

COVID -19 SHUTDOWN CONTRACTUAL FACTORS FOR CONSIDERATION

JANUARY 2021

On foot of the recent order by Government to shut down parts of the construction sector, contractors may wish to:

- a. Familiarise themselves with the contractual provisions under which they are operating their projects. An act/order of Government may be pertinent to the basis of a claim under the standard forms of contracts.
- b. Make themselves aware of the notice provisions within their contracts to ensure that they do not become time-barred from making a claim; if they become aware of the potential for a delay or costs associated with the order by Government to shut down sites.
- c. Review the tender documentation and contractual terms for projects, which were tendered when the pandemic was a known risk and what they may have been included for risk associated with COVID/Pandemics.
- d. Request guidance and instructions from their Employers/Clients on the whether their particular site has been designated as an essential project and if it is to be closed.
- e. Consider seeking a cooperation meeting with their Employers/Clients to assess how their site(s) should be secured and managed during the shutdown and to commence collaborative discussions on how best to mitigate against the impact of the Government shut down order on progress.
- f. Engage with their supply chain on an order shutdown of sites and a planned approach to the future re-opening of construction.

The CIF will be monitoring any further statements, clarifications, or guidance notes from the OGP and Government, that could provide more specific details and allow members to consider their position on both public and private contracts.

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DISCLAIMER: The above supplied information is not intended to be comprehensive for every situation, it simply represents the options and factors that contractors should consider under the forms of contracts they are operating under. Please ensure you obtain legal advice specific to your contract before proceeding.