

Insights

COMMENTS FROM HK LEGCO MEMBERS REGARDING THE SECURITY OF PAYMENT BILL

Jul 22, 2024

On 21 June 2024, the Hong Kong LegCo Bills Committee which is considering the Construction Industry Security of Payment Bill (“Bill”) held a meeting to discuss various policy concerns of the Bill.

Members of the Bills Committee requested the Government to follow up on the two points below:

DEVELOPMENT BUREAU’S OVERSIGHT POWERS OVER THE ADJUDICATION PRACTICE NOTES / CODE OF CONDUCT

According to the Government’s response at the meeting, the professional bodies responsible for the implementation of the adjudication mechanism are expected to draft practice notes and codes of conduct relevant to their professional disciplines for submission to the Development Bureau.

Some members were concerned that the wording of the Bill gave rise to a “misconception” that these professional bodies would draw up their own codes of practice.

Under clause 63 of the Bill, the functions of a nominating body include:

“(d) to regulate the conduct of adjudication proceedings, including the making of adjudication rules and practice notes of the body for matters in relation to adjudication;

(e) to make and administer a code of conduct for adjudicators...”

Members requested the Government to consider refining the current wording of the Bill to clarify that the Development Bureau would coordinate and consolidate the practice notes and codes of conduct drafted by the relevant professional bodies, and then it would coordinate the issuance of a set of approved codes of practice.

SHOULD BUILDING MAINTENANCE WORKS BE COVERED UNDER THE BILL?

The Government indicated that because the ultimate paying parties for building maintenance works were owners’ corporations or individual owners, such works were excluded from the application of

the Bill [FN: See Clause 8(4) of the Bill.].

However, some members noted that many building maintenance works under the Government's Operation Building Bright 2.0 initiative are large scale works involving considerable project costs (some costs more than HK\$100 million). Operation Building Bright 2.0 is a government initiative to provide subsidy for property owners of higher risk buildings to conduct necessary inspection and repair works.

Members therefore requested the Government to consider including large-scale private residential building maintenance works under the operation of the Bill.

BCLP will continue to provide key updates to the Bill's developments in the LegCo as and when they occur.

RELATED PRACTICE AREAS

- Commercial Construction & Engineering
- Construction Disputes

MEET THE TEAM



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