

## New Standard Form Subcontract

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A new standard form subcontract has been released by Standards Australia to be used in conjunction with the recent AS4000 standard form contract.

AS4901-1998, which was released on 5 September 1998, is presented in an easy-to-read format and uses straightforward language. It is specifically tailored for use with AS4000, and like AS4000, it should be adapted and amended to suit the unique features of the particular project.

AS4901 is a clearer and shorter contract than its predecessor, AS2545, with greater reliance on the Annexure. It has 44 clauses contained in 43 pages.

Clients planning to use AS4901 instead of AS2545 should be aware of the following changes:

- AS4000 introduced the term WUC for “*Work under Contract*”. In AS4901 this becomes WUS, for “*Work under Subcontract*”;
- AS2545 used the term “*Substantial Completion*”. This distinguished completion of the Subcontract Works from Practical Completion of the whole of the Works by the Main Contractor. AS4901 has removed the term Substantial Completion and replaced it with “*Practical Completion*”;
- AS4901 introduces the new concept of a “*Subcontract Superintendent*”. This person is appointed by the Main Contractor who has a duty to ensure “*that the Subcontract Superintendent fulfils all aspects of the role and functions reasonably and in good faith*”. The Subcontract Superintendent replaces the “*Main Contractor’s Representative*” who had a significant role under AS2545;
- As in AS4000, there is a lot more use of the concept of a “*deemed variation*” - for example, latent conditions (clause 25.3), acceptance of defective work (clause 29.4) and reinstatement of damage (clause 14.2).

Since approximately 90% of all work on a typical construction project is carried out by subcontractors, it is important to ensure that the subcontract documentation is in order. AS4901 will assist greatly in this task.

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