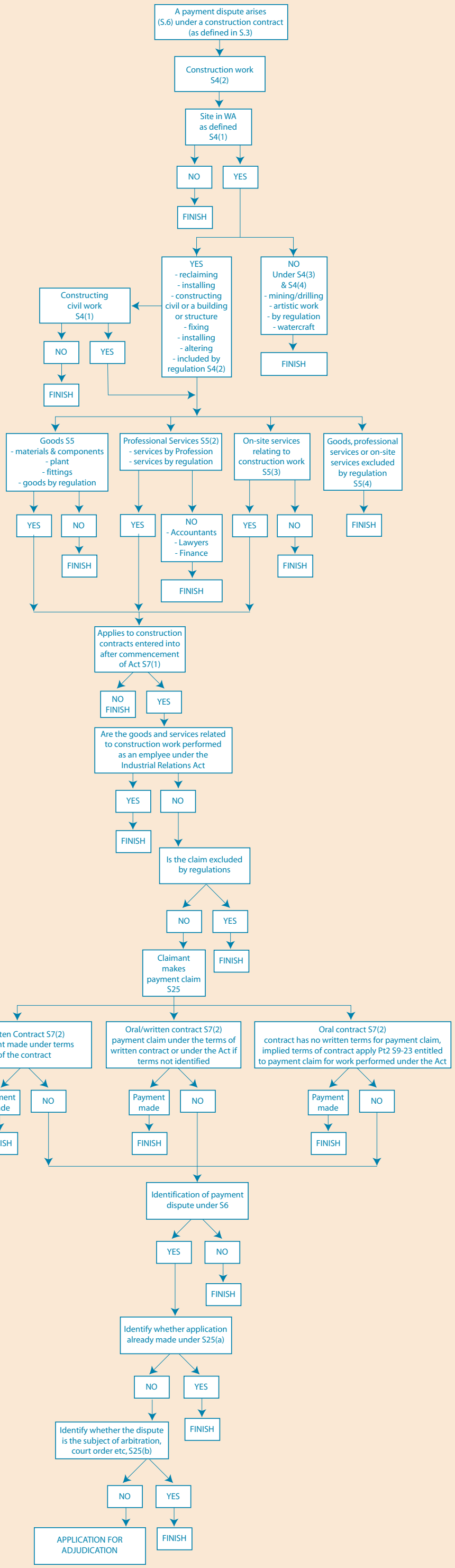does the act apply?