

# CONSTRUCTION INSIGHT

## The Latest News in Construction Contracts

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## OUT WITH THE OLD AND IN WITH THE NEW



by Caroline Eccles

I hope that by now we have all settled comfortably into 2006. To date, it has not brought any major upheaval to the construction industry. It is fair to say however, that 2006 still has some potentially big changes in store for us.

In this edition of Construction Insight, we look at what is new in 2006. In particular we look at the new JCT Suite of Contracts, which I understand have all now been published in paper form.

This suite of contracts, characterised by minor changes and plainer English, will succeed those produced in 1998. What impact they will have on the industry, remains to be seen.

We also have a new 'profile section' in Construction Insight. This will feature a variety of interviews and personal profiles.

This edition has an interview with Pauric Marray, a young, up-and-coming talent in the field of dispute resolution and a regular contributor to Construction Insight.

Kevin McKeown reports on a recent International Chartered Institute of Arbitrators event in Dublin. This event comprised a series of talks and a number of social events. It was an education in every sense of the word!

2006 has also spelt change for Construction Insight. As you will be aware, Ruth Farrell has passed the editorial baton to myself.

I have been with Quigg Golden and the Construction Insight team now for a year and a half. Before that I graduated from Queens University, Belfast with a law degree.

I am an Associate of the Chartered Institute of Arbitrators and have substantial experience in both the legal and construction industries. I hope that I will prove a worthy successor as editor.

On that note, I wish you all a rather belated happy and prosperous 2006.

**NEW  
YEAR.....**

**.....NEW  
TRICKS.....**

**.....OLD  
DOG!!.....**



# WILL NEW CONTRACTS SPELL BIG CHANGE?



by Edward Quigg

So the Joint Contracts Tribunal (JCT) decided to revise its Suite of Contracts, give them new colours and call them JCT 2005. Apart from having to buy a new set of documents for the office, what do the changes mean?

The answer is very little.

Certainly anyone with a working knowledge of the older JCT Contracts will find their way around the new contracts. The changes in colour and the re-numbering of the clauses will be the most noticeable.

However, there are some changes to the substance, so it will be necessary to read the contracts to see what they say, and not just rely on knowledge built up from previous editions.

For a while, many architects and quantity surveyors will still nominate sub-contractors, despite the contracts having no provision for this.

I do see arbitration being done away with as the default process, as surprising and disappointing. My impression is that the industry in Northern Ireland would still prefer arbitration, even with all its problems, to the courts.

For us in Northern Ireland, one other significant change has been made. JCT has told the Royal Society of Ulster Architects (RSUA) that it cannot be the only nominating body for adjudication.

So at last we can appoint quantity surveyors to deal with measurement disputes.

JCT did not go for a clean sheet approach, instead tinkered, and so JCT 2005 will make little difference. It remains to be seen if this is a missed opportunity.



It is always necessary to read the contracts, and not just rely on knowledge built up from previous editions.

## JCT 2005 - The new Suite of Contracts

by Caroline Eccles

In 2005 the Joint Contracts Tribunal (JCT) published a new Suite of Contracts characterised by plainer English and minor changes.

The JCT established in 1931, has for 75 years, produced Standard Forms of Contract, Guidance Notes and other standard documentation for use in the construction industry. Their Standard Forms of Contract are the most commonly used form in the industry. This new 2005 Suite of Contracts succeeds the 1998 Form of Contracts.

The contracts are now more compact but the family has grown. There are now 56 versions of the contracts.

The JCT has also changed publisher.

The new suite of contracts has been produced by Sweet & Maxwell.

*"... characterised by plainer English and minor changes..."*

All of the contracts have now been made available in paper form. It is thought that it will be the end of March 2006 before the digital service will be available.

John Riches of the JCT Drafting Committee gave a number of talks in Belfast late last year, including a talk for the RICS and the CIARB.

At both of these he was emphatic

about the fact that the contracts were in plainer English and were more user-friendly.

The realities of how the contracts will affect the industry remain to be seen.

