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WELSH STATUTORY INSTRUMENTS

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**2023 No. 475**

**The Construction Contracts (Exclusion) (Wales) Order 2023**

**Direct procurement for customers projects**

3.—(1) Part 2 of the Act does not apply to a construction contract that fulfils the following conditions—

- (a) it contains a statement that it is such a contract;
- (b) one of the parties to the contract is a sewerage undertaker or a water undertaker;
- (c) the construction operations to which the contract relates concern an infrastructure project that is designated by the Water Services Regulation Authority as a direct procurement for customers' project in accordance with the conditions of appointment of the sewerage undertaker or the water undertaker;
- (d) the consideration due under the contract consists, at least in part, of regular payments that—
  - (i) are determined in part by reference to the actual cost of the construction operations to which the contract relates, and
  - (ii) become payable after at least one part of those construction operations is completed and is capable of performing a sewerage or water service.

(2) In paragraph (1), “sewerage undertaker” and “water undertaker” mean a sewerage undertaker or water undertaker, as the case may be, appointed under section 6(1) of the Water Industry Act 1991<sup>(1)</sup>.