

When can the Contractor claim an EOT and delay costs under AS 2124?

Cause of delay	EOT	Delay costs	Clause Reference
Industrial conditions occurring on or before the Date for Practical Completion	✓	✗	35.5(a)
Inclement weather occurring on or before the Date for Practical Completion	✓	✗	35.5(a)
Delays caused by the Principal, the Superintendent or the Principal's employees, consultants, other contractors or agents	✓	✓	35.5(b)(i), 36
Quantities of work being greater than the quantities in the Bill of Materials or as stated in the Annexure (other than a variation)	✓	Possibly, depending on how Annexure A is completed and subject to clause 4.4	35.5(b)(ii)
Latent condition	✓	✓	12.3, 35.5(b)(iii)
Variations directed under clause 40	✓	✓	35.5(b)(iv), 40
Repudiation or abandonment by a Nominated Subcontractor	✓	✗	35.5(b)(v)
Change in the law	✓	✓	14.1, 35.5(b)(vi)
Directions by municipal, public or statutory authorities but not where the direction arose from the failure of the Contractor to comply with a requirement referred to in clause 14.1	✓	Probably (but see clauses 14.1 and 14.2)	14.2(b), 35.5(b)(vii)
Delays by municipal, public or statutory authorities not caused by the Contractor	✓	✗	35.5(b)(viii)
Claims in respect of the right of the Principal to construct the work under the Contract on the Site (see clause 17.1(v))	✓	✓	35.5(b)(ix), 17.2
Any breach of Contract by the Principal	✓	✓	35.5(b)(x), 36, 44.9
Suspension by the Superintendent	Probably ¹	Probably ²	34, 35.5(b)(i)
Any inconsistency, ambiguity or discrepancy in any contract documents	✓	✓	8.1, 35.5(b)(i)
Disturbance of a survey mark by the Superintendent or other person given access to the Site by the Superintendent	✓	✓	28.2, 35.5(b)(i), 36
Rectifying an error in setting out caused by incorrect information, survey marks or data supplied by the Superintendent	✓	✓	28.3, 35.5(b)(i), 36
Any other cause outside the Contractor's reasonable control	Yes if on or before the Date for Practical Completion. Otherwise no.	✗	35.5(a)

1 Suspension itself does not give rise to an EOT, however, the cause of suspension may be grounds for an EOT.

2 Costs for delays can be claimed if the suspension is due to an act or omission of the Principal, the Superintendent or an employee, consultant or agent of the Principal.