

## In-House Construction Law and Contract/Commercial Awareness Training

### In-House Training

The construction industry is a fast-paced, complex environment which demands an up to date and comprehensive understanding of commercial and contractual issues. As the industry emerges from years of recession, now really is the time to ensure that you give your business the edge by investing in training.

Hawkswell Kilvington provides in-house training solutions on a wide range of legal, commercial and contractual issues which we know from years of experience are highly relevant to businesses operating in the construction and engineering industries.

### About Hawkswell Kilvington

Hawkswell Kilvington is a niche firm of award winning, specialist construction and engineering solicitors. As well as in-house training, we provide advice and solutions in all areas of construction and engineering law, from drafting, reviewing and amending construction contracts to resolving all types of construction and engineering disputes through adjudication, mediation, negotiation, arbitration and litigation.

The firm is consistently highly rated by Chambers Legal Directory for its “*can-do attitude*” and “*clear and reasonable fee structure*”. The firm was recently shortlisted for National Boutique Firm of the Year at The Lawyer Awards 2014. The firm won Boutique Firm of the Year (Regional) at The Lawyer Awards 2012 and Law Firm of the Year at the Yorkshire Lawyer Awards 2011.

### Training Packages

We offer a range of practical and interactive training packages delivered by expert speakers with significant experience in construction law, including:

### Contractual and Commercial Awareness Training

Protect your commercial interests by learning about the key contractual and commercial issues you need to be aware of at all stages of a construction project, including:

- Letters of intent – avoiding the pitfalls.
- Reviewing contracts – key clauses to look out for.
- Avoiding common contractual mistakes.
- Improving cashflow, getting paid and avoiding insolvency.
- Managing change and variations.
- Records – what records to keep and when.
- How to serve effective notices.
- Effective management of the contract.
- Suspension and termination.
- Adjudication – tips and strategies.

### Payment under the Construction Act

A good understanding of the requirements of the Construction Act is critical to the success of a construction business. Learn about the rights and obligations of payers and payees under the Construction Act and how to use the provisions of the Construction Act to your advantage. Topics covered include:

- Understanding the payment provisions under the Construction Act – the “payer led” and “payee led” processes.
- Choosing the right payment procedure.
- Understanding “payment notices”, “pay less notices” and “payee’s default notices”, how they should be drafted and when they should be served.
- The Scheme for Construction Contracts.
- Using the Construction Act to limit your risk when other parties become insolvent.
- Retention and final accounts for sub-contractors.

### Working under NEC3 Contracts

The construction and engineering industries are increasingly being attracted to NEC3 contracts by their focus on problem solving and mutual cooperation. However, inexperienced NEC3 users often fail to appreciate how onerous the contracts can be from a contract administration perspective. This seminar provides a comprehensive introduction to how NEC3 contracts work, including:

- The roles and responsibilities of the parties.
- Time and programming.
- Early warnings and the risk register.
- Payment.
- Compensation events.
- Defects.
- Termination and dispute resolution.
- Secondary option clauses and Z clauses.

### Working under JCT Contracts

JCT contracts are the most commonly used standard form construction contracts in the UK, so it really does pay to make sure your key personnel understand how they operate. This refresher seminar guides delegates through the key features of the main JCT contracts, including:

- Contract structure and documents.
- Roles, powers and responsibilities of the parties.
- Design responsibility.
- Time, completion and delay.
- Variations, loss and expense and extensions of time.
- Payment.
- Defects.
- Common bespoke amendments.

### Resolving Common Contractual and Commercial Issues – Case Study

This seminar uses a case study to guide you through some of the most common contractual and commercial problems which arise on construction projects and how to solve them, including:

- Letters of intent – how to ensure a letter of intent is binding.
- Entering into a contract – key clauses to negotiate.
- Extensions of time – how to make an effective claim.
- Getting paid – taking advantage of non-compliance with the Construction Act.
- Insolvency of other parties in the supply chain – how to protect yourself.
- Adjudication – can and should you adjudicate?

### Design and Build Contracts

Design and build is the most popular procurement method in the construction industry, but the responsibility assumed by design and build contractors involves a high level of risk. This seminar explains the key legal and commercial issues relating to design and build, including:

- Design responsibility under JCT and NEC.
- Design development.
- Key provisions to include in consultant appointments.
- Understanding novation and avoiding problems.
- Collateral warranties -v- third party rights.
- Key issues to consider when reviewing collateral warranties.
- Limiting liability for defects.
- Discrepancies in documents – who bears the risk?

### Construction Law Update – Avoiding the Pitfalls

Keeping on top of the latest developments in construction law is not just a concern for lawyers. The decisions made in the courts really can have a practical impact on the construction industry. Learn about recent legal developments and how they could affect your business, including:

- Who are you contracting with? Recent case law demonstrates the common pitfalls and lessons to be learnt.
- Understanding contractual obligations – what do the terms “proceeding regularly and diligently” and “best endeavours” actually mean?
- Oral contracts – what have you agreed to and what are the risks?
- Limitation of liability – the effect of a net contribution clause and key drafting tips.
- Design responsibility – avoiding the onerous “fitness for purpose” obligation.
- NEC3 – claiming for compensation events and the ‘dos’ and ‘don’ts’ of presenting them.
- Collateral warranties – can you adjudicate under a collateral warranty?
- Termination – avoiding the costly consequences of wrongful termination.
- Adjudication update – case law update and good adjudication tactics.

