
STATUTORY INSTRUMENTS

1998 No. 648

The Construction Contracts (England and Wales) Exclusion Order 1998

Private finance initiative

4.—(1) A construction contract is excluded from the operation of Part II if it is a contract entered into under the private finance initiative, within the meaning given below.

(2) A contract is entered into under the private finance initiative if all the following conditions are fulfilled—

- (a) it contains a statement that it is entered into under that initiative or, as the case may be, under a project applying similar principles;
- (b) the consideration due under the contract is determined at least in part by reference to one or more of the following—
 - (i) the standards attained in the performance of a service, the provision of which is the principal purpose or one of the principal purposes for which the building or structure is constructed;
 - (ii) the extent, rate or intensity of use of all or any part of the building or structure in question; or
 - (iii) the right to operate any facility in connection with the building or structure in question; and
- (c) one of the parties to the contract is—
 - (i) a Minister of the Crown;
 - (ii) a department in respect of which appropriation accounts are required to be prepared under the Exchequer and Audit Departments Act 1866⁽¹⁾;
 - (iii) any other authority or body whose accounts are required to be examined and certified by or are open to the inspection of the Comptroller and Auditor General by virtue of an agreement entered into before the commencement date or by virtue of any enactment;
 - (iv) any authority or body listed in Schedule 4 to the National Audit Act 1983⁽²⁾ (nationalised industries and other public authorities);
 - (v) a body whose accounts are subject to audit by auditors appointed by the Audit Commission;
 - (vi) the governing body or trustees of a voluntary school within the meaning of section 31 of the Education Act 1996⁽³⁾ (county schools and voluntary schools), or
 - (vii) a company wholly owned by any of the bodies described in paragraphs (i) to (v).

(1) 1866 c. 39.

(2) 1983 c. 44: amended by the [Telecommunication Act 1984](#), (c.12) Schedule 7, Part III; the [Oil and Pipelines Act 1985](#) (c. 12) Schedule 4, Part II; the [Broadcasting Act 1990](#), (c.42) Schedule 20, paragraph 36, S.I.1991/510, article 5(4) and the [Coal Industry Act 1994](#), (c.21) Schedule 9, paragraph 29.

(3) 1996 c. 56.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
