

## Key Legal and Industry Changes in 2026 and Beyond

**Part 1** of our two-part report outlined how the UK construction sector continues to evolve, including due to new legal and commercial developments and shifting market dynamics. For construction professionals and businesses, navigating these changes may prove crucial for ensuring compliance with client or regulatory requirements and in maintaining a competitive advantage. Future legislative and regulatory developments are set to further impact construction contracts and projects in 2026. This section looks ahead to examine some of those expected developments or trends and outlines practical steps to help prepare for the associated future opportunities and challenges arising.

### **DIGITAL AND ARTIFICIAL INTELLIGENCE (AI) PROVISIONS**

Digital tools and AI continue to transform construction in the UK and internationally, reshaping how contracts and projects are designed, delivered and managed. As adoption increases, with parties integrating AI into processes and ways of working, businesses face pressure to strengthen their governance processes, sharpen commercial strategies and upskill teams to manage regulatory and market expectations. It is therefore key that all organisations have a clear and robust AI policy in place.

Looking forward, contract terms and commercial models will need to further adapt as digital solutions become more embedded into project delivery. Disputes may arise where AI is used to support design, programming, logistics/site management and quality assurance. This needs careful consideration given licences to use software are typically very restrictive, with limited liability for the software provided. Traditional agreements therefore require review to ensure that they adequately address digital-related risks such as the allocation of liability for AI tools or outputs, compliance with policies, data and cybersecurity, auditing, and the treatment of intellectual property.

### **THE EVOLVING BUILDING SAFETY LANDSCAPE AND ASSOCIATED PROVISIONS**

Building safety reforms continue to transform UK construction (at different speeds in different jurisdictions), and so contracts must be drafted with these evolving risks in mind. Recent government publications, including the technical review of Approved Document B on fire safety; the creation of a single construction regulator<sup>1</sup>; and proposed regulatory reforms to the fire engineering profession<sup>2</sup> may prompt further change. Further changes recommend by the Grenfell Report may also be on the horizon. Although the UK government indicated in late 2025 that it does not presently plan to change to scope of the definition of Higher Risk Buildings following its recent review, it is possible that further change may happen, and we anticipate additional requirements for Principal Contractors and Principal Designers. It is important for contracts and appointments to contain appropriate change in law protections, along with associated mechanisms to revisit scope, programme and/or fee where necessary.

<sup>1</sup>Single construction regulator prospectus - GOV.UK, updated 27 December 2025

<sup>2</sup>Fire engineering profession reform - GOV.UK, 17 December 2025

Measures to improve the gateway review and approval process include the creation of an Innovation Unit, staged applications for certain projects<sup>3</sup>, and use of the Construction Leadership Council's updated practical guidance<sup>4</sup>. Against this context, commercial and project teams should ensure that contract terms and programme controls are managed to accommodate potential delays arising from the building safety regime.

## **FURTHER EVOLVING ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG) CONSIDERATIONS**

ESG will remain a key consideration for the sector, with regulatory, investor and stakeholder scrutiny increasing pressure on parties. As ESG reporting and disclosure requirements expand, contracts will need to reflect such obligations and key performance indicators and ESG considerations are now a key management board issue. Rising reputational scrutiny and environmental activism around certain projects or decisions also make it critical for parties to define ESG-related responsibilities carefully. Other recent examples of ESG-related developments are included below.

### **Carbon Emissions and Decarbonisation**

The government's updated Environmental Improvement Plan, detailing environmental strategy, published in December 2025, will impact the sector<sup>5</sup>. Further, the UK Net Zero Carbon Buildings Standard Pilot, published last year, seeks to establish consistent definitions, benchmarks and monitoring approaches for stakeholders funding, procuring, designing or specifying in the built environment (more information can be found [here](#)). Version 1 of the Standard and further guidance is anticipated as ESG policies continue to evolve and once feedback from the early adopters and other stakeholders is assessed. When referencing the Standard (or other decarbonisation requirements) in contracts, parties must be clear whether compliance is intended to be aspirational goal or a strict requirement.

### **Carbon Border Adjustment Mechanism (CBAM)**

The EU's CBAM is in force, imposing carbon-linked duties on certain imports (such as iron, steel, cement and aluminium) based on their embedded greenhouse gas emissions, and with financial and reporting obligations applying from January 2026. UK CBAM is anticipated to be introduced from 1 January 2027. Earlier this month HM Treasury published a policy summary<sup>6</sup> and consultation<sup>7</sup> (ending 24 March) on the regulations, including the scope, calculation of CBAM liability and administration. Secondary legislation will follow. The CBAM regimes may influence the future pricing and availability of construction products or materials, so affected parties should review their procurement strategies, assess potential cost impacts and reflect any changes in future discussions.

