

擬議建造業付款保障條例



公眾諮詢

根據2011年進行的業界調查，建造業普遍存在付款問題和爭議。

政府建議引入改善建造業付款安排的法例，希望透過訂明付款權責和審裁制度，協助解決爭議。

歡迎公眾人士就擬議的條例框架發表意見。

涵蓋的合約種類

- 政府工程 - 所有建造、保養、專業服務和提供物料或機械的合約和分包合約。
- 私營界別 - 金額超過500萬港元的新建造工程合約和分包合約；或金額超過50萬港元的專業服務和提供物料或機械的合約和分包合約。
- 書面和口頭合約。

豁免範圍

- 私營保養和翻新工程。
- 私營採購金額不超過500萬港元的新建造工程合約。

付款權責

- 「先收款、後付款」和類似條款在條例下均屬無效及不能執行。
- 中期及最終付款的最長付款期限分別為收到付款申請後的60曆日和120曆日。

審裁

- 締約雙方均有權將拖欠付款的問題和關乎金錢及/或時間的申索的爭議交由獨立審裁員處理。
- 締約雙方仍然有權把爭議提請法庭或仲裁處理，但期間須遵照審裁員的裁決依期付款。

不獲付款而停工

- 如締約一方不支付已確認到期應付的款額或不遵照審裁員的裁決付款，不獲付款的一方有法定權利暫時停工或減慢工作進度。

諮詢截止日期

2015年8月31日

遞交意見方式

郵寄： 香港添馬添美道2號
政府總部西翼15樓
發展局工務政策1組

傳真： 3167 2630

電郵： sop_consultation@devb.gov.hk

諮詢文件可於民政事務總署諮詢服務中心索取或在發展局網頁(www.devb.gov.hk/sop)下載。



發展局
Development Bureau

政府物流服務署印

Proposed “Security of Payment” Legislation for Construction Industry



Public Consultation

A survey conducted in 2011 revealed that payment problems and disputes are common in the construction industry.

The Government proposes to improve payment practices in the industry by legislating on payment rights and adjudication to resolve disputes.

A proposed framework for the legislation has been formulated. Members of the public are welcome to give their views.

Contracts to be covered

- Government Works – all contracts and sub-contracts for construction and maintenance works plus professional services, material supply and plant hire.
- Private Sector – contracts and sub-contracts for new buildings with a main contract value over HK\$5 million; or professional services, material supply and plant hire with a contract value over HK\$0.5 million.
- Both written and oral contracts.

Exclusions

- Renovation and maintenance works in the private sector.
- Private sector contracts for new buildings of not more than HK\$5 million.

Payment Rights

- ‘Pay when paid’ and similar clauses are ineffective and unenforceable under the law.
- Interim and final payments must be paid within 60 and 120 calendar days respectively counting from receipt of the payment applications.

Adjudication

- Contract parties have the right to adjudication conducted by an independent adjudicator in the event of non-payment and when there are disputes over payments and/or extensions of time.
- Contract parties can still go to court or arbitration but any amounts decided by the adjudicator as due must be paid in the interim.

Suspension for non-payment

- A contract party who has not been paid admitted amounts or amounts decided by an adjudicator has a statutory right to suspend works or reduce the rate of works.

Consultation closing date

August 31, 2015

Please send your views to

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Central Government Offices,
2 Tim Mei Avenue, Tamar,
Hong Kong

Fax: 3167 2630

Email: sop_consultation@devb.gov.hk

The consultation document is available at the Public Enquiries Centres of the Home Affairs Department and the Development Bureau website (www.devb.gov.hk/sop).



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Printed by the Government Logistics Department