

Draft Order laid before the National Assembly for Wales under section 19 of the Public Bodies Act 2011, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2012 No. (W.)

PUBLIC BODIES

**WATER INDUSTRY, ENGLAND AND
WALES**

**FEES AND CHARGES, ENGLAND AND
WALES**

**The Public Bodies (Water Supply
and Water Quality) (Inspection
Fees) Order 2012**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for fees to be payable by a relevant water supplier for the carrying out of certain functions under the Water Industry Act 1991 by an inspector appointed by the Welsh Ministers under that Act. The functions are related to the following investigations and reporting requirements—

- (a) checking water sampling and analysis arrangements;
- (b) checking water supply management arrangements;
- (c) investigating an event, incident, emergency or other matter arising from the quality or sufficiency of water;
- (d) checking the handling and reporting of consumer complaints about water quality; and
- (e) checking compliance with requirements to furnish information to, or to notify, the Welsh Ministers concerning these arrangements and matters.

This Order sets out the circumstances and manner in which fees are payable, approved, published and reviewed (article 4 and the Schedule).

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 the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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and Water Quality) (Inspection
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Made

Coming into force in accordance with article 1

The Welsh Ministers make the following Order in exercise of the powers conferred by sections 14(3) and 15(1) of the Public Bodies Act 2011⁽¹⁾ (“the Act”).

For the purposes of section 16 of the Act, the Welsh Ministers consider that—

- (a) this Order serves the purpose referred to in section 16(1) of the Act; and
- (b) the conditions in section 16(2)(a) and (b) of the Act are satisfied.

The Welsh Ministers have consulted in accordance with section 18 of the Act.

A draft of this Order and an explanatory document containing the information required by section 19(2) of the Act have been laid before the National Assembly

⁽¹⁾ 2011 c.24.

for Wales in accordance with section 19(1) after the end of the period of twelve weeks as specified in section 19(3). In accordance with section 19(4) of the Act, a draft of this Order has been approved by a resolution of the National Assembly for Wales after the expiry of the 40-day period referred to in that provision.

Title, commencement and extent

1.—(1) The title of this Order is the Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012.

(2) It comes into force on the day after the day on which it was made.

(3) It extends to England and Wales.

Interpretation

2.—(1) In this Order—

“the 1991 Act” (*“Deddf 1991”*) means the Water Industry Act 1991⁽¹⁾;

“Chief Inspector” (*“Prif Arolygydd”*) means the person designated as such under section 86(1B) of the 1991 Act;

“inspector” (*“arolygydd”*) means a person appointed by the Welsh Ministers under section 86(1) of the 1991 Act (assessors for the enforcement of water quality)⁽²⁾;

“relevant water supplier” (*“cyflenwr dŵr perthnasol”*) means—

- (a) a water undertaker⁽³⁾ whose area is wholly or mainly in Wales; or
- (b) a company which is the holder of a water supply licence within the meaning of section 17A of the 1991 Act (licensing of water suppliers) that uses the supply system of any

(1) 1991 c.56.

(2) Section 86 was amended by section 57 and section 101(1) of, and paragraph 27 of Schedule 8 to the Water Act 2003 c.37. There are other amending instruments but none are relevant. The functions under section 86 (except subsection (1A)) were made exercisable by the National Assembly for Wales (“the Assembly”) to the same extent as the powers, duties and other provisions to which section 86 applies are exercisable by the Assembly by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the Order”); see the entry in Schedule 1 of the Order for the Water Industry Act 1991 as substituted by paragraph (e) of Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) and amended by Section 100(2) of the Water Act 2003. By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 c.32, these functions conferred on the Assembly are exercisable by Welsh Ministers.

(3) See Schedule 1 to the Interpretation Act 1978 c.30.

water undertaker whose area is wholly or mainly in Wales; and

“supply system” (“*system gyflenwi*”) shall be construed in accordance with section 17B(5) of the 1991 Act.

(2) In this Order references to “the table” (“*y tabl*”) are to the table in the Schedule.

