



CONSTRUCTION
INDUSTRY COUNCIL
建造業議會



Alert on Cashflow Problems in Construction Industry



The Construction Industry Council (CIC) has been made aware of a protest that took place on 15 May 2023, involving more than ten construction workers who claimed that they were not paid for over a week while working for an elevator construction project for the Highways Department at Chuk Yuen Road, Wong Tai Sin.

This incident underscores the increasing trend of protests over non-payment of wages, which may result in delays and higher costs for construction projects, as well as damage to the industry's reputation.

To address this issue, the CIC recommends that the construction industry adopt the following good practices:

1 Implement Security of Payment Provisions (Employers)

Employers should incorporate Security of Payment Provisions into their consultancy and supply agreements and construction contracts to enhance payment practices and cash flow for consultants, contractors, subcontractors, and suppliers. These provisions facilitate prompt processing of payments and swift resolution of payment disputes, reducing the risk of cash flow problems and disagreements.

Contractual terms such as "pay when paid" shall be deemed ineffective and unenforceable under the Security of Payment Provisions. Additionally, parties carrying out construction work shall have the right to refer payment disputes to adjudication, and subcontractors may apply to employers for direct payment of unpaid adjudicated amounts.

2 Adopt NEC4 Engineering and Construction Contract (Employers)

Employers should adopt the NEC4 Engineering and Construction Contract (NEC) to promote a partnering culture with contractors, encouraging collaboration and communication to achieve project goals.

The NEC emphasises timely completion of work with clear timeframes and deadlines outlined in the contract, while also providing cost certainty through transparent payment mechanisms and processes for handling changes in the scope of work and variations.

The NEC's Early Warning Mechanism encourages contracting parties to promptly address any event that may impact the project. This, combined with a clear allocation of risks and responsibilities between the contractor and client, helps manage and mitigate risks throughout the project.



3 Establish a Worker's Record System (Contractors)

Contractors must provide an automated, systematic platform for collecting and managing the daily attendance records of workers. To ensure proper tracking of wage payments, it is advisable to arrange payment through bank transactions, maintain records confidentially, and have workers sign employment contracts with their employers.



4 Employ a Labour Relations Officer and Establish a Reporting Channel (Employers / Contractors)

To prevent non-payment of wages, contractors should employ a labour relations officer to work on site. This officer will monitor attendance and payroll records, checking the status of wage payments to ensure timely payment to contractors and subcontractors.

Employers and contractors should establish a reporting channel for workers to report any unpaid wages and arrange appropriate training to promote worker's rights.

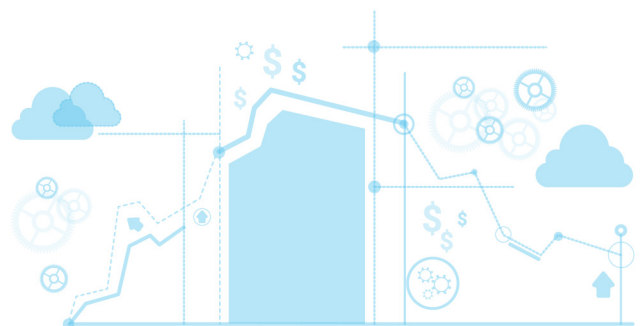
5 Practice Good Variation Management (Employers / Consultants)

The project team should streamline procedures for pre-approving variation instructions, create proper confirmation mechanisms for on-site verbal instructions, and promptly endorse abortive work records. These measures can improve the cash flow of contracting parties, thereby avoiding delays in wage payments.

6 Adopt CIC - Alerts on Variation Management (Employers / Consultants / Contractors)

The CIC published Alerts on Variation Management in February 2023, providing recommended practices and measures for managing variations. The industry is advised to adopt these practices and measures as appropriate.

The Alerts on Variation Management can be downloaded via following link:



Disclaimer

This message is not intended to constitute any professional advice on these or any other subjects. The CIC (including its members and employees) will not accept responsibility for any consequences resulting from the use of or failure to use this message. For enquiries, please contact 2100 9000.