

## Insights

# HK SECURITY OF PAYMENT ORDINANCE – NEW RULES REGARDING SETTING ASIDE AND ENFORCEMENT OF ADJUDICATION DETERMINATIONS

Jul 22, 2025

## SUMMARY

On 11 July 2025, the Hong Kong Government gazetted the Construction Industry Security of Payment Rules (“**Rules**”)<sup>[1]</sup>.

The Rules, made by the Chief Judge of the High Court under section 50 of the Construction Industry Security of Payment Ordinance (Cap 652) (“**SOP Ordinance**”), provide the practice and procedure to be followed in respect of applications to set aside or enforce a determination made in adjudication proceedings (“**Applications**”) under sections 48 and 49 of the SOP Ordinance.

## KEY PROVISIONS

The key provisions under the Rules are summarised below:

### APPLICATIONS TO THE COURTS

- Applications should be made to the Court of First Instance if the adjudicated amount is more than HK\$3 million, or to the District Court if the adjudicated amount is less than HK\$3 million. In determining the adjudicated amount, the amount of accrued interest (if any) should be included.
- The District Court can, on its own motion or on either party’s application, transfer an Application to the Court of First Instance if it involves important or complex issues, even though the adjudicated amount is less than HK\$3 million.

### SECURITY FOR SETTING ASIDE APPLICATIONS

Under section 48(5) of the SOP Ordinance, a setting aside applicant must pay as security the unpaid portion of the adjudicated amount that the applicant is liable to pay.

Rule 9 further elaborates this requirement by providing that the amount of security should be calculated in accordance with the formula:  $A + I + C - P$ .

The variables in the formula have the following meaning:

- A = the total amount that the applicant was ordered to pay under the determination
- I = the interest of item A accrued up to the date of determination
- C = the costs of the adjudication proceedings payable by the applicant
- P = any portion of items A, I and C already paid by the applicant

## AFFIDAVIT IN SUPPORT OF ENFORCEMENT APPLICATIONS

Section 49(4) of the SOP Ordinance provides what should be contained in an affidavit in support of an enforcement application.

Rule 10 further provides that this affidavit also must state (a) the amount that has been paid (if any), and (b) the amount that has not been paid, as of the time when the enforcement application was made.

## APPLICATION FOR LEAVE TO APPEAL

Under section 48(6) and 49(8) of the SOP Ordinance, to appeal a decision of the Court<sup>[2]</sup> to grant or refuse an Application, leave to appeal must be granted by that Court.

Rule 14 provides that any application for leave to appeal must be made within 14 days after the date of the decision.

## FINAL REMARKS

Subject to the completion of the necessary legislative process, the Rules will come into effect on 5 September 2025, shortly after the commencement of the SOP Ordinance on 28 August 2025.

Construction industry stakeholders wishing to familiarise themselves with the upcoming statutory adjudication regime should refer to the Rules, in addition to the [SOP Ordinance and the Development Bureau's model adjudication rules](#) (as well as the respective adjudication rules to be issued by each of the Adjudicator Nominating Bodies), which together form the regulatory framework of the statutory adjudication regime.

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[1] Cap 652A. Rule numbers in this article are references to the rules under this Rule.

[2] Court means the Court of First Instance or the District Court.

## RELATED CAPABILITIES

- Construction Disputes
- Litigation & Dispute Resolution
- International Arbitration

## MEET THE TEAM



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