

2 CPD
POINTS on
offer



CONSTRUCTION & ENGINEERING LAW TRAINING

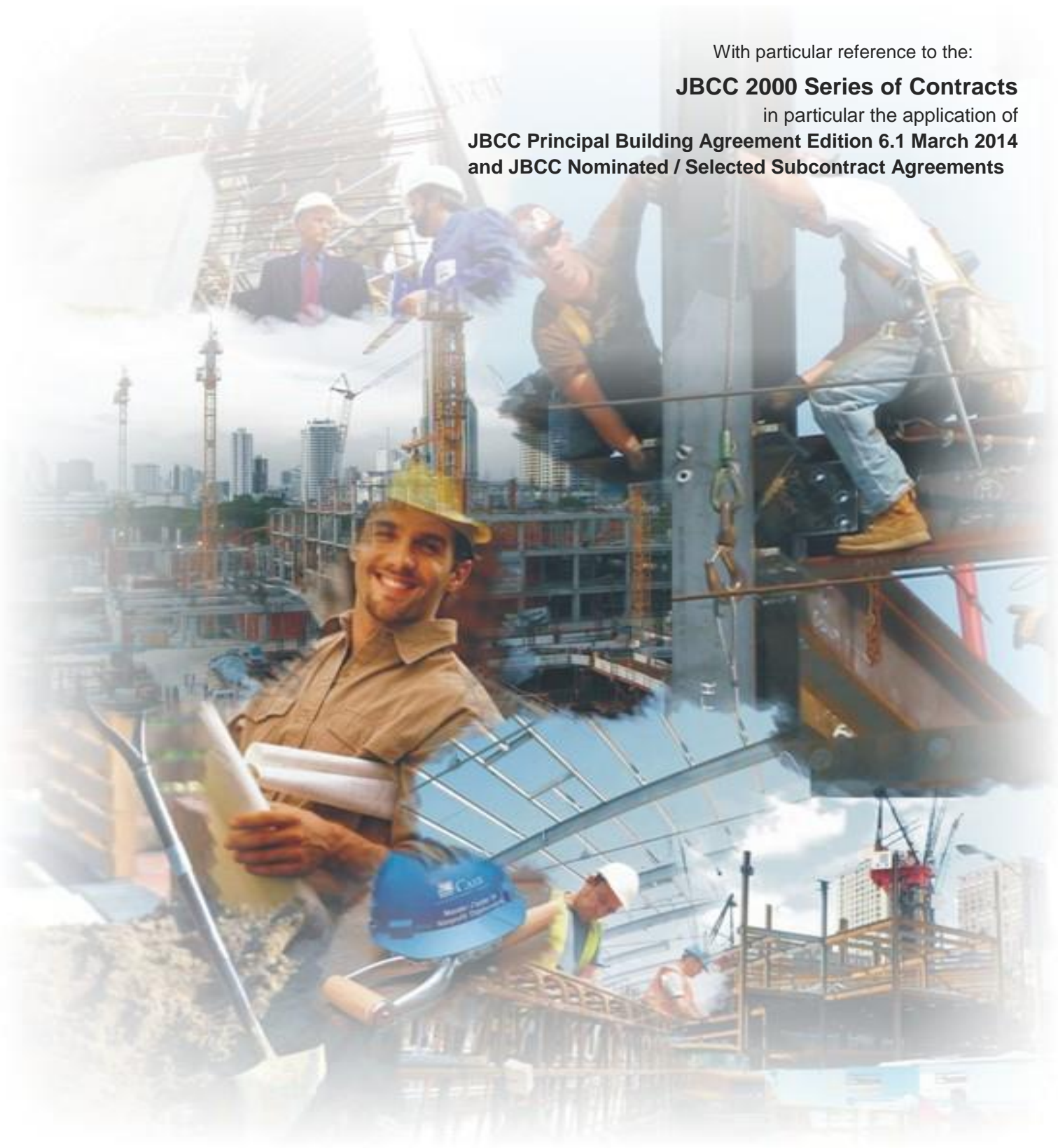
24 & 25 FEBRUARY 2016

With particular reference to the:

JBCC 2000 Series of Contracts

in particular the application of

**JBCC Principal Building Agreement Edition 6.1 March 2014
and JBCC Nominated / Selected Subcontract Agreements**



Overview

The construction industry is becoming ever more competitive and demanding. It is no longer sufficient for practitioners to understand the technicalities of their field. In addition to understanding the technicalities, construction practitioners are required to understand the legal framework within which they operate.

