

Contents

<i>Preface</i>	v
<i>Acknowledgement</i>	vii
<i>About the Author</i>	ix
<i>Table of Cases</i>	xvii
<i>Table of Statutes</i>	xxi

Chapter 1

Introduction	1
1.1 Different Types of Construction Projects	1
1.2 Parties in a Construction Project.....	2
1.2.1 Owner or Developer.....	2
1.2.2 Project Manager.....	3
1.2.3 Architect, Engineer, Quantity Surveyor	4
1.2.4 Contractor	10
1.2.5 Subcontractors	11
1.3 Stages in a Construction Project	13
1.3.1 Pre-Contract	14
1.3.2 Formation of Contract	14
1.3.3 Post-Contract.....	15
1.4 Construction Contract Models.....	17
1.4.1 Traditional Construction Contract Model.....	18
1.4.2 Design and Build Construction Contract Model.....	19
1.4.3 Advantages and Disadvantages of the Two Models	20

Chapter 2

Pre-Contract and Commencement of Works	23
2.1 Overview of the Construction Timeline	24
2.1.1 Timeline Commencing Collection of Tender Documents to Contract Commencement Date	24
2.1.2 Continuation of Timeline from Contract Commencement Date to Date of Contract Completion	24
2.1.3 Continuation of Timeline from Date of Contract Completion to Issue of Statement of Final Account	25
2.2 Tender Process	26

2.2.1	All-Inclusive Price Principle.....	27
2.3	Formation of Contract.....	31
2.4	Construction Programme.....	32
2.4.1	SIA Form.....	32
2.4.2	PSSCOC Form.....	34
2.5	Make-Up of Contractor's Prices.....	36
2.5.1	SIA Form.....	36
2.5.2	PSSCOC Form.....	37
2.6	Indemnity.....	37
2.6.1	SIA Form.....	38
2.6.2	PSSCOC Form.....	39
2.7	Insurance.....	39
2.7.1	SIA Form.....	39
2.7.2	PSSCOC Form.....	40
2.8	Security Deposit and Performance Bond.....	41
2.9	Commencement of Contract.....	44
2.9.1	SIA Form.....	44
2.9.2	PSSCOC Form.....	45

Chapter 3

Instructions and Working On-Site 49

3.1	Methods of Working.....	50
3.2	Plant and Materials.....	51
3.3	Design.....	54
3.4	Architect's Directions and Instructions.....	56
3.4.1	Meaning.....	56
3.4.2	SIA Form Provisions in Respect of Directions and Instructions.....	57
3.4.3	PSSCOC Form provisions in respect of Instructions.....	64
3.5	Variations.....	65
3.5.1	SIA Form in respect of Variations.....	66
3.5.2	PSSCOC Form in respect of Variations.....	69
3.5.3	Cases on Variations.....	74
3.5.4	Court of Appeal Case in respect of the Issue of the Certificate of Cost of other Contractor's Work.....	80

Chapter 4

Extension of Time and Delay 83

4.1	Extension of Time.....	83
4.1.1	Time is set at Large.....	85
4.1.2	Extension of Time under the SIA Form.....	86
4.1.3	Extension of Time under the PSSCOC Form.....	94
4.2	Delay and Liquidated Damages.....	98

4.2.1	Delay and Liquidated Damages under the SIA Form.....	99
4.2.2	Delay and Liquidated Damages under the PSSCOC Form.....	109
4.3	Loss and Expense Claim.....	111
4.3.1	Loss and Expense Claim under the PSSCOC Form.....	111

Chapter 5

Defects..... 117

5.1	Defects at Common Law.....	118
5.2	Defects due to Design.....	118
5.3	Defects under the Construction Contract.....	118
5.3.1	Defects occurring during Contract Period and Maintenance Period under the SIA Form.....	119
5.3.2	Defects occurring during Maintenance Period under the SIA Form.....	123
5.3.3	Defects occurring during Contract Period under the PSSCOC Form.....	126
5.3.4	Defects during Defects Liability Period under the PSSCOC Form.....	132
5.3.5	Defects Post-Maintenance Period under the SIA Form.....	134
5.3.6	Defects Post-Defects Liability Period under the PSSCOC Form.....	135
5.3.7	Limitation Act.....	136
5.3.8	Cases on Defects.....	139

