

# Building and Construction Industry Security of Payment (SOP 2004) Act

## 建筑物与建筑工业付款保证法令 2004

### **MONICA NEO**

LLB (Hons), Barrister-at-Law (Lincolns Inn)  
F.S.I.Arb, M.C.I.Arb.  
Advocate & Solicitor  
Director, **CHANTAN** LLC

1 Raffles Place #19-01  
OUB Centre, Office Tower  
Singapore 048616  
Email: [neokc@chantan.com.sg](mailto:neokc@chantan.com.sg)

Tel: 6535 2393  
Fax: 6535 5203  
Website: <http://www.chantan.com.sg>

### **梁金貞**

英國林肯法院大狀師  
(法律榮譽學士)  
董事, 曾陳律師館

1號, 萊佛士坊  
華聯中心, 門牌 19-01  
新加坡 048616 郵區  
網址: [neokc@chantan.com.sg](mailto:neokc@chantan.com.sg)

電話: 6535 2393 支綫: 12  
傳真: 6535 5203 / 6535 3329  
網絡: [www.chantan.com.sg](http://www.chantan.com.sg)

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PAYMENT ACT 2004 (SOP 2004)**  
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## **Introduction**

### **简介**

- Act was passed by Parliament on 16 November 2004.  
国会于 2004 年 11 月 16 日通过有关法令。
- Its aim is to facilitate payments for construction work done, and goods and services supplied in the building and construction industry.  
该法令的宗旨是促进已完成的建筑工程的付款以及为建筑物与建筑工业供应的货物及服务的付款。
- Building & Construction Industry Security of Payment Regulations 2005 (in short, SOP Regulations 2005) was made to facilitate the carrying out of the Act.  
建筑物与建筑工业付款保证条例 2005（简称 SOP 条例 2005）是为该法令的施行而制定的。

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## Key features

### 主要特色

- Confers on all parties carrying out work or supplying goods or services in the construction industry for projects in Singapore the right to progress payment.  
赋予在新加坡进行的建筑项目中，展开工作或供应货物或服务的各方收取进度款的权利。 [s. 5]
  
- Provides for interest to be paid on unpaid progress payment – if contract is silent.  
规定拖欠的进度款须计息 – 若合同无有关规定。 [s. 8(5)]
  
- Provides procedure for submission of payment claims and payment responses.  
规定提交付款要求及付款应对的程序。 [s. 10 及 11]
  
- Provides for adjudication of disputes on claims for payment and review of the adjudication determination.  
规定付款要求的纠纷裁决及复审裁定。 [s. 12 及 Part IV]
  - confidentiality of adjudication  
裁决的保密性 [s. 33]
  
  - without prejudice to parties' right to submit disputes to court or arbitration  
无损各方将纠纷提交法庭解决或提交仲裁的权利 [s. 34]
  
- Allow developers (or main contractors) to make direct payment of adjudicated amount to subcontractors (or sub-subcontractors).  
允许发展商（或主要承包商）向分包商（或再分包商）直接支付裁定款额。 [s. 24]

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- Give contractors and subcontractors the right to suspend work and to have a lien on unfixed materials on site, if adjudicated amount not paid.  
若拖欠裁定款额，赋予承包商及分包商暂停工作的权利并可在工地中有待安装的材料上设定留置权。 [s. 25 及 26]
- Make void “pay when paid” clauses in contracts.  
使合同中的“收到付款后方支付”的条款无效。 [s. 9]
- Parties - not allowed to exclude, modify, restrict or prejudice the operation of the Act.  
各方 – 不得排除、修改、限制或有损该法令的实施。 [s. 36]

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**Scope**

**范围**

- Applies to all contracts made in writing on or after 1 April 2005 for the carrying out of construction works and the supply of services and goods, whether or not they are expressed to be governed by Singapore law.

适用于所有在 2005 年

4 月 1 日或之后签定的施工及供应服务及货物的合同，不论它们是否明文规定受新加坡法律管辖。 [s. 4(1)]

- “Construction works” is so widely defined that most construction contracts will fall within the Act.

“施工”- 的定义很广泛，以致大多数施工合同都在该法令的范围内。

[s. 3(1)]

- “Services” – includes project management, professional and consultancy services provided for the construction works.

“服务” – 包括为施工提供的项目管理、专业及咨询服务。 [s. 3(1)]

- “Goods” - includes all kinds of materials and plant (whether on sale or hire) for use in the construction works.

“货物”-包括各种施工中使用的材料及厂房（不论是否是购置或租用的）。 [s. 3(1)]

- For supply contracts to be within the Act, they must specify or identify the construction site or project in relation to which the goods are to be supplied.

符合该法令的供应合同必须列明或确定供应的货物有关的施工工地或项目。 [Reg. 3]

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- Does not apply to :  
不适用于: [s. 4(2)]
  - Residential properties, which do not require the approval of the Commissioner of Building Control under the Building Control Act – example, renovation contracts for HDB flats.  
在建筑物管制法令下无须建筑物管制署署长批准的住宅产业-例如, 政府组屋的装修合同。
  - Overseas construction works.  
海外的施工。
  - Contracts of employment.  
雇佣合同。
- Does not apply to sub-contracts made within 6 months from 1 April 2005 in respect of main contract made before 1 April 2005.  
不适用于 2005 年 4 月 1 日之前签定的主合同下的分包合同, 该分包合同是在 2005 年 4 月 1 日起的六个月内所签定。[Reg. 4]

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**How to calculate the amount of a progress payment that the claimant is entitled ?**

如何计算索赔人应得的进度款款额?

[s. 6]

- According to terms of the contract, or  
根据合同的条款，或
  
- If contract is silent – based on the value of the construction work carried out, or the goods or services supplied.  
若合同无有关规定 – 根据已进行的施工的价值或已供应的货物或服务的价值。
  - According to terms of contract, or  
根据合同的条款，或
  
  - if contract is silent – valuation must have regard to :  
若合同无有关规定 – 估价须考虑到: [s. 7]
    - ♦ contract price, rate or price specified in contract, any variations agreed by parties, or if all the above is not applicable – prevailing rates or prices in the building and construction industry at the time the work is carried out or the services or goods are supplied.  
合同价格,合同规定的费率或价格,任何由各方议定的变更或若上述均不适用-则为工程进行或服务或货物供应之时建筑物与建筑工业的现行费率或价格。
  
    - ♦ estimated cost of rectifying the defect where work, goods or services is defective.  
若工程、货物或服务有缺陷，纠正缺陷的估计成本。

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- ◆ those materials or components forming part of building, structure or works that have become or, on payment, will become the property of the party for whom the work is being carried.

构成建筑物,结构或工程的材料或部件已成为或在付款后将成为委托展开工程的一方的财产。



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**Who can make claims under the Act ?**

**该法令规定哪些人可以提出索赔？**

- **Contractors against employers/developers.**  
承包商向雇主 / 发展商提出索赔。
- **Subcontractors against contractors.**  
分包商向承包商提出索赔。
- **Suppliers against customers.**  
供应商向客户提出索赔。
- **Plant and equipment hirers against clients.**  
厂房及设备的承租人向客户提出索赔。
- **Consultants against clients.**  
顾问向客户提出索赔。

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## Terminology

### 术语

- Claimant – person who is or claims to be entitled to progress payment under section 5 - includes single or one-off payment and monthly or stage payments.

索赔人—有权或声称有权取得第 5 节下的进度款的人士- 包括单项或一次性的付款及每月或阶段性付款的人士。

- Respondent – person who is or may be liable to make a progress payment under a contract to the claimant.

答辩人—在合同下有责任或可能有责任向索赔人作出进度款的人士。

- Principal – person liable to make payment to the respondent for the works, services or goods that are the subject of the contract between the respondent and the claimant.

委托人—就答辩人与索赔人之间的合同下的工程、服务或货物而言，有责任向答辩人作出付款的人士。

- See chart 1.

见图表 1。

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**How does a claimant make a claim ?**

**索赔人如何提出索赔?**

- By serving a payment claim on :  
向下列人士送达付款要求: [s. 10(1)]
  - Person who is liable to make payment under the contract, or  
在合同下有责任作出付款的人士，或
  - Such other person as specified or identified in the contract for this purpose.  
为此目的在合同中指定或确定的任何其他人士。
- Payment claim must:  
付款要求须: [s. 10(2) 及 10(3), Reg. 5]
  - Be in writing and served on respondent according to time specified in contract, or (if none specified) the last day of each month following the month in which the contract is made.  
以书面作出并根据合同所指定的时间送达答辩人，或（若无指定）在合同签定的月份之后每月的最后一天。
  - Identify the contract.  
确定合同。
  - State the amount claimed, calculated by reference to the period to which the payment claim relates, and contain details of the claimed amount, including :

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列出索赔款额，根据付款要求所指的期间计算并列出索赔款额的详细资料，包括：

- ◆ a breakdown of the items constituting the claimed amount,  
构成索赔款额的个别项目，
  - ◆ a description of these items,  
这些项目的描述，
  - ◆ the quantity or quantum of each item, and  
各项目的数量或数额，及
  - ◆ the calculations which show how the claimed amount is derived.  
索赔款额的计算方法。
- Be supported with relevant documentation.  
附上有关证明文件。
- A payment claim may include a previous payment claim that is not paid – subject to 6 years limit – see chart 2.  
付款要求可包括尚未清偿的早前付款要求– 受制于 6 年的期限 – 见图表 2。 [s. 10(4)]

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**What should a respondent do on receipt of a payment claim?**

**答辩人在收到付款要求时应如何应对？**

- Make a payment response (a) according to terms of the contract – but not more than 21 days after payment claim is served, or (b) (if contract is silent), within 7 days after the payment claim is served.

(a)根据合同条款 – 惟不得超过付款要求送达后的 21 天，或 (b)（若合同无有关规定），在付款要求送达的 7 天内，作出付款应对。 [s. 11(1)]

- Payment response must :

付款应对须： [s. 11(3) 及 Reg. 6(1)]

- Be in writing and addressed to claimant.

以书面作出并注明收件人为索赔人。

- Identify the payment claim to which it relates.

确定有关的付款要求。

- State the response amount –

列出应对款额 -

- ♦ If response amount is less than amount claimed - must contain :

若无，则注明“无”及理由。

- ♦ If none, then “nil” is to be stated with reasons for it.

