

## HIGHWAYS, WALES

### EXPLANATORY MEMORANDUM TO:

#### **THE STREET WORKS (INSPECTION FEES) (WALES) (AMENDMENT) (No.2) 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. The Street Works (Inspection Fees) (No.2) (Wales) (Amendment) Regulations revoke The Street Works (Inspection Fees) (Wales) (Amendment) Regulations 2008. The Regulations increases 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.

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

2. The Subordinate Legislation Committee (SLC) considered the Street Works (Inspection Fees) (Wales) (Amendment) Regulations on 15 April 2008. The Committee reported an error in the regulations "*In regulation 3, a substitution of £25.00 for £21.00 is made. However, as indicated in the Explanatory Note, £24.00 has already been substituted for the original £21.00. The current substitution should therefore be of £25.00 for £24.00.*" As a consequence The Street Works (Inspection Fees) (Wales) (Amendment) Regulations 2008 will be revoked and remade as The Street Works (Inspection Fees) (No 2) (Wales) (Amendment) Regulations 2008.

#### **Legislative background**

3. 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.
4. 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**

5. 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**

6. 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.
7. 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.

## **Implementation**

8. The coming-into-force date for these Regulations is 22 May 2008.
9. 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**

10. 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**

11. A Regulatory Impact Assessment (RIA) has not been produced for this statutory instrument as the fee has been increased using a formula 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.
12. 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.