

AS 2545—1993
(Incorporating Amendment No. 1)

Australian Standard[®]

Subcontract conditions

Internal Use Only

This Australian Standard was prepared by Committee OB/3, General Conditions of Contract. It was approved on behalf of the Council of Standards Australia on 17 August 1993 and published on 27 September 1993.

The following interests are represented on Committee OB/3:

Australian Chamber of Commerce and Industry
Australian Electrical and Electronic Manufacturers Association
Australian Institute of Project Management
Australian Institute of Purchasing and Supply Management
Australian Institute of Quantity Surveyors
Australian Mining Industry Council
AUSTROADS
Construction Industry Engineering Services Group
Electricity Supply Association of Australia
Institution of Engineers Australia
Law Council of Australia
Master Builders Australia
Metal Trades Industry Association of Australia
National Public Works Conference
Process Engineers and Constructors Association
Railways of Australia Committee
Royal Australian Institute of Architects
The Association of Consulting Engineers Australia

Review of Australian Standards. To keep abreast of progress in industry, Australian Standards are subject to periodic review and are kept up to date by the issue of amendments or new editions as necessary. It is important therefore that Standards users ensure that they are in possession of the latest edition, and any amendments thereto.

Full details of all Australian Standards and related publications will be found in the Standards Australia Catalogue of Publications; this information is supplemented each month by the magazine 'The Australian Standard', which subscribing members receive, and which gives details of new publications, new editions and amendments, and of withdrawn Standards.

Suggestions for improvements to Australian Standards, addressed to the head office of Standards Australia, are welcomed. Notification of any inaccuracy or ambiguity found in an Australian Standard should be made without delay in order that the matter may be investigated and appropriate action taken.

AS 2545—1993
(Incorporating Amendment No. 1)

Australian Standard[®]

Subcontract conditions

First published as AS 2545—1982.
Second edition 1987.
Third edition 1993.
Reissued incorporating Amendment No.1 (October 2000)

PUBLISHED BY STANDARDS AUSTRALIA
(STANDARDS ASSOCIATION OF AUSTRALIA)
1 THE CRESCENT, HOMEBUSH, NSW 2140

ISBN 0 7262 8516 1

PREFACE

This Standard was prepared by the Standards Australia Committee on General Conditions of Contract to supersede AS 2545—1987, *Subcontract conditions* to provide a set of compatible subcontract conditions involving site work on projects where AS 2124—1992, *General conditions of contract*, is in use as the head contract between the Main Contractor and the Principal.

This edition of the Standard has been revised to be compatible with AS 2124—1992, AS 2125—1992 and AS 2127—1992, and is therefore recommended for use in conjunction with them. As far as possible, Clause numbers in this Standard are parallel with the corresponding provisions in AS 2124.

This Standard incorporates Amendment No. 1 (October 2000). The changes required by the Amendment are indicated in the text by a marginal bar and amendment number against the clause, note, table, figure or part thereof affected.

A form of formal instrument of agreement, and general conditions of tendering and form of tender are also included as an annexure at the end of AS 2545. Attention is drawn to the desirability for the parties to this contract to execute the formal instrument of agreement at the earliest opportunity, immediately after the necessary documents to form part of the subcontract are prepared. (See Clause 6.2 in this Standard in relation to the procedure for execution of the formal instrument of agreement.)

To be compatible with AS 2124—1992, this document mirrors it, on a clause by clause basis, unless the subject matter makes it inappropriate to do so. However, the difference between this edition of AS 2545 and the 1987 edition, is, with a number of appropriate exceptions, the same as the difference between AS 2124—1986 and AS 2124—1992. The latter differences are summarized in Doc 2124N Notes on Changes in the General Conditions of Contract, 4th edition (AS 2124—1992), as compared with the 3rd edition (AS 2124—1986).

Attention is invited to the provisions of Clause 49 in which the details of services and facilities to be provided are to be agreed between the parties, and indicated in the Annexure.

WARNING: Users of this Australian Standard are warned that Clause 17 (damage to persons and property) does not limit the liability of parties for special, indirect or consequential losses.

This unlimited liability overrides any limitations or exclusions permitted under Insurance Clauses 18 (Insurance of the Works) and 19 (Public Liability Insurance).

Parties wishing to limit their liability should seek insurance and legal advice before entering a contract under this Standard.

A1 | **Legislation has come into force in some jurisdictions dealing with security of payments. Parties intending to use this Standard should seek expert advice as to their rights and obligations under such legislation.**

© Copyright — STANDARDS AUSTRALIA

Users of Standards are reminded that copyright subsists in all Standards Australia publications and software. Except where the Copyright Act allows and except where provided for below no publications or software produced by Standards Australia may be reproduced, stored in a retrieval system in any form or transmitted by any means without prior permission in writing from Standards Australia. Permission may be conditional on an appropriate royalty payment. Requests for permission and information on commercial software royalties should be directed to the head office of Standards Australia.

Standards Australia will permit up to 10 percent of the technical content pages of a Standard to be copied for use exclusively in-house by purchasers of the Standard without payment of a royalty or advice to Standards Australia.

Standards Australia will also permit the inclusion of its copyright material in computer software programs for no royalty payment provided such programs are used exclusively in-house by the creators of the programs.

Care should be taken to ensure that material used is from the current edition of the Standard and that it is updated whenever the Standard is amended or revised. The number and date of the Standard should therefore be clearly identified.

