



NEC4 Y(NZ)1 Clause

MAY 2026

Optional contract clause, guidance and flow chart for the **Alliance Contract** for use in New Zealand on contracts which are subject to the Construction Contracts Act 2002.

Acknowledgements

The original NEC was designed and drafted by Dr Martin Barnes then of Coopers and Lybrand with the assistance of Professor J. G. Perry then of the University of Birmingham, T. W. Weddell then of Travers Morgan Management, T. H. Nicholson, Consultant to the Institution of Civil Engineers, A. Norman then of the University of Manchester Institute of Science and Technology and P. A. Baird, then Corporate Contracts Consultant, Eskom, South Africa.

The fourth edition of the NEC suite was produced by the Institution of Civil Engineers through its NEC4 Contract Board.

The NEC4 Contract Board is:

P. Higgins, BSc (Hons), CEng, FICE (Chair)
I. Heaphy, BSc (Hons), FRICS, FCI Arb, MCInstCES, MACostE
S. Jackson, LLB, LLM, MSc, FCI Arb, FCInstCES
M. Garratt, BSc (Hons), MRICS, FCI Arb
D. Evans, BSc, FICE, CEng, MBA
Professor D. Mosey, CBE, LLB (Hons), PHD
H. Sturdy, CEng, MSc, BEng (Hons), FIHEEM, CIWFM, MAPM, MCIBSE, MAfH

The Y(NZ) drafting team consisted of:

S. Evans, BSc (Hons), LLB (Hons), FCI Arb, FAMINZ (Arb), FRICS, FCInstCES, FCIOB, FICE, PRI
R. Gerrard, BSc (Hons), LLM, FRICS, FCInstCES, NECReg

The Institution of Civil Engineers acknowledges the help given by the NEC4 Contract Board and the drafting team as well as the following:

John Walton, FCI Arb, FAMINZ (Arb), FAIADR, Bankside Chambers

Guidance

- 1 This optional clause should be included in a contract for construction work as defined by the Construction Contracts Act 2002 ("the Act"). It is incorporated by its inclusion in Contract Data as a secondary Option as "Y(NZ)1: Construction Contracts Act 2002".

If incorporated, this Option supplements or replaces the core payment provisions and amends the dispute resolution provisions to provide compliance with the Act.

- 2 To comply with the Act, an application for payment, including the *Alliance Manager's* assessment of the final amount due, must:

- be in writing,
- contain sufficient details to identify the construction contract to which the payment relates,
- identify the construction work and the relevant period to which the payment relates,
- state a claimed amount and the due date for payment,
- indicate the manner in which the payee calculated the claimed amount, and
- state that it is made under the Act.

It must also be accompanied by:

- an outline of the process for responding to that claim and
- an explanation of the consequences of
 - not responding to the claim and
 - not paying the claimed amount, or the scheduled amount, in full (whichever is applicable).

- 3 If the payment claim does not comply with these requirements, the *Partners* may not be afforded the protection of the Act.
- 4 To comply with the Act, the *Client's* communication to the *Alliance Manager* informing it of an error in an assessment must:
 - be in writing,
 - identify the payment claim to which it relates, and
 - state a scheduled amount.
- 5 If the scheduled amount is less than the claimed amount, the communication must indicate:
 - the manner in which the payer calculated the scheduled amount,
 - the payer's reason or reasons for the difference between the scheduled amount and the claimed amount, and
 - in a case where the difference is because the payer is withholding a payment on any basis, the payer's reason or reasons for withholding payment.
- 6 Other than for the final payment, if the *Client* does not inform the *Alliance Manager* of an error in the assessment within the relevant timeframe, or if the communication does not contain the information above, the payer will become liable to pay the claimed amount on the due date for that payment.

- 7 For the final payment, if the *Client* disagrees with the amount assessed by the *Alliance Manager*, it must issue a payment schedule as described above within the relevant timescales. If the *Client* fails to issue a payment schedule, the *Client* will become liable to pay the claimed amount on the due date for that payment.
- 8 If the *Client* fails to make payment of the relevant amounts by their due date, a *Partner* could obtain a judgment debt against the *Client* for the unpaid portion of the debt. The *Client* should therefore ensure that it has adequate contract management procedures in place to deal with payment claims within the required time frames.

NEC4 Y(NZ) Clause

Y(NZ)1: CONSTRUCTION CONTRACTS ACT 2002

Defined terms	Y1.1	The Act is the Construction Contracts Act 2002.
Payment claim	Y1.2	An application for payment issued by the <i>Alliance Manager</i> is treated as a payment claim issued by the Partners. Clause 50.1 is deleted and replaced by: 'The <i>Alliance Manager</i>, in consultation with the Partners, assesses the amount due and submits an application for payment to the <i>Client</i> on the assessment date setting out the amount the <i>Alliance Manager</i> considers is due at the assessment date. The first assessment date is decided by the <i>Alliance Manager</i> and is not later than the <i>assessment interval</i> after the <i>starting date</i>. Later assessment dates occur at the end of each <i>assessment date</i> interval until the final assessment.'
Payment schedule	Y1.3	A communication issued by the <i>Client</i> informing the <i>Alliance Manager</i> of an error in the assessment of the amount due is treated as a payment schedule.
Suspension of performance	Y1.4	If a <i>Partner</i> exercises its right under the Act to suspend performance, it is a compensation event.
Adjudication	Y1.5	A member of the Alliance may refer a dispute to adjudication under the Act at any time whether or not it has been referred to the Alliance Board for final resolution.

FLOW CHART Y(NZ)1: CONSTRUCTION CONTRACTS ACT 2002

