SAJ Form Shipbuilding Contracts: Managing Change Orders Under English Law

By William Cecil | November 25, 2026

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What Should Shipbuilders and Shipowners Do?

Shipbuilders and shipowners negotiating contracts based on variations of the Shipbuilders' Association of Japan (SAJ) Form under English law should agree detailed change order provisions at contract signing covering pricing, engineering costs, payment, time bars, the shipowner's right to require modifications and dispute resolution. Change orders are a frequent source of extensive negotiation and disputes, because requests to alter the specification after contract execution affect cost, time and the performance characteristics of the completed ship.

In any shipbuilding project, but particularly where the ship is first of its kind or is being built for a specific long-term charter and is subject to additional charterer requirements, a degree of change is inevitable. By the time changes arise, the interests of the shipbuilder and the shipowner have often diverged, yet the project can only run smoothly if the parties agree to the changes.

Key points for change order provisions:

- Price schedules should be non-exhaustive and include escalation provisions where appropriate.
- The shipbuilder should be able to recover engineering costs for modifications that do not proceed.
- Payment for change orders should be staged so the shipbuilder does not finance modification work.
- Time bars for the shipbuilder to claim a variation should be reasonable and tied to the start of modified work.
- Any right of the shipowner to require modifications should be capped and backed by a fast-track dispute resolution mechanism.

What Does the SAJ Form Say About Modifications?

Most international shipbuilding contracts are based on the SAJ Form, but parties have significantly amended and supplemented it over the years. Article V.1 of the SAJ Form deals with modifications in brief terms and imposes two requirements before any modification may be carried out. First, the modification must not, in the shipbuilder's judgement, adversely affect the shipbuilder's planning or programme in relation to its other commitments. Second, the parties must agree, before the modified work is carried out, all alterations to the contract price, delivery date and any other terms and conditions resulting from the modification.

The first requirement is sensible but rarely the source of disputes in practice. Disagreements about modifications normally relate to the time and cost implications of any requested modification, or whether the requested modification constitutes a change at all.

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The second requirement puts the shipbuilder in a strong negotiating position. The shipowner must sign a change order agreeing to all the consequences of the modification before any work begins. Nothing restricts how the shipbuilder prices the modification; it is simply a matter of negotiation, and the shipbuilder does not have to carry out the modification if it is not satisfied with the terms.

English law imposes no general duty on contracting parties to negotiate in good faith, although there is an implied duty to cooperate in shipbuilding contracts. A shipowner should therefore negotiate stronger contractual rights to compel the shipbuilder to carry out modifications during the project. This is particularly important where the ship is a first-of-a-kind design, or where the ship is being built for a specific operating contract (which may or may not already have been entered into) and the ultimate client may require modifications.

The sections below answer the key questions parties should address when negotiating a modification clause.

How Should Change Orders Be Priced?

The best position for the shipbuilder is a contract that is silent on pricing, because the shipowner cannot require modifications without the shipbuilder's agreement. However, a shipowner will often insist on appending price schedules for change orders to the contract so that it is not held to ransom if it requires a modification.

If the contract includes a price schedule, the shipbuilder should make clear that the schedule is not comprehensive and that it remains entitled to charge for items not contained in it. On a long construction project, modification work may take place years after contract signing, so the contract should include escalation provisions to prevent the shipbuilder being locked into current prices for undefined future work.

A related risk arises where the shipbuilder agrees to carry out modified work but must quote a lump-sum price before it has sufficient information to determine costs, time and the delivery date extension. The contract should give the shipbuilder an option to proceed on a time-and-materials basis if it cannot give a lump-sum quote, with any impact on the delivery date assessed retrospectively when the work is complete.

Can the Shipbuilder Recover Engineering Costs?

A frequently overlooked risk for the shipbuilder relates to the cost of engineering potential modification work in order for its impact to be assessed, only for the shipowner then to decide not to proceed, meaning no change order is signed. A shipowner may also make numerous changes to the requested modification in the period between the initial request and the eventual decision not to proceed, resulting in substantial costs to the shipbuilder which it cannot recover.

