

**DISPUTE AVOIDANCE OF DELAY CLAIMS BY
IMPROVING DELAY NOTIFICATION PROCESS OF
CONTRACTORS IN SRI LANKA**

Picasso Jerome Alexander Goonawardana

(149131 K)

Master of Science in Construction Law and Dispute Resolution

Department of Building Economics

University of Moratuwa

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Dissertation submitted in partial fulfillment of the requirement for the
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DECLARATION

I declare that this is my own work and this dissertation does not incorporate without acknowledgement any material previously submitted for a Degree or Diploma in any other University or institute of higher learning and to the best of my knowledge and belief it does not contain any material previously published or written by another person except where the acknowledgement is made in the text.

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.....
Goonawardana P.J.A

.....
Date

The above candidate has carried out research for the Masters dissertation under my supervision.

.....
Ch. QS. (Mrs.) B.A.K.S. Perera
Dissertation Supervisor

.....
Date

ABSTRACT

Dispute Avoidance of Delay Claims by Improving Delay Notification Process of Contractors in Sri Lanka

Most of the delay claims submitted by Sri Lankan Contractors were either rejected or under certified purely due to contractor's inefficiency of supportive documents mainly delay notices. Due to this lack of notices to prove the entitlement, contractors lose their power to bargain. Hence, generally lose their genuine entitlement for an extension of time for the actual delays as well as lose the entitlement for reimbursement of actual costs incurred by the contractors as a result of project delay. Hence, it is important to identify the reasons for this shortfall and to propose method to overcome this situation of Sri Lankan contractors. This study is aiming to identify most practical and useful delay notification process for Sri Lankan contractors in order to strengthen their contractual entitlement for compensation in the event of excused and compensable delay events. This study was carried out through a literature survey, questionnaire survey and interviews among the experts in the industry. The collected data was analyzed using percentages on frequencies, relative importance index and mean ratings.

This study revealed that 71% of Sri Lankan construction projects which were completed during last 10 years were impacted with delays. Despite the scale of the project, delay has mainly impacted on all scales without much variance. In 94% of the delayed projects, contractors have successfully requested for an extension of time but only 83% of them were managed to serve notices. However, in most of the situations notices are served beyond the time bar and in some instances notices are not properly linked to the events. Due to this circumstance only 79% of the delay projects were granted extension of time but 50% of the instances the extension of time was not granted within the stipulated time period of 42 days. Due to these lags and failures around 41% of the delayed projects faced with disputes. Majority of the contractors believe that they hurt consultants or clients when notify delays and further they feel that they will be penalized by the consultants with other approvals if they notify any delays. Hence, most contractors prevent from notifying delays which then leads to disqualification of delay claims due to lack of notices which then leads to disputes.

Most of the respondents recommended identification of the event and identification of the delay due to that event as important factors prior to the notification. Based on the type of change and notice provisions under FIDIC 1999 edition, a notification model is proposed to facilitate notification process. Further, Changes to notice provision in FIDIC 1999 and to educate construction industry stakeholders on notices are also recommended.

Keywords: delay notice, Delay claims, disputes, notice provision, EOT, extension of time

This research dissertation is

Dedicated to

My

Mother, Wife

& Daughters

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LIST OF ABBREVIATIONS

Abbreviation	Description
AACE	Association of Advancement of Cost Engineers
FIDIC	Fédération Internationale des Ingenieurs Conseils
EOT	Extension of Time
CIOB	Chartered Institute of Building
ARCADIS	Global construction forum
GNP	Gross National Product
GDP	Gross Domestic Product
ICTAD	Construction Industry Development Authority (Now recognized as CIDA – Construction Industry Development Authority)
SBD	Standard Bidding Document
UK	United Kingdom
PM	Project Manager