

# Alberta Prompt Payment and Construction Lien Act

## What you Need to Know and Get Prepared

Prepared and provided compliments of the Construction Law Group at  
Gowling WLG (Canada) LLP



# WHAT IS IT?

The new *Prompt Payment and Construction Lien Act*, renaming the current *Builders' Lien Act*, introduces prompt payment, changes the existing *Builder's Lien Act*, and adds a fast track adjudication dispute resolution process.

The purpose of the new legislation is to provide consistency and speed up payment throughout the construction industry, and provide an alternative to the Courts to resolve disputes in relation to payment under a contract or subcontract during the project.



# GET READY

The legislation comes into effect in Alberta on **August 29, 2022.**

We have been involved in this industry issue for almost a decade and have been actively involved in stakeholder meetings with the Alberta Government over the last year and a half.

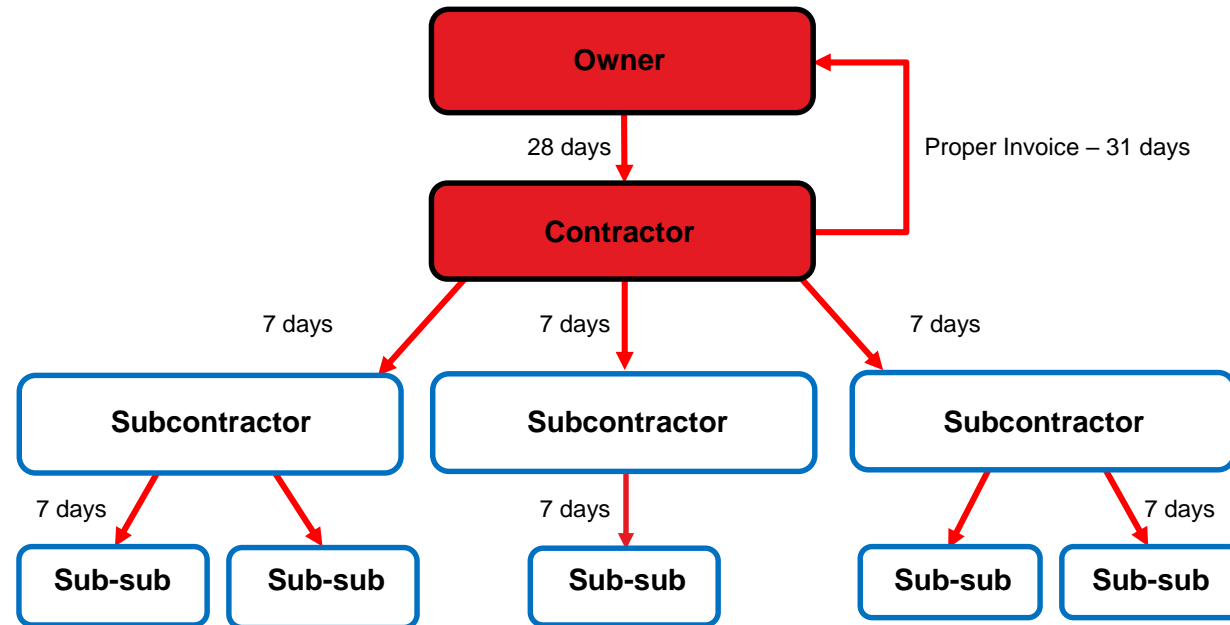


# WHO DOES IT NOT APPLY TO?

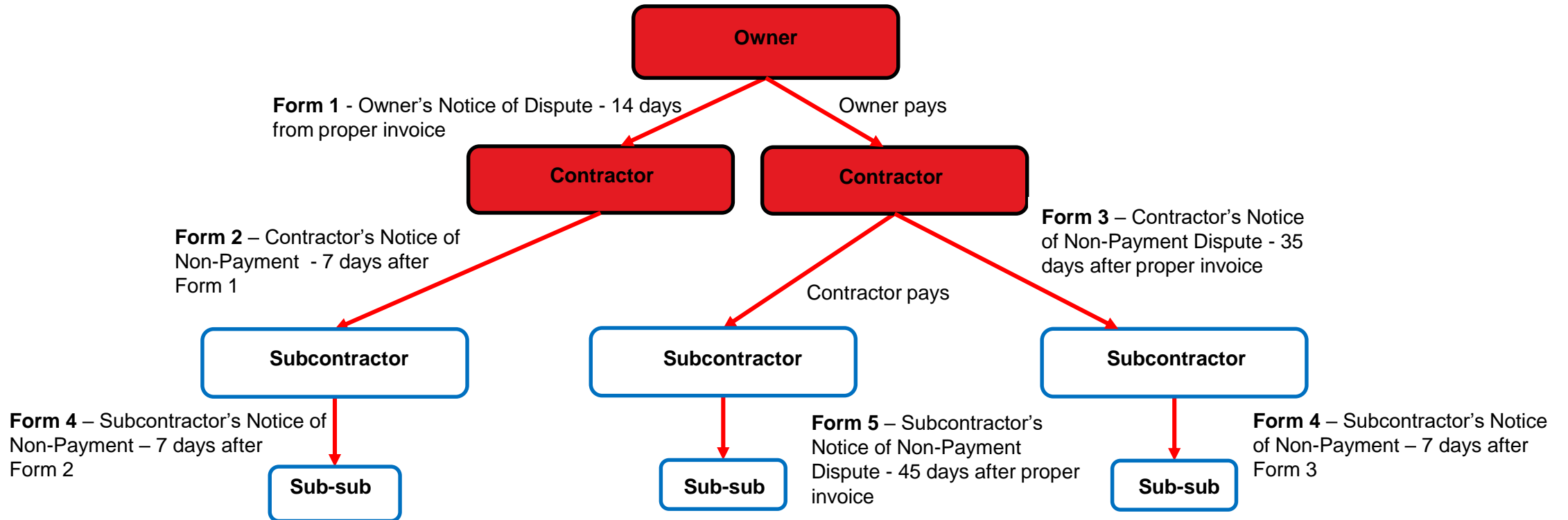
## Does Not Apply To:

