



## NEWSLETTER

SEPTEMBER 2008

### Programme of Events

Unless marked otherwise, the following meetings are free to members and guests.

Location maps are now always available on the website.

*All are welcome but for those meetings where the organiser's telephone or email is given, it would be helpful if you could please let them know of your intention to attend.*

Tuesday,  
2 September      “Alliance Contracting – Reshaping Australian Infrastructure”  
Speaker:      John Gallagher  
Chairman:      Philip Boulding QC  
Venue:      National Liberal Club, Whitehall Place, London SW1      6.15pm

John Gallagher is a Partner at DLA Phillips Fox in Australia. John leads the DLA Phillips Fox alliance contracting team and is widely recognised as one of the most experienced alliance contracting legal specialists in Australia. John is a senior leader of DLA Phillips Fox's infrastructure practice in Australia and has extensive practice advising clients on a range of PPP, EPC, EPCM and construction and recognised as one of Australia's leading projects lawyers. In this talk John will explore the structure and operation of the alliance contracting model in Australia, the unique interdependence of principle based collaborative contracting methods and its success in delivering over 200 projects over the last 10 years with little or no cost or time overruns and no disputes.

Thursday,  
11 September      *Joint Junior SCL/King's College London event*  
“Sixth Introduction to the Basics Conference”  
The lecture will take the same format as in previous years and is anticipated to be followed by the Michael Brown lecture and a drinks reception.  
Speakers:      Julie Stagg, Helen Garthwaite, Professor Phillip Capper,  
Liam Holder, Nerys Jefford QC and Nicholas Gould  
Venue:      Strand Campus, King's College, London WC2R      2.00pm  
Organiser:      [rbailey@fenwickelliott.co.uk](mailto:rbailey@fenwickelliott.co.uk)

Thursday,  
11 September      *Centre of Construction Law, King's College London and Society of Construction Law*  
“Amending The Construction Act”  
Speakers:      Professor Phillip Capper, Julia Court, Nicholas Gould,  
Professor Rudi Klein, HH Humphrey LLoyd QC, Chris Parker,  
Frances Paterson MBE, Marion Rich & Graham Watts  
Chairman:      The Honourable Mr Justice Rupert Jackson  
Venue:      Strand Campus, King's College, London WC2R      2.00pm

- Wednesday,  
17 September      *Joint TECBAR/SCL Meeting*  
"The Annual TECBAR Lecture"  
"Can Prevention be Cured by Time Bars?"  
Speaker:      Professor Doug Jones AM  
Chairman:      Lord Justice May  
Venue:      Parliament Chamber, Inner Temple, London EC4Y      5.30pm
- Tuesday,  
23 September      "The Court's view of experts and the growth in professional negligence claims"  
Speaker:      Paul Barry  
Chairman:      Andrew McCuish  
Venue:      Lecture Theatre 118, The Northern Terrace, Civic Quarter,  
Leeds LS1      6.15pm  
Organiser:      [jhawkswell@thkp.co.uk](mailto:jhawkswell@thkp.co.uk)
- Thursday,  
25 September      *Junior SCL Site Visit*  
Venue:      Central St Giles, London WC2  
Continuing on from the successful site visit over the last few years, it is anticipated that this site will be one of significant interest to lawyers and non-lawyers. Central St Giles is a mixed-use development, developed by Stanhope and constructed by Bovis Lend Lease. The development is designed by world-renowned architect Renzo Piano.  
*This event is now fully booked but if you wish to put your name on the reserve list, contact [franceswhitehead@scl.org.uk](mailto:franceswhitehead@scl.org.uk)*  
Organiser:      [rbailey@fenwickelliott.co.uk](mailto:rbailey@fenwickelliott.co.uk)      3.30pm
- Thursday,  
2 October      *SCL in partnership with The RICS & The University of Manchester*  
"Resolving Disputes In Construction"  
Speakers:      The Honourable Mr Justice Vivian Ramsey, Edward Davies,  
Dr Peter Fenn, John Riches, Michael Hopkins & Derek Pye  
Chairman:      Dr Peter Fenn  
Venue:      The Centre, Birchwood Park, Warrington WA3 6YN      1.00pm  
Organiser:      [peter.fenn@manchester.ac.uk](mailto:peter.fenn@manchester.ac.uk)
- Monday 6  
Tuesday 7  
October      SCL International Construction Law Conference  
Venue:      Grange City Hotel, 8-14 Cooper's Row, London, EC3N  
*The major two day conference, on 6th - 7th October 2008 will bring together leading construction experts from many different jurisdictions to exchange ideas on a wide range of highly relevant topics.*      9.00am
- Monday  
6 October      *SCL International Construction Law Conference Gala Dinner*  
Venue:      The Brewery, Chiswell Street, London EC2  
*The Gala Dinner is open to all SCL and ACCL members and their guests not attending the Conference at a cost of £75 per head. Tables of 10 are available. For further details please see the International Construction Law Conference flyer [www.sclinternational.org/files/docs/flyer.pdf](http://www.sclinternational.org/files/docs/flyer.pdf)*      6.30pm
- Tuesday  
7 October      *Society's President's Reception*  
Venue:      Ironmongers' Hall, Shaftesbury Place, Barbican, London EC2Y  
*The President's Reception will be open to all SCL Members and their guests and SCL Conference attendees and their guests at a cost of £30 per head.*

