

## HIGHWAYS, WALES

### EXPLANATORY MEMORANDUM TO:

#### **THE STREET WORKS (INSPECTION FEES) (WALES) (AMENDMENT) REGULATIONS 2008**

This Explanatory Memorandum has been prepared by the Economy and Transport Department and is laid before the National Assembly for Wales in accordance with SO 24.1.

#### **Description**

1. These Regulations increase the fee charged by street authorities, from £24 to £25, for the inspection of works carried out by undertakers (e.g. gas, water, electricity and telecommunication companies) in or under a street.

2. This increase has been requested by the Highway Authorities and Utilities Committee (HAUC (UK)) to enable a street authority to continue to recover the costs of carrying out such inspections.

#### **Matters of special interest to the Subordinate Legislation Committee**

3. The current fee of £24 was set in July 2007 by the Street Works (Inspection Fees) (Wales) (Amendment) Regulations 2007 No. 1713 (W.150). The increase to £25 represents an approximate increase of 4.2%.

4. The new fee has been calculated using the same formula used in 2004 and 2007 (the two other increases of this fee). The formula (Annex A) uses nationally agreed figures for the average inspectors' salary, National Insurance, superannuation contributions and travel costs. The fee will not be a source of additional revenue for authorities.

#### **Legislative background**

5. Part III of the New Roads and Street Works Act 1991 (NRSWA) makes provision in relation to street works carried out in England and Wales. In this context 'street works' means certain works executed in a street under either a statutory right or a street works license. In relation to such works an 'undertaker' means the person exercising the statutory right or the licensee under a street works license.

6. Section 75 of NRSWA sets out the legislative framework covering the inspection by street authorities of individual street works which undertakers carry out in the street (for instance to install new apparatus or to maintain existing apparatus) so as to ensure that they meet the relevant national standards, e.g. safety to pedestrians and road users by proper signing, lighting and guarding of street works. Such works are carried out in accordance with excavation and reinstatement specifications. As a result there should be:

- a reduction in the risk of accidents, both pedestrian and traffic;
- less disruption to all road users, public transport, private vehicles, and business, resulting in less congestion and hence minimising delay caused by street works;

- less pollution caused through less congestion; and
- less inconvenience to pedestrians.

7. Section 75(1) provides that an undertaker, subject to any provisions of any scheme under this section, pays a prescribed fee to the street authority for each inspection of the works carried out by the authority. Regulations under Section 75(3) may establish a scheme under which undertakers pay the prescribed fee only in respect of such proportion or number of excavations or other works as is determined under the scheme.

8. The Street Works (Inspection Fees) (Wales) Regulations 2006 established a scheme that provided a way for undertakers to pay a fee for each random inspection. A fee can only be charged up to a set maximum percentage of works carried out by each undertaker in a given year (approximately 30%).

### **Purpose and intended effect of the legislation**

9. The intended effect of this Instrument is to enable street authorities to recover their costs when carrying out random sample inspections of works carried out by undertakers in or under the street, in accordance with s75 of NRSWA. These Regulations increase inspection fees from £24 to £25.

### Policy Background

10. HAUC(UK) is a body that assists Ministers in arriving at proposals for new street works legislation. It is made up of representatives from local highway authorities and the National Joint Utility Group, which represents undertakers that are utility companies.

11. In summer 2007 the HAUC(UK) Fees Steering Group (representatives from utilities, highway authorities, and the Department for Transport (DfT), considered the fee charged for carrying out an inspection. Consultation was therefore carried out through this forum. HAUC (UK) endorsed the steering group findings and wrote in October 2007 asking that the existing regulations be amended to set a new fee of £25 with effect from 1 April 2008.

12. Since the regulations were last amended in July 2007 (which increased the fee from £21 to £24) the cost of carrying out an inspection has increased, therefore the fee has been increased to meet this additional cost. The fee is not a source of revenue for the authorities but allows them to recover their costs in carrying out the inspections.

13. The new fee was calculated using the formula (Annex A) as detailed in paragraph 4 of this Memorandum.

14. The inspection fee only covers the cost incurred by street authorities in carrying out the set percentage sample of random inspections of undertakers' works. It is not an additional source of revenue for an authority. The change of fee is neither politically nor legally important.

## **Implementation**

15. The coming-into-force date for these Regulations is 1 April 2008 in tandem with similar regulations in England.

16. Should this legislation be annulled local authorities would have to cover the cost of carrying out inspections themselves, going against the policy objective of random sample inspections being revenue neutral for authorities.