若应对款额低于索赔款额 – 须列明：

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(1) the amount that the respondent proposes to pay for each item constituting the claimed amount, the reasons for the difference in any of the items and the calculations which show how the amount that the respondent proposes to pay is derived,

就构成索赔款额的各个项目而言，答辩人提议支付各个项目的款额、任何项目之差异的理由及答辩人提议支付的款额的计算方法，

(2) any amount that is being withheld, the reason for doing so and the calculations which show how the amount being withheld is derived.

任何预扣的款额、预扣理由及预扣款额的计算方法。

- Be supported with relevant documentation.  
附上有关证明文件。
- Any payment response made can be varied – but must give written notice to claimant – notice must :  
已作出的付款应对可变更 – 但须向索赔人作出书面通知 – 该通知须： [s. 11(4) 及 Reg. 6(2)]
  - Be addressed to claimant.  
注明收件人为索赔人。
  - Identify the payment response being varied and state whether the variation is to supersede or supplement the payment response  
确定经变更的付款应对并注明该变更是否替代或补充原有的付款应对。

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- ◆ Identify the payment response being varied and state whether the variation is to supersede or supplement the payment response  
若该变更替代部分付款应对 – 有关通知须确定被替代的付款应对的部分。
  
- Conform with requirements for stating the response amount (see above).  
符合注明应对款额的要求（见上述）。
  
- Be provided to claimant within the time for making payment response or the dispute settlement period.  
在作出付款应对的期限内或纠纷解决期限内向索赔人作出。
  
- Above only applies to construction contracts. For supply contracts, respondent responds to a payment claim by paying, by the due date for payment, the amount that he agrees to pay.  
上述仅适用于施工合同。若为供应合同，答辩人应对付款要求的方式为在付款日期或之前支付其同意支付的款额。 [s. 11(2)]

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**When should a respondent pay the agreed claimed amount ?**

**答辩人何时应支付议定的索赔款额?**

- For construction contracts :

施工合同:

- If contract provides date for progress payments – the earlier of the following dates :

若合同规定进度款的日期 – 以下列日期中的较早者为准: [s. 8(1)]

- ◆ date specified in the contract, or
- ◆ 35 days after (a) issue of the tax invoice (if claimant is a taxable person under the GST Act), or date for making payment response.

(a) 发出税务发票(若索赔人在消费税法令下是纳税人) 的 35 天后,  
或(b) 作出付款应对的日期的 35 天后。

- If contract is silent – 14 days after (a) issue of the tax invoice (if claimant is a taxable person under the GST Act), or (b) date for making payment response.

若合同无有关规定 – (a)发出税务发票 (若索赔人在消费税法令下是纳税人) 的 14 天后, 或(b) 作出付款应对的日期的 14 天后。 [s. 8(2)]



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- For supply contracts :  
    供应合同：
  - Date specified in the contract – but not later than 60 days after the payment claim is served, or  
    合同规定的日期 – 惟不超过付款要求送达后的 60 天，或 [s. 8(3)]
  - If contract is silent – 30 days after the payment claim is served.  
    若合同无有关规定 – 付款要求送达后的 30 天。 [s. 8(4)]
  
- General overview - see chart 3.  
    大纲 – 见图表 3。

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**What can a claimant do if the respondent fails to pay the agreed  
claimed amount by the due date?**

若答辩人未能在付款日期或之前支付议定的索赔款额，索赔人可采取什么  
行动？

- Can apply for adjudication.  
可申请裁决。 [s. 12(1)]

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**What can a claimant do if he does not agree with the response amount or if the respondent fails to provide a payment response ?**

若索赔人不同意应对款额或答辩人未作出付款应对，索赔人可采取什么行动？

- Can apply for adjudication - but only after the end of the dispute settlement period.  
可申请裁决 – 惟仅可在纠纷解决期限后。 [s. 12(2)]
- Dispute settlement period is the period of 7 days after the date for respondent to make a payment response.  
纠纷解决期限是答辩人作出付款应对的限期后的 7 天内。 [s. 12(5)]
- During dispute settlement period,  
在纠纷解决期限内， [s. 12(4)]
  - Either party may clarify with the other on any matter relating to the payment claim, and  
任何一方可向另一方澄清任何关于付款要求的事项， 及
  - Respondent may provide claimant with a payment response where he has previously failed to do so or may vary his payment response.  
答辩人可向索赔人作出其之前未曾作出的付款应对或变更其付款应对。
- See chart 4.  
见图表 4。

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- PS: Apply to construction contracts only. For supply contracts, claimant can straightaway apply for adjudication if he does not accept the amount paid.  
注：仅适用于施工合同。若为供应合同，索赔人若不接受付款额，可直接申请裁决。 [s. 12(5)]

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**What is an adjudication ?**

**什么是裁决？**

- It is a dispute resolution procedure carried out by an independent person (known as the adjudicator) to determine the amount payable, if any, that is due in respect of a claim made under the Act.

这是一项由一位独立人士（称为裁决员）进行的纠纷解决程序。就在该法令下作出的索赔而言，裁决员裁定应付的款额，若有。

- Only claimant can start the adjudication process.

惟有索赔人可启动裁决程序。

## How does a claimant apply for adjudication ?

### 索赔人如何申请裁决？

- By lodging a request in writing for the appointment of an adjudicator with the authorized nominating body (ANB) - presently the Singapore Mediation Centre.  
向授权提名机构（ANB）– 现为新加坡调解中心提交一份委派裁决员的书面申请。 [s. 13(1)]
- Application must be made within 7 days immediately after claimant's right to apply for adjudication first arises.  
索赔人须在其申请裁决的权利产生的 7 天内立即提出申请。 [s. 13(3)]
  - PS: Application made after this period will be rejected.  
注：在此期限后提出的申请将不受理。
- Claimant must have given respondent written notice of his intention to apply for adjudication of the payment claim dispute.  
索赔人须向答辩人作出书面通知，表示索赔人有意就付款要求纠纷申请裁决。 [s.13(2)]
  - Requirements for notice – see chart 5.  
通知要求– 见图表 5。 [Reg. 7(1)]
- Requirements for adjudication application – see chart 5.  
裁决申请的要求 – 见图表 5。 [s. 13(3) 及 Reg. 7(2)]
  - Application that does not comply with requirements will be rejected.  
不符合要求的申请将不受理。

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- Application fee (to be prescribed by ANB – not exceeding \$500) will have to be paid at the time of making the application.

在提出申请时须支付申请费（由 ANB 规定 – 不超过 \$500）。[s. 13(3)(d)]

- PS: Claimant may withdraw application at any time - by serving on the adjudicator, ANB and respondent a notice of withdrawal.

注：索赔人可在任何时候撤回申请 – 向裁决员、ANB 及答辩人送达一份撤回通知。[s. 20(1)]

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**What happens after an adjudication application is made ?**

**裁决申请提出后的情况如何？**

- ANB will serve a copy of the application on respondent.  
ANB 将向答辩人送达一份申请副本。 [s. 13(4)]
  
- ANB will also give principal and owner written notification of the application being made.  
ANB 亦将向委托人及业主送达有关申请的书面通知。 [S. 13(4)]
  - Contents of notice - see chart 6.  
通知内容 – 见图表 6。 [S. 13(5) 及 Reg. 7(3)]
  
- Within 7 days after receipt of application :  
收到申请后的 7 天内：
  - ANB will appoint an adjudicator and notify the parties (i.e. claimant, respondent, principal and owner) in writing of the appointment.  
ANB 将委派一位裁决员并向各方（即索赔人、答辩人、委托人及业主）作出关于委派的书面通知。 [s. 14(3)]
  
  - Respondent must lodge his adjudication response with ANB.  
答辩人须向 ANB 提呈裁决答辩。 [s. 15(1)]
    - ◆ PS: Response submitted after this period will be rejected.  
注：在此期限后提出的答辩将不受理。
  
    - ◆ Adjudication response must :  
裁决答辩应： s. 15(2) 及 Reg. 8(1)



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- (1) Be made in writing addressed to ANB.  
以书面作出并注明收件人为 ANB。
  - (2) Refer to the relevant adjudication application by the adjudication application reference number assigned by ANB.  
注明有关的裁决申请，即列明 ANB 分配的裁决申请编号。
  - (3) Contain the date the main contract is made if the payment dispute arises from a subcontract.  
若付款纠纷因分包合同而引起，列明主合同的签定日期。
  - (4) Contain details of any response amount.  
列明任何应对款额的详情。
  - (5) Contain the additional computations and justifications if respondent intends to supplement the payment response.  
若答辩人有意补充付款应对，则列明额外的计算及充分理由”
  - (6) Be supported with all relevant information and documents (including expert reports, photographs, correspondences and submissions).  
附上所有相关资料及文件（包括专家的报告、照片、通讯函件及陈词）。
- Respondent cannot, in his adjudication response, rely on reason that was not previously provided in his payment response for withholding payment.  
答辩人不可在其裁决答辩中依赖其之前未在付款应对中作出的关于预扣付款的理由。 [s. 15(3)]

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- ◆ Adjudicator will not contain any such additional reasons.  
裁决员将不接纳任何该些额外的理由。
- ANB will serve a copy of the adjudication response on claimant.  
ANB 将向索赔人送达一份裁决答辩副本。
- ANB will also give principal and owner written notification of the provision of adjudication response.  
ANB 亦将向委托人及业主作出关于裁决答辩的书面通知。 [s. 15(4)]
  - Contents of notice – see chart 6.  
通知内容 – 见图表 6。 [s. 15(5) 及 Reg. 8(2)]
- **Adjudication commences** immediately upon expiry of the period for respondent to lodge the adjudication response and the adjudicator will then proceed to determine the application.  
答辩人提出裁决答辩的期限结束后立即**开始裁决**，裁决员将开始裁定该申请。 [s. 16(1)]
- ANB will serve a copy of the adjudication determination (and any amended adjudication determination) on claimant and respondent  
ANB 将向索赔人及答辩人送达一份裁定副本（及任何经修改的裁定）。  
[s. 17(8)]
- ANB will also give principal and owner written notification of the making of the adjudication determination (and any amendment).  
ANB 亦将向委托人及业主送达一份有关该裁定（及任何修改）的书面通知。 [s. 17(8)]

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- Contents of notice – see chart 6.  
通知内容 – 见图表 6。 [s. 17(9) 及 Reg. 9(1)] [任何修改 – Reg. 9(2)]

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**When must the adjudicator make his determination ?**

**裁决员何时须作出裁定?**

- For adjudication of payment under a construction contract and where respondent has failed to (a) make a payment response and to lodge an adjudication response by the commencement of the adjudication or (b) pay the response amount, which has been accepted by the claimant, by the due date :

