



Practice Area: Construction  
 Training Level: Update  
 CPD Points: Pending Public CPD  
 Points

Continuing Professional Development

BOA-SIA – 4 CPD Points  
 SIArb – Pending CPD Points



SINGAPORE

**ANNUAL CONSTRUCTION LAW CONFERENCE 2013**

Level 10, M Hotel, Singapore, 81 Anson Road, Singapore 079908

**Wednesday, 11 September 2013, 9.00 a.m. to 5.00 p.m.**

**About this Conference**

Now into its 8<sup>th</sup> year, the SCL(S) Annual Construction Law Conference is the must-attend event for every professional involved in the construction industry. The conference continues with its focus on hot topics affecting the construction industry, both locally and internationally. Top legal practitioners, academics and industry specialists will discuss legal, technical and practical issues impacting the construction industry as well as analysing the development of construction law in specific areas. The Conference will conclude with networking cocktails, where all attendees are welcome to join the speakers and fellow delegates for drinks.

**Who Should Attend**

- Architects, developers, contractors, engineers, project managers, consultants, managing agents, management corporations and other professionals involved in the construction industry who deal with legal, regulatory and contractual issues
- Construction consultants
- Law, building & construction academics and students
- In-house counsel & legal officers working in the construction industry
- Lawyers

**Program Outline**

08.30 – 09.00	Registration & Refreshments
09.00 – 09.10	<b>Welcome Address by Chair of Morning Session</b> <i>Mr. Anil Changaroth – Chairman, Society of Construction Law (Singapore); Partner, Aequitas Law LLP</i>
09.10 – 09:40	<b>Keynote Address and Session 1: The Latest Foreign Manpower Policy – How it Affects the Construction Industry and its Productivity</b>  The speaker will attempt to trace the events in the construction industry from the 70's and how market forces and industry demands have shaped the industry to its present state and which resulted in the current manpower policy to improve the productivity in the construction industry where its level is woefully lagging very much behind countries like Japan, Australia and the States.  The presentation will illustrate the irony of the situation in which the MYEs in the Foreign Manpower Policy seemed paradoxically to cause higher prices for labour and yet still achieve the objective of higher productivity and more competitive pricings.  The speaker will illustrate that the impending tightening of MYE requirements and the impositions of more stringent requirements on buildability and constructability scores will, instead of being an impediment, provide the impetus for contractors to reduce their reliance on cheap foreign labour and adopt labour saving technology and ultimately attain higher productivity in construction.
	<b>Speaker:</b> <i>Mr. Seah Choo Meng – President, Singapore Institute of Surveyors and Valuers; Immediate Past President, Society of Project Managers; Director, Langdon &amp; Seah Singapore</i>
09.40 – 10.20	<b>Session 2: Implied Obligations in Construction Contracts</b>  Construction contracts are designed to give effect to the risk allocation agreed to between the parties. In this regard, most parties focus on the express clauses provided for in the contract documentation. However, in addition to the express contract clauses governing the relationship between the parties, some of either party's more important obligations may well turn out to be implied obligations (such as the implied duty not to hinder or delay, implied duty to provide access to the site and implied duty of good faith and fair dealing). Certain obligations have been consistently found to be implied in the broader responsibilities and risks accepted by each party on a construction project. If not understood and considered adequately at the point of negotiating the contract, such implied obligations can lead to disproportionately large problems. The speaker will review the current position regarding implied obligations in construction contracts in a number of different jurisdictions including England and Australia.
	<b>Speaker:</b> <i>Ms. Rashda Rana - Barrister, Mediator &amp; Arbitrator, Ground Floor Wentworth Chambers &amp; Atkin Chambers</i>
10.20 - 10.40	Morning Break
10.40 - 11.20	<b>Session 3: Restraining Calls on Performance Bonds: A Singapore and UK Perspective</b>  In analysing the English position on performance bonds, the speaker will trace the development of case law on performance bonds and similar guarantees in construction projects, going as far back as the 1930s. The speaker will examine issues including whether a bond is a guarantee, whether the bond is an "on-demand" bond payable without any evidence of breach and whether post-contract behaviour may affect the enforcement of bond. The now leading case on performance bonds of <i>Rainy Sky SA and others v Kookmin Bank</i> [2011] UKSC 50 will be discussed during this session.



