

Changes to Capital Works Management Framework 30 June 2016

Pre-Circular 01/2016 Documents: Pillar 1 - Conditions of Contract

Clause	Details of changes Forms available under http://constructionprocurement.gov.ie/contracts/	PW-CF1 v1.10 27/06/2014	PW-CF2 v1.9 27/06/2014	PW-CF3 v1.9 27/06/2014	PW-CF4 v1.9 27/06/2014	PW-CF5 v1.9 27/06/2014
1.1	Definition of 'Adjudication' added.	✓	✓	✓	✓	✓
11	'Working days' replaced with 'days' throughout.	✓	✓	✓	✓	✓
11.1.1	Contractor to submit a 'Payment Claim Notice' in the form of an interim statement not later than 5 days after the date the Parties agree to be the Payment Claim Date.	✓	✓	✓	✓	✓
11.1.1	Statement given at time of Substantial Completion to be an Interim Statement	✓	✓	✓	✓	✓
11.1.3	Within 14 days of receipt of the Payment Claim Notice the Employer's Representative is to issue response to the payment claim notice, in the form of a certificate.	✓	✓	✓	✓	✓
11.1.4	Contractor to issue invoice for an amount due following receipt of response to payment claim notice and the Employer shall pay amount due within 21 days.	✓	✓	✓	✓	✓
11.3.2	Contractor to furnish a copy of invoices sent to the employer for sums retained to the Employer's Representative.	✓	✓	✓	✓	✓
11.3.3 & 11.3.5	10 working days changed to 14 days and 15 working days changed to 21 days	✓	✓	✓	✓	✓
11.5.4	15 working days changed to 21 days and 10 working days changed to 14 days	✓	✓	✓	✓	✓
11.6.2	Relevant legislation update to: <i>European Communities (Late Payment in Commercial Transactions) Regulations 2012</i> .	✓	✓	✓	✓	✓
11.7.4 & 11.7.6	Relevant legislation update to: <i>Value-Added Tax Consolidation Act, 2010</i>	✓	✓	✓	✓	✓
12.3	Altered to comply with rights of Contractor, under the Construction Contracts Act, 2013, to suspend for failure by the Employer to pay any amount due.	✓	✓	✓	✓	✓
13.1.10	Either Party may refer the failure of the other to comply with a binding conciliator's recommendation to Adjudication, [where the dispute is relating to payment].	✓	✓	✓	✓	✓
13.2	New clause inserted for the effects Adjudication has on contractual dispute resolution procedural options. Arbitration, Jurisdiction, Agent of Service and Continuing Obligations clauses have been renumbered accordingly.	✓	✓	✓	✓	✓

Pre-Circular 01/2016 Documents: Pillar 1 - Conditions of Contract, *continued*

Clause	Details of changes [Forms available under http://constructionprocurement.gov.ie/contracts/]	PW-CF6 v1.8 27/06/2014
4.2	Contractor to submit a 'Payment Claim Notice' in the form of an interim statement not later than 5 days after the date the Parties agree to be the Payment Claim Date. Within 14 days of receipt of the Payment Claim Notice the Employer's Representative is to issue response to the payment claim notice, in the form of a certificate. Contractor to issue invoice for an amount due following receipt of response to payment claim notice and the Employer shall pay amount due within period specified in the Schedule.	✓
4.3	New clause added detailing procedure for processing final statements and payment following Substantial Completion certification. All remaining sub clause within clause 4 renumbered accordingly.	✓
4.12	Relevant legislation update to: <i>European Communities (Late Payment in Commercial Transactions) Regulations 2012</i> .	✓
4.14	Relevant legislation update to: <i>Value-Added Tax Consolidation Act, 2010</i>	✓
7.7	Additional reference to new clause 4.3 added	✓
12.1	Time period for Employer's Representative to respond to Contractors Statement of <i>termination value</i> set as 14 days.	✓
12.2	Time period for Employer's Representative to issue certificate on termination value, following 6 month period to put in place arrangements to complete the Works, set as 14 days.	✓
15.3	New clause inserted for the effects Adjudication has on contractual dispute resolution procedural options. Previous clause 15.3 has been renumbered accordingly.	✓
Clause	Details of changes [Forms available under http://constructionprocurement.gov.ie/contracts/]	PW-CF7 & PW-CF8 v1.0 28/07/2009
7.2	Contractor to submit a 'Payment Claim Notice' in the form of an interim statement not later than 5 days after the date the Parties agree to be the Payment Claim Date. Within 14 days of receipt of the Payment Claim Notice the Employer's Representative is to issue response to the payment claim notice, in the form of a certificate. Contractor to issue invoice for an amount due following receipt of response to payment claim notice and the Employer shall pay amount due within 30 days.	✓
7.9	Relevant legislation update to: <i>European Communities (Late Payment in Commercial Transactions) Regulations 2012 & Value-Added Tax Consolidation Act, 2010</i>	✓
14.1	Time period for Employer's Representative to respond to Contractors Statement of <i>termination value</i> set as 14 days.	✓
14.5	Time period for Employer's Representative to issue certificate on termination value, following 6 month period to put in place arrangements to complete the Works, set as 14 days.	✓ <i>(14.2 in the case of PW-CF8)</i>
16.3	New clause inserted for detailing parties rights to Adjudication under the Construction Contracts Act, 2013	✓ <i>(16.2 in the case of PW-CF8)</i>

