

TRADIE LAW FACT SHEET

DEALING WITH CONTRACTORS OR SUB-CONTRACTORS



Construction Contracts Act 2002 – Payment Claims

OVERVIEW

Timely payment of invoices is one of the biggest issues for contractors operating in the construction industry.

Disputes, supply chain issues, solvency and bad faith business practices are all reasons why parties may default on their contractual obligation to make payment for work.

Fortunately, the Construction Contracts Act 2002 (“the Act”) allows tradespeople to serve a **payment claim** on a customer, which is a quick and powerful tool to secure payment for construction work.

Does the Act apply to me?

The Act applies to construction contracts, which are contracts for carrying out construction work.

“Construction work” is defined very broadly and even includes design, engineering and quantity surveying work.

The complete list of work that falls within the definition of “construction work” can be found here: <https://www.legislation.govt.nz/act/public/2002/0046/latest/DLM163241.html>

What is a payment claim?

A payment claim is a claim for money that a contractor is entitled to receive under a construction contract.

A payment claim is similar to an invoice, but it must:

1. be in writing;
2. contain sufficient details to identify the construction contract to which the payment relates;
3. identify the particular construction work and the relevant period of time to which the payment relates;
4. state a claimed amount and the due date for payment of that amount; and
5. state that the payment claim is made under the Act.

Payment claims must also be accompanied by:

- An outline of the process for responding to the claim;
- An explanation of the consequences of not responding to the claim; and
- An explanation of the consequences of not paying the claimed amount in full.

A form created by the Ministry of Business, Innovation and Employment covering this information (which can be attached to a payment claim) can be found here:
<https://www.building.govt.nz/assets/Uploads/projects-and-consents/forms/Form-1-Information-that-must-accompany-all-payment-claims.pdf>

What are the benefits of issuing a payment claim?

If the recipient of your payment claim fails to:

1. pay the full amount claimed; or
2. issue a valid **payment schedule** [more details in our Payment Schedule Fact Sheet] within the required timeframe,

you can enforce the full amount of the payment claim as a debt due in any New Zealand court. Read more about debt recovery in our Debt Recovery Fact Sheet. You can also give 5 days' notice to suspend the relevant construction work until such time as the claimed amount is paid.

When can I issue a payment claim?

You can issue a payment claim at the end of each calendar month, unless the construction contract specifies otherwise. Depending on the construction contract, if you issue your payment claim late it may not be valid and you may need to wait until the end of the next calendar month to issue a further, valid payment claim.

How long will the recipient have to pay the claimed amount in my payment claim?

Construction contracts often specify how long the recipient of a payment claim has to either make payment of the amount claimed or issue a payment schedule.

If the contract does not specify any such timeframe, the recipient will have 20 working days from the time they are served with the payment claim to either pay the amount claimed or issue a payment schedule.

If you require help with a payment claim, get in touch so we can assist.

Contact:

E helpdesk@tradielaw.co.nz

W www.tradielaw.co.nz/contact/

One of our team will be in touch to assist you within 24 hours.