



NEWSLETTER

FEBRUARY 2009

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,
3 February "Environmental Considerations in Construction Projects"
Speaker: Stephen Shergold, DWS
Chairman: Barry Milton
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Thursday,
12 February "25 Years of Deciding Disputes.....Lessons?"
Speaker: Tony Bingham
Chairman: Janey Milligan
Venue: Dundas & Wilson CS LLP, 20 Castle Terrace,
Edinburgh EH1 5.45 pm for 6.00 pm
Organiser: Lindy.Patterson@dundas-wilson.com
- Friday,
13 February *The Society's Annual Lunch at the Brewery*
Speaker: Gavin Esler
Writer, Broadcaster and Presenter of BBC's Newsnight
Venue: The Brewery, Chiswell Street, London EC1Y 12.30 for 1.00pm
We regret that this event is now fully booked. If you wish to be placed on a reserve list, please email frances.whitehead@scl.org.uk
- Thursday,
26 February Joint KCCCL & SCL afternoon seminar at King's College, London 2.00pm
See separate item below and flyer/booking form attached
- March *Junior Site visit (Date, Venue and further details tba)*
Organiser: rbailey@fenwickelliott.co.uk
- Tuesday,
3 March "Take notice – the effect of notice provisions on rights and liabilities"
Speaker: Mr Justice Ramsey
Chairman: Ronan Champion
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Tuesday,
3 March "Presenting Cases in Court... what a Judge looks for"
Speaker: HH Judge David Grant
Chairman: Jocelyn Taylor
Venue: The Midland Hotel, Midland Road, Derby DE1 2SQ 6 for 6.15pm
Organiser: Jocelyn.Taylor@nelsonslaw.co.uk

- Friday,
6 March *SCL Annual Conference In partnership with the RICS & Leeds Metropolitan University*
“Resolving disputes in construction through Adjudication”
Speakers: The Honourable Mr Justice Ramsey, The Honourable Mr Justice Akenhead,
Nerys Jefford QC, Franco Mastrandrea & Ronan Champion
Chairman: Barry Milton
Venue: The Royal Armouries, Leeds 8.15am
Organiser: jhawkswell@thkp.co.uk
Please note: Places are priced at £80.00 plus £12.00 VAT = £92.00 per delegate
- Thursday,
12 March *Joint SCL/CIOB Meeting*
“Developments in time and money claims – the same old story or something new?
A construction law update.”
Speakers: James Bowling and Luke Wygas - 4 Pump Court
Chairman: Julian Dobson
Venue: The Rose Bowl, Southampton SO30 6 for 6.15pm
Organiser: marian.harris-deans@bllaw.co.uk
- Monday,
30 March *Joint SCL/Society of Chartered Surveyors meeting*
“Construction Insolvency in Ireland – Practical Issues”
Speaker: Denis O’Driscoll, Solicitor
Chairman: John Lyden
Venue: Rochestown Park Hotel, Rochestown Road, Douglas, Cork 6.30 pm
Organiser: johnlyden@eircom.net
- Tuesday,
7 April “English construction law concepts in the Gulf: local customs and local laws”
Speaker: James Bremen
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Thursday,
23 April “Construction Act Reforms”
Speaker: Professor Rudi Klein
Chairman: David J Richards
Organiser: richard.wade@bllaw.co.uk
- Tuesday,
5 May *Presentation of the winning Hudson Prize Essay(s)*
Chairman: Professor Anthony Lavers
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Wednesday,
13 May *The Society’s AGM & Annual Dinner*
Venue: Middle Temple Hall, Middle Temple Lane, London EC4Y 6.30pm
This event is strictly for SCL members only. Booking details to be announced

London Speaker Programme

Feedback and suggestions for speakers and topics continue to be gratefully received by the organising committee: njefford@keatingchambers.com pboast@trowers.com and julian.bailey@cms-cmck.com

SCL International Conference: Bar CPD points

In case you missed previous announcements, the SCL International Conference held on 6th and 7th October has been accredited for 12 Bar CPD points.

Construction law afternoon seminar at King's College, London

An afternoon seminar entitled "Contemporary issues in procurement" has been organised by King's College Centre of Construction Law and the Society of Construction Law.

The event will be held in the Great Hall, Strand Campus, King's College, London on Thursday, 26 February. Presentations and discussions will start at 2pm and end at 6.15pm, to be followed by a drinks reception.

The cost is £115 per person but there is a reduced rate of £95 for SCL members

A flyer and booking form giving full details is enclosed with this newsletter. For enquiries please contact Frances Whitehead on 01708 731476 or franceswhitehead@scl.org.uk

Renewal of Membership 2009

Thanks to the many members who have already renewed their subscription for 2009.

If you intend to renew your subscription but have not yet done so, please make your payment as soon as possible. For the sixth consecutive year, the subscription fee remains at £100.

The Renewal of Membership invoices were posted to all full members during December (with the exception of those members who joined the Society after the end of September 2008). If you did not receive your invoice then please request a copy from admin@scl.org.uk

Overseas e-members do not receive invoices but have instead received an email reminder giving instructions on how to pay their subscriptions online. The fee for overseas e-membership remains at £15.

