WELSH STATUTORY INSTRUMENTS

2012 No. 3101 (W.314)

PUBLIC BODIES, ENGLAND AND WALES
WATER INDUSTRY, ENGLAND AND WALES
FEES AND CHARGES, ENGLAND AND WALES

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

Made - - - - 12 December 2012

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 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—

(**1**) 2011 c. 24.

"the 1991 Act" ("*Deddf 1991*") means the Water Industry Act 1991(**2**);

"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)(**3**);

"relevant water supplier" ("*cyflenwr dŵr perthnasol*") means—

(a) a water undertaker(**4**) 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 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;

(**2**) 1991 c. 56.

(**3**) 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.

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

(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.

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

12 December 2012