

Mr. Shaun Chen, MP
Scarborough North
4386 Sheppard Ave East (Main Office)
Unit C
Scarborough, Ontario
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Dear Mr. Chen,

Re: Bill S-224, the Canada Prompt Payment Act

The Senate of Canada unanimously passed Bill S-224, the Canada Prompt Payment Act, (attached) on May 4, 2017, after weeks of scrutiny by the Senate's Banking Trade and Commerce Committee. The bill has been sponsored by the Hon. Judy Sgro, and is expected to be debated this fall in the House of Commons. The bill seeks to address payment delays— the single greatest burden to Canada's construction sector. Campaigns to encourage the adoption of prompt payment legislation are also happening in many provinces, but the federal government has the exclusive responsibility to ensure that small businesses and tradespeople are paid on time by prime contractors for work that has been completed and certified on federal government projects. Payment delays currently lead to layoffs, fewer investments in capital, fewer competitive bids on projects, fewer apprentices trained and hired, and bankruptcies in the worst cases.

This legislation is incredibly important to a sector that employs 1.2 million Canadians. Trade contractors conduct over 80% of construction work in Canada, and the National Trade Contractors Coalition of Canada (NTCCC) wants to ensure you have complete information about this bill. Our organization has heard some common push backs that miss the point about where the real problems exist. We hope the responses attached (APPENDIX 1) will provide you with clarity about why passing this legislation is not only necessary to improve productivity in the construction sector, but the right thing to do for tradespeople and their families.

Again, you will hear that certain measures are being looked at to ensure prompt payment for contractors. It is our firm belief that the only way to solve the problem of payment delays is through enforceable legislation. The status quo has never worked for sub-contractors, so there is no reason to believe that it will work in the future. Please do not hesitate to contact us with any questions you may have. We would be more than happy to discuss these with you over the phone or in person if your schedule permits. We strongly encourage you to support this legislation and greatly appreciate your time and consideration of NTCCC's position.

With sincere thanks,



John Galt, CAE
Chair, National Trade Contractors Coalition of Canada
President, Canadian Automatic Sprinkler Association



APPENDIX 1

Concern	Response
<p>The Federal Government pays 90% of its invoices in accordance with the mandatory 30-day period.</p>	<p>The Crown does a good job of paying prime contractors on time, but the real issue is when prime contractors withhold payments from subcontractors for completed work. That is the primary reason for the bill. We need legislation that fixes the problem between prime contractors and the sub-contractors who systemically receive delayed payments from them.</p>
<p>The Bill <i>may</i> be unconstitutional</p>	<p>During the Senate committee hearings, a prominent constitutional expert testified that this Bill, in his expert opinion, was constitutionally “bulletproof.”</p>
<p>The Bill will place the government in a situation where its responsibility and liability will increase.</p>	<p>The bill does nothing of the sort and will not increase the government’s responsibility or liability on construction contracts. This legislation seeks to solve a problem that primarily exists in the relationship between the prime contractor and sub-contractors who are working to complete federal projects.</p>
<p>Government and industry are already working together to resolve the issue.</p>	<p>This refers to a “Government-Industry Working Group on Prompt Payment” action plan. With the greatest of respect, there is nothing contained in the action plan that will <i>ensure</i> timely payment throughout the entire construction chain for work that has been certified complete. In the majority of cases, it only addresses the relationship between the Crown and the prime contractor and will not solve the real issue, which exists down the construction chain.</p>
<p>The Department of Public Services and Procurement Canada will now publicly disclose payments made to prime contractors on its website so that subcontractors know when they can expect payment.</p>	<p>We have congratulated the Department on taking this important step. It will help with factual information on when prime contractors get paid by the Crown. However, again with all due respect, this measure will not guarantee that unscrupulous prime contractors pay their subcontractors for work that has been certified complete. It <i>will not eliminate</i> unfair payment practices as has been suggested.</p>
<p>Government of Canada construction projects represents only 1 % of Canada’s construction volume.</p>	<p>This is a fact. However, downplaying 1% minimizes two important points. First, 1% accounts for a great deal of public money. Second, the government is paying more money for construction due to less competitive bids under the current model. Taxpayers are left footing the bill. To suggest the government does not need to act because they only represent 1% of the total market is not a valid moral justification. It is certainly not an acceptable argument to a subcontractor who went bankrupt on a federal project directly because a prime contractor delayed paying them. The federal government needs to be seen as a leader on this issue.</p>