

[AS INTRODUCED]

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Make provision for the abolition within construction contracts of the practice of allowing the paying party to withhold, as security against the risk of contractual non-performance by the other party, sums which would otherwise be due; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Prohibition of provisions allowing retentions

- (1) The Housing Grants, Construction and Regeneration Act 1996 is amended as follows.
- (2) After section 113, insert—

“113A Prohibition of provisions allowing retention of sums otherwise due 5

- (1) Any clause in a construction contract, entered into after the passing of the Construction (Retentions Abolition) Act 2021, which enables a payer to withhold retentions is of no effect.
- (2) After the coming into force of the Construction (Retentions Abolition) Act 2021, any retentions withheld must be paid in full, no later than 10
7 working days after the date on which they were due but withheld, by the payer to the payee.
- (3) In this section—
“construction contract”, in addition to the meaning given by 15
section 104, also includes any additional contract created to have a similar effect for the purposes of withholding monies which would otherwise be due under the primary contract to provide the payer with security for the current and future performance by the payee of any or all of the latter’s obligations under the primary contract; 20
“retentions” means monies which are withheld from monies which would otherwise be due under a construction contract, the effect of which is to provide the payer with security for the current and future performance by the payee of any or all of the latter’s obligations under the contract.” 25

2 Extent, commencement and short title

- (1) This Act extends to England and Wales.
- (2) This Act comes into force on 1 January 2025.
- (3) This Act may be cited as the Construction (Retentions Abolition) Act 2021.

Construction (Retentions Abolition) Bill [HL]

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Lord Aberdare

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