Every member of the construction team should have an understanding of contractual issues, the law regulating claims, the law regulating negligence and other legal issues. In an industry that is seeing increased insolvencies, terminations, claims and numerous disputes, the importance of a sound understanding of the legal background cannot be underestimated. For, as many construction professionals understand, the business of construction is not so much the business of completing works as it is the business of managing money and controlling risk. A thorough understanding of the legal framework provides the key both to successful money management and to reliable risk management. Most construction players have encountered the law during the course of their work, yet few have the competitive advantage gained from a comprehensive understanding of the law. In order to meet the needs of this sector, Instrument Construction Lawyers has designed an in-depth, course on construction and engineering law.

The course is aimed at all levels of construction personnel who have had little or no formal training in construction law. The course will cover all key areas of construction law, in an informative, interactive and educational manner.

CPD Points

Persons registered with ECSA shall receive 2 CPD points upon completion of the course.

Sessions

Sessions will be designed to:

- * meet the needs of those who have no formal legal training but who do have an understanding of the construction environment.
- * meet the needs of those who have legal training, but who do not have experience in the construction environment.
- * cover areas where disputes and conflict often arise.
- * cover case studies based on practical experiences and real life scenarios

allow for maximum communication between presenters and delegates and amongst the delegates.

Standard Contracts

This course will be designed around the JBCC 2000 suite of documents, in particular the JBCC Principal Building Agreements Edition 6.1 March 2014, the Nominated / Selected Subcontract Agreement Edition 6.1 March 2014. Presenters will use these contracts to illustrate issues and to show how the standard contract deals with important issues. Practical exercises and group exercises will be designed around these contracts. In order to gain the full benefit of this course, delegates will be expected to have a copy of the contract available.

Course Notes

Core Notes designed for each session will be made available to the Delegates at registration.

Special Features

A special feature of the seminar will be the in depth analysis of the Extension of Time Contractual Mechanism, including the levying of Penalties, the role of the Programme and the Procedural Requirements to comply with. Potential conflicting or inconsistent provisions which may create ambiguity will be identified and amendments will be proposed. The importance of sound procurement of Subcontracts and possible pitfalls with current appointment methods will be illustrated.

Course Content

The sessions will deal with the various Topics as listed below, with reference to the applicable clauses in the JBCC. In the various sessions a number of frequently encountered practical problems will be dealt with. These sessions will cover a wide range of topics and issues from tender stage, through execution, commissioning and beyond final completion.

Instructor : Toit Malan

Educational Qualifications

- * B.Eng (Civil) University of Stellenbosch (1984-1987)
- * M.Eng (Project Management) University of Stellenbosch (1988-1990)
- * LLB (University of Natal, Unisa and Western Cape) 1994
- * Higher Diploma Specialisation in Construction Law (Association of Arbitrators) 1999
- * Certificate Sports Law (University of Cape Town; Anglia Polytechnic University, UK) (2000)
- * Certificate Arbitration Skills (The Arbitration Forum) (2001)
- * Certificate Construction Management (The SA Construction Management Programme) (2001)
- * Commenced a Ph.D in Design and Construction Disruption and Delay Claims

Experience

- * Lecturing at Stellenbosch University - Engineering Management and Construction and Engineering Law.
(also Cape Technikon and Peninsula Technikon)
 - * Project Management of multi-disciplinary projects.
 - * Advice and Acts for a wide range of Clients including owners, developers, lawyers, consortia, joint ventures, government departments, contractors, consultants, subcontractors, suppliers, financiers and insurers on a wide range of Engineering and Building Construction Projects including residential, commercial, retail, industrial and infrastructure
- Front-end: – By using legal risk management instruments, ensuring that risk be allocated to party best able to control it. Risk clearly defined to minimize disputes and enhance pro-active risk management. Prepare, draft, negotiate and review Documents or Agreements on behalf of clients and;
- Back-end: – By participating in Claims and Disputes on behalf of or representing an Affected Party or act as Mediator or Adjudicator.

