

Joint CI Arb East Anglia Branch and
ICES Anglia and Central Region
Seminar

Adjudication
Jurisdiction

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What is jurisdiction?

- Jurisdiction is the authority granted to a man so that he can exercise justice in respect of matters brought before him
- Jurisdiction is closely linked to powers of the Adjudicator – the way in which he is authorised to do things
- Jurisdiction is linked to duties – what must be done

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Types of jurisdiction

- Threshold
- Internal
- Slips

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Threshold jurisdiction

- These are the elements needed to set an Adjudication in train at all (see R G Carter v Edmund Nuttall TCC 21 June 2000)
- for there to be an adjudication pursuant to a party's statutory entitlement it must be shown that there is: -

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Threshold jurisdiction

- (1) a construction contract;
- (2) a dispute and
- (3) a dispute that arises under the construction contract.
- See also require fro wrting under s 107 which will apply until the LDEDCA becomes operative

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Internal jurisdiction

- It seems to me that that contention, which goes not to the jurisdiction of the appointment of the adjudicator but as to the ambit of the disputes that he can decide once appointed, is a matter that, if it arises at all, should arise in the context of the adjudication itself and, if an adverse decision on such what I might loosely call "internal" jurisdictional disputes is received by the claimant, then the appropriate time to take that question is by way of resisting enforcement proceedings at a later stage.
- (see R G Carter v Edmund Nuttall TCC 21 June 2000)

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Internal Jurisdiction

- Internal jurisdiction goes to the task to be performed
- It is limited by the Notice of Adjudication which has been described as the four corners of jurisdiction. (Whiteways Contractors (Sussex) Ltd v Impresa Castelli 2001)
- The any defence rule has served to widen the task (Pilon Ltd v Breyer Group Plc [2010] EWHC 837 (TCC))

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Slips

- There is authority to correct slips (Bloor Construction (UK) Ltd v Bowmer & Kirkland (London) Ltd [2000] BLR 314)
- The authority is limited to correcting the decision to first thoughts or intentions, it is not a re-run (O'Donnell Developments Ltd v Build Ability Ltd [2009] EWHC 3388 (TCC))

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Challenges

- No dispute is now passé (Amec Civil Engineering Ltd v Secretary of State for Transport [2004] EWHC 2339 (TCC))
- The obvious challenges such as late appointment or wrong ANB should lead to resignation of the Adjudicator.
- Anything else, reserve your position and carry on

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