



# TEN Q&A ABOUT THE CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ORDINANCE IN HONG KONG

## Ten Q&A about the Construction Industry Security of Payment Ordinance in Hong Kong

March 19, 2025

By Damien Wong

### Q01: What is the Security of Payment Ordinance?

**A01:** It is formally entitled as the **Construction Industry Security of Payment Ordinance (Cap. 652) (the “Ordinance”)**. The Ordinance is to facilitate the recovery of payments under construction contracts, establish a mechanism for the swift resolution of payment disputes through adjudication proceedings, grant parties to a construction contract the right to suspend or slow the progress of construction work or the supply of related goods and services under specific circumstances.

The Ordinance was **gazetted** on **27 December 2024**, and will be fully operational starting **28 August 2025**. It will apply to construction contracts entered into on or after this date.

### Q02: What contracts fall or do not fall under the scope of the Ordinance?

**A02:** The Ordinance applies to:

- **Contracts (public and private sectors)** for construction work with the contract value **not less than HK\$5,000,000.00** and for **supply of related goods and services only** with the contract value **not less than HK\$500,000.00**; and
- **Sub-contracts at all tiers** (including goods/services contracts) **regardless of the amount** if the **main contract is covered**.

The Ordinance **does not** apply to construction contracts for:

- **existing private residential buildings**; and
- **existing private non-residential buildings not** requiring **approval and consent of the Building Authority** under the Building Ordinance (Cap. 123).

**Q03: Can parties contract out of the Ordinance?**

**A03:** No, parties **cannot** contract out of the Ordinance. Any contractual provision that attempts to exclude or modify the operation of the Ordinance is **void**.

**Q04: What are the key provisions of the Ordinance?**

**A04:** Key provisions include:

- Prohibition of **conditional payment provisions** (e.g., "pay when paid").
- **Strict deadlines for payment responses and payments**, i.e. once a claiming party submits a payment claim, the paying party is obligated to **respond** to the payment claim **within 30 days** and to **make the payment** of the admitted amount (the amount that paying party proposes to pay) **within 60 days**.
- A **statutory adjudication mechanism** for resolving **payment disputes**.
- The right for claiming parties to **suspend or slow down work** under certain conditions.

**Q05: What is Adjudication?**

**A05:** Adjudication is generally a **faster, more streamlined, less expensive process** whereby an **adjudicator determines the dispute(s)** between the parties. Under the Ordinance, an adjudicator is appointed by the **adjudicator nominating body** ("ANB", see hereunder) to provide a **quick and efficient resolution to payment disputes** in the construction industry.

Comparing adjudication to **mediation** which focuses on **collaborative agreement**, **arbitration** which involves a **binding decision by an arbitrator**, and litigation which is a formal court process that can be **lengthy and costly**, the **determination by the adjudicator is binding on the parties unless overturned in arbitration or by the court**.

**Q06: When does a payment dispute arise?**

**A06:** Under the Ordinance, a payment dispute can arise when the **paying party fails to respond** to a payment claim, **disputes the claimed amount**, or **does not pay the admitted amount in full by the deadline**, allowing the claiming party to **initiate adjudication within 28 days** of the dispute arising.

**Q07: How does the adjudication process work under the Ordinance?**

**A07:** The adjudication process under the Ordinance **begins** when the claimant serves the **adjudication notice**, followed by the subsequent steps:

- i. The adjudicator nominating body (“**ANB**”) must **nominate and appoint** an independent adjudicator **within 7 working days**.
- ii. The claimant is required to **serve adjudication submissions**, along with relevant supporting documents and evidence, **within 1 working day** after the adjudicator's appointment.
- iii. The respondent must provide a **response**, including relevant supporting documents and evidence, **within 20 working days** or a longer period as specified by the adjudicator.
- iv. The claimant must **reply to the adjudication response within 2 working days** or a longer period set by the adjudicator.
- v. The adjudicator is obligated to issue a **determination within 55 working days** from their appointment (or a longer period if agreed upon by the parties), resulting in a **total maximum timeframe of 62 working days** for the **entire process**, which ensures that disputes are resolved efficiently and fairly.
- vi. If one party is determined to be liable to pay an amount to the other party, the **payment** must be made **within 30 days** after the determination if no period is specified.

**Q08: What organizations are recognized as the adjudicator nominating bodies (“ANB”)?**

**A08:** The official list of ANBs has not yet been published, however, the Government has already begun **accepting applications for ANBs** starting from **10 February 2025**.

It is anticipated that organizations such as the **Hong Kong Institute of Surveyors (HKIS)**, the **Hong Kong Institute of Architects (HKIA)**, the **Hong Kong Institution of Engineers (HKIE)** and the **Hong Kong International Arbitration Centre (HKIAC)**, will be among the first to apply for registration, as they were recognized under the previous Pilot Scheme.

