CONTRACT & CONSTRUCTION CONSULTANTS

Loss and expense under the JCT 2016 Design and Build Contract

Has the regular progress of the Contract Works (or any part of them) been or likely to be Materially affected[1]?

- **Yes** → Is the cause of the delay or disruption a Relevant Matter listed at clause 4.21 or deferment of giving possession of site?
- **No** → **Contractor is not entitled to L&E**

Is the cause of the delay or disruption a Relevant Matter listed at clause 4.21 or deferment of giving possession of site?

- **Yes** → Has the Contractor suffered, or is likely to suffer, loss and expense (L&E) as a result?
- **No** → **Contractor is not entitled to L&E**

Has the Contractor suffered, or is likely to suffer, loss and expense (L&E) as a result?

- **Yes** → Can the L&E be reimbursed under another provision of the Contract – e.g. as a variation?
- **No** → **Contractor is not entitled to L&E**

Can the L&E be reimbursed under another provision of the Contract – e.g. as a variation?

- **Yes** → **Contractor to claim for reimbursement under another provision of the Contract**
- **No** → Contractor is entitled to reimbursement as L&E

Contractor is entitled to reimbursement as L&E

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Contractor to notify the Employer as soon as the likely effect of a Relevant Matter on the regular progress or the likely nature and extent of any L&E arising from deferment of possession becomes (or should have become) reasonably apparent to him.

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Contractor to supply information and initial assessment with the notification or following it (as soon as reasonably practicable).The initial assessment is of the L&E incurred or likely to be incurred; and the information as is reasonably necessary to enable the Employer to ascertain the L&E incurred.

→ **Employer to notify the Contractor of his ascertainment of the L&E incurred within 28 days of the initial assessment and information**

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Contractor to update assessment and information monthly until all information reasonably necessary to allow ascertainment of the total amount of L&E has been supplied. Form and manner of update to be as the Employer may reasonably require.

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Employer to notify the Contractor of his ascertainment of the L&E incurred within 14 days of each update.

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The Contractor should include the L&E in their applications. If the amount is disputed, the contractual dispute resolution mechanisms are applied.

[1]"Material affect" means that the works have been delayed or disrupted in more than a minor way. Delay and disruption is demonstrated by comparing what has actually happened to how you were contractually entitled to do your work (i.e. what the contract allowed your "regular progress" to look like).

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