

建造业付款保障规则 (第652A章) (附属条例)

**Construction Industry Security of
Payment Rules (Cap. 652A)
(Subsidiary Legislation)**

1. 背景

Background

2. 《建造业付款保障条例》 第652章第3部第6分部

Division 6 of Part 3 of Construction Industry Security of Payment Ordinance (Cap. 652)

3. 《建造业付款保障规则》 第652A章（ 附属条例 ）

Construction Industry Security of Payment Rules Cap. 652A (Subsidiary Legislation)

1. 背景 Background

《建造业付款保障条例》的目的

Construction Industry Security of Payment Ordinance - Purpose

1. 改善建造业存在已久的「拖数」陋习；

To improve the delay payment problems in the construction industry

2. 藉此有助减少**工人被拖欠薪金**的情况；及

To help reduce occurrence of wage arrears of workers

3. 期望随着付款保障得以改善，因付款问题而产生的**风险溢价会逐渐减少**，工程项目的**采购成本**亦可以随着时间**下降**。

It is expected that the project procurement cost could be reduced over time as price premiums for risk in association with payment problems will gradually decline following improved security of payment.

《条例》的重点

◆ 改善合约付款条款

Improve contract payment provisions

◆ 仲裁机制

Adjudication mechanism

- ◆ 提供平台让合约双方通过**独立仲裁员**解决付款争议 (A platform for contracting parties to resolve payment dispute through independent adjudicators)

- 仲裁裁定对各方均具有约束力，除非双方其后签订和解协议、该付款争议已在法庭程序或其他解决争议程序中予以裁定或该项裁定被法院撤销
A determination is binding on the parties unless the payment dispute is settled by written agreement between the parties, or determined in any court or other dispute resolution proceedings, or set aside by the court.
- 仲裁双方均有权根据《条例》第3部第6分部**申请撤销**仲裁裁定，申索方亦有权申请**强制执行仲裁裁定**
Right to apply for set aside of adjudication determination in accordance with Division 6 of Part 3 of the Ordinance is available to both parties to adjudication proceedings, while the claiming party also has the right to apply for enforcement of the adjudication determination

2. 《建造业付款保障条例》 第652章第3部第6分部

Division 6 of Part 3 of Construction Industry Security of Payment
Ordinance (Cap. 652)

建筑业付款保障条例

Construction Industry Security of Payment Ordinance

➤ 《条例》第3部第6分部 - 撤销或强制执行裁定

Division 6 of Part 3 of the Ordinance - Setting Aside or Enforcement of Determinations

➤ 《条例》第48条 – 申请撤销裁定

Section 48 – Application for setting aside determination

➤ 《条例》第49条 – 如强制执行判决般强制执行裁定

Section 49 – Enforcement of determination as judgement

➤ 《条例》第50条 – 规则

Section 50 – Rules

建造业付款保障条例

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《条例》第48条 - 申请撤销裁定

Section 48 of the Ordinance - Application for setting aside determinations

- 容许在审裁程序的一方可向法院提出申请，以寻求撤销在该程序中作出的裁定。
A party to adjudication proceedings may apply to the Court to set aside a determination made in the proceedings
- 如有以下情况，法院可应撤销申请，撤销整项或部分裁定：
The Court may, on a set aside application, set aside the determination in whole or in part if -
 - 有关裁定是透过欺诈或贿赂而不当地促致的；
the determination was improperly procured through fraud or bribery;
 - 在有关程序中存在严重违反自然公正原则的情况；
there has been a material denial of natural justice in the proceedings
 - 有关审裁员在有关程序中，没有独立或公正地行事；或
the adjudicator has not acted independently or impartially in the proceedings; or
 - 有关审裁员在有关程序中，曾作出超越其管辖权的作为
the adjudicator has acted in excess of the adjudicator's jurisdiction in the proceedings.

