Payments in Construction Contracts

The Payee Checklist

For all payment applications:

- Check the contract for dates to submit payment applications.
- Submit payment applications on time.
- Value the works at the date stipulated in the contract.
- Ensure that all payment applications state:
  - the sum considered to be due; and
  - the basis of the calculation.
- Clearly identify a document as a ‘payment application’.
- Ensure that all payment applications are free from ambiguity.

If the Payer fails to:

- submit a payment notice on time; or
- submit a pay less notice on time; or
- pay a notified sum by the final date for payment;

do not delay in seeking advice on your legal rights – you may be entitled to:

- a cash ‘windfall’ by commencing a ‘smash and grab’ adjudication; or
- exercise the right to suspend work.

Email construction@devonshires.co.uk for advice
Payments in Construction Contracts

The Payer Checklist

For all payment notices / pay less notices:

• Check the contract for the relevant ‘due date’.
• Check the contract for the ‘final date for payment’.
• Check the contract for the deadline for issuing a pay less notice.
• Always submit:
  o payment notices not later than 5 days after the ‘due date’;
  o pay less notices on or before the contractual deadline
• Ensure that payment notices / pay less notices state:
  o the sum considered to be due; and
  o the basis of the calculation.

If the Payee starts an adjudication or suspends work having failed to:

• submit a payment application by the date stated in the contract; or
• set out the basis of the calculation; or
• identify a document as a ‘payment application’; or
• value the works at the date stipulated in the contract;

do not delay in seeking advice on your legal rights.

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