

**Explanatory Memorandum to the Water Quality and Supply (Fees)
(Undertakers Wholly or Mainly in Wales) Order 2016.**

This Explanatory Memorandum has been prepared by *Economy, skills and Natural Resources department* and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the **Water Quality and Supply (Fees) (Undertakers Wholly or Mainly in Wales) Order 2016**.

Lesley Griffiths AM,
Cabinet Secretary for Environment and Rural Affairs
17 August 2016

1. Description

The Water Quality and Supply (Fees) (Undertakers Wholly or Mainly in Wales) Order 2016 will replace current charging provisions for the Drinking Water Inspectorate under the Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012. The new Order will provide the Drinking Water Inspectorate with powers to recover the costs of their regulatory functions from water companies.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

This order revokes and replaces the Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012, which was made under powers contained in the Public Bodies Act 2011. Section 40(2) of the Water Act 2014 repeals sections 14 (3) of the Public Bodies Act 2011. This section 40 is due to be commenced later this year so the provisions of the Public Bodies Act 2011 will soon no longer exist. New order making powers were included in section 40(1) of the Water Act 2014 which inserts section 86ZA in the Water Industry Act 1991.

Section 86ZA of the 1991 Act (as inserted by section 40 of the Water Act 2014) provides the Welsh Ministers with powers to make an order to confer power on the Chief Inspector of the Drinking Water to charge fees (and to determine their amount) for the exercise of a function by an inspector appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991. This amendment brings the governance of the DWI solely within the Water Industry Act 1991.

An order made by the Welsh Ministers under section 86ZA of the 1991 Act must be laid before the Assembly and subject to the annulment procedure.

The Drinking Water Inspectorate are appointed by the Welsh Ministers under section 86(1) of the 1991 Act to operate functions on behalf of the Welsh Ministers as specified in that section. Under section 86(1B)(a) of the 1991 Act the Welsh Ministers may also designate a Chief Inspector of Drinking Water for Wales. Section 86(1B)(b) provides that if the person designated by the Welsh Ministers is the same as the person designated by the Secretary of State as the Chief Inspector of Drinking Water, he shall be known as such in both capacities.

4. Purpose & intended effect of the legislation

This instrument applies to Wales.

The objective of the Regulations is to provide the Drinking Water Inspectorate with the powers to recover the costs of their regulatory functions from the water companies.

The fees are based on cost recovery for the chargeable functions of the DWI with the rates being proposed by the Chief Inspector of Drinking Water, and set pursuant to the Order.

The DWI has statutory responsibility for assuring the supply of clean, safe drinking water to households and businesses. It regulates water companies who supply drinking water to the public. These regulatory functions cover:

- checking water sampling and analysis.
- checking water supply management arrangements (audit activity).
- investigating an event, incident, emergency or other matter arising from the quality or sufficiency of water.
- checking the handling and reporting of consumer complaints about water quality

The new Order mirrors England's Water Quality and Supply (Fees) Order 2016 allowing the DWI to charge fees for water companies in both England and Wales in a consistent manner.

5. Consultation

No public consultation has taken place as there has been no change in policy.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment (RIA) has not been prepared as the amendments have no impact on the costs of businesses.