

## Book reviews

### **EMPLOYMENT LAW FOR THE CONSTRUCTION INDUSTRY, 2ND EDITION**

Michael Ryley and Edward Goodwyn, Thomas Telford, London, 2008, ISBN 978-0-7277-3460-0, £30.00, 156 pp.

At about 150 pages including tables and the index this is a very slim volume but is nevertheless packed with information. At the front is a helpful list of no less than 48 abbreviations used in the text ranging from the well-known and instantly recognisable TGWU (Transport and General Workers Union), to the strange and more recent BERR (Department for Business, Enterprise and Regulatory Reform) and to the obscure COSOP (Cabinet Office Statement of Practice).

The book is divided into ten chapters each of which deals with a different aspect of employment law with an emphasis on the construction industry. The topics dealt with are: the structure of the employment relationship; the status of the working relationship; collective bargaining agreements in the industry; PAYE/NIC – the clamp-down and the CIS; working time; guaranteed payment, minimum wages and deductions; training; immigration; TUPE and the construction industry and diversity and public sector contracting. From the list of topics it can be seen that a number of the issues (e.g. working time, minimum wages and immigration) have raised and continue to raise debate and controversy throughout industry and indeed the economy and social structure as a whole.

Each chapter helpfully describes some of the background facts material to the topic and the recent developments in the field before reviewing the current state of the law. To the reviewer, who has not been directly involved in construction management since the mid-1990s, the amount and scope of the changes came as a surprise. It is for others to debate whether or not these changes are of benefit to the industry as a whole.

The two authors, who are both partners in law firm Pinsent Mason, have produced a very readable and informative book which deserves a place on any construction professional's bookshelf.

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NEVILLE TAIT

### **INTERNATIONAL COMMERCIAL MEDIATION**

Cyril Chern, Informa, London, 2008, ISBN 978-1-84311-7599, £130.00, 258 pp.

This is a book probably like no other on dispute resolution, and this alone gives it an attraction for practitioners in the field. It is not the usual treatise on a method of dispute resolution, and nor is it just a handbook. It has a different approach from either of those and makes the reader think. It is authoritative, yet contains a large amount of very helpful practical information and even specimen documents. The author, Dr Cyril Chern, is a barrister practising in London. He is also a chartered arbitrator, a chartered architect and accredited mediator and adjudicator. He is also a very experienced and well-known dispute resolution board member. Given that breadth of knowledge and experience, Dr Chern's approach to this subject is interesting and probably quite novel.

There are 14 substantive chapters. The first chapter traces the historical evolution of mediation through ancient cultures, early China, then into the more modern era in the USA and the UK, as well as looking at Islamic tradition. This is followed by a chapter on the development of commercial mediation in the UK. The next chapter describes the working of dispute advisory boards and compares them with mediation boards, and includes some sample mediation provisions in contracts.

The next few chapters follow the mediation process. They contain many sample forms used in this process. For example, there are sample confidential questionnaires to elicit the parties' expectations, dispute clarification questionnaires, disclosure forms, mediator and mediation agreements and agendas, among others. The conduct of the mediation is discussed in some detail, including the participants and their roles, and including both experts and witnesses. There is also a sample referral.

The picture of what may happen at a mediation is painted clearly in some of the middle chapters. Under the title Mediation Commencement Issues, Dr Chern deals with the practical matters, such as 'the mediator's welcoming role', 'seating', the presentations by each side, oaths, the timetable, and a number of other matters, including – perish the thought – a 'refusal to co-operate'.

He also tackles the potentially difficult task of 'finding the truth', covering such problems as 'inflated demands' and 'deception'. These are the uncomfortable issues which do occur, but never seem to be addressed in seminars and lectures, and it is refreshing to see them confronted and recognised with some discussion of them.

It is unusual to see an overt recognition of different mediation styles and techniques. Whatever one thinks of a method of dispute resolution, much depends upon the person at the centre of it, namely the adjudicator, arbitrator or mediator. The style may be set by the parties' approach, or at the suggestion of the mediator. As Dr Chern says, 'whilst no one particular style is best, the knowledge of how and when they should be applied is critical to a successful mediation'. He then discusses 'facilitative', 'evaluative' and 'transformative' styles, and a 'blended approach'.

In dealing with techniques, Dr Chern starts with an imaginary case. He then raises the 'reality check', which many people tend to ignore, and this leads on to the 'BATNA'. If you do not know what this means, you would probably benefit from having this book on your shelf. Other techniques are then discussed and a summary given.

The later chapters take in the reaching of agreements, settlements, mediator ethics and legal issues in mediation. The chapter on agreements contains some sample forms and agreements, and the fifteenth chapter is a collection of other forms and agreements.

All of these forms and sample documents combine with the philosophical and historical elements of this book to provide a comprehensive manual of mediation. Somehow, it is more than that, though. While being erudite and a guide written by an experienced practitioner, it goes beneath the surface and takes in the practical realities of dispute resolution, recognising that there are difficulties. By merely alerting the reader to these difficulties and showing that there are ways of dealing with them, Dr Chern is providing valuable advice and guidance.

