

## **CONTENT OUTLINE**

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**LAW AND CONTRACTS FOR THE CONSTRUCTION INDUSTRY**

# LAW AND CONTRACTS FOR THE CONSTRUCTION INDUSTRY

Suggested Duration: 45 - 60 hours

## OVERVIEW

This course provides a general overview of Canadian contract law. It also examines specific concepts as they relate to the construction industry. Particular attention is directed to contract and construction law cases.

## PREREQUISITE

Although there is no formal educational prerequisite for this course, the participants' chances of success will be enhanced if their reading and comprehension skills are at a high school or equivalent level.

## LEARNING OBJECTIVES

Upon successful completion of this course, participants will be able to:

- define concepts related to the legal system
- define principles of construction contract law
- list characteristics of various forms of contracts
- interpret construction contract documents
- identify concepts related to insurance
- identify concepts related to construction bonding
- identify methods of dispute resolution
- identify implications of national, provincial, and municipal codes, by-laws, acts and regulations on a project
- compare warranties and guarantees
- compare a claim, back-charge, and change order
- define a custom contract
- describe the litigation process

## CONTENT

### 1. Define concepts related to the legal system.

- definition of law
- origin of law
- sources of law
- classification of law (statute, common, evidence)
- judicial system

- torts, common, case, precedence, etc.
- trust provisions

## **2. Define principles of construction contract law.**

- offer, acceptance, and consideration (contract A / contract B principles)
- legal capacity to make binding contracts
- illegal and / or non-binding contracts
- letter of intent
- privity of contract
- breach of contract
- misrepresentation
- mistakes
- quantum meruit

## **3. List characteristics of various forms of contracts.**

- forms
- stipulated price
- cost plus
- owner designer
- unit price
- management
- purchase orders
- labour
- consultancy
- tender
- design/build
- combination
- oral and written contracts
- forms of sub-contracts

## **4. Interpret construction contract documents.**

- hierarchy of documents (specifications and drawings)
- purpose of general conditions
- purpose of supplementary conditions
- identify the general conditions of standard form contracts (CCDC, CCA)
- identify sources of standard and non-standard contracts
- prescriptive vs. performance specifications
- penalties
- liquidated damages

**5. Identify concepts related to insurance.**

- liability policies
- risk policies
- indemnity agreements
- insurance policy components
- insurance policy providers

**6. Identify concepts related to construction bonding.**

- principles of surety
- types of construction bonding
  - o bid bond
  - o performance
  - o labour and material
  - o maintenance
  - o lien bond
  - o warranty
- alternatives
  - o letters of credit
  - o cash

**7. Identify methods of dispute resolution.**

- negotiation
- mediation
- arbitration
- litigation

**8. Identify impact of national, provincial, and municipal codes, bylaws, acts and regulations on a project.**

- lien legislation
- health and safety
- environmental

**9. Compare warranties and guarantees.**

- definition of warranties
- definition of guarantees
- when each would be used

**10. Compare a claim, back-charge, and change orders.**

- definition of claim, back-charge, and change order
- identification of documentation required
- steps involved

**11. Define a custom contract.**

- when to do it - when not to
- how to do it
- list advantages/disadvantages
- avoiding unenforceable conditions
- terms and conditions
- waivers and exclusions
- supplemental conditions

**12. Describe the litigation process.**

- statement of claim
- examination for discovery
- court proceedings
- documentation (job diaries, memos, minutes of meetings)

**METHODOLOGY**

This course lends itself to lectures by guest speakers and the instructor. Instructors may involve the participants in the following specific techniques and activities:

- icebreaker type activity to get students engaged as soon as possible;
- case studies for the following subjects:
  - o offer and acceptance,
  - o common vs. statute law,
  - o privity,
  - o bidding (Ron Engineering) ,
  - o breach of contract,
  - o lien,
  - o letter of intent,
  - o abandonment,
  - o quantum meruit,
  - o claim / back-charge / change orders,
  - o draft a custom contract.

## ASSESSMENT

In order to successfully complete this course, participants will be expected to demonstrate that they have achieved the learning objectives. They will be evaluated through various assignments, projects, and/or tests based on each of these objectives. Final assessment for the course will be determined by the following weighting:

Learning Objective	Weighting (%)
1. Define concepts related to the legal system .....	8
2. Define principles of construction contract law.....	8
3. List characteristics of various forms of contracts.....	8
4. Interpret construction contract documents .....	8
5. Identify concepts related to insurance .....	6
6. Identify concepts related to construction bonding .....	10
7. Identify methods of dispute resolution .....	8
8. Identify impact of national, provincial and municipal codes, bylaws, acts and regulation on a project .....	8
9. Compare warranties and guarantees .....	8
10. Define a claim, back-charge, and change order.....	10
11. Define a custom contract.....	10
12. Describe the litigation process.....	8
	100

## **RESOURCES**

### **Reports, Manuals, Textbooks, and Documents**

A Guide to the Project Management Body of Knowledge (PMBOK), PMI Standards Committee, Project Management Institute, 1996 [ISBN: 1-880410-12-5 (pbk. : alk. paper) / ISBN: 1-880410-13-3 (hdbk)]

BC Manual on Management of Building Projects <http://www.bcprojectsmanual.com/toc.htm>

Canadian Building Law, 5<sup>th</sup> Edition, 2001, published by CIQS (ISBN: 1-896606-34-2)

Construction Law by Brian M. Samuels, Prentice Hall (ISBN: 0133251926)

Law for Professional Engineers 3<sup>rd</sup> Edition, McGraw Hill, Ryerson Limited (ISBN: 007552628-x)

Means Forms for Contractors, R.S. Means Company, Inc., 1990 (ISBN: 0-87629-214-7)

PMP Exam: Practice Test and Study Guide, ESI International, 1998 (ISBN: 1-890367-11-7)

PMP ©: Project Management Professional Study Guide, SYBEX Inc., 2002 (ISBN: 0-7821-4106-4)

The Revay Report published by Revay and Associates (<http://www.revay.com>)

The Law & Business Administration in Canada

### **Government / Association Websites**

Canadian Construction Document Committee (<http://www.ccdc.org/home.html>)

Canadian Law Site (<http://www.canadianlawsite.com/construction.htm>)

Construction Law Letter (Canadian newsletter) (<http://www.construction-law.com/>)

Construction Specifications Canada (<http://www.csc-dcc.ca>)

QUICKLAW Systems Limited (database) (<http://www.qlsys.ca/>)

Surety Association of Canada (<http://surety-Canada.com/index.html>)

### **Other Resources**

CCA sub-contract forms (all inclusive)

CCDC standard form contracts (all inclusive)

National Building Code and other provincial / municipal acts

Provincial Lien Act and Regulations

Sample bid bond, performance bond, and labour and material bond

Sample contractor's application for bonding

Sample division O from specifications (CSI master format)

Sample unit price contract

Statutory declaration