

JCT 2024 Edition of Contracts

Online Launch Event – Wednesday, 1 May 2024



Legislative Changes

Ben Patton
partner, Ashurst LLP



Legislative Changes

- **Building Safety Act 2022 and related legislation** – Updates to accommodate new Part 2A of the Building Regulations 2010
- **Construction Act 1996** - Termination accounting and payment provisions added to section 8
- **Corporate Insolvency and Governance Act 2020** - New insolvency grounds added to section 8



Future Proofing

Sarah Elliot
partner, Wedlake Bell LLP



Construction Playbook

- **Better, faster, greener, safer**
- Principally for public sector but also best practice for private (where applicable)
- 14 Key Policy areas
- JCT Contracts already comply but more emphasis now given to
 - Collaborative working
 - Sustainable development and environmental considerations
 - Notification and negotiation of disputes

3 Supplemental provisions now mandatory



Collaborative working

- Previously Supplemental provision 5 in JCT DB
- Wording has not changed but now appears at **Article 3**:
‘The parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative’
- CA gave guidance on good faith in **Re Compound Photonics Group Ltd [2022] EWCA Civ 1371** :
 - Core duty to act honestly and not in bad faith
 - Depending on contractual context, likely to prohibit conduct that reasonable and honest people would regard as commercially unacceptable, but not necessarily dishonest.



Sustainable development and environmental considerations

- Previously Supplemental provision 8 in JCT DB
- Wording amended and now a contract condition:

Clause 2.1.5:

*'The Contractor is encouraged to suggest economically viable amendments to the Works which, if instructed as a Change, may result in an improvement in environmental performance **and sustainability** in the carrying out of the Works or of the completed Works **and a reduction in environmental impact, provided that no such instruction shall extend the Contractor's obligations in relation to design under this Contract.'***

Clause 2.2.2:

*'The Contractor shall provide to the Employer all information that **the Employer** reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.'*

- PCSA can include more detailed provisions – model wording in Guidance Notes



Notification and negotiation of disputes

- Previously Supplemental provision 10 in JCT DB
- Wording has not changed but now appears at **Clause 9.1:**

‘With a view to avoidance or the early resolution of disputes or differences (subject to Article 8) each party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter’
- Corresponding entry in contract particulars to be completed
- Not expressed as a condition precedent but that does not mean the Court will not enforce it



Modernising and Streamlining

Victoria Peckett
partner, Clyde & Co LLP



JCT 2024: Modernising and Streamlining

- ➔ Extensions of Time and Unforeseen Conditions
- ➔ Liabilities
- ➔ Communicating
- ➔ Other updates



New for JCT 2024 – Target Cost Contract

John Riches

QS, arbitrator & adjudicator, Henry Cooper Consultants Limited



This is our What's New Surprise Package



The Brand-New Target Cost Suite



Why?

- We listen!
- Member Groups wanted a Target Cost that followed familiar territory.
- We even had a large law firm saying if you produced a Target Cost Contract, we would use it
- The revision to all suites for 2024 was an ideal opportunity to slot in something new
- In the same way we updated the Project Bank Account Documentation for the 2016 suites this is demand driven (will be issued as part of 2024 suite)
- Our aim was to provide a familiar and therefore simple step into the world of Target Cost



The Target Cost Suite

- The Target Cost main contract (TCC 2024)
- A Target Cost Sub-Contract (TCCSub 2024) – encouraged but not mandatory
- Flexibility to use any form of Sub-Contract
- A Guide
- Based on JCT Design & Build – yes it is possible to have design
- The calculation of cost follows the model from the Prime Cost Contract
- All the other changes to the suites overall are incorporated in this suite



How does it work?

- Target Cost is equal to the Contract Sum in other Contracts. It is adjusted in the traditional way that all other contracts are. e.g. Changes are dealt with the same way they are in the D&B form
- Payment is made of the Allowable Cost, the Contract Fee and the Difference Share
- The Difference is the amount determined by deducting the Allowable Cost plus the Contract Fee from the Target Cost
- The Difference Share is then distributed in the proportions stated in the Contract Particulars
- The parties are risk sharing hopefully resulting in savings to the project overall



Find out more...



JCT NETWORK
Keeps you informed

JCT Network - keeping you informed with updates about the forthcoming JCT 2024 Edition.

Sign up today

The banner features a yellow background with a diamond-shaped collage of images showing people at a conference, a laptop displaying a video call, and a person in a yellow jacket. The JCT logo is in the top left corner.

corporate.jctltd.co.uk/jct-network

