

Building and Construction Industry Security of Payment Act ("SOP Act"): Supplementary Rules for Electronic Adjudication Lodgment

24 April 2020

Introduction

On 15 April 2020, the Singapore Mediation Centre ("SMC") enacted Supplementary Rules for Electronic Adjudication Lodgment to provide for:

- (1) the electronic lodgment of documents;
- (2) telegraphic transfer of fees;
- (3) electronic service of documents; and
- (4) Adjudication Conferences.

The Electronic Lodgment of Documents

Adjudication proceedings under the SOP Act are an integral and crucial feature in the construction industry.

Rule 3 of the SMC's Adjudication Rules required that all documents to be lodged with the SMC shall be lodged "*by hand (only)*".

With the spread of the coronavirus ("**Covid-19**") Pandemic and the need to restrict the movement of people to minimize the risks of further infections, this was no longer possible and it was necessary to provide another means for the lodgment of documents.

Rule 2 of the Supplementary Rules provides that the lodgment of documents referred to in the Adjudication Rules shall be made by email to sop@mediation.com.sg.

All submissions by email shall be lodged during SMC's opening hours:

- i) Monday to Friday (excluding Public Holidays): 9am to 4.30pm; or

- ii) Eve of Christmas / New Year / Chinese New Year: 9am to 12:00pm.

Documents received by email will be time-stamped when *received* in the inbox of sop@mediation.com.sg and any documents received by email, after the above operating hours, shall be treated as lodged the next working day.

The Lodgment shall include: (i) the duly completed and signed relevant forms in Annexes A to D of the Adjudication Rules; (ii) Accompanying documents in PDF format; and (iii) Proof of telegraphic transfer of the applicable Fees paid to the SMC.

Accompanying documents submitted to the SMC via email shall not exceed a file size of 10MB per email. Where necessary, accompanying documents may be sent in a continuous series of email and titled:

- i. where no SMC file reference number is available - "*SOP [Claimant] v [Respondent] (Email 1 of 5)*"; or
- ii. where an SMC file reference number is available - "*SOP/AA 123 of 2020 (Email 1 of 5)*".

Telegraphic Transfer of Fees

Where the lodgment of documents requires the payment of fees, such payments shall only be made by way of telegraphic transfer to SMC.

Electronic Service of Documents

It is important to note that the Supplementary Rules apply only if both parties have an email address as defined under the SOP Act.

Under Section 37(2A) of the SOP Act, "email address" means:

- a. the last email address given by the addressee concerned to the person serving the document as the email address for the service of documents; or
- b. the last email address of the addressee concerned known to the person serving the document.

The SMC shall be entitled to reject the lodgment if the party lodging the document by email fails to provide the email address for both parties.

Adjudication Conferences

Rule 4 of the Supplementary Rules state that the Adjudicator may call hold an adjudication conference through electronic means of communication.

However, the Adjudicator will be responsible for: (i) obtaining the agreement of parties on the platform to be used; (ii) the arrangements for use of the agreed electronic means of communication; and (iii) liaising with parties on the fees that may be incurred for the use of the said platform.

The Adjudicator may also provide a signed Determination in PDF format or an electronically signed Determination.

Concluding Thoughts

The Supplementary Rules are a welcome addition as it ensures that parties can still commence and continue with adjudication proceedings during this COVID-19 period.

Contractors must ensure that notwithstanding the work disruptions, their email accounts are regularly monitored for service of any documents bearing in mind that the timelines under the SOP Act will continue to apply.

For More Information

If you have any questions about this *Alert*, please contact Sarbjit Singh Chopra, Sean La'Brooy, Gabriel Lee, any of the attorneys in our Singapore office or the attorney in the firm with whom you are in regular contact.

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