

**Malaysia**

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**Adjudication arrives**

**M**alaysia's Construction Industry Payment and Adjudication Act 2012 (CIPAA) came into force on April 15 2014. The CIPAA is described as 'an Act to facilitate regular and timely payment, to provide a mechanism for speedy dispute resolution through adjudication, to provide remedies for the recovery of payment in the construction industry and to provide for connected and incidental matters'.

The CIPAA applies to construction works carried out wholly or partly within the territory of Malaysia; it relates to any

payment disputes and is not limited to interim payments. Section 35 of the CIPAA provides that 'any conditional payment provision in a construction contract in relation to payment under the construction contract is void'.

There is a possibility that these provisions will impact contracts in other countries connected to Malaysia.

Construction contracts are defined as both construction work contracts and construction consultancy contracts, subject to minor exceptions. It should also be noted that certain

government contracts are exempted from the CIPAA, as can be seen in the Construction Industry Payment and Adjudication Order 2014.

Under Part II of the CIPAA (sections 5 to 12) an adjudication must be completed within 100 days of a claim being lodged.

Section 13 of the CIPAA provides that adjudication decisions are binding, unless set aside by the High Court or until the dispute is finally decided by the Court or in arbitration. The successful party may

proceed to execute the decision in tandem with other remedies available, unless a stay is obtained.

Part IV of the CIPAA provides means of enforcement. Under section 29(1), a party owed money under an adjudication award is allowed to suspend performance of works or to reduce the rate of progress of performance of any works until payments are made in accordance with the decision by the adjudicator. Further, a successful party is able to compel direct payment from principal under section 30 of the CIPAA.

The CIPAA will clearly have a major impact on the construction industry. The results of the first adjudications, and of any related proceedings in the High Court, are eagerly awaited.

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