



## Clause 13: Variations and Adjustments

*Written by George Rosenberg<sup>1</sup>*

### The Power to Vary and its Limitations

While the process of ordering a variation has not changed dramatically, the 2017 edition substantially clarifies the limits on (some may say “*additionally limits*”) the Engineer’s power to vary.

Under the 1999 and all earlier editions, the power to vary was expressed in open-ended terms and it was left to the underlying law to say whether or not this power was limited. Most legal systems do recognise that variations cannot depart significantly from the original scope of the contract. Under English Law there is probably an implied term, based on the concept of business efficacy, that instructions should be reasonable and not stray ‘outside the Contract’. However, this was not spelled out and always left room for argument.

In a change which will be welcome to Contractors they are now given an express right to object when the varied work was “*Unforeseeable having regard to the scope and nature of the Works described in the Employer’s Requirements.*” This is a provision that is capable of dramatically changing the concept of what may be the subject of a Variation under the contract. “*Unforeseeable*” is defined in Sub-Clause 1.1.87 as “*not reasonably foreseeable by an experienced contractor by the Base Date.*” “*Base Date*” is the date 28 days before submission of tender. Sub-Clause 13.1. (a) adds the additional gloss that regard must be had to the scope and nature of the Works as described in the Employer’s Requirements.

While an experienced contractor will assume that there will be some variations during the course of the Works, he would have to be possessed of quite extraordinary foresight to know what each one of these would be. By definition a variation is likely to be something which the Employer, advised (hopefully) by an experienced engineer also did not

foresee. It is thus difficult to see how any variation at all could fail to be caught by this test.

Two significant limitations now expressed for the first time allow the Contractor to object where the variation may adversely affect its ability to meet health and safety and environmental protection obligations.

The final provision may also have unexpected consequences. This is set out in Sub-paragraph 13.1(e) which allows the Contractor to object where the variation “*may adversely affect the Contractor’s obligation to complete the Works so that they shall be fit for the purpose(s) for which they are intended in accordance with Sub-Clause 4.1 [Contractor’s General Obligations].*” Sub-Clause 4.1 imposes on the Contractor the obligations:

- To execute the Works in accordance with the Contract. This would normally require obedience to VO’s, but Sub-Paragraph 13.1(e) creates an exception.
- To ensure that “*when completed the Works shall be fit for the purposes for which they are intended as defined and described in the Employer’s Requirements.*”

The language here is different from that used in the 1999 Edition and, in the context of Variations, this causes important consequences. The 1999 Edition required the Works, when completed to be fit for the purposes “*as defined in the Contract.*” As a Variation changed the effect of the Contract, the fitness for purpose obligation adjusted accordingly. It can be seen that, under the 2017 edition a Variation, would have to specifically amend the Employer’s Requirements if it were intended to impact the purpose for which the Works are

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# Clause 13 Variations And Adjustments Corbett

**Roman Wölfel**



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*Understanding and Negotiating Turnkey and EPC Contracts* Joseph A. Huse, 2002 This work aims to keep criminal lawyers up to date with the latest cases and legislation and includes longer articles analyzing current trends and important changes in the law Drawing all aspects of the law together in one regular publication it allows quick and easy reference

*The New South Wales Industrial Gazette*, 1955

*Structural & Construction Conf* Franco Bontempi, 2003-01-01 Objective of conference is to define knowledge and technologies needed to design and develop project processes and to produce high quality competitive environment and consumer friendly structures and constructed facilities This goal is clearly related to the development and re use of quality materials to excellence in construction management and to reliable measurement and testing methods

**Diachronic Changes Underlying Synchronic Distribution** I-Hsuan Chen, 2018-05-17 This book deals with synchronic variation in Chinese through a diachronic lens based on the evidence from a quantitative longitudinal corpus study Departing from the traditional analysis in diachronic changes in Chinese linguistics the cognitive constructionist approach employed in this book is able to capture incremental changes by combining syntax semantics and pragmatics Topics such as word order focus scopes of quantifiers information structure and negation have been important issues in linguistics but they are rarely integrated as a whole The book makes their diachronic interactions available to the students and researchers in the fields of general and Chinese linguistics

**Variation and Change in Morphology** Franz Rainer, Wolfgang U. Dressler, Dieter Kastovsky, Hans Christian Luschützky, 2010-02-24 The papers in this volume derive from the 13th International Morphology Meeting Vienna 2008 They all address the main topic of the meeting viz variation and change in morphology Inflectional and derivational morphology are represented on equal terms The focus is on cases of language internal variation such as pattern competition base variation form function mismatches or morphological pleonasm Other recurring themes are language contact as a cause of variation the output orientedness of morphological patterns and linguistic economy The contributions cover a wide variety of languages both Indo European Romance Germanic and Slavic Latin Lithuanian and Romani and non Indo European Hungarian Maay Chinese

