

The New FIDIC 2017 Yellow Book - what you need to know

Published 19 October 2017

The New FIDIC 2017 Yellow Book was pre-released in draft form in December 2016. There has been plenty of concern expressed by contractor bodies from across the globe as to some of the proposed changes so whether all of them make it into the 2nd Edition is very much debatable.

The 1999 Edition of the Yellow Book presented a balanced approach as to risk between the Employer and the Contractor. This new edition moves more towards the Silver Book in terms of putting further risk onto the Contractor. The basic nature is the same - a lump sum contract where the Contractor designs and takes the risk on quantities.

FIDIC are keen to see increased project management and a more collaborative approach with the intention of reducing disputes - only time will tell if they have been successful. We highlight some of the principal changes and identify whether they are Employer or Contractor friendly or simply neutral.

Notices and Time Bars

The new contract lays particular emphasis on Notices and Time Bars which both the Contractor and now the Employer as well should take care to ensure that they have appropriate systems in place to ensure that they serve Notices on time.

Notices

The new contract provides that in order for a Notice to be valid it must clearly state that it is a Notice and make reference to the sub-clause under which it is issued.

This is to avoid arguments about whether a Party can for example rely on a reference in a progress report or programme as providing notice.

Saving Clauses

The Engineer has a positive duty within 14 days of receipt of the Notice of Claim to give a preliminary response if he considers the initial Notice is time barred.

Sub-clause 20.3 provides the DAB with the power to waive a failure to follow a time bar requirement but this has to be addressed within 14 days of a Party seeking relief from the refusal of an Engineer to consider a claim because it is said to be time barred.

The DAB can take the following into account:

- whether the other Party would be prejudiced by acceptance of the late submission;
- whether the other Party had prior knowledge of the event in question or basis of claim; and
- the extent to which, if at all, the Engineer may already have proceeded to make a determination or more likely sought to negotiate an agreement.

These are all factors that will be familiar to UAE Contractors to excuse late or even sometimes non-existence notices.

Clause 3 the Engineer Clause

The Engineer must be suitably qualified and fluent in the language of the contract which is new and to be welcomed by both Employers and Contractors. The Engineer can appoint an Engineer's Representative who shall remain on site throughout the execution of the works.

Variations

If the Contractor believes that an instruction constitutes a variation though the instruction does not make that apparent then the new Clause 3.5 allows the Contractor to issue a Notice to the Engineer that the instruction is a variation. If the Engineer does not respond within seven days then the Engineer is deemed to have revoked the instruction. This provision will be welcomed by Contractors.

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FIDIC Red Book, Revised edition Jakob B. Sørensen,2024-10-29 FIDIC Red Book is a practical guide for anyone involved in preparing administering or contributing to the FIDIC suite of contracts 2017 edition This revised edition covers a number of recent developments including the 2022 amendments impacts of COVID 19 and the war in Ukraine as well as guidance on use of FIDIC Contracts

Design and Build Contracts Guy Higginbottom,2023-10-02 DESIGN AND BUILD CONTRACTS Design and build D often echoing the ways in which contracts for infrastructure and process plant can be procured Whilst D FIDIC Conditions of Contract for Plant Design Build 2017 and NEC4 How each D B contract is intended to operate during each stage of the RIBA Plan of Work 2020 How the operation of D B contracts and their procedures are often amended An ideal resource for contractors employers and consultants as well as those studying construction at university Design and Build Contracts offers helpful commentary and guidance for how each stage of a D B engineering or construction project should progress

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Ecological Sensitivity and Global Legal Pluralism Oren Perez,2004-06-30 This book explores the debate over the tension between trade liberalisation and environmental protection

Understanding and Negotiating Turnkey and EPC Contracts Joseph A. Huse,2002 This work aims to keep criminal lawyers up to date with the latest cases and legislation and includes longer articles analyzing current trends and important changes in the law Drawing all aspects of the law together in one regular publication it allows quick and easy reference

International Construction Law Wolfgang Breyer,2024-03-29 The construction industry routinely operates across international borders which means that construction professionals need to have a good understanding of how legislation in different jurisdictions might affect their work This book is an in depth analysis of international construction law from all the major jurisdictions of the world alongside their relevant contract law principles helping the reader to prepare for the complexity of an international construction project The book begins by introducing the major families of law before looking at individual jurisdictions Each chapter is written by an experienced legal professional operating in that region and covers subjects such as taking over defects liabilities warranties design issues termination bonds and guarantees limitation of liability and more The systems included are German civil system Germanic code French civil system Napoleonic code English

common law system GCC countries civil law system with emphasis on UAE Qatar Saudi Arabia and Egypt Nordic legal system Chinese civil system Finally the book will discuss the national standard construction contracts used in the differing legal systems and the widely used FIDIC contracts The combination of truly international coverage with the practical insight of experienced practitioners means that this book will be invaluable to any professional involved in the construction industry including lawyers project managers contractors and investors as well as academics in the field Uniform Commercial Law in the Twenty-first Century United Nations Commission on International Trade Law,1995 *FIDIC User's Guide* Brian W. Totterdill,2001 Guides to the FIDIC contract traditionally have been geared towards highlighting the legal aspects of claims arising from the contract This text focuses on the practical administration of the contract recognizing the growing tendency for projects to be administered by local employers consultants and contractors rather than by international organizations

The International Construction Law Review ,2000 **The Architect's Guide to Design-Build Services** The American Institute of Architects,2003-05-05 Table of contents **Water and Energy International** ,2007 **Unidroit's Rules in Practice:Standard International Contracts and Applicable Rules** G. Letterman,2001-11-29 In the law of contracts the term internationalization has come to mean the removal of transactions from any nation s legal standards system of dispute resolution or commercial practices The trend has picked up speed in recent years to the point where many business people want their contracts internationalized as a matter of course This convenient volume contains the heart of the matter It focuses on the essential elements that make a contract international in the new sense and the interrelationships between those elements rather than on the constantly changing mass of attendant detail To clarify such an understanding of internationalization the author describes and analyzes various aspects of international contract law regimes including The United Nations Convention on Contracts for the International Sale of Goods CISG The UNIDROIT Principles CISG and UNIDROIT Jurisprudence The lex mercatoria and other international regional and national contract law principles A final chapter deals exclusively with practical applications when to and when not to internationalize a contract how to plan for effectiveness and the best advantage and selecting appropriate and consistent devices for internationalization

Construction Law ,1986 **American Consulting Engineer** ,1998 International Construction Law Wendy Kennedy Venoit,2009 YA roadmap to the most important ethical considerations facing legal practitioners in multi jurisdictional construction practice *Power* ,1986 FIDIC Yellow Book: A Commentary Ben Beaumont,2019-01-15 The book analyses every aspect of the ease or otherwise of implementing the FIDIC Yellow Book Conditions of Contract On a clause by clause basis it highlights important structural features and suggests alternative text to avoid problems with the contract Written in a user friendly manner by an expert user of the FIDIC Suite of Contracts who is a Member of the FIDIC President s List of Adjudicators this book will be a vital reference point for contractors lawyers engineers arbitrators and all others concerned with the FIDIC contracts Proceedings of the Institution of Civil Engineers Institution of Civil Engineers

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