STATUTORY INSTRUMENTS

# 1982 No. 759 (S. 109)

# TOWN AND COUNTRY PLANNING, SCOTLAND

## The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (Scotland) Regulations 1982

*Laid before Parliament in draft*

*Made* - - - - *24th May* 1982

*Coming into Operation* *1st June* 1982

The Secretary of State for Scotland, in exercise of the powers conferred on him by section 87 of the Local Government, Planning and Land Act 1980(**a**) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

**1.**—(1) These regulations may be cited as the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (Scotland) Regulations 1982 and the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981(**b**) and these regulations may be cited together as the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981 and 1982.

(2) These regulations shall come into operation on 1st June 1982.

**2.** The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981 are hereby amended as follows:—

(a) In regulation 2

(i) at paragraph (1), for the words "'the General Development Order' means the Town and Country Planning (General Development) (Scotland) Order 1975(**c**)" there shall be substituted the words "'the General Development Order' means the Town and Country Planning (General Development) (Scotland) Order 1981(**d**)";

(ii) at paragraph (3), the words "and Schedule 2" shall cease to have effect.

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(**a**) 1980 c. 65.
(**b**) S.I. 1981/443.
(**c**) S.I. 1975/679.
(**d**) S.I. 1981/830.

(b) for regulation 7 there shall be substituted the following regulation:—

"7.—(1) Where all of the conditions set out in paragraph (2) below are satisfied, the provisions of regulation 3 shall not apply to:—

(a) an application for planning permission which is made following the withdrawal (before notice of decision was issued) of an application for planning permission made by or on behalf of the same applicant;

(b) an application for planning permission which is made following the refusal of planning permission (whether by the planning authority, by the regional planning authority or by the Secretary of State on appeal or following the reference of the application to him for determination) on an application for planning permission made by or on behalf of the same applicant;

(c) an application for planning permission which is made following the making of an appeal to the Secretary of State under section 34 of the 1972 Act (appeal in default of planning decision) in relation to an application for planning permission made by or on behalf of the same applicant;

(d) an application for approval of one or more reserved matters which is made following the withdrawal (before notice of decision was issued) of an application made by or on behalf of the same applicant for approval of details relating to the same reserved matters authorised by the same outline planning permission;

(e) an application for approval of one or more reserved matters which is made following the refusal (whether by the planning authority, by the regional planning authority, or by the Secretary of State on appeal or following reference of the application to him for determination) to approve details relating to the same reserved matters which were submitted in an application made by or on behalf of the same applicant and in relation to the same outline planning permission; or

(f) an application for approval of one or more reserved matters which is made following the making of an appeal to the Secretary of State under section 34 of the 1972 Act in relation to an application made by or on behalf of the same applicant for approval of details relating to the same reserved matters authorised by the same outline planning permission.

(2) The conditions referred to in paragraph (1) above are:—

(a) that the application is made before the end of the period of 12 months following:—

(i) the date when the earlier application was made, in the case of a withdrawn application;

(ii) the date when (by virtue of the relevant provisions of the General Development Order or of section 179(5) of the Local Government (Scotland) Act 1973(a)) the period for the giving of notice of a decision on the earlier application

(a) 1973 c. 65.

expired, in the case of an application which is made following an appeal under section 34 of the 1972 Act; or

(iii) the date of the refusal, in any other case;

(b) that the application relates to:—

(i) in the case of an application for planning permission, the same site as that to which the earlier application related, or to part of that site, and to no other land (save that in a case where additional land is included in the application solely for the purpose of providing a means of access to the site which differs from that proposed in the earlier application, that land shall be disregarded for the purposes of this paragraph);

(ii) in the case of an application for approval of reserved matters, the same land as that to which the earlier application related, or to part of that land (and no other land);

(c) in the case of an application for planning permission, that the planning authority to whom the application is made are satisfied that it relates to development of the same character or description as the development to which the earlier application related (and to no other development);

(d) in the case of an application for planning permission which is not made in outline, that the earlier application was also not made in outline;

(e) that the amount of the fee payable in respect of the earlier application was paid; and

