



**DESIGN LIABILITY, DEFECTIVE BUILDINGS AND REMEDIES AT LAW 2007**

**Simon J A Tolson**

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**IBC CONSTRUCTION LAW  
SUMMER SCHOOL CONSTRUCTION LAW**

*Summary: The aim of this paper is to consider and analyse the subject of design risk, responsibility for design, redress when it goes wrong and the courts' approach to the assessment of damages.*

**Contents:**

- 1 Building it wrong
- 2 Design risk the choice of contract and procurement strategy
- 3 Contract selection
- 4 Fitness for purpose in "design and build" contracts
- 5 The application of the fitness for purpose obligation
- 6 The practical consequences of building to difficult designs for the contractor - hard law
- 7 Implied variation arguments through difficulty of the build
- 8 How should design risk be allocated? - "best practice"
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- 10 Principles versus practical realities buildability
- 11 What if the design is based on incomplete data or assumptions?
- 12 Should the designer warn the client that the design is novel?
- 13 Can the employer's own expertise reduce the primary designer's liability?

# Design Liability Defective Buildings And Remedies At Law

**Philip Britton, Matthew Bell, Deirdre Ní  
Fhloinn, Kim Vernau**



## **Design Liability Defective Buildings And Remedies At Law:**

**Remedies in Construction Law** Roger Ter Haar, 2013-07-04 Remedies in Construction Law brings together various well established strands of the law and considers practical remedies for breach of contract and tort in connection with construction projects This is the first time that the subject of remedies has been approached in this way with regard to construction law specifically The book also includes chapters on how to resolve a dispute through different methods of alternative dispute resolutions Cornes and Lupton's Design Liability in the Construction Industry Sarah Lupton, 2013-12-31 Liability for the design of a building or structure is of fundamental concern to construction professionals design build contractors specialist sub contractors and lawyers Although other texts cover a wide range of aspects of liability only Cornes and Lupton's Design Liability in Construction draws together all those matters that relate specifically to design A number of factors have come together recently and are addressed in this significant update and rewrite of the 4th edition including popularity of design build procurement partnering arrangements and early contractor involvement new standard forms of construction contract and appointment and revisions to older forms technical innovations in construction collaborative working and BIM systems many well publicised cases regarding design failures significant developments in the law of tort and professional liability the development of the single European market and increased provision of services overseas Together these factors create a new range of design liability issues which the construction professional has to face Written for lawyers architects engineers and contractors the fifth edition of Design Liability in Construction will also serve as a useful text for masters level courses in engineering surveying and construction law Architect's Legal Handbook Anthony Speaight, 2012-07-26 The Architect's Legal Handbook is the established leading textbook on law for architectural students and most widely used reference on the law for architects in practice This eighth edition includes all the latest developments in the law that effect an architect's work A key addition is a greatly expanded section on adjudication a topic that has become hugely important in the last few years The book also builds on the comprehensive coverage of all UK law with editors for Scotland and Northern Ireland expanding their sections *Private Law and Building Safety* Matthew Bell, Susan Bright, Ben McFarlane, Andrew Robertson, 2025-07-24 This collection of essays explores the real world problem of building safety through the lens of private law High profile building failures including the fire at Grenfell Tower London England and the collapse of Champlain Towers South Florida USA have exposed widespread building safety failures globally In this book international experts deploy a variety of different private law perspectives ranging through torts contract and real property law to examine building safety failures across the UK USA Australia Singapore New Zealand Italy and Canada The book offers policymakers practitioners and scholars ground breaking consideration of this vital yet under considered aspect of the building safety crisis along with new and valuable insights into the nature limits and utility of private law The book shows that private law can be part of the solution to as well as being part of the cause of the building safety crisis

Consideration is given to existing legislative and judicial responses to the crisis offering guidance as to how statutory regimes addressing the building safety problem such as the Building Safety Act 2022 can best be understood and developed. A central lesson is the need to take an integrated coherent approach within and beyond private law. The book also illustrates that an understanding of the causes of and responses to the building safety crisis is vital to any theory of private law: private law is unable to fulfil its distinctive and crucial role of ordering our relations one to another if we adopt an unduly limited view of the reasons and resources available to it. The book results from a joint research project by the Faculty of Law at the University of Oxford and Melbourne Law School at the University of Melbourne.