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	<p>Finally, the speaker will examine the limited circumstances under which an injunction may be sought to restrain demands under a performance bond and consider the recent decision of <i>Simon Carves v Ensus</i> (2011) 135 Con LR 96.</p> <p>This will be followed by an comparison on how the Singapore courts have dealt with performance bonds and attempts by parties to restrain demands for payments under such bonds. The speaker will touch on the differences between the approach adopted by the English courts and Singapore courts, namely, that the Singapore courts recognise the concept of 'unconscionability' in addition to fraud as a ground to injunct a call on a bond. Finally, the speaker will discuss the latest decision in <i>BS Mount Sophia Pte Ltd v Join-Aim Pte Ltd</i> [SGCA] 28 where the Singapore Court of Appeal gave guidance on the applicability of the unconscionability principle under Singapore law in relation to performance bonds.</p>
	<p><u>Speakers:</u>  <i>Professor Michael Philip Furmston – Singapore Management University</i>  <i>Mr. Edwin Lee – Partner, Eldan Law LLP</i></p>
11.20 – 11.50	<p><b>Session 4: The Rise of the Machine – BIM and its Legal Implications</b></p> <p>With the BCA driving the construction industry to shift gear into BIM, the rise of the use of BIM has become inevitable. The nature of BIM requires more and complicated collaboration of consultants, contractors and employers although design will become more machine-based than ever. What are the legal and contractual implications of this? This presentation seeks to promote discussion and review of these issues for better awareness and for informed decisions to be made on the implementation of BIM.</p>
	<p><u>Speaker:</u>  <i>Mr. Paul Wong – Partner, Rodyk &amp; Davidson LLP</i></p>
11.50 – 12.30	<p><b>Morning Panel Discussion and Q&amp;A Session</b></p>
12.30 – 13.30	<p><b>Lunch Break</b></p>
13.30 – 13.40	<p><b>Introductions &amp; Opening Remarks</b>  <i>Mr. Paul Sandosham – Vice Chairman, Society of Construction Law (Singapore); Partner, Clifford Chance Asia</i></p>
13.40 - 14.20	<p><b>Session 5: Alliance Concrete v Sato Kogyo – the Latest Judicial Pronouncement on Frustration and Force Majeure in Construction Contracts</b></p> <p>The Singapore High Court in <i>Alliance Concrete Singapore Pte Ltd v Sato Kogyo (S) Pte Ltd</i> [2013] SGHC 127 reaffirmed the principle that, to frustrate a contract, the obligations under the contract should be radically altered and not merely made more expensive. The case involved a dispute between a supplier of ready-mixed concrete and a building contractor, in relation to the supply of ready-mixed concrete following the sand ban announced by the Indonesian authorities in January 2007. The High Court examined whether the supply contracts were frustrated by the ban, whether they included <i>force majeure</i> clauses, and whether the clauses were triggered by the ban. The speaker will consider the implications of this decision for the industry and the drafting of force majeure clauses frequently found in building contracts.</p>
	<p><u>Speaker:</u>  <i>Mr. Christopher Chuah - Partner, WongPartnership LLP</i></p>
14.20 – 15:10	<p><b>Session 6: International Construction Law Update: A View From The UK</b></p> <p>The speaker will undertake a review of recent court decisions and their influence on the development of construction law, covering topics from the procurement process and in particular the risks associated with the use of letters of intent, through to delay and disruption claims.</p> <p>This session will also address the latest developments in professional negligence claims against construction professionals and the use of new standard forms of contract in the UK and internationally.</p>
	<p><u>Speaker:</u>  <i>Ms. Nerys Jefford QC - Keating Chambers</i></p>
15.10 – 15.30	<p><u>Afternoon Break</u></p>



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15.30 – 16.10	<p><b>Session 7: Abuse of Process In Adjudication</b></p> <p>The term “abuse of process” in relation to adjudication proceedings was raised in a number of recent cases, notably by the Court of Appeal in <i>Chua Say Eng v. Lee Wee Lick Terence</i> (2013). It was suggested in these authorities that the matter falls within the adjudicator’s remit.</p> <p>However there are few precedents to offer guidance on this subject and this paper examines how an adjudicator might approach this issue - emergence of the concept; the factual context; policy considerations and an adjudicator’s approach.</p>
	<p><i>Speaker:</i>  <i>Mr. Chow Kok Fong - Managing Director, Equitas Corporation Pte Ltd</i></p>
16.10 – 16.50	<p><b>Afternoon Panel Discussion and Q&amp;A Session</b></p>
16.50 – 17.00	<p><b>Conference Closing Remarks</b>  <i>Mr. Paul Sandosham – Vice Chairman, Society of Construction Law (Singapore); Partner, Clifford Chance Asia</i></p>

**EVENING NETWORKING COCKTAILS (SPONSORED BY SWEET & MAXWELL ASIA)**

Conference participants are invited to a networking cocktail to launch

“Singapore SIA Form of Building Contract” authored by Mr. Chow Kok Fong.

