DAVIES & DAVIES

Davies & Davies Associates Ltd
Solicitors & Chartered Surveyors

31 Pearce Drive Faringdon Oxfordshire SN7 7ND
0800 840 4025 enquiries@dda.law **www.dda.law**

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Mind the Gap: Jurisdictional Limits in Connaughton v Timber Frames [2025] IEHC 469

Albert Connaughton v Timber Frames Projects Ltd T/A Timber Frame Ireland [2025] IEHC 469

Date: 1 September 2025

Judge: Mr Justice Garrett

Key Words:

Construction Contracts Act 2013, Section 6(1), statutory adjudication, pay now argue later, adjudicator's jurisdiction, dispute relating to payment, contractual entitlement, common law damages, repudiatory breach, statutory interpretation, narrow scope, fair procedures, expedited process, public policy, illegality, Planning and Development Act 2000, Quinn v IBRC, enforcement refused, lack of jurisdiction, legal costs.

Summary

The High Court refused leave to enforce an adjudicator's decision in favour of Albert Connaughton (employer) against Timber Frame Projects Ltd (contractor). The adjudicator lacked jurisdiction: the dispute concerned damages for repudiatory breach and consequential losses, not a "dispute relating to payment" under the Construction Contracts Act 2013. Such disputes are confined to payments expressly provided for under the contract. The court also rejected arguments on fair procedures and illegality linked to planning permission [10–26, 42–54, 56–77, 78–113, 114–117].

Key Themes:

- **Statutory Adjudication in Ireland:** Scheme under the 2013 Act is provisionally binding and summarily enforceable [1–3].
- **"Pay Now, Argue Later":** Central but limited principle [3, 10–11, 56–59].
- **Jurisdiction of Adjudicators:** Strictly limited to disputes "relating to payment" [10–12, 26, 42–54, 114–116].
- **Interpretation of "Payment Dispute":** "Payment" means sums stipulated by contract, not damages [16–26].
- **Fair Procedures:** Expedited nature accepted; high bar for resisting enforcement [56–77].
- **Illegality & Public Policy:** Court applied *Quinn v IBRC* to reject claims of illegality under

planning law [78–113].

Background

The employer sought to enforce an adjudicator's decision [2, 6–7] under a contract for design, supply and erection of a timber frame at a dwelling [43]. Payments of €124,981 had been made [44]. Termination was for repudiatory breach: works stopped at ground floor, frame unerected [45]. The employer referred a dispute to adjudication, seeking refund and consequential losses totalling €224,579.68 [47–50]. The contractor largely did not participate [47]. High Court proceedings commenced 20 December 2024 [7–9]. Enforcement was opposed on three grounds:

A. Lack of jurisdiction – not a "payment" dispute [10–26, 42–54].
B. Breach of fair procedures [56–77].
C. Illegality due to unauthorised development [78–113].

Legal Issues and Analysis

A. *Adjudicator's Jurisdiction: "Dispute Relating to Payment" [10-56]*

1. **Core Issue:** Are damages for repudiatory breach a "payment dispute" under s.6(1)? [10–12, 42–44]
2. **Interpretation:** Literal and purposive approaches converge; words read in statutory context [13–18].
3. **Definition:** "Payment" = sums under the contract (interim, final, termination) [16–20, 25–26, 42–44].
4. **Exclusion:** Damages not embraced by "payment" [19, 26, 45–50, 52–54].
5. **Nature of Claim:** Refund, reliance, consequential losses; no contractual right to employer's recovery [45–50].
6. **Termination Distinction:** Contractual v common law termination; only the former may involve payment disputes [54].
7. **Broader Interpretation Rejected:** Court resisted expansion to all monetary disputes and reliance on foreign case law [21–26, 52–53].
8. **Undecided Issues:** Need for prior payment claim and scope of paying party claims left open [27–41].

B. *Alleged Breach of Fair Procedures [56-77]*

1. **Expedited Nature:** 28-day design justified [56–59].
2. **Narrow Discretion:** Enforcement refused only for "blatant or obvious" breaches [60–65].
3. **Contractor's Claims Rejected:**
    1. Refusal to extend time was lawful [66–70].
    2. Failure to consider defence was contractor's own fault; no formal response filed [71–77].

C. *Illegality of Construction Contract [78-113]*

1. **Public Policy Discretion:** Enforcement may be refused if contrary to public policy [78–80].
2. **Application of Quinn v IBRC:** Applied to alleged breaches of the PDA 2000 [81–85].
3. **Contract Lawful on its Face:** No illegality in formation [86–88].