## **Consultation**

17. The Regulations simply increase the statutory fees for inspections in response to a request from HAUC(UK). Given the source of the request for the increase; the simple and uncontroversial nature of the regulations; and the minimal increase; a formal consultation in Wales was not undertaken.

## **Regulatory Impact Assessment**

18. A Regulatory Impact Assessment (RIA) has not been produced for this statutory instrument as the fee has been increased using a formula (Annex A) which has been agreed by HAUC(UK). Therefore statutory undertakers should have taken this into account when conducting their business planning. Furthermore, these Regulations have no impact on the statutory duties (sections 77 -79 GOWA 06) or statutory partners (sections 73-75 GOWA 06) of the Assembly Government.

19. The fee increase does not count as an impact as defined by the relevant guidance and no RIA is needed as the increase has been recommended to government by the industry involved. However, data on the cost of this fee increase has been provided below for information.

20. Undertakers already have to meet the cost of the random sample of inspections under the current regulatory regime; the only additional cost is the increase in the fee. DfT's consultants, Halcrow, estimated in July 2004 that there were approximately 1.2 million road works carried out in England by undertakers every year (120,000 in Wales). Based on this data 30% of this represents approximately 360,000 inspections a year (36,000 pa in Wales). Given this, we could expect an increase of the inspection fee by £1 to cost an additional amount of approximately £360,000 pa across all undertakers (£36,000 pa in Wales).

## Inspection Fee Formula

## Annex A

$$\frac{\text{Inspectors Payroll Costs (incl NI/Superannuation) Annual Productive Hours}}{\text{Inspection Time (Hours)}} \times \text{On Cost Multiplier} + \text{Hourly Travelling Costs}$$

|  |  |
|--|--|
| <b>Formula Calculation</b>                                 | Projected 2007/08 figure (with 2.00% pay award, excluding any changes to the NIC/ Superannuation)  |
| <b>National Joint Council (NJC) Pay Scales 05 &amp; 06</b> | National Agreed pay scales   |
| <b>National Insurance Tables</b>                           | HM Revenue & Customs - National Insurance Contribution tables (NIC) (not attached)   |
| <b>Pension Average</b>                                     | Average contribution rate of 8 random authorities - 2 from each grouping. Figures supplied by Finance staff in the individual authorities. |
| <b>Pension estimate circular</b>                           | Background to support the current level of pension contributions   |

| <b>Data used for calculation:</b>   | 2007/08       |                      | Comments  |
|---|---------------|----------------------|---|
| <b>Inspectors salary</b>  | 01 Apr 07     | £<br>23,639.00       | <b>Average salary</b><br>NJC Pay scales (Bottom of SO1 point 29)<br>Estimated Pay Awards April 2007 & 2008 2% |
| <b>Other payroll costs - National Insurance Superannuation</b>            | 7.2%<br>17.9% | 1,698.00<br>4,223.00 | 2005/06 & 2006/07 HM Revenue & Customs - NIC Table CA 39 page 28<br>From Pension Ave Table                    |
| <b>Total Payroll Costs</b>  |               | 29,560.00            |   |
| <b>Average Effective Hours</b>  |               | 1,507.00             | From Local Authority Effective Time Table below   |
| <b>Hourly Rate</b>  |               | 19.61                |   |
| <b>Multiplier</b>   | 2.13          | 41.77                |   |
| <b>Travelling Average miles per hour Casual 1000 - 1199 rate per mile</b> | 8.11<br>0.40  | 3.24                 | Inland Revenue Tax level  |
| <b>Total Hourly Cost</b>  |               | 45.01                |   |
| <b>Gross Domestic Product inflator</b>                                    |               | Actual               |   |
| <b>Total Hourly Cost</b>  |               | 45.01                |   |
| <b>Inspection Time</b>  | 32 mins       |                      |   |
| <b>Cost per inspection (excl specialist testing)</b>                      |               | <b>24.00</b>         |   |

| <i>Local Authority Effective Time</i> |             |              |
|---------------------------------------|-------------|--------------|
|                                       | <b>Days</b> | <b>Hours</b> |
| <b>Working Day - National</b>         |             | 7.40         |
| <b>Total</b><br>(excl weekends)       | 261.0       | 1,931.4      |
| <b>Leave</b>                          | -28.0       | -207.2       |
| <b>Bank Hols</b>                      | -8.0        | -59.2        |
| <b>LA Special</b>                     | -4.0        | -29.6        |
| <b>Sick</b>                           | -10.3       | -76.2        |
| <b>Training</b>                       | -7.0        | -51.8        |
| <b>Net Total</b>                      | 203.7       | 1,507.4      |