

NEWS AND KNOWLEDGE FROM



BUILDING UP

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PROMPT PAYMENT



DARRYL HARRISON



CARLOS VIEIRA

Companies in the construction industry will soon have reason to celebrate. New legislation will provide a structure so that all parties on a construction project get paid on time.

The introduction of Bill 38 – The Builders’ Liens Amendment Act (Prompt Payment) comes after years of a culture of slow and delayed payments, which has created significant cash flow struggles for contractors whether they’re small, medium or large businesses. According to Winnipeg Construction Association’s Director of Stakeholder Engagement and Advocacy Darryl Harrison, this legislation will guarantee payments progress in an orderly and predictable manner, a positive step for the industry.

“Prompt Payment legislation will make sure that payments flow through the construction pyramid,” Harrison says. “General Contractors will be able to count on payments within 28 days [of invoicing], and subcontractors can now count on payments within seven days [of those contractors being paid].”

Once the legislation comes into effect, disruptions in the payment stream and increased costs due to late payments will be reduced. In addition to ensuring contractors, subcontractors and suppliers can pay bills and workers, the new law establishes a judicial framework to resolve prompt payment disputes. For a complete breakdown of the payment timeline, please refer to the corresponding graphic.

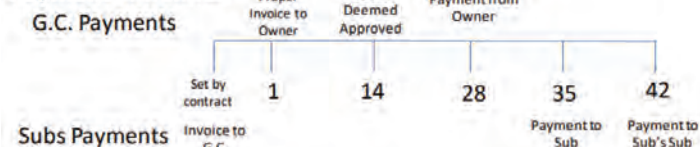
“It will mean that contractors and subcontractors are no longer in the position of improperly financing construction projects,” says Harrison, explaining that in the contract chain, both contractors and subcontractors need to pay staff, purchase materials and finance other expenses before being paid for the project. “We hear a lot about subcontractors and particularly smaller subcontractors that really struggle because of the late payments. If they’re taking on a larger job and payments are late, that can really put their businesses at risk. With guaranteed payments on time, it’s a more attractive business environment. Subcontractors and contractors can grow their business with more confidence.”

As a general contractor that builds a variety of infrastructure, Westland Construction is no stranger to the industry’s payment climate, working with both private and public owners. A key client for Westland continues to be Shared Health, as the general contractor delivers leading-edge healthcare projects across the province.

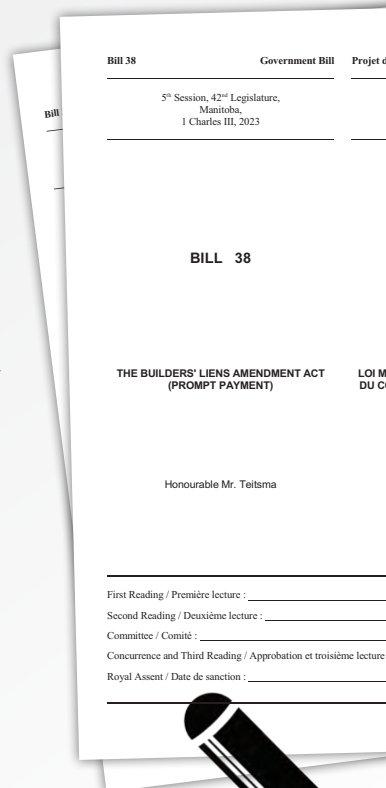
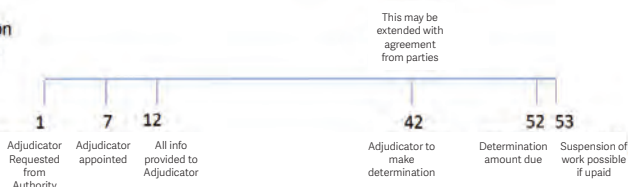
“We’ve worked with Westland on several healthcare projects over the last number of years and have always had a positive working relationship,” says Carlos Vieira, Regional Manager, Capital Planning and Corporate Services for Shared Health. “We appreciate their attention to detail in planning executing their work, and good communication with onsite personnel as well as our project management staff.”