All in all, it seems hard to know how a mediation practitioner or participant can be without a copy of this book in their possession. It will be interesting to see how it is accepted and whether it attains the status of the 'standard' work on the subject. It would be no surprise if it does.

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JOHN PAPWORTH

### **EXPERT DETERMINATION, 4TH EDITION**

John Kendall, Clive Freedman and James Farrell, Sweet & Maxwell, London, 2007, ISBN 978-1-84703-031-3, £150.00, 371 pp.

Expert determination is one of the methods of dispute resolution which is less publicised and possibly even less known about. It has been part of the forms of contract published by the UK Institution of Chemical Engineers for some years now, but it is not widely included in construction contracts. In the circumstances, it may be that not many people know that this book was first published in 1992.

This fourth edition is written by two solicitors, John Kendall and James Farrell, and one barrister, Clive Freedman. It is generally thought of as *the* book on expert determination. That is probably an appropriate description, as it seems to be the only book on the subject. Some indication of the importance of the book is conveyed by the foreword, which is written by Lord Justice Dyson, whose contribution alone sends a message.

There are 18 chapters. After an initial introductory chapter, there are successive chapters on expert determination in different industries, such as land, valuation and sales of businesses and shares, business and industry generally and construction. There is then a chapter comparing it with other types of dispute resolution, and one on the 'expert clause' in a contract.

There are then chapters on practical matters, namely the qualifications of an expert, appointing and acting as an expert and the procedure. There is a chapter on the jurisdiction of an expert, which is worth the price of the book in its own right, telling the unfolding story through some very interesting case summaries.

The authors then address the important matters of enforcing and challenging the decision; the rights and duties of experts are then discussed. Finally, there is a novel and welcome chapter which includes contributions from people who work in other countries, giving a view of expert determination in Africa, the Americas, Asia, Australasia and Europe. This is a particularly fascinating end to the book.

There is a comprehensive table of cases – to put it mildly – and somewhat shorter tables of statutes, statutory instruments, civil procedure rules and international conventions.

There are nine appendices, which include some helpful materials in appointing experts and other specimen procedural documents.

This is a very readable book, erudite and authoritative, without becoming heavy or hard work. It does not advocate a case for expert determination. It is open and even-handed in its treatment of it, pointing out pitfalls and what can go wrong, as well as showing it to be a remarkably expedient means of dispute resolution. One is left with the impression that this is an under-rated and possibly under-used way of resolving disputes. It is evident that it is a close relation to adjudication, but that, in some cases, the decisions are not open to appeal. The practical chapters – and most of them are – also reflect how much power an expert can be given.

In times when dispute resolution boards, adjudication, mediation and arbitration receive a great deal of publicity, this book is a welcome addition to the library of any practitioner in dispute resolution, reminding us of an alternative. There is a formidable amount of material in it and it is sure to remain an authoritative work on the subject. This reviewer for one enjoyed reading it.

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JOHN PAPWORTH

### **REAL PROJECT PLANNING: DEVELOPING A PROJECT DELIVERY STRATEGY 1st edn**

Trish Melton, Butterworth-Heinemann, Oxford, 2008, ISBN 978-0-7506-8472-9, £35.00, 344 pp.

This book is one in a series of four texts on project management. The other three texts include *Project Management Toolkit*, *Benefits Management* and *Managing Project Delivery*.

Although this book can be standalone it does unashamedly make reference, in places, to the other texts in the series which have not been examined as part of this review. This text is likely to appeal to an audience comprised of practitioners involved with business planning rather than academics, in that it is a handbook with no reference to project management literature or research.

As the text suggests, the focus is on developing a strategy for project delivery that commences at the point when the project has received approval by the sponsoring organisation. The book covers strategy development within its five chapters, and provides three chapters covering cases studies to illustrate the planning concepts and methodologies introduced in preceding chapters. Although *Real Project Planning* is primarily written from the perspective of engineering projects in the process industry it does usefully provide examples of projects from other sectors. This is demonstrated with the three case studies provided, covering a capital engineering project, a strategic consultancy assignment and an organisational change programme.

Chapters 2, 3 and 4 provide the three phases of the author's project delivery planning cycle: business planning, set-up planning and control planning, which are the core chapters. Each chapter is well structured and introduces the planning concept, the methodology used and how it supports effective planning, presents the planning tools and associated templates, provides short cases to illustrate the concepts, methodologies, tools and templates and provides a list of useful handy hints. Unsurprisingly, to cover these core areas in three chapters results in long chapters, each averaging around 70 pages, which presents the reader with an arduous task.

Having read the text it was difficult to understand why 'Real' has been included in the title other than to reflect the real case studies. With such an eye-catching word in the title one expects revealing codes and secrets about project management; however, these were disappointingly not present. Although the text provides a robust account of developing a strategy for delivering projects that covers key areas of investment, financing and procurement along with the often overlooked 'softer' aspects, it lacked comparison or connection with proven existing best practice published by the Office for Government and Commerce, the Association of Project Managers, the Project Management Institute and the Association of Project Management Group. Despite these points, the text does provide a useful additional text to project management practice on developing a strategy for project delivery that could possibly in time join best practice once thoroughly vetted by industry.

