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DRAFT STATUTORY INSTRUMENTS

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**2022 No.**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Government (Exclusion of Non-commercial Considerations) (England) Order 2022**

*Made* - - - - - \*\*\*

*Coming into force* \*\*\*

The Secretary of State for Levelling Up, Housing and Communities makes this Order in exercise of the powers conferred by section 19(1) and (2) of the Local Government Act 1999(a) (“the 1999 Act”).

In accordance with section 19(3) of the 1999 Act, a draft of this Order has been laid before and approved by resolution of each House of Parliament.

**Citation, commencement, extent and application**

**1.**—(1) This Order may be cited as the Local Government (Exclusion of Non-commercial Considerations) (England) Order 2022.

(2) This Order comes into force on the day after the day on which the Order is made.

(3) This Order extends to England and Wales and applies to England only.

**Interpretation**

**2.** In this Order—

“the 1988 Act” means the Local Government Act 1988(b);

“public supply or works contracts” has the meaning at section 17(3) of the 1988 Act.

**Matters not to be non-commercial matters in relation to best value authorities and parish councils**

**3.** The matters specified in section 17(5)(e) of the 1988 Act (local and other public authority contracts: exclusion of non-commercial considerations) cease to be non-commercial matters for the purposes of section 17 of that Act in respect of the exercise of the functions regulated by that

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(a) 1999 c. 27. Section 19 was moved to a new heading by section 136 of and paragraph 2(2) of Schedule 7 to the Local Government and Public Involvement in Health Act 2007 (c. 28).

(b) 1988 c. 9.

section by a best value authority<sup>(a)</sup> or by a parish council in relation to any of its proposed or subsisting public supply or works contracts where—

- (a) the country or territory of origin of supplies to the contractor is the Russian Federation or the Republic of Belarus, or
- (b) the location of the business activities or interests of a contractor is the Russian Federation or the Republic of Belarus.

Signed by authority of the Secretary of State for Levelling up, Housing and Communities

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Levelling Up, Housing and Communities

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Section 17(5) of the Local Government Act 1988 (c. 9) (the “1988 Act”) contains a list of matters (non-commercial matters) by reference to which public authorities may not exercise the functions listed in section 17(4) of that Act, which include functions in relation to proposed public supply or works contracts with the authority.

This Order provides for certain matters specified in the Order to cease to be non-commercial matters for the purposes of section 17 of the 1988 Act. The matters concerned are contracts under which supplies originate in the Russian Federation or the Republic of Belarus or where the location of the business activities or interests of a contractor is the Russian Federation or the Republic of Belarus.

This Order applies to all best value authorities within the meaning of section 1 of the Local Government Act 1999 (c. 27) and parish councils in England. The Order allows for these authorities to take comparable action to central Government departments, executive agencies and non-departmental public bodies, as set out in the Cabinet Office Procurement Policy Note – Contracts with Suppliers from Russia and Belarus (PPN 01/2022). PPN 01/2022 is available at <https://www.gov.uk/government/publications/procurement-policy-note-0122-contracts-with-suppliers-from-russia-and-belarus>.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

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(a) “Best value authorities” are defined at section 1 of the Local Government Act 1999 (c. 27).



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