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WELSH STATUTORY INSTRUMENTS

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**2016 No. 843 (W. 213)**

**WATER INDUSTRY, ENGLAND AND WALES  
FEES AND CHARGES, ENGLAND AND WALES**

The Water Quality and Supply (Fees) (Undertakers  
Wholly or Mainly in Wales) Order 2016

<i>Made</i>	- - - -	<i>9 August 2016</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>17 August 2016</i>
<i>Coming into force</i>	- -	<i>8 September 2016</i>

The Welsh Ministers make the following Order in exercise of the powers conferred on them by section 86ZA(2) and (4) of the Water Industry Act 1991<sup>(1)</sup>.

**Title and commencement**

1. The title of this Order is the Water Quality and Supply (Fees) (Undertakers Wholly or Mainly in Wales) Order 2016 and it comes into force on 8 September 2016.

**Interpretation**

2. In this Order—

“the 1991 Act” (“*Deddf 1991*”) means the Water Industry Act 1991;

“inspector” (“*arolygydd*”) means a person appointed under section 86(1) of the 1991 Act (assessors for the enforcement of water quality)<sup>(2)</sup>;

“relevant water supplier” (“*cyflenwr dŵr perthnasol*”) means—

- (a) a company appointed as a water undertaker<sup>(3)</sup> whose area is wholly or mainly in Wales;  
or

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(1) 1991 c. 56. Section 86ZA was inserted by section 40 of the Water Act 2014 (c. 21).

(2) Section 86(1) was amended by sections 56, 57 and 101 of, and Schedules 7, 8 and 9 to, the Water Act 2003 (c. 37). The functions of the Secretary of State under section 86 (except subsection (1A)) were transferred to the National Assembly for Wales in relation to Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the 1999 Order”). The power to appoint inspectors under section 86 were transferred to the Assembly to the same extent as the powers, duties and other provisions to which section 86 applies are exercisable by the Assembly, by article 2 of the 1999 Order. By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), functions conferred on the Assembly are now exercisable by the Welsh Ministers.

(3) As defined in section 6 of the 1991 Act.

- (b) a company which is the holder of a water supply licence within the meaning of section 17A of the 1991 Act<sup>(4)</sup> (licensing of water suppliers) which is using the supply system<sup>(5)</sup> of a water undertaker whose area is wholly or mainly in Wales.

### **Fees**

**3.—**(1) The Chief Inspector of Drinking Water<sup>(6)</sup> may charge a relevant water supplier a fee, payable on invoice, for the exercise of the functions in column 1 of the table in the Schedule by an inspector.

(2) The amount of the fee charged under paragraph (1) is to be determined in accordance with the fee listed in column 2 of the table in the Schedule in relation to that function.

(3) If a function specified in paragraph (b), (c) or (d) in column 1 of the table in the Schedule is exercised by more than one inspector, the time taken by each inspector must be aggregated for the purpose of calculating the amount of the fee that is payable.

### **Revocation and savings**

**4.—**(1) The Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012<sup>(7)</sup> (“the 2012 Order”) is revoked.

(2) The 2012 Order continues to have effect in relation to the exercise by an inspector of a function listed in column 1 of the table in the Schedule to that Order before 8 September 2016.

*Lesley Griffiths*  
Cabinet Secretary for Environment and Rural  
Affairs, one of the Welsh Ministers

9 August 2016

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(4) Section 17A was inserted by section 56 of, and Schedule 4 to, the Water Act 2003. It was then amended by section 1 of the Water Act 2014, but not all of the amendments have been commenced.

(5) See section 17B(5) of the 1991 Act for the meaning of “supply system” of a water undertaker whose area is wholly or mainly in Wales. Section 17B was inserted by section 56 of, and Schedule 4 to, the Water Act 2003. Sections 2, 5 and 56 of, and Schedules 5 and 7 to, the Water Act 2014 make further amendments to section 17B which have been partially commenced.

(6) See section 86(1B) for the meaning of “Chief Inspector of Drinking Water”.

(7) [S.I. 2012/3101 \(W. 314\)](#).

