Did you know?

Unless you take one of these two steps, you must pay your subcontractors within 35 calendar days of delivering a proper invoice to the owner.



Did you know?

If the owner doesn't adhere to Prompt Payment timelines and processes, they must pay your proper invoice even if there may be a valid reason not to. Your right to payment can be enforced through adjudication.

Are You a Contractor?

The *Construction Act* defines a contractor as someone who contracts directly with the owner. A prime contractor is considered a contractor for the purpose of the *Construction Act* even if they are a trade who typically works as a subcontractor. You may be a contractor on one project and subcontractor on another project.

See the fact sheet **Prompt Payment for Subcontractors** for more information.

Key Facts About Prompt Payment

1. Fixed Payment Timelines

Gone are the days when you negotiated terms of payment (i.e. 30, 60, or 90 days) with each client or supplier. Prompt Payment dictates fixed timelines, regardless of the terms of your contract or subcontracts. The timeline is triggered when the contractor delivers a proper invoice to the owner. Funds then flow from the top of the construction pyramid to the bottom, generally in multiples of seven days.

2. Proper Invoice

The *Construction Act* defines a proper invoice, which is required to trigger Prompt Payment.

See the fact sheet **What is a Proper Invoice?** to learn more.

3. Limited Time to Dispute Invoices

The owner will lose its right to dispute your invoice unless it gives notice, within a prescribed timeline and format, of its intention not to pay. Keep in mind, the same applies to your right to dispute your subcontractors' invoices.

4. Pay-When-Paid

Prompt Payment generally operates on a pay-when-paid basis. One of the reasons why you may dispute the invoice of a subcontractor or supplier is that you have not been paid in full or in part by the owner.

5. Referring Disputes to Adjudication

To take advantage of "pay-when-paid," you will typically need to refer your claim against the owner to adjudication within 21 days of giving notice to your subcontractors of your intent not to pay.

See the fact sheet **Adjudication Basics** to learn more.

6. Different rules apply to release of holdback.

See the fact sheet **Prompt Payment for Holdbacks**.

Ready to Learn More?

See our related fact sheets:

Prompt Payment & Adjudication 101
 Prompt Payment for Owners
 Prompt Payment for Subcontractors
 Prompt Payment for Holdbacks
 How does the Basic Holdback Work?
 What is a Proper Invoice?
 Adjudication Basics

Other resources:

- Ontario Dispute Adjudication for Construction Contracts (odacc.ca)
- COCA Webinar on Prompt Payment and Adjudication (coca.on.ca/advocacy/prompt-payment)
- Ontario Construction Act (ontario.ca/laws/statute/90c30)



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Disclaimer: This fact sheet is intended to provide information to the industry at large and should not be considered legal advice. Contact a lawyer to find out how Prompt Payment and Adjudication may apply in your particular circumstances.