

PAYMENT REGULATIONS ON THE HORIZON



Euan Massey, director at MDA Consulting.



Vaughan Hattingh, director at MDA Consulting.

New proposed regulations governing payments and dispute management under construction works contracts are expected to profoundly change the way in which the South African construction industry operates.

The Construction Industry Development Board's (CIDB's) "Prompt Payment Regulations and Adjudication Standard", published in the Government Gazette, Notice 482 of 2015, introduces processes to ensure cash flow for businesses, establish payment provisions and introduces adjudication as a mandatory first step for the resolution of disputes in both the public and private sectors.

Home building contracts, as contemplated by the Housing Consumer Protection Act, 1998 (Act 95 of 1998) are excluded.

Vaughan Hattingh, director and adjudication practitioner with MDA Consulting (Pty) Ltd, says: "The proposed regulations prevent withholding of payments without going through a defined procedure. They give contractors a statutory right to suspend works, to charge interest on late payments and they introduce a mandatory form of statutory adjudication to resolve disputes."

Euan Massey, also from MDA Consulting, notes: "The practice of withholding payment due to employer budget constraints is linked to performance or until completion of a project, and delays in resolving disputes have resulted in contractors financing projects. The new regulations will compel parties to resolve disputes through adjudication within 28 days. Importantly, the 28-day window may only be extended by 14 days in prescribed circumstances.

These proposed interventions will have profound consequences for the South African construction industry." 

MDA Consulting

Tel: 011 648 9500

Website: www.mdaconsulting.co.za