(f) that no previous application has at any time been made by or on behalf of the same applicant which related to the site to which the earlier application related (or which related wholly or in part to any part of that site) and which was exempted from the provisions of regulation 3 by the provisions of this regulation.";

(c) In regulation 8 (fees for deemed applications):—

(i) the following paragraph shall be inserted after paragraph (4):—

"(4A) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act, the provisions of this regulation shall not apply where the person who appeals against the relevant enforcement notice had, before the date when the relevant enforcement notice was served, made an application to the planning authority for planning permission for the use of land or the operations (as the case may be) to which the relevant enforcement notice relates (and had paid to the authority the amount of the fee payable in respect of that application, in accordance with the requirements of regulation 3) and where that application had not been determined on or before the date when the relevant enforcement notice was served."

(ii) the following paragraph shall be inserted after paragraph (5):—

"(5A) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act, in the event that the Secretary of State declines jurisdiction on the relevant appeal under section 85 of the 1972 Act on the grounds that it does not

comply with one or more of the requirements of subsections (1) and (2) of that section, the amount of the fee paid in respect of the deemed application shall be refunded to the appellant by the Secretary of State.";

(d) For regulation 9, there shall be substituted the following regulation:—

"**9.**—(1) Where an application is made to a planning authority under regulation 15 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1961(**a**) for consent for the display of an advertisement, a fee shall be paid to that authority in accordance with the following provisions of this regulation.

(2) Subject to the provisions of paragraphs (3) and (4) below, the amount of the fee payable in respect of each application shall be £22.

(3) Where the application relates to the display of more than one advertisement on the same site, a single fee shall be payable in respect of all of the advertisements to be displayed on that site.

(4) Where the application relates to the display of advertisements on more than one site, the amount of the fee payable in respect of the application shall be the aggregate of the sums payable in respect of the display of advertisements on each such site.

(5) The fee due in respect of an application shall be paid at the time when the application is made; and the amount of the fee shall be sent to the planning authority with whom the application is lodged, together with the application."

(e) In Part I of Schedule 1:—

(i) in paragraph 1, for the words "the provisions of paragraphs 6 to 9 below" there shall be substituted the words "paragraphs 6 to 9A below";

(ii) in paragraph 3(1), for "£40" there shall be substituted "£44";

(iii) the following paragraphs shall be substituted for paragraphs 4 and 5:—

"**4.** Where, on a grant of outline planning permission, the matters reserved for subsequent approval by the planning authority include matters relating to the design or external appearance of the buildings authorised by the permission, the amount of the fee payable in respect of an application for approval of reserved matters made pursuant to that outline planning permission shall be:–

(a) the sum of £44 where the application relates to one or more of the following reserved matters:—

(i) the siting of the buildings;

(ii) the means of access;

(iii) the landscaping of the site;

and to no other reserved matter; or

(**a**) S.I. 1961/195.

(b) a sum calculated in accordance with the table set out in Part II of this Schedule (and the provisions of paragraphs 6 to 9 below, where applicable) in any other case.

5. In the case of an application for planning permission which is deemed to have been made by virtue of section 91(5) of the 1972 Act, the amount of the fee payable shall be as follows:—

(a) where the relevant application for an established use certificate was made in respect of the use of two or more separate dwellinghouses, or in respect of a condition or limitation subject to which planning permission for such a use was granted before the beginning of 1965, the appropriate amount specified in the table set out in Part II of this Schedule in respect of category 8 there set out; or

(b) in any other case, the sum of £44.";

(iv) the following paragraph shall be inserted after paragraph 9:—

"9A. In the case of an application for planning permission which is deemed to have been made by virtue of section 85(7) of the 1972 Act, where the breach (or breaches) of planning control alleged in the relevant enforcement notice does not (or do not) relate solely to one use of land or the carrying out of one type of operation, paragraph 9 above shall not apply; but:—

(a) an amount shall be calculated, in accordance with the provisions of this Schedule, in respect of each use of land or type of operation to which the relevant enforcement notice relates (subject to the provisions of paragraph 8 above, where the relevant enforcement notice relates to a building or buildings to which subparagraph (1) of that paragraph applies); and

(b) the highest of the amounts so calculated shall be taken as the amount of the fee payable in respect of the deemed application."

