

8 New and proposed legislation

This table, prepared by **Dentons UK and Middle East LLP**, provides a regularly amended guide to new and proposed legislation that will affect the construction industry. In addition to EU Directives and UK legislation, the table includes notes highlighting discussion papers issued by both government and non-government organisations, and commentary on the latest developments.

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Subject area	Title and reference	Comments
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UK

Regulatory, quality control	CIOB consults on draft Code of Quality Management	<p>Recognising that changes are needed in how the industry controls quality, the Chartered Institute of Building (CIOB) has published a draft Code of Quality Management. The aim is to highlight quality issues across the construction process and offer guidance on best practice in construction quality management.</p> <p>As part of a rigorous editing and design process, the CIOB wants 'a code that is produced by industry, for industry' and has sought views from its members and the wider construction industry. It intends to add a Quality Management Plan Template.</p>
Supply chain	Government Supplier Code of Conduct v2	<p>Government has updated its Supplier Code of Conduct v2 (February 2019). In its first edition, issued in 2017, the government acknowledged its reliance on suppliers to assist in its delivery of public services – and the need for relationships based on trust. In the update, the government has committed to further help build that trust and deliver value. See the commentary for more information.</p>
Infrastructure	National Infrastructure and Construction Pipeline 2018	<p>A copy of The National Infrastructure Commission (NIC)'s two-page summary of the National Infrastructure and Construction Pipeline 2018 is now available on its website, alongside a full analysis published in November 2018.</p> <p>The 2018 pipeline contains over £600bn of projected public and private investment to 2027–28, including over £400bn of planned investment.</p>
Infrastructure	NIC's Annual Monitoring Report 2019	<p>The National Infrastructure Commission (NIC)'s second Annual Monitoring report was published on 22 February. The report assesses the government's actions against recommendations made by the NIC. NIC chairman Sir John Armitt has urged the government not to 'take their eye off the ball' and 'to go even further and faster to help meet the country's [infrastructure] needs both for now and into the future'.</p>
Procurement	New procurement policy against corruption	<p>The government has issued a new Procurement Policy Note (PPN 01/19) to:</p> <ul style="list-style-type: none"> remind in-scope organisations of their obligations in applying exclusions and managing conflicts of interest in public procurement; and signpost a whistleblowing framework for civil servants concerned about wrongdoing in procurement. <p>PPN 01/19 applies to all central government departments, executive agencies and non-departmental public bodies as well as the wider public sector (such as local authorities and NHS bodies) carrying out public procurement processes for utilities and concession contracts.</p>
Brexit	New guidance	<p>Recent guidance published to help businesses prepare for the UK's exit from the EU includes:</p> <ul style="list-style-type: none"> The Construction Leadership Council's 'No Deal contingency Planning Report Labour: and Skills recommendations and actions', issued on 22 February. Building on and collating work done by major trade bodies and major employers, the report makes recommendations on how the industry can work with the government to minimise disruption to the industry whether there is a deal or no deal. The recommendations include a call for the government to make some changes to the proposed future immigration system; and Build UK's 'Deal or No Deal: Are you Ready for Brexit' guidance which summarises the latest information available. The Build UK guide also refers to: <ul style="list-style-type: none"> the government's Business Readiness Tool (Prepare your business for the UK leaving the UK); and the HMRC 'Partnership Pack: preparing for changes at the UK Border after leaving the UK'.
Standards	New International Organization for Standardization (ISO) standards for BIM	<p>The British Standards Institution (BSI) has published two International Organization for Standardization (ISO) standards for building information modelling (BIM): the first two parts of ISO 19650.</p> <ul style="list-style-type: none"> BS EN ISO 19650-1: 'Organisation and digitization of information about buildings and civil engineering works, including building information modelling (BIM) – Information management using building information modelling. Part 1: Concepts and principles'; and BS EN ISO 19650-2: 'Organisation and digitization of information about buildings and civil engineering works, including building information modelling (BIM) – Information management using building information modelling. Part 2: Delivery phase of the assets'.

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Construction – payments	Construction (Retention Deposit Schemes) Bill	The second reading of the Construction (Retention Deposit Schemes) Bill was due to take place on 22 March. The Bill seeks to make provision about protecting retention deposits in connection with construction contracts. Its second reading has been repeatedly delayed since its introduction by MP Peter Aldous early in 2018.
Procurement	Scottish PBA revised thresholds	The Scottish government has reduced the threshold over which public works contracts must use a project bank account (PBA). From 19 March 2019, documents must provide for a PBA on projects with an estimated award value of over £2m for building projects (reduced from just over £4m) and £5m for civil engineering projects (previously £10m).
Procurement	Government Outsourcing Playbook	Government has published an Outsourcing Playbook to improve government procurement and deliver better public services. The government says it wants to get more projects right from the start, 'to engage with a diverse and healthy marketplace of companies and [be] ready for the rare occasions when things go wrong'. Aimed at those Commercial, Finance and Project Delivery professionals in central government responsible for planning and delivering outsourcing projects, the Playbook changes how government allocates risk between itself and its suppliers, 'to ensure contracts are set up for success'. New complex contracts will be tested with private sector pilots before a full roll-out and there will be a strong focus on establishing partnerships based on mutual trust and positive outcomes. The new guidelines will help those responsible to avoid common errors that occur on outsourcing projects.

Building trust: Supplier Code of Conduct v2

The Government Commercial Function has updated its Supplier Code of Conduct v2 and, in doing so, has underlined its commitment to work with suppliers to build trust to deliver better public services and better value. The code is split into three sections:

Employees and service users

The code requires suppliers to comply with the law, respect human rights, treat employees fairly, behave professionally and meet the needs of vulnerable public contracts users (such as those with physical disabilities).

Business practices

Under the code, the government commits to promote a culture of collaboration, underlines its understanding of the need to ensure the quality of data and commits to sharing its pipelines and plans in advance. Suppliers are expected to help the government to allocate risk appropriately (and not to pass inappropriate risks to their own sub-contractors); have plans in place to ensure continuation of services in the event of supply chain insolvencies; innovate and strive for continuous improvement; and provide value for taxpayers' money – including pricing contracts to deliver sustainable value

throughout their lifetime. Suppliers should also ensure cyber security; support the government in its obligations under social value legislation (such as the targets set out in the 25-year Environment Plan); be transparent when helping the government to deliver environmental impact reports; protect confidential information when required; and avoid conflicts of interest.

Standards of behaviour

The government expects the highest behavioural standards from suppliers of publicly funded goods and services who should have governance and processes in place to monitor adherence. Suppliers should: comply with the UK Corporate Governance Code; be transparent in all their dealings; deal fairly with their own sub-contractors; comply with anti-corruption laws; and ensure their own supply chains also comply.

The code's 2019 update makes fair payment a priority with the expectation that suppliers will pay sub-contractors within 30 days (on government contracts) or comply with the Prompt Payment Code (on other contracts).

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