



Code for the Tendering and Performance of Building Work Amendment (Infrastructure Exemptions) Instrument 2017

I, Michaelia Cash, Minister for Employment, make the following instrument.

Dated 17 August 2017

Michaelia Cash
Minister for Employment

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1 Name

This instrument is the *Code for the Tendering and Performance of Building Work Amendment (Infrastructure Exemptions) Instrument 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	22 August 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 34 of the *Building and Construction Industry (Improving Productivity) Act 2016*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Code for the Tendering and Performance of Building Work 2016

1 Subsection 3(1)

Insert:

essential services infrastructure: see subsection 6B(5).

infrastructure exemption: see subsection 6B(2).

2 After section 6A

Insert:

6B Exemption for essential services infrastructure

Applying for exemptions

- (1) A building contractor or building industry participant may apply to the ABC Commissioner for an exemption from this code of practice.
- (2) The ABC Commissioner must grant the exemption (the *infrastructure exemption*) if the Commissioner is satisfied that:
 - (a) the principal business of the building contractor or building industry participant involves performing work for the provision of essential services related to supply of electricity, natural gas, water, waste water, or telecommunications; and
 - (b) the principal building work of the building contractor or building industry participant involves performing work for the provision of essential services infrastructure.
- (3) An infrastructure exemption must be issued in writing and applies:
 - (a) for the period specified in the exemption; or
 - (b) if no period is specified, until it is revoked.

Revoking exemptions

- (4) The ABC Commissioner must revoke an infrastructure exemption (including an exemption issued for a specified period) if the Commissioner is satisfied that paragraph (2)(a) or (b) no longer applies in relation to the building contractor or building industry participant.

Meaning of essential services infrastructure

- (5) *Essential services infrastructure* means systems or networks:
 - (a) to which consumers can connect for supply of electricity, natural gas, water, waste water, or telecommunications; and
 - (b) that:
 - (i) are important for the life, the personal safety or health, or the welfare, of the population or a significant part of it; or

- (ii) make a significant contribution to the Australian economy or an important part of it.

Effect of infrastructure exemption

- (6) If a building contractor or building industry participant is a code covered entity the effect of an infrastructure exemption is that the entity is deemed to not be a code covered entity while the exemption applies.
- (7) If a building contractor or building industry participant is not a code covered entity the effect of an infrastructure exemption is that section 6 does not apply while the infrastructure exemption applies.