在施工合同下的付款裁决中，且若答辩人未能 (a)作出付款应对及在裁决开始时或之前作出裁决答辩或 (b)在限期或之前支付索赔人接受的应对款额:

- To be made within 7 days after commencement of the adjudication.  
在裁决开始后的 7 天内。 [s. 17(1)(a)]

- For all other cases - within 14 days after commencement of the adjudication or such longer period as adjudicator may request and parties may agree.  
若为其他情况 – 在裁决开始后的 14 天内或裁决员要求而各方同意的较长期限。 [s. 17(1)(b)]

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**What can an adjudicator do ?**

**裁决员可采取哪些行动?**

[s. 15(4)]

- Conduct the adjudication in such manner as he thinks fit.  
按其认为适当的方式进行裁决。
  
- Require and set deadlines for the provision of submissions or documents.  
要求及规定陈词及提交文件的期限。
  
- Appoint an independent expert to inquire and report on specific issues – but must first notify the parties.  
委派一位独立专家就特定事项进行调查及报告 – 但须事先通知各方。
  
- Call a conference of the parties  
召开各方出席的会议
  - PS: parties can be represented at the conference but must not be more than 2 representatives for each party unless the adjudicator allows otherwise.  
注：各方可委派代表出席会议但任何一方不得委派超过 2 位代表，除非裁决员批准。 [s. 16(4)]
  
- Inspect any construction work, construction site, goods or any other matter to which the adjudication relates.  
视察任何施工、建筑工地、货物或关于裁决的任何其他事项。
  
- Issue directions for the conduct of the adjudication.  
发布进行裁决的指令。

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- Powers unfettered by respondent's failure to provide a payment response or an adjudication response or any party's failure to attend the conference or to comply with any directions.

答辩人未能作出付款应对或裁决答辩或任何一方未能出席会议或遵守任何指令将不影响裁决员的权力。 [s. 16(7)]

- Can determine the application on the basis of the information and documents available to him.

可根据所得到的资料及文件作出裁定。

- Not bound by any payment response, or any assessment in relation to the progress payment that is provided in the contract to be final or binding on the parties.

不受制于任何付款应对、或合同中对各方而言是最终或具有约束力的进度款的任何评估。 [s. 17(4)]

- Once a determination is made, the adjudicator cannot change his determination – except to correct clerical mistake, an error arising from an accidental slip or omission, or a defect of form.

一旦作出裁定，裁决员不得改变裁定 – 改正文书错误、因无意的疏忽或遗漏而造成的错误、或格式缺陷的除外。 [s. 17(6) 及 17(7)]

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**How does the adjudicator make his determination ?**

**裁决员如何作出裁定？**

- Must be made in writing and include reasons for the determination.  
须以书面作出并列明裁定的理由。 [s. 16(8)]
  
- Must :  
须： [s. 16(3)]
  - act independently, impartially and in a timely manner,  
以独立、公正和及时的精神作出，
  
  - avoid incurring unnecessary expense,  
避免招致不必要的费用，
  
  - comply with principles of natural justice.  
遵守自然正义的原则。
  
- Must consider :  
须考虑到： [s. 17(3)]
  - Provisions of the Act and the contract.  
该法令及合同的规定。
  
  - The payment claim, adjudication application and their accompanying documents.  
付款要求、裁决申请及附上的文件。

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- The payment response, adjudication response and their accompanying documents.  
付款应对、裁决答辩及附上的文件。
- Results of any inspection carried out by the adjudicator.  
裁决员的任何视察结果。
- Report of any expert appointed to inquire on specific issues.  
任何受委调查特定事项的专家的报告。
- Parties' submissions and responses, and any other information or document provided at the request of the adjudicator.  
各方的陈词及答辩，及按裁决员的要求提供的任何其他资料或文件。
- Any other matter that the adjudicator reasonably considers to be relevant to the adjudication.  
裁决员合理地认为是与裁决有关的任何其他事项。
- Any determination of the value of work, goods or services made in previous adjudication.  
之前的裁决所裁定的工程、货物或服务的价值。 [s. 17(5)]
- ◆ Must give that work, goods or services the same value, unless the claimant or respondent satisfies him that the value has changed since the previous adjudication.  
须裁定该工程、货物或服务同等价值，除非索赔人或答辩人向裁决员证明该价值在原裁决之后已产生变化。



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**What does the adjudicator determine ?**

**裁决员裁定的事项有哪些？**

[s. 17(2)]

- Any adjudicated amount to be paid by respondent to claimant.  
答辩人应向索赔人支付的任何裁定款额。
- Date on which the adjudicated amount is payable.  
裁定款额的付款限期。
- Interest payable on the adjudicated amount.  
裁定款额之上应付的利息。
- Proportion of the costs of the adjudication payable by each party.  
各方应支付的裁决费用的比例。
  - i.e. application fee payable to ANB and adjudicator's fees and expenses  
即， 应向 ANB 支付的申请费及裁决员的收费及费用 [Reg. 12(a)]
    - ◆ adjudicator fee – at a rate not exceeding \$2,000 per day or \$250 per hour, subject maximum of (a) 10% of claimed amount for claimed amount exceeding \$20,000 or (b) \$2,000 in other cases.  
裁决员收费 – 费率以不超过每日\$2,000 或每小时\$250 为准， 惟顶限为 (a) 若索赔款额超过\$20,000， 则为索赔款额的 10%或 (b)在其他情况下， 则为\$2,000。 [Reg. 12(b)]

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**When should the adjudicated amount be paid ?**

**裁定款额何时支付?**

[s. 22(1)]

- Within 7 days after the adjudicator's determination is served on respondent,  
or  
在裁决员向答辩人送达裁决书的 7 天内, 或
- By the date on which the adjudicated amount is determined by the  
adjudicator to be payable,  
裁决员裁定应支付裁定款额的日期。

PS: Whichever is the later date.

注: 以较后的日期为准。

**What can a respondent do if he is dissatisfied with the adjudicator's determination ?**

答辩人若对裁决不服可采取什么行动？

- Can apply for review if adjudicated amount exceeds response amount by \$100,000 or more.  
若裁定款额超过应对款额 \$100,000 或以上，可申请复审。 [s. 18(1) 及 Reg. 10(1)]
  
- Review application must :  
复审申请须：
  - Be made within 7 days after being served with the adjudication determination and can only be made after adjudicated amount is paid.  
在裁决送达的 7 天内并惟有在支付裁定款额后方可作出。 [s. 18(2) 及 18(3)]
  
  - Be made in writing addressed to ANB requesting it to appoint one or more review adjudicators to determine the application.  
书面作出并注明收件人为 ANB，要求 ANB 委派一位或多位复审裁决员裁决申请。 [s. 18(4)]
  
  - Contain proof of payment of adjudicated amount to claimant.  
附上向索赔人支付裁定款额的证明。 [s. 18(4) 及 Reg. 10(2)]
  
  - Be accompanied by a copy of the adjudication determination.  
附上一份裁决书的副本。 [s. 18(4) 及 Reg. 10(2)]
  
- PS: Application that does not comply with the above requirements will be rejected.

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注：不符合上述要求的申请将不受理。 [s. 19(2)]

- Application fee (to be prescribed by ANB – not exceeding \$1,000) will have to be paid at the time of making the application.

在提出申请时须支付申请费 (由 ANB 规定 – 不超过 \$1,000) 。 [s. 18(4)]

- PS: Respondent may withdraw review application at any time – by serving on the review adjudicator (or panel of review adjudicators), ANB and claimant a notice of withdrawal.

注：答辩人可在任何时候撤回复审申请–向复审裁决员 (或复审裁决团)、ANB 及索赔人送达一份撤回通知。 [s. 20(2)]

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**What happens after an adjudication review application is made ?**

**复审申请提出后的情况如何？**

- ANB will serve a copy of the application on the claimant.  
ANB 将向索赔人送达一份申请副本。 [s. 18(5)]
  
- ANB will also give principal and owner written notification of making of the application.  
ANB 亦将向委托人及业主送达有关申请的书面通知。 [s. 18(5)]
  
- Within 7 days after receipt of application - ANB will appoint the review adjudicator and give claimant, respondent, principal and owner written notification of the appointment.  
在收到申请后的 7 天内 – ANB 将委派复审裁决员并向索赔人、答辩人、委托人及业主作出关于委派的书面通知。 [s. 18(6)]
  - For adjudicated amount of less than \$1 million – one review adjudicator will be appointed.  
若裁定款额为 \$100 万以下 – 委派一位复审裁决员。 [Reg. 10(3)(a)]
  
  - For adjudicated amount of \$1 million or more – a panel of 3 review adjudicators will be appointed.  
若裁定款额为 \$100 万或以上 – 委派三位复审裁决员。 [Reg. 10(3)(b)]
  
- Adjudication review commences immediately on appointment of review adjudicator(s), who will review the adjudication determination.  
复审裁决员受委后立即复审，复审裁决员将就原有的裁定进行复审。 [s. 19(1)]

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- ANB will serve a copy of adjudication review determination (and any amendment) on claimant and respondent.

ANB 将向索赔人及答辩人送达一份复审裁定（及任何修改）。[s. 19(8)]

- ANB will also give principal and owner written notification of making of the adjudication review determination.

ANB 亦将向委托人及业主送达一份有关复审裁定的书面通知。[s. 19(8)]

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**What can the review adjudicator(s) do ?**

**复审裁决员可采取哪些行动？**

- Either of the following :  
下列任一： [s. 19(4)]
  - Refuse the application, or  
拒绝受理申请， 或
  - Substitute the adjudication determination with his (or their) determination,  
which will include :  
以其裁定替代原裁定， 其裁定将包括： [s. 19(5)]
    - ◆ any adjudicated amount to be paid by respondent to claimant,  
答辩人向索赔人支付的任何裁定款额，
    - ◆ if amount adjudicated under review is different from that made under  
original determination - the date on which the difference in amount is  
payable and the interest payable on the difference, and  
若复审裁定款额与原裁定款额不同 - 差额的付款限期及差额之上  
应付的利息， 及
    - ◆ proportion of the costs of the adjudication review payable by each  
party.  
各方应支付的复审费用的比例。
- Must include reasons for the determination.  
须包括裁定的理由。 [s. 19(5)]

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- Where a panel of review adjudicators is appointed - determination will be decided in accordance with the opinion of the majority of the review adjudicators on the panel.  
若委派复审裁决团 – 裁定将根据复审裁决团中大多数复审裁决员的意见。 [s. 19(7)]
  
- Have to consider :  
须考虑: [s. 19(6)(a)]
  - those matters that original adjudicator had to consider, and 原裁决员须考虑的该些事项, 及
  
  - the adjudication determination.  
原裁定。
  
- Not bound by any payment response, or any assessment in relation to the progress payment that is provided in the contract to be final or binding on the parties.  
不受制于任何付款应对、或合同中对各方而言是最终或具有约束力的进度款的任何评估。 [s. 19(6)(b)]
  
- Has the same powers and duties as that conferred on adjudicator.  
享有裁决员相同的权力及职责。 [s. 19(8)]



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**When must the adjudication review determination be made ?**

**何时须作出复审裁定？**

[s. 19(3)]

- Within 14 days after commencement of the adjudication review or such longer period as may be requested by review adjudicator(s) and agreed by parties.

