



# Managing Adverse Weather in the UAE: Key Recommendations for Construction Contractors & Employers

On April 16<sup>th</sup>, the UAE experienced unprecedented weather that was described as “*the most substantial rainfall in its modern history across numerous regions, marking the largest volume since climate data recording began in 1949*”.<sup>1</sup> Many construction projects were affected, with some sites experiencing floods that hindered works for several days. In this article, Ahmed Ismail shares how Contractors and Employers can minimise the impact of adverse weather on their construction projects.

In the UAE, construction contracts usually address adverse weather conditions through specific clauses related to “Force Majeure” events or “Excusable Delays.” In our experience, project parties should, as a first resort, refer to the following contract clauses when determining their course of action:

## **Force Majeure**

This clause outlines circumstances beyond the control of the parties, such as extreme weather conditions, which may excuse delays or non-performance of contractual obligations.

## **Notification Requirements**

Contractors are usually required to notify the employer promptly when adverse weather conditions are affecting the project progress. This allows for appropriate mitigation actions and avoid potential disputes.

## **Extension of Time (EOT)**

Adverse weather conditions may entitle the contractor to an extension to the Time for Completion of the project. This levies any delay damages that could be imposed on the Contractor.

## **Compensation or Costs**

Some contracts may entitle the Contractor to recover the damages resulted from the adverse weather condition.

## **Mitigation Measures**

Contractors are often expected to take reasonable steps to mitigate the impact of adverse weather conditions on the project. This may include, among other things, implementing alternate work schedules and/or execute certain activities simultaneously.

## Insurance

Some construction contracts may require the parties to obtain insurance coverage for weather-related risks. This insurance can help mitigate potential financial losses resulting from project delays or damages caused by adverse weather.

## Monitoring and Documentation

It is crucial for both parties to monitor weather conditions closely and document any delays or impacts on the construction progress. Detailed records can help support claims for extensions of time or additional compensation.

## Communication

Open and transparent communication between the parties is essential when dealing with adverse weather conditions. Working closely with the client or project manager to assess the impact on the project timeline and budget.

**The following are best practices that we would recommend be undertaken as soon as possible after the adverse weather event:**

1. Send a notification under the contract for the right to claim for adverse weather conditions.
2. Document the damages in the daily, weekly, and monthly reports using photographs and videos, if possible.
3. Prepare a plan to reinstate the site to allow the work to recommence and communicate the plan to all stakeholders.
4. Keep records of any expenditures resulted from the above in case they are claimable under the contract
5. Protect any material that is stored on site premises.

Project parties should also consult a legal professional or an expert familiar with UAE construction laws to ensure that they adhere to the contract requirements and protect their rights under their contract.

FTI Consulting's Construction, Projects and Assets team can assist clients in analysing delays caused by the rain and can prepare extension of time claims accordingly, reserving our client's rights as per the contract.

<sup>1</sup> Emirates News Agency - WAM

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