Wednesday,  
15 October      *The School of Built & Natural Environment offers a free CPD event for Industry and Academics*  
“The Rise of Disruption Claims - The Fall of Delay Claims?”  
Speaker:      Hamish Lal  
Venue:      Darwin Building Lecture Theatre, University of Central Lancashire,  
Preston      6.30pm  
To confirm your attendance please email your details (name and organisation) to  
[ddavenport@uclan.ac.uk](mailto:ddavenport@uclan.ac.uk) 01772 893218 by Friday, 26 September 2008.

Tuesday,  
4 November      “A designer's duty - a time for review”  
Speaker:      Alexander Nissen QC  
Chairman:      Nerys Jefford QC  
Venue:      National Liberal Club, Whitehall Place, London SW1      6.15pm

Thursday,  
13 November      “Proof of delay claims: London Underground v Citylink”  
Speaker:      Nerys Jefford QC  
Venue:      Pinsents, 3 Colmore Circus, Birmingham B4      5.45 for 6.00pm  
Organiser:      [selvaratnam@mail.com](mailto:selvaratnam@mail.com)

Monday,  
17 November      “Claims: Onerous Pre-Conditions in the Irish Public Works Contract”  
Speaker:      Patricia Hill BL of Kings Inns, Dublin  
Chairman:      John Lyden  
Venue:      Tba      6.30pm  
Organiser:      [johnlyden@eircom.net](mailto:johnlyden@eircom.net)

November  
(exact date tba)      *Second Junior SCL Christmas Lecture*

Tuesday,  
2 December      *Joint SCL/Tecbar meeting*  
“Construing Construction Contracts : Principles, Policies and Practice  
10 years after ICS v West Bromwich”  
Speaker:      Nicholas Baatz QC  
Chairman:      Mr Justice Coulson  
Venue:      National Liberal Club, Whitehall Place, London SW1      6.15pm

### **Two dates for your 2009 diary:**

Tuesday,  
27 January      “Delay & Disruption: Global Claims, Concurrency and Apportionment”  
Speaker:      Hamish Lal  
Venue:      Lecture Theatre 118, The Northern Terrace, Civic Quarter,  
Leeds LS1      6.15pm  
Organiser:      [jhawkswell@thkp.co.uk](mailto:jhawkswell@thkp.co.uk)

Friday,  
13 February      The Society’s Annual “Lunch at the Brewery”, Chiswell Street, London      12.30pm  
Please note that bookings are not yet being taken for this event.  
The booking form will be sent to all members during November.

