

## **Is there any update on when changes to the Construction Act 1996 will come into force?**

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The latest word is that changes to the Construction Act 1996 – brought in by the Local Democracy, Economic Development & Construction Act 2009 (LDEDCA Act) which received Royal Assent on 12 November 2009 – will be in force in either spring or autumn 2011. The Changes have been almost 8 years in the making (in Scotland at least).

The amendments to the Construction Act will require consequential changes to be made to the Scheme for Construction Contracts (“the Scheme”). The Scheme consultation exercise is ongoing – the consultation itself closed on 18 June 2010 and the responses are currently being considered.

The department for Business Innovation & Skills (BIS) has indicated that it currently proposes that the amendments will come into force on 1 April 2011, or (failing that) 1 October 2011.

The position in Scotland is that the Scottish Parliament agreed to extend the amendment in the LDEDCA Act to Scotland by means of Legislative Consent Motion. Before the amendments can come into force, changes will need to be made to the Scottish Scheme. The Scottish Government are continuing to work with BIS, and the Welsh Assembly, to ensure consistency across the UK for the construction industry – so we can assume that the timing will be the same in Scotland.

In terms of action required, payment and adjudication provisions of construction contracts will require to be revised to reflect the new provisions. The standard form contract drafting bodies have been working on this already, but anyone with their own contract provisions will need to review and update them.

Moreover, employers, contractors and professional teams will need to be familiar with the changes so that don't get caught out. Particularly in relation to payment, it will be important to ensure that the right notice is given in the right form at the right time.

***For further information on the new provisions, please contact Shona Frame, Partner - Construction Group, MacRoberts LLP at [shona.frame@macroberts.com](mailto:shona.frame@macroberts.com)***

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