在复审开始后的 14 天内或裁决员要求而各方同意的较长期限。

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**What is the effect of the adjudication determination (or adjudication review determination) ?**

裁定（或复审裁定）有哪些效果？

[s. 21]

- Parties are bound.  
对各方具有约束力。
  
- Exceptions:  
下列除外：
  - Court has refused leave to enforce under section 27,  
法庭根据第 27 节不给予执行的许可，
  
  - Dispute is finally determined by a court or tribunal or at any other dispute resolution proceedings, or  
纠纷最终由法庭或仲裁庭或任何其他纠纷解决程序解决，或
  
  - Parties have agreed to settle the dispute.  
各方同意和解。

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**What can a claimant do if the respondent fails to pay the adjudicated amount ?**

若答辩人未能支付裁定款额，索赔人可采取哪些行动？

[s. 23]

- Request for direct payment from principal.  
要求委托人直接付款。
- Exercise lien on goods supplied.  
在供应的货物上行使留置权。
- Suspend construction work or delivery of goods or services.  
暂停施工或供应货物或服务。
- Enforce the adjudication determination as a judgment debt.  
将裁定当作判决确定的债务执行。

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**How does a principal make direct payment to the claimant ?**

**委托人如何直接向索赔人作出付款？**

[s. 24]

- Principal must first serve on claimant (with a copy to respondent and owner) a notice of payment, stating that direct payment will be made.

委托人须事先向索赔人送达一份付款通知 (抄送答辩人及业主)，注明 将直接作出付款。

- If principal is a licensed housing developer under the Housing Developers (Control and Licensing) Act (Cap. 130) with a project account opened under section 9 of that Act - claimant will not be entitled to exercise any lien or suspend work or delivery of goods and services under the contract – unless principal has previously defaulted on any payment to claimant under this section in relation to the same contract.

若委托人是一位在建屋发展商（管制和执照）法令（第 130 章）下领有执照的住宅发展商并且在该法令第 9 节下设有项目户头—索赔人将不享有行使任何留置权或暂停合同下的工程或暂停交付合同下的货物及服务的权利 – 除非委托人之前曾经就同一合同在本节下拖欠索赔人的付款。

- Principal can proceed to make direct payment to claimant if respondent fails to show proof of payment within 2 days after receipt of notice.

若答辩人未能在收到通知后的 2 天内出示付款证明，委托人可向索赔人作出直接付款。

- Payment may be :

付款可：

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- treated as payment to respondent in reduction (by the amount of the payment) of any amount that principal owes, or may in future owe, to respondent, or  
被视是向答辩人付款以减少（根据付款款额）委托人所拖欠或日后可能拖欠答辩人的任何款额，或
- recovered by principal as a debt due from respondent.  
视为是委托人向答辩人追讨的债务。
- Principal's rights - not affected by any setting aside of the adjudication determination on review.  
委托人的权利—不受复审裁定的驳回的影响。

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**How does a claimant exercise his right to the lien or suspend work or delivery ?**

**索赔人如何行使留置权或暂停工程或交付的权利？**

[s. 25(2) ; S. 26(1)]

- Claimant must give respondent written notice of his intention to exercise the lien (or to suspend the work or delivery of the goods and services).  
索赔人须向答辩人作出关于其有意行使留置权（或暂停工程或交付货物及服务的权利）的书面通知。
- A copy of the notice must be given to principal and owner.  
该通知须抄送委托人及业主。
- 7 days must have elapsed since the service of the notice and the adjudicated amount has not been paid.  
在通知送达后而裁定款额尚未支付的 7 天后。

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**What is the scope of the lien ?**

**留置权的范围包括哪些？**

[s. 25]

- Lien is exercisable only on unfixed goods that has not been paid for and has been supplied to respondent under the contract.  
仅可对在合同下已向答辩人供应的未清偿且有待安装的货物行使留置权
  
- Claimant does not have priority over any prior existing liens.  
索赔人对任何事先存有的留置权不享有优先权。
  
- Claimant does not have any right to exercise lien on :  
索赔人对下列不享有留置权：
  - goods owned by some person other than claimant or respondent, or  
索赔人或答辩人以外的人士所拥有的货物，或
  
  - during the period of 21 days after being served with notice of direct payment by principal.  
在委托人作出直接付款通知后的 21 天内。
    - ◆ Exception : principal has previously defaulted in making payment.  
例外：委托人之前曾经拖欠付款。

**BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF  
PAYMENT ACT 2004 (SOP 2004)**  
建筑物与建筑工业付款保证法令 2004

**What is the effect of the suspension of work or delivery ?**

**暂停工程或交付的效果有哪些？**

[s. 26]

- Claimant - not liable to respondent, principal or owner for any loss or damage suffered during the period of suspension.  
索赔人 - 不对答辩人、委托人或业主在暂停期间蒙受的任何亏损或损失负责。
  
- Respondent, principal and owner – have no claim against claimant for any loss or damage suffered as a result of the suspension  
答辩人、委托人及业主 – 无权就其因暂停而招致的亏损或损失向索赔人索赔。
  - BUT, principal and owner may recover liquidated damages or any other remedy from respondent pursuant to any contract or under any law.  
但是，委托人及业主可根据任何合同或任何法律规定向答辩人追讨违约赔偿金或任何其他补救。
  
- Claimant - entitled to recover the amount of any loss or expense that he may incur as a result of the removal by respondent from the contract of any part of the work or supply  
索赔人 –就答辩人将合同中的任何工程或供应部分撤除，导致索赔人招致任何亏损或费用而言，索赔人可追讨有关款额。
  - Amount recoverable as a debt.  
款额可当作债务追讨。



**BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF  
PAYMENT ACT 2004 (SOP 2004)**  
建筑物与建筑工业付款保证法令 2004

- **Claimant to resume work or delivery within 3 days after being :**  
索赔人在下列事项的 3 天内应恢复工程或交付：
  - **paid the adjudicated amount, or**  
裁定款额已支付，或
  - **if principal is a licensed housing developer under the Housing Developers (Control and Licensing) Act (Cap. 130) with a project account opened under section 9 of that Act and has not previously defaulted on any payment) – within 3 days after being served with notice of direct payment by principal.**  
若委托人是一位在建屋发展商（管制和执照）法令（第 130 章）下领有执照的住宅发展商并且在该法令第 9 节下设有项目户头且从未拖欠任何付款 – 在委托人作出直接付款通知后的 3 天内。
    - ◆ **PS: If claimant fails to resume – he is liable to pay any loss or damage suffered by respondent or principal as a result of the failure.**  
注： 若索赔人未能恢复工程或交付 – 他有责任支付答辩人或委托人因此招致的任何亏损或损失。
- **Period of suspension is to be disregarded in the computation of any contractual time limit for claimant or any third party (other than respondent) to complete the work or delivery.**  
暂停期间不计入索赔人或任何第三方（答辩人除外）完成工程或交付的任何合同期限。

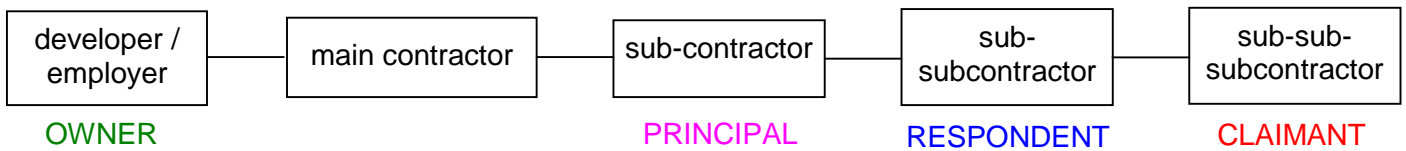
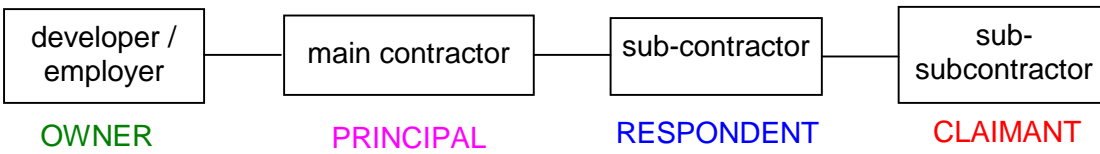
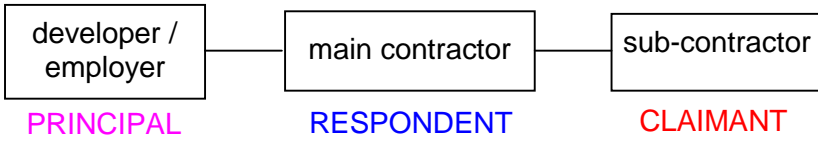
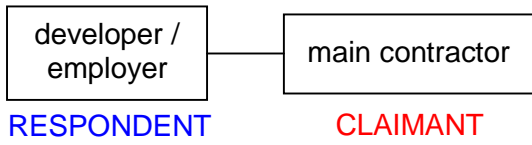
**How does a claimant enforce the adjudication determination as a judgment debt ?**

