

2004 No. 1716

TOWN AND COUNTRY PLANNING, ENGLAND

TRIBUNALS AND INQUIRIES, ENGLAND

**The Town and Country Planning (Costs of Inquiries etc.)
(Examination in Public) (England) Regulations 2004**

<i>Made</i> - - - -	<i>5th July 2004</i>
<i>Laid before Parliament</i>	<i>12th July 2004</i>
<i>Coming into force</i> - -	<i>6th August 2004</i>

The First Secretary of State, in exercise of the powers conferred upon him by sections 35B(8) and 303A(8) and (9) of the Town and Country Planning Act 1990(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Costs of Inquiries etc.) (Examination in Public) (England) Regulations 2004 and shall come into force on 6th August 2004.

Application

2.—(1) These Regulations apply in England only.

(2) These Regulations apply in relation to any person (“the appointed person”) who is or has been appointed to conduct, or is or has been appointed as one of the persons who are to conduct, an examination in public under section 35B(1) of the Town and Country Planning Act 1990 (“the 1990 Act”) and whose remuneration, and travelling or subsistence allowances (if any) in respect of that appointment are to be paid to him by the local planning authority causing the examination to be held.

(3) These Regulations prescribe the sums payable in relation to any day on which an appointed person is engaged in the conduct of, or is otherwise engaged on work connected with, an examination in public and which is the day on which these Regulations come into force or any day after that day.

(a) 1990 c.8. Section 35B of the Town and Country Planning Act 1990 (“the 1990 Act”) was inserted by the Planning and Compensation Act 1991 (c.34), subsection (8) of that section and Schedule 4, paragraph 17, were inserted by section 1(5) of the Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c.49) (“the 1995 Act”). Section 303A of the 1990 Act was inserted by section 1(1) of the 1995 Act. *See* section 336(1) of the 1990 Act for the definition of “prescribed”. The functions of the Secretary of State under these provisions were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2: *see* the entry in Schedule 1 for the Town and Country Planning Act 1990, as substituted by article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253).

Standard daily amount

3. The standard daily amount prescribed under section 303A(8) of the 1990 Act is £342.

Travelling allowances

4. The travelling allowance prescribed under section 303A(8) of the 1990 Act in respect of the appointed person is—

- (a) where he travels by means of his own private motor car, or such a vehicle for his use, in connection with the examination in public—
 - (i) where it is not reasonably practicable for him to travel by means of rail, bus or coach, 40 pence for each mile up to 10,000 miles and 25 pence for each mile in excess of 10,000;
 - (ii) where it is reasonably practicable for him to travel by means of rail, bus or coach, 25 pence per mile;
 - (iii) if he is accompanied by a passenger who is also an appointed person, the appointed person who is not a passenger is entitled to an additional allowance of 5 pence for each mile he travels in connection with the examination in public for every passenger.
- (b) where he travels by means of his own private motor cycle, or such a vehicle for his use, 24 pence per mile;
- (c) where he travels by means of a pedal cycle, 20 pence per mile;
- (d) where he travels by means of transport other than that described in sub-paragraphs (a), (b) or (c), the actual cost of first class or other class of rail, bus, coach or taxi fares which he incurs except that taxi fares are included within such an allowance only to the extent that it is not reasonably practicable for the appointed person to travel by means of rail, bus or coach.

Subsistence allowance

5.—(1) The subsistence allowance prescribed under section 303A(8) of the 1990 Act, except as specified in paragraph (2), in respect of absence of the appointed person from his usual place of residence for the period described in the first column of the table in the Schedule to these Regulations, is the actual cost of meals consumed by that person during that period or the amount specified in relation to it in the second column of the Schedule, whichever is the less.

(2) For each complete period of 24 hours the appointed person necessarily spends away from his usual place of residence to enable him to conduct the business of the examination in public he shall be entitled to allowances of—

- (a) the actual cost of accommodation and meals during that period, subject to a maximum amount of—
 - (i) £95 per night spent away from his place of residence, where the examination in public is in the area of the London boroughs, the City of London, the City of Westminster, the Inner Temple or the Middle Temple;
 - (ii) £75 per night where the examination in public is in any other area; or
 - (iii) £25 per night where the appointed person stays with friends or relatives; and
- (b) £5 for incidental expenses.

Signed by authority of the First Secretary of State

5th July 2004

Keith Hill
Office of the Deputy Prime Minister

SCHEDULE

Regulation 5

SUBSISTENCE ALLOWANCE

<i>Period of absence from usual place of residence</i>	<i>Subsistence allowance</i>
Not less than 5 hours but not exceeding 10 hours	£4.50
More than 10 hours but not exceeding 12 hours	£9.50
More than 12 hours	£14.00

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in England only, apply in relation to any person who is appointed to conduct, or is appointed as one of the persons who are to conduct an examination in public under section 35B(1) of the Town and Country Planning Act 1990 and whose remuneration, and travelling or subsistence allowances (if any), in respect of the appointment are to be paid by the local planning authority. These Regulations apply to work done by the appointed person in connection with his appointment in relation to any day which falls on or after the date on which the Regulations come into force.

Examinations in public are a form of administrative hearing which are usually held before the adoption of proposals for the alteration or replacement of a structure plan. Regulation 14 of the Town and Country Planning (Development Plan) (England) Regulations 1999 (S.I. 1999/3280) and the Code of Practice on Structure Plans are relevant to procedures for such hearings. The Code of Practice, contained in Structure Plans - A Guide to Procedures (1999) is available from the Office of the Deputy Prime Minister, Office of the Deputy Prime Minister Free Literature, PO Box 236, Wetherby, LS23 7NB.

These Regulations prescribe a standard daily amount which may be charged for each day the person appointed to hold it is engaged on the examination in public or work connected with it. The amount is £342 per day. This is an increase of approximately 2.8 per cent of the previous standard daily amount of £333 prescribed in S.I. 2003/2948.

These Regulations also prescribe the rates of travelling, subsistence and other allowances. The rates of travelling allowances have increased but there are no changes to the rates of subsistence and other allowances prescribed in S.I. 2003/2948. The rate for travelling by motorcycle will no longer depend on the cylinder capacity of the motor cycle or the type of insurance, as was previously the case, and thus a single rate is provided in relation to such travel.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business, charities or voluntary bodies.

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