4. **Statutory Sanctions:** PDA 2000 provides extensive remedies (fines, injunctions, imprisonment) [89–98].
5. **Proportionality:** Treating such contracts as void would be inconsistent and counterproductive [99–111].
6. **Finding:** Contract enforceable; illegality defence failed [112–113].

Conclusion

Enforcement refused [114–116]. The adjudicator lacked jurisdiction: damages claims fall outside the Act. Allegations of procedural unfairness and illegality were also dismissed [78–113, 117]. On costs, a one-third discount was provisionally applied to the contractor's recoverable costs, reflecting wasted adjournments and failure on two issues [118–119].

Summary Table:

Feature	Ireland – 2013 Act	UK – 1996 Act
Referral right	Only "any dispute relating to payment" (s.6(1))	"Any dispute arising under the contract" (s.108(1))
Meaning of "payment"	Limited to contractual sums	Covers all contractual disputes
Termination	Contractual payment clauses adjudicable; damages excluded	Both contractual and damages adjudicable
Intent	Narrow: protect contractor cashflow	Broad: universal dispute resolution
Connaughton outcome	No jurisdiction; decision unenforceable	Referral valid; damages claim adjudicable

Key Takeaway:

The judgment clarifies that adjudication in Ireland is a narrow, contractually tethered remedy [10–12, 42–44, 114–116]. "Payment disputes" mean only sums stipulated by contract, not damages [16–26, 45–50, 52–54]. Parties must root claims in contractual payment obligations [19–20, 26, 42–44, 114–116]. "Pay now, argue later" is a tool for cashflow, not a universal solvent [3, 10–11, 56–59].

Parting Thoughts

Adjudication in Ireland is no free-for-all: push damages through the keyhole and the court will lock it. Procedural fairness is lean, not lavish, and illegality defences sink under the weight of statutory sanctions. The result? No enforcement, no damages, and a cost haircut for the contractor. The message is stark: "pay now, argue later" applies only to sums owed under contract. For damages, prepare for the long road of litigation or arbitration.

#LegalUpdate #DDAlegal #ConstructionLaw #Adjudication #Ireland #UKLaw #PaymentDisputes #RepudiatoryBreach #LegalUpdate #Connaughton #TimberFrameProjects

Authorities

Case Law:

Adjudicator's Jurisdiction and Interpretation of "Payment Dispute"

- ***Heather Hill Management Company v. An Bord Pleanála* [2022] IESC 43, [2022] 2 ILRM 313 *("Heather Hill")****: This Supreme Court judgment restated the ***proper approach to statutory interpretation****, emphasising that the literal and purposive approaches are not*

mutually exclusive. It highlighted the need to consider the context of legislative provisions, the pre-existing legal framework, and the discernible object of the legislation. It also stated that the onus is on those who contend that a statutory provision does not have the effect suggested by its plain meaning to establish their alternative construction.

- ***Aakon Construction Services Ltd v. Pure Fitout Associated Ltd*** **[2021] IEHC 562***: This case was cited for the principle that the* ***"binding" status of an adjudication decision is only conferred when it meets the criteria prescribed under the Construction Contracts Act 2013****. It established that a court, in exercising its discretion to grant leave to enforce, must be satisfied that the adjudication was made in respect of a* ***"payment dispute"****, noting that the Irish statutory scheme is strictly confined to such disputes, unlike equivalent UK legislation. It also cautioned against applying case law from foreign jurisdictions without considering the distinct legislative context.*
- ***O'Donovan v. Bunni*** **[2021] IEHC 575***: Cited by analogy in Aakon Construction Services Ltd, this case supports the principle that a court must be satisfied that specific statutory criteria (such as the temporal application of the Act) have been fulfilled before granting leave to enforce an adjudicator's decision.*
- ***McGill Construction Ltd v. Blue Whisp Ltd*** **[2024] IEHC 205***: This judgment clarified that an argument for separate referrals in respect of individual "payment claim notices" was rejected by reference to the broader concept of a "payment dispute" under section 6 of the Act. It is not authority for a wider proposition that a referral to adjudication must always be preceded by a payment claim notice.*
- ***K & J Townmore Construction Ltd v. Kildare and Wicklow Education and 13 Training Board*** **[2018] IEHC 770, [2019] 2 IR 688***: Cited by analogy by the employer, this judgment was delivered in the context of interpreting an arbitration agreement and supported the idea of a "one stop" adjudication or a presumption that all disputes arising from a contractual relationship should be heard by the same tribunal. The current judgment, however, noted that this presumption is displaced by the clear words of Section 6 of the Construction Contracts Act 2013, which specifically narrows the type of dispute referable to adjudication.*
- ***ISG Retail Ltd v. Castletech Construction Ltd*** **[2015] EWHC 1443 (TCC)***: This foreign judgment was cited by the employer's counsel to submit that an adjudicator has jurisdiction to grant combined relief (including restitution, reliance loss, and loss of bargain) in the event of the termination of a construction contract. The current judgment's conclusion that the adjudicator lacked jurisdiction for such common law claims implicitly counters this submission within the context of the Construction Contracts Act 2013.*