索赔人如何以判决确定的债务方式执行裁定？

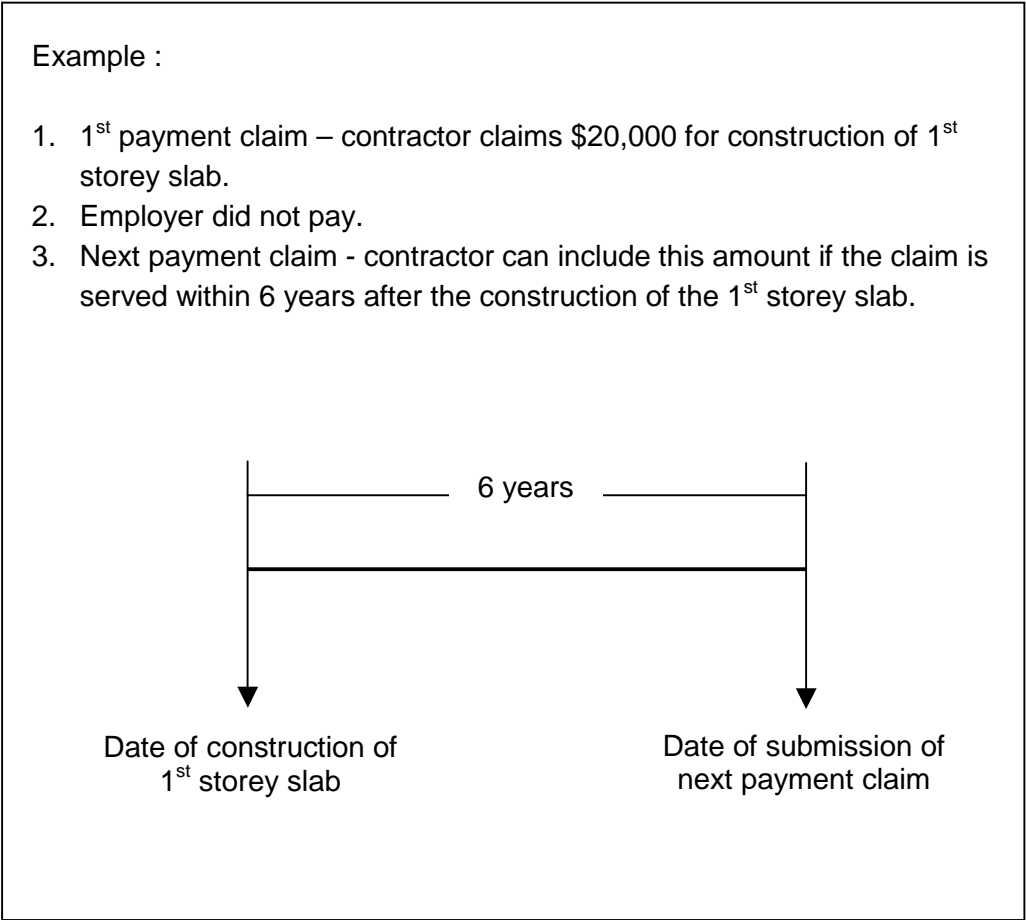
[s. 27]

- File an application with the court for leave to enforce the adjudication determination.  
向法庭申请执行裁定的许可。
- Application to be supported with an affidavit stating that the whole or part of the adjudicated amount has not been paid at the time the application is filed.  
申请须附上一份宣誓书注明全部或部分裁定款额在申请提出之时尚未支付。
- Once leave is granted, judgment may be entered for unpaid portion of the adjudicated amount.  
一旦获得许可，法庭可就裁定款额的未付部分作出判决。
- PS: Respondent can apply to set aside the adjudication determination and the judgment – but must first pay the unpaid portion of the adjudicated amount into the court as a security pending final determination of the setting aside application.  
注：答辩人可申请驳回裁定及判决 – 惟须事先向法庭支付裁定款额的未付部分作为保证金，直到（法庭）就驳回申请作出最终的裁定。

**Chart 1 :** Terminology

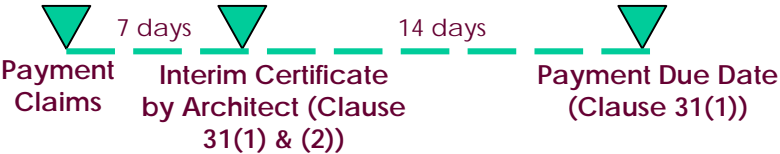


**Chart 2 :** Illustration of the 6 years limit for inclusion of work done / services rendered / goods supplied and claimed in previous payment claim in current payment claim



# Inter-relationship of Certification in Contract and Payment Claims/Responses

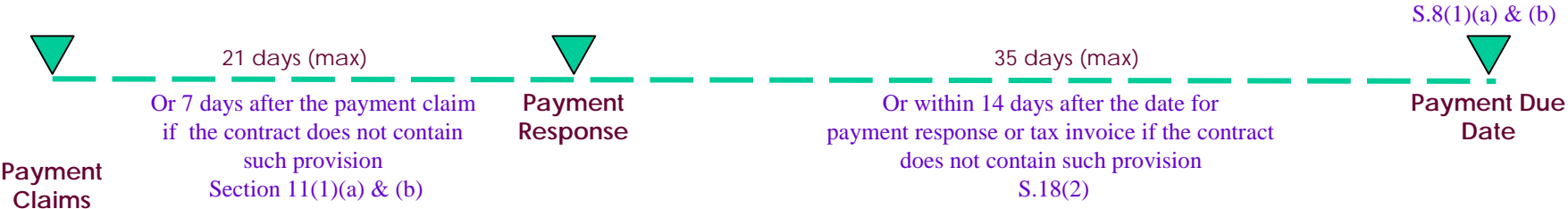
## SIA Standard form of Condition



## Public Sector Standard Condition



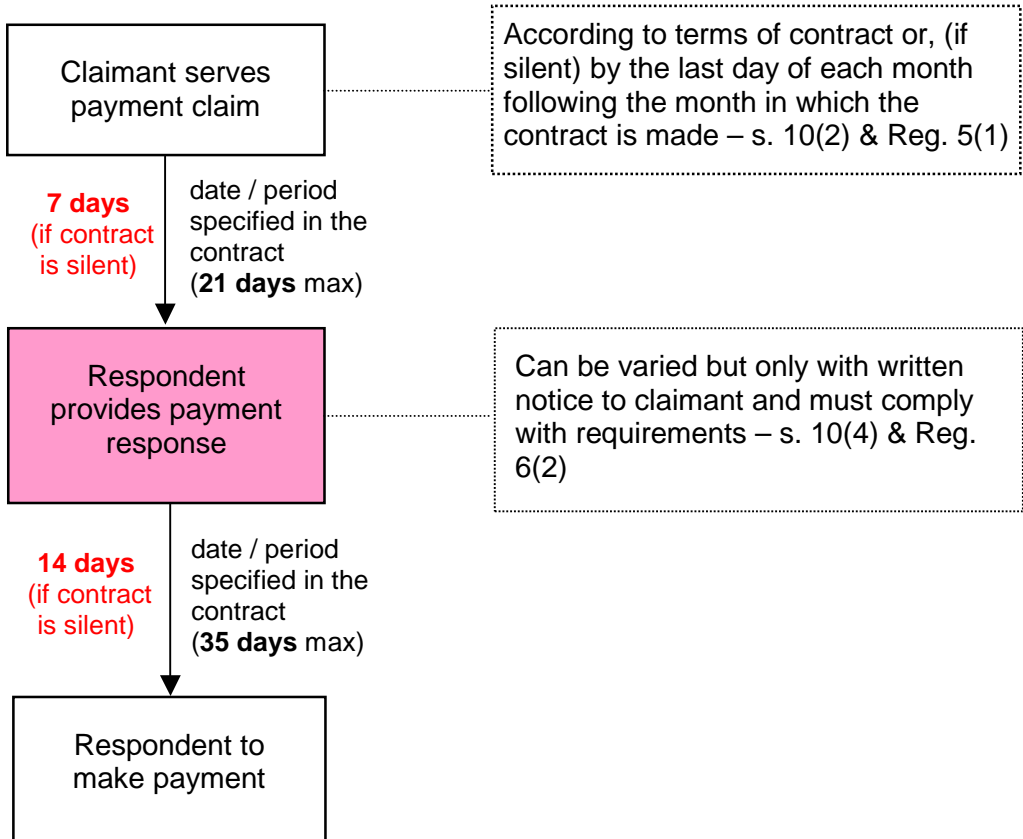
## SOP



**Chart 3 :** General overview of procedure for claim and payment  
(s. 8, 10 & 11)

Construction contracts

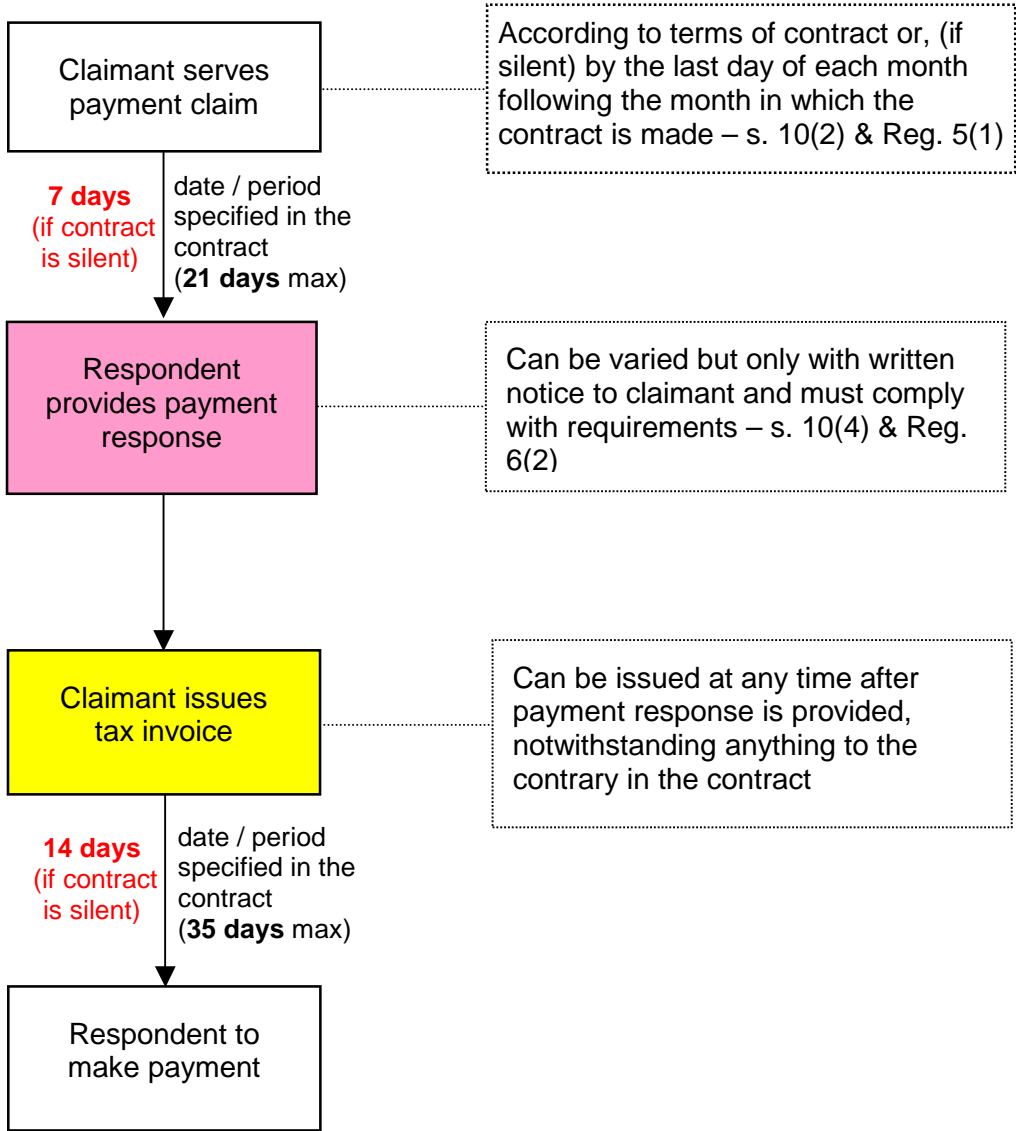
Where Claimant is NOT a taxable person under the GST Act