建造业付款保障条例

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《条例》第48条 - 申请撤销裁定

Section 48 of the Ordinance - Application for setting aside determinations

- 撤销申请只可在有关裁定根据第42(7) 条送达各方当日之后**14 日内**提出
A set aside application may only be made within 14 days after the date on which the determination is served on the parties under section 42(7).
- 撤销申请须以申请人的誓章支持，而该誓章须附有—
A set aside application must be supported by an affidavit by the applicant with —
 - 有关裁定
The determination
 - 该项裁定所关乎的建造合约
The construction contract to which the determination relates
 - 述明申请理由
Stating the ground of the application

建造业付款保障条例

Construction Industry Security of Payment Ordinance

《条例》第48条 - 申请撤销裁定

Section 48 of the Ordinance - Application for setting aside determinations

- 提出撤销申请的一方，须将自己有法律责任支付但**尚未支付的经审裁款额**的部分，**缴存于法院作为保证**

The party making a set aside application must pay into the Court as security the unpaid portion of the adjudicated amount that the party is liable to pay.

- 如法院决定批准(或拒绝)撤销申请，则除非该法院批予上诉许可，否则任何人不得针对该决定提出上诉

No appeal lies from a decision of the Court granting or refusing a set aside application unless leave to appeal has been granted by that Court.

建造业付款保障条例

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《条例》第49条 - 如强制执行判决般强制执行裁定

Section 49 of the Ordinance - Enforcement of determination as judgment

- 容许在审裁程序中作出的裁定，**可在法院的许可下，予以强制执行**，执行方式与强制执行高等法院(在行使其民事司法管辖权时) 的判决的方式相同。
Provides that a determination made in adjudication proceedings may, with leave of the Court, be enforced in the same way as a judgment of the High Court in its civil jurisdiction.
- 法院在该日之后**14日**(或在法院认为适当的较长期间) 内，决定批准或拒绝该申请
The Court is to decide whether to grant or refuse an enforcement application within 14 days (or a longer period that the Court considers appropriate) after the date on which the application is made

建造业付款保障条例

Construction Industry Security of Payment Ordinance

《条例》第49条 - 如强制执行判决般强制执行裁定

Section 49 of the Ordinance - Enforcement of determination as judgment

- 在某项裁定下的经审裁款额的付款期限届满之后，审裁程序的一方才可提出申请，以寻求许可强制执行该项裁定(强制执行申请)

An application for leave to enforce a determination (enforcement application) may only be made by a party to the adjudication proceedings after the expiry of the payment deadline of the adjudicated amount under the determination.

- 只有在没有关乎有关裁定的撤销申请待决的情况下，才可提出强制执行申请

An enforcement application may only be made if no set aside application in relation to the determination is pending.

- 如法院决定批准(或拒绝)强制执行申请，则除非该法院批予上诉许可，否则任何人不得针对该决定提出上诉。

No appeal lies from a decision of the Court granting or refusing an enforcement application unless leave to appeal has been granted by that Court.

建造业付款保障条例

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《条例》第50条 - 规则

Section 50 of the Ordinance - Rules

- 说明高等法院首席法官可为更有效地施行本分部，订立规则就向法院**申请撤销和强制执行仲裁裁定订定常规及程序**

Provides that the Chief Judge may make rules for the better carrying out of this Division which provide for the practice and procedure relating to application for setting aside and enforcement of determinations.

- **《建造业付款保障规则》第652A章（附属条例）已于2025年9月5日生效**

The Rules has come into operation on 5 September 2025.

