

# **建造業付款保障規則 (第652A章) (附屬條例)**

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

# 1. 背景

Background

## 2. 《建造業付款保障條例》 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. 《建造業付款保障規則》 第652A章 ( 附屬條例 )

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

# 1. 背景 Background

# 《建造業付款保障條例》的目的

## Construction Industry Security of Payment Ordinance - Purpose

1. 改善建造業存在已久的「**拖數**」陋習；

To improve the delay payment problems in the construction industry

2. 藉此有助減少**工人被拖欠薪金**的情況；及

To help reduce occurrence of wage arrears of workers

3. 期望隨着付款保障得以改善，因付款問題而產生的**風險溢價會逐漸減少**，工程項目的**採購成本**亦可以隨着時間**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.

# 《條例》的重點

## ◆ 改善合約付款條款

Improve contract payment provisions

## ◆ 審裁機制

Adjudication mechanism

- ◆ 提供平台讓合約雙方通過**獨立審裁員**解決付款爭議 (A platform for contracting parties to resolve payment dispute through independent adjudicators)

- 審裁裁定對各方均具有約束力，除非雙方其後簽訂和解協議、該付款爭議已在法庭程序或其他解決爭議程序中予以裁定或該項裁定被法院撤銷

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.

- 審裁雙方均有權根據《條例》第3部第6分部**申請撤銷**審裁裁定，申索方亦有權申請**強制執行審裁裁定**

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. 《建造業付款保障條例》第652章第3部第6分部

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

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### ➤ 《條例》第3部第6分部 - 撤銷或強制執行裁定

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

#### ➤ 《條例》第48條 – 申請撤銷裁定

Section 48 – Application for setting aside determination

#### ➤ 《條例》第49條 – 如強制執行判決般強制執行裁定

Section 49 – Enforcement of determination as judgement

#### ➤ 《條例》第50條 – 規則

Section 50 – Rules

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### 《條例》第48條 - 申請撤銷裁定

### Section 48 of the Ordinance - Application for setting aside determinations

- 容許在審裁程序的一方可向法院提出申請，以尋求撤銷在該程序中作出的裁定。  
A party to adjudication proceedings **may apply to the Court** to **set aside a determination** made in the proceedings
- 如有以下情況，法院可應撤銷申請，撤銷整項或部分裁定：  
The Court may, on a set aside application, set aside the determination in whole or in part if -
  - 有關裁定是透過欺詐或賄賂而不當地促致的；  
the determination was improperly procured through fraud or bribery;
  - 在有關程序中存在嚴重違反自然公正原則的情況；  
there has been a material denial of natural justice in the proceedings
  - 有關審裁員在有關程序中，沒有獨立或公正地行事；或  
the adjudicator has not acted independently or impartially in the proceedings; or
  - 有關審裁員在有關程序中，曾作出超越其管轄權的作為  
the adjudicator has acted in excess of the adjudicator's jurisdiction in the proceedings.

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### 《條例》第48條 - 申請撤銷裁定

### Section 48 of the Ordinance - Application for setting aside determinations

- 撤銷申請只可在有關裁定根據第42(7) 條送達各方當日之後**14 日內**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).
- 撤銷申請須以申請人的誓章支持，而該誓章須附有—  
A set aside application must be supported by an affidavit by the applicant with —
  - 有關裁定  
The determination
  - 該項裁定所關乎的建造合約  
The construction contract to which the determination relates
  - 述明申請理由  
Stating the ground of the application

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### 《條例》第48條 - 申請撤銷裁定

### Section 48 of the Ordinance - Application for setting aside determinations

- 提出撤銷申請的一方，須將自己有法律責任支付但**尚未支付的經審裁款額**的部分，**繳存於法院作為保證**

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.

- 如法院決定批准(或拒絕)撤銷申請，則除非該法院批予上訴許可，否則任何人不得針對該決定提出上訴

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.