Update on new website

The new SCL website was delayed last year for several reasons, including the Society's focus on the International Conference in October. It is now in the final stages of development, and the planned launch is set for the week commencing April 6th. Before that, a prototype will need careful testing by as many members as possible. About 100 of you volunteered a year ago to help with testing, and you will be contacted shortly to request your help during a testing period of two weeks, starting in late February. If others would be willing to help with testing, please email me at webmaster@scl.org.uk

Members who have not renewed their subscription will not be carried over into the new site, so we urge you to pay your membership as soon as possible at <http://www.scl.org.uk/shop/shop.php?class=4>.

We should also give you advance notice that log in access to the current website will be suspended from April 1 for a few days while the changeover to the new site is completed.

Thank you for your cooperation and support. We are confident that the new website is going to bring substantial improvements and benefits for members and the Society as a whole.

Edward Peters
SCL webmaster

Papers

Circulated with this Newsletter are three new papers, and a further paper can be found on the website, as follows:

Firstly, a paper by **Philip Britton, "Court Challenges to ADR in Construction: European and English Law"** (152), based on his essay awarded the Norman Royce Prize 2008 by the Society of Construction Arbitrators. If a construction project uses a form of alternative dispute resolution – or has ADR applied to it – when and how may one of the parties challenge these procedures as in themselves unfair or otherwise contrary to law? If a challenge is successful, what consequences follow? Philip Britton explores these issues and then considers the possibilities for court challenge of ADR, primarily in the context of the impact of Article 6(1) of the European Convention and of the EC Directive on Unfair Contract Terms in Consumer Contracts. Its main focus is on adjudication (both statutory and contractual) and on court-encouraged ADR; it also draws contrasts with the different forms of statutory adjudication in construction in Singapore and Australasia.

Secondly, one of the papers given at the International Conference in October 2008 to be published by SCL, is **Jeremy Winter's paper "How should delay be analysed - Dominant cause and its relevance to concurrent delay"** (153). Jeremy Winter considers in some detail the decision of Lord Drummond Young in *City Inn Ltd v Shepherd Construction Ltd* heard in the Scottish Outer House, Court of Session in 2007. He looks first at the facts of the case and then the judge's consideration of the case law, quoting extensively from the judgment and the cases referred to (which include *Percy Bilton*, *Peak v McKinney*, *Chestermount Properties*, *Malmaison Hotel*, *Royal Brompton Hospital*, *Wells v Army and Navy* and *SMK Cabinets*). He quotes the judge's conclusions at some length before commenting on whether the judge correctly summarised the law and/or correctly applied it.

Thirdly, **Ellis Baker's paper, 'Is it all necessary? Who benefits? Provision for multi-tier dispute resolution in international construction contracts'** (154), presented to a joint meeting of the Society of Construction Law and the Society of Construction Arbitrators in London on 1st July 2008. Ellis Baker looks at the development of multi-tier dispute resolution provisions in contracts, in particular considering the FIDIC forms from the 1st edition of the Red Book published in 1957 to the most recent editions of the various forms, from reference to the engineer and arbitration to the introduction of Amicable Settlement. He then considers the provisions in the Channel Tunnel and Hong Kong International Airport contracts, and the move towards panels of experts and dispute boards, alongside mediation in those and other contracts. He then poses the question of whether these multi-tiers benefit the parties, including drawing on the discussion at the meeting when the paper was presented.

Fourthly, a second paper given to the International Conference in October 2008, **David Barry's paper 'Beware the Dark Arts! Delay Analysis and the Problems with Reliance on Technology'** (D95). David Barry explains that in this paper he seeks to provide some general clarity as to what each of the commonly used delay analysis techniques are, what they do, what they do not do, and when they may be appropriately applied. He also discusses the relationship between scheduling and technology.

These papers are also available to members as a free PDF downloads from the SCL website. Many other papers are also available to members as free PDF downloads. The full list of papers can be seen at www.scl.org.uk/publications.php

Junior SCL

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 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.

How to register on the existing 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 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 January:

Rita Allan, London	Richard Appuhn, Rome
Bhalindra Bath, London	Jeremy Brittenden, London
Karl Cleife, Warminster, Wiltshire	Ed Cooke, London
Tom Daly, Farnham, Surrey	William Copeland, Johannesburg, South Africa
Demetris Demetriou, Nicosia, Cyprus	Ronald Duncan, Doha, Qatar
Waleed El Nemr, Dokki, Egypt	Patrick Ellis, Pretoria, South Africa
Alastair Farr, London	John Findlay, Guildford, Surrey
Brian Forsyth, York	Nicholas Gallier, Derby
Neil Gouldson, Doha, Qatar	Nicholas Hamilton, Bangkok, Thailand
Diana Harvey, London	Kimberly Hurtado, Wauwatosa, USA
Ian Jones, Edenbridge, Kent	Dennis Kakol, Paeonian Springs, USA
Yeekee Ku, Johor Bahru, Malaysia	Mark Lawton, Cramlington,
Phil Loots, Subiaco, Australia	William Lord, Ellesmere Port, Cheshire
Michael Matheou, London	James McCarthy, London
Avril McIntyre, Doha, Qatar	Mark Mills, London
Harshad Muhammed, Dubai UAE	Matthew Needham-Laing, Guildford, Surrey
Andrew Nicoll, London	Jo Phillips, London
Alexandra Price, Cambridge	John Priestley, London
Roger Quick, Brisbane, Australia	David Ross, Kitchener, Canada
Shapna Roy, London	Jitendra Mohan Sharma, New Delhi, India
Martin Tiffin, Bournemouth	Adrian Walker, London
Robert Weatherley, Cambridge	Thomas Wilson, Atlanta, USA
Wai Wong, London	