

Keating on Offshore Construction and Marine Engineering Contracts



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The 2nd edition of "Keating on Offshore Construction and Marine Engineering Contracts" was published in November 2018. The book follows on from the success of the 1st Edition, which was published in 2015 and has become an authoritative text for practitioners involved in the offshore and marine engineering industries.

The book, edited by Adam Constable QC, provides in-depth guidance on the agreements involved in the construction of ships, rigs and other offshore vessels and structures. New features of the 2nd Edition include comparative commentary on the NEC suite, now often used in wind farm construction, an increase in the scope of the dispute resolution chapter, delving further into matters of insurance and expanding jurisdictional coverage to include Australia and Singapore.

Contributors from Keating Chambers are Jane Lemon QC, Lucy Garrett QC, Abdul Jinadu, Calum Lamont, James Thompson, Thomas Lazur, Ben Sareen, Sarah Williams, Peter Brogden, Paul Bury, Jennie Wild, Emma Healiss and James Frampton.

The 1st Edition of this work was the first practitioners' text book to bridge the gap between shipbuilding and traditional land-based construction. The application of construction law principles to shipbuilding came to the fore in the *Adyard*¹ matter in the Commercial Court before Hamblen J., which receives due attention in the book, and in which the General Editor appeared on behalf of the buyer of the ships, instructed by the undersigned. Some have argued in the light of that judgment that the prevention principle had no place in a shipbuilding dispute but, as Sir Nicholas Hamblen and Sir Vivian Ramsey note in their foreword to the 2nd Edition, there is an overlap between the Commercial Courts and the TCC with judges from both courts dealing with similar disputes arising from offshore contracts in the energy field. It should therefore be no surprise that there is also an overlap of legal principles. This book is therefore a very valuable addition to the reference library and particularly instructive to practitioners who come from one or other side of the erstwhile divide and seek an understanding of how the two worlds meet.

The 2nd Edition maintains the structure of the 1st Edition. It starts with chapters outlining the nature of an offshore construction contract and an introduction to the standard forms. These now include the NEC forms which take a rather different approach to that with which shipbuilding practitioners will be familiar and are increasingly used in offshore engineering projects, particularly wind farms. Chapter

3 is a primer on general contract principles but gets more interesting as the authors discuss the important legal developments since the publication of the 1st Edition in construction of contracts, implied terms, oral variation and consequential loss. Consequential loss has a particularly offshore flavour. Chapter 4 deals with payment and damages including discussion as to how standard forms approach adjustments to the contract price.

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The real meat of the book, however, and what distinguishes it from others, is to be found in the subsequent chapters. Here, the true offshore engineering and construction flavour of the book is revealed. Chapters 5, 6, 7 and 8 address performance, changes and time for delivery and completion and termination. These are the areas where disputes in offshore engineering and construction contracts generally arise. The authors have done a sterling job of assimilating the approach of the different standard forms and the court decisions that have considered them. These chapters have been expanded to include the NEC forms

and recent authorities. In Chapter 7 in particular there is some very interesting discussion of the ambit and effect of the prevention principle.

Chapters 9 and 10 cover guarantees, bonds and insurance, and passing of title, risk, liens and delivery up. These chapters dealt with complex issues extremely well in the 1st Edition and have been expanded and improved further in the current edition. Chapter 11 on dispute resolution has similarly been expanded.

Almost half the 704 pages of the 2nd Edition are taken up by appendices containing the standard forms (save for the NEC forms) to which the book refers. This is a useful source of the standard forms and worth having in one place notwithstanding the size of the appendices which might appear off-putting.

Overall, this book in many respects treads a path that other texts have not trodden. It is both informative and comprehensive, and the General Editor does not shy away from discussing controversies as the law develops in the area of offshore engineering and construction. It is an essential text for practitioners in this interesting cross-over area of law.

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¹ *Adyard Abu Dhabi v SDS Marine Services* [2011] EWHC 848 (Comm)