

Introduction

Subject to a requirement to make interim payments an employer has an obligation to pay for the work carried out only if it is completed by the agreed date for completion of the work. Failure to complete the work by the specified date will leave the scaffolder open to the employer's claims.

Generally written contracts, particularly those based on the standard forms, specify a date for completion of the works. However, many contracts, particularly simple low value contracts are silent as to the date for completion. In these circumstances the scaffolder will be required to complete the works diligently and in a reasonable time. Failure to complete the work in a reasonable time may leave the scaffolding contractor open to the employer's claims. The definition of a reasonable time may be open to interpretation where it occurs, taking into account the circumstances of the contract in question.

Contracts incorporating a Specified Date for Completion

Some written contracts may simply give a date by which the work has to be completed. Others, like the standard forms, include a period for completion of the works, an approximate date for commencement and a period of written notice to commence. From this information a date for completion can be determined.

Once the period for completion of the works has commenced it is the scaffolder's responsibility to ensure that the completion date is met. Failure to do so will expose the scaffolder to the employers claims for delay in completion.

Events over which the scaffolder has no apparent control will be no excuse for failing to complete by the due date. Such events include weather, strikes, labour or material shortages and damage caused by third parties for whom the employer is not responsible. That is unless the contract makes express provision for extending the date for completion if such events occur. Extensions of time in these circumstances often require the scaffolder to bring the cause of the delay to the notice of the employer, assess the extent of the delay and advise the employer of any financial implications of the delay. Failure to give the notices required by the contract may deny the scaffolder an extension of time.

Events causing delay which are within the control of the employer will excuse the scaffolder from achieving the completion date unless the contract makes express provision for extending time. If no such provision is made the scaffolder is then required to complete the works in a reasonable time.

Extension of time clauses are therefore for the benefit of the employer in order to keep alive their right to claim damages in the event of the scaffolder's failure to achieve the completion date.

The mechanism for making an extension of time claim should be well understood and followed by the scaffolder. Difficulty may arise if erection of the scaffold is completed on time and a delay occurs during the period of occupation by the employer when the scaffolder may not have a presence on site. In these circumstances the scaffolder may not be aware of the effect the delay may have on his completion date and may not be in a position to issue the required notices. It may therefore be prudent to include dates for completion of erection, hire periods and dates for completion of dismantle -

information which the standard forms do not specifically cater for but is essential to defending employer's claims. On some contracts it may well be worthwhile considering the introduction of a pro-forma schedule for recording the causes of delay and acting as the notice required under the contract.

Acceleration

Unless there is a specific clause requiring the scaffolder to accelerate the progress of the works, thereby completing it before the agreed date, or to mitigate the affects of delay caused by others, there is no obligation on the scaffolder to take measures to complete the work earlier, that is unless he agrees to such action and the costs of doing so are reimbursed. However if the cause of the delay is within the control of the scaffolder but an extension of time has not been granted the scaffolder may have to consider accelerating his work at his own cost in order to avoid the employer's claims.

Whilst every effort has been made to provide reliable and accurate information, we would welcome any corrections to information provided by the Writer which may not be entirely accurate, therefore and for this reason, the NASC or indeed the Writer, cannot accept responsibility for any misinformation posted.



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