



# A Practical Guide to Construction Adjudication

By James Pickavance

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In the United Kingdom, adjudication is available as a right for parties to a construction contract, following the enactment of the Housing Grants Construction and Regeneration Act 1996. In general, within a comparatively short period of time, parties in dispute will have a decision from an adjudicator, which, except in limited circumstances, the courts will enforce. Adjudication has become the number one method of dispute resolution in the construction industry.

The short timescale means that a party needs to know what to do, when to do it and be able to check that the other party and the adjudicator are following the right steps. *A Practical Guide to Construction Adjudication* gives parties the necessary information to achieve this. It provides a straightforward overview of the process and procedure of adjudication by reference to legislation and case law, augmented with practical guidance including suggestions on what to do or not to do, drafting tips and checklists. Separate chapters for Scotland and Northern Ireland identify and explain the differences in procedure and judicial interpretation between those jurisdictions and England and Wales, and further detailed explanations of the adjudication regimes in Australia, Ireland, Malaysia, New Zealand and Singapore are included. Each of the chapters on jurisdictions outside England and Wales has been written by senior experts in those jurisdictions to ensure the content is accurate and insightful.

There are a range of helpful appendices including a bank of model form adjudication documents and tabulated detailed comparisons of the Scheme for Construction Contracts, the other major adjudication rules, the major adjudicator nominating bodies and the UK and international regimes. Readers will particularly appreciate the most comprehensive index of adjudication cases available, sorted into 260 subject headings providing immediate access to all the reported cases on any adjudication topic.

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### Editorial Review

#### Review

"If one had to name a single outstanding feature of the text, it would be its structure as a formidable practice tool. I share the sentiments of The Honourable Mr Justice Edwards-Stuart, expressed in the book's foreword, that it sets out not to rival existing works (such as the leading adjudication text by Mr Justice Coulson), but to complement them. This book does not dwell in the dominion of academic debate. It is instead structured around the questions that inevitably arise in the conduct of every-day construction business and, of course, when payment disputes arise. Its answers to these questions are concise, accurate, and commercially acute. It is well-suited for any adviser or decision-maker in the construction industry, to whom I would recommend this book strongly."

**Professor Doug S Jones** AO, International Construction Law Review, Part 3 July 2016

"The name of Pickavance is a well-known one in dispute circles, and James is a chip off the old block. It seems a fair bet that through this very practical but at the same time scholarly work he will become as well known and regarded as his father and uncle. The book could perfectly well serve as a key resource for lawyers, construction claims consultants and adjudicators. It will certainly be a book I turn to for guidance on knotty adjudication issues."

**Jeremy Winter**, FCInstCES, Adjudicator, Civil Engineering Surveyor 05.16

#### From the foreword

Part 1 of this book, whilst fully supported by references to decided cases, is very much directed towards the practitioner who has to advise his or her client on a construction dispute and then conduct or defend proceedings brought by way of adjudication. To this end it provides a clear route map together with helpful checklists at the conclusion of each chapter. It is this different approach that I think readers will find so helpful. The guidance in relation to insolvency and administration is particularly valuable. As an added benefit, there is Part 2 – which deals with adjudication in other jurisdictions. I know of no other similarly comprehensive guide and it is a fascinating and illuminating source of reference. This book does not set out to be a rival to existing works but to complement them. That is a role that I have no doubt that readers will find that it amply fulfils.

**The Hon Mr Justice Edwards-Stuart**

Solicitor James Pickavance has really come up to snuff. He has gone for a practical guide to adjudication. Pickavance is a partner at Eversheds: The firm can be proud of the book. He tells the reader what to do and when and how and why. ...yes it is a must for the representative lawyers/consultants ... yes for the adjudicators ... yes especially for you contractors. Pickavance's book style is practical too. I do like his "In a Nutshell" paragraphs.

**Tony Bingham**, Building Magazine, 04.12.15

This book certainly lives up to its name – the reader is navigated through adjudication with each chapter starting with an overview of the subject matter which is then addressed by individual topics initially caught

by an ‘in a nutshell’ paragraph followed by excellent discussion with clear signposting to the relevant case law. It is evident throughout that the focus of this text is on practicality, a key theme which flows throughout the entirety of the book, offering sound advice to parties at all stages of the process – including before and after the adjudication itself. Finally the book provides a comparison of UK and international statutory regimes – something no one else has published to date as far as I am aware – which ensures the subject of statutory adjudication is well and truly covered in one book! The author is to be congratulated on the practical and strategic guidance offered to those involved in the process at various levels– this book certainly delivers – it will prove a very useful tool.

**Janey L. Milligan**, Construction Law

... the author is to be commended for producing an interesting, informative and a very detailed analysis of the Adjudication process. There is a comprehensive analysis of various cases, and the author has provided an interesting case index by subject matter, which is extremely helpful I have no doubt that ... this extensive publication will be of interest to future Adjudicators and party representatives, and it is crammed with helpful commentaries on the practical aspects of Construction Adjudication. It is without doubt, in my view, that this textbook will be an essential addition to the library of the practitioner, and is a very useful reference point, and is also very reasonably priced as well.

**Len Bunton**, Chartered Institute of Arbitrators

The author has produced a clear and sensible guide to the subject. The guide is thorough and well-researched. The author’s discussions are generally lucid and helpful and he has wisely avoided the temptation to go into too much academic debate. I particularly liked his use of ‘nutshell’ introductions and shaded ‘checklists’ at the end of lengthier sections. I warmly recommend this book to the construction industry, adjudicators and lawyers alike. Mr Pickavance clearly has a wise head on his relatively young shoulders and he and his publisher deserve to be congratulated on this achievement: kudos!

**Nick Lane**, Construction News

From the Back Cover

In the United Kingdom, adjudication is available as a right for parties to a construction contract, following the enactment of the Housing Grants Construction and Regeneration Act 1996. In general, within a comparatively short period of time, parties in dispute will have a decision from an adjudicator, which, except in limited circumstances, the courts will enforce. The mandatory and expedited nature of the process are the principal reasons why adjudication has been the number one method of dispute resolution in the construction industry for almost two decades.

The short timescale means that a party needs to know what to do, when to do it and be able to check that the other party and the adjudicator are following the right steps. *A Practical Guide to Construction Adjudication* gives parties the necessary information to achieve this. It provides a straightforward overview of the process and procedure of adjudication by reference to legislation and case law, augmented with practical guidance including suggestions on what to do or not to do, drafting tips and checklists. Separate chapters for Scotland and Northern Ireland identify and explain the differences in procedure and judicial interpretation between those jurisdictions and England and Wales, and further detailed explanations of the adjudication regimes in Australia, Ireland, Malaysia, New Zealand and Singapore are included. Each of the chapters on jurisdictions outside England and Wales has been written by senior experts in those jurisdictions to ensure the content is accurate and insightful.

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the major adjudicator nominating bodies and the UK and international regimes. Readers will particularly appreciate the most comprehensive index of adjudication cases available, sorted into 260 subject headings providing immediate access to all the reported cases on any adjudication topic. *A Practical Guide to Construction Adjudication* serves as an extremely valuable guide for construction solicitors and barristers and all construction professionals, including clients, project managers, architects, contractors, construction consultants, and adjudicators.

#### About the Author

**James Pickavance** is a partner in the construction and engineering practice of Eversheds LLP, specialising in dispute resolution. He has experience of all forms of dispute resolution, in particular contractual and statutory adjudication, domestic and international arbitration, expert determination, mediation and litigation, and advises public bodies, governments, international corporations and private clients on domestic and international, single or multi-jurisdictional disputes across a range of industry sectors in over 20 jurisdictions.

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