(f) For the table set out in Part II of Schedule 1 there shall be substituted the table set out in the Schedule to these regulations.

(g) Schedule 2 shall cease to have effect.

*George Younger,*
One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.
24th May 1982.

## SCHEDULE

### REPLACEMENT FOR PART II OF SCHEDULE 1

### "PART II

### SCALE OF FEES

| *Category of development* | *Fee payable* |
|---|---|
| I. Operations | |
| 1. The erection of dwellinghouses (other than development within category 5 below). | (a) Where the application is for outline planning permission, £44 for each 0.1 hectare of the site area, subject to a maximum of £1,100; except in the case of an application in respect of one dwellinghouse, in which case the fee will be £44.<br>(b) In other cases, £44 for each dwellinghouse to be created by the development, subject to a maximum of £2,200. |
| 2. The erection of buildings (other than dwellinghouses, buildings coming within category 6 or buildings in the nature of plant or machinery). | (a) Where the application is for outline planning permission, £44 for each 0.1 hectare of the site area, subject to a maximum of £1,100.<br>(b) In other cases:—<br>(i) where no floor space is to be created by the development, £22;<br>(ii) where the area of gross floor space to be created by the development does not exceed 40 sq metres, £22;<br>(iii) where the area of gross floor space to be created by the development exceeds 40 sq metres but does not exceed 75 sq metres, £44; and<br>(iv) where the area of gross floor space to be created by the development exceeds 75 sq metres, £44 for each 75 sq metres, subject to a maximum of £2,200. |
| 3. The erection, alteration or replacement of plant or machinery. | £44 for each 0.1 hectare of the site area, subject to a maximum of £2,200. |
| 4. (a) The winning and working of minerals (other than peat). | £22 for each 0.1 hectare of the site area, subject to a maximum of £3,300. |
| (b) The winning and working of peat. | £22 for each hectare of the site area, subject to a maximum of £330. |
| 5. The enlargement, improvement or other alteration of existing dwellinghouses. | (a) Where the application relates to one dwellinghouse, £22.<br>(b) Where the application relates to 2 or more dwellinghouses, £44. |
| 6. (a) The carrying out of operations (including the erection of a building) within the curtilage of an existing dwellinghouse, for purposes ancillary to the enjoyment of the dwellinghouse as such, or the erection or construction of gates, fences, walls or other means of enclosure along a boundary of the curtilage of an existing dwellinghouse; or | £22. |

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|---|---|
| *(b)* the construction of car parks, service roads and other means of access on land used for the purposes of a single undertaking, where the development is required for a purpose incidental to the existing use of the land. | £22. |
| 7. The carrying out of any operations not coming within any of the above categories. | £22 for each 0.1 hectare of the site area, subject to a maximum of £220. |
| II. Uses of Land | |
| 8. The change of use of a building to use as one or more separate dwellinghouses. | (a) Where the change is from a previous use as a single dwellinghouse to use as 2 or more single dwellinghouses, £44 for each additional dwellinghouse to be created by the development.<br>(b) In other cases, £44 for each dwellinghouse to be created by the development, subject, in each case to a maximum of £2,200. |
| 9. The use of land for the disposal of refuse or waste materials. | £22 for each 0.1 hectare of the site area, subject to a maximum of £3,300. |
| 10. The making of a material change in the use of a building or land (other than a material change of use coming within any of the above categories). | £44.". |

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations amend the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981, which make provision for the payment of fees to planning authorities in respect of applications made under Part III of the Town and Country Planning (Scotland) Act 1972 (c.52) for planning permission for development or for approval of matters reserved by an outline planning permission and in respect of applications for consent for the display of advertisements; and for the payment of fees to the Secretary of State in respect of applications for planning permission which are deemed to have been made by virtue of the provisions of section 85(7) or 91(5) of the Act of 1972 in connection with an appeal against an enforcement notice or with an application for an established use certificate.

