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BIOGRAPHY

Marcus is a Consultant in our Contentious Construction and Engineering practice group. He is experienced in arbitration, litigation and ADR, with a focus on Construction and Engineering disputes, including domestic, cross-border and international litigation and arbitration. He has acted for a range of clients, from individuals to state bodies to listed companies, in a range of industries and sectors, including construction, energy, manufacturing, investment, and financial services.

Marcus has acted as counsel in international commercial and investor-state arbitrations administered under the rules of the major arbitral institutions, including the International Court of Arbitration of the International Chamber of Commerce (ICC), the London Court of International Arbitration (LCIA), and the International Centre for Settlement of Investment Disputes (ICSID) as well as in ad hoc proceedings. He has also represented international corporations and private clients in complex cross-border litigation and court applications in support of arbitration proceedings.

Marcus has provided advice in relation to high value and complex disputes involving parties from and assets in a wide range of countries including Costa Rica, France, India, the Netherlands, Russia, Saudi Arabia, Singapore, Switzerland, the United Kingdom and the United States. He speaks fluent English, French and Spanish.

ADMISSIONS

- England and Wales

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Jan 26, 2023

Building Safety Act 2022: changing the rules on the landlord and tenant relationship, Part 2 – qualifying lease certificates

In a previous blog, I explored one aspect of the statutory reallocation of risk for the costs of works to remedy building safety issues in the Building Safety Act 2022 (BSA 2022). The focus of that blog was the new landlord's certificate, designed as a tool for the landlord to communicate with leaseholders as to whether it is "responsible" for defects, or whether it meets the "contribution condition" in the BSA 2022. In this blog, I will focus on the second element of this new framework, the "qualifying lease certificate" or "leaseholder certificate". The relevant provisions of the BSA 2022 came into force on 28 June 2022, and the related regulations have been in force since 21 July 2022.

Insights

Nov 17, 2022

Building Safety Act 2022: changing the rules on the landlord and tenant relationship

The Building Safety Act 2022 (BSA 2022) creates a whole new world of building safety regulation and litigation. A key legislative objective was to regulate and direct responsibility for the cost of works to remedy building safety issues, so that the risk of such costs could no longer be the subject of agreement between landlord and tenant, but would (in defined circumstances) be apportioned in advance, by law, to the landlord. To support that statutory reallocation of risk, the BSA 2022 created a new procedural framework for the paperwork needed to identify which landlords must carry the remedial costs and which tenants benefit from the new rules. In this blog, I'll focus on the new landlord's certificate, setting out financial information about the landlord and its corporate group, which

must be sent to all long leaseholders. The relevant provisions of the BSA 2022 came into force on 28 June 2022, and the related ...

Insights

Jul 14, 2022

Gama Aviation v MWWMMWM: the problem of contractual formalities and informal novation

The problem of what happens when parties do not act in accordance with contractual formalities is a hardy perennial in commercial disputes. Certain instances of the problem are peculiar to the construction industry, notably absent or inadequate notices of events giving rise to time and money, or absent or inadequate payment or pay less notices. Each of these has given rise to complex caselaw. Other instances are common to all commercial contexts. One is the practice of including a “no oral modification” clause in a contract, but then informally agreeing an amendment. This situation has proved sufficiently difficult to require a thorough review and restatement of the law by the Supreme Court in *MWB Business Exchange Centres Ltd v Rock Advertising Ltd*. The recent case of *Gama Aviation v MWWMMWM* shows the issues thrown up by an informal novation of an agreement that one side said prohibited such info...

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Can an exclusion clause or liability cap apply to a deliberate or fundamental breach? (Mott MacDonald v Trant Engineering)

In *Mott MacDonald Ltd v Trant Engineering Ltd* [2021] EWHC 754 (TCC), the TCC held that a clause in a professional services agreement containing a cap on liability, exclusions on liability, and a net contribution clause applied even to fundamental, willful or deliberate breaches of contract. In this casenote, first published by LexisPSL, Marcus M Birch takes a closer look at this case.

Insights

Oct 26, 2020

Assignment of sub-contracts – benefit and burden, risk and reward in the TCC

When a project goes so poorly that an employer feels obliged to terminate its main contractor, the employer will often take an assignment of various sub-contracts. But what exactly does it mean to “assign a sub-contract”? Of course, the employer may also claim against the main contractor for delay damages, additional costs to complete and so on, and the main contractor may wish to pass down its liability to the sub-contractor(s) whom it blames for the problem. But can it do so? These questions, and more, were addressed by O’Farrell J in the recent TCC case of *Energy Works (Hull) Ltd v MW High Tech Projects UK Ltd*.

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