Topic 1 – Requirements for a Valid Contract

Most litigation concerns the issue whether a Valid Contract was concluded and if so, the Interpretation of its terms.

Issues to be covered include:

- * Letters of Intent
- * Offer and Acceptance
- * Agreement between Parties
- * Capacity to Act
- * Formalities
- * Non Variation Clauses
- * Rules of Interpretation
- * Interpretation of Contractual Terms
- * Express and Implied Terms
- * Contract Data
- * Tender Process

Topic 2 – Commencement and Completion

The focus will be on the requirements and implications of the various stages of completion.

Issues to be covered include:

- * Commencement Date
- * Interim Completion
- * Practical Completion
- * Works Completion
- * Final Completion
- * Sectional Completion
- * Certificates of Completion
- * Latent Defect Liability

Topic 3 – Programme

The various contractual obligations will be examined to determine the purpose, requirements and status of the Programme and Information Required Schedule.

Issues to be covered include:

- * Commencement Dates
- * Possession
- * Access
- * Construction Completion Dates
- * Contractual Completion Dates
- * Sectional Completion Dates
- * Critical Path
- * Time for Performance
- * Approval of Programme
- * Acceleration

Topic 4 – Extension of Time

The focus will be on allocation of risk between the parties for circumstances or events that may cause a delay to Practical Completion of the Works.

Issues to be covered include:

- * Employer's Risk Events
- * Contractor's Risk Events
- * Neutral Risk Events
- * Entitlements to EoT

Topic 5 – Penalties, Damages and Termination

The focus will be on the penalty and/or damages provisions in the contracts, as well as grounds for and consequences of Termination.

Issues to be covered include:

- * Penalties Act
- * Penalties
- * Reduction of Penalty
- * Liquidated and Ascertained Damages (LAD's)
- * Damages
- * Termination

Topic 6 – Time at Large and Prevention Principle

The Prevention Principle will be discussed and its effect on completion and penalties.

Issues to be covered include:

- * Defining the Prevention Principle
- * Historic Overview
- * Implied and Express Terms
- * Requirements for the Prevention Principle
- * Scope of Prevention Principle in standard contracts
- * Prevention Principle as it relates to time at large and penalties

Topic 7 – Claims and Claims Procedure

The procedure for submitting claims and the effect if not adhered to by claimants will be perused.

Issues to be covered include:

- * Claim procedure clauses
- * Notice periods
- * Time Barring
- * Expense and Loss
- * Adjustment to Contract Sum / Contract Value
- * Preliminaries

Topic 8 – Ownership of Float

Ownership of float and the effect thereof relating to claims for extension of time and compensation.

Issues to be covered include:

- * Defining float
- * Case law overview
- * Float and extension of time

Topic 9 – Concurrent Delays

The focus will be on concurrent delays as it is one of the most contentious issues in the determination of extension of time and recoverable prolongation compensation.

Issues to be covered include:

- * Contractual provisions
- * Defining concurrency
- * Concurrency relating to Extension of time
- * Concurrency relating to Compensation

Topic 10 – Compensation for Prolongation

The focus will be on the recoverability of compensation for prolongation, which depends on the terms of the contract and the cause of the prolongation.

Issues to be covered include:

- * Contractual provisions relating to Compensation for Prolongation
- * Contractor Risk Events
- * Employer Risk Events
- * Heads of Claim

Topic 11 - Payment

The procedures and contractual provisions regarding payment will be discussed.

