

# Government welcomes passage of Construction Industry Security of Payment Bill

The Government welcomes the Legislative Council's passage of the Construction Industry Security of Payment Bill today (December 18) to improve the longstanding payment problems in the construction industry and provide better protection for the stakeholders in the supply chains of the construction industry to receive their entitled payment on time, while also seeking to help reduce occurrence of wage arrears of workers. The Government also expects 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.

The Construction Industry Security of Payment Ordinance (the Ordinance) will improve contractual payment terms, prohibiting the use of unfair payment terms such as "pay when paid". It also introduces an adjudication mechanism to provide a speedy, cost-effective and binding resolution process for payment disputes in the interim.

The Ordinance applies to main contracts for carrying construction work (with contract values not less than \$5 million), and main contracts for the supply of goods (e.g. materials and plant) or services related to the construction work (with contract value not less than \$0.5 million). If the main contract is covered, subcontracts along the same supply chain, regardless the amount, are also governed by the Ordinance. The Ordinance applies to both public and private projects, with a wider scope of application for the former. For instance, the Ordinance does not apply to: (1) contracts for works on existing private residential buildings (e.g. interior renovation, building maintenance, etc); and (2) contracts for relatively minor works on existing private non-residential buildings, i.e. those works not requiring approval and consent of the Building Authority under the Building Ordinance (Cap. 123) (e.g. maintenance and repair of building services installation, shop renovation, etc).

The Ordinance will be gazetted on December 27, while the power of the Secretary for Development for registration and administration of Adjudicator Nominating Bodies (ANBs) will take effect on the gazettal date, the remaining provisions will come into operation on the expiry of eight months (i.e. August 28 of next year). Construction contracts entered into on or after that date will be governed by the Ordinance.

Prior to the implementation of the remaining provisions of the Ordinance in August next year, the Government and the industry will undertake a series of preparatory work, including registering ANBs, training a sufficient number of adjudicators, reviewing and revising the standard contract and subcontract templates, and conducting publicity and promotion activities. The Government strives to publish relevant documents and accept ANB applications in January

next year, allowing the relevant organisations to submit their applications in a timely manner to align with the implementation timeline of the Ordinance.