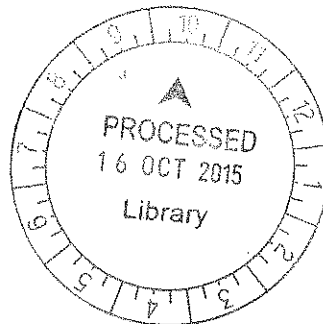


**EVALUATION OF CONSTRUCTION INDUSTRY
PAYMENT AND ADJUDICATION ACT 2012
(CIPAA): AN OVERVIEW PERSPECTIVE BY
CONTRACTORS IN KUALA LUMPUR**

FOR REFERENCE ONLY

**BY
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DECLARATION BY THE CANDIDATE

I (Yap Mun Hoe, I12001272) confirm that the work in this report is my own work and the appropriate credit has been given where references have been made to the work of other researchers.



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ABSTRACT

Construction Industry Payment and Adjudication Act 2012 (CIPAA) has come into operation in April 2014 to facilitate the cash-flow problem in construction industry. There were comments from the industry discussing the benefits and drawbacks of CIPAA. This study is then proposed to examine if CIPAA develops a successful mechanism to solve payment problem in Malaysian construction industry. Since contractors were expected main users, convenient-sampling interviews were then conducted with contractors in Kuala Lumpur. From the interviews, most senior construction practitioners, including some who are having more than thirty-year (30) experience, did not have detail knowledge on CIPAA. This shows the insufficient promotion of CIPAA in the construction industry. Most contractors agreed that CIPAA is beneficial to Malaysian contractors and most of them would initiate statutory adjudication when payment disputes. However, most of them hold that this adjudication proceeding is not efficient enough to solve the payment dispute. Other than drawbacks and benefits, this study also lists the possible challenges to CIPAA that pointed by the industry and suggests possible improvement for the future development of CIPAA.

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CHAPTER 1

INTRODUCTION

1.1 Background of study

Professor Datuk Sundra Rajoo (2014) has claimed that construction industry in many developing countries including Malaysia has been suffering with the problem of late payment issue. To overcome this problem, many countries have gradually established payment act in their own countries such as *Housing Grants, Construction and Regeneration Act 1996 (HGRA)* in United Kingdom, *Building and Construction Industry Security of Payment Act 1999* in New South Wales (NSW), and *Building and Construction Industry Security and Payment 2004* in Singapore. In April 2014, Malaysia had also started the enactment of a local payment act, *Act 746 in Law of Malaysia, Construction Industry Payment and Adjudication Act 2012 (CIPAA)*. This act aims to facilitate the cash flow in construction industry by solving payment disputes with a quick adjudication process (Prof. Datuk Rajoo, 2014). This act was recently enacted, many contractor firms were not familiar the procedure of this act and made the mistakes on the use of this act. For instance there was a case that contractor showed adjudicators documents before the appointment of adjudication process. Furthermore, CIPAA is not suitable for traditional small construction firm that working on renovation project and with oral contract. To promote and having a better development of this payment act, this study is then proposed and carried out.

1.2 Problem Statement

Prof. Sundra Rajoo (2014) claimed that Malaysia construction industry has been suffering the problem of lengthy payment problem for a long time. This lengthy payment problem might lead to further problems such as the late payment to subcontractors and delay of project. These subsequences have been literally proved in the studies by Construction Industry Working Group on Payment (2007) and Tay K. T. (2014).

After years of arguments and debates, it finally comes to the legal enforcement of CIPAA in recent April 2014. CIPAA aims to facilitate cash-flow problem and adjudication process in Malaysian construction industry. However, there are some comments from the industry about the drawbacks available on this payment act. For example, Coggins (2014) pointed out that many subcontractors would choose to spend time and be good to their client for the future job opportunity. Lim (2012) has also stated that adjudication process under CIPAA takes the longest duration. These points have shown that CIPAA is still having some shortfalls that stopped the contractor to initiate the adjudication process.

This comes the initiation of this study. By literature review and interviews with the contractors, this study would show how the contractors would evaluate CIPAA. This study is wished to aid the development of this payment in the future.

1.3 Research Goals

1.3.1 Aim

This study aims to examine if CIPAA develops a successful mechanism to solve payment problem in construction industry from the perspective of contractors in Kuala Lumpur area.

1.3.2 Objectives

To efficiently and effectively achieve the aim written above, some objectives were set and should be completed in this research study. The objectives are the followings:

1. To examine the awareness level on the contents in CIPAA by the contractors.
2. To examine the acceptance level of Contractors towards CIPAA.

