



The new JCT 2005 suite of Building Contracts

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Although the new suite of JCT building contracts was launched in May, the contracts themselves have only recently been available. They replace those published in 1998.

The new contracts are simpler and easier to read than their predecessors. Each now has Articles of Agreement, Conditions of Contract and Schedules. Headings have been added and the order and title of the clauses has changed. Many clauses have been reworded in order to achieve greater consistency but without changing the overall intention of their provisions.

The JCT 2005 suite contains a number of new Contracts, including the following.

The Major Project Construction Contract (replacing the 2003 Major Project Form), the Standard Building Contract without Quantities, with Quantities and With Approximate Quantities Contracts (replacing the 1998 versions of the Private and Local Authorities versions without Quantities, With Quantities and with Approximate Quantities Contracts) and the new Design and Build Contract to replace the 1998 "With Contractor's Design" Contract. Further, both the Intermediate and Minor Works Building Contracts have been updated and re-published in two versions, one with a contractor's design portion and the other without.

The Major Project Construction Contract, the Standard Building Contracts, the Design and Build Contract and the Intermediate Building Contract now address third party rights by providing for the grant of Collateral Warranties and/or rights under the Contracts (Rights of Third Parties) Act 1999. However, this has not been mirrored in the Minor Works Building Contract, which does not provide for any third party rights.

The Design and Build Contract and the Intermediate Building Contract now impose obligations on a Contractor with design responsibilities to take out and maintain professional indemnity insurance. This is not provided for in the relevant Minor Works Building Contract.

It should be noted that where the Contractor has responsibility for design, he is not responsible for the contents of the Employer's Requirements or verifying the adequacy of any design contained within them.



The list of Relevant Events entitling the Contractor to an extension of time has been shortened, as has the list of Relevant Matters entitling the Contractor's to be reimbursed for loss and/or expense.

Despite these new features, JCT 2005 remains silent on a number of important issues. First, it makes no provision for the grant of performance bonds or parent company guarantees. Secondly, there is no mention of a prohibited materials clause and, thirdly, copyright provisions are still non-existent in a number of the contracts. As a result, amendments will have to be made to the contracts as and when necessary.

Whilst it is likely that the 1998 versions will remain the preferred short-term choice due to custom and familiarity with the old documentation and until the JCT publishes the sub-contract documentation, the way forward must be to adopt the new JCT 2005 contracts with suitable amendments to fit the particular project.

For further information contact our construction partner Paul Matcham on 020 7421 6412.