Issues to be covered include:

- * Contractual provisions
- * Payment Certificates
- * Liquid documents
- * Variations
- * Valuations
- * Ownership of Materials

Topic 12 – The Role of Agents and Design Responsibility

The Principal Agent fulfils an extremely important role in the execution of the contract. The dual function includes the role of independent certifier on the one hand and Employer's Agent on other hand. The professional responsibilities of the other agents, including design, supervision, contract administration and financial involvement are some of the important features.

Issues to be covered include:

- * Principal Agent
- * Architects
- * Quantity Surveyors
- * Engineers
- * Design
- * Supervision
- * Professional Services Agreements

Topic 13 – Risk and Insurances

The focus will be on the insurances that the parties are contractually obliged to effect. Different forms of insurance will be considered and a brief overview of each provided.

Issues to be covered include:

- * Contractor's All Risk Insurance
- * Public Liability Insurance
- * SASRIA
- * Delay Insurance
- * Contractors' Plant
- * Professional Indemnity
- * Principal Controlled Insurance
- * Indemnifications

Topic 14 - Security and Guarantees

The various forms of security available to both employer and contractor will be discussed. We consider the various legal and financial instruments available to transfer risk.

Issues to be covered include:

- * Performance guarantees
- * Payment guarantees
- * Advance Payment
- * Retention money
- * The builders' lien
- * Warranty
- * Cession

Topic 15 – Alternative Dispute Resolution

The focus will be on the different forms of dispute resolution, advantages and disadvantages of each, the procedures to be followed and the legal rules to be complied with.

Issues to be covered include:

- * Claims determination
- * Mediation
- * Adjudication
- * Arbitration
- * Litigation

REGISTRATION FORM

COURSE: Construction & Engineering Law with particular reference to the JBCC Suite of Contracts

DATE: 24 & 25 February 2016

VENUE: Stellenbosch University – JS Gericke Library

TO REGISTER: Kindly complete this registration form and return to info@instrumentgroup.co.za along with proof of payment.
Upon receipt of a signed registration form and proof of payment, an invoice will be issued and forwarded to the participant.

PAYMENT: Instrument Property Consultants (Pty) Ltd t/a Instrument Construction Lawyers
FNB - Account No: 625 00465 639 - Branch Code: 250 655, **Reference: JBCC + Your Surname & Your Company Details**

COURSE FEE: R5,900.00 (Including VAT, tea/coffee, lunch and course notes)

GROUP DISCOUNT: R500.00 (Including VAT) discount per person if two or more delegates from one company register for the course

EARLY REGISTRATION DISCOUNT: 10% discount for registration and payment before **31 January 2016**

CLOSING DATE: 19 February 2016

ENQUIRIES: Sandra Kayereka - 021 914 8279 or info@instrumentgroup.co.za

DELEGATE'S PERSONAL DETAILS				
Title:	Surname:		Name:	
Tel: ()		Fax: ()		
Cell:		Email:		
Specific dietary requirements:				
DELEGATE'S EDUCATIONAL BACKGROUND				
Institution			Location	
Dates Attended	From:	To:	Qualification	
COMPANY DETAILS				
Company Name:				
Registration #:		VAT #:		
Postal Address:		Office Address:		
In whose name should the invoice be issued:		Company		Attendant

I have read and I agree to the conditions of registration as stipulated above.

Signature: Date:

PRELIMINARY TIMETABLE

Day 1

08:00 Coffee and Tea will be served
08:30 Session 1
10:30 Tea and Coffee break
11:00 Session 2
13:00 Lunch
14:00 Session 3
15:15 Tea and Coffee break
15:30 Session 4
16:30 Close of Day

Day 2

08:00 Coffee and Tea will be served
08:30 Session 5
10:30 Tea and Coffee break
11:00 Session 6
13:00 Lunch
14:00 Session 7
15:15 Tea and Coffee break
15:30 Session 8
16:30 Close of Day