

BUILDING AND CONSTRUCTION LAW JOURNAL

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Reflections on drafting effective dispute clauses – Kanaga Dharmananda

A written contract of any significance is likely to have a dispute clause, although it is unlikely to be the focus of much considered negotiation, especially for the commercial managers. There are a multitude of matters that can affect the efficacy and effectiveness of dispute clause. The consequences of a defective clause are severe leading to delay, complexity of proceedings, and no relevant attention to resolving the real issues in dispute. This article offers some reflections on the drafting of dispute clauses.	150
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Watch out! The duty to warn on construction projects – Owen Hayford

The so-called duty to warn is a complex area of law, particularly in the context of construction projects. This article considers the legal principles underlying the so-called “duty to warn” and the application of these principles in the context of construction projects. It concludes with a brief discussion on the application of contributory negligence and proportionate liability schemes to situations involving a breach of a duty of care arising from a failure to warn.	163
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Policy triggers and exclusions in construction insurance – Patrick Mead

Contract works and contractors’ all risks policies comprise a critical component of risk allocation in major construction projects. The following article examines common policy triggers in construction liability policies, and the scope for the implication of a term obliging an insurer to meet expenditure incurred by an insured to mitigate a liability to a third party. It thereafter considers what constitutes “damage” or “physical damage” under a contract works policy. It concludes by analysing authorities in relation to contract works policy exclusions enlivened when property is allegedly damaged in consequence of defective workmanship, material or design.	184
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