## **London Speaker Programme**

Feedback and suggestions for speakers and topics continue to be gratefully received by the organising committee: [njefford@keatingchambers.com](mailto:njefford@keatingchambers.com) [PMcKinley@trowers.com](mailto:PMcKinley@trowers.com) and [julian.bailey@cms-cmck.com](mailto:julian.bailey@cms-cmck.com)

## **SCL International Conference and Dinner at the Brewery**

We are pleased to note there has been a very strong response to our call for attendees for both the Conference and Dinner being held in London on 5<sup>th</sup> to 7<sup>th</sup> October 2008. With some 40 speakers contributing to talks and discussion over two and a half days, the SCL International conference, provides a rare opportunity to listen to and meet leading construction professionals from around the world. The conference days will be opened by Lord Justice Anthony May and Mr Justice Vivian Ramsey. Other distinguished judges involved in the conference proceedings include Sir Philip Otton and His Honour Humphrey LLOYD QC.

Attendees will be able to claim at least 12 accredited solicitors' CPD hours and the Society hopes to obtain similar accreditation from the BSB.

A number of places remain available. Further details of speakers, conference programme, venues, events and registration are available at [www.sclinternational.org](http://www.sclinternational.org). Queries regarding registration may be addressed to Frances Whitehead on +44 (0) 1708 731476 or email [franceswhitehead@scl.org.uk](mailto:franceswhitehead@scl.org.uk)

### **Dinner at the Brewery / President's Reception:**

Please note that these events, to be held at The Brewery on 6<sup>th</sup> October and at Ironmongers' Hall on 7<sup>th</sup> October are open to all members and guests, whether attending the Conference or not.

## **PAPERS**

### **New EC Regulation on choice of law in contract**

In July 2008, the EC adopted the Rome I Regulation on choice of law in contract, intended to replace the Rome Convention across all member-states. This makes many significant changes in the default principles courts and tribunals will use to decide the applicable law of a contract, where the parties have not made a clear choice of their own; it joins the 2007 Rome II Regulation, which brought in EC-wide choice-of-law rules for the first time on questions of tort and unjust enrichment. Further changes in the EC's powers and activities in the field of civil justice will follow implementation of the Treaty of Lisbon (temporarily stalled by the failure of the referendum in Ireland).

Philip Britton (Visiting Professor at King's College London) published an article discussing all these issues at [2008] ICLR 347, just before the Rome I text was published; the editors of the ICLR have now kindly agreed to let the Society publish an updated and revised version of this article. His paper entitled 'The Right Law for Construction? Choice of Law: Rome I and Rome II' is therefore sent to members with this Newsletter (paper number 148).

## **Advocacy Course**

Attached to this newsletter is a flyer giving full details of the Advocacy Training course to be held during October and November 2008. Please note that the course is open only to SCL members who are solicitors and that it would be most beneficial to those solicitors who will be (or who have recently started) acting as a solicitor advocate. Attendance on the course will entitle each advocate to claim 12.5 CPD hours. For further details, contract [vicky.lee@dundas-wilson.com](mailto:vicky.lee@dundas-wilson.com)

## **Consultation on the European Commission's Proposed Construction Products Regulation**

CLG (Communities and Local Government) have published a consultation and draft impact assessment on the EU Commission's proposal to replace the current Construction Products Directive. As the proposed new Construction Products Regulation will apply directly into UK law, the CLG is consulting on these proposals with the aim of developing a UK negotiating line.

The EU Commission is concerned that the current process of CE marking is slow and costly. The aim of the new proposals is to simplify the system and improve the credibility of CE marking. The question of "sustainability" of construction products from design through to demolition stages is one of the issues highlighted in ANNEX I of the new EU proposals.

