

Training equals survival for contractors in a post-Covid-19 world

By [Bradley Boertje](#)

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As the name suggests, contractors work under the terms of the contract they have signed with the client or, more usually, with the principal contractor. One of the key reasons that contractors find themselves in difficulties is that they simply do not understand the implications of the contracts that they have signed, and the risks to which it exposes them.



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Contractors face a multitude of issues, some of which (like a shortage of work, delay in awarding public works tenders, and a restless and aggressive labour force) are beyond their control. Others, though, stem from poor understanding of how contracts work and a tendency just to sign any document simply in order to get work. This kind of short-term thinking ultimately sees so many contractors finding themselves in a lengthy and expensive dispute and often not getting the payments they expect.

Specialised knowledge needed

Building contracts are highly specialised documents and one needs specialised knowledge to understand what they entail. I am involved in a lot of dispute work, either as an adjudicator or helping contractors to prepare claims going to adjudication, and I can testify to the fact that claimants who have made sure they understand the contract and have all the details at their fingertips get quick – and often favourable – results.

All too often, though, I find that contractors have entered into contracts that they don't fully understand, with the result that they miss out on lucrative opportunities and miss crucial deadlines, in turn making them liable for penalties.

It's absolutely vital that contractors understand the contracts they sign, what their entitlements are and what risks they face. My best advice would be for contractors to consult a reputable risk consultant before they enter into a contract, just to make sure they are doing the right thing.

If they do find themselves in a contract which looks like it is going sour, MBA North offers initial contractual and commercial advice for free to its members. This will provide a quick review of the contractor's circumstances, and an executive summary of its position and a suggested strategy.

Knowledge is the principal thing, therefore get knowledge

While specialist advice is critical at certain stages, it cannot substitute for a solid understanding of contractual issues and strategies on the part of the contractor. Nobody is a better steward of your wellbeing, commercial and otherwise, than you are!

To equip contractors with the information they need, MBA North will offer a three-part series of three-hour webinars designed to provide contractors with the basics they need to keep their contractual affairs in order. Any contractors working under JBCC and MBSA contracts should attend.

What contractors can expect

- An introduction to law in South Africa and what options are available to contractors in respect of securities, guarantees and so on. We will cover the important topic of retention and the importance of insurance.
- An overview of how to manage time and time extensions. Most contracts experience delays, and it is vital that contractors understand exactly how to keep on the right side of time clauses.
- All aspects of payment, including loss and expense claims. It also looks at the contractor's exposure to penalties and damages, and what the difference is between the two.
- All the various dispute resolution processes that can be used – and how to choose the one that best suits each case. Too often, contractors' claims do not succeed because they opted for the wrong process.

These training sessions offer an affordable way to acquire important information and skills – especially when compared to the costs of litigation when a contract goes wrong.

The next webinar series on contracts and contract management will take place in November. For more information, email sheilla@mbanorth.co.za.

ABOUT THE AUTHOR

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