Shared Health is aware that these new payment stipulations could pose a significant challenge to owners, especially when there are a number of steps in the payment process and various projects on the go. According to Vieira, Shared Health shouldn’t have to make many adjustments to comply

Payment Timelines



Adjudication Timeline





with the new legislation as the owner already has payment terms and conditions that carry a net 30-day payment timeframe.

"In the past, we've had challenges with the completeness and accuracy of progress claims, which then creates issues and bottlenecks down the line, affecting the timely certification of payment by consultants and our ability to then process the payment," Vieira explains. "Having everyone understand submission requirements and the process upfront would go a long way to expediting the overall process."

Westland Construction's President and CEO Peter Grose acknowledges that all parties are part of the success of the process. "Everybody has a role to play," he says. "The subcontractors have to submit their appropriate invoices by a certain date and then the GC has to compile the proper invoice to the client. This is going to help to clean up poor habits."

Consultants/owners will have 14 days to dispute a proper monthly invoice after receiving it by providing a notice of nonpayment to the contractor, who must then send notifications to all concerning subcontractors within seven days.

"So that means that the consultant/owner representatives don't have any extra leeway in evaluating proper invoices," Harrison says, agreeing that everyone in the chain will be held responsible. "General contractors need to get their payments going to subcontractors and subs to their subs. Delays won't be tolerated anymore because there's an explicit process."

Under the proposed prompt payment regime, adjudication is available to resolve prompt payment disputes. Once a dispute arises, the contractor or subcontractor can independently initiate adjudication, an expedited process to have disputes settled within short timeframes.

Harrison says the Manitoba construction industry has been following how prompt payment is implemented in Saskatchewan and how they've structured disputes and anticipates the Manitoba government to follow suit.

"We've got the bones, but there's a lot of work left to do, especially when it comes to looking into the adjudication portion of it," he says, adding that it's a step in the right direction and the industry should be hopeful. [\[2\]](#)

THE GROSE REPORT THOUGHTS FROM WESTLAND'S CEO



I'm a stickler for the rules. Rules keep our kids safe. Unwritten rules maintain civil behaviour. And game rules ensure participants play fairly.

I don't like to lose, but I don't mind being defeated when everybody plays by the rules.

New legislation will soon ensure all parties on a construction project adhere to the rules when it comes to payment. The introduction/passing of Bill 38 – *The Builders' Liens Amendment Act (Prompt Payment)* will guarantee payments progress in an orderly

and predictable manner, a positive step for the industry and good news for all companies involved on a project.

The construction industry has experienced a culture of slow and delayed payments for as long as I've been involved. We are a product of the past and creatures of habit. Whatever was done yesterday, we will most likely do today. In commercial construction, that means we don't ask for front end payments or deposits. We often mobilize and spend money on the project and send in the bill at the end of the first month, never mind the many months that we may have spent preparing or in the pre-construction phase. We're constantly in a phase of financing projects.

Subcontractors take a similar hit. On some of our jobs, as the general contractor, we are typically the most minor component of the job; it's the subs who end up bearing the brunt of the financing strain. They are the ones who are paying for the labour and materials upfront. So, when payments are delayed, they create significant cash flow struggles for both contractors and subcontractors. Prompt Payment legislation will help rectify this issue.

Manitoba first attempted to enact prompt payment legislation with three private members bills – in April 2018 with Bill 218: *The Prompt Payments in the Construction Industry Act*, again in June 2019 with Bill 245: *The Prompt Payments in the Construction Industry Act*, and then in March 2022 with Bill 28: *The Prompt Payment for Construction Act*. All three attempts to pass legislation timed out. The Government of Manitoba introduced Bill 38: *The Builders' Liens Amendment Act (Prompt Payment)* in March 2023 and it received royal assent on May 30, 2023.

