
Construction Risks - December 2018

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DAC Beachcroft's Construction Risk Newsletter features topical issues in construction. This has been a busy period for the Court, with numerous important cases and potential legislation. There has been the widely reported case of *Grove v S&T* which appears to reset the position on "smash and grab" adjudications, together with reminders of the difficulties when terminating contracts and independence of experts. There have been further attempts to introduce legislation with regard to Retentions and cost reduction schemes to limit disclosure in High Court actions.

True Value

The Court of Appeal gave the long awaited decision on adjudication and "true values" in *Grove v S&T*. The key issue in this matter was whether an Employer can still be entitled to commence a separate adjudication to determine the true value of a contractor's payment application, in circumstances where its pay less notice is deemed to be invalid - [Read More](#)

Liquidated Damages

In the recent decision of *GPP v Solar* the Court considered and applied *Cavendish* on liquidated damages. This case demonstrates that courts will not, at least for the time being, interfere with commercially negotiated liquidated damages provisions, when dealing with experienced commercial parties, who are able to assess the commercial implications of the liquidated damages clauses and where the sums can be commercially justified. - [Read More](#)

Guidance on Appeals

In the recent decision of *Wheeldon* the Court gave some guidance on disputing "facts" in the Court of Appeal. This case demonstrates as a useful reminder from the Court of Appeal that they will not interfere with factual findings and expert evaluations. - [Read More](#)

Scope of Duty

The Judgment in the TCC (and upheld in the Court of Appeal) provides useful warnings about agreeing to undertake works without a fully particularised contract and/or scopes of work. - [Read More](#)

Breach of Natural Justice

Synergy Gas is the latest example of the losing party to an adjudication decision attempting to resist enforcement on the basis that the adjudicator breached the rules of natural justice when reaching his decision. - [Read More](#)

Retentions

An update on the latest from Parliament on the retentions bill and possible changes to the legislation, seeking to deal with the £10 billion tied up in retentions. - [Read More](#)

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