

## Changes to the *Construction Act* Regulations



On May 23, 2019, the Government of Ontario filed amendments to the four regulations under the *Construction Act*. The amendments follow a series of consultations and submissions with respect to previous, draft versions of the regulations released in February 2019.

**Reg. 302/18 (Procedures for Actions Under Part VIII):**

- Section 3 was amended to add subsection (2), enabling a plaintiff to join a claim for lien and a claim for breach of a contract or a subcontract in the same action.

**Reg. 303/18 (Forms):**

- Several changes and additions to the Table of Forms

**Reg. 304/18 (General):**

- Section 7 was revoked and substituted. As amended, section 7 allows an owner to publish a notice of non-payment of holdback under s. 27.1(1) of the *Act* (Form 6), in a construction trade newspaper. Once the notice is published, the owner has 3 (three) days to notify the contractor of its publication. The same requirements apply down the construction pyramid;
- Section 10 was amended to read that a notice of intention to register land described in a description in accordance with the *Condominium Act, 1998* (Form 11) is to be published in a construction trade newspaper at least five and not more than 15 days, excluding Saturdays and holidays, before the description is submitted;
- Addition of section 11.1, which provides the specifics of giving a claim for lien to the municipal clerk (this provision will come into force on October 1, 2019).

**Reg. 306/18 (Adjudications under Part II.1 of the Act) - will come into force**

**October 1, 2019:**

- The amendments include several changes with respect to adjudicators and the payment of fees in the process of becoming an adjudicator; changes with respect to the adjudicators' code of conduct; and changes with respect to the fees schedule;
- Addition of section 15.1, administrative support, which enables the ANA to provide administrative support services with a view to facilitate the conduct of adjudications;
- Addition of section 16.1, documents to adjudicator, which directs that documents provided to the adjudicator or to a party are to be served in a manner permitted under the rules of court. The adjudicator is to provide written confirmation of receipt of said documents;
- Section 17 was revoked and substituted. As amended, section 17 provides that a party responding to a notice of adjudication shall serve the response in a manner permitted under the rules of court, and no later than specified by the adjudicator;
- Sections 18(2), 19(4), and 19(5) were revoked and substituted to provide clarifications with respect to the consolidation of adjudications;
- Section 22(1)(b) was revoked and substituted to read that the adjudicator will now have (7) seven days to provide the parties to a determination with a certified copy of the same.

**NOTE:** The information and views expressed in this bulletin are for information purposes only, are not intended to provide legal advice and do not create a lawyer client relationship. For specific advice, please contact us.