Editorial

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Welcome to the April 2016 issue of the *Management, Procurement and Law* journal. The journal publishes original research and practice papers, briefing notes, case studies and book reviews covering a wide range of topics in civil engineering.

The NEC3 Engineering and Construction Contract (ECC) has gained widespread use on major construction projects worldwide. One of the features of the NEC3 family of contracts is the compensation event procedure which provides a mechanism for dealing with what are usually referred to as variations, loss and expense, and extensions of time in traditional construction contracts. The compensation event procedure provides a single mechanism that aims to determine once and for all the contractor's rights to additional cost and time or damages as a result of breaches of contract by the employer or fault-neutral events such as weather conditions or site conditions. Effective management of the compensation event procedure is crucial to successful delivery of a project. Laryea's research (Laryea, 2016) based on an extensive literature review and case studies on four projects in South Africa procured under NEC3 provides an improved understanding of the nature of compensation events on construction projects. What is the extent and effects of compensation events on construction projects? What are the sources and causes of compensation events? The research answers these questions and finds that compensation events may have a positive or negative impact on the financial outcome of a construction project. In terms of sources of compensation events, the research finds that the majority result from additional work, changes to the project, inadequate or late information and external events.

The ECC is also fundamentally a different form of contract. It promotes good project management and requires a different approach by the parties in terms of documentation. It imposes different management requirements and project participants need to invest time and resources to avoid potential problem areas and to deliver benefits for both the contractor and the promoter. It reduces the risk of claims and disputes after project delivery. For example, every payment certificate in the NEC3 is final and not provisional; and because there is no final account, financial and schedule closure are possible immediately following project completion. It is partly because of this reason that the NEC3 form has now become a contract of first choice for many client organisations. Although the body of case law involving NEC3 contracts is limited, anecdotal evidence suggests that adjudicators are used to resolving disputes arising under NEC3 contracts. Ndekugri's research (Ndekugri, 2016) analysed several cases not involving NEC3 contracts but involving difficult questions of law concerning adjudication and concludes that future editions of the ECC have to consider

additional provisions in order to achieve the objective of closing the door to claims and disputes on project completion.

Engineering, business or technology projects are ultimately delivered by people and achievement of successful projects therefore depends on human interaction and organisational behaviour. Project outcomes are clearly influenced by teamwork, human motivation, conflict management and both organisational and societal culture. The penultimate paper, by Ojiako *et al.* (2016), reports results of research that examined the role of parameters such as social cohesion, interpersonal conflicts and national culture on project outcomes. The authors conclude that project success depends on several factors specific to a given business context and conditions, and that social cohesion and interpersonal conflict transcend the impact of national culture on project delivery.

In an earlier publication, Chapman (2011) presented details of a lengthy legal battle against statutory authorities in the UK that were opposed to restoration of a flood embankment to protect a listed building, farm buildings, an access road and agricultural land from flood waters. The paper reported and discussed the first ever appeal undertaken pursuant to the provisions of section 110 of the Water Resources Act 1991 (1991). The outcome of the appeal was the granting of unconditional planning consent by the local planning authority concerned. The final paper, by Chapman (2016), provides a description and analysis of the litigation that followed the appeal.

Readers interested in purchasing the ninth edition of *Keating on Construction Contracts* with the first supplement will find Barry Manie's review helpful. I thoroughly enjoyed reading the papers in this edition. I found their content informative, the legal analysis thoughtful and the research rigorous. I commend them to you and look forward to reading your views and feedback.

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