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BUILDING AND CONSTRUCTION INDUSTRY
SECURITY OF PAYMENT ACT
(CHAPTER 30B)

BUILDING AND CONSTRUCTION INDUSTRY
SECURITY OF PAYMENT (AMENDMENT)
REGULATIONS 2019

In exercise of the powers conferred by section 41(1) of the Building and Construction Industry Security of Payment Act, the Minister for National Development makes the following Regulations:

Citation and commencement

1. These Regulations are the Building and Construction Industry Security of Payment (Amendment) Regulations 2019 and come into operation on 15 December 2019.

Amendment of regulation 5

2. Regulation 5 of the Building and Construction Industry Security of Payment Regulations (Rg 1) (called in these Regulations the principal Regulations) is amended —

(a) by deleting paragraph (1) and substituting the following paragraphs:

“(1) Where a contract does not contain any provision specifying the time at which a payment claim must be served or by which such time may be determined, then a payment claim made under the contract must be served by the last day of —

(a) the month following the month in which the contract is made; or

(b) any subsequent month.

(1A) For the purposes of paragraph (1), only one payment claim made under a contract may be served in each month.”; and

(b) by inserting, immediately after paragraph (2), the following paragraph:

“(3) In this regulation, “month” means a period of time beginning on the first day of each of the 12 calendar months into which a year is divided, and ending on the last day of each of these months.”.

Amendment of regulation 7

3. Regulation 7(2A) of the principal Regulations is amended —

(a) by deleting the words “The adjudicator appointed under section 14 of the Act” and substituting the words “An adjudicator”; and

(b) by deleting the words “such amendments to be made to an adjudication application as he thinks fit” and substituting the words “any amendment to correct a clerical mistake in an adjudication application”.

Amendment of regulation 8

4. Regulation 8(1A) of the principal Regulations is amended —

(a) by deleting the words “The adjudicator appointed under section 14 of the Act” and substituting the words “An adjudicator”; and

(b) by deleting the words “such amendments to be made to an adjudication response as he thinks fit” and substituting the words “any amendment to correct a clerical mistake in an adjudication response”.

Amendment of regulation 10

5. Regulation 10 of the principal Regulations is amended —

(a) by deleting paragraph (1) and substituting the following paragraph:

“(1) A party to an adjudication is entitled to lodge an application for the review of the determination of the adjudicator under section 18 of the Act if —

- (a) the adjudicated amount exceeds the relevant response amount by at least \$100,000; or
- (b) the claimed amount exceeds the adjudicated amount by at least \$100,000.”;
- (b) by deleting the word “claimant” in paragraph (2)(a) and substituting the words “authorised nominating body”; and
- (c) by deleting sub-paragraphs (a) and (b) of paragraph (3) and substituting the following sub-paragraphs:
 - “(a) appoint one review adjudicator if —
 - (i) the adjudicated amount exceeds the relevant response amount by at least \$100,000 but less than \$1 million; or
 - (ii) the claimed amount exceeds the adjudicated amount by at least \$100,000 but less than \$1 million; or
 - (b) appoint a panel of 3 review adjudicators if —
 - (i) the adjudicated amount exceeds the relevant response amount by at least \$1 million; or
 - (ii) the claimed amount exceeds the adjudicated amount by at least \$1 million.”.

Amendment of regulation 11

6. Regulation 11 of the principal Regulations is amended —

- (a) by deleting sub-paragraphs (a) to (d) of paragraph (2) and substituting the following sub-paragraphs:

“(a) the person —

- (i) is an employee or a partner of the party;
- (ii) is a director or substantial shareholder of the party, where the party is a company or foreign company;
- (iii) is an employee, a director, a substantial shareholder or a partner of any corporation, partnership or limited liability partnership that owns or is owned by the party;
- (iv) is the sole proprietor of the party, where the party is a sole proprietorship; or
- (v) is a spouse, step-parent, stepchild, stepbrother or stepsister of the party,

at any time within the 3 years immediately preceding the date on which the adjudication application is lodged with an authorised nominating body;

- (b) the person is a child, parent or sibling of the party;
- (c) the person, or an affiliate of the person, has assisted the party to prepare any document for, or has provided any advice or service to, the party in relation to the contract or the construction project to which the contract relates.”; and

(b) by deleting paragraph (3) and substituting the following paragraph:

“(3) In paragraph (2) —

“affiliate”, in relation to a person, means —

- (a) an employee or employer of the person;
- (b) an individual who is employed by the person’s employer, and who supervises or is supervised by the person;
- (c) a director of a company or foreign company in which the person is also a director;
- (d) a partner of a partnership or limited liability partnership in which the person is also a partner;
- (e) a child or stepchild of the person;
- (f) a parent or step-parent of the person;
or
- (g) a spouse of the person;

