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November 2025

From Compliance to Cooperation: What the GCC 2025 Means for Contractors and Employers



The release of the GCC 2025 is the first major revision of the General Conditions of Contract for Construction in a decade.

The latest edition introduces significant changes and updates aimed at modernising the contract and aligning with current practices in the industry. This contract has further corrected and clarified previous ambiguities.

Key Changes to Terminology and Interpretation

Discretion or Duty?

This latest version of the GCC includes definitions of “may” and “shall” (clauses 1.1.1.22 and 1.1.1.30), clarifying that “may” affords a party a discretion to act, whilst the word “shall” imposes a mandatory obligation.

Email Communications

A key addition is clause 1.2.1.3, which redefines when a written communication is deemed to be delivered. Any written communication sent by email is deemed to be delivered one day after the email was sent. This effectively introduced a one-day delay to the delivery of written communications and requires parties to send their written communications at least one day prior to the day that they would like the notice/instruction to be delivered.

Who is the Employer’s Agent?

Where a corporate entity is appointed as the Employer’s Agent under the latest version, the terms of clause 3.1.1 have been revised to require that a specific natural person who is duly qualified in the relevant industry is appointed to fulfil the functions of the Employer’s Agent. The details of such person must be notified in writing to the Employer and Contractor.

A New Era of Collaboration

Spirit of Mutual Co-Operation

The latest version has adopted and drawn inspiration from the NEC’s spirit of good faith contracting, requiring the parties to carry out the contract “in an honest, fair and reasonable manner in spirit of mutual co-operation” (clause 2.1.1).

Advanced Warning Systems

Just below the addition of this clause is a second new clause which ties in with this new theme of good faith and cooperative contracting, also drawing inspiration from the same international construction contract. It is the inclusion of the NEC’s early warning notice, adopted in this GCC to be “advance warning” (clause 2.2). This clause reads as follows:

“the Contractor, Employer, and Employer’s Agent shall notify each other, in advance, in writing, upon becoming aware of any probable future circumstance or event which may adversely affect the time, cost or quality of the Works. The Employer’s Agent shall give effect to Clause 3.2.2 to avoid or mitigate the effects of such circumstance or event” (clause 2.2.1).

“Should such circumstance or event subsequently occur, the requirements of Clause 10.1 shall apply” (clause 2.2.2).

There is now a contractual obligation imposed on the parties to work together to solve issues on the project before they become concerns which could impact the cost, quality or timeous completion of the project, which would result in a claim under clause 10.1. This clause encourages the Employer and the Employer’s Agent to take proactive steps in this process and to make decisions for the

betterment of the contract and project through issuing determinations under clause 3.2.2 where necessary.

Joint Decision-making, Regular Meetings and Settlement

Clause 3.2.2 has been updated to encourage parties to work together, consult one another, and jointly make decisions where the contract requires the Employer's Agent to employ its discretion. Furthermore, the latest version encourages the parties to engage in settlement discussions and reach an agreement prior to the Employer's Agent exercising its discretion. This promotes an open, honest and discursive contractual relationship, as opposed to combative and divisive contracting, which can become prevalent in the industry.

Clause 3.3.7 has been revised to oblige the Employer's Agent to "arrange meetings with authorised representatives of the Contractor and Employer for the evaluation of progress and discussion of matters pertaining to the Contract." This is in line with the spirit of mutual co-operation. However, the minutes of these meetings may not be interpreted to comply with any contractual obligation requiring a written action by any of the parties (e.g. an instruction by the Employer/Employer's Agent). This intends to address common disputes surrounding whether items recorded in meeting minutes may amount to contract instructions.

In addition, the GCC 2025 now incorporates this theme of settlement and cooperation through introducing provisions for the parties to extend any contractual timelines by agreement.

Time, Programme and Progress Adjustments

Programme

The whole obligation for the regular updates of programmes has changed. In terms of the GCC 2015, the programme is subject to review on a monthly basis and only requires updating if instructed by the Employer's Agent. In terms of the new GCC, the onus rests with the contractor to update programmes on a monthly basis, and when the Practical Completion Date is revised (clause 5.6.4).

The latest edition of the GCC expressly states that the contractor shall revise the programme "whether instructed by the Employer's Agent in writing or not" under the same circumstances listed in 5.6.4 of the GCC 2015, with the addition of "when the construction sequence has changed the critical path" (clause 5.6.5).

Delays – What can be claimed?

Clause 4.8.2 has been updated to record that if the Employer's Agent instructs the Contractor to "[provide] access to any part of the Site to allow the Employer, the Employer's contractors or any authority to carried out its work" (clause 4.8.2.3), then the contractor is entitled to claim for any associated delays in terms of clause 10.

The GCC 2025 now expressly allows for contractors to claim for a delay to practical completion in terms of Clause 10.1 for Variation Orders (clause 5.12.2.5).

Works Insurance

The contractor's obligation to ensure its works ceases upon Practical Completion in terms of the GCC 2025 (clause 5.14.3.3), instead of its obligation to ensure its works ceasing upon Completion in terms of the GCC 2015 (clause 5.14.5.5).