### **Changes to Biodiversity Net Gain (BNG)**

BNG requirements applied to certain developments in England from February 2024 (more information can be found [here](#)). Since then, market reports suggest the government may revisit or relax aspects of the regime. Since compliance with planning, consents, and statutory requirements is typically captured within contracts, parties should continue to monitor BNG developments closely and ensure that relevant changes are adequately reflected in contract or project documentation accordingly.

<sup>3</sup>[Building Safety Regulator](#), Building control staged applications – updated guidance published, 18 December 2025

<sup>4</sup>[CLC, PRACTICAL GUIDANCE PUBLISHED ON STAGED APPLICATIONS AND KEY STEPS BETWEEN GATEWAY 2 TO GATEWAY 3 FOR BUILDING CONTROL FOR NEW HIGHER-RISK BUILDINGS](#), 18 December 2025

<sup>5</sup>[Environmental Improvement Plan \(EIP\) 2025 - GOV.UK](#), dated 1 December 2025

<sup>6</sup>[Carbon border adjustment mechanism \(CBAM\): Policy summary - GOV.UK](#), dated 10 February 2026

<sup>7</sup>[Draft regulations: Carbon Border Adjustment Mechanism \(CBAM\) - GOV.UK](#), dated 10 February 2026

## **FIDIC**

The Carbon Management Framework (published in September 2025), and Climate Change Charter (2021) are available for international use. The Framework is voluntary and designed to complement existing guidance, procurement processes, contract terms and standards. It aims to give project teams a baseline understanding and structured method for identifying, managing and reducing whole-life carbon emissions across all project stages including at conception and during design, construction, and operation. The Framework can also be used to drive low carbon contracting behaviours from an early stage, with the FAQs section providing examples of contractual requirements and mechanisms.

It builds on the Charter's principles for climate mitigation and adaptation in the built and natural environment and sits alongside FIDIC's publication of the separate:

1. Maturity Assessment Tool, enabling teams to evaluate their carbon capabilities and identify gaps.
2. Carbon Management Guide which promotes contractual integration of carbon obligations, including the use of Carbon Balance Sheets, Carbon Emissions Damages and Incentives, Carbon Emissions Management Guidance, and the Carbon Emissions Budgets (to be submitted at tender).

This reflects the construction sector's increasing focus on sustainability and net zero obligations. Contractors and consultants must understand incorporated requirements and manage the commercial risks associated with Carbon Emissions Budgets and incentivisation mechanisms.

## **KEY COMMERCIAL CONSIDERATIONS, AND CONTRACT DRAFTING POINTS**

Several judgments reaffirmed the importance of clear contract formation, precise drafting accurately reflecting the parties' intentions, and compliance with agreed terms (see Part 1 for examples). Looking ahead to 2026, the following industry developments and additional factors from case law are expected to shape the sector.

### **Due Diligence and Insolvency Provisions**

International volatility and supply chain risks mean market monitoring and robust due diligence procedures remain important. Parties should seek to include appropriate risk mitigation measures to deal with future issues or uncertainties in contracts, particularly in respect of delay and disruption and insolvency risk.

### **Payment Practices and Reporting**

The government has taken various steps to improve payment practices and reporting. Part 1 of our report considered key changes to public sector contracts, as well as the Companies (Directors' Report) (Payment Reporting) Regulations 2025 (applicable to large companies this year). Further, from 1 April 2025, 'Qualifying Companies' with 'Qualifying Construction Contracts' have been required to report on their approach to using retention clauses on contracts, standard retention percentages, whether such terms are more onerous than upstream client contracts, and the mechanisms for releasing deducted or retained sums. A named director must approve this reporting prior to publication.

The government continues to review other payment practices, some of which directly impact the construction sector. A late payments consultation published in 2025 proposed measures seeking to tackle poor payment practices including long payment terms, late payments, and disputed payments<sup>8</sup>.