The contract should therefore entitle the shipbuilder to claim its engineering costs for modifications that the shipowner requests but that do not result in a signed change order. The modifications clause should also state expressly that, if a change order is signed, the shipbuilder can include its engineering costs of preparing the change order in the change order price.

When Must the Shipowner Pay for Change Orders?

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The SAJ Form does not say when the shipowner must pay for change orders; it simply states that the change order price is an adjustment to the contract price. Unless the parties agree otherwise, the price of the modification is therefore added to the final instalment payable on delivery. Where modifications are likely to be extensive, the shipbuilder should ensure it is not effectively financing the modification work.

A common solution is for the shipowner to pay 50 per cent of the change order price shortly after signing the change order, with the balance payable on completion of the modified work.

How Should the Contract Treat Time Limits and Time Bars?

A significant risk for the shipbuilder arises where the shipowner makes a comment on a drawing which is, in fact, a modification, but the shipbuilder does not identify it as such within a time period expressed in the contract as a time bar. In those circumstances, the shipbuilder must carry out the modified work but has lost its right to claim a change order.

If the shipowner insists on a time bar, the shipbuilder should seek a provision requiring it to raise a change order request before it starts the modified work, rather than within a fixed period after the shipowner's comment.

Parties should avoid unreasonably short periods that act as time bars excluding contractual rights. These provisions cause disruption because the shipbuilder must raise potential issues prematurely, spending time and effort preserving claims rather than progressing the project. This applies to all time provisions in a shipbuilding contract, not just those relating to change orders.

What Limits Should Apply to the Shipowner's Right to Require Modifications?

The most complex issues arise where the shipowner has a contractual right to require the shipbuilder to carry out modifications. This right is common, particularly for first-of-a-kind ships whose design is not fully developed at contract award, or where the shipowner's ultimate client is likely to require modifications to the ship.

Even where the contract grants this right, it should limit the extent of modifications the shipowner can require, and these limits can be stricter than those in Article V.1 of the SAJ Form. Possible limits include caps on the cost or time consequences of individual modifications, or on the aggregate cost or time consequences of all modifications. The contract should also state expressly that modifications cannot affect any of the performance guarantees in the contract, nor any Class or other regulatory requirements.

How Should Change Order Disputes Be Resolved?

If the shipowner can require the shipbuilder to carry out modification work before the time, cost or other consequences have been agreed, the contract needs a dispute resolution mechanism.

One option is arbitration, though this is time-consuming and expensive. The tribunal needs guidance on how to assess the consequences of the modified work and must have express power to determine the appropriate terms of the change order. The tribunal may still underestimate the impact of the modification, leaving the shipbuilder to bear at least some of the consequences. The more guidance the parties give the tribunal on assessing extensions of time, pricing labour and materials and related matters, the lower the risk of error. If the tribunal is assessing an extension to

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the delivery date, the shipbuilding contract should specify how to assess it, for example, by providing that the extension will be based on a reasonable estimate of the impact on the critical path to delivery using one of the commonly recognised delay analysis methods. This avoids extensive debate about the appropriate methodology.

An alternative is an expert panel, set up at the start of the construction project and consisting, for example, of a lawyer, an engineer and a quantity surveyor. Any disagreement can then go to an expedited procedure before a panel that is already constituted. However, if the panel members act as experts rather than arbitrators, the protections in the Arbitration Act 1996 will not apply, so in the absence of fraud there will be no recourse if the panel makes a serious mistake. The contract should therefore require disputes exceeding set monetary or time thresholds, or those potentially affecting Class or other regulatory requirements, to be escalated to arbitration.

Why Detailed Change Order Provisions Matter

If extensive modifications are likely, the parties will need to agree or resolve them during the project, when their attention is focused on progressing the construction. The shipbuilding contract should therefore provide as much detail as possible, so that agreeing or determining change orders during the project is as quick and simple as possible. A short-form change order clause simply defers issues to a later date.

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