**Chart 3 :** General overview of procedure for claim and payment (s. 8, 10 & 11)

Construction contracts

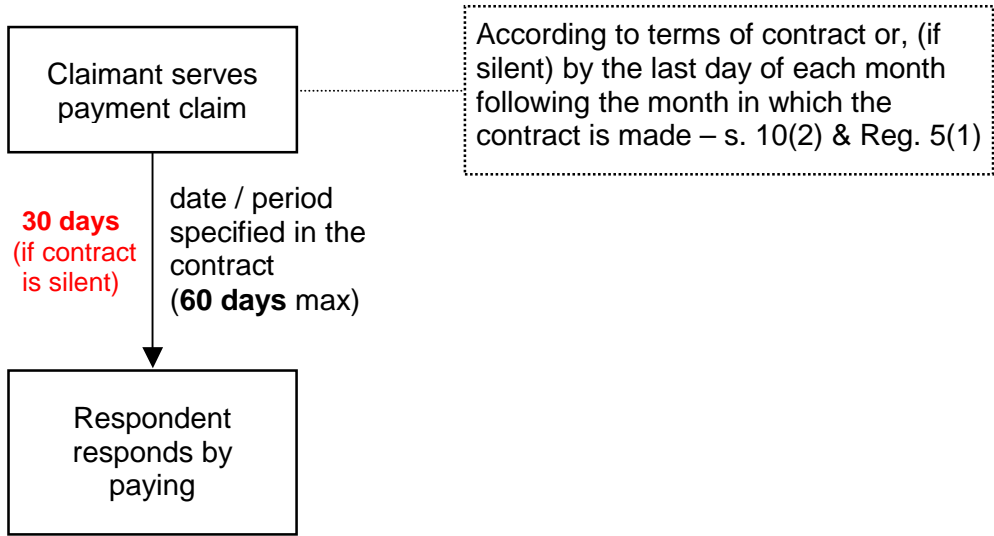
Where Claimant is a taxable person under the GST Act



**Chart 3 :** General overview of procedure for claim and payment  
(s. 8, 10 & 11)

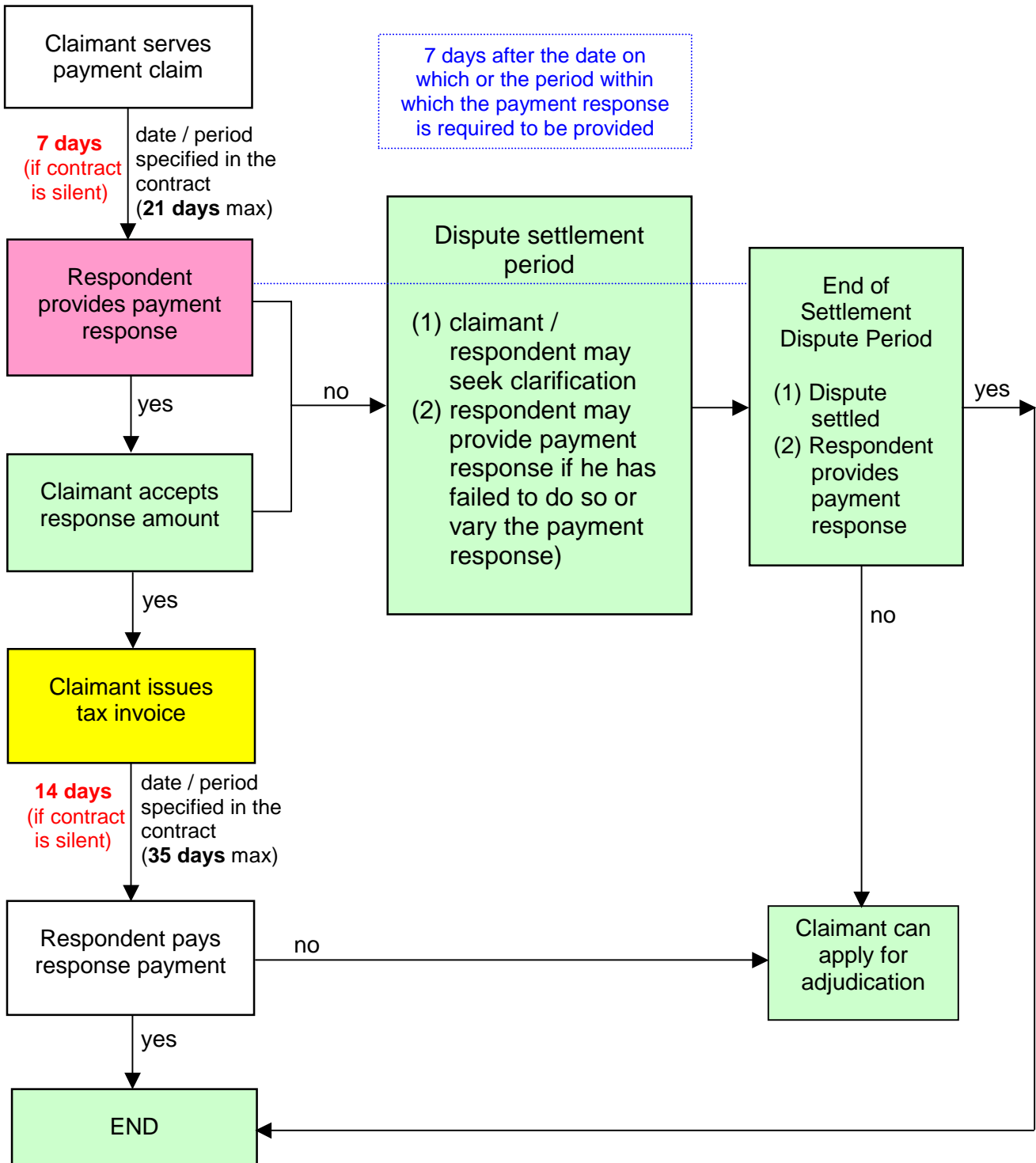
Supply contracts

- 1) No need payment response.
- 2) Payment not dependent on issue of tax invoice





**Chart 4 :** Claimant dissatisfied with response amount / Respondent fails to provide payment response



**Chart 5 : Requirements for notice of intention to apply for adjudication and adjudication application**

**图表 5: 有意申请裁决的通知及裁决申请的要求**

		有意申请裁 决的通知	裁决申请
1	Names and service addresses of claimant and respondent 索赔人及答辩人的姓名及送达地址	✓	✓
2	Names and service addresses of principal and owner 委托人及业主的姓名及送达地址		✓
3	State whether relevant contract is a construction contract or supply contract 注明有关合同是否为施工合同或供应合同		✓
4	Date of notice 通知日期	✓	
5	Particulars of contract, comprising : 合同内容, 包括:	✓	✓
(a)	project title or reference, or a brief description of the project, 项目名称或编号, 或项目简介,	✓	✓
(b)	contract number or a brief description of the contract, 合同号码或合同简介,	✓	✓
(c)	date the contract was made, 合同签订日期,	✓	✓
(d)	claimed amount, 索赔款额,	✓	
(e)	response amount (if any), and 应对款额 (若有), 及	✓	
(f)	brief description of the payment claim dispute. 付款要求纠纷的简介。	✓	

**Chart 6 : Contents of written notice from ANB to principal and owner**

**图表 6: ANB 向委托人及业主作出的书面通知的内容**

		Lodgment of adjudication application 提呈裁决申请	Lodgment of adjudication response 提呈裁决答辩	Making of adjudication determination 作出裁定	Making of amended adjudication determination 作出修改的裁定
1	Names and service addresses of claimant and respondent 索赔人及答辩人的姓名及送达地址	✓	✓	✓	✓
2	Adjudication application reference number assigned by ANB ANB 分配的裁决申请编号	✓	✓	✓	✓
3	Date of adjudication application 裁决申请日期	✓	✓	✓	✓
4	Claimed amount 索赔款额	✓		✓	
5	Response amount (if any) 应对款额(若有)	✓		✓	
6	Brief description of payment claim dispute as contained in adjudication application 裁决申请所列的付款要求纠纷的简介	✓			
7	Date the main contract is made if payment dispute arises from a subcontract 若付款纠纷因分包合同而		✓		

		Lodgment of adjudication application 提呈裁决申请	Lodgment of adjudication response 提呈裁决答辩	Making of adjudication determination 作出裁定	Making of amended adjudication determination 作出修改的裁定
	引起，主合同的签订日期				
8	Adjudicated amount 裁定款额			✓	
9	Date on which adjudicated amount is payable 裁定款额的付款限期			✓	
10	Particulars of amendments made to adjudication 裁定的修改内容				✓

