

Explanatory Memorandum to Tribunals and Inquiries, Wales Town and Country Planning, Wales, The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2011

This Explanatory Memorandum has been prepared by the Department for Environment and Sustainable Development and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of Tribunals and Inquiries, Wales Town and Country Planning, Wales, The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2011

John Griffiths

Minister for Environment and Sustainable Development

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1. Description

Planning Inspectorate Wales Inspectors carry out a wide range of work and for some of this work, which it undertakes on behalf of a local planning authority (lpa), the Inspectorate charges for providing an Inspector. This includes Local Development Plan examinations and work on Compulsory Purchase Orders. These Regulations allow for the current fees to be increased.

2. Matters of special interest to the Constitutional Affairs Committee

There are none.

3. Legislative background

The powers enabling this Instrument to be made are set out in Section 303A of the Town and Country Planning Act 1990, as inserted by Section 1 of the Town and Country Planning (Costs of Inquiries etc.) Act 1995. The power to make Regulations applying the right to recover costs incurred by the Minister in relation to an inquiry and prescribing the standard daily amount is set out in Sections 42(1) and (4) of the Housing and Planning Act 1996. These powers are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

This statutory instrument follows the negative resolution procedure.

4. Purpose & intended effect of the legislation

The Planning Inspectorate is an Agency of the Welsh Government and the Department for Communities and Local Government. Its work in Wales is funded by the Welsh Government.

Although Planning Inspectors are associated primarily with the planning appeal process they carry out a wide range of work; for some of this work the Inspectorate charges the Local Planning Authority for providing an Inspector. This includes Local Development Plan examinations and Compulsory Purchase Orders. In accordance with the direction contained in the Treasury Fees and Charges Guide Government, agencies are required to aim to recover the full costs of their rechargeable activities. Consequently, there is a need to revise these fees.

In May 2009 the then Welsh Assembly Government sought the views of the Welsh Local Government Association, the Royal Town Planning Institute, the Royal Institution of Chartered Surveyors, the Planning Officers' Society Wales and local planning authorities on a proposal to increase the daily fees for local development plan work and for other rechargeable work by Planning Inspectors. Taking account of the comments received the Minister for Environment Sustainability and Housing agreed that the charges should be increased as per the proposal.

The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2007 provided that the daily rate to be paid

by a local planning authority to the Planning Inspectorate for providing an Inspector to hold an inquiry, opened on or after 1st April 2007 (Statutory Instrument 2007 No.728 (W.64)) into compulsory purchase orders, etc made under various enactments shall be £722. These regulations now need to be amended in order to progress towards full costs recovery and the daily rate will need be increased by £20 to £742 per day.

Part 6 of the Planning and Compulsory Purchase Act 2004 provides for a reformed development plan system. With effect from Autumn 2005 local planning authorities are required to prepare and maintain up-to-date local development plans. These are examined by Planning Inspectors and the daily rate for full costs recovery in relation to those examinations was previously set at £640 by the Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2007. This rate will be increased by £39 to £679.

5. Consultation

On 13 May 2009 the then Welsh Assembly Government sought the views of the Welsh Local Government Association, the Royal Town Planning Institute, the Royal Institution of Chartered Surveyors, the Planning Officers' Society Wales and local planning authorities on a proposal to increase the daily fees for local development plan work and for other rechargeable work by Planning Inspectors. The consultation lasted six weeks and focussed on organisations directly affected by the proposals.

Eight responses were received from Ynys Mon County Council, Cardiff County Council, Vale of Glamorgan Council, Caerphilly County Borough Council, Darren Millar AM, Brecon Beacons NPA, Pembrokeshire County Council and City and County of Swansea. Most respondents, although not happy with the increases, understood why they were being proposed and were generally supportive of them as they were in line with inflation. Darren Millar AM felt that there should be no increase at all due to the financial challenges faced by Local Authorities. Apart from the increases in fees no other changes were made to the Regulations as a result of the consultation responses.

Taking account of the comments received, the then Minister for Environment Sustainability and Housing agreed to amend the current Regulations to reflect the increase in charges that were outlined in the above consultation.

6. Regulatory Impact Assessment (RIA)

Not required as the revision of the Regulation is to make increases in statutory fees.