- Federal Government projects.
- Provincial Government projects governed by the *Public Works Act*.
- Public private partnership projects involving the Provincial Government.
- The operation and maintenance portions of any public private partnership projects.
- Maintenance and Turnaround projects.

# THE PROMPT PAYMENT CYCLE: NO DISPUTES



# THE PROMPT PAYMENT CYCLE: DISPUTED PAYMENTS

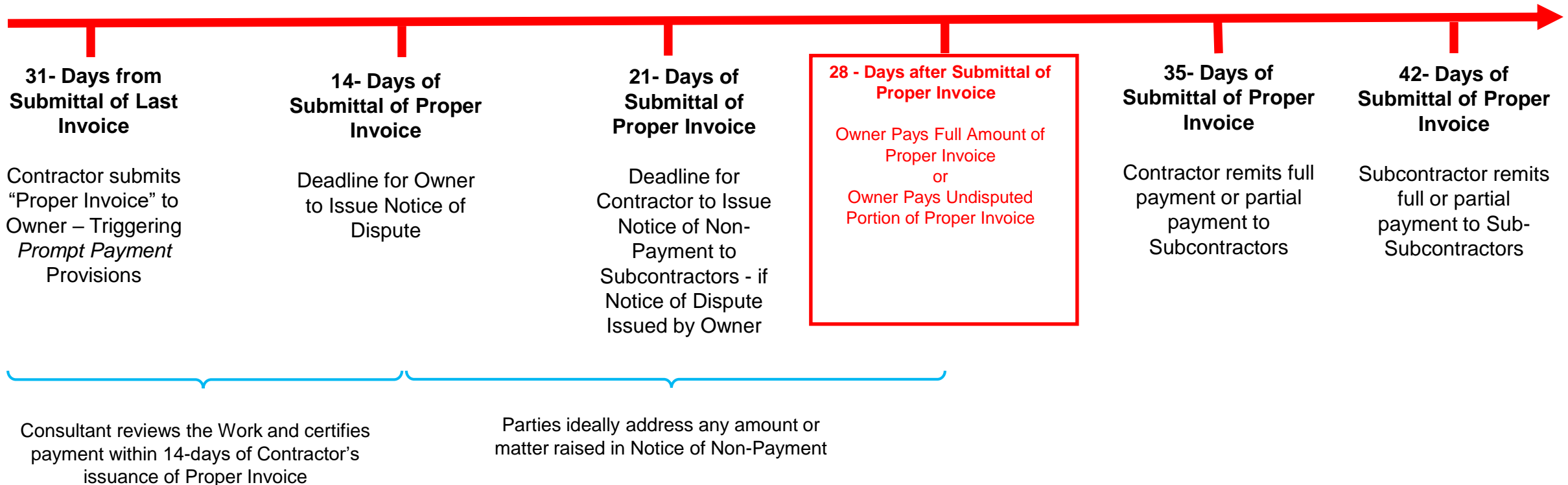


# NON-PAYMENT BY THE OWNER

<b>Form 1</b>	
<b>Owner's Notice of Dispute</b> (Section 32.2(2) of the Act)	
Name of Owner: _____	
Owner address: _____	
Work site legal land description: _____	
Name of Contractor: _____	
Contractor address: _____	
Contractor address for service, if known: _____	
The Owner disputes the proper invoice dated _____, submitted to the Owner by the Contractor in respect to the work done or material furnished. The Owner will not pay the indicated amount payable under the invoice:	
(Please check the appropriate box)	
<input type="checkbox"/> The full amount of the proper invoice, being \$ _____	
<input type="checkbox"/> A portion of the amount of the proper invoice, being \$ _____	
Reason(s) for non-payment: _____	
_____	
Date	Signature (Owner)