If you wish to participate in this consultation you will find a link on the CIC website at:  
<http://www.cic.org.uk/activities/consult.shtml>

Alternatively the direct link to the CLG website is:  
<http://www.communities.gov.uk/planningandbuilding/publications/consultations/>

The Commission's proposals can be downloaded on:  
[http://ec.europa.eu/enterprise/construction/index\\_en.htm](http://ec.europa.eu/enterprise/construction/index_en.htm)

Consultation responses should be sent to : [consultations@cic.org.uk](mailto:consultations@cic.org.uk) by 20 October 2008.

## **London 2012 Dispute Resolution**

The Olympic Delivery Authority (ODA) recently announced its proposals for dispute resolution. It reflects well on the standing of the Society that 8 of those named in the multi-tier dispute process are members of the Society. Two key extracts from the press release are:

*An Independent Dispute Avoidance Panel (IDAP) has been set up to help avoid contractual disputes during the work to deliver the venues and infrastructure for the London 2012 Olympic and Paralympic Games.*

*The expert Panel is available to help the ODA and its construction contractors to avoid any potential disputes that could impact on the delivery of the Olympic Park and other London 2012 venues. The Panel will focus on finding pragmatic solutions to problems which may arise before they become disputes that could require lengthy resolution.*

The full press release can be found on the London 2012 web site ([www.london2012.com](http://www.london2012.com)).

## **Junior SCL: Introduction to the Basics 2008**

The Junior Committee of the Society of Construction Law in association with the King's College Centre of Construction Law presents Introduction to the Basics 2008 on Thursday 11 September 2008 at King's College.

The conference will cover topics including Tendering and procurement, PFI/PPP, Standard forms, Defects, Claims and dispute resolution techniques. The conference runs from 2 till 6.15 and is followed by the Michael Brown lecture which this year will be given by Louise Barrington the new head of the Centre of Construction Law. The conference is aimed at junior members of the industry and gives an introduction to many of the key issues in the industry today.

A booking form will shortly be distributed to members by e-mail. CPD points available.

**Booking preference for any of the organised Junior events is always given to those who are registered as Junior Members.** If you are new to the world of construction law, then you can register as a junior member, which is easy to do, as follows:

Log onto the SCL website [www.scl.org.uk](http://www.scl.org.uk) using your username and password (if you have forgotten what they are, Admin can help). Click on 'Members' and then click the 'Junior members' link on the left. You will find an explanation of Junior Membership, and a simple form to register. You do not need to enter your name/details – these are already recognised by the website after you logged in; you only need to confirm your eligibility by stating that you are junior in your area of expertise.

## **ESCL Conference 2008**

The 2008 European Society of Construction Law Conference will be held in Athens on 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> September. The focus of the conference will be "Construction Law and Environmental Protection" sub-divided into the following four sections:

- Environmental Infrastructure Projects (eg, water treatment plants) – drafting of contracts and financing issues
- Environmental licensing of (infrastructure) projects
- Urban Planning and building provisions and the protection of the environment
- Environmental aspects in the award of public contracts

## **How to register on the website as a member**

In order to get members' access to the website you must register online as a member. Registration is easy.

Go to the website homepage [www.scl.org.uk](http://www.scl.org.uk) click Member Registration (listed below the Member Login box on the right hand side of the homepage) and enter your details and a username and password of your own choosing. Your membership number is also asked for (if you don't know it, then admin can tell you).

Thereafter, you can simply log onto the website using your username and password. When you log in you will see a navigation link to 'Members' which is where you can update your contact details, email subscriptions and data protection information – and where you can choose to have the newsletter emailed to you instead of (or as well as) receiving it by post. This is where you can also search for information about other SCL members who have agreed for their data to be accessible to other members on the website – the total of those who have given permission is now nearly 1,000 members.