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# GETTING TO KNOW US...

**As part of an ongoing feature, Construction Insight will be profiling a member of staff over the coming issues. Our first victim is Assistant Contracts & Arbitration Manager, Pauric Marray.**

After receiving a B.A. from the National University of Ireland, Maynooth, Pauric completed a law degree in the University of Limerick. Pauric joined Quigg Golden in September 2003 and is now predominantly based in the Dublin office.

**CI: "Pauric, why did you decide to specialise in this area of law?"**

PM: "I think it was combination of interest and opportunity. During my college years I had always worked in construction during the holidays, and became very interested in how the business operated. After completing my law degree, I never thought it would be possible to combine both my interests in one job. I would have to be honest and say that until I spotted the job advertisement in the newspaper, that I never knew that companies like Quigg Golden existed."

**CI: "How do you find working in two different jurisdictions?"**

PM: "At times it can be quite

challenging, for while the systems are similar more than they are different, it is extremely important to have an appreciation of why the differences exist and how best to deal with them.

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*"During my college years I had always worked in construction during the holidays, and became very interested in how the business operated..."*

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The best example of the difference between the two jurisdictions is their approach to Alternative Dispute Resolution.

In Northern Ireland, adjudication is the preferred method whereas in the Republic of Ireland, conciliation is the method promoted by the government.

Conciliation comes from the approach of negotiating a deal with the commercial interests of both



Pauric Marray  
Assistant Contracts & Arbitration Manager

parties being the primary concern. Adjudication allows a third party to make a decision on the facts as presented to them by each party. Up until now I feel both systems have worked well, however I think the introduction of adjudication in the South would be hugely beneficial to the construction industry. Adjudication is a much quicker process which prevents the use of the stalling tactics commonly employed by parties in conciliation."

**CI: "What are your interests outside of work?"**

PM: "Outside of work, my main interest is Gaelic football. I play for my local club team, Doohamlet O'Neill's in County Monaghan.

We play at intermediate level and narrowly lost out on promotion to Senior last year, losing by one point in the Championship Final.

My other interests include supporting Liverpool and having the odd pint or two."

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*(Belfast - date to be confirmed)*

For more info contact  
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For regular updates on  
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AND FORTHCOMING  
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*(all titles are provisional and  
subject to change)*

# EUROPEAN ARBITRATORS MEET IN DUBLIN

In October Quigg Golden were the proud sponsors of a conference entitled "The Future of Arbitration, Mediation and Dispute Resolution in Europe", held in Dublin by the Irish and European Branches of the Chartered Institute of Arbitrators. It consisted of a weekend of lectures, interactive discussions and social events.



l-r Jarlath Kearney, James Macken, Caroline Eccles, Andrew Burr, James Golden, Johnnie McCoy

The weekend got under way with a drinks reception at the Dublin International Arbitration Centre (DIAC) where the President of the Irish Branch of the CI Arb, James Macken, welcomed all attendees. This was followed by a memorable night at the United Arts Club - well, a memorable night for some...

On the Saturday morning delegates met again at the DIAC. Andrew Burr, Chairman of the European Branch, gave an introductory speech that was followed by talks from Dr Nael Bunni, and the Honourable Mr Justice Roderick Murphy.

The afternoon session went on to cover the extension of arbitration to non-signatories with the highlight being a talk by Jo Kuckenberg, Barrister and Partner at Kuckenberg Bureth Law Firm, Paris.



by Kevin McKeown

The social highlight of the weekend was the Gala Dinner on Saturday night. This was held at the Royal College of Physicians in Ireland and celebrated the 90th birthday of the Institute.

Day two, Sunday morning, centred around the future of mediation in Europe. Judges from Holland, UK, Italy and



Dr Nael Bunni speaking at the conference

Germany all gave their views on mediation and the judicial support for ADR in their respective countries. This proved to be a fresh and enjoyable session.

## CONSTRUCTION INSIGHT The Latest News in Construction Contracts



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