1.3.3 Key Questions

1. Is CIPAA popular in construction industry?
2. What are the benefits and drawbacks of CIPAA from the perspective of contractors?
3. Is there any hindrance CIPAA might face in this construction industry?
4. Is CIPAA beneficial to Malaysian contractors?
5. How likely would contractor initiate statutory adjudication process when there is payment dispute?

1.4 Importance of study

In Malaysian construction industry, similar to construction industry in other developing countries, contractors are suffering from late payment issues. It is because construction cost incurs a large amount of money and payments are divided to periodic payment over time. *Construction Industry Payment and Adjudication Act (CIPAA)* was proposed to facilitate the cash-flow problem and to solve the payment disputes in Malaysian construction industry. This statute is not only to protect the contractors, but also every party in the construction contracts such as consultants and clients. This Act is to provide a fair mechanism for the claimants to receive their payment in a short period of time.

By evaluating this payment act, its benefit and drawback over other mechanism were revealed. This study can further examine the acceptance level and contractors' opinion towards the findings from literature review. With a clear picture of these findings, parties in construction industry would have a better understanding of CIPAA. Not only the promoting this Act, more unpaid parties in construction contracts would be protected under this payment act.

The findings of this study could further provide recommendation to the possible improvement in the future development of CIPAA. With the comparison with other payment act, suggestion would be made for the shortfalls of CIPAA. These suggestions might not be suitable to be used in Malaysian construction industry, so this requires further studies to elaborate on this topic. With the solution to the shortfalls of CIPAA, a better payment act could exist in this construction industry to solve payment dispute in a more effective and efficient way.

1.5 Research Methodology

To efficiently complete the study, an organized planning is necessary. Hence, this study has been put in few stages as followings:

Stage 1: Identify the problem statement

Problem creates solution. Problem statement will clearly state the problem that exists in this society nowadays. With a clear identification of problem, then brainstorm and research starts on it to get the solution, which is also the conclusion of the study.

Stage 2: Conduct literature review

CIPAA is new into the construction industry in Malaysia and it became a hot issue in the industry. Many professional authorities, large consulting firms and contractor firms have started to comment on this topic through magazines, journals or even on social networks. These comments will be recorded to search for solutions for previously stated problem statement. Besides, the comparison of CIPAA with other payment acts will also be reviewed in this stage to aid the study.

Stage 3: Identify research objectives

Aim and objectives are always the key focus in a research study. It has to be identified in order to calibrate the research contents into a single topic. Key questions are then identified to aid the achievement of objectives. By answering the key questions, the objectives and aim will be soon revealed.

Stage 4: Research methodology - Interview

After proper research is done, survey then to be conducted. The survey questions are designed to answer the key questions of the study. The survey is designed as a qualitative research with interview method. The sampling designed to construction practitioners who working in any contractor firms in Kuala Lumpur. There are three (4) groups of construction practitioners conducted with interviews, they are Grade 7 Main Contractors, Grade 7 Sub Contractors, Grade 1-6 Main Contractors, and Grade 1-6 Sub Contractors.

Stage 5: Data collection and data analysis

After the interview conducted, the data and records will be organized to answer each question from the literature review. With proper coding and grouping, the data will be discussed and explained to support and to examine the contents received from the literature review.

Stage 6: Conclusions and recommendation of further studies

After literature review and interview being completed, a conclusion will then produced to answer the key questions of the study. This stage will conclude everything in the study to give reader a clear mind of the outcomes of study. In this stage, recommendation of further studies will also be listed for future reference.