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### 《條例》第49條 - 如強制執行判決般強制執行裁定

### Section 49 of the Ordinance - Enforcement of determination as judgment

- 容許在審裁程序中作出的裁定，**可在法院的許可下，予以強制執行**，執行方式與強制執行高等法院( 在行使其民事司法管轄權時) 的判決的方式相同。  
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.
- 法院在該日之後**14日**( 或在法院認為適當的較長期間) 內，決定批准或拒絕該申請  
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

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### 《條例》第49條 - 如強制執行判決般強制執行裁定

### Section 49 of the Ordinance - Enforcement of determination as judgment

- 在某項裁定下的經審裁款額的**付款期限屆滿之後**，審裁程序的一方才可提出申請，以尋求許可強制執行該項裁定**(強制執行申請)**

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**沒有**關乎有關裁定的**撤銷申請待決**的情況下，才可提出強制執行申請

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

- 如法院決定批准(或拒絕)強制執行申請，則**除非該法院批予上訴許可**，否則任何人不得針對該決定提出上訴。

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.

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### 《條例》第50條 - 規則

### Section 50 of the Ordinance - Rules

- 說明高等法院首席法官可為更有效地施行本分部，訂立規則就向法院**申請撤銷和強制執行審裁裁定訂定常規及程序**

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.

- **《建造業付款保障規則》第652A章（附屬條例）已於2025年9月5日生效**

The Rules has come into operation on 5 September 2025.

### **3. 《建造業付款保障規則》 第652A章 (附屬條例)**

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

# 建造業付款保障規則（附屬條例） 《規則》

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

- 第一部 – 導言  
Part 1 - Preliminary
- 第二部 – 向法院提出申請  
Part 2 – Applications to Court
- 第三部 – 關乎申請的特定條文  
Part 3 – Specific Provisions for Application
- 第四部 – 移交法律程序  
Part 4 – Transfer of Proceedings
- 第五部 – 上訴  
Part 5 – Appeal

# 建造業付款保障規則（附屬條例） 《規則》

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

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

- 須向甚麼法院提出申請 the court to which the application is made
  - 經審裁款額≤\$3,000,000 → 區域法院 → 可由區域法院聆案官或在內庭的區域法院法官聆訊  
Adjudicated amount≤\$3,000,000 → District Court → May be heard by a Master of the District Court or a District Judge in chambers.
  - 經審裁款額>\$3,000,000 → 原訟法庭 → 由高等法院聆案官或在內庭的原訟法庭法官聆訊  
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

# 建造業付款保障規則（附屬條例） 《規則》

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

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

➤ 申請須採用的表格 the form to be used for the application

|                                                       | 撤銷申請<br>Set aside applications                                                                | 強制執行申請<br>Enforcement applications                                                                                   |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| 向區域法院提出<br>Application to the District Court          | 《第336H章》*<br>附錄A 表格10 的原訴傳票<br>Originating summons in Form No. 10 in Appendix A to Cap. 336H. | 《第336H章》<br>附錄A 表格11 的原訴傳票單方面提出<br>To make ex parte by originating summons in Form No. 11 in Appendix A to Cap. 336H |
| 向原訟法庭提出<br>Application to the Court of First Instance | 《第4A章》*<br>附錄A 表格10 的原訴傳票<br>Originating summons in Form No. 10 in Appendix A to Cap. 4A.     | 《第4A章》<br>附錄A 表格11 的原訴傳票單方面提出<br>To make ex parte by originating summons in Form No. 11 in Appendix A to Cap. 4A     |

\*第336H章《區域法院規則》 Cap. 336H The Rules of the District Court

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

# 建造業付款保障規則（附屬條例） 《規則》

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

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

- 提出**撤銷申請**的原訴傳票，須述明所倚據的是本條例**第48(2) 條**所列理由中的哪個理由

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**撤銷申請**發出的原訴傳票或傳票，須送達予作出**有關裁定的審裁員及有關審裁程序的其他各方**

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.