Pre-Circular 01/2016 Documents: Pillar 1 - Conditions of Contract, *continued*

Clause	Details of changes [Forms available under http://constructionprocurement.gov.ie/contracts/]	PW-CF10 v1.1 27/01/2014
1.1	List of defined terms from Schedule 1 corrected.	✓
3.2.4	'Payment Claim Date' added as a term in lieu of 'date of Contractor's Statement'	✓
3.3.1	Contractor to submit a 'Payment Claim Notice' in the form of a detailed statement not later than 5 days after the date the Parties agree to be the Payment Claim Date.	✓
3.3.2	Within 14 days of receipt of the Payment Claim Notice the Employer's Representative is to issue response to the payment claim notice, in the form of a certificate.	✓
3.3.3	Contractor to issue invoice for an amount due following receipt of response to payment claim notice and the Employer shall pay amount due within the period so sated in part 1 of Schedule 3.	✓
3.8.4	Contractor shall invoice for an amount due on a penultimate or final certificate.	✓
3.10.3	Relevant legislation update to: <i>Value-Added Tax Consolidation Act, 2010</i>	✓
5.7.6	Missing text from clause added: ' <i>...removing the Works, clearing the Site and returning the Things for the Works to the Contractor</i> '	✓
6.1	Title of clause corrected to: 'Contractor's Use and Occupation'	✓
12.2.2	Time period for Employer's Representative to respond to Contractors Statement of <i>termination value</i> set as 14 days.	✓
12.3.5	Time period for Employer's Representative to issue certificate on termination value, following 6 month period to put in place arrangements to complete the Works, set as 14 days.	✓
Clause	Details of changes [Forms available under http://constructionprocurement.gov.ie/contracts/]	PW-CF11 v1.2 27/06/2014
6.3	Contractor to submit a 'Payment Claim Notice' in the form of a detailed statement not later than 5 days after the date the Parties agree to be the Payment Claim Date.	✓
6.6	Within 14 days of receipt of the Payment Claim Notice the Employer's Representative is to issue response to the payment claim notice, in the form of a certificate. Contractor to issue invoice for an amount due following receipt of response to payment claim notice and the Employer shall pay amount due within the period so sated the Schedule.	
6.8	Relevant legislation update to: <i>European Communities (Late Payment in Commercial Transactions) Regulations 2012</i>	
14.3	New clause inserted for the effects Adjudication has on conciliation.	✓

Pre-Circular 01/2016 Documents: Pillar 1 - Forms of Tender and Schedule

Schedule	Details of changes Forms available under http://constructionprocurement.gov.ie/forms-of-tender-and-schedules-works/	FTS 1 v1.8 27/06/2014	FTS2 v1.8 27/06/2014	FTS3 v1.9 27/06/2014	FTS4 v1.9 27/06/2014	FTS5 v1.9 27/06/2014
Part1 L	Option to change pay period removed. 'Monthly' added in fixed text	✓	✓	✓	✓	✓
Part1 N	'Adjudication' and clause '13.3' added to title	✓	✓	✓	✓	✓
Part1 N	Chairperson of the Panel of Adjudicators added in fixed text as the person to appoint the adjudicator if not agreed by the parties	✓	✓	✓	✓	✓

Clause	Details of changes Forms available under http://constructionprocurement.gov.ie/forms-of-tender-and-schedules-works/	FTS 6 v1.3 01/06/2012
4.1	Option to change pay period removed. 'Monthly' added in fixed text	✓
4.3	Clause reference added	✓
15.3	Clause added: Chairperson of the Panel of Adjudicators added in fixed text as the person to appoint the adjudicator if not agreed by the parties	✓
Clause	Details of changes Forms available under http://constructionprocurement.gov.ie/forms-of-tender-and-schedules-works/	FTS 7 v1.4 13/01/2014 & FTS 8 v1.2 01/06/2012
7.1	Option to change pay period removed. 'Monthly' added in fixed text	✓
16.3	Clause added: Chairperson of the Panel of Adjudicators added in fixed text as the person to appoint the adjudicator if not agreed by the parties	✓ <i>(16.2 in the case of PW-CF8)</i>
Schedule	Details of changes Forms available under http://constructionprocurement.gov.ie/forms-of-tender-and-schedules-works/	FTS 11 v1.2 13/01/2014
1 Part 2	Definition of 'Adjudication' added.	✓
3 Part 4	Reference to incorrect legislation removed and reference to tax rate removed	✓
11 Part 4	New part added detailing the effects Adjudication has on contractual dispute resolution procedural options.	✓
Schedule	Details of changes Forms available under http://constructionprocurement.gov.ie/forms-of-tender-and-schedules-works/	FTS 12 v1.3 24/11/2014
6.5	Option to change pay period removed. 'Monthly' added in fixed text	✓
14.3	Clause added: Chairperson of the Panel of Adjudicators added in fixed text as the person to appoint the adjudicator if not agreed by the parties	✓

Pre-Circular 01/2016 Documents: Pillar 2– Conditions of Engagement & Schedules to the Conditions of Engagement

Clause	Details of changes Forms available under http://constructionprocurement.gov.ie/standard-conditions-of-engagement/	COE 1	COE 2
		v2f 18/03/2011	v1.1 18/03/2011
9	Payments of each amount due shall be made within 30 days	✓	✓ <i>(clause 11 in the case of COE 2)</i>
16	Clause amended to allow for the effects Adjudication has on contractual dispute resolution procedural options.	✓	✓ <i>(clause 17 in the case of COE 2)</i>
Schedule	Details of changes	FTS 9	FTS 10
		v1.6 13/07/2015	v1.3 13/01/2014
Part A clause 16.4	Chairperson of the Panel of Adjudicators added in fixed text as the person to appoint the adjudicator if not agreed by the parties	✓	✓ <i>(clause 17.4 in the case of COE 2)</i>

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End.