WELSH STATUTORY INSTRUMENTS

2005 No. 1810 (W.141)

HIGHWAYS, WALES

The Street Works (Recovery of Costs) (Wales) Regulations 2005

Made - - - -	*5 July 2005*
Coming into force - -	*8 July 2005*

The National Assembly for Wales, in exercise of the powers conferred upon the Secretary of State by sections 96 and 104(1) of the New Roads and Street Works Act 1991(**1**) and which are now exercisable by the National Assembly in relation to Wales(**2**), hereby makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Street Works (Recovery of Costs) (Wales) Regulations 2005 and they come into force on 8 July 2005.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations:

"the Act" ("*y Ddeddf*") means the New Roads and Street Works Act 1991;

"chargeable job"("*gwaith am dâl*") means an item of work, the costs of which are recoverable under the provisions of Part III of the Act;

"claimant"("*hawlydd*") means an authority, body or person who is entitled to recover costs under Part III of the Act;

"costs"("*costau*") means costs or expenses referred to in section 96(1) of the Act as being recoverable by an authority, body or person under Part III of the Act;

"cost centre" ("*canolfan gost*") means a unit of financial accountability identifiable within a claimant's management accounts and responsible for specific activities within a claimant's organisation;

"cost of capital" ("*cost cyfalaf*") means the cost of capital calculated by reference to the rate of return which is prescribed either by legislation, or by the relevant regulator in respect of the

(**1**) 1991 c. 22.

(**2**) The powers of the Secretary of State, insofar as exercisable in relation to Wales, have been transferred to the National Assembly for Wales: see article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

claimant's regulated activities (whether or not the chargeable job is such an activity) or, if no such rate is prescribed, by reference to a rate which is two per cent above the public sector discount rate as set by the Treasury from time to time;

"direct costs" ("*costau uniongyrcho*l") means those costs described in regulation 5;

"licence" ("*trwydded*") means any form of authorisation, permission, or appointment, by which the claimant is authorised to carry out regulated activities;

"overheads" ("*gorbenion*") means those costs described in regulation 6;

"regulated activities" ("*gweithgareddau rheoleiddiedig*") means activities which are authorised or regulated by a licence and supervised by the relevant regulator;

"relevant regulator" ("*rheoleiddiwr perthnasol*") means a person, independent of the claimant, charged with supervising the claimant's regulated activities and ensuring a claimant complies with the terms of the licence authorising those activities; and

"support services" ("*gwasanaethau cymorth*") means services provided from within an organisation in support of activities which incur direct costs.

Basis of recovery

3. The basis on which the amounts of costs are to be calculated is that set out in the following provisions of these Regulations.

Costs

4.—(1) The costs will comprise direct costs and overheads to the extent that such direct costs and overheads are relevant to a particular chargeable job and are calculated in accordance with the financial policies adopted by the claimant to state the financial results of the cost centres responsible for the chargeable job or for providing support services to such centres.

(2) Where costs are recoverable in pursuance of the Street Works (Sharing of Costs of Works) (Wales) Regulations 2005(**3**) ("the 2005 Regulations") these Regulations apply to the extent that the costs are "allowable costs" as defined in regulation 2(2) of the 2005 Regulations.

(3) The costs will be recoverable either as direct costs under regulation 5 or as overheads under regulation 6, but not both.

(4) The costs will be net of any discount or rebate allowed to the claimant.

Direct Costs

5. Direct costs are costs in any of the five categories specified below—

(a) the cost of staff (whether salaried or non-salaried) employed directly by the claimant calculated in accordance with regulation 7;

(b) the costs payable to a contractor engaged by the claimant;

(c) the cost of materials;

(d) the cost of hiring equipment, plant and vehicles or, where the equipment or plant is, or vehicles are, leased to the claimant, the equivalent cost based on relevant market rates; and

(e) other costs which are relevant and specifically attributable to a chargeable job.

(**3**) S.I.2005/1721 (W.133).