## Entering into the Contract – Getting it Right from the Start

An enormous amount of construction disputes arise as a result of poorly drafted contracts. Your business can avoid this significant drain on resources by ensuring contracts are put together correctly in the first place. Learn about the key legal issues to bear in mind when entering into a contract, including:

- Procurement – traditional construction or design and build?
- Letters of intent.
- Contract formation and execution.
- Entering into contracts – problems to avoid.
- Reviewing contracts – key clauses to look out for.
- Contract amendments.
- Entering into downstream contracts.
- Limiting your liability.
- Payment provisions and the Construction Act.

## Managing Your Contract – Workshop

Winning a new contract is only the start; making it profitable by good management is the key. In this workshop, we identify for the project team important issues arising out of their specific contract at the beginning of the project. Getting administration of the contract right from the beginning will help avoid problems later on; this workshop is an investment that will pay dividends. Topics covered will include:

- Managing change.
- Programmes and extensions of time.
- Applications for payment.
- Proper notification.
- Problem clauses to be aware of and how to deal with them.
- What records to keep.

## Adjudication Workshop

Adjudication is the most popular dispute resolution method used in the construction industry. However, getting adjudication right can be challenging due to its strict timetable requirements and demanding procedures. This workshop will guide you through the key stages of an adjudication, helping you to understand how to achieve success with the use of sample documents. Topics covered include:

- When can you and when should you adjudicate?
- Pros and cons of adjudication.
- Understanding adjudication – overview of a typical adjudication.
- Tactics in adjudications.
- Drafting tips for the key documents.
- Update on recent adjudication case law.

## Mediation Workshop

More and more construction industry disputes are being resolved by mediation, which offers a cost-effective and private way of settling disputes whilst maintaining good commercial relationships. Using practical case studies, this workshop explains:

- The benefits of mediation.
- When you can, and should, mediate.
- How mediation works in practice.
- Preparing for mediation.
- Tips and tactics to achieve a successful result.

## A Review of the CPA Model Conditions For The Hiring Of Plant

The CPA Model Conditions are very widely used, but many businesses involved in the plant hire industry lack a good understanding of how to put together a contract which effectively incorporates the Model Conditions and amends them where necessary. This seminar provides a useful overview of the key provisions of the Model Conditions and how to incorporate them into hire contracts properly, including:

- The Model Conditions.
- The Consumer Conditions.
- Formation of contracts and inclusion/exclusion of the Model Conditions.
- Key provisions of the Model Conditions.
- Defences under the Model Conditions:
  - The incompetent operator.
  - Defective machines.
- Claims investigation.
- Payment under the Construction Act.

## Working under FIDIC Contracts

The FIDIC forms of contract are the most commonly used standard forms of contract for international construction projects. They are used throughout the world and are endorsed by many development banks. Any contractor operating in foreign countries must ensure it understands how the FIDIC forms operate. This seminar provides a detailed overview of the key issues to be aware of when working under FIDIC, including:

- When to use each of the FIDIC forms.
- Payment.
- Time.
- Variations.
- Conditions precedent.
- Role of the engineer.
- Particular risks and pitfalls.
- Dispute resolution.

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## Working under IChemE Contracts

The IChemE forms of contract are widely used on process plant projects. They are “performance based” and require the testing of the plant against defined criteria once constructed. This seminar provides a detailed overview of the key issues to be aware of when working under IChemE, including:

- Introduction to IChemE.
- Roles, powers and responsibilities of the parties.
- Design responsibility.
- Time and completion.
- Delay and extensions of time.
- Payment.
- Variations.
- Contractor’s claims.
- Testing.
- Delivery, ownership and materials.
- Defects.
- Disputes and expert determination.
- Traps to avoid.

## Bespoke Training

We are more than happy to put together bespoke training sessions tailored to the needs of your business. At the start of a major project, it can be extremely useful for key personnel to receive training on the form of contract that is being used, and we are often asked to design courses which are specific to particular contracts. We can also put together courses using specific problems your business has faced previously as case studies.

## Cost

All our training sessions are available at a fixed cost, which will depend on the length of the session and the subject matters covered.

## Find out more

For more information about our in-house training and seminars, or to discuss your company’s training requirements in more detail, please contact Daniel Silberstein at [dsilberstein@hklegal.co.uk](mailto:dsilberstein@hklegal.co.uk) or on 01924 258719.

**HAWKSWELL KILVINGTON LIMITED**  
**CONSTRUCTION & ENGINEERING SOLICITORS**

17 Navigation Court, Wakefield, WF2 7BJ | 28 Queen Street, London, EC4R 1BB  
Tel: 01954 285719 | Fax: 01924 257666 | [enquiries@hklegal.co.uk](mailto:enquiries@hklegal.co.uk) | [www.hklegal.co.uk](http://www.hklegal.co.uk)