

Clause 6 Staff and Labour

6.1 *Engagement of Staff and Labour*

The Contractor shall make his own arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

In some countries, the Contractor may have other obligations under the local law, but this Sub-Clause removes any implication of obligation on the Employer.

6.2 *Rates of Wages and Conditions of Labour*

The Contractor shall pay rates of wages, and observe conditions of labour, not less favourable than those established for the trade or industry where the work is carried out. If no such established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions not less favourable than the general level of wages and conditions observed by employers whose trade or industry is similar to that of the Contractor.

If the Contractor fails to comply with this Sub-Clause, the Employer might have difficulty enforcing it, but he would be able to resist claims from the Contractor in respect of events caused by the non-compliance.

6.3 *Persons in the Service of Others*

The Contractor shall not recruit, or attempt to recruit, his staff and labour from amongst persons in the service of the Employer or the Employer's Representative.

See comments on Sub-Clause 6.2. The parties would be obliged to seek prior agreement to the recruitment of each other's personnel.

6.4 *Labour Laws*

The Contractor shall comply with all the relevant labour laws applying to his employees, and shall duly pay and afford to them all their legal rights. The Contractor shall require all such employees to obey all applicable laws and regulations concerning safety at work.

See comments on Sub-Clause 6.2. The law of the Country would probably also be relevant.

6.5 *Working Hours*

No work shall be carried out on the Site outside the normal working hours stated in the Appendix to Tender, or on the locally recognised days of rest, unless:

- (a) *the Contract so provides,*
- (b) *the work is unavoidable, or necessary for the saving of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Employer's Representative, or*
- (c) *the Employer's Representative gives his consent.*

This Sub-Clause may be applicable to either or both of two situations. Firstly, the Employer may wish to specify maximum working hours in the Appendix to Tender, especially for work on an existing operational facility. Secondly, his Representative may simply wish to know the working hours well in advance, so as to manage his own personnel. Under Sub-Clause 1.8, the Employer's Representative's consent shall be given in writing and shall not be unreasonably withheld or delayed.

6.6 Facilities for Staff and Labour

Unless otherwise stated in Part II, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for his (and his Sub-contractor's) staff and labour. The Contractor shall also provide the facilities specified in the Employer's Requirements, for the Employer's and Employer's Representative's personnel. The Contractor shall not permit any of his employees to maintain any temporary or permanent living quarters within the structures forming part of the Works.

It may be difficult to establish what accommodation and facilities are "necessary" under this Sub-Clause, until the effects of their inadequacy have become apparent. In that event, the Employer cannot be held responsible for these effects, which could include significant delay to the Works.

6.7 Health and Safety

Precautions shall be taken by the Contractor to ensure the health and safety of his staff and labour. The Contractor shall, in collaboration with and to the requirements of the local health authorities, ensure that medical staff, first aid facilities, sick bay and ambulance service are available at the accommodation and on the Site at all times, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Employer's Representative may reasonably require.

The Contractor shall appoint a member of his staff at the Site to be responsible for maintaining the safety, and protection against accidents, of personnel on the Site. This person shall be qualified for his work and shall have the authority to issue instructions and take protective measures to prevent accidents. The Contractor shall send, to the Employer's Representative, details of any accident as soon as possible after its occurrence.

This Sub-Clause sets out the Contractor's overall responsibility for health and safety. Liaison with local health authorities may result in their facilities being used as ambulance service, for example. The importance of planning for possible accidents must not be overlooked. If the local facilities seem likely to be insufficient for the numbers of personnel on Site, the Contractor must overcome the shortfall. In certain circumstances, it may be appropriate for him to provide a fully-equipped hospital.

6.8 Contractor's Superintendence

The Contractor shall provide all necessary superintendence during the design and execution of the Works, and as long thereafter as the Employer's Representative may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. Such superintendence shall be given by sufficient persons having adequate knowledge of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents) for the satisfactory and safe execution of the Works.

Again, the questions of what is "necessary" and how many are "sufficient" under this Sub-Clause could be difficult to establish. Failure to comply might be evident by constructional problems, which might be serious enough to entitle the Employer's Representative to suspend the Works under Sub-Clause 8.7.

6.9 Contractor's Personnel

The Contractor shall employ (or cause to be employed) only persons who are careful and appropriately qualified, skilled and experienced in their respective trades or occupations. The Employer's Representative may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative, who in the opinion of the Employer's Representative:

- (a) persists in any misconduct,*
- (b) is incompetent or negligent in the performance of his duties,*
- (c) fails to conform with any provisions of the Contract, or*
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment.*

If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

It is rare for the Employer's Representative to need to take action under this Sub-Clause in circumstances where the Contractor would not wish to take his own action, without instruction. Before taking action under this Sub-Clause, the Employer's Representative should first seek to persuade the Contractor to remove the person. Removal by agreement is preferable to enforcement under this Sub-Clause.