Alleged Breach of Fair Procedures

- ***John Paul Construction Ltd v. Tipperary Co-Operative Creamery Ltd*** **[2022] IEHC 3***: This case defined the* ***nature and extent of the High Court's discretion to refuse leave to enforce an adjudicator's decision on grounds of procedural unfairness****. It stipulated that enforcement will only be refused where there has been a* ***blatant or obvious breach of fair procedures*** *such that it would be unjust to enforce the immediate payment obligation, and not for mere procedural differences from conventional arbitration or litigation. The judgment also states that the court will not conduct a detailed examination of the underlying merits of an adjudicator's decision under the guise of identifying a breach of fair procedures.*

Illegality of Construction Contract / Public Policy Considerations

- ***Quinn v. Irish Bank Resolution Corporation Ltd*** **[2015] IESC 29, [2016] 1 IR 1** ***("Quinn v. IBRC")****: This Supreme Court judgment laid down the* ***principal criteria for assessing whether public policy requires contracts tainted with statutory illegality to be***

***deemed void or unenforceable**. It established that this assessment is **statute-specific, not case-specific**, and requires a court to determine if the relevant statute's purpose, along with the adverse consequences it expressly provides, are sufficient to address the illegality without needing to also invalidate related contracts.*

- ***Bailey v. Kilvinane Wind Farm Ltd* [2016] IECA 92**: *Cited by analogy, this case supported the point that an informal expression of a favourable view from a planning authority official, regarding whether certain demolition works required further planning permission, is not conclusive.*
- ***Patel v. Mirza* [2016] UKSC 42, [2017] A.C. 467**: *This case from a "neighbouring jurisdiction" was mentioned to illustrate that courts might reject the principle that parties to an unperformed contract, even one tainted by illegality, should be precluded from recovering monies transferred, particularly if such a forfeiture would not be a just and proportionate response to the illegality. This highlights the nuanced approach to restitution in cases of illegality, which was not definitively decided in the present judgment.*

Legislation:

Adjudicator's Jurisdiction and Statutory Adjudication Process

***Construction Contracts Act 2013**: This Act established a mandatory statutory adjudication scheme for payment disputes under construction contracts, with adjudicators' decisions being provisionally binding and subject to summary enforcement. The scheme was intended to enhance the position of the party executing contract works by regulating payment claims and providing an expedited dispute resolution mechanism.*

- ***Section 6(11)**: This section provided that an adjudicator's decision could, with the leave of the court, be enforced in the same manner as a judgment or order of the High Court.*
- ***Section 6(1)**: This crucial section defined the right to refer "any dispute relating to payment arising under the construction contract" for adjudication, introducing the term "payment dispute". The judgment clarified that "payment" under the Act bore a specific meaning, describing a payment provided for under a construction contract, and was not apt to embrace common law damages for breach of contract.*
- ***Section 1**: This section defined a "payment claim" as a claim to be paid an amount under a construction contract.*
- ***Section 3**: This section stipulated that a construction contract must make provision for the amount and timing of each interim and final payment under the contract.*
- ***Section 4**: This section addressed the mechanics of making and responding to a payment claim notice, forming an organic link with the adjudication provisions in Section 6.*
- ***Sections 6(6) and 6(7)**: These sections established the default twenty-eight day period for an adjudicator to reach a decision and specified that extensions could only be for fourteen days with the referring party's consent.*
- ***Section 6(8)**: This section provided for the publication of a code of practice governing the conduct of adjudications.*

Illegality of Construction Contracts and Planning Law

***Planning and Development Act 2000 (PDA 2000)**: This Act provided a comprehensive "package of consequences" to ensure compliance with planning requirements, including criminal sanctions, civil remedies, planning injunctions, and enforcement notices, for unauthorised development. The court inferred that these elaborate mechanisms constituted a self-contained code, and that the Act did not*

intend for contracts, lawful on their face but entailing a breach of planning control in performance, to be automatically treated as void or unenforceable.

