Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2012 No.

PUBLIC BODIES, ENGLAND AND WALES

WATER INDUSTRY, ENGLAND AND WALES

FEES AND CHARGES, ENGLAND AND WALES

The Public Bodies (Water Supply and Water Quality Fees) Order 2012

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by sections 4(1) and 6(1) of the Public Bodies Act 2011(**a**) ("the Act"), makes the following Order.

The consent of the Treasury has been obtained in accordance with section 4(2) of the Act.

For the purposes of section 8 of the Act, the Secretary of State considers that—

(a) this Order serves the purpose of improving the exercise of public functions, having had regard to the factors referred to in section 8(1) of the Act; and

(b) the conditions in section 8(2)(a) and (b) are satisfied.

The Secretary of State has consulted in accordance with section 10 of the Act.

A draft of this Order and an explanatory document containing the information required by section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3). In accordance with section 11(4) of the Act, a draft of this Order has been approved by resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

(**a**) 2011 c.24.

Citation, commencement and extent

1. This Order—

(a) may be cited as the Public Bodies (Water Supply and Water Quality Fees) Order 2012;

(b) comes into force on the day after the day on which it is made; and

(c) extends to England and Wales.

Interpretation

2.—(1) In this Order—

"the 1991 Act" means the Water Industry Act 1991(**a**);

"Chief Inspector" means the Chief Inspector of Drinking Water designated as such under section 86(1A) of the 1991 Act;

"inspector" means a person appointed under section 86(1) of the 1991 Act (assessors for the enforcement of water quality)(**b**);

"relevant water supplier" means—

(a) a company appointed as a water undertaker whose area is wholly or mainly in England; or

(b) a company which is the holder of a water supply licence within the meaning of section 17A of the 1991 Act (licensing of water suppliers)(**c**) who is using the supply system of any water undertaker whose area is wholly or mainly in England; and

"supply system" shall be construed in accordance with section 17B(5) of the 1991 Act.

(2) In this Order references to "the table" are to the table in the Schedule.

The chargeable period

3.—(1) In this Order the number of chargeable periods shall be calculated based on the following formula—

$$C = \frac{T}{7}$$

where—

"C" is the number of chargeable periods; and

"T" is the total time (expressed in hours) during which an inspector performs a function specified in paragraph (b), (c) or (d) of column 1 of the table on a calendar day.

(2) For the purposes of calculating "T" if the function is performed by more than one inspector, that total time taken by each inspector shall be aggregated.

(**a**) 1991 c.56.

(**b**) Section 86 was amended by section 57(1), (2) and (4) to (6) and section 101(1) of, and paragraph 27 of Schedule 8 to the Water Act 2003 c.37; sections 86 (1A) and (1B) were inserted by section 57(1) and (3) of the Water Act 2003. There are other amending instruments but none is relevant. The functions under section 86 (except subsection (1A)) were made exercisable by the National Assembly for Wales ("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 National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) ("the Order"); see the entry in Schedule 1 of the Order for the Water Industry Act 1991 as substituted by paragraph (e) of Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) and amended by Section 100(2) of the Water Act 2003. 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 exercisable by Welsh Ministers.

(**c**) Section 17A was inserted by section 56 of, and Schedule 4 paragraphs 1 and 2 to, the Water Act 2003.

Fees

4.—(1) The Chief Inspector may charge a relevant water supplier a fee, payable on invoice, for the exercise of those functions that are specified in column 1 of the table and exercisable by an inspector by virtue of an appointment under section 86(1) of the 1991 Act.

(2) The Chief Inspector must determine the fee in accordance with the corresponding entry in column 2 of the table.

(3) The rates to be applied to the determination of the fee referred to in column 2 of the table must be fixed by the Chief Inspector and—

(a) be approved by the Secretary of State;

(b) be published by the Secretary of State (which may include publication on a website), and

(c) be reviewed by the Secretary of State on or before 30 June in each calendar year following the calendar year in which the fee was last approved by the Secretary of State under sub-paragraph (a).

(4) Any fees received under this Order must be paid into the Consolidated Fund.

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

Date

Name

Date

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Article 4

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

Table

1 *Function*	*2* *Fee*
(a) Checking that the sampling and analysis arrangements for water samples collected by the relevant water supplier comply with— (i) the Water Supply (Water Quality) Regulations 2000(**a**); (ii) section 68 of the 1991 Act(**b**); and (iii) any requirements for sample data required to be provided under section 202 of the 1991 Act.	A fee to be calculated using the rate— (i) fixed for each group of 100 water sample results received and checked; and (ii) multiplied by the total number of each such group.
(b) Checking that— (i) the relevant water supplier's water	A fee to be calculated using the rate— (i) fixed for each chargeable period;

(**a**) S.I. 2000/3184 was amended by S.I. 2001/2885, 2005/2035, 2007/2734 and 2010/991.
(**b**) 1991 c.56.

supply management arrangements comply with— (aa) the Water Supply (Water Quality) Regulations 2000; (bb) section 37 of the 1991 Act; (cc) section 68 of the 1991 Act; and (ii) the relevant water supplier has complied with any requirement of the Secretary of State to furnish information about these arrangements under section 202 of the 1991 Act.	and (ii) multiplied by the total number of chargeable periods spent performing the function.
(c) In relation to a relevant water supplier— (i) investigating an event, incident, emergency or other matter where any of those matters indicate that that water supplier may not have complied with— (aa) the Water Supply (Water Quality) Regulations 2000; (bb) section 37 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 Secretary of State to furnish such information under section 202 of the 1991 Act.	A fee to be calculated using the rate— (i) fixed for each chargeable period; and (ii) multiplied by the total number of chargeable periods spent performing the function.
(d) In relation to a relevant water supplier— (i) investigating a consumer complaint about the quality or sufficiency of water where the complaint indicates that that water supplier may not have complied with— (aa) the Water Supply (Water Quality) Regulations 2000; (bb) section 37 of the 1991 Act; (cc) section 68 of the 1991 Act; and (ii) checking that any requirement of the Secretary of State to furnish information about such complaints under section 202 of the 1991 Act has been complied	A fee to be calculated using the rate— (i) fixed for each chargeable period; and (ii) multiplied by the total number of chargeable periods spent performing the function.

with.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for fees to be payable for the carrying out of certain functions under the Water Industry Act 1991 ("the 1991 Act") by an inspector appointed under that Act. 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; and

(e) checking compliance with requirements to furnish information to, or to notify, the Secretary of State concerning these arrangements and matters.

This Order sets out the circumstances and manner in which fees are payable, approved, published and reviewed (article 4 and the Schedule).

A full impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector has been prepared. A copy of this document has been placed in the library of each House of Parliament and is available on the Impact Assessment Library website: www.ialibrary.bis.gov.uk . A copy of the impact assessment is also annexed to the Explanatory Memorandum to this Order and is available alongside the instrument on the legislation website (http://www.legislation.gov.uk).

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