<sup>8</sup>[Late payments consultation: tackling poor payment practices - GOV.UK](#), updated 16 January 2026

Construction retention payment practices are likely to face further scrutiny too, with outlined proposals seeking to prohibit retentions outright or to introduce safeguards to protect retention sums from late or non-payment and insolvency. The consultation also explored mandating maximum payment terms between UK businesses (initially capped at 60 days, reducing to 45 days after five years) and mandatory statutory interest on late payments (i.e. removing parties' ability to agree lower compensation rates). Relevant businesses should seek to review their company reporting and existing payment terms in client and supply chain contracts as more details on the legislative requirements/timetables become available.

## **Construction Industry Scheme (CIS)**

HMRC plans to further tighten compliance with the CIS and to introduce measures targeting companies engaging with entities involved in tax evasion<sup>9</sup>. Potential consequences for the business entering into such a transaction include liability for the lost tax and penalties of 30% of the lost tax for the liable business, as well as for its directors and connected persons. Earlier this month, the government also published a [consultation](#) and [explanatory note](#) on other proposed amendments to amended CIS regulations, due to come into force 6 April 2026, to update and simplify their administration. There are penalties if CIS requirements or filings are not met. It is therefore important to check when CIS applies and to manage any corporate or contractual requirements as necessary.

## **OTHER FUTURE ITEMS TO WATCH**

There are further signs of optimism and opportunity for 2026 and beyond, particularly in view of the government's agenda on key areas such as housing, infrastructure, transport and energy. In addition:

### **JCT 2016**

This edition will be withdrawn from sale in hard copy and digital formats on 31 March 2026, likely to result in further uptake of the 2024 JCT suite.

## **Construction Materials or Products**

Ongoing regulatory reform continues to shape how construction products are specified, used and installed. From 8 January 2026, [The Construction Products \(Amendment\) Regulations 2025](#) allowed continued use of EU CE-marked products in the UK alongside UKCA markings, thereby removing the need for duplicate testing or certification. Other change is expected from a new BSI Code of Practice 2000:2026, aimed at bringing safer products to market, and following the government's Construction Products Reform Green Paper<sup>10</sup>. As the regulatory framework evolves further, new contractual provisions may emerge aimed at addressing future product-related risks or requirements. In the meantime, parties should consider checking their existing provisions dealing with statutory requirements, prohibited/deleterious materials, and other supply of goods and services requirements (express or implied).

## **Collaborative Contracting**

Collaborative delivery models continue to gain traction globally as the sector seeks more resilient, cooperative approaches amid rising demands and resource constraints. The JCT's 2024 Suite introduced a dedicated collaborative working clause and FIDIC is developing a new Collaborative Contract Form for international use. With different contracting and incentivisation models emerging, parties should consider how their chosen approach will operate, particularly concerning the objectives, processes, risk allocation and dispute management prior to committing to this on projects.

<sup>9</sup>Tackling Construction Industry Scheme fraud - GOV.UK, 26 November 2025

<sup>10</sup>Construction Products Reform Green Paper - GOV.UK, published 26 February 2025 (feedback being analysed)

## Express Duty of Good Faith

Relevant to the collaborative contracting topic above, good faith obligations under a joint venture arrangement were examined and enforced in [Matière SAS v ABM Precast Solutions Ltd](#) [2025] EWHC 1434 (TCC). Good faith obligations, express or implied, should be clearly understood and managed throughout, particularly in long-term relational contracts. It will be important to include precise drafting on the relevant rights, obligations or actions, together with associated mitigations and consequences for breach. Further, consider any required engagement with third parties, especially in collaborative arrangements, to avoid breaching any regulatory duties. Keep records of all actions taken to satisfy agreed good faith provisions.

## KEY TAKEAWAYS

We anticipate various legal, regulatory and commercial shifts across the sector this year. Many of these continue trends we saw in 2025, particularly in relation to building safety, digital and payment considerations. ESG considerations also seem likely to become increasingly important for company boards and in-house teams. These points should be clearly reflected and implemented in contract and project documentation (as applicable) and clear strategies and policies put in place to assist those in the construction industry anticipate and respond to developments.

## GET IN TOUCH

Beale & Co advise across a range of practice areas and services relevant to construction, engineering and infrastructure. Our Contracts and Project Advisory Team specifically support clients in navigating core sector developments and in understanding the practical steps which may be taken in respect of upstream construction contracts or professional appointments, supply chain contracts, and other contractual or dispute processes. For support in considering and implementing the items covered above, please contact Andrew Croft and Kayleigh Rhodes.



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