

TRADIE LAW FACT SHEET

DEALING WITH **CONTRACTORS** OR **SUB-CONTRACTORS**



Construction Contracts – Payment Schedules

OVERVIEW

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

The Construction Contracts Act 2002 ("the Act") allows tradespeople to serve a **payment claim** (see our related fact sheet) on a customer, which is a quick and powerful tool to secure payment for construction work.

However, the Act still provides a way for payers to dispute a claimed amount: by issuing a **payment schedule**.

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 schedule?

A payment schedule is a written notice by which the recipient of a payment claim can dispute all or part of the amount sought in that payment claim.

A payment schedule must:

1. be in writing;
2. identify the payment claim to which it relates; and
3. state a scheduled amount.

A "scheduled amount" is an amount that the payer proposes to pay instead of the amount sought in the payment claim. The scheduled amount can be nil.

If the scheduled amount is less than the amount claimed in the payment claim, the payment schedule must indicate:

1. the manner in which the payer has calculated the scheduled amount;
2. the payer's reasons for the difference between the scheduled amount and the claimed amount; and

3. the payer's reasons for withholding payment (where the payer is withholding payment on any basis).

Why are payment schedules so important?

If you dispute the amount claimed in a payment claim but fail to issue a valid payment schedule within the required timeframe, the payee can recover the full amount of the payment claim as a debt due in any New Zealand court. The payee can also give 5 days' notice to suspend the relevant construction work until such time as the claimed amount is paid.

How long do I have to issue a payment schedule?

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.

What happens after my payment schedule is issued?

If issued on time, a payment schedule prevents the claimed amount being automatically recoverable against you.

Thereafter, the dispute will be addressed in accordance with the dispute resolution process set out in the construction contract, or through adjudication under the Act, which is a fast and relatively inexpensive way to resolve construction disputes.

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

Contact:

E helpdesk@tradielaw.co.nz

W www.tradielaw.co.nz/tradie-law/contact/

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