# PROMPT PAYMENT CONTINUED

## Prompt Payment Process – Invoicing MUST occur every 31 Days





# ARE THERE NEW LIEN TIMELINES?

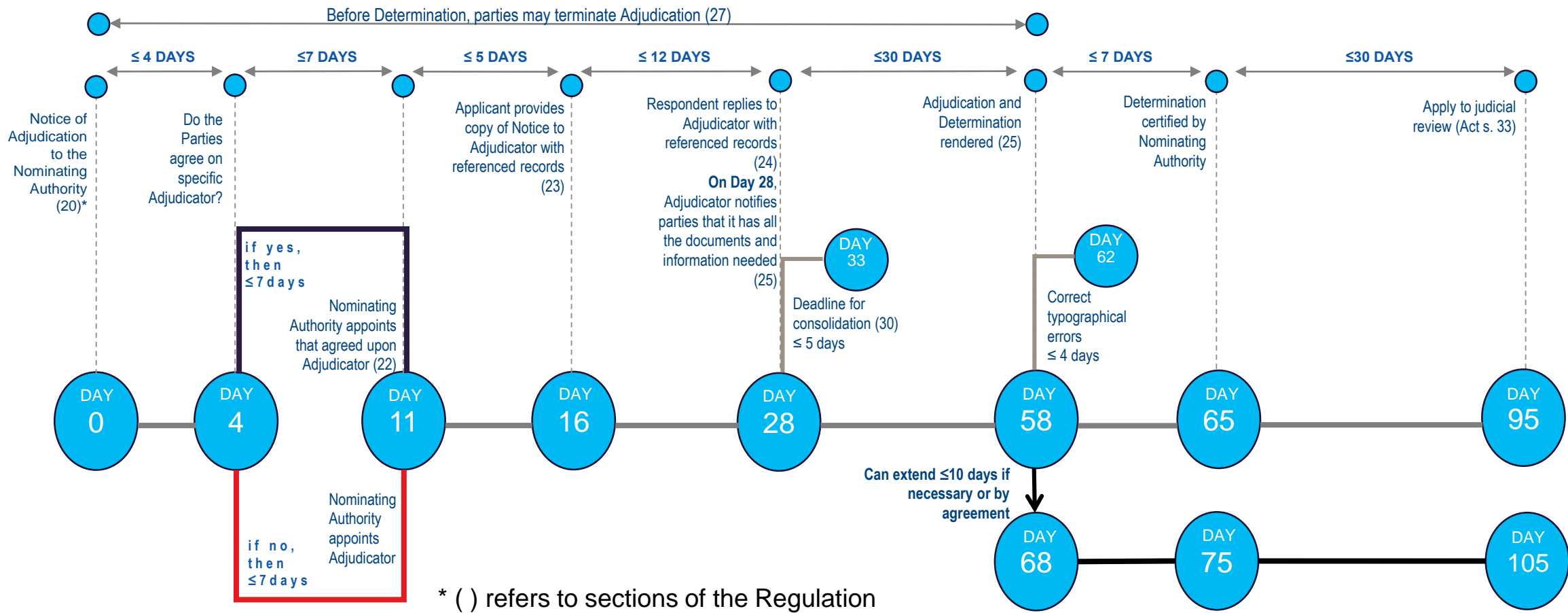
## A PARTY NOW HAS LONGER TO REGISTER

- The lien period has been extended from forty-five (45) days to sixty (60) days.

## WHO GETS NINETY (90) DAYS?

- Oil and gas well sites, as previously provided for in the current *Builders' Lien Act*.
- The manufacture and supply of ready-mix concrete, but not the installation of concrete.

# ADJUDICATION TIMELINES



# PROMPT PAYMENT TO DO LIST

## “To Do” List

- Review and update contract terms including any supplementary conditions, forms and schedules.
- Review and update procurement documents, tender calls, proposal submissions and quotes.
- Review and adjust your financing arrangements.
- Update invoicing, receipt, processing and payment processes, including accommodating partial and the apportionment of payments.
- Update certification processes by adding prompt payment timelines to consulting and payment certifying contracts.
- Ensure that prompt payment timelines are known and added to all administrative, project management and execution processes.
- Determine method of electronic posting.
- Adjust payment timelines and tickler systems to track new holdback and varying lien periods.
- Ensure project document management systems are in place, prepared and are robust enough to issue or respond to an adjudication process.



Prepared with the input and insights of various industry associations including the Alberta Construction Association

## THANK-YOU

For more information please visit our website or contact a member of our prompt payment construction team:

<https://gowlingwlg.com/en/topics/construction-law-reform/>