

## AIAC CIPAA CIRCULAR 1B

### **CIRCULAR ON THE SCOPE AND PROSPECTIVE APPLICATION OF THE CONSTRUCTION INDUSTRY PAYMENT AND ADJUDICATION ACT 2012 AND THE ADMINISTRATION OF ADJUDICATION CASES BY THE AIAC**

On 16<sup>th</sup> October 2019, the Federal Court of Malaysia delivered its decisions in the cases of *Jack-in Pile (M) Sdn Bhd v. Bauer (Malaysia) Sdn Bhd and Another Appeal* [2020] 1 MLJ 174 and *Ireka Engineering & Construction Sdn Bhd v. PWC Corporation Sdn Bhd and Other Appeals* [2020] 1 MLJ 311.

In their grounds of judgment, the Federal Court held that the Construction Industry Payment and Adjudication Act 2012 (the "CIPAA") is prospective and does not apply to construction contracts entered into before the coming into force of the CIPAA, that is, contracts executed prior to 15<sup>th</sup> April 2014.

In light of these judicial developments, the AIAC confirms it has since ceased registering payment disputes arising from construction contracts executed prior to 15<sup>th</sup> April 2014. The AIAC will give parties the opportunity to comment on the applicability of the abovementioned Federal Court decisions to their adjudication proceeding, prior to turning down the registration request and refunding the payment of the registration fee, if any.

Nonetheless, where the parties are in disagreement as to whether their adjudication proceeding is within or outside the scope of the prospective application of the CIPAA, the AIAC will proceed with registering the proceeding and will refer the same for determination by the appointed adjudicator. Parties are put on notice that the registration of such matters, and the continuance of the proceedings thereafter, are strictly and solely at their own risk.

For the avoidance of doubt, the registration of payment disputes arising from construction contracts executed on or after 15<sup>th</sup> April 2014 remains unaffected.

Save where the above applies, the CIPAA applies to every construction contract made in writing within the meaning of Section 4, and under which a payment claim is made.

Section 3 provides that CIPAA shall not apply to a construction contract entered into by a natural person for any construction work in respect of any building which is less than four storeys high and which is wholly intended for his occupation.

Section 41 provides that CIPAA shall not affect proceedings relating to any payment dispute under a construction contract which had been commenced in Court or arbitration before the coming into operation of the CIPAA.

This Circular 1B supersedes Circular 1A issued on 11<sup>th</sup> November 2014.

Dated this 1<sup>st</sup> January 2021.



**Tan Sri Datuk Suriyadi Bin Halim Omar**  
Director