WELSH STATUTORY INSTRUMENTS

2007 No. 728 (W.64)

TRIBUNALS AND INQUIRIES, WALES
TOWN AND COUNTRY PLANNING, WALES

The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2007

Made - - - -	*6 March 2007*
Coming into force - -	*1 April 2007*

The National Assembly for Wales ("the National Assembly") makes the following Regulations in exercise of the powers conferred—

(a) by section 42(4) of the Housing and Planning Act 1986(**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 National Assembly(**4**) in relation to Wales;

(b) upon the Secretary of State by section 303A(5) of the Town and Country Planning Act 1990 ("the 1990 Act")(**5**) as inserted into the 1990 Act by section 1(1) of the Town and Country Planning (Costs of Inquiries etc) Act 1995(**6**) and now exercisable, in relation to the areas of certain local planning authorities within Wales(**7**), by the National Assembly(**8**); and

(**1**) 1986 c. 63.
(**2**) Section 42(1)(b) was repealed by Part I of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) and section 42(1)(d) was repealed by Part II of Schedule 12 to the Local Government and Housing Act 1989 (c. 42).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(c. 27) (costs of inquiry under that Act), to which section 42(1)(c) of the Housing and Planning Act 1986 refers, was repealed by Schedule 3 to the Inquiries Act 2005 (c. 12).
(**3**) Section 69(7) of the Land Drainage Act 1991 (c. 59) provides that section 42 of the Housing and Planning Act 1986 applies where either of "the Ministers" is duly authorised to recover costs incurred by that Minister as it applies where a Minister is so authorised by virtue of any enactment specified in section 42(1) of the 1986 Act. Section 69(5) of the 1991 Act authorises either of "the Ministers", i.e. the Secretary of State or the Minister of Agriculture, Fisheries and Food (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") to recover costs incurred by that Minister in relation to an inquiry held by the Minister. The powers of the Secretary of State were transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
(**4**) Article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253 (W.5)) provides for the powers of a Minister under section 42 of the Housing and Planning Act 1986 to be exercisable, in relation to Wales, by the National Assembly for Wales concurrently with any Minister of the Crown by whom they are exercisable.
(**5**) 1990 c. 8.
(**6**) 1995 c. 49.
(**7**) *See* the footnote to the definition of "qualifying inquiry" in regulation 2.
(**8**) The relevant functions of the Secretary of State were transferred, so far as exercisable in relation to Wales, to the National Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and are now exercisable by the National Assembly pursuant to the National Assembly for Wales (Transfer of Functions) Order 2000, article 4; *see* the entry for the 1990 Act in Schedule 3 to the 2000 Order.

(c) upon the National Assembly, as the appropriate authority, by section 303A(5) of the 1990 Act as amended in relation to the areas of certain local planning authorities within Wales(**9**) by section 118(1) of, and paragraph 11 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 ("the 2004 Act")(**10**).

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 2007 and they come into force on 1 April 2007.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"local inquiry" means an inquiry in relation to which the National Assembly is entitled to recover its costs under or by virtue of section 250(4) of the Local Government Act 1972(**11**) (general provision as to costs of inquiries) or section 69(5) of the Land Drainage Act 1991 (costs of an inquiry under that Act);

"qualifying inquiry" 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 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(**12**) continue to have effect in accordance with article 3(3) of that Order;

"qualifying procedure" means a qualifying procedure within the meaning of that term in section 303A(1A) of the 1990 Act(**13**) 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—

(a) a local inquiry;

(b) any person appointed by the National Assembly to hold, or as one of the persons so appointed who are to hold, a qualifying inquiry; and

(**9**) *See* the footnote to the definition of "qualifying inquiry" in regulation 2.
(**10**) 2004 c. 5.
(**11**) 1972 c. 70.
(**12**) S.I. 2005/2847 (C.118). By article 2(e) of the Order, the amendment of section 303A of the 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 National Assembly 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 National Assembly will continue to have power to prescribe a standard daily amount in relation to it.
(**13**) Section 303(1A) was inserted into the 1990 Act by section 118 of, and paragraph 11 of Schedule 6 to, the 2004 Act.