

## **EXPLANATORY MEMORANDUM TO**

### **The Street Works (Inspection Fees) (Amendment) Regulations (Northern Ireland 2009**

**S.R. 2009 No. 292**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department for Regional Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 35 of the Street Works (Northern Ireland) Order 1995 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. The purpose of the amendment is to increase the fee payable by the statutory undertakers for inspections carried out by the Department of their street works from £25.00 to £30.00 per inspection

#### **3. Background**

- 3.1. The Street Works (Northern Ireland) Order 1995 (“the Order”) makes provision to facilitate the co-ordination and control of street works in Northern Ireland. In particular, it places a requirement on undertakers (i.e. utilities and other persons who place apparatus in the street) who break open a street, to reinstate it to the prescribed standard. The Order also gives the Department the power to inspect, investigate and report on undertaker’s street works and the associated reinstatements. In connection with this, Article 35 of the Order makes provision for inspection schemes and fees. It empowers the Department to make regulations setting up an inspection scheme under which undertakers pay a prescribed fee for inspections of their works. The Street Works (Inspection Fees) Regulations (Northern Ireland) 2005, made under Article 35, prescribe a scheme for the payment by undertakers for inspections of their works by the Department in streets for which it is the street authority. Regulation 3(1) sets the inspection fee at £25 per chargeable unit of inspection.
- 3.2. The aim of the inspection scheme is to enable the performance of undertakers in carrying out their street works responsibilities to be monitored. The object of the inspection fee is to recover the Department’s costs of carrying out the inspections.
- 3.3. The Highways Authorities and Utilities Committee UK (HAUC (UK)) agreed a revised fee of £50 per inspection to apply to England and Wales with effect from 1 April 2009. Although the level of inspection fee has historically been the same throughout the UK, the scale of the increase to £50 per inspection has led the Northern Ireland utilities to challenge the statistics used to formulate the increase and the relevance for a Northern Ireland model. It has been agreed to undertake an evaluation process to examine the recommendations put forward by HAUC (UK) with the

expectation of a revised fee being in place by April 2010, but in the interim a fee of £30 with effect from 1 October 2009 has been agreed.

- 3.4. Regulation 2 of the Statutory Rule amends regulation 3(1) of The Street Works (Inspection Fees) Regulations (Northern Ireland) 2005 by substituting “£30.00” for “£25.00”. The power being exercised is Article 35.
- 3.5. The Statutory Rule as laid is in line with the information provided to the Committee in the SL1.

#### **4. Consultation**

- 4.1. The Northern Ireland Road Authority and Utilities Committee were consulted and have agreed the revised fee.

#### **5. Equality Impact**

- 5.1. Consideration has been given to compliance with Section 75 of the Northern Ireland Act 1998 and no equality issues have been identified by the Department.

#### **6. Regulatory Impact**

- 6.1. A regulatory impact assessment has been completed with the result that the increase in the inspection fee will only affect statutory bodies and it will have a minimal impact on them.

#### **7. Financial Implications**

- 7.1. None. The objective is to recover the costs of carrying out inspections.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. Consideration has been given to compliance with Section 24 of the Northern Ireland Act 1998 and no human rights issues have been identified by the Department.

#### **9. EU Implications**

- 9.1. Not applicable.

#### **10. Parity or Replicatory Measure**

- 10.1. A fee of £50 came into effect in England on 6 April 2009 and in Wales on 1 April 2009. The fee of £30 in Northern Ireland is an interim measure to permit an evaluation process to take place and to examine the recommendations put forward by HAUC (UK). It is expected that a revised fee will be introduced by 1 April 2010.

#### **11. Additional Information**

- 11.1. Not applicable.

R Sherman

5th August 2009