- ***Criminal Sanctions**: The Act made it a criminal offence to carry out unauthorised development, with potential penalties including significant fines and imprisonment.*
- ***Section 160**: This section allowed for a broad range of civil orders, including restoration, reconstruction, removal, demolition, or alteration of structures, in respect of unauthorised development.*
- ***Enforcement Notices**: The Act made provision for the service of enforcement notices, non-compliance with which exposed recipients to civil and criminal consequences, including the local planning authority's power to carry out specified works and recover expenses.*
- ***Retention Planning Permission**: The Act explicitly provided for the possibility of regularising certain breaches of planning control retrospectively through retention planning permission, subject to exclusions. This was seen as reflecting a nuanced and proportionate approach to breaches.*

Procedural Rules for Enforcement

***Rules of the Superior Courts, Order 56B**: This Order prescribed the formal proofs required for applications for leave to enforce an adjudicator's decision.*

Legal Texts & Commentary:

1. Interpretation of "Payment Dispute" and Scope of Adjudication

- ***Hussey, Construction Adjudication in Ireland (Routledge, 2017) (pages 51 to 53)**: This text had suggested that there was a "disconnect" between the provision made for payment under section 4 of the Construction Contracts Act 2013 and the entitlement to refer a payment dispute to statutory adjudication under section 6. It was further suggested that the phrase "any dispute relating to payment" would likely be interpreted as including claims of any nature, provided that a resolution was necessary to ascertain a financial consequence. The author also made reference to the approach taken to adjudication in Australian and Singaporean legislation, suggesting that if the Irish Legislature had intended to confine the nature of the dispute, precedents were available to follow.*
- ***Emden's Construction Law by Crown Office Chambers (LexisNexis UK, 2024) (§24.23)**: This text was cited to support a presumption that, in the absence of clear words to the contrary, the legislature would have intended that all disputes arising out of a contractual relationship should be heard and determined by the same tribunal, thereby supporting a "one stop" adjudication interpretation.*

2. Common Law Remedies upon Contract Termination

- ***Peel, Treitel: The Law of Contract (15th edn, Sweet & Maxwell, 2020) (at §18-018 to §18-022)**: This commentary was cited for the principle that, in the event of the termination of a construction contract, an innocent party was open to combining a claim for restitution, reliance loss, and loss of bargain.*

3. Planning Law and Illegality of Contract

- ***Browne, Simons on Planning Law (3rd edn, Round Hall, 2021) (at §5-74 to §5-92)**: This text was referenced generally for the meaning of an "immaterial deviation" within the context of planning law.*

- ***Browne, Simons on Planning Law (3rd edn, Round Hall, 2021) (at §11-498 to §11-509)****: This text was cited to support the point that a court enjoyed a limited discretion to withhold or mitigate the relief which might otherwise be granted by way of a "planning injunction" under section 160 of the Planning and Development Act 2000, and that disproportionate relief could be a legitimately considered factor.Top of FormBottom of FormTop of Form*

Nigel Davies BSc(Hons) (Q.Surv), PGCert.Psych, GDipLaw, PGDipLP, DipArb, MSc (Built Environment), LLM (Construction Law & Practice), MSc (Mechanical & Electrical), MSc (Psychology), FRICS, FCIOB, FCInstCES, FCIArb, CArb, GMBPsS, Panel Registered Adjudicator, Mediator, Mediation Advocate, Chartered Builder & Chartered Construction Manager, Chartered Surveyor & Civil Engineering Surveyor, Chartered Arbitrator, Author, and Solicitor-Advocate

Adjudicator Assessor and Re-Assessor for the ICE and the CIArb
Arbitrator Assessor for the CIArb
ICE DRC Member
ICE DRC CPD Committee Chairman
Adjudicator Exam Question Setter for the ICE
CIArb Adjudication Panel Member since 2006
CIArb Arbitration Panel Member since 2006
CIC Adjudication Panel Member since 2010
Law Society Panel Arbitrator
RIBA Adjudication Panel Member since 2018
RICS Adjudication Panel Member since 2006
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