Update on Construction Contracts Act 2013

The slow progress towards commencement being made by the Construction Contracts Act 2013 and with it the introduction of statutory Adjudication, has caused many in the construction industry to query whether statutory Adjudication will ever see the light of day in Ireland.

In May 2015 Professor Nael Bunni accepted the government’s nomination as Chairperson of the Construction Contracts Adjudication Panel. On 15 January 2016, Iris Oifigiúil published Notice of the appointment by the Minister, pursuant to Section 8 of the Act, of a 30-strong Construction Contracts Adjudication Panel. These appointments are for a period of five years from 8 December 2015 and the Panel members are as follows:

- Mr. Timothy Bouchier-Hayes
- Mr. Ciaran Fahy
- Mr. Bernard Gogarty
- Mr. James O’Donoghue
- Mr. Conor Kelly
- Mr. James Bridgeman
- Mr. Gerard O’Sullivan
- Mr. Joe Behan
- Mr. John Redmond
- Mr. Matthew Molloy
- Dr. John Derek Ross
- Mr. John Lyden
- Mr. Tony Reddy
- Mr. John Thomas Gibbons
- Mr. Toal Ó Muiré
- Mr. Anthony Bingham
- Mr. Jonathan Cope
- Mr. Kevin Brady
- Mr. David O’Leary
- Mr. Gerard Monaghan
- Mr. James Golden
- Mr. Raymond Nash
- Mr. Conor Hogan
- Mr. John Riches
- Mr. Len Bunton
- Mr. John Costello
- Mr. Nigel Davies
- Mr. Simon McKenny
- Mr. Niall Lawless
- Mr. Niall Meagher

The Panel members include architects, engineers, surveyors and lawyers and a number of the appointees have significant experience of Adjudication from having practiced in the UK.
Notwithstanding this recent announcement, it would seem that three important steps remain to be taken before the Act can be given a commencement date.

First, the **Code of Practice**, which will govern the running of Adjudications, has been with the Attorney General for the past six months, with no sign yet of its being approved.

Second, the **Code of Conduct**, which will govern the conduct of Adjudicators, has yet to be finalised. The Code of Conduct and the Code of Practice must be compatible and will be reviewed to ensure that they are.

The third item outstanding is the necessary amendments to the **Rules of the Superior Courts** to provide for Adjudication. As matters stand, it is not clear what would happen if an Adjudicator’s decision were to be challenged. In the UK, the TCC had been set up in advance of statutory Adjudication being introduced. It is hoped by many in the industry and by legal practitioners in the construction field that a number of Adjudication Judges will be appointed (much as there is an Arbitration Judge and Deputy Arbitration Judge) with the requisite expertise to deal with the challenges that are anticipated. We do not expect that these challenges will be high in number, but it is important that any judgements passed be consistent and well reasoned.

Many within the industry are expressing doubts about statutory Adjudication as a means of resolving disputes. We have seen other means of dispute resolution gaining ground in the UK, often for costs reasons. However, we hope that the introduction of statutory Adjudication will ensure greater focus in future on dispute avoidance, as opposed to dispute resolution.

Updates will be provided on any progress made by the Act in 2016.