

Resources:

Legislation

Specific construction payment and dispute resolution legislation creates a framework for fair and prompt payment through the construction supply chain, and a resolution procedure for disputes. The main pieces of legislation work together to create a statutory framework in England:

- Part 2 of the [Housing Grants, Construction and Regeneration Act 1996](#) (the 'Construction Act'). Amended by Part 8 of the [Local Democracy, Economic Development and Construction Act 2009](#).
- [The Scheme for Construction Contracts \(England and Wales\) Regulations 1998](#). Amended by [the Scheme for Construction Contracts \(England and Wales\) Regulations 1998 \(Amendment\) \(England\) Regulations 2011](#).
- [The Construction Contracts \(England and Wales\) Exclusion Order 1998](#), [the Construction Contracts \(England\) Exclusion Order 2011](#) and the most recent [Construction Contracts \(England\) Exclusion Order 2022](#).

[The Late Payment of Commercial Debts \(Interest\) Act 1998](#) has two purposes. Firstly, to compensate creditors for the late payment of debts. Secondly, to deter late payment. You can claim interest and debt recovery costs if another business is late paying for goods or a service. Further information can be found [here](#).

The [Reporting on Payment Practices and Performance Regulations 2017](#) and [Limited Liability Partnerships \(Reporting on Payment Practices and Performance\) Regulations 2017](#) make it a requirement for large businesses that meet certain criteria to report their payment performance publicly through GOV.UK. A further [draft Statutory Instrument \(SI\)](#) was laid on 10 January 2024, to come into force from April 2024. This will extend the Regulations for a further 7 years, and introduce some new reporting metrics.

The [Government response](#) to the public consultation on the amendments to the Payment Practices and Performances Regulations 2017 was published alongside the Autumn Statement 2023, and confirmed the introduction of a requirement for qualifying businesses that are parties to construction contracts to report on their retention payment policy and key statistics in relation to retentions. Legislation for the new retention reporting requirements is expected to be laid before Parliament in 2024.

Public Sector

The Transforming Public Procurement Programme aims to improve the way public procurement is regulated. The Procurement Bill, which will reform the existing Procurement Rules, has now received [Royal Assent](#). The new regime will commence in October 2024 and [further information and guidance](#) is available.

From October 2024, the Procurement Act will mandate that all public procurement contracts include a 30-day payment term, which is implied into contracts even if not explicitly written into them. This term will also extend to any subcontracts that are wholly or substantially meant to contribute to the performance of a public contract. This [change](#) will apply to the entire supply chain. Invoices will have to be paid within 30 days of receipt, not when they are validated. Furthermore, contracting authorities will be required to publish Payments Compliance Notices every six months. The notices will detail the authority's compliance with paying invoices within 30 days of receiving the invoice. This will align public sector payment reporting with the private sector.

As a buyer or commissioner of supplies, services and works for the public sector you need to understand and be able to readily access the regulations and policies relating to procurement. The Crown Commercial Service (CCS) is responsible for the legal framework for public sector procurement and leads on the development and implementation of [procurement policies](#) for government. This includes the [Public Contracts Regulations 2015](#).

The [Public Procurement Review Service](#) (formerly known as the Mystery Shopper Service) sits within the Cabinet Office and allows government suppliers and potential government suppliers to raise concerns anonymously about potentially poor public sector procurement practice.

[Procurement Policy Notes](#) (PPNs) provide best practice guidance for procurement for public sector organisations, together with supporting documentation. Specific PPNs include:

- [PPN 05/15](#): Prompt payment and performance reporting
- [PPN 10/23](#): Taking account of a bidder's approach to payment in the procurement of major contracts

The [Construction Playbook](#) sets out key policies and guidance for how public works projects and programmes are assessed, procured and delivered. These are set out in 14 key policies for how the government should assess, procure and deliver public works projects and programmes which all central government departments and their arms length bodies are expected to follow on a 'comply or explain' basis.

Initiatives

[Build UK](#) collates the latest data on the payment performance of the largest companies in the construction sector and central Government in order to provide transparency for the industry.

The [Private Sector Construction Playbook](#) has been developed by the industry, for the industry, to help drive a step change in the way projects are commissioned, procured, and delivered.

The [Prompt Payment Code](#) is a voluntary code of practice for companies of any size. It is administered by the Office of the Small Business Commissioner on behalf of Department for Business and Trade (DBT). It was established in December 2008 and sets standards for payment practices between organisations of any size and their suppliers.

The [Office of the Small Business Commissioner](#) is an independent public body set up by Government under the Enterprise Act 2016 to tackle late payment and unfavourable payment practices in the private sector. Complaints from the construction sector or work undertaken under the Housing Grants, Construction and Regeneration Act 1996, are outside the remit of the Small Business Commissioner. General advice and signposting is available.