Architect's Legal Handbook Anthony Speaight QC, 2021-01-28. The Architect's Legal Handbook is the most widely used reference on the law for practicing architects and the established textbook on law for architectural students. Since the last edition of this book in 2010, the legal landscape in which architecture is practised has changed significantly: the long-standing procurement model with an architect as contract administrator has been challenged by the growing popularity of design and build contracts; contract notices in place of certificates and novation of architect's duties. The tenth edition features all the latest developments in the law which affect an architect's work as well as providing comprehensive coverage of relevant UK law topics. Key highlights of this edition include an overview of the legal environment including contract, tort and land law; analysis of the statutory framework including planning law, health and safety, construction legislation and building regulations in the post Grenfell legal landscape; procurement and the major industry construction contract forms; building dispute resolution including litigation, arbitration, adjudication and mediation; key fields for the architect in practice including architects' registration and professional conduct; contracts with clients and collateral warranties; liability in negligence and insurance; entirely new chapters on various standard form contracts; architects' responsibility for the work of others; disciplinary proceedings and data protection; tables of cases, legislation, statutes and statutory instruments give a full overview of references cited in the text. The Architect's Legal Handbook is the essential legal reference work for all architects and students of architecture.

Construction Contracts John Murdoch, Will Hughes, 2002-01-04. Although the legal principles involved in construction contracts and their management and administration are an aspect of general contract law, the practical and commercial complexities of the construction industry have increasingly made this a specialist field. Recognizing this, *Construction Contracts* is a fully revised edition of the UK's leading textbook on the law governing this area. Brought up to date with recent cases and developments in the law as it stands at July 2000, this new edition takes full account of the effects of the Housing Grants, Construction and Regeneration Act 1996, the Arbitration Act 1996, the Contracts (Rights of Third Parties) Act 1999 and the changes in the legal system brought about by the Woolf reforms. It includes extended coverage of financial protection, construction insurance and tendering controls as well as the Construction Design and Management Regulations. It has been revised to take account of changes to the common standard form contracts, particularly the New Engineering Contract and

the GC Works family of contracts Retaining the same basic approach as its successful predecessors this important text introduces the general principles that underlie contracts in construction illustrating them by reference to the most important standard forms currently in use *Defective Construction Work* Kevin Barrett, 2009-01-22 Defective construction work whether the result of inadequate design faulty workmanship or poor materials or some combination of these failings is a frequent cause of legal disputes Someone is usually to blame either the builder or one or more of the professional consultants or even the entire project team It is important therefore that the project team should possess a good working knowledge of their responsibilities and liabilities Written by a solicitor with over twenty years of experience of building disputes this book examines the responsibilities and liabilities of the project team when defects occur It sets out the background role of the common law and statute and includes detailed discussion of important case law affecting the construction process from inception through to completion together with a consideration of the impact of letters of intent no contract situations and specific provisions of model conditions of contract *Residential Construction Law* Philip Britton, Matthew Bell, Deirdre Ní Fhloinn, Kim Vernau, 2021-07-15 This is the first book to offer a systematic and analytical overview of the legal framework for residential construction In doing so the book addresses two fundamental questions Prevention What assurances can the law give buyers and later owners and occupiers of homes that construction work from building of a complete home to adding an extension or replacing a shower unit will comply with minimum standards of design safety and build quality Cure What forms of redress from whom and by what route can residents expect when often long after completion of construction they discover defects The resulting problems pose some big and difficult questions of principle and policy about standards rights and remedies which in turn concern justice more generally This book addresses these key issues in a comparative context across the United Kingdom Ireland Australia and New Zealand It is an accessible guide to the existing law for residents and construction professionals and their legal advisers but also charts a course to further meaningful reforms of the legal landscape for residential construction around the world The book's two co authors Philip Britton and Matthew Bell have taught in the field in the UK Australia and New Zealand both have been active in legal practice as have the book's two specialist contributors Deirdre Ní Fhloinn and Kim Vernau *Commercial Property 2018* Anne Roddell, 2018-01-22 *Commercial Property* is a thorough and practical introduction to all the main areas of commercial property practice

**Architects' Data** Ernst Neufert, Peter Neufert, 2012-03-26 Neufert's *Architects' Data* is an essential reference for the initial design and planning of a building project It provides in one concise volume the core information needed to form the framework for the more detailed design and planning of any building project Organised largely by building type it covers the full range of preliminary considerations and with over 6200 diagrams it provides a mass of data on spatial requirements Most illustrations are dimensioned and each building type includes plans sections site layouts and design details An extensive bibliography and a detailed set of metric imperial conversion tables are included Since it was first published in Germany in

1936 Ernst Neufert's handbook has been progressively revised and updated through 39 editions and many translations. This fourth English language edition is translated from the 39th German edition and represents a major new edition for an international English speaking readership. Reviews of the Previous Edition: Neufert's Architects Data was the first book I bought when I started my studies in architecture. It was invaluable for me then and it is still a useful aid in my designs. Cesar Pelli: With this thorough rewrite Neufert has produced yet again an invaluable reference book. The Architects Journal

