

WHAT IS THE COMPARATIVE VALUE OF JCT SUBCONTRACTS?

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Overview

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- Common pitfalls in subcontracts
- JCT options for subcontracting
- Other forms: facts and figures
- Comparative value of JCT against NEC3?
- Subcontracts / contracts in practice: 7 Deadly Sins
- JCT 2016 – a glimpse at changes for subcontractors

Icebreaker:

https://en.wikipedia.org/wiki/Spinning_Dancer

Common pitfalls in drafting subcontracts

- Stepped down contracts
- Appropriate form of subcontract
- Valuation of the works / variations
- Compliance with the main contract
- Retention
- Dispute resolution terms
- Limitation periods
- Named subcontractors

JCT Options for Subcontracting

- Comprehensive suite of subcontracts for different scenarios:
 - JCT Short Form of Subcontracts (ShortSub)
 - Standard Building Subcontract (SBCSub/A and SBC/C)
 - Standard Building Subcontract with subcontractor's design (SBCSub/D/A and SBC/D/C)
 - Intermediate Subcontract (ICSub/A and ICSub/C)
 - Intermediate Subcontract with subcontractor's design (ICSub/D/A and ICSSub/D/C)

- Intermediate Named Sub-Contract Tender & Agreement (ICSub/NAM) and Intermediate Named Sub-Contract Conditions (CSub/NAMC)
- Minor Works Subcontract with Subcontractor's design (MWSub/D)
- Major Project Sub-Contract (MPSub)
- Design and Build Subcontract (DBSub/A and DBSub/C)
- Management Works Contract (MCWC/A and MCWC/C)
- Sub-subcontract (SubSub)

Other forms: Facts and Figures

(National Construction Contracts Law Survey 2015)

Suite of contracts used / used most often

Contract	2011	2012	2015
JCT Contracts	60%	48%	39%
NEC Contracts	16%	22%	30%
Bespoke Contracts	10%	9%	11%
FIDIC Contracts	3%	4%	7%

Contracts used at all / most often

Contract	Used at all in 2015	Used most often in 2015
JCT contracts	57%	39%
NEC contracts	53%	30%
Bespoke contract	35%	11%
FIDIC contract	18%	7%
ICE Engineering contracts	13%	1%
RIBA contracts	12%	2%
GC/Works contracts	8%	1%
ICC contract	7%	0%
IChemE contract	5%	0%
PPC2000 contracts	5%	1%
SBCC Contracts	5%	3%
JCT Constructing Excellence contract	3%	0%
JCLI contracts	1%	1%
Other	6%	4%

Comparative value of JCT against NEC3

- Simplicity / Brevity
- Language
- Judicial treatment
- Collaboration / team spirit
- Dispute resolution

Subcontracts in Practice:

1. Not signing / finalising the contract documents
2. Not reading the subcontract / contract
3. Not using the contract / filing it so that it is accessible
4. Subsequently amending the contract documents
5. Not resourcing adequately the commercial / project team
6. Not seeking early legal / technical advice as disputes arise
7. Not keeping proper / adequate documentation to pass claims up or down the contractual chain.

JCT 2016 – A Glimpse at Changes for Subcontractors

- Payment provisions
- Loss and expense
- Collateral Warranties / Third Party Rights

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