



Understanding NEC 3 contracts

The NEC family of civil engineering and building contract documents has been with us since 1993. NEC 2 came in 1995 and NEC 3 in 2005. To be fair, the NEC documents have taken some getting used to. That's not necessarily down to NEC.

True, there are NEC clauses which baffle, NEC clauses which bewilder; the real problem however is that NEC works hard to use language and a slant to avoid disputes.

The very first and opening NEC 3 clause in the document requires the parties to the contract agreement (the Employer and the Contractor) "to act as stated in this contract and in a spirit of mutual trust and co-operation".

It goes further: it requires that same promise from people who are not parties to the contract... the Project Manager and the Supervisor! It's a sort of mission statement and hoorah for it too.

Serious Management Tool for managing the real building business

Now then, an important drum is worth beating. NEC 3 is not one of those documents to be 'put in the bottom drawer' on day 1 of the contract. It is a serious management tool. The idea is to *build* of course. All that is for the contractor. It would be hugely sensible for the engineer and design team and their client, the Employer, to first work out 'what they want'.

It's highly sensible to then get a price to build, and highly sensible to then let the builder damn well build.

But that's not the way construction works. And that's why we need NEC 3 rules (and the like in other contract documents). The way construction works is that the actual construction work begins with only a part idea of 'what they want'. Thereafter the contractor is instructed to do this, that and the other... call them change orders, variations, instructions or call them as NEC 3 does... "Compensation Events".

NEC 3 is a document for managing the real building business. The NEC 3 Employer has to pay for a full-time NEC 3 "Project Manager" (he doesn't manage the actual construction works), to prepare for and manage change. He is the administrator of the NEC 3 machinery. The NEC 3 contractor has to similarly pay (or rather include in his price) for a full-time NEC 3 administrator for the change machinery.

The NEC is about operating day to day and hour to hour

The honesty of NEC 3 is that it demands that these costs are part and parcel of the project cost. NEC 3 is hopeless and dangerous unless it is operated on a day-to-day hour-by-hour basis. No bottom draw here; no amateurs either.

And, if on the one hand the Project Manager and, on the other, the Contracts Manager are the key people to managing the contractual machinery, let me tell you how important is a third person.

The NEC 3 Adjudicator is the person who both the Project Manager and Contract Manager turn to when they have a professional and very normal difference of opinion about time and costs effects of change.

The adjudicator is there ready and willing to take the burden of those differences and decide which way to go. NEC 3 does that to stop quarrels becoming conflict and stop confrontation. The logic of the NEC 3 document is sound. But the detail of NEC 3 requires only, repeat only, those who have made a serious study to understand its machinery.

NEC 3 is different, not for part-timers, and works very well in the right hands.