# 建造業付款保障規則（附屬條例） 《規則》

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

### 第三部 – 關乎申請的特定條文 Part 3 – Specific Provisions for Applications

- 申請人須在向法院提出**撤銷申請**當日之後的14日(或該法院認為適當的較長期間)內，將本條例第48(5)條\*規定的**保證(保證金)**繳存於該法院。

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 .

$$\begin{array}{ccccccc} \text{保證金} & = & \text{裁定須支付的} & + & \text{利息} & + & \text{審裁程序費用} \\ \text{Security} & & \text{總款額} & & \text{Interest} & & \text{Costs of the} \\ & & \text{Total amount payable} & & & & \text{adjudication} \\ & & & & & & \text{proceeding} \\ & & & & & & - \text{已支付的部分} \\ & & & & & & \text{Paid amount} \end{array}$$

- 保證金須附同申請人的誓章，而該誓章須述明 –

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

- 按照以上公式確定的保證金的款額  
The amount of the security as ascertained in accordance with the formula above
- 以上每個項目的款額  
Amount of each of the items above

\*提出撤銷申請的一方，須將自己有法律責任支付但尚未支付的經審裁款額的部分，繳存於法院作為保證

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.

# 建造業付款保障規則（附屬條例） 《規則》

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

## 第三部 – 關乎申請的特定條文 Part 3 – Specific Provisions for Applications

- 關乎**強制執行**申請的特定條文 Specific provisions for enforcement applications
  - 述明已獲支付的款額( 如有的話) 及仍未獲支付的款額  
State the amount that has been paid (if any) and the amount that has not been paid
  - 強制執行申請可單方面提出  
An enforcement application may be made ex parte

# 建造業付款保障規則（附屬條例） 《規則》

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

### 第五部 – 上訴 Part 5 – Appeal

- 決定的日期之後**14 日內**提出  
May only be made within 14 days after the date of the decision
- 針對**區域法院聆案官**批准(或拒絕) **撤銷申請或強制執行申請**的決定而提出的上訴，須向**區域法院法官**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
- 針對**高等法院聆案官**批准(或拒絕) **撤銷申請或強制執行申請**的決定而提出的上訴，須向原訟法庭法官提出  
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
- 針對**區域法院法官或原訟法庭法官**批准(或拒絕) **撤銷申請或強制執行申請**的決定而提出的上訴，須向上訴法庭提出  
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.

# 建造業付款保障規則（附屬條例） 《規則》

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

已諮詢並考慮以下團體及機構的意見

Consulted and incorporated views of the following organizations

- **法律界**，包括香港律師會、香港大律師公會以及香港建築法學會  
legal profession, including the Law Society of Hong Kong, the Hong Kong Bar Association and the Society of Construction Law Hong Kong
- 建造業付款保障條例**專責小組**  
the Task Force on the Construction Industry Security of Payment Ordinance
- **司法機構**  
the Judiciary

**普遍支持**建立明確且有效的程序框架

Generally support the establishment of a clear and efficient procedural framework

# 建造業付款保障條例

## Construction Industry Security of Payment Ordinance

### ➤ 舉行簡介會 Conduct Briefing Sessions

為總承建商、專業人士、分包商、供應商、勞工界及有興趣申請成為審裁員提名團體的機構舉辦了簡介會

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

### ➤ 條例資訊網站

CISOPO Information Website

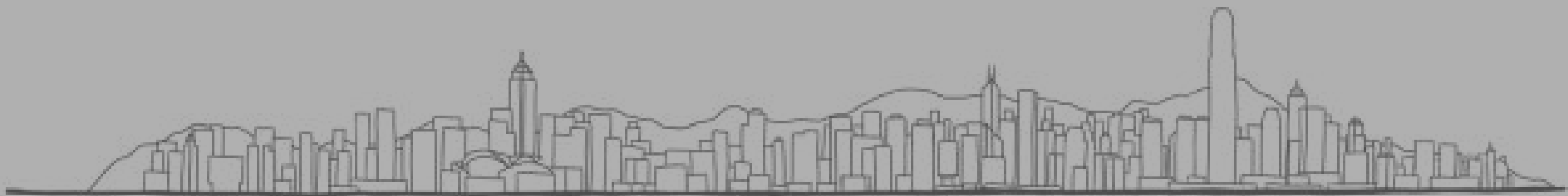


### 《建造業付款保障條例》 (第652章)



條例簡介

# Thank You



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