

CONSTRUCTION LAW

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Fresh claims to arise as project delays double since pandemic

21st January 2022

Industry continues to weather a storm of claims and disputes in the aftermath of Covid related disruption to projects, lawyers have indicated after research found that delays to large scale schemes doubled during the pandemic.

Data released by machine learning startup nPlan shows that the median delay for projects completed before the pandemic was approximately 100 days, while Covid-era projects have experienced a median delay of more than 200 days.

Following an initial period of collaboration during the lockdown of March 2020, the pandemic has given rise to an increase in delay claims, with more expected to materialise as projects complete, commented law firm Beale & Co partner James Vernon.

“During the first lockdown there appeared to be a great deal of collaboration between parties on construction projects, ensuring that sites were only locked down for the maximum time necessary and appropriate time allowances were made on programme,” he said.

“However agreements reached related only to the period work stopped on a project, and may have masked serious pre-existing delays to a project. Now that those projects are reaching completion, claims for pre-Covid delays are still materialising.”

Mr Vernon pointed out that issues including materials shortages, skills shortages and people leaving the industry and labour being unable to work due to self-isolation have further impacted construction programmes.

“This has meant that in some circumstances contractors and sub-contractors have not been able to immediately return to site with the same level of resource as pre-Covid and also as anticipated to meet the programme durations for ongoing works,” he said. “This has led to disputes as to whether further extensions of time are due related to issues remobilising and availability of resources and materials.”

In addition, he continued: “Covid has also given employers the opportunity to revisit project plans and make adjustments that impact on programme and require consideration as to contractual entitlements arising from such adjustments.”

Mr Vernon concluded that the pandemic has given rise to an increase in delay claims in the last 12 months – although not necessarily court proceedings – as employers look to minimise their losses by restricting entitlements to extensions of time and loss and expense for periods outside Covid lockdown. “Those claims are passed down the supply chain,” he said. “As major projects that span the pandemic complete, more delay claims are expected.”

Meanwhile, nPlan highlights how costly project delays are linked to construction company insolvencies – which were already trending upwards prior to the pandemic – and deter clients from initiating new projects. Taken together, these effects are likely to act as a drag on economic growth, the firm says.

Chief executive of nPlan Dev Amratia commented: “In construction, as in so many other sectors and areas of public life, the pandemic hasn’t just created new problems, it has highlighted and exacerbated existing problems – in this case the costly project overruns which are endemic to the industry. Because this issue was not dealt with before the pandemic, we are now in a situation where projects have suddenly become much riskier. This will pile pressure on contractors and may mean clients bring forward fewer projects.”

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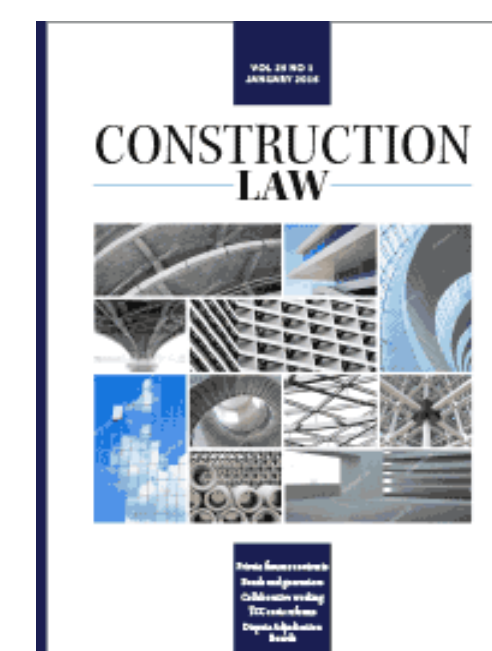
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