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Termination for convenience – not as easy as it sounds – *Jennifer McVeigh* and
Kimie Tsukakoshi

Termination for convenience clauses are often inserted into construction contracts to provide parties with the flexibility to cancel projects before completion without cause. In these uncertain economic times, such clauses may come under greater scrutiny as increasing numbers of entities consider early termination as part of cost-cutting measures. Despite the apparent simplicity of the termination for convenience clause, its use may be complicated by a requirement to exercise the power to terminate in good faith. The case law demonstrates that it is not yet certain whether or not an obligation of good faith applies to a termination for convenience clause, and it is therefore prudent for a party wishing to exercise those rights to turn its mind to the potential constraints imposed by the possible implication of an obligation to act in good faith. 122

The use of formulae to calculate liquidated damages and stipulated sums – *Richard Manly SC*

This article supports the use of formulae to calculate liquidated damages or stipulated sums in contracts that are complex or in situations where the loss and damages that contracting parties may suffer are difficult to pre-estimate. Formulae also have a beneficial role to play in the calculation of loss entitlements in a range of commercial contracts that are also reviewed in this article. 127

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