

Prompt Payment Legislation

**A position paper prepared by the
National Trade Contractors Coalition of Canada (NTCCC)**



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We're the ones doing the work

The National Trade Contractors Coalition of Canada (NTCCC) is a partnership that brings together national construction trade associations. NTCCC members are skilled trade contractors that are hired by general contractors for specific parts of a larger construction project. Our thousands of member companies across Canada encompass a significant portion of Canada's multi-billion dollar construction industry.



Late Payment and Canada's Construction Trades

During the normal course of business, a contractor carries a substantial amount of up-front costs to carry out a particular job. This includes equipment, materials, employee salaries, and maintaining necessary insurance, amongst any number of other issues. These costs are substantial, even if they are expected.

To a certain extent, all businesses are forced to carry some costs while they wait for payment for goods delivered or services performed. In most industries, payment is received when goods or services are delivered or along some other predictable schedule. **In the construction industry, however, it is a tolerated practice whereas sometimes there are no strict timelines for payment of services rendered.**

It is important to underline that this is principally a problem when both parties are satisfied with services, not necessarily in situations of disputes. It is also not primarily a problem associated with general contractors not being paid by owners, but also general contractors not paying trade contractors for services delivered. In some cases, the two may be related. To put this another way, the current payment regime sees contractors do an honest day's work for an honest day's pay, eventually.

Carrying these costs limits a business' cash flow. At a minimum, it means an added cost for business as they pay interest on borrowed operating capital. A much greater, and very real, concern is that a cash flow crunch limits trade contractors' ability to carry out future business, as they are unable to purchase supplies or pay for other expenses because money is tied up in outstanding payments for work performed.

Late payment, then, is a serious impediment to small business, making already trying economic situations even more difficult and, in some cases, forcing companies to lay-off workers or go out of business all together.

Small businesses rely on predictable revenue streams to remain successful; construction trade contractors are no different.

The Solution: Prompt Payment Legislation

The payment status quo is not working, with payment not being passed on to trade contractors promptly and without hassle, causing serious hardships, as outlined. Moreover, an absence of a clear legal framework, means that the collection of late payments is a difficult and expensive task for trade contractors. These small businesses simply do not have the resources, financial or otherwise, to consistently have to seek payment. Nor should they have to. **To address this, the government must legislate strict timelines for payment of construction trade contractors.**

Canada would not be unique in this regard: the United Kingdom and a number of jurisdictions in the United States have already implemented similar legislation. In the case of the United Kingdom, businesses have had the right to claim statutory interest on late payments from other businesses since 1998, and the UK was one of the first states in the European Union to do so. This legislation was also recently updated to bring it into line with the EU Directive on Late Payment.

State legislation in the United States generally requires that payment be given to trade contractors within a proscribed time of receiving progress payments from the owner; not doing so allows for charging interest, requires the general contractor to pay any necessary legal fees and, in some cases, responsibility for any associated shut down or start up costs.

Canadian legislation should mirror these elements, providing strict timelines for contractors to be paid. Legislation must also proscribe the rate of interest that can be charged for late payment, and include mechanisms to ensure that contractors are able to collect from delinquent clients without undue hardship. Doing so will provide contractors with the tools to ensure that their businesses can remain competitive and productive, but will also encourage a culture of prompt payment that is presently absent.



The NTCCC was established in 2004 to provide an organized forum for Canada's national trade organizations to share information, resources, and to collaborate on issues that are of common interest. Its membership is comprised of national trade organizations including:

- Mechanical Contractors Association of Canada
- Canadian Electrical Contractors Association
- Canadian Masonry Contractors Association
- Canadian Automatic Sprinkler Association
- Canadian Roofing Contractors Association
- Heating, Refrigeration and Air Conditioning Contractors of Canada
- Ontario Sheet Metal & Air Handling Group
- Thermal Insulation Association of Canada
- Interior Systems Contractors Association of Ontario



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