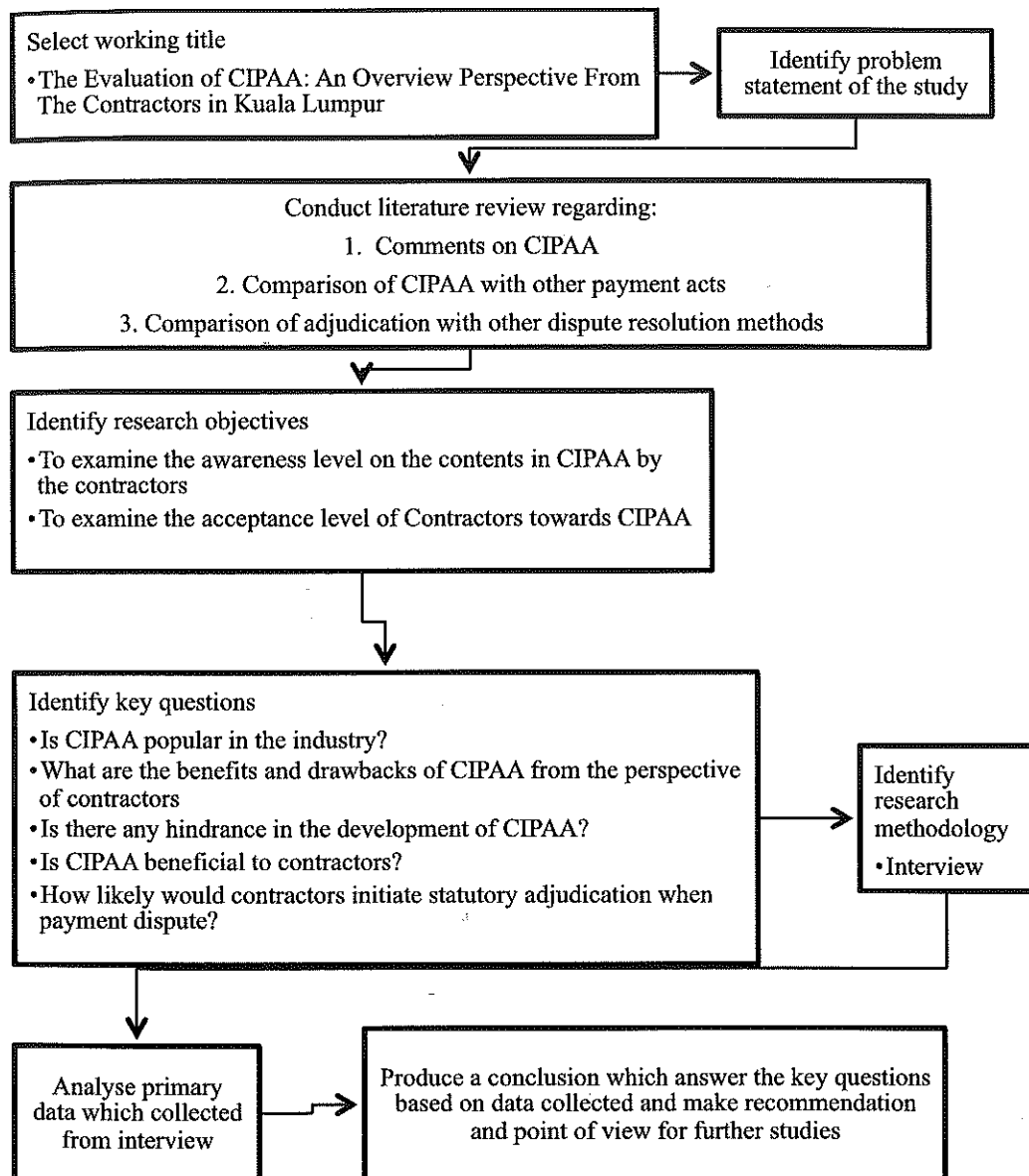


Figure 1.1: Flowchart of stages of research methods

1.6 Conclusion for Chapter 1

This chapter discussed the background and problem statement that initiate this study. This study aims to evaluate if CIPAA develops a successful mechanism to solve the payment dispute in Malaysian Construction Industry. To efficiently and effectively achieve the aim of the study, objectives and key questions were set. With the proper definition of the research goals and research methodology, this study could be completed in an effective progress.

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction to CIPAA

Frequent late payment in construction industry has been a serious issue in many countries and this comes the same to Malaysia. To solve this payment issue, many countries established payment act for the local construction industry. By following the steps, Construction Industry Development Board (CIDB), Master Builders Association Malaysia (MBAM) and other promoters has proposed to establish a payment act for Malaysian Construction industry in year 2007. This initiated the first payment act in Malaysian construction industry named *Construction Industry Payment and Adjudication Act* (CIPAA). In year 2012, CIPAA had been passed by Royal Assent and published into Gazette as Act 746 in Law of Malaysia. It has finally comes into operation in recent April 2014.

With the establishment of CIPAA, Kuala Lumpur Regional Centre for Arbitration (KLRCA) has been appointed as the adjudication authority. Professor Datuk Sundra Rajoo (2014), the director of KLRCA stated that aim of CIPAA is to facilitate the cash flow problem in construction industry. CIPAA also provides a legal process to adjudication process in Malaysia. Despite the existing of adjudication process during past years, there is no legal act to support the process and decision. With CIPAA, it is hoped to achieve a fast and less expensive proceeding to solve any payment disputes.

CIPAA consists of 41 sections in total. Among these 41 sections, first four (4) sections discuss the preliminary of this payment act. Section 2 indicates that all written construction contracts either wholly or partly within territory of Malaysia is including in this payment act.