

Federal prompt payment legislation passed

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In this Update:

- The *Federal Prompt Payment for Construction Work Act* (the *Federal Prompt Payment Act*), which sailed through as part of the larger federal budget Bill C-97 on June 21, 2019, addresses the non-payment of contractors and subcontractors performing construction work for federal construction projects.
- While the *Federal Prompt Payment Act* became law on June 21, 2019, it is not effective law yet. We are awaiting the Cabinet's order to determine the effective date.
- Given the surprising transition provisions, stakeholders and participants in federal projects and federally regulated industries are advised to keep a close watch on developments.

The *Federal Prompt Payment Act* was first introduced into the House of Commons on April 8, 2019, as part of the larger budget [Bill C-97](#) (*Budget Implementation Act, 2019, No. 1*). Somewhat surprisingly, the Bill was passed by the House of Commons on June 6, 2019, and later passed by the Senate on June 20, 2019, without any amendments.

Note that the *Federal Prompt Payment Act* is not effective law yet. It will be effective on the date determined by the order of the Cabinet. Once in effect, the *Federal Prompt Payment Act* will not grandfather existing contracts; instead, it provides for a one-year deferral period before it applies to existing contracts.

What will the *Federal Prompt Payment Act* mean for federal construction projects located in provinces that have passed prompt payment legislation, namely Ontario, Nova Scotia, and Saskatchewan, and [others who plan to do so in the future](#)? At present, it is not clear, although the federal government may exempt federal projects either individually or on a province-wide basis, but given the constitutional considerations as to jurisdiction, it is important to have consistency and clarity in relation to legislative alignment, which we have addressed in our [previous post](#).

We will update you when the *Federal Prompt Payment Act* becomes effective and regulations are issued. The Act contemplates a number of regulations dealing with the adjudication, form and content of proper invoice and notice of non-payment, and we will review them as they are issued. In the meantime, given that contracts will not be grandfathered, industry participants, including service providers, should start to consider appropriate amendments to the terms of their contracts (including the use of change of law provisions), and implementation of new internal procedures, in order to effectively respond to the new provisions once they take effect.