3. 《建造业付款保障规则》 第652A章 (附属条例)

**Construction Industry Security of
Payment Rules (Cap. 652A)
(Subsidiary Legislation)**

建筑业付款保障规则（附属条例） 《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

- 第一部 – 导言
Part 1 - Preliminary
- 第二部 – 向法院提出申请
Part 2 – Applications to Court
- 第三部 – 关乎申请的特定条文
Part 3 – Specific Provisions for Application
- 第四部 – 移交法律程序
Part 4 – Transfer of Proceedings
- 第五部 – 上诉
Part 5 – Appeal

建造业付款保障规则（附属条例） 《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

第二部 – 向法院提出申请 Part 2 – Applications to Court

- 须向**甚么法院**提出申请 the court to which the application is made
 - 经审裁款额**≤\$3,000,000** → 区域法院 → 可由**区域法院聆案官**或**在内庭的区域法院法官**聆讯
Adjudicated amount ≤ \$3,000,000 → District Court → May be heard by a Master of the District Court or a District Judge in chambers.
 - 经审裁款额**>\$3,000,000** → 原讼法庭 → 由**高等法院聆案官**或**在内庭的原讼法庭法官**聆讯
Adjudicated amount > \$3,000,000 → Court of First Instance → May be heard by a Master of the High Court or a CFI Judge in chambers

建造业付款保障规则（附属条例） 《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

第二部 – 向法院提出申请 Part 2 – Applications to Court

➤ 申请须采用的表格 the form to be used for the application

	撤销申请 Set aside applications	强制执行申请 Enforcement applications
向区域法院提出 Application to the District Court	《第336H 章》* 附录A 表格10 的原诉传票 Originating summons in Form No. 10 in Appendix A to Cap. 336H.	《第336H 章》 附录A 表格11 的原诉传票单方面提出 To make ex parte by originating summons in Form No. 11 in Appendix A to Cap. 336H
向原讼法庭提出 Application to the Court of First Instance	《第4A 章》* 附录A 表格10 的原诉传票 Originating summons in Form No. 10 in Appendix A to Cap. 4A.	《第4A 章》 附录A 表格11 的原诉传票单方面提出 To make ex parte by originating summons in Form No. 11 in Appendix A to Cap. 4A

*第336H章 《区域法院规则》 Cap. 336H The Rules of the District Court

第4A章 《高等法院规则》 Cap. 4A The Rules of the High Court

建造业付款保障规则（附属条例） 《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

第二部 – 向法院提出申请 Part 2 – Applications to Court

- 提出**撤销申请**的原诉传票，须述明所倚据的是本条例**第48(2) 条**所列理由中的哪个理由

The originating summons for a set aside application must state which of the grounds set out in section 48(2) of the Ordinance is relied on.

- 就**撤销申请**发出的原诉传票或传票，须送达予作出**有关裁定的裁判员及有关仲裁程序的其他各方**

The originating summons or summons issued in relation to a set aside application must be served on the adjudicator who made the determination and on all the other parties to the adjudication proceedings.

建造业付款保障规则（附属条例）《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

第三部 – 关乎申请的特定条文 Part 3 – Specific Provisions for Applications

- 申请人须在向法院提出**撤销申请**当日之后的14日(或该法院认为适当的较长期间)内，将本条例第48(5)条*规定的**保证(保证金)**缴存于该法院。

Within 14 days after the date on which a set aside application is made to the Court (or such longer period as that Court considers appropriate), the applicant must pay into that Court the security required under section 48(5) of the Ordinance .

$$\begin{array}{ccccccc} \text{保证金} & = & \text{裁定须支付的} & + & \text{利息} & + & \text{审裁程序费用} \\ \text{Security} & & \text{总款额} & & \text{Interest} & & \text{Costs of the} \\ & & \text{Total amount payable} & & & & \text{adjudication} \\ & & & & & & \text{proceeding} \\ & & & & & & - \text{已支付的部分} \\ & & & & & & \text{Paid amount} \end{array}$$

- 保证金须附同申请人的誓章，而该誓章须述明 –

The security must be accompanied by an affidavit by the applicant stating

- 按照以上公式确定的保证金的款额
The amount of the security as ascertained in accordance with the formula above
- 以上每个项目的款额
Amount of each of the items above

*提出撤销申请的一方，须将自己有法律责任支付但尚未支付的经审裁款额的部分，缴存于法院作为保证

The party making a set aside application must pay into the Court as security the unpaid portion of the adjudicated amount that the party is liable to pay.

