

## Insights

# HONG KONG SECURITY OF PAYMENT ORDINANCE PASSED; GOES INTO OPERATION ON 28 AUGUST 2025

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## SUMMARY

The second and third reading of the Construction Industry Security of Payment Bill concluded at the Legislative Council on 18 December 2024.

As an important milestone of the security of payment regime in Hong Kong, the Construction Industry Security of Payment Ordinance (“**Ordinance**”) will be published in the Government Gazette on **27 December 2024**. According to section 1(3), the provisions on power of Secretary for Development for registration and administration of Adjudicator Nominating Bodies (“**ANBs**”) will take effect on the gazettal date, i.e. 27 December 2024.

The remaining provisions of the Ordinance will come into operation on **28 August 2025**. Construction contracts entered into on or after this date will be governed by the Ordinance.

## KEY AMENDMENTS SINCE THE INTRODUCTION OF THE BILL

Having considered the views of the Bills Committee and other stakeholders, the Government proposed certain amendments to the Bill and these were considered by the Legislative Council. These amendments are likely to be included in the Ordinance, and we set out below a summary of the key amendments. Upon gazettal, we will provide a further update with full details of the published Ordinance.

## CHANGES TO THE RULES REGARDING SETTING ASIDE AND ENFORCEMENT OF DETERMINATIONS

The original intent was for the Court of First Instance to grant leave to enforce a determination within seven days after the date of an enforcement application except under certain circumstances.

However, the administration proposed that both the Court of First Instance and the District Court are to be conferred jurisdiction to process set aside applications and enforcement applications within

their respective jurisdictions. Further, rather than the strict seven-day deadline, a court is to decide on an enforcement application within 14 days or a period that the court considers appropriate.

## ADJUDICATOR'S POWER TO EXCLUDE NEW REPRESENTATIVES

The administration also proposed an amendment that if a party to an adjudication proposes a change of its representation in the adjudication, the adjudicator is now given the power to exclude the proposed new representative from the adjudication proceedings if the adjudicator considers that the change may give rise to conflict of interest or justifiable doubt as to the adjudicator's independence or impartiality.

## DISCLOSURE OF ADJUDICATION INFORMATION

The original intention of the Bill, was that a person may disclose adjudication information to another person if the disclosure is made in another adjudication or other dispute resolution proceedings ("**other proceedings**") in connection with the same construction contract in respect of which the payment dispute under the adjudication arises.

The administration proposed an amendment that in addition to the "same construction contract" requirement, the person may only disclose if the other proceedings are between the same parties to the adjudication.

## WHAT WILL HAPPEN BETWEEN NOW AND 28 AUGUST 2025?

In the next eight months before all provisions of the Ordinance come into operation on 28 August 2025, the industry will need to prepare for the implementation of the security of payment regime, e.g. reviewing and revising templates and preparing for use of adjudication, registering ANBs and training of adjudicators.

For articles previously published by BCLP on the topic of Security of Payment, please refer to:

- [7 October 2024: HK Security of Payment Bill – Government responds to submissions from the public](#)
- [25 September 2024: HK Security of Payment Bill – insolvency exception to “pay when paid” clauses?](#)
- [5 August 2024: HK Government responds to 19 June letter from LegCo in-house lawyer regarding the Security of Payment Bill](#)
- [22 July 2024: Comments from HK LegCo members regarding the Security of Payment Bill](#)
- [25 June 2024: Changes in the payment and adjudication processes regarding variations and time-related disputes](#)

- 24 June 2024: Key developments and changes of Security of Payment Bill in comparison with the existing contractual security of payment regime
- 24 June 2024: LegCo in-house lawyers request clarifications regarding the Security of Payment Bill
- 17 June 2024: Bills Committee formed to review HK Security of Payment Bill
- 29 May 2024: HK Security of Payment Bill gazetted
- 15 October 2021: New security of payment regime in Hong Kong – key issues to consider before its implementation
- 12 October 2021: Security of payment circular issued by the Development Bureau of Hong Kong – to take effect from 31 December 2021
- 6 July 2021: Security of payment in HK – Pilot Programme for Public Works Contracts (article authored by BCLP and published by FTI Consulting)
- 21 April 2021: Security of payment in HK – Pilot Programme for Public Works Contracts

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## MEET THE TEAM



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