



Circular No.: C&P/146/10/tl

28 October 2018

To: All Members/ SLOTS Registered Contractors
Attn: CEO /MD /ED /GM

Via Email

Dear Members

Amendments to the Building & Construction Industry Security of Payment (SOP) Act

On 2 October 2018, the **Building and Construction Industry Security of Payment (Amendment) Bill was passed in Parliament**. A summary of key amendments can be found on BCA's website: <https://www.bca.gov.sg/SecurityPayment/review.html>.

We are pleased to inform members that several of SCAL's recommendations for amendments to the SOP Act have been adopted.

In March 2016 SCAL convened a Working Group to review where the Act could be improved. There was a need to revert to the original objective for providing fast and low-cost adjudication to resolve payment disputes. This would happen only if the focus on payment dispute resolutions are re-directed back to technical considerations managed by the construction industry itself, as opposed to lengthy and costly legal deliberations.

Upon completion of the review and with insights gain from adjudications and court decisions, SCAL submitted recommendations for amendments to the SOP Act to the government in October 2016. Since then, the Building and Construction Authority (BCA) have held several consultations with SCAL and the industry.

The following proposals by SCAL have been incorporated or addressed in the Amendment Act:

- 1) Minimum interest rate for late payment
 - SCAL had proposed to delete section 8(5)(a) where it states that the interest rate shall be the rate specified in the contracts. This is because of the increasing practice of stipulating unrealistically low interest rate in contract.
 - The Amendment Act will peg the interest rate for late payment as specified in the contract or the rate for judgement debts under the Supreme Court of Judicature Act, whichever is higher.
- 2) Claimant allowed to lodge an Adjudication Review
 - SCAL had asked for claimant to be allowed to lodge an Adjudication Review as the current provision only allows respondent to apply for adjudication review.



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- The Amendment Act allows Claimant to apply for adjudication review if the difference in the adjudicated amount and claim amount exceed the prescribed amount in the Regulations.
- 3) To pay Adjudicated Amount to Authorised Nominating Body (ANB)
- SCAL proposed that the adjudicated amount be paid to ANB as stakeholder pending adjudication review to avoid respondents going to court for a set-aside as most respondents will not be willing to pay the claimant before they can go for the Review application.
 - The Amendment Act stipulates that the adjudicated amount shall be deposited in the trust account by ANB as stake-holding monies pending the outcome of the adjudication review, instead of paying directly to the claimant.
- 4) Allowing repeat payment claims
- SCAL proposed that repeat payment claims (not adjudicated on its merits) should be permitted.
 - The Amendment Act will explicitly allow unpaid payment claims to be included in subsequent payment claims and to clarify that unpaid payment claim refers to claim that have not been adjudicated on its merits (including adjudication application has been withdrawn).
- 5) Timeline for payment response
- For contracts that are silent on the payment response timeline, SCAL had proposed that the default timeline for payment response be changed from 7 days to 21 days to allow a reasonable period for main contractors to issue proper payment responses to all their sub-contractors.
 - The Amendment Act will lengthen the default period for payment response from 7 to 14 days.

BCA will inform the industry of the commencement date of the amendments in due course and will conduct briefing sessions to familiarise the industry stakeholders with the amendments. SCAL will be also organising a seminar in March 2019 to brief members on the amendments.

The above is for members' information. Thank you.

Yours faithfully

LAM KONG HONG
Executive Director