**About the Keynote Speaker**

**Mr. Seah Choo Meng - President, Singapore Institute of Surveyors and Valuers; Immediate Past President, Society of Project Managers; Director, Langdon & Seah Singapore**

Seah Choo Meng is currently a Director of Langdon & Seah. He was the Executive Chairman from 1999 to 2008. Among other appointments, Choo Meng sits on a Public Listed Board and is also the Immediate Past President of the Society of Project Managers, Council Chairman of the Singapore Institute of Surveyors and Valuers, Chairman of the UniSIM Bachelor of Building and Project Management’s (BBPM) Programme Advisory Committee. He is also an Accredited Mediator and a Member of the SMC’s Adjudication Committee.

**About the Session Speakers (in speaking order)**

**Ms. Rashda Rana - Barrister; Mediator & Arbitrator, Ground Floor Wentworth Chambers & Atkin Chambers**

Rashda is a barrister who has worked at the Bar in London and also in various states in Australia and in the Asia Pacific region, notably Hong Kong, Singapore, Malaysia and China, for the past 23 years. She has also held the role of General Counsel for Lend Lease Project Management & Construction, one of the world’s leading project management, design and construction companies operating in more than 30 countries worldwide. She has advised on and conducted major commercial, maritime, insurance, tax and construction & infrastructure litigation, arbitration and mediation involving wide ranging issues. As well as her litigious practice, Rashda has undertaken non-contentious work in drafting, reviewing and settling major project documentation including Defence contracts (Class 1 submarines), infrastructure (roads and tunnels), banking and finance documentation (prospectuses and insurance policies) and PPP transactional documentation. Rashda is also Adjunct Professor teaching international commercial arbitration at Sydney University Law School. She devised the course and it is the first of its kind in Australia. She has published a textbook to complement the course. Rashda is an active member of a number of significant industry associations. She is, inter alia, the President of the Australian Branch of the Chartered Institute of Arbitrators (CIArb), the Founding Member, Director and current Vice Chair of the Society of Construction Law Australia, a Fellow and Director of the Australian Centre for International Commercial Arbitration (ACICA), Fellow of Institute of Arbitrators & Mediators Australia (IAMA), and Fellow of Commercial Law Association of Australia (CLAA).

**Mr. Edwin Lee – Partner, Eldan Law LLP**

Edwin is one of the founding partners of Eldan Law LLP. Practising for close to 20 years, Edwin has argued both major courtroom disputes and arbitrations. Apart from his active legal practice, Edwin is also an Adjunct Assistant Professor with the National University of Singapore, and a Consultant Instructor for the Nanyang Business School’s MBA programme. Edwin is an accredited adjudicator with the Singapore Mediation Centre, and a member of the Construction Adjudication Accreditation Committee, which oversees the selection and assessment of adjudicators. He is extremely familiar with the adjudication regime, having acted as Counsel in numerous adjudications and as both Adjudicator and Review Adjudicator to hear adjudications and adjudication reviews. He successfully acted for the claimant in the recent landmark Court of Appeal decision in *Lee Wee Lick Terence v Chua Say Eng* [2012] SGCA 63. Edwin is the author of *Building Contract Law in Singapore*, 2nd Edition (2003), a co-author of *Law & Practice of Injunctions in Singapore* (2004), co-author of *Confidentiality in Arbitration* (2007), and one of the general editors of the annual *Singapore Construction Adjudication Review*.”

**Professor Michael Philip Furmston – Singapore Management University**

Michael studied law at the University of Oxford and taught at the University of Birmingham, Queen’s University, Belfast and University of Oxford before moving to Bristol in 1978. He was appointed as Dean of the Faculty of Law at the University of Bristol for two terms and also served as Pro Vice-Chancellor from 1986 to 1989 before retiring in 1998. He was appointed Emeritus Professor and Senior Research Fellow at Bristol. Professor Furmston is a member of the UNIDROIT (International Institute for the Unification of Private Law) working group which



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has produced a set of General Principles for International Commercial Contracts. He sits on the editorial boards of the Journal of Contract Law and Construction Law Journal, amongst others.