Parties involved in construction contracts have the option to agree one or more than one Adjudicator Nominating Body (ANB) within their contract.

**Q09: What rights does the claiming party have if the payment is not made?**

**A09:** The claiming party may seek enforcement of the adjudicator's determination by applying to the court, which can treat the adjudicator's decision as an enforceable order. The claiming party also has the right to **suspend or slow down work** if the paying party fails to pay an admitted or adjudicated amount within the specified timeline. A **written notice** must be provided **at least 5 working days before** exercising this right; upon receiving full payment, work should be **resumed within 5 working days**.

When exercising the right, the claiming party is:

- **not** regarded as in **breach of the construction contract**.
- **not** liable for **any loss or damage** suffered by the paying party **as a result of the suspension**.

- entitled to a **reasonable extension of time** to complete the contract.
- entitled to **recover** from the paying party for **any loss and expense** that has reasonably been incurred due to the delay in work or supply.

**Q10: What should companies do to prepare for the Ordinance?**

**A10:** To prepare for compliance with the Ordinance and to minimize risks, companies should take the following steps before the full enforcement on **28 August 2025**:

- **Review and Update Contract Templates:** This includes aligning standard contracts with the new regulations, such as removing conditional payment provisions and ensuring that payment processes adhere to the strict timelines established by the Ordinance.
- **Maintain Effective Record-Keeping Systems:** This will help in tracking compliance and managing disputes efficiently.
- **Provide Staff Training:** This includes offering training to their staff on the Ordinance, focusing on the adjudication processes, payment deadlines, and other relevant aspects.
- **Seeking Expert Advice:** Consult with professionals for guidance on the Ordinance.

If you have any questions or would like to discuss how we can assist you in preparing for the Ordinance, or any other contractual matters, please feel free to contact us at **The Contracts Group Ltd.** We are a **Commercial Contractual & Management Consultancy** specializing in the construction industry and are here to help you navigate these regulations effectively.

**Disclaimer:**

The information provided is for informational purposes only and should not be construed as legal advice. For a comprehensive understanding of the Construction Industry Security of Payment Ordinance and its provisions, please review the full text of the Ordinance available at the following link: [Read the full Ordinance here.](#)

---

**PROJECT NEWS**

**CR Construction Co. Ltd.** have been awarded a **HK\$1.95 billion** contract for the construction of a Public Housing Development at Ying Yip Road, Tseung Kwan O by the Hong Kong Housing Authority. The Contract was awarded at the end of January 2025 and construction was scheduled to commence in February 2025.

**China State Construction Engineering (HK) Ltd.** have been awarded a **HK\$933,000,000** contract for the Foundations for Public Housing Development at Yuen Long South Site 2.2 Phase 1 and Phase 2, Yuen Long. Foundation works will include large diameter bored piles and pile caps for 6 nos. domestic blocks and podiums and the work is anticipated to take around 18 months to complete.

**AECOM-AtkinsRealis Joint Venture** have been awarded a HK\$180 million contract by CEDD the Consultancy Agreement for first phase of the New Territories North Development – San Tin / Lok Ma Chau Development Node, Package 3. As part of this contract, AtkinsRealis will provide integrated design, site supervision and multidisciplinary services to enhance efficiency and improve the overall quality of the project.

---

## **HONG KONG CONSTRUCTION INDUSTRY STATISTICS**

Census & Statistics Department's construction output statistics for the fourth quarter of 2024 ('Q4') and the whole of 2024 show:

- The gross value of construction works performed by main contractors in Q4 increased by 9.4% from a year earlier to HK\$77.8 billion and increased by 7.2% to HK\$290.5 billion for the whole of 2024. In real terms there was a 7.2% increase for Q4 and a 6.3% increase for all of 2024 after removing the effect of price changes.
  - Private sector sites were down 3.6% for Q4 of 2024 from a year earlier at HK\$22.4 billion, and there was a 0.5% increase for all of 2024 at HK\$85.9 billion.
  - Public sector sites increased by 32.7% for Q4 of 2024 to HK\$32.5 billion, and increased 26.7% over the whole year to HK\$117.3 billion.
  - Gross value of construction works at locations other than construction sites (maintenance, decoration, repair, electrical installations, etc.) was down 2.1% for Q4 of 2024 at HK\$22.9 billion, and down 6.0% to HK\$87.3 billion for the whole of 2024.
  - Residential Building projects accounted for the largest share in gross value for the whole of 2024 at HK\$85.0 billion (up by 21.1%), with transport projects coming in second at HK\$42.3 billion, up 12.7% from 2023.
- 

## **STAFF NEWS**

We are pleased to welcome Mr. Tom Ho to the Team. Tom is an Assistant Quantity Surveyor who has joined us to provide quantity surveying services at the Hong Kong International Airport on the Third Runway System project. Welcome to the team Tom!