The use of material in print form or in computer software programs to be used commercially, with or without payment, or in commercial contracts is subject to the payment of a royalty. This policy may be varied by Standards Australia at any time.

CONTENTS

	<i>Page</i>
1 CONSTRUCTION OF SUBCONTRACT	5
2 INTERPRETATION	5
3 NATURE OF SUBCONTRACT	7
4 BILL OF QUANTITIES	8
5 SECURITY, RETENTION MONEYS AND PERFORMANCE UNDERTAKINGS	9
6 EVIDENCE OF SUBCONTRACT	11
7 SERVICE OF NOTICES	12
8 SUBCONTRACT DOCUMENTS	12
9 ASSIGNMENT AND SECONDARY SUBCONTRACTING	14
10 SELECTED AND NOMINATED SECONDARY SUBCONTRACTORS	14
11 PROVISIONAL SUMS	17
12 LATENT CONDITIONS	18
13 PATENTS, COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS	19
14 STATUTORY REQUIREMENTS	19
15 PROTECTION OF PEOPLE AND PROPERTY	20
16 CARE OF THE WORK AND REINSTATEMENT OF DAMAGE	20
17 DAMAGE TO PERSONS AND PROPERTY OTHER THAN THE WORKS ...	21
18 INSURANCE OF THE WORKS	22
19 PUBLIC LIABILITY INSURANCE	22
20 INSURANCE OF EMPLOYEES	23
21 INSPECTION AND PROVISIONS OF INSURANCE POLICIES	23
22 CLERK OF WORKS AND INSPECTORS	24
23 MAIN CONTRACTOR'S REPRESENTATIVE	24
24 DIRECTIONS BY OTHERS	25
25 SUBCONTRACTOR'S REPRESENTATIVE	25
26 CONTROL OF SUBCONTRACTOR'S EMPLOYEES AND SECONDARY SUBCONTRACTORS	25
27 SITE	26
28 SETTING OUT THE WORKS	27
29 MATERIALS, LABOUR AND CONSTRUCTIONAL PLANT	27
30 MATERIALS AND WORK	28
31 EXAMINATION AND TESTING	29
32 WORKING HOURS	30
33 PROGRESS AND PROGRAMMING OF THE WORKS	31
34 SUSPENSION OF THE WORKS	32
35 TIMES FOR COMMENCEMENT AND SUBSTANTIAL COMPLETION	33
36 DELAY OR DISRUPTION COSTS	36
37 DEFECTS LIABILITY	36
38 CLEANING UP	37
39 URGENT PROTECTION	37
40 VARIATIONS	37
41 DAYWORK	39
42 CERTIFICATES AND PAYMENTS	40
43 PAYMENT OF WORKERS AND SECONDARY SUBCONTRACTORS	43
44 DEFAULT OR INSOLVENCY	44

	<i>Page</i>
45 TERMINATION BY FRUSTRATION	47
46 TIME FOR NOTIFICATION OF CLAIMS	48
47 DISPUTE RESOLUTION	48
48 WAIVER OF CONDITIONS	50
49 SERVICES AND FACILITIES	50
ANNEXURE PART A	51
APPROVED FORM OF UNCONDITIONAL UNDERTAKING	59
ANNEXURE PART B	60
CERTIFICATE OF SUBSTANTIAL COMPLETION	61
GENERAL CONDITIONS OF TENDERING AND FORM OF TENDER	62
FORM OF FORMAL INSTRUMENT OF AGREEMENT FOR SUBCONTRACT ...	64
INDEX	65

Internal Use

STANDARDS AUSTRALIA

Australian Standard Subcontract conditions

NOTE: Clauses prefixed by an asterisk can be omitted without making consequential amendments.

1 CONSTRUCTION OF SUBCONTRACT

The law governing the Subcontract, its interpretation, any agreement to arbitrate and the conduct of any arbitration or litigation is the law of the State or Territory stated in the Annexure.

Unless otherwise provided, prices are in Australian currency and payments shall be made in Australian currency at the place stated in the Annexure.

Communications between the Main Contractor, the Main Contractor's Representative and the Subcontractor shall be in the English language.

Measurements of physical quantities shall be in Australian legal units of measurement within the meaning of the National Measurement Act 1960 as amended from time to time.

Where provisions in the Subcontract Conditions are expressed to be alternatives and the Subcontract fails to state which alternative applies, the first alternative shall apply.

2 INTERPRETATION

In the Subcontract, except where the context otherwise requires —

'Bill of Quantities' means a document named therein as a Bill of Quantities issued to tenderers by or on behalf of the Main Contractor, stating estimated quantities of work to be carried out;

'Constructional Plant' means appliances and things used in the execution of the work under the Subcontract but not forming part of the Works;

'Date of Acceptance of Tender' means the date which appears on the notice in writing of acceptance of the tender;

'Date for Substantial Completion' means —

- (a) where the Annexure provides a date for Substantial Completion, the date;
- (b) where the Annexure provides a period of time for Substantial Completion, the last day of the period,

but if any extension of time for Substantial Completion is granted by the Main Contractor's Representative or allowed in any arbitration or litigation, it means the date resulting therefrom;

'Date of Substantial Completion' means —

- (a) the date certified by the Main Contractor's Representative in a Certificate of Substantial Completion issued pursuant to Clause 42.5, to be the date upon which Substantial Completion was reached; or
- (b) where another date is determined in any arbitration or litigation as the date upon which Substantial Completion was reached, that other date;

'day' means calendar day;