

Reneging on a promise' Rejecting demands under advance payment bonds under English law

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PRACTICES International, Energy, Power and Natural Resources, Europe, Middle East and Africa, Construction Litigation, Energy Litigation, Offshore Oil and Gas Dispute Resolution, Oil and Gas Litigation

It is commonplace in construction projects, either off- or on-shore, for an employer to seek protection for any advance payments made to a contractor or for a failure to perform. These will often be in the form of “on demand” or “unconditional” payment guarantees or bonds from a bank or other financial institution. Under English law, these differ from traditional or “true” guarantees in that they impose an obligation on the bank to pay upon receipt of a written demand. Unlike a true guarantee, the beneficiary does not have to demonstrate a breach or other default in respect of the underlying contract. As such, they provide much greater security to an employer.

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