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MARK GANNON

### **GOWER HANDBOOK OF PROJECT MANAGEMENT**

Rodney Turner (ed.), Gower, Farnham, 2008,  
ISBN 978-0-5660-8806-3, £95.00, 912 pp.

This is the fourth edition of a handbook which was first published in 1987. That it has been published in its various editions for over 20 years demonstrates that there is a need.

In providing this new edition the publishers have seen fit to remove chapters on commercial management of projects with a view to publishing a new *Handbook of Commercial Project Management*. This is a disappointment as, in leaving such key areas out, its usefulness is reduced. Despite this, at 871 pages of text, it is a heavyweight tome.

The handbook is written by 33 different authors, so there are several different styles, which clearly show the different thinking of academics and practitioners.

As a text for students it is just great. For practising project managers it is useful in parts.

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STEVEN JOHNSON

### **TRAINING FOR PROJECT MANAGEMENT, VOLUMES 1, 2 AND 3, 2nd edn**

Ian Stokes, Gower Publishing, Farnham, 2009.  
ISBN 978-0-566-08902-2, £350.00, 1086 pp.

The review was carried out on the three-volume CD set which is also available in A4 loose-leaf format. The set provides ready-to-use training activities and exercises designed to stimulate learning in both the human and the technical aspects of project management. The true value would come from discussion and learning in groups through experience. The collection explores a huge range of topics including areas such as benefit and value management, stakeholder relations, critical and innovative thinking and much more.

The CDs are designed for shared learning in groups guided by a trainer. The materials may be of use by practitioners where they wish to run one-off activities with their teams. It is not designed as a stand-alone offering for learners who wish to develop their project management competence – there are more suitable resources available for self study. There are constraints on the use of the set. It is for an individual user who can use it for courses being run for students in their own business/educational establishment or with students who are being trained on behalf of a client organisation.

Each CD is predominantly made up of activity outlines. Each comes with a description of the exercise, how/where to apply the activity, the activity aims, guidance advice for the trainer, a clear methodology, main learning points, suggested time schedule and required materials. Several of the activities have handouts provided to accompany the session such as exercises and templates. It provides a useful list of further reading although many of the topics are of a relatively specialised nature. The activities can be used as one-off discussions or built together into a larger programme by a suitably experienced trainer.

To make best use of the rich source of materials, the trainer would have to be experienced as the materials rely on the trainer's ability to translate meaning and apply activities in a structured manner to meet development needs. The activities are diverse and creative therefore not necessarily in a traditional linear style. A more detailed guide to assist the less experienced trainer would have been helpful. The following paragraphs provide information regarding specific CDs.

*Volume 1: Skills and Principles.* This volume contains a comprehensive and informed overview of project management including historic developments, current context, the main challenges and the nature of project management. It is structured into five distinct areas: project management principles; setting objectives and assessing requirements; creativity and problem solving; communication, negotiation and co-ordination; and motivation, teamwork and leadership.

The introduction provides useful insights and key concepts as a necessary context for using the activities. It is very lengthy and does not sell itself instantly, so the trainer would have to invest some time in the benefits and usage of each activity. It provides a useful context for trainees but due to the breadth of its coverage, it is not as insightful as it could be by focusing on a smaller number of areas to a greater level of detail. There is a comprehensive overview of project management included which provides useful context and reinforces the idea of 'managing by projects' as a way of working/thinking rather than a defined methodology.

This CD focuses on the complexity of projects and how people must equip themselves with the necessary tools to learn. It includes discussion on learning techniques and presents this in the context of learning for and within projects, focusing on experiential or discovery learning. A 'skills matrix' is provided to allow users to be selective on the basis of which topics they specifically want to cover.

*Volume 2: Methods and Techniques.* This volume covers the following five topics: Value analysis, risk assessment and

project optimization; Planning and estimating; Measuring progress, testing and validation; Managing priorities and organizational objectives; and Integrating project management skills.

It follows the same format for activities and progressive introduction, covering the 'hard' skills in project management. Detailed guidance on the standards, tools and techniques for planning, estimating, managing and measuring successful projects is given, together with a wide range of activity types. A large number of handouts are included.

*Volume 3: Innovation, Value and Performance.* This volume has a slightly different introduction style but again the activities are similar. Handouts are included throughout.

Summarising, the materials are overall of high quality, well presented, well structured, easy to navigate, pragmatic and stimulating. The content seems to be aligned for use with groups who have some experience or at least understanding of project management principles. The exercises are compact and well structured. It is a diverse and intelligent collection of materials which could easily be lifted and used in any sort of training that encourages a positive and enjoyable learning experience. The full set is relatively expensive to purchase at over £300 but the cost can be justified if the trainer makes full use of the rich source of ready-to-use materials, thereby saving considerable development time.

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