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1980 JCT Standard Form of Building Contract

A Commentary for Students and Practitioners

Third Edition

R.F. Fellows

*School of Land and Construction Management
University of Greenwich*

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Preface

This book is designed to provide an introduction to the complex contractual situations encountered in the building industry, directly associated with the use of the JCT Standard Form of Building Contract, 1980 Edition.

In 1980 the Joint Contracts Tribunal issued a new set of standard contracts for use on building projects. These documents contain some extensive modifications to the standard contracts (also mainly of JCT origin) which were in wide use. The new contracts not only modified the previous editions but also, by express terms, changed the applicability of some case precedents which had become well known and widely recognised parameters for building operations.

The objective of a standard contract is to provide a clear and unambiguous contract in order to prevent disputes arising out of the terms of the contract and interpretation thereof. Note that provisions in the Unfair Contract Terms Act, 1977, refer to standard form contracts and to consumer contracts; JCT 80 is of the former type.

The legal knowledge required by anyone involved with the use and interpretation of contracts changes and increases daily, so constant attention to the evolution of, particularly, statute and case law is essential.

The intention is to provide an interpretation of and commentary upon the terms of the JCT Standard Form of Building Contract, Private with Quantities, 1980 Edition, combined with considerations of the relevant precedents. Therefore, the aim is to provide a guide for 'everyday' use. In order to pursue any aspect of the contract in great detail, the reader is advised to consult one of the available definitive authorities (such as Hudson's Building and Engineering Contracts).

As this book is intended to serve many purposes, the reader requires no previous knowledge of the standard contracts used in the building industry but will find it of value to have an appreciation of basic English law, particularly that relating to contracts.

The second edition of this book incorporates the amendments to JCT 80 published between its launch and February 1987: these consider ownership of materials on site, NSC/1A and the indemnity and insurance provisions. Recent developments in case law have been included.

The third edition of this book incorporates the amendments published up to the end of November 1994 and updates the case law to include significant, recent precedents which supplement those included in the first two editions.

Thus, this book will prove of use to many concerned with building, whether in industry or the professions commonly encountering problems of interpretation and implementation of the contract, or as students.

The use of this book is recommended to be in conjunction with a copy of the appropriate JCT contract in order that the exact terminology of the document may be studied together with its interpretation. This is particularly important in practical situations where amendments to the contract vary the standard terms.

Acknowledgements

My thanks are due to many people who have been of help in the preparation of this book.

In particular, I am grateful to Professor I.H. Seeley for his most useful comments after reading a full draft, to David Langford and Robert Newcombe for their very objective comments and encouragement during this period of writing and to Mr Malcolm Stewart for his patience and care in the publication.

Finally, my thanks to Marianne Bevis for her incomparable tolerance and diligence in typing the final manuscript and, of course, to my wife, Shirley McCarthy, for her unceasing support and assistance.

2nd edition

In addition to those people who provided much help with the preparation of the original edition of this book, I am grateful for the considerable assistance rendered by the following people in the production of the second edition: Stan Hutton, Peter Murby for his efforts in publishing the volume, and Lisa Warr for her patience and expertise in typing the manuscript.

Responsibility for any errors and omissions in this book remains mine alone.

3rd edition

I am very grateful to Malcolm Stewart for his enthusiasm, drive and patience with me in securing publication of the third edition.

Further, the perseverance of Kirsten Clayton for interpreting my writing so well and diligently in producing the final manuscript, merits special appreciation.

I have received much assistance and encouragement from colleagues which has spurred me on to complete the work: special mention is due to the forbearance and understanding of my research partner from whom what inspiration I may have has stemmed.

Finally, I take full responsibility for any errors, omissions and contentious statements.

Richard Fellows

Abbreviations

QS	Quantity Surveyor
DLP	Defects Liability Period
NS/C	Nominated Sub-Contractor
NSC	Nominated Sub-Contract
NSup	Nominated Supplier
BQ	Bill(s) of Quantities
SMM7	Standard Method of Measurement of Building Works: Seventh Edition
NEDO	National Economic Development Office
NJCC	National Joint Consultative Council
CITB	Construction of Industry Training Board
CoW	Clerk of Works
S/C	Sub-Contractor
SO	Supervising Officer
VAT	Value Added Tax
PC Sum	Prime Cost Sum
AI	Architect's Instruction
FIDIC	Fédération Internationale des Ingénieurs-Conseils
LA	Local Authority
JCT	Joint Contracts Tribunal
SI	Statutory Instrument
S	Section (in reference to a statute)
UK	United Kingdom
PAYE	Pay as You Earn
NI	National Insurance
PQS	Private Quantity Surveyor
RIBA	Royal Institute of British Architects
CDP	Contractor's Designed Portion

Use of this book

This book fulfils three primary functions: as a textbook, as a source to amend and update knowledge of the 1963 JCT Standard Form, as a practical aid to interpretation and use of the 1980 JCT Standard Form or Building Contract.

It is recommended, therefore, that a copy of the 1980 JCT Standard Form be kept available by the reader to enhance consideration of precise points of detail. In instances of industrial and professional use, reference should be made to a copy of the Contract Document used upon the project under examination (especially where amendments to the standard contract have been incorporated). Reference should also be made to all relevant law reports to ensure compliance with precedents, including recent amendments thereto.

The reader requires no prior knowledge of specialist building contracts, although a basic knowledge of English law, especially contract and tort, and of the building process will prove advantageous.

The reader may occasionally require more detailed discussion than it has been possible to include in this volume; in such circumstances reference is recommended to the works contained in the Bibliography/Sources section to be found at the back of this book.

To accord with the terminology used by the JCT, the style of writing employed in this book uses the masculine gender. In all cases, it is the intention of the author that masculine versions of words and terms refer equally to their feminine equivalents. No sex discrimination whatsoever is intended and it is hoped that styles of writing will change soon to eliminate such apparent inequity.