Chart 7 : Overview of adjudication process

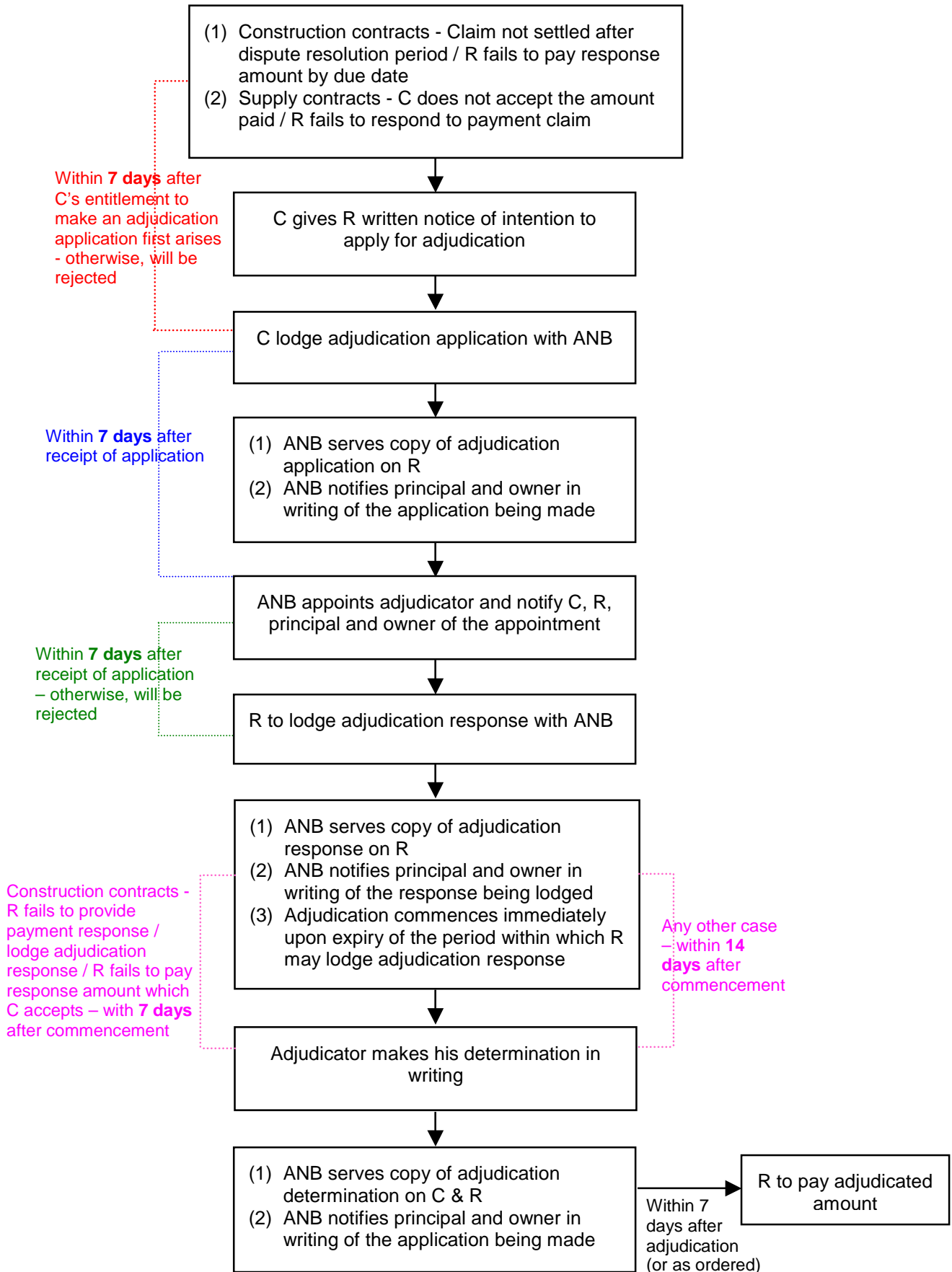
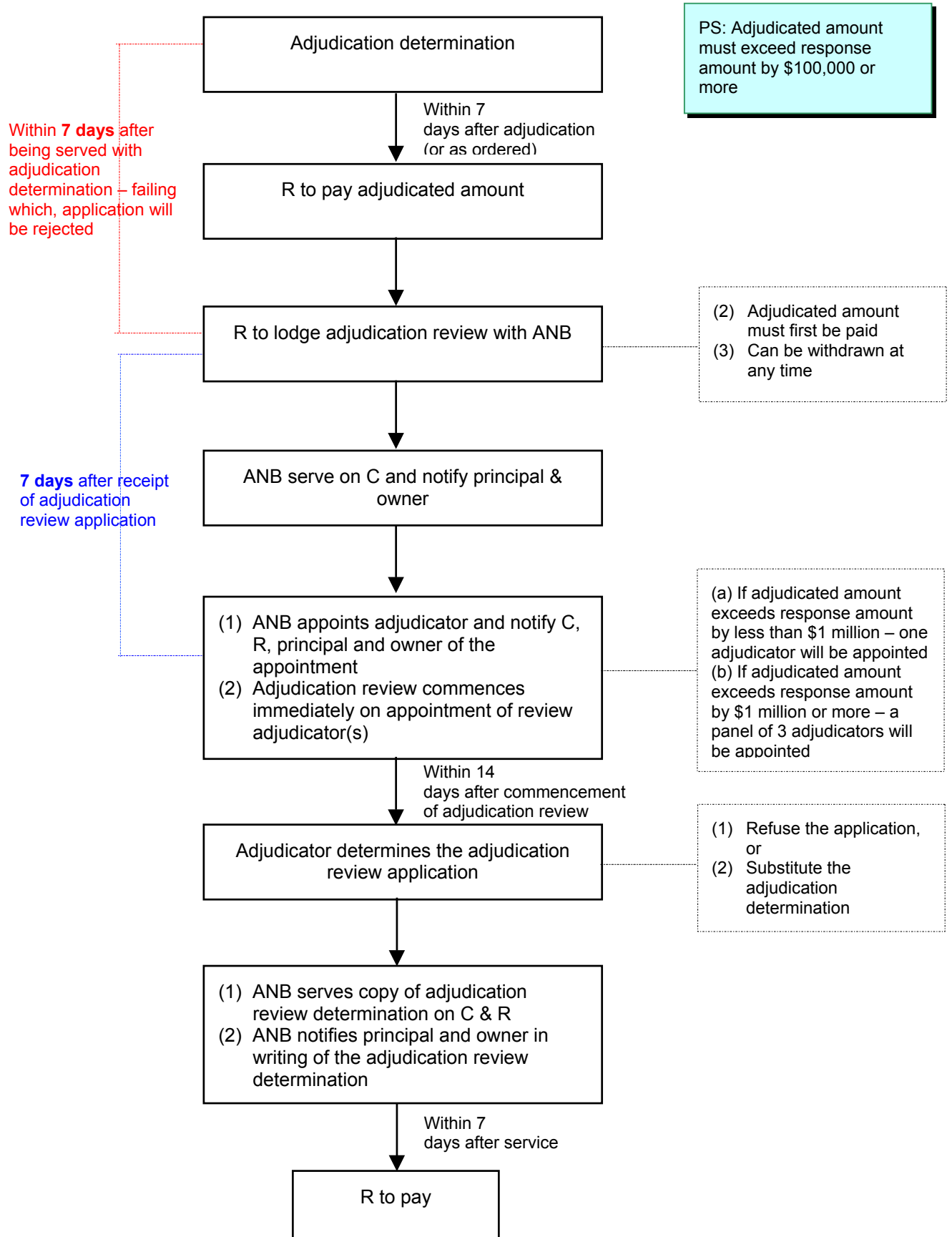
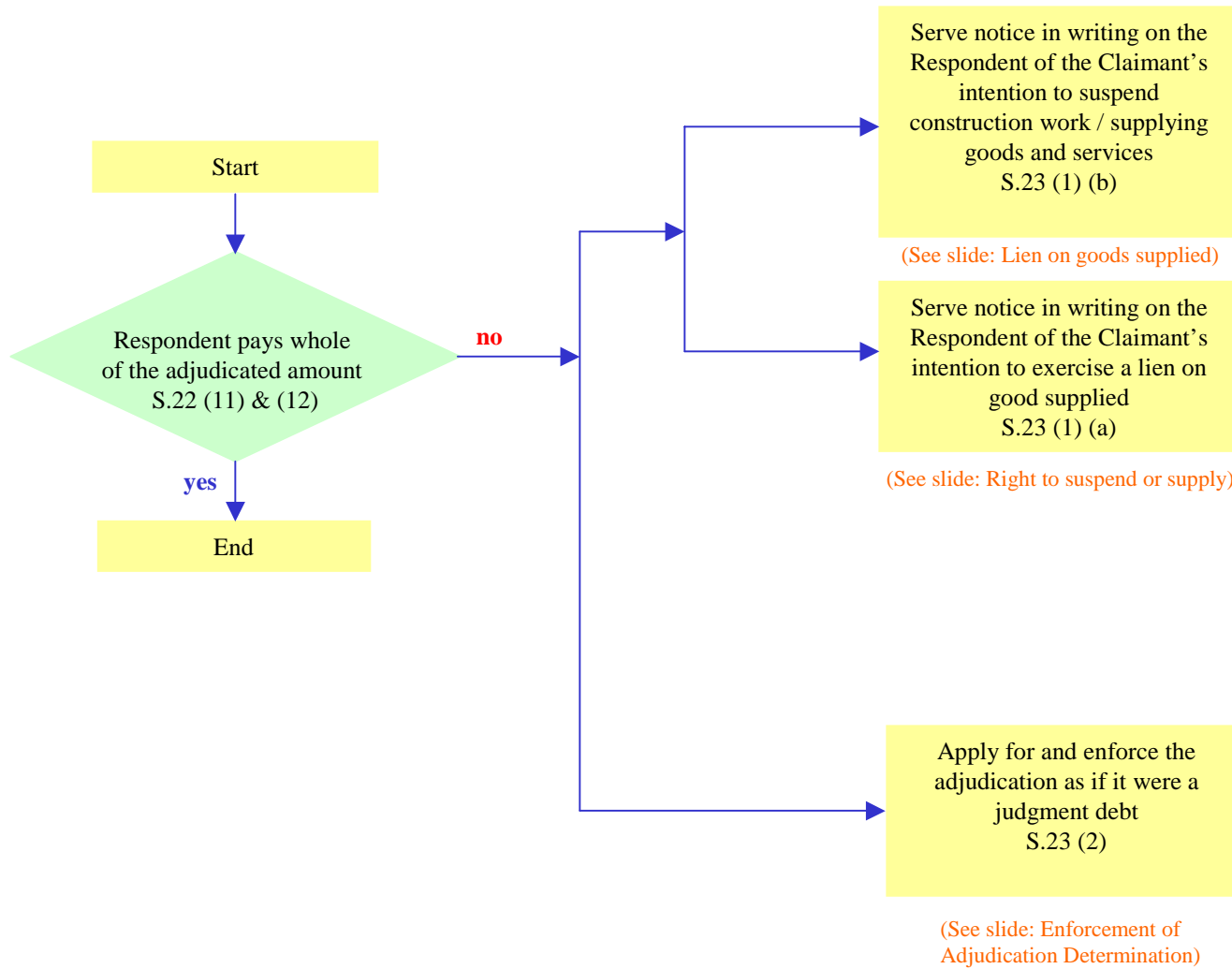


