



Ontario Catholic School
Trustees' Association

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May 7, 2018

MEMORANDUM

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Beverley Eckensweiler, President

SUBJECT: Bill 142 Construction Lien Act Implementation

Further to our June 12, 2017 memorandum, Bill 142 amends the *Construction Lien Act* (“the Act”) in the following manner:

- Modernizes the Act and introduces new rules in respect of holdback rules of payments for contractors;
- Introduce new rules related to prompt payment;
- Establish an adjudication process for various payment disputes.

The amended Act comes into force in two stages: first, on July 1, 2018 the amendments to modernize the construction lien and holdback rules come into force. Second, on October 1, 2019 amendments related to prompt payment, adjudication and liens against municipalities will be in effect.

In order to support the implementation of the changes to the Act, the Attorney General approved the following regulations on April 23, 2018:

- Forms - amending existing forms to update the name of the legislation and prescribes 18 new forms to support the amendments to the Act;
- Procedures for Actions under Part VIII of the Act
- General - to outline monetary thresholds for surety bonding and holdback and notice requirement rules for public sector construction projects.
- Adjudications under Part II.1 of the Act.

Impact on School Boards

These legislative amendments and their supporting regulations will have significant impacts on how school boards manage their construction practices. School Board construction contracts will need to reflect the following changes by July 1, 2018:

- Addition of capital repairs falling under the Construction Act;
- Substantial performance calculations which allow the contractor to receive earlier approval for completion;
- Extension of lien periods from 45 to 60 days;
- Mandatory lien holdback payments;
- Obligations to have surety bonding in place;
- Use of Regulation forms in dealing with contractual disputes;
- New adjudication process which is a fast-tracked 30-day dispute resolution activity;
- Defined payment terms which include mandatory payment within 28 days following the receipt of the proper invoice.

OCSTA would like to thank Glenn Clarke, Retired Controller of Plant (Simcoe Muskoka Catholic District School Board) for his analysis of the Act and his advocacy on behalf of the school board sector in the policy development process that resulted in these amendments and regulations.

If you have any questions please contact Steve Andrews at sandrews@ocsta.on.ca. or Dan Duszczyzyn at dduszczyzyn@ocsta.on.ca.