**Construction Law** Julian Bailey, 2016-10-04 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

**FIDIC 2017** Nicholas Alexander Brown, 2025-01-20 FIDIC 2017 A definitive guide to claims and disputes is an indispensable resource for professionals engaged with FIDIC contracts It provides comprehensive treatment of the multi tiered dispute avoidance and resolution process within the 2017 FIDIC suite of contracts and includes numerous flowcharts and worked examples

**Decisions and Orders of the National Labor Relations Board** United States. National Labor Relations Board, 1973

The Fiscal Year 2013 EPA Budget United States. Congress. House. Committee on Energy and Commerce. Subcommittee on Energy and Power, United States. Congress. House. Committee on Energy and Commerce. Subcommittee on Environment and the Economy, 2013

**Official Report of the Standing Committees** Great Britain. Parliament. House of Commons, 1989

**Montana Code Annotated** Montana, 2016

Rhetorical Strategies for Composition Karen A. Wink, 2020-11-10 Rhetorical Strategies is a worktext for composition students to apply rhetorical theory in their writing The exercises interconnect rhetorical skill work for students to practice thinking on paper in style rhetorical figures emphasis arrangement language audience appropriate diction syntax and conventions MLA style format source handling Content includes Aristotle's Six Parts of an Argument Rhetorical Situations Appeals and Fallacies Thesis Statements Topic Sentences Voice Stylistics Revision Documenting Sources Grammar Punctuation Usage and Visual Arguments All skills are reflected in a sample student research paper Content is relevant for AP Composition and Language courses as well as college composition and seminar courses with an emphasis on rhetorical principles

*The Rowman & Littlefield Handbook of Media Management and Business* L. Meghan Mahoney, Tang Tang, 2020-12-15 The Rowman Littlefield Handbook of Media Management and Business connects research and industry practice to offer a strategic guide for aspiring and current media professionals in convergent environments As a comprehensive one stop reference for understanding business issues that drive the production and distribution of content that informs entertains and persuades audiences aims to inspire and inform forward thinking media management leaders The handbook examines media management and business through a convergent media approach rather than focusing on medium specific strategies By reflecting media management issues in the information entertainment sports gaming industries contributed chapters explore the unique opportunities and

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**Financing U.S. Airports in the 1980's** David Leonard Lewis,1984 The Journal of the Assembly During the ... Session of the Legislature of the State of California California. Legislature. Assembly, *For the Love of Language* Kate Burridge,Tonya N. Stebbins,2015-10-16 Language is essential to human life both as a basic social necessity and also as a powerful and complex social resource *For the Love of Language* An Introduction to Linguistics offers a comprehensive introduction to the workings of language and the role of linguistics in investigating its fundamental design This thorough and engaging investigation into language and linguistics covers topics including strategies for learning about how language works using linguistics to address real world problems the structure and meaning of words the systems that organise language changes to language over time how language is used in written and spoken communication the links between language the mind and the world Written by authors with extensive academic experience in the field of linguistics and including examples from Australia New Zealand and around the world to engage the reader *For the Love of Language* is a lively yet comprehensive resource for undergraduate students in foundation linguistics **Innovative Project**

**Management with FIDIC Contracts** Adriana Spassova,2023-12-05 This book provides comprehensive guidance for the implementation of the legal requirements of FIDIC contracts with a detailed application of modern project management principles It demonstrates that the FIDIC suites for works and services contain many tools for good project management which can complement the innovation needed today to guide sustainable development The author s experience in construction management construction law and the application of FIDIC contracts as a FIDIC engineer a procurement claims consultant and a FIDIC accredited certified adjudicator and trainer underpins this unique and much needed book linking FIDIC contract management with project management practices and concepts It is structured around project management knowledge areas and details not only the FIDIC works contracts Red Yellow Silver 2017 Reprint 2022 Emerald 2019 Gold 2008 and Green Book 2021 but also the project management requirements of the contract between the Employer and Engineer White Book 2017 and the FIDIC supply chain contracts and explains how these all interface in project governance Linking the project management knowledge areas from the PMBOK and its Construction Extension with the FIDIC Body of Knowledge FBOK the book provides recommendations for integration of best practice and innovations It illustrates these processes with 54 flowcharts and 16 case studies as well as a railway scenario demonstrating the application of the book s recommended procedures This will be an invaluable source of practical guidance for employers contractors and engineers responsible for procuring and managing construction projects It provides useful insight for technical legal and financial

experts on the management of processes contracts and digital tools with recommendations on how to tailor and use the FIDIC contracts for project success      **Decisions of the Department of the Interior** United States. Department of the Interior,1952      *Operations of the Pretrial Services Agencies* United States. Congress. House. Committee on the Judiciary. Subcommittee on Crime,1981

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