Chart 8 : Adjudication review

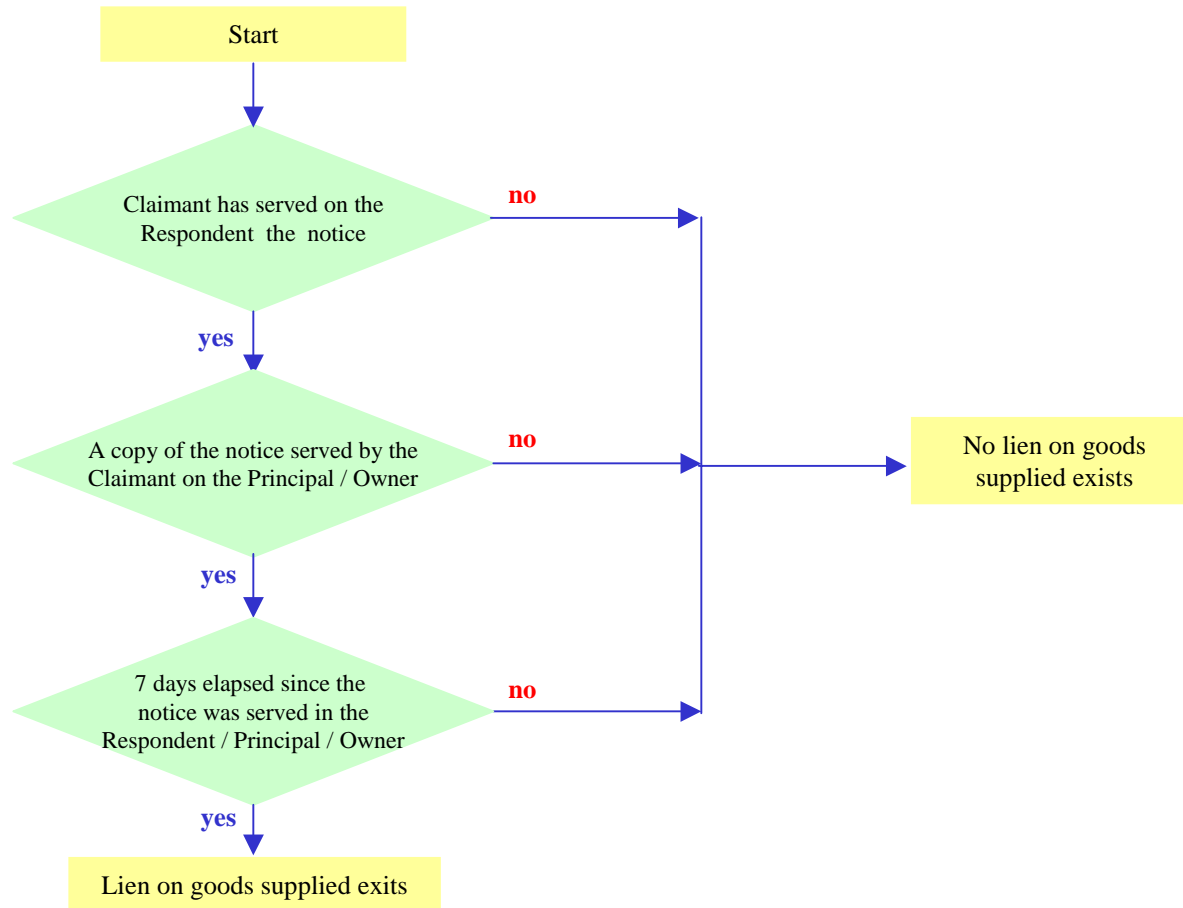


# Measures To Enforce Payment of Adjudication Amount



# Lien on Goods Supplied - S.25

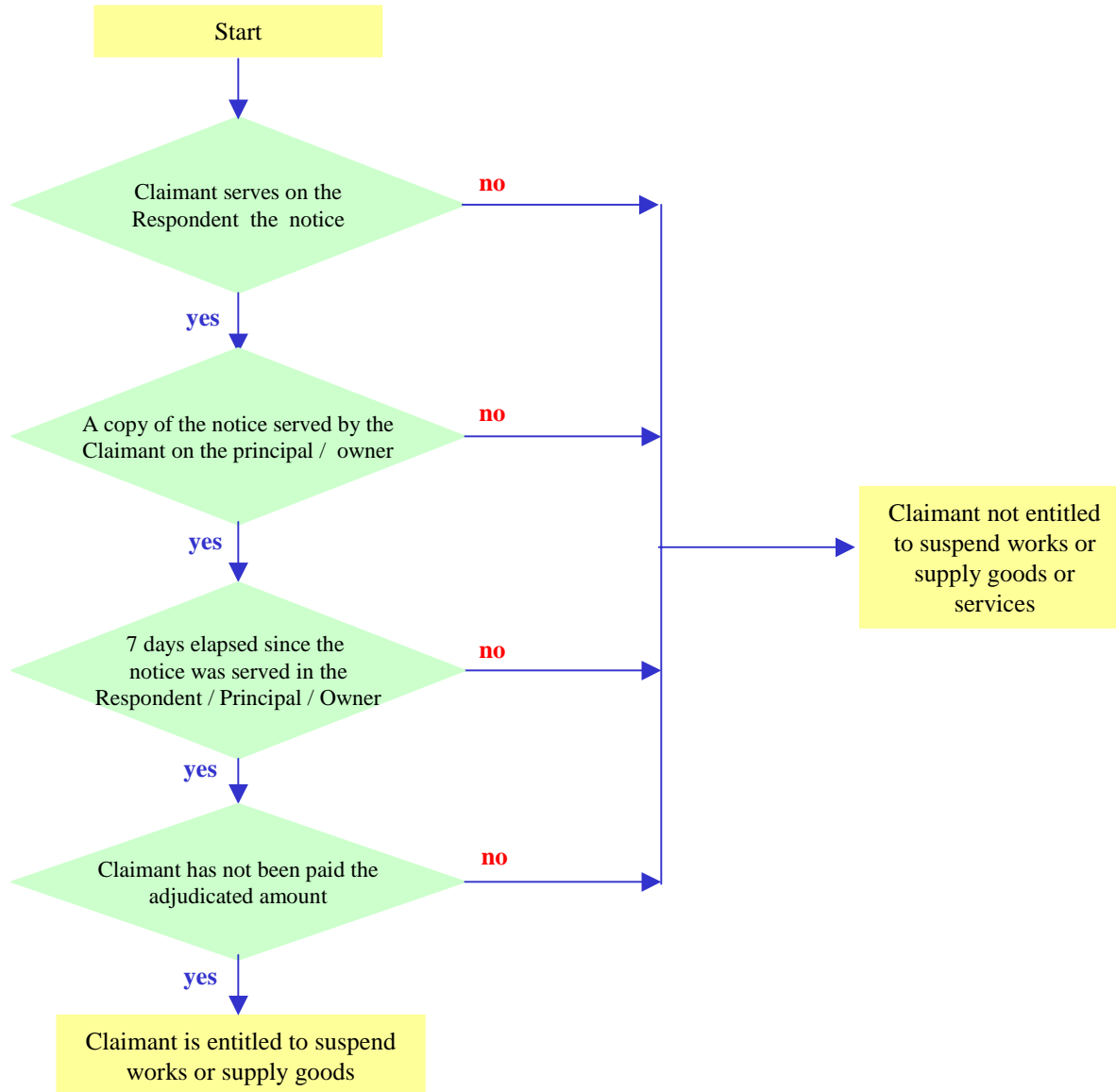
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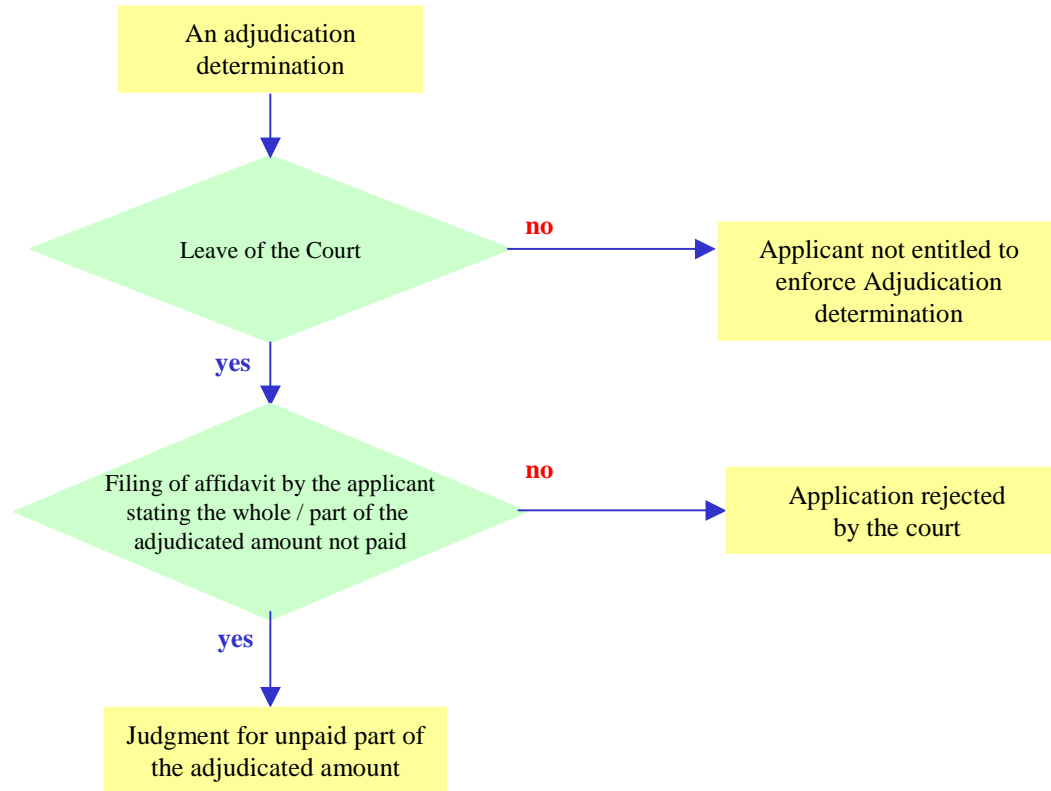
# Right to Suspend or Supply - S.26

(continued from Measures To Enforce Payment of Adjudication Amount)



# Enforcement as Judgment, an Adjudication Determination - S.27

(continued from Measures To Enforce Payment of Adjudication Amount)



# Procedures Available on Dissatisfaction with Adjudicator's Determination