## SCHEDULE

Article 3

FEES FOR THE PERFORMANCE OF FUNCTIONS UNDER  
SECTION 86 OF THE WATER INDUSTRY ACT 1991

Table

<i>1</i>	<i>2</i>
<i>Function</i>	<i>Fee</i>
(a) Checking that the sampling and analysis arrangements for water samples collected by the relevant water supplier comply with—	£55 for each group of 100 water sample results received and checked.
(i) the Water Supply (Water Quality) Regulations 2010 <sup>(8)</sup> ;	
(ii) section 68 of the 1991 Act (duties of water undertakers and water supply licensees with respect to water quality) <sup>(9)</sup> ; and	
(iii) any requirements for sample data required to be provided under section 202 of the 1991 Act (duties of undertakers to furnish the Secretary of State with information) <sup>(10)</sup> .	
(b) Checking that—	£65 for each complete hour during which an inspector exercises the function.
(i) the relevant water supplier's water supply management arrangements comply with—	
(aa) the Water Supply (Water Quality) Regulations 2010; (bb) section 37 of the 1991 Act <sup>(11)</sup> ; (cc) section 68 of the 1991 Act; and	
(ii) the relevant water supplier has complied with any requirement of the Welsh Ministers to furnish information about these arrangements under section 202 of the 1991 Act.	
(c) In relation to a relevant water supplier—	£65 for each complete hour during which an inspector exercises the function.
(i) investigating an event, incident, emergency or other matter where any of those matters indicate that the relevant water supplier may not have complied with—	
(aa) the Water Supply (Water Quality) Regulations 2010; (bb) section 37 (general duty to maintain water supply system etc.) of the 1991 Act; (cc) section 68 of the 1991 Act; and	
(ii) checking that such an event, incident, emergency or other matter has been notified by the relevant water supplier in compliance with any requirement of the Welsh Ministers to furnish such information under section 202 of the 1991 Act.	
(d) In relation to a relevant water supplier—	£65 for each complete hour during which an
(i) investigating a consumer complaint about the quality or sufficiency of water where the complaint indicates that the relevant water supplier may not have complied with—	

<sup>(8)</sup> S.I. 2010/994 (W. 99) as amended by S.I. 2011/14 (W. 7), 2013/235, 2013/1387 and 2016/410 (W. 128).<sup>(9)</sup> Section 68 was amended by Schedule 8 to the Water Act 2003 and Schedule 7 to the Water Act 2014.<sup>(10)</sup> Section 202 was amended by: Schedule 22 to the Environment Act 1995 (c. 25), Schedule 8 to the Water Act 2003, S.I. 2013/755, Schedule 23 to the Deregulation Act 2015 (c. 20), and Schedule 7 to the Water Act 2014.<sup>(11)</sup> Section 37 was amended by section 36 of the Water Act 2003.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

<i>Function</i>	<i>Fee</i>
<p><i>I</i></p> <p>(aa) the Water Supply (Water Quality) Regulations 2010;                      (bb) section 37 of the 1991 Act;                      (cc) section 68 of the 1991 Act; and                      (ii) checking that any requirement of the Welsh Ministers to furnish information about such complaints under section 202 of the 1991 Act has been complied with.</p>	<p><i>2</i></p> <p>inspector exercises the function.</p>

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for fees to be payable, and sets out how the amounts of such fees are to be determined, for the exercise of a function by an inspector appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (c. 56). The functions are related to the following investigations and reporting requirements—

- (a) checking water sampling and analysis arrangements;
- (b) checking water supply management arrangements;
- (c) investigating an event, incident, emergency or other matter arising from the quality or sufficiency of water;
- (d) checking the handling and reporting of consumer complaints about water quality or sufficiency; and
- (e) checking compliance with requirements to furnish information to, or to notify, the Welsh Ministers concerning these arrangements and matters.

Article 4 revokes the Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012 (S.I 2012/3101 (W. 314)).

The Welsh Ministers’ Code of Practice on the carrying out of regulatory impact assessments was considered. As a result, no impact assessment has been produced for this Order as there is no change in policy, or impact on business or the voluntary sectors foreseen.