The chargeable period

3.—(1) In this Order the number of chargeable periods shall be calculated based on the following formula—

$$C = \frac{T}{7}$$

where—

“C” is the number of chargeable periods; and

“T” is the total time (expressed in hours) during which an inspector performs a function specified in paragraph (b), (c) or (d) of column 1 of the table on a calendar day.

(2) For the purposes of calculating “T” if the function is performed by more than one inspector, that total time taken by each inspector shall be aggregated.

Fees

4.—(1) The Chief Inspector may charge a relevant water supplier a fee, payable on invoice, for the exercise of such functions of an inspector under section 86(2) of the 1991 Act as are specified in column 1 of the table.

(2) The Chief Inspector must determine the fee in accordance with the corresponding entry in column 2 of the table.

(3) The rates to be applied to the determination of the fee referred to in column 2 of the table must be fixed by the Chief Inspector and—

- (a) be approved by the Welsh Ministers;
- (b) be published by the Welsh Ministers (which must include publication on a website), and
- (c) be reviewed by the Welsh Ministers on or before 30 June in each calendar year following the calendar year in which the fee was last approved by the Welsh Ministers under sub-paragraph (a).

(4) Any fees received under this Order must be paid into the Consolidated Fund.

Name

Minister for Environment and Sustainable
Development, one of the Welsh Ministers

Date

SCHEDULE

Article 4

FEES FOR THE PERFORMANCE OF FUNCTIONS UNDER SECTION 86 WATER INDUSTRY ACT 1991

Table

<i>1</i>	<i>2</i>
<i>Function</i>	<i>Fee</i>
<p>(a) Checking that the sampling and analysis arrangements for water samples collected by the relevant water supplier comply with—</p> <p>(i) the Water Supply (Water Quality) Regulations 2010⁽¹⁾;</p> <p>(ii) section 68 of the 1991 Act; and</p> <p>(iii) any requirements for sample data required to be provided under section 202 of the 1991 Act.</p>	<p>A fee to be calculated using the rate—</p> <p>(i) fixed for each group of 100 water sample results received and checked; and</p> <p>(ii) multiplied by the total number of each such group.</p>
<p>(b) Checking that—</p> <p>(i) the relevant water supplier's water supply management arrangements comply with—</p> <p>(aa) the Water Supply (Water Quality) Regulations 2010;</p> <p>(bb) section 37 of the 1991 Act;</p> <p>(cc) section 68 of</p>	<p>A fee to be calculated using the rate—</p> <p>(i) fixed for each chargeable period; and</p> <p>(ii) multiplied by the total number of chargeable periods spent performing the function.</p>

⁽¹⁾ S.I. 2010/994 (W.99) as amended by S.I. 2011/14 (W.7).

the 1991 Act; and
(ii) the relevant water supplier has complied with any requirement of the Welsh Ministers to furnish information about these arrangements under section 202 of the 1991 Act.

- (c) In relation to a relevant water supplier—
- (i) Investigating an event, incident, emergency or other matter where any of those matters indicate that the water supplier may not have complied with—
 - (aa) the Water Supply (Water Quality) Regulations 2010;
 - (bb) section 37 of the 1991 Act;
 - (cc) section 68 of the 1991 Act; and
 - (ii) checking that such an event, incident, emergency or other matter has been notified by the relevant water supplier in compliance with any requirement of the Welsh Ministers to furnish such information under section
- A fee to be calculated using the rate—
- (i) fixed for each chargeable period; and
 - (ii) multiplied by the total number of chargeable periods spent performing the function.

202 of the 1991 Act.

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| <p>(d) In relation to a relevant water supplier-</p> <p>(i) investigating a consumer complaint about the quality or sufficiency of water where the complaint indicates that the water supplier may not have complied with—</p> <p>(aa) The Water Supply (Water Quality) Regulations 2010;</p> <p>(bb) section 37 of the 1991 Act;</p> <p>(cc) Section 68 of the 1991 Act ; and</p> <p>(ii) checking that any requirement of the Welsh Ministers to furnish information about such complaints under section 202 of the 1991 Act has been complied with.</p> | <p>A fee to be calculated using the rate—</p> <p>(i) fixed for each chargeable period; and</p> <p>(ii) multiplied by the total number of chargeable periods spent performing the function.</p> |
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