Payment and Suspension

There have been some revisions to the contractual periods relating to payment and suspension of works in clause 5.11, which are set out in the table below:

	GCC 2015	GCC 2025
Notice to Suspend Works	Contractor is to give 14 days' notice before suspending works (clause 5.11.1)	Contractor is to give 7 days' notice before suspending works (clause 5.11.1)
Non-payment and Repudiation	If non-payment persists for 84 days then the contractor can treat it as repudiation (clause 5.11.5)	If non-payment persists for 28 days then the contractor can treat it as repudiation (clause 5.11.2)
Suspension lasting more than 84 days	Once the contractor delivers the written notice requesting permission to proceed and it is not granted within 28 days then the contractor may treat it as repudiation or omission (clause 5.11.6)	Once the contractor delivers the written notice requesting permission to proceed and it is not granted within 14 days then the contractor may treat it as repudiation or omission of works (clause 5.11.6)

Variation Orders

In terms of the GCC 2015, the Employer's Agent could give oral orders as a basis for Variation Orders, so long as the contractor confirms such oral order in writing to the Employer's Agent within 7 days of it being given, and such confirmation is not contradicted by the Employer's Agent. The GCC 2025 has specifically removed the words "oral order" and only allows for a written order to be confirmed by the contractor in order to amount to a Variation Order (clause 6.3.2). The effect of this is that if an oral order is given, which the contractor understands to amount to a Variation Order, that order should not be given effect to until the Employer's Agent issues an express and clear Variation Order in writing.

Clauses 5.12.2.5 and 6.4.1.5 have been added in the latest edition of the GCC. This clause provides that any delay experienced by the contractor as a result of a Variation Order or an instruction to carry out additional work (complying with the provisions of clause 5.12) shall entitle the contractor to make an extension of time claim in terms of clause 10.1.

Retention

Retention under clause 6.4.10 of the GCC 2025 has been revised to limit the amount that the Employer may hold as retention. Clause 6.10.4 reads that the "retention monies shall not exceed 10% of any amount due to the Contractor and in the event where the contractor is required to provide security in terms of clause 6.2, the limit of retention money shall not exceed 5% of the Contract Price".

It is important to note that the contents of clause 6.11 of the GCC 2015 does not feature in the GCC 2025. This clause catered for an adjustment to the General Items as may be agreed between the parties, alternatively, as determined by the Employer's Agent in circumstances where the value of variations/adjustments/additional payments resulted in an increase or decrease to the Contract Sum greater than 15%.

Breach and Termination

The new edition has clarified and added in more detail to the existing grounds for both parties to terminate the contract.

There is the addition of clause 9.2.2.1.7 and 9.3.2.7 which allows both parties to terminate for the other party's failure to implement the Adjudication Board's decision in terms of clause 10.5.4.

The GCC 2025 includes an express provision that if the Contractor fails to claim additional costs incidental to the termination events (being the circumstances set out in clauses 9.1.1 to 9.1.3) within 14 days of becoming aware of them then the Contractor shall forfeit the right to recover these additional costs (clause 9.1.4). Whilst the GCC 2015 did require Contractors to give this 14 day notice,

the contract did not expressly provide for the forfeiture of the additional costs flowing from failure to give this notice. This has now been included for certainty and to reduce disputes around the provision.

The GCC 2025 expressly provides that the contract may not be terminated by a party if that party is in material breach of the contract; this a generally understood legal principle which has been written into the latest edition of the GCC for certainty.

Claims under Clause 10.1

Extension of Time

When making claims under clause 10.1.1 for extensions to practical completion and/or additional payment, the process has been revised in the GCC 2025. A comparison of the process to make a claim in terms of clause 10.1 is set out in the table below:

	GCC 2015	GCC 2025
Notice of Intention to Claim	Only required if the contractor cannot submit a claim within 28 days of the event .	Mandatory for EOT and additional payment claims – must be given within 28 days of the event , including particulars and contractor basis.
Submission of Claim	Within 28 days of the event or when the contractor reasonably becomes aware of it.	Within 28 days of giving the notice of intention to claim .
Content of Claim	Must include event details, contractual basis, time and/or cost calculations .	Must refer to the notice of intention to claim and include the same particulars (time and cost calculations).
Incomplete Claims	If unable to comply fully, the contractor submits what it can and completes as soon as practicable .	The same principle of partial compliance is allowed, with the remaining compliance to follow as soon as practicable .

Disputes

The only amendment to the timelines and provisions surrounding disputes is that parties are now afforded 14 days, instead of 7 days, to agree on an Adjudicator/Arbitrator before a referral is made to SAICE for it to make the appointment (clause 10.9.1).

Overall, the GCC 2025 focuses on encouraging collaboration and good faith contracting, and in some instances, it appears that the timelines have been revised to favour Contractors. The changes have also refined the drafting to reduce ambiguity in the dispute and claims processes. Given the significant changes we would advise carefully reviewing the changes prior to contracting with the latest edition of the GCC to ensure proper compliance with the updated timelines and documentation requirements.

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