WELSH STATUTORY INSTRUMENTS

# 2011 No. 2415 (W.261)

# TRIBUNALS AND INQUIRIES, WALES
# TOWN AND COUNTRY PLANNING, WALES

## The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2011

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| *Made - - - -* | *3 October 2011* |
| *Laid before the National Assembly for Wales - -* | *4 October 2011* |
| *Coming into force - -* | *1 April 2012* |

The Welsh Ministers make the following Regulations in exercise of the powers conferred:

(a) by section 42(4) of the Housing and Planning Act 1986 ("the 1986 Act")(**1**) on any Minister authorised, under or by virtue of those statutory provisions specified in section 42(1)(**2**) of that Act or to which that section is applied(**3**) to recover costs incurred by the Minister in relation to an inquiry, which powers are now exercisable by the Welsh Ministers(**4**);

(b) upon the Secretary of State by section 303A(5) of the Town and Country Planning Act 1990 ("the 1990 Act")(**5**) and now exercisable, in relation to the areas of certain local planning authorities within Wales by the Welsh Ministers(**6**); and

(**1**) 1986 c. 63.

(**2**) Section 42(1)(b) was repealed by Part 1 of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) and section 42(1)(d) was repealed by Part 2 of Schedule 12 to the Local Government and Housing Act 1989 (c. 42). Section 129(1)(d) of the Road Traffic Regulation Act 1984 (c. 27) (costs of inquiry under that Act), referred to in section 42(1)(c) of the 1986 Act, was repealed by Schedule 3 to the Inquiries Act 2005 (c. 12).

(**3**) Section 69(7) of the Land Drainage Act 1991 (c. 59) ("the 1991 Act") provides that section 42 of the 1986 Act applies where either of "the Ministers" is authorised by section 69(5) of the 1991 Act to recover costs incurred by that Minister in relation to an inquiry held by the Minister as it applies where a Minister is authorised by virtue of any enactment specified in section 42(1) of the 1986 Act. *See* section 72(1) of the 1991 Act and the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) for the definition of "the Ministers" i.e. the Secretary of State or the Minister of Agriculture, Fisheries and Food.transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**4**) The functions under section 42 of the 1986 Act were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253 (W.5)) to be exercised in relation to Wales concurrently with any Minister of the Crown. The functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**5**) 1990 c. 8. Section 303A was inserted into the 1990 Act by section 1(1) of the Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c. 49) which was itself repealed by the Statute Law (Repeals) Act 2008 (c. 12).

(**6**) The functions under section 303A(5) of the 1990 Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as varied by the National Assembly for Wales (Transfer of Functions) Order 2000 article 4. The functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

(c) upon the National Assembly, as the appropriate authority, by section 303A(5) of the 1990 Act(**7**) which powers are now exercisable by the Welsh Ministers(**8**).

### Title, commencement and application

**1.**—(1) The title of these Regulations is the Local Inquiries Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2011 and they come into force on 1 April 2012.

(2) These Regulations apply in relation to Wales.

### Interpretation

**2.** In these Regulations—

"local inquiry" ("*ymchwiliad lleol*") means an inquiry in relation to which the Welsh Ministers are entitled to recover their costs under or by virtue of section 250(4) of the Local Government Act 1972(**9**) (general provision as to costs of inquiries) or section 69(5) of the Land Drainage Act 1991(**10**)(costs of an inquiry under that Act);

"qualifying inquiry" ("*ymchwiliad cymwys*") means a qualifying inquiry within the meaning of that term in section 303A(1) of the 1990 Act (insofar as that section continues to have effect without the amendment inserted by section 118 of, and paragraph 11(2) of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 ("the 2004 Act")) and held in relation to the area of a local planning authority in respect of which the provisions set out in Schedule 2 to the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005(**11**) continue to have effect in accordance with article 3(3) of that Order;

"qualifying procedure" ("*gweithdrefn gymwys*") means a qualifying procedure within the meaning of that term in section 303A(1A) of the 1990 Act(**12**) and held in relation to the area of a local planning authority in respect of which the repeals set out in Schedule 1 to the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005 have effect in accordance with article 2(g) of that Order.

### Persons, inquiries and procedures to which these Regulations apply

**3.** These Regulations apply in relation to—

(**7**) Section 303A(5) was amended in relation to the areas of certain planning authorities within Wales by section 118(1) of, and paragraph 11 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5).

(**8**) The functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

(**9**) 1972 c. 70. The functions under section 250(4) of the Local Government Act 1972 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as varied by the National Assembly for Wales (Transfer of Functions) Order 2000, article 4. The functions were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

(**10**) 1991 c. 59.

(**11**) S.I. 2005/2847 (C.118). By article 2(e) of the Order, the amendment of section 303A of the 1990 Act made by the 2004 Act came into force in relation to Wales on 12 October 2005. However, by article 3(3) of that Order, the provisions of section 303A as inserted by the Town and Country Planning (Costs of Inquiries etc.) Act 1995 remain in force in relation to the areas of local planning authorities to whom the provisions in the 1990 Act relating to the preparation, alteration and replacement of unitary development plans continue to apply. The general effect of the several provisions referred to above is that where a local planning authority in Wales is subject to the local development plan regime, an independent examination will be held and the Welsh Ministers will have power to prescribe a standard daily amount in relation to it. Where a local planning authority continues to be subject to the unitary development plan regime, however, a local inquiry will, where appropriate, be held and the Welsh Ministers will continue to have power to prescribe a standard daily amount in relation to it.

(**12**) Section 303(1A) was inserted into the 1990 Act by section 118 of, and paragraph 11 of Schedule 6 to, the 2004 Act.