



# **Code for the Tendering and Performance of Building Work Amendment (Exemptions) Instrument 2019**

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I, Kelly O'Dwyer, Minister for Jobs and Industrial Relations, make the following instrument.

Dated 18 March 2019

Kelly O'Dwyer  
Minister for Jobs and Industrial Relations

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## 1 Name

This instrument is the *Code for the Tendering and Performance of Building Work Amendment (Exemptions) Instrument 2019*.

## 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.	21 March 2019

Note: This table relates only to the provisions of this instrument as originally made.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 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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) (definition of *commonwealth funded building work*)**

Repeal the definition, substitute:

***Commonwealth funded building work*** means building work described in any of items 1 to 8 of Schedule 1, other than building work to which item 10 of that Schedule applies.

#### **2 Subsection 3(1)**

Insert:

***intelligence or security agency*** has the same meaning as in section 85ZL of the *Crimes Act 1914*.

***security*** has the same meaning as in the *Australian Security Intelligence Organisation Act 1979*.

#### **3 Subsection 6(3)**

After “described in”, insert “any of items 1 to 9 of”.

#### **4 Subsections 26(1), (2), (3), (4), (7) and (8)**

Omit “building work with”, substitute “Commonwealth funded building work with”.

#### **5 Item 9 of Schedule 1**

Repeal the item, substitute:

- 9 Building work (***privately funded building work***):
- (a) whose funding is not described in any of items 1 to 8; or
  - (b) whose funding is described in any of those items, if it is building work to which item 10 applies.
- 10 This item applies to building work for which both of the following conditions are met:
- (a) the building work forms part of a project to support the operations of an intelligence or security agency;
  - (b) a Minister, who administers the provision of the Act under which the agency exists or the Department that the agency forms part of, has determined in writing that disclosing the connection of the Commonwealth with the work or project would prejudice security.