建造业付款保障规则（附属条例） 《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

第三部 – 关乎申请的特定条文 Part 3 – Specific Provisions for Applications

- 关乎**强制执行**申请的特定条文 Specific provisions for enforcement applications
 - 述明已获支付的款额(如有的话) 及仍未获支付的款额
State the amount that has been paid (if any) and the amount that has not been paid
 - 强制执行申请可单方面提出
An enforcement application may be made ex parte

建造业付款保障规则（附属条例） 《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

第五部 – 上诉 Part 5 – Appeal

- 决定的日期之后**14 日内**提出
May only be made within 14 days after the date of the decision
- 针对**区域法院聆案官**批准(或拒绝) **撤销申请或强制执行申请**的决定而提出的上诉，须向**区域法院法官**提出
An appeal lies to a District Judge from a decision of a Master of the District Court to grant or refuse a set aside application or an enforcement application
- 针对**高等法院聆案官**批准(或拒绝) **撤销申请或强制执行申请**的决定而提出的上诉，须向原讼法庭法官提出
An appeal lies to a CFI Judge from a decision of a Master of the High Court to grant or refuse a set aside application or an enforcement application
- 针对**区域法院法官或原讼法庭法官**批准(或拒绝) **撤销申请或强制执行申请**的决定而提出的上诉，须向上诉法庭提出
An appeal lies to the Court of Appeal from a decision of a District Judge or a CFI Judge to grant or refuse a set aside application or an enforcement application.

建造业付款保障规则（附属条例）《规则》

Construction Industry Security of Payment Rules (Subsidiary Legislation) (the Rules)

已咨询并考虑以下团体及机构的意见

Consulted and incorporated views of the following organizations

- **法律界**，包括香港律师会、香港大律师公会以及香港建筑法学会
legal profession, including the Law Society of Hong Kong, the Hong Kong Bar Association and the Society of Construction Law Hong Kong
- 建造业付款保障条例**专责小组**
the Task Force on the Construction Industry Security of Payment Ordinance
- **司法机构**
the Judiciary

普遍支持建立明确且有效的程序框架

Generally support the establishment of a clear and efficient procedural framework

建造业付款保障条例

Construction Industry Security of Payment Ordinance

➤ 举行简介会 Conduct Briefing Sessions

为总承建商、专业人士、分包商、供货商、劳工界及有兴趣申请成为审裁员提名团体的机构举办了简介会

Conducted Briefing sessions for main contractors, professionals, subcontractors, suppliers, labour sector, potential ANBs

➤ 条例信息网站

CISOPO Information Website

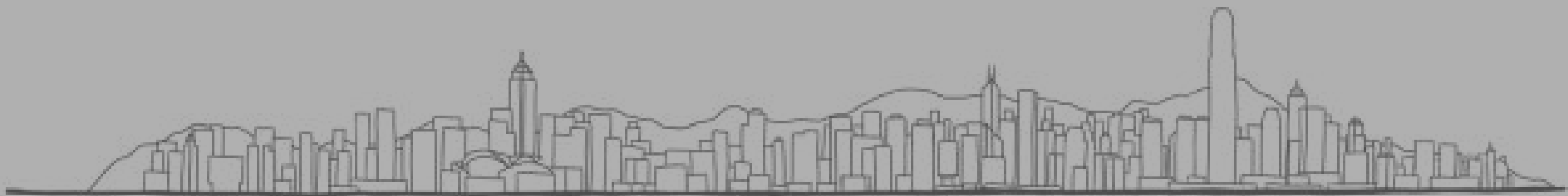


《建造業付款保障條例》 (第652章)



條例簡介

Thank You



HONG KONG