**Construction Law** Julian Bailey, 2016-07-15. Now in its second edition, Construction Law is the standard work of reference for busy construction law practitioners and it will support lawyers in their contentious and non-contentious practices worldwide. Published in three volumes, it is the most comprehensive text on this subject and provides a unique and invaluable comparative multi-jurisdictional approach. This book has been described by Lord Justice Jackson as a tour de force and by His Honour Humphrey Lloyd QC as seminal and definitive. This new edition builds on that strong foundation and has been fully updated to include extensive references to very latest case law as well as changes to statutes and regulations. The laws of Hong Kong and Singapore are also now covered in detail in addition to those of England and Australia. Practitioners as well as interested academics and post graduate students will all find this book to be an invaluable guide to the many facets of construction law.

**Building Design Management** Colin Gray, Will Hughes, 2001. A practical handbook on the management of building design, this guide explains the process, rules and responsibilities of those involved and ways to maximise efficiency. Well structured and easy to read, the book includes useful notes and checklists.

**B.S.Patil's Building and Engineering Contracts, 7th Edition** B.S. Patil, S.P. Woolhouse, 2019-08-29. From the standpoint of practising engineers, architects and contractors, the law of contract is the most important one and from preparation of technical documents to its execution and in the determination of disputes, the engineer or architect must have relevant knowledge. This book acts as a practical guide to building and engineering contracts. All points are explained with illustrations gathered from decided court cases. This book covers the substantive law of contract applicable to building and engineering contracts with updated noteworthy judgments. FIDIC conditions are mentioned at appropriate places with a global focus. Key Features: Guide for a full and thorough understanding of the contractual undertakings of the civil engineering industry primarily in India. Discusses specific conditions which are fertile sources of disputes referring to and commenting upon the FIDIC conditions. Covers internationally adopted standard form conditions of contract with analysis, discussions and interpretations with decided court cases from India and abroad. Focuses on technical civil engineering aspects. Addresses cases from countries including UK, US, Canada, Australia, New Zealand and India.

**Building**, 1887 **Avoiding Claims** M. Coombes Davies, 2003-09-02. An important and practical guide for the construction industry professional, this book enables the reader to appreciate the nature and seriousness of wide-ranging liability in the construction industry. The question and answer format makes it simple, direct and easy to use.

**The JCT Minor Works Building Contracts 2016** David

Chappell,2017-11-06 The revised and updated edition of this classic book on the JCT Minor Works Building Contracts The JCT Minor Works Building Contracts 2016 offers a concise overview of this agreement which continues to be the most popular JCT contract as it used on the sorts of small works that most architects and builders encounter routinely Written in straightforward terms the book is formatted in short chapters with accessible sub headings and the author avoids legal and pseudo legal wording where possible Some explanations from first principles are included where it is thought they would be helpful and occasionally where the precise legal position is unclear the author uses his significant experience to offer a view Overall the information is presented in a manner that it is easy to understand use and reference The 2016 edition of the contract contains a great many changes from previous editions and these are all covered For example the book includes information about the substantially revised payment provisions changes to those parts dealing with insurance variation instructions the CDM Regulations Supplemental Provisions definitions and the Contractor s Designed Portion In summary this fifth edition has been comprehensively revised and updated to Ensure the discussion is easy to comprehend and use by busy architects and contractors Include a number of tables and flowcharts to assist in understanding the way the contract operates Include several letter templates that can be used in common situations Provide answers to the sorts of problems that commonly arise in the course of a building project The new edition of this classic book on The JCT Minor Works Building Contracts will be an ideal tool for busy architects and contractors who need to find what to do when problems arise on projects using this contract     *Rural Lakes Alternative Waste Treatment Systems* ,1983     **General Conditions of the Contract for Construction--public Housing Program** ,1987     *Architect's Legal Pocket Book*

Matthew Cousins,2025-07-22 A little book that is big on information the Architect s Legal Pocket Book is the definitive reference guide on legal issues for architects and architectural students This handy pocket guide covers key legal principles which will help you to quickly understand the law and where to go for further information Now in its fourth edition this bestselling book has been fully updated throughout to provide you with the most current information available Subjects include contract administration building legislation planning listed buildings contract law negligence liability and dispute resolution This edition also contains new cases and legislation building safety contracts inspection duties practical completion and practical issues facing architects Illustrated with clear diagrams and featuring key cases this is a comprehensive guide to current law for architects and an invaluable source of information It is a book no architect should be without     *A Practitioner's Guide to Construction Law* John G. Cameron,2000

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