Michael P. Furmston was called to the Bar at Gray's Inn in 1960 and has been a Bencher of Gray's Inn since 1989. He was counsel in the leading House of Lords decision on contractual damages in *Ruxley v Forsyth*. He has been the editor for the last 40 years of Cheshire, Fifoot & Furmston on Contract (currently into its 16th edition, August 2012) and the joint author of Beale, Bishop & Furmston: Cases and Materials on Contract. He has also written books and articles in the fields of Sale of Goods and Construction Law. He is the editor of the Construction Law Reports. He was awarded the Honorary Degree of Doctor by the Open University. He was named as one of the "Ten Great Law Teachers" in UK by the London Times in October 2007, and has recently completed books on Contract Formation and Commercial Law.

### **Mr. Paul Wong – Partner, Rodyk & Davidson LLP**

Paul's practice includes construction, banking and insolvency, and general commercial litigation. He has acted as counsel in numerous construction disputes, both in arbitration and litigation, with a specific emphasis on engineering related issues. Notably, he was one of the counsels acting for the main contractor of Circle Line Contract C824, the main potential defendant in the inquiry into the collapse of Singapore's Nicoll Highway on 20 April 2004. Apart from dispute resolution, Paul advises his clients in the drafting of construction related transactions, including numerous forms of construction contracts. He has acted for main contractors in major infrastructure projects in Singapore both in an advisory role and also as counsel. Construction related cases Paul has worked on include the MRT Downtown Line and Circle Line contracts, the Deep Tunnel Sewerage System contracts, the Marina Barrage contracts and Marina South District Cooling Plant contracts. Paul has also acted as Singapore law counsel for PPP projects in Singapore including the SMU Hostels project, the MOE Schools project, the NUS University Town project, Changi NEWater project and the Sports Hub project. Paul is a Fellow of the Chartered Institute of Arbitrators and the Singapore Institute of Arbitrators and a Member of the Malaysian of the Malaysian Institute of Arbitrators.

### **Mr. Christopher Chuah - Partner, WongPartnership LLP**

Christopher Chuah heads WongPartnership's Infrastructure, Construction & Engineering Practice and is a Partner in the China Practice. His main areas of practice encompass both front-end drafting/advice and construction disputes, both litigation and arbitration. He is a Fellow of the Singapore Institute of Arbitrators and Chartered Institute of Arbitrators, as well as the Chartered Institute of Building. He has also been appointed to the Singapore International Arbitration Centre's Main Panel of Arbitrators and is also on the Panel of Arbitrators of the Kuala Lumpur Regional Centre for Arbitration (KLRC). Christopher is an accredited Adjudicator under the Building & Construction Industry Security of Payment Act (Cap 30B)."

### **Ms. Nerys Jefford QC - Keating Chambers**

Nerys Jefford QC has been a practising barrister in Keating Chambers for over 20 years, specialising in construction and engineering disputes, and domestic and international arbitration. In the UK, Nerys Jefford's work is principally contentious and she has been involved in disputes arising out of a wide range of projects from the construction of substantial commercial, residential and public developments to major engineering and infrastructure projects. She has represented clients from a variety of jurisdictions, including Hong Kong, China, Singapore, Korea, France, Russia and Brazil, and appeared in ICC, LMAA and HKIAC arbitrations. She is contributor to Keating on Construction Contracts, 9<sup>th</sup> ed. and a former Chairman of the Society of Construction Law.

### **Mr. Chow Kok Fong - Managing Director, Equitas Corporation Pte Ltd**

Chow Kok Fong is a Chartered Arbitrator and Chartered Quantity Surveyor. Currently he practices as an arbitrator, adjudicator and mediator. He has been appointed to arbitration tribunals under ICC Rules and the SIAC Rules as well as Dispute Adjudication Boards. Prior to taking on a career in dispute resolution, he spent 32 years with the civil service and the corporate sector. He was part of the team which established the Construction Industry Development Board (now the BCA) serving as its Chief Executive from 1986 to 1990. He was Chairman of Guthrie Engineering, Director of Projects with City Developments Ltd, Managing Director (International) for CapitaLand Commercial and most recently CEO of Changi Airports International. During his time with the real estate sector, his projects garnered 17 awards including the *FIABCI Prix d'Excellence* and while his Changi team was conferred the accolade, *Airport Investor of the Year in 2008*. Kok Fong is Founder President of the Society of Project Managers and Past Chairman of the Society of Construction Law. Currently, he is on the board of the Singapore Mediation Centre and is Chairman of the Construction Adjudicators Accreditation Committee. He has been consulted as a Construction Industry Specialist with the World Bank. His 9 books include the two-volume work *Law and Practice of Construction Contracts* (4<sup>th</sup> Edition 2012), *Security of Payments and Construction Adjudication* (2<sup>nd</sup> Edition 2013) and *Construction Contracts Dictionary* (2007).



