

# 7 Legal Tips on UAE Construction Law

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## On UAE Construction law

There are just 25 articles in the UAE Civil Code that govern contracts of “muqawala” – the nearest generic concept to construction. Civil Codes of most countries are generally minimalistic when it comes to the legislator setting the rules that govern parties’ rights and obligations. The general purpose of a civil code legislator is to set the limits and the ground foundations upon which, the parties can then build their intricate agreements on who does what.

## On FIDIC contracts

Far too many contractors, in an effort to clench a deal, sign off on contracts with deadly clauses or proceed with the works for months with no contract signed at all. For example a ten year long liability clause for any defects (not just major ones) is used in certain contracts issued by Dubai Government departments. If signed, this could amount to a ten-year long maintenance guarantee. The new 2007 Abu Dhabi Conditions of Contract necessitate even greater legal input as they are deceptively similar to widely used FIDIC forms of contract.

## On liability

Major defects that affect the stability and safety of a structure attract a ten year long and unlimited liability under UAE Law (decennial liability). Decennial liability is actually a 13-year long liability: If a major defect arises on the eve of the expiry of the decennial liability period, the employer has a further 3 years to launch a legal action against the contractor.

## On subcontracting

Subcontractors cannot argue directly with the employer on any payment issues: the main contractor acts as a buffer for the subcontractor. This is so

both by way of UAE law and by way of contractual agreement. UAE Law specifically precludes subcontractors from filing their claims directly with the employer for any amounts that are normally addressed against the main contractor, unless there is an assignment of the obligation in place.

## On delay

A contractor’s delay liability limit can be broken under UAE Law. The message to be borne in mind is that the maximum exposure that contractors initially factored in could be exceeded if the delay is substantial and if resulting losses were well in excess of what was originally envisaged. For employers a liquidated damages clause in the UAE is not a path to a discount on the cost of their project: any alleged loss may ultimately be proven as non existent.

## On escalating staff costs

Staff market rates in the UAE increase exponentially every year. For consultants, this means that their rates must forecast the future and not rely on the present. For clients, this means that the wording of consultancy contracts should ensure that there are no loopholes for future adjustments to actual costs incurred.

## Finally on termination

Termination of a construction contract is only legally allowed in the UAE through completion of the project, amicable agreement or with a Court order. The idea behind this is that if employers could terminate for convenience, the fine line that separates what was built by the terminated contractor and what is built by the new one could be distorted. In practice, contractors in the UAE tend to leave the site more or less whenever they are requested to.

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