
EXPLANATORY NOTE

(This note is not part of the Order)

Part 2 of the Housing Grants, Construction and Regeneration Act 1996 (“the Act”) makes provision as regards the terms of construction contracts and related matters. Section 106A(2) of that Act confers power on the Welsh Ministers to disapply, by order, any or all provisions of Part 2 (so far as extending to England and Wales) in relation to any description of construction contracts concerning the carrying out of specified construction operations in Wales.

Article 3 disapplies Part 2 of the Act in relation to certain infrastructure project contracts in Wales where a party to the contract is a sewerage or water undertaker, subject to the following requirements. The contract must relate to a project designated by the Water Services Regulation Authority as a direct procurement for customers project in accordance with the conditions of the relevant undertaker’s appointment. Such contracts must also involve the making of regular payments by reference to actual costs incurred and which become due after one or more parts of the construction operations are completed and can perform a sewerage or water service.

Article 4 disapplies section 110(1A) of the Act in relation to the kind of contract referred to, above, where a party to that contract enters into a sub-contract. Section 110(1A) of the Act provides that the requirement that contracts provide an adequate mechanism for establishing what payments become due and when under the contract is not met if payment is conditional on obligations being performed under another contract.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from Water Branch, Climate Change & Rural Affairs, Welsh Government, Cathays Park, CF10 3NQ.