

Construction Contracts Act 2013

NRA Roads Conference Galway

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Construction Contracts Act 2013

- An Act to regulate Payments under Construction Contracts

Construction Contracts Act 2013

Construction Contract – Broad definition

- carrying out construction operations
- arranging for the carrying out of construction operations
- providing the executing party's own labour, or the labour of others

Construction operations

Examples:

- construction, alteration, repair, maintenance,
- demolition or dismantling of buildings, or structures
- roadwork's, power-lines, telecommunications
- runways, docks and harbours,
- railways, inland waterways, pipe-lines, reservoirs,
- water-mains, wells, sewers, industrial plant and installations
- land drainage, coastal protection

Construction operations cont.

- Painting / decorating
- Interior design
- Artistic features
- Sculptures
- Other artistic work

Construction operations cont.

- architectural, design, archaeological or surveying work,
- engineering or project management services, or
- advice on building, engineering, interior or exterior decoration, landscape

Construction operations cont.

Exclusions:

- value <€10,000 or
- the contract relates only to a dwelling <200 m²,
and one of the parties to the contract is Occupier
- Contract of employment
- PPP contract with State Agency

Construction operations cont.

Not Construction Operation :

- Manufacture /delivery i.e. supply only
- Plant / machinery only

CCA 2013 - Prohibitions

- Prohibited:
- “Contracting out” Clauses
- “Paid when paid” Clauses

Payments – CCA 2013 section 3

- All Contracts must include:
- The amount of each interim payment or calculation method
- The amount of the final payment or calculation method
- Payment claim date – or mechanism
- Period between payment claim date and date on which payment is due



Schedule – default provisions

- PCD 30 days after commencement –
- Payment due no later than 30 days after PCD
- In main contract this can be extended by Contract
- Subcontract – more favourable provisions only

Payments – CCA 2013 section 4

- Payment claim notice –not later than 5 days after payment claim date

Must specify:

- Amount €
- Period of work
- Subject matter
- Basis of calculation



Payment – CCA 2013 section 4

- If paying party contests amount to be paid:
- **It Must Respond < 21 days after PCD**
- Response must state:
 - Amount to be paid –
 - Reason for difference – adequate reasons
 - Basis of calculation



Payment – CCA 2013 - Suspension

- Right to suspend work where:
- Money not paid in full when due
- Precondition:
 - Must give 7 days prior Notice in writing stating:
 - Grounds for suspension
 - Not earlier than day after PDD



Adjudication – Payment dispute

- **Right** to refer to Adjudication **at any time**
- Any dispute relating to payment
- Adjudication not mandatory-
- Contract Provisions ?
- 28 days – provision to extend time -limited
- Binding until overturned.

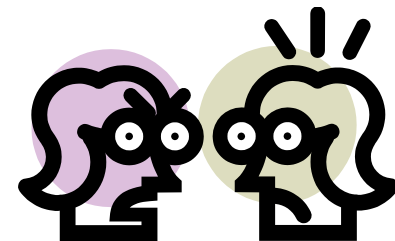


Adjudicator - Appointment

- Agree adjudicator
- Or appointment from Ministers Panel

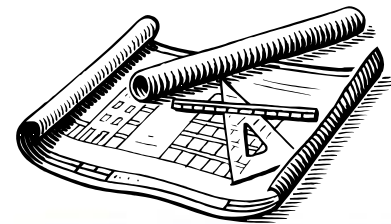
Adjudication – Not a “payment dispute”

- Contract provisions
- ADR / Adjudication ?
- PWC - CoE - Clause 13 ?
- Other standard forms ?



Adjudicators – Panel Pre-qualifications”

- Professional defined in Building Control Act 2007
- Chartered Engineer
- Barrister
- Solicitor
- FCI Arb
- EU equivalent



Adjudicators – Panel

- Membership of Ministers panel:
- Listed professions and
- Have regard to experience and expertise in construction contracts dispute resolution.
- Procedure
- Professional Bodies ??

Code of Practice / Statutory

Instrument

Coming Soon

THANK YOU !