Chapter 6

Payments..... 149

6.1	Introduction.....	149
6.2	Payments under the SIA Form.....	151
6.3	Payments under the PSSCOC Form.....	156
6.4	Building and Construction Industry Security of Payment Act.....	162
6.5	Cases on Payments.....	168
6.5.1	Payment Claim.....	168
6.5.2	Payment Response.....	171
6.5.3	Interim (Payment) Certificate.....	172
6.5.4	Application for Review of Adjudication Determination.....	174
6.5.5	Application for Setting Aside of Adjudication Determination.....	175

Chapter 7		
Completion, Termination and Subcontracts		179
7.1	Introduction	180
7.2	Completion	181
7.3	Termination	186
7.3.1	Employer's Termination without Default of Contractor under the SIA Form	187
7.3.2	Employer's Termination due to Default of Contractor under the SIA Form	188
7.3.3	Contractor's Termination due to Default of Employer under the SIA Form	193
7.3.4	Employer's Termination of the Employment of the Contractor due to Default of Contractor under the PSSCOC Form	195
7.4	Subcontracts	198
7.4.1	Introduction	198
7.4.2	Timeline for Subcontract Works	200
7.4.3	Subcontract Provisions in the SIA Form	201
7.4.4	Subcontract Provisions in the PSSCOC Main Contract Form	204
Chapter 8		
Negligence in Construction		207
8.1	Introduction	208
8.2	Reception of English Law	209
8.3	English Law of Tort – Negligence	209
8.3.1	Duty of Care	209
8.3.2	Pure Economic Loss	210
8.4	Changes in the Law of the Tort of Negligence	211
8.5	Moving Ahead	214
8.5.1	<i>Spandeck v DSTA</i> and Factual Foreseeability	218
8.5.2	<i>Spandeck v DSTA</i> and the First Stage of Proximity	219
8.5.3	<i>Spandeck v DSTA</i> and the Second Stage of Policy Considerations	219
8.5.4	The Court of Appeal's Application of the Two-Stage Test in <i>Spandeck v DSTA</i>	220
8.6	Post- <i>Spandeck v DSTA</i> Cases	221
8.7	Contributory Negligence	234
8.8	Common Law Duty of Care and the Workplace Safety and Health Act	234
8.9	Flow Chart for Recovery in Negligence	236

Chapter 9		
Work Injury Compensation Act and Workplace Safety and Health Act		239
9.1	Introduction	239
9.2	Work Injury Compensation Act	240
9.2.1	Who is Liable to Pay and Who is Entitled to Claim	240
9.2.2	What the Process for Claim is	242
9.2.3	How Much to Claim	245
9.3	Workplace Safety and Health Act	245
9.3.1	What the Purpose of the Workplace Safety and Health Act is	245
9.3.2	Who has Duty to Ensure Safety	245
9.3.3	What the Penalty is	248
9.3.4	Power of Commissioner	249
9.3.5	Penalties for Non-Compliance with Orders	249
Chapter 10		
Litigation and Dispute Resolution		253
10.1	What a Dispute is	254
10.2	Action in Court (or Litigation)	254
10.2.1	Procedure for Claim	254
10.2.2	Summary Judgment	259
10.2.3	Appeal	262
10.2.4	Enforcement	262
10.2.5	Statute of Limitation	263
10.2.6	Injunction	266
10.3	Mediation	268
10.4	Arbitration	270
10.4.1	Arbitration Act and International Arbitration Act	270
10.4.2	Rules of Arbitration	271
10.4.3	Stay of Proceedings	272
10.4.4	Appeal and Setting Aside Award	273
10.4.5	Advantages and Disadvantages of Arbitration	274
10.5	Statutory Adjudication	276
10.5.1	Purpose	276
10.5.2	Building and Construction Industry Security of Payment Act	277
10.5.3	Review and Setting Aside Adjudicator's Jurisdiction	279
10.5.4	Nature of Statutory Adjudication	280
Index		283