

COMPLETION OF CONSTRUCTION WORKS



In commercial contracts generally and subject to express provisions to the contrary, performance under the contract is not complete until all of the obligations imposed by the contract have been satisfied.

In other words the contract is not complete if there are still works to be done or repairs to be made or documents to be provided. Subject to any express provisions in the contract, construction and engineering projects are not complete until all of the services required by the contract have been provided to a standard consistent with the requirements of the contract.

Why does it matter?

Completion of a construction project often directly triggers a number of consequent actions or obligations, or marks the end of any further liabilities.

Under the FIDIC forms of contract, which are principally used on international projects, the client takes possession of the works when the works have reached a state of completion known as ‘substantial completion’.

Substantial completion is primarily determined by whether or not the works are sufficiently complete to be fit for their purpose from a functional perspective. Other criteria might include the cost of remedial works in proportion to the value of the original works.

It is important for the main contractor to link his sub-contractors into similar obligations regarding completion to the ones he is subject to under the main contract; otherwise completion may have to be accepted from his or her sub-contractors when their works are not classified as complete under the main contract.

This could mean that the main contractor is liable for liquidated damages because of his or her subcontractor's works and would be unable to pass that liability onto the subcontractors.

This badly described in the contract and without proper care can bring a big problem during the delivery, either for the contractor or for the employer.