Book review

Fidic Contracts: Law and Practice

Ellis Baker, Ben Mellors, Scott Chalmers and Anthony Lavers, Informa, London, UK, 2009, ISBN 978-1-84311-628-8, **£290.00, 583 pp.**

There are a limited number of books available dealing with the international Fidic suite of standard form contracts. This new publication covering law and practice is, therefore, extremely welcome. A medley of experienced authors, led by Ellis Baker, has produced a very useful and concise text that does not simply analyse the Fidic contracts from start to finish on a clause-by-clause basis.

The authors helpfully explain the Fidic organisation and how that organisation interacts in particular with the ICC and the multi-lateral development banks. This then provides the perfect backdrop for the introduction of the Fidic suite of contracts, before dealing with the mechanics of the Fidic provisions. In order to analyse the key provisions across the suite of contracts, the authors have approached the analysis by considering price, time, contract administration and claims, risk insurance and securities, remedies and then finally dispute resolution. This useful but simple structure provides a logical approach to the Fidic suite, and allows for expansion of the key topics as necessary.

The Fidic suite of contracts are used on projects with an international element and indeed, are used worldwide. They are generally accepted by employers and contractors as providing a recognisable common basis of agreement for defining the conditions of contract for construction and engineering projects. They are not restricted, nor intended, for use under a particular governing law – that is the law of the country or jurisdiction that governs the law. In actual fact the Fidic form of contract is increasingly now being considered for some of the major projects in the UK, specifically where clients want more bids from international contractors who are more familiar with the international Fidic form.

This book covers the full range of Fidic contracts, providing legal commentary, detailed clause-by-clause analysis and relevant case law for each of the different forms. Intended to provide a comprehensive reference for those using the Fidic forms of contract in international construction and engineering projects, this book is suitable for lawyers practising in international procurement and dispute resolution but also for engineers, project managers, quantity surveyors, architects, contractors and other users of the form.

The operation of the Fidic forms relies on an often complex interaction of provisions found in different sub-clauses, which both complement and supplement each other. These provisions must be read together to obtain a full understanding of the rights, obligations and liabilities of the parties. For this reason, the authors

have adopted an issue-based approach, as opposed to providing a commentary on a clause-by-clause basis. The book is, however, intended to be read alongside the relevant form of contract.

It is divided into nine chapters. Chapter 1 is a general discussion of Fidic as an institution and the background to the forms that are the subject of the book. Chapter 2 considers the Fidic forms and the structure of a Fidic contract; chapters 3, 4 and 5 deals with the parties' obligations in relation to what and how the works, the 'product', are to be constructed and, in the Gold Book, operated, their payment obligations, and their obligations as to time. Chapter 6 is concerned with the administration of the contract and claims, including the role of the engineer; chapter 7 covers the mechanisms found in the Fidic forms for the allocation and management of specific risks. Chapter 8 brings together and discusses the various remedies available to the parties; and the book concludes with chapter 9 – the resolution of disputes under the Fidic forms, covering in detail the dispute adjudication board (DAB) provisions, amicable settlement and arbitration. This final section dealing with dispute resolution is extremely useful, given that the Fidic contracts contain a relatively complex claim and dispute resolution process. This includes a time bar provision in respect of claim. The dispute adjudication board procedure is then covered by the authors, as is the amicable settlement procedure and importantly the final dispute resolution procedure of ICC arbitration.

The tables contained within the book serve as very useful checklists, many of which compare where specific issues are covered under the various numbered sub-clauses by the different Fidic forms.

Fidic Contracts: Law and Practice is the only book to date which deals with the whole suites of contracts, including the new gold book for design, build and operate projects. Moreover, the guide examines the Fidic suite of contracts in relation to other organisations, such as the World Bank and the ICC, who are closely involved in their use. This is especially important now that the multilateral development banks (MDBs) and an increasing number of bilateral agencies have adopted the MDB Harmonised Edition of the Construction Contract for their purposes.

The publisher argues that the *Fidic Contracts: Law and Practice* is sure to become the leading industry standard guide to using the Fidic forms. Certainly the book is a very welcome addition to existing Fidic publications and other commentaries, particularly as it covers the whole suite of Fidic forms. Overall it is an excellent resource and a valuable reference textbook for all those either involved in or contemplating a project using the Fidic form of contract. The book undoubtedly achieves its aim of providing a comprehensive legal text on the entire Fidic suite of contracts.

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