

June 2025

# CECA NEC4 Bulletin

CECA Member Briefing:

## Bulletin Nr 54: Termination

### Introduction

Training and development support is a key part of CECA's core offer for its membership and working in conjunction with GMH Planning it has delivered a programme of training events around the NEC Form of Contract across several CECA UK regions.

In addition to this training, a series of monthly NEC Contract Bulletins are being produced for both Contractors and Subcontractors to improve practical awareness on key topics within the NEC. The coverage, whilst not exhaustive, is intended as a general overview on some of the contractual principles to increase a wider understanding in support of more sustainable outcomes.

For the purposes of these bulletins a contractual relationship between a "Client" and "Contractor" is assumed. The same rules/principles also apply if the contractual relationship is between a "Contractor" and a "Subcontractor" and so the term "Contractor" will be used to describe both parties.

These bulletins are based on the latest NEC4 family of contracts, but the same principles and rules would apply where parties are engaged under an NEC3 form of contract.

### Coming next month:

#### Bulletin Nr 55: Check List When Signing An NEC Contract

Please respond to Lucy Hudson should you require any further information on the CECA NEC4 Bulletins via e-mail: [lucyHUDSON@cecasouth.co.uk](mailto:lucyHUDSON@cecasouth.co.uk).

For further advice or guidance on the NEC details please visit [www.gmhplanning.co.uk](http://www.gmhplanning.co.uk) where you will find a wealth of free [NEC Guidance Notes](#), [NEC FAQs](#), and other helpful measures.

## NEC Bulletin 54: Termination

This bulletin considers a process that is rarely needed to be called upon on any project, but like any aspect of the contract it needs to be understood when it becomes necessary to enact. Termination is the ending of a contract before all parties have fully completed their obligations. At this point it would free everyone from their contractual responsibilities. This could be necessary due to unforeseen circumstances such as budgets being cut, mutual agreement, or breach of contract by one party. This bulletin will consider termination under an Engineering and Construction Contract (ECC) where a Contractor's obligation to Provide the Works will be terminated. The same rules and processes can be applied to a Subcontractor being terminated under an Engineering and Construction Subcontract (ECS). These elements are covered within section 9 of the contract.

**What is the first step to trigger termination?** For ECC, the contract is between the Client and the Contractor. If either Party wishes to terminate the Contractor's obligations to Provide the Works, they notify each other and the Project Manager to that effect. The Project Manager issues a termination certificate promptly if the reason complies with the contract.



A Party may terminate for a reason identified within the termination table listed below. The termination table identifies who is the terminating party, the reasons for termination, the procedures to be followed and the amount due to be paid.

The procedures for termination are put in place as soon as the termination certificate has been issued by the Project Manager. If the Client is terminating, for most listed termination reasons, it will mean that the Client does not need to make the certified payment that period (unless the conditions of contract state otherwise). Once a termination certificate has been issued the Contractor does no further work.

**Reasons for termination:** Section 91 of the contract lists 22 reasons why one Party or the other may choose to terminate the contract, each reason being numbered and prefixed with an "R". Examples of those listed are bankruptcy, substantially failing to comply with obligations, force majeure type event, or a corrupt act.

Some reasons (R11-R15) would have required the Project Manager to have first notified a default to the Contractor, and the Contractor has not rectified that default within four weeks of being notified. A Contractor may also terminate if the Client has not paid an amount due within thirteen weeks of the date that the payment should have been paid (R16). An instruction to stop any substantial work or all work, followed by no further instruction to re-start within thirteen weeks is another reason for termination (R18-20).

Termination Table			
Terminating Party	Reason	Procedure	Amount due
Client	R1-15, R18 or R22	P1, P2 and P3	A1 and A3
	R17, R20 or R21	P1 and P4	A1 and A2
	X11	P1 and P2	A1, A2 and A4
Contractor	R1-10, R16 or R19	P1 and P4	A1, A2 and A4
	R17 or R20		A1 and A2

**Secondary Option X11:** If this secondary option has been listed in Contract Data, the Client may terminate for a reason not stated in the termination table. This then becomes one of the rarer situations where the Contractor WILL be entitled to fee percentage on the works that have been removed as the termination reason is not one the Contractor has contributed to or had any control over.

**Procedures upon termination:** Section 92 identifies a choice of four procedures to follow (P1-P4). Procedure P1 will always be applicable for any termination reason, and then there is a choice of either one or two additional procedures (P2-P4) that will be applicable depending on the termination reasons:

- P1: Client may complete the works and may use Plant and Materials to which it has title
- P2: Client instructs Contractor to leave site, remove any Equipment, Plant and Materials from site and assign any benefit of any subcontract to the Client
- P3: Client may use Contractor Equipment to complete works before the Contractor then promptly removes it
- P4: Contractor leaves Working Areas and removes Equipment

**Payment upon termination:** Section 93 identifies a further four elements(A1-A4) to identify what the amount due upon termination to the Contractor would be:

- A1: amount due assessed as for normal payments, Defined Cost for Plant and Materials within the Working Areas, other Defined Cost reasonably incurred, any amounts retained by Client, and a deduction of any un-paid balance of an advanced payment
- A2: forecast Defined Cost of removing Equipment
- A3: deduction of the forecast additional cost to the Client in completing the works
- A4: fee percentage applied to remaining works



The only situations where the Contractor is paid fee percentage on the works that have been removed (A4) would be if the Client has gone bankrupt or insolvent (R1-10), Client has not paid an amount within 13 weeks of the date due (R16), default by the Client (R19) or Client terminating for any other reason (X11).

### Conclusions

If termination is necessary then both Parties need to understand and follow the termination process in section 9 of the contract in terms of valid reasons for termination, procedures to follow upon termination and then payments to be made upon termination.