Once the legislation comes into effect, for the process to work properly, everyone in the project chain will be responsible for following the rules. Contractors will need to submit complete and accurate progress claims, consultants will be required to provide timely certification of payment, and owners will have to tighten up their administrative function and pay within 28 days of invoicing.

When it comes to Prompt Payment, when the rules are followed, everyone wins. [\[2\]](#)



MEGAN GRAHAM



Nuts and bolts. Doors and frames. Megan Graham and Westland Construction. Some things just fit.

Graham came to Westland in 2019 as a Red River College Construction Management co-op student looking to garner some work experience. What started as a six-month work term was soon extended into a full-time preconstruction manager position.

"Prior to even going to RRC, I had been on the tools with a few smaller, family run construction outfits and really have always gravitated to working in well-knit, well-run operations," Graham

explains. "Once I started [at Westland], I immediately felt like I belonged. Sometimes you just know!"

The team at Westland was also quick to identify a match with Graham, whose work ethic and intelligence made her an ideal addition. While her day-to-day work is multifaceted, as a preconstruction manager, Graham spends most of her time looking at tender documents (specifications and drawings) and pricing projects.


"Over the course of one week, I can find myself preparing budgets, creating proposals for construction management opportunities or submitting a bid for a hard tender," she says.

While Graham has only been part of the Westland family for four years, she's making her mark connecting with colleagues, chairing the company's safety program, and bringing in some big work for Westland.

"The first tender I was successful on that was over \$1,000,000 was a big moment for me. As well as tendering a \$10,000,000 job," she says, explaining that she enjoys the laid-back vibe in the office, but also thrives on the buzz and activity when deadlines are tight.

Construction may be one of her passions, but it was music that initially brought Graham to Winnipeg from Pine Falls in 2010. While learning the ins and outs of audio production, she accidentally found herself hanging drywall and roofing with a friend and hasn't looked back.

"I haven't necessarily always wanted to be in construction, it just sort of happened. Growing up, I worked at my family's bush pilot business, loading our planes which instilled a different type of work ethic and general love for more of a hands-on, physical job," she adds.

Though Graham no longer works in music, she spends much of her free time honing her craft in her basement home studio, hiking with her fiancée Jenna and dog August and spending quality time with her family and friends. 

THE TEAM AT WESTLAND WAS ALSO QUICK TO IDENTIFY A MATCH WITH GRAHAM, WHOSE WORK ETHIC AND INTELLIGENCE MADE HER AN IDEAL ADDITION.

CELEBRATING OVER 40 YEARS; CELEBRATING THE FUTURE YESTERDAY, TODAY & TOMORROW

YESTERDAY

Westland Construction constructed this all concrete 3,800 sq. ft. building in Birds Hill Provincial Park that features solar panels, sloped walls, a green roof, radiant in-floor heating and a drain water heat exchanger. The building includes washrooms, 16 regular showers, two family showers and two barrier-free showers. This project also received the Prairie Design Award.




TODAY

Westland was hired by The Forks Renewal Corp as the construction manager to complete an upgrade to their outside canopy. Westland worked with our trades and the designers at Scatliff Miller & Murray to provide a new hanging art installation, and new custom seating throughout the area.



TOMORROW

Rossmere Country Club hired Westland as the construction manager to complete a fire rating & washroom upgrade project to the Rossmere Simulator Shack area. The project involves creating a new fire compartment in their facility and adding accessible washrooms to their main floor. 



ABOUT US

Westland Construction Ltd. is a full-service General Contractor serving the institutional, commercial, and industrial sectors through new construction, civil support, and renovations.

CONTACT US

Unit 1 - 475 Dovercourt Drive
Winnipeg, MB R3Y 1G4
T: (204) 633-6272
F: (204) 694-5484
E: info@westlandltd.net
www.westlandconstructionltd.com

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