
Handbook on
**CONSTRUCTION
LAW &
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No Damages for Delay: An Indian Perspective

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3B.1 Overview

The construction industry is fundamentally prone to delays that are caused by various factors that may be encountered during the subsistence of a construction contract. These factors include delay in handing over of site, unforeseen site conditions, force majeure events, changes in project scope, inadequate mobilisation, et. al. These delay events are typically attributable either to the owner/employer, or to the contractor, or can be classified as neutral delay events, which are beyond the control of the owner and the contractor. Delays in construction projects can have colossal financial implications for contracting parties.

A 'No Damages for Delay' clause is a contractual provision that seeks to eliminate the liability of the owner/employer for damages arising from project delays even if cause of the delay was a breach on part of the owner/employer, which would otherwise be compensable.

Many standard forms of contracts in India, wherein the owner/employer is a Public Sector Undertaking ("PSU"), government body, or a public utility, contain a 'No Damages for Delay' clause. The existence of such a clause plays a crucial role in risk distribution.

'No Damages for Delay' clauses typically provide that notwithstanding any excusable delay affecting the performance of works, the contractor is only entitled to a time extension for delays to the works. As a sub-set, these clauses also have the

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