

Explanatory Memorandum To:

THE STREETWORKS (INSPECTION FEES) (WALES) (AMENDMENT) REGULATIONS 2009

This Explanatory Memorandum has been prepared by the Economy and Transport Department of the Welsh Assembly Government 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 £25 to £50, for the inspection of works carried out by undertakers (e.g. gas, water, electricity and telecommunication companies) in or under the street.

Matters of special interest to the Subordinate Legislation Committee.

2. None

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 the 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. 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.
5. 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 determined under the scheme.
6. 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 of intended effect of the legislation

7. 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. This increase has been requested by the Highways and Utilities Committee (HAUC UK) 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 Utilities Group, which represents undertakers that are utility companies.

In recognition that the fee did not realistically reflect the actual cost to many highway authorities, a comprehensive review of the costs was agreed and carried out by a joint committee of the Highways and Utilities Committee UK. The review committee reported its findings to HAUC UK in July 2008 recommending that the fee be increased to £50 from the 1st April 2009.

8. This recommendation was formally passed to the Welsh Assembly Government in a letter dated 8th September 2008.
9. The new fee has been calculated using the same formula used for previous increases in fees. The formula below uses nationally agreed figures for the average inspector's salary, National Insurance, superannuation contributions and travel costs. The fee will not be a source of additional revenue for authorities.
10. The inspection fee only covers the cost incurred by street authorities in carrying out the set percentage of random sample inspections of undertakers' works.

Implementation

11. The coming into force date for these regulations is 1st April 2009 in tandem with similar regulations in England.
12. Should this legislation be annulled local authorities would have to cover half the cost of carrying out inspections themselves, going against the policy objective of random sample inspections being revenue neutral for authorities.

Consultation

13. The regulations simply increase the 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 agreement of both sides to the increase; a formal consultation in Wales was not undertaken.

Regulatory Impact Assessment

14. A Regulatory Impact Assessment (RIA) has not been produced for this statutory instrument as the fee has been increased using a formula below which has been agreed by HAUC (UK). Therefore statutory undertakers should have taken this into account when conducting their business planning. For information, estimates suggest that there are approximately 120,000 street works carried out in Wales every year. Based on this data 30% of this represents approximately 36,000 inspections a year. Given this, we would expect an increase of the inspection fee by £25 to cost an additional amount of approximately £900,000 per annum across all undertakers.

$$\text{Cost per inspection} = \left[\frac{\text{Inspectors Payroll Cost (incl. NI \& Superannuation)}}{\text{Annual effective hours}} \times \text{On-cost multiplier} + \text{Hourly travelling costs} \right] \times \text{Inspection time (hours)}$$