

Professional practice  
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# FORCE MAJEURE

## **What is force majeure?**

A way of providing for the occurrence of natural disasters and other unexpected events and the effect they have on performance of commercial agreements.

Excuses a party from (or entitles it to suspend) performance of contract if an unexpected event occurs or if circumstances prevail that are outside the party's control (force majeure).

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Most well drafted commercial contracts contain a force majeure clause.

This sets out the extent to which performance of obligations is excused if a force majeure event occurs.

Without a force majeure clause parties must rely on legal doctrine of frustration but this only applies in very limited circumstances.

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Factors to consider:

- Your role under the contract.
- Circumstances most relevant to the contract.
- Particular Risks.

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If you are the party likely to rely on the force majeure clause you will want definition of force majeure event to be as wide as possible.

If you are less likely to rely on the force majeure clause you will want to keep to a minimum the circumstances where the other party is excused from obligations.