## **New Members**

Finally, we are pleased to welcome the new members who joined the Society in August:

Sharon Akumiah, London  
Emma Childs, London  
Andrew Clough, Newcastle upon Tyne  
Roger Hirons, Manchester  
Kathryn Howard, London  
Emily Jackson, London  
Siobhan Kenny, Dublin  
Adrian Kerr, London  
Varnavas Lambrou, Nicosia, Cyprus  
Lee Mallek, Georgetown, USA  
Ramy Naguib, Cairo, Egypt  
Albert Oh, Birmingham  
Pawel Piotrowski, Warsaw, Poland  
Byron Robson, Barry  
Khan Sabir, Dubai, UAE  
Chi Smith, Cobham, Surrey  
Clive Thomas, South Croydon  
Emma Thomas, London  
John Wood, Sutton Coldfield, West Midlands

# SCL & ACCL International Conference Registration

Name: .....

Name & Address of Organisation .....

.....

.....

Designation: .....

SCL Membership No.  ACCL  (Please tick)

Telephone No: .....

Email: .....

- |  |           |         |
|--|-----------|---------|
| 1. Full attendance at two day SCL conference 6 <sup>th</sup> & 7 <sup>th</sup> October | @£650     | _____   |
| 2. Confirm attendance at Cocktail Reception on 5 <sup>th</sup> October                 | Yes / No* | _____   |
| 3. Confirm attendance at Gala Dinner on 6 <sup>th</sup> October                        | Yes / No* | _____   |
| 4. Discount for early booking ( <i>no longer available</i> )                           | -----     |         |
| 5. Discount for SCL and ACCL Members   | @ (£50)   | (.....) |
| 6. Attendance for Monday 6 <sup>th</sup> only  | @ £400    | _____   |
| 7. Attendance for Tuesday 7 <sup>th</sup> only   | @ £400    | _____   |
| 8. Additional guests at Cocktail Reception on 5 <sup>th</sup> October                  | @ £30     | _____   |
| 9. Additional places at Conference Gala Dinner on 6 <sup>th</sup> October              | @ £75     | _____   |
| 10. Attendance at President's Reception on 7 <sup>th</sup> October                     | @ £30     | _____   |
| 11. Additional guests at President's Reception on 7 <sup>th</sup> October              | @ £30     | _____   |
| 12. Attendance at the ACCL Conference on 5 <sup>th</sup> October                       | @ £35     | _____   |

**TOTAL PAYMENT** \_\_\_\_\_

\* Delete as appropriate

## PAYMENT

Bookings may be made online at [www.sclinternational.org](http://www.sclinternational.org) Alternatively, please return this form together with a cheque payable to "Society of Construction Law (UK)" to Frances Whitehead, Society of Construction Law (UK), 114 Pettits Lane, Romford, Essex RM1 3EJ. Queries regarding registration may be addressed to Frances Whitehead on telephone number 01708 731476 or email [franceswhitehead@scl.org.uk](mailto:franceswhitehead@scl.org.uk)



## **ATTENTION ALL BUDDING SOLICITOR ADVOCATES!**

With the kind agreement of Mr Justice Ramsey & His Honour Judge Wilcox the SCL is pleased to announce that it will be holding its Advocacy Training Course again this Autumn

**The course will be run at a location in central London over five evening sessions**

**on**

**9 October 2008, 16 October 2008, 23 October 2008,  
30 October 2008 and 6 November 2008  
between 5.30pm and 8.00pm**

The course will give each advocate opportunities to present or to oppose interim applications in a construction dispute, including applications in relation to adjudication, as in court, and also to receive appraisals of their skills.

**Attendance at all sessions of the course will entitle each advocate to 12.5 CPD hours**

Please note that this course is open only to SCL members who are solicitors and is aimed at those solicitors with little or no advocacy experience. Early registration is advisable as places are limited.

To register your interest please contact:

Society of Construction Law  
Advocacy Course  
c/o Vicky Lee  
Dundas & Wilson LLP  
Northwest Wing, Bush House, Aldwych, WC2B 4EZ  
(vicky.lee@dundas-wilson.com)

on behalf of Hamish Lal, Dundas & Wilson LLP – SCL  
executive in charge of the advocacy course