“child” includes an adopted child;

“company”, “corporation” and “foreign company” have the meanings given by section 4(1) of the Companies Act (Cap. 50);

“limited liability partnership” has the meaning given by section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“parent” includes an adoptive parent;

“partnership” means —

- (a) a partnership within the meaning given by section 1 of the Partnership Act (Cap. 391); or

(b) a limited partnership registered under the Limited Partnerships Act (Cap. 163B);

“sibling” means a brother or sister, and includes an adopted brother or sister;

“substantial shareholder”, in relation to a company or a foreign company with a share capital, has the meaning given by section 81 of the Companies Act.”.

Amendment of regulation 14

7. Regulation 14 of the principal Regulations is amended —

- (a) by deleting the word “respondent” in paragraph (1) and substituting the words “party who lodged the adjudication review application (called in this regulation the review applicant)”;
- (b) by deleting the word “respondent’s” in paragraph (2)(a) and substituting the words “review applicant’s”;
- (c) by deleting the word “respondent” in paragraphs (2)(b) and (5) and substituting in each case the words “review applicant”; and
- (d) by deleting the words “require the respondent” in paragraph (2) and substituting the words “require the review applicant”.

New regulations 15 and 16 and Schedule

8. The principal Regulations are amended by inserting, immediately after regulation 14, the following regulations and Schedule:

“Electronic methods of service

15. For the purposes of section 37(1)(e) of the Act, a document may be served on a person by sending it —

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- (a) to the person's last known account on an instant messaging platform that the person has consented to for service of a document of that kind; and
 - (b) in a file format that the parties have agreed to.

Code of Professional Conduct and Ethics

16. Every authorised nominating body must comply with the Code of Professional Conduct and Ethics set out in the Schedule.

THE SCHEDULE

Regulation 16

CODE OF PROFESSIONAL CONDUCT AND ETHICS

Professional and ethical conduct

1. An authorised nominating body must carry out its functions and duties —
 - (a) independently;
 - (b) in a proper and professional manner;
 - (c) with due care and diligence; and
 - (d) in the best interest of the public.
2. An authorised nominating body must not delegate or abrogate any of its functions and duties.
3. An authorised nominating body must —
 - (a) safeguard its integrity and standing;
 - (b) uphold a high standard of ethics and service; and
 - (c) not do anything that is likely to diminish public confidence in the system of adjudication under the Act or bring the authorised nominating body into disrepute.

Duties relating to adjudication process

4. An authorised nominating body must manage the application for and process of adjudication and adjudication review, including developing and maintaining a complaint or feedback management process to address any complaint (whether written or verbal) about the authorised nominating body or an adjudicator registered with the authorised nominating body.

Duties relating to adjudicators

5. An authorised nominating body must manage the selection, training, appointment and monitoring of adjudicators, which includes —

- (a) developing and maintaining an adjudicator training and accreditation programme for persons who intend to be on the register of adjudicators; and
- (b) providing continuous education for persons who are on the register of adjudicators.

Duties relating to provision of information

6. An authorised nominating body must —

- (a) provide regular reports to the Minister on statistics concerning adjudication; and
- (b) upon the Minister's request, permit the Minister to communicate, copy, modify, publish and use any information or document provided to the Minister under sub-paragraph (a) or section 28(3) of the Act.

Duties relating to cessation of operations

7. An authorised nominating body must —

- (a) give the Minister no less than 6 months' written notice if the authorised nominating body is no longer able or willing to perform the functions and duties of an authorised nominating body; and
- (b) provide the Minister with a report of its operations up until the last day of its operations, within 28 days of the cessation of its operations or the Minister's withdrawal of authorisation, as the case may be."

Saving and transitional provisions

9.—(1) Regulation 3(b) does not apply to or in relation to any adjudication application arising from a payment claim served before 15 December 2019.

(2) Regulation 4(b) does not apply to or in relation to any adjudication response arising from a payment claim served before 15 December 2019.

(3) Despite regulation 5, regulation 10 of the principal Regulations as in force immediately before 15 December 2019 continues to apply

to or in relation to an adjudication review application arising from a payment claim served before that date.

(4) Despite regulation 7, regulation 14 of the principal Regulations as in force immediately before 15 December 2019 continues to apply to or in relation to an adjudication review application arising from a payment claim served before that date.

(5) Regulation 8 does not apply to the service of any document relating to a payment claim served before 15 December 2019.

[G.N. No. S 488/2012]

Made on 25 November 2019.

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