

Construction & Engineering Developments in Ireland

There have been numerous developments over recent months which have created a challenging landscape for the construction sector in Ireland. In this article, our experts spotlight four hot topics challenging the sector: working at height; the changing energy market; Brexit and COVID-19 inflationary pressures on building prices; increase in defects construction claims.



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Working at Height

Falls from heights are the most common cause of fatal and serious accidents in the construction sector.¹ 80% of reported fatalities in construction related to 'working at height'.² 'Working at height' refers to work in any place where an employee might fall a distance which could result in personal injury. The Work at Height Regulations set out several requirements for employers, plus a risk assessment should be undertaken to identify what harm could be caused and include effective steps to reduce the likelihood of such harm occurring.

With the above in mind, one has to wonder how long it will be before insurers take a closer look at 'working at height' in liability policies for construction? The presence of specific height/depth limits are now common. Policy conditions relating to having and maintaining adequate Safety Statements are also nothing new. But what about the possibility of policy conditions relating to specific Risk Assessments and Method Statements (RAMS) for 'working at height'? Given the prevalence of fatal and serious accidents from this cause, such policy conditions could be on the horizon.



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The Changing Energy Market

The Climate Action Plan 2021 details decisive action to achieve a 51% reduction in overall greenhouse gas emissions by 2030, setting Ireland on a path to reach net-zero emissions by 2050.³ Each sector has received different target ranges for emissions reductions, with electricity bearing the brunt at up to 81%. This comes at a time when the reliability of power supply is more important than ever. Under the National Renewable Energy Action Plan, the government set a target to achieve 40% of electricity generation through renewable sources by 2020 and 70% by 2030.⁴ Ireland has moved on from 1990, when we were 98 per cent dependent on imported fossil fuel to power our grid.

To meet these targets, Ireland will need to almost double its onshore wind generation (from 4.1 GW) and will need to hugely increase its offshore wind electricity (from just 25 MW today to 5 GW by 2030). Ireland's location has enormous wind generation potential, however, significant challenges remain: integrating into the national grid; proper storage; interconnectivity between other countries to export/import as required. Regulatory challenges also exist, recently Norwegian energy giant Equinor pulled out of a



€2bn wind energy project with ESB, blaming delays in the planning process. EirGrid, operator of the national grid, have said serious supply challenges will persist for years. Last month the government debated halting construction of data centres to relieve pressure on the grid.

To produce increased quantities of renewable energy, we must build significant quantities of new infrastructure in a short period of time. Every challenge is an opportunity, and with the increased opportunities in the construction space, there will be an increased demand for appropriate insurance cover. Interesting times ahead!



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Increase in Defects Construction Claims

Defects in construction projects can cause major issues for both employers and contractors on all sizes of construction projects. This has been exacerbated by COVID-19 closing many construction sites in 2020 lockdowns, causing issues with partly completed construction processes. Whether a defect is the result of defective materials, workmanship or design, some contractors assume that a Contracts Works policy will provide coverage. However, typical policy wording exclude property in a defective condition due to a defect in design, plan, specification, materials or workmanship. Whilst the defect would be excluded in this wording, it doesn't apply to damage as a consequence of the defect.

In many instances the contractor, on discovering defective workmanship, proceeds and completes the repairs and then seeks coverage under the Contract Works policy. This exclusion can cause major issues for the contractor having completed the repairs and incurred the outlay. In the first instance the contractor should be seeking to establish the cause of the defect. Once this is done the contractor then has options as to who is at fault and diverting the costs accordingly.

Contractors should review their Contract Works exclusions in detail and, if using sub-contractors, should ensure that sub-contracts have the appropriate wordings to provide protection in the event that the sub-contractor's materials or workmanship may be at fault.



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Inflationary Pressures on Building Prices: Brexit and COVID-19

In the Republic, the Society of Chartered Surveyors Ireland have reported an average 7.3% increase in domestic rebuilding costs in the last 18 months⁵ and, in the North, the Royal Institution of Chartered Surveyors report average material price increases of nearly 10% and raised concern about future shortages in construction trades.⁶ Material costs have increased significantly throughout the island and contractors are pricing with limited timeframes due to uncertainty of price increases which squeeze profit margins.

The departure of the UK from the EU has had a significant effect on the Irish construction industry on both sides of the border, disrupting supply chains and the labour market. The COVID-19 pandemic and subsequent lockdowns in early 2020 has played a significant part too. Decreased output from global material suppliers, met with increased demand in the construction sector from mid-2020, in Ireland at least, was driven by domestic construction. While material and labour prices remain above trend, in the North, the rate of increase has slowed slightly as construction firms note that price rises had impacted their ability to secure new projects.⁷

From an insurance point of view, brokers and insurers should be aware of the construction price increases and the effect on calculating sums insured at renewal. A nominal annual percentage increase will likely not be enough to ensure that the policyholder's building or contract works sum insured keeps pace with current building inflation levels.

References

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- ⁶ RICS (2021) RICS UK Residential Market Survey, August 2021 Available at: <https://www.rics.org.uk/news-insight/latest-news/press-releases/rics-uk-residential-market-survey-august-2021/> (Accessed: 30 November 2021)
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