
DRAFT STATUTORY INSTRUMENTS

2022 No.

The Construction Contracts (England) Exclusion Order 2022

Direct procurement for customers projects

3.—(1) A construction contract is excluded from the operation of Part II of the Act if it is a contract for the delivery of a direct procurement for customers project.

(2) A contract is a contract for the delivery of a direct procurement for customers project if all the following conditions are fulfilled—

- (a) it contains a statement that it is such a contract;
- (b) one of the parties to the contract is a sewerage undertaker or a water undertaker;
- (c) the construction operations are in respect of an infrastructure project that is designated by the Water Services Regulation Authority as a direct procurement for customers project in accordance with the conditions of appointment of the sewerage undertaker or the water undertaker;
- (d) the consideration due under the contract consists at least in part of regular payments that—
 - (i) are determined in part by reference to the actual cost of the construction operations; and
 - (ii) become payable after at least one part of the construction operations is completed and is capable of performing a sewerage or water service.

(3) In paragraph (2)—

- (a) construction operations means the construction operations to which the contract relates; and
- (b) sewerage undertaker and water undertaker mean a sewerage undertaker or water undertaker, as the case may be, appointed under section 6(1) of the Water Industry Act 1991⁽¹⁾.