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<b>REGISTRATION CLOSING DATE: 4 September 2013</b> <b>You may also <u>register &amp; pay online</u> for this event on our website at <a href="http://www.scl.org.sg">www.scl.org.sg</a>.</b>	<b>FEES</b> (includes refreshments, lunch & materials, if any)
<b>SCL (Singapore) Members</b>	<b>S\$325.00</b>
<b>Guests of SCL(S) Members, Members of international SCLs,        Members of: Chartered Institute of Arbitrators (Singapore) Ltd (CIArb), Chartered Institute of Building (CIOB),        Lighthouse Club (Singapore) (Lighthouse), Royal Institution of Chartered Surveyors (RICS), Singapore        Contractors Association Ltd (SCAL), Singapore Institute of Architects (SIA), Singapore Institute of Arbitrators        (SIArb), Singapore Institute of Surveyors and Valuers (SISV), Tunnelling and Underground Construction Society        (Singapore) (TUCSS)        Full Time Students &amp; Faculty of NUS Faculty of Law</b>	<b>S\$425.00</b>
<b>Others</b>	<b>S\$525.00</b>

Please return the registration form below, together with your cheque, if applicable, made payable to "Society of Construction Law (Singapore)", Level 16 Malacca Centre, 20 Malacca Street, S048979" or Fax to (65) 31273797.

**REGISTRATION, REFUND & CANCELLATION POLICY**

1. Places are limited and can only be allocated in order of priority upon receipt of registration and any payment due.
2. We regret that we generally do not issue invoices or accept payments at the event.
3. Refunds for cancellation are not possible after the registration closing date.
4. We reserve the right to refuse to register or admit any participant, and to cancel or postpone the event.

**For further enquiries, please contact the SCL (SINGAPORE) SECRETARIAT:**

**Tel & Fax: (65) 31273797 (no 6 prefix required)**

**E-mail: [secretariat@scl.org.sg](mailto:secretariat@scl.org.sg)**

**REGISTRATION FOR SCL (SINGAPORE) MEMBERS & THEIR GUESTS**

*(Please use 1 form per Member)*

Name: \_\_\_\_\_ NRIC/Passport No.: \_\_\_\_\_ SCL Membership No.: \_\_\_\_\_

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

I will be attending and I enclose my payment of \$325.00. *(A valid email address is required for confirmation of registration.)*

Check if CPD points are required\*\* AAS no. \_\_\_\_\_ *(for practising lawyers requiring SILE CPD points)*

Please reserve \_\_\_\_\_ seats for my guests and I enclose payment of \$425.00 per guest. My guest(s) are:

Name(s)	Organisation	Check if CPD Points are required	AAS No.	Email

**I enclose a cheque for SGD \_\_\_\_\_ made payable to "Society of Construction Law (Singapore)".**

**REGISTRATION FOR NON-SCL (SINGAPORE) MEMBERS**

*(Please use 1 form per registrant.)*

**I am a:** *(Please select as appropriate.)*

- SCL Mbr:** \_\_\_\_\_ *pls state branch*  **CIArb Mbr**  **CIOB Mbr**  **Lighthouse Mbr**  **RICS Mbr**  
 **SCAL Mbr**  **SIA Mbr**  **SIArb Mbr**  **SISV Mbr**  **TUCSS Mbr**  **Full Time NUS Law Student/NUS Law Faculty**  **Others**

Name (Dr/Mr/Mrs/Miss/Mdm): \_\_\_\_\_

Name and Address of Organisation: \_\_\_\_\_

Position in Organisation: \_\_\_\_\_ NRIC/Passport No: \_\_\_\_\_

Membership No: \_\_\_\_\_ *(Mandatory to process registration. Please check with your respective membership body.)*

Check if CPD points are required\*\* AAS no. \_\_\_\_\_ *(for practising lawyers requiring SILE CPD points)*

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

*(A valid email address is required for confirmation of registration.)*

**I enclose a cheque for SGD \_\_\_\_\_ made payable to "Society of Construction Law (Singapore)"**

**\*\*Attendance Policy applies. For more information on the CPD Scheme, please visit [www.silecpdcentre.org.sg](http://www.silecpdcentre.org.sg)**