

BUILDING AND CONSTRUCTION LAW JOURNAL

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Proportionate liability in construction claims – <i>Hon Justice David Byrne</i>	
The policy behind the proportionate liability regime which has recently come into force in this country has been the subject of extensive debate. In this article, his Honour addresses two aspects of the legislative regime which will be of practical importance in construction cases. These arise at each end of the litigation process – the formulation of claims and the making of final orders. They are in truth two aspects of the same feature of the regime – that different procedural and other consequences flow from the form which the proceeding takes.	10
Is a building contract specifically enforceable and, if so, under what circumstances? – <i>David Levin QC and Andrew Laird</i>	
As a general rule, equity will not grant an injunction or decree specific performance of a contract for personal services because such an order would require constant supervision of the parties' contractual relationship. This article examines whether this general principle is equally applicable to building contracts and, if not, the circumstances under which specific performance of a building contract might be ordered. The issue was recently the subject of a carefully considered decision by Senior Member Cremean of the Victorian Civil and Administrative Tribunal in the matter of <i>Dura (Australia) Constructions Pty Ltd v SC Land Richmond Pty Ltd</i> [2006] VCAT 2120. Associate Professor Cremean in his reasons considered many of the authorities in Australia, the United Kingdom and New Zealand. The decision is therefore of general interest.	16
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