

- 1 Have you identified the key risks which may affect your project?
- 2 Have you addressed and allocated potential project risks in your contract documents?
- 3 Is your project managed for the early identification and avoidance of disputes and claims?
- 4 Is all essential collateral warranty and safety documentation in place?
- 5 Have you given proper consideration to what is required for effective dispute resolution?

#### Mason Hayes+Curran – How can we help?

Mason Hayes+Curran's construction law team provides dedicated legal services to clients involved in construction and engineering projects. Our objective is to give clients appropriate and practical advice directed at the early and effective resolution of issues.

Although in some ways an obvious statement, effective allocation and pricing of risk at the commencement of a project is essential to successful completion. Commercial considerations and pressure of time may often drive a project forward when, for instance, design is still in development and this can lead to difficulties. It is important that standard-term contracts be finalised to reflect the basis on which a project is procured.

As one of Ireland's leading law firms, Mason Hayes+Curran can give comprehensive advice to those engaged in construction or engineering projects throughout the lifetime of the project. The construction law team has a track-record of advising clients on complex legal issues and consistently seeks the most practical and cost-effective solution. We have successfully represented a broad range of interests, including employers, contractors, sub-contractors, local authorities and construction professionals.

Procurement of a project which does not address the commercial considerations of the parties, and where risk lies, can result in very expensive problems. Such situations can and should be avoided. From project concept and procurement, through to contract management and dispute avoidance / resolution, our construction law team has the ability to provide advice that makes a difference.





### Project Procurement

The construction team regularly advises clients on methods of procurement which meet their precise requirements. This may involve traditional contracting, design and build contracting, Public Private Partnership (PPP), and variations of these. EU Procurement Rules may be relevant and are addressed with professional advice. Common issues include the implications of nomination of sub-contractors and the use of PC sums, responsibility for co-ordination, integration and other aspects of design, and the potential fitness for purpose implications of design and build contracting.

### Contract Advice, Drafting and Negotiation

The use and adaptation of RIAI, IEI, JCT, ICE, FIDIC, GCCC and similar forms of contract, together with collateral warranties and bonds are typical features of many construction and engineering projects. Understanding how the standard form contracts meet your needs or can be adapted to do so is highly important. To take one example, the frequency with which building contracts are not adequately amended for sectional completion can deprive developers of an important facility through no fault of the contractor. Ultimately the requirements of a project may only be met by a bespoke contract.

### Contract Management and Dispute Avoidance

Our advice is geared to the successful delivery of a project. By their nature, construction and engineering contracts are designed to accommodate change and take account of the unforeseen. In contrast, the principal objective of many other commercial contracts is to ensure there is no change or alteration to the subject matter. Difficulties can arise when procedures for change in a construction contract are not observed by the parties, leading to an accrual of cost or time issues towards the end of the project, and likely disputes. Timely advice during the course of a project can assist with early resolution of problems and if that is not possible then management of issues can significantly reduce the scope for dispute.

### Dispute Resolution

Assessing when and how to seek resolution of disputes is very important, but divorcing this assessment from critical examination of the substance of claims can make it a pointless exercise. Thorough investigation of a claim in early course can lead to a strong and convincing presentation of that claim, or a realisation of its difficulties – either can be valuable for differing reasons.

### Conclusion

Successful completion of a project is in the common interest of all concerned. Taking effective advice in the early stages is a cost effective way of pursuing this objective and managing the many complex issues which can arise. We believe that our construction law team can add value to your project.

Should you wish to discuss any aspect of construction law please do not hesitate to contact us.



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