

# BUILDING AND CONSTRUCTION LAW JOURNAL

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## ARTICLES

### **Proportionate liability – its impact on risk allocation in construction contracts – *Owen Hayford***

This article considers the application of proportionate liability legislation to construction contracts. In particular, it considers the possible impact of the legislation on the contractual allocation of risk in a construction contract, and why one might seek to contract out of the legislation; as well as whether it is possible to contract out of proportionate liability legislation, and how one might do so. .... 322

### **A failure to give notice and the defeasibility of time bars in construction contracts – *Trevor Thomas***

This article considers the importance of time in construction contracts and, in particular, contractual obligations to provide notice within any specified time limits. The article has regard to the difference between time being “of the essence” of a contract and a time procedure being a “condition precedent” to a claim. It looks at language that may suggest that time is of the essence and the consequences associated with such an interpretation. It then considers situations where a time procedure is a condition precedent and some suggested defences where a claim has been time barred. In particular, defences of waiver and estoppel are considered. .... 342

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