The main alterations made by these regulations are as follows:—

(a) all fees are increased by approximately 10%: the charges in respect of applications and deemed applications to which a flat-rate charge of £20 applies under the 1981 regulations are raised to £22, flat-rate charges of £40 are raised to £44 and where the fee payable in respect of an application or deemed application is based on a scale of charges, the scale rates are increased from £20 per unit and £40 per unit to £22 per unit and £44 per unit respectively; maximum charges are also increased by the same proportion (the maximum of £1000 in respect of outline applications is replaced by a maximum of £1,100, the maximum of £2000 for the erection of buildings or plant or machinery is replaced by a maximum of £2,200, the maximum of £3000 for the carrying out of mining operations is replaced by a maximum of £3,300 and the maximum of £200 for other operations is replaced by a maximum of £220);

(b) regulation 7 (which in certain circumstances exempts applications for planning permission or for approval of reserved matters from the requirement for payment of a fee where an earlier application for the same development or the same reserved matters, as the case may be, has been withdrawn or refused) is amended to extend its scope to cases where an appeal to the Secretary of State has been made under section 34 of the Act of 1972 and to cases where land has been added to the site covered by the earlier application in order to provide an improved means of access; but the wording of the regulation is also amended to ensure both that the exemption does not apply unless the correct fee was paid in respect of the earlier application and that an applicant can take advantage of the exemption only once in respect of any one site;

(c) regulation 8 (deemed applications for planning permission) is amended to provide an exemption from the requirement for payment of a fee in respect of a deemed application arising out of an enforcement appeal where the appellant had made an application for planning permission for the development to which the relevant enforcement notice relates (and paid the appropriate fee in respect of that application) before the date when the relevant enforcement notice was served and the application had not been determined by that date; and there is a new provision for the repayment of the fee in respect of a deemed application arising from an enforcement appeal in the event of the Secretary of State declining jurisdiction on the relevant enforcement appeal;

(d) paragraph 4 of Part I of Schedule 1 (which provides for payment of a flat-rate charge in the case of an application for approval of reserved matters which relates only to the siting of the buildings, means of access or the landscaping of the site) is amended to provide that the flat-rate charge shall apply only where the outline planning permission has reserved the details of the design and external appearance of the buildings for approval;

(e) the scale of fees for advertisements set out in regulation 9 of, and Schedule 2 to, the 1981 regulations is simplified in order to provide that a flat-rate fee of £22 will be paid for all applications for express consent for the display of advertisements;

(f) a new paragraph (paragraph 9A) is added to Part I of Schedule 1 to provide that where a deemed application arising out of an enforcement appeal relates to more than one development only one fee (of an amount representing the highest of the amounts relating to any one of those developments) is payable;

(g) there is some reorganisation and amendment of the categories of development set out in the table in Part II of Schedule 1: a flat-rate fee of £44 is introduced in category 1 (the erection of dwellinghouses) for the case where an outline application is submitted in respect of a single dwellinghouse, irrespective of the site area; category 4 (the winning and working of minerals) is split to introduce a reduced fee for the working of peat of £22 for each hectare of the site area, subject to a maximum of £330; the use of land for the disposal of refuse or waste materials is put into a separate category from other uses of land (the fee for this category being based on a scale of charges of £22 for each 0.1 hectare of the site area, subject to a maximum of £3,300); category 5 set out in the 1981 regulations (alterations to a dwellinghouse and the carrying out of operations in the curtilage of a dwellinghouse) is split into two categories, the first of which covers alterations to any number of dwellinghouses (with a flat-rate charge of £22 where only one dwellinghouse is involved and a flat-rate charge of £44 where two or more dwellinghouses are covered by the application) while the carrying out of operations in the curtilage of a dwellinghouse is amalgamated with category 6 set out in the 1981 regulations (the construction of car parks, service roads and other means of access to serve an existing use) with a flat-rate charge of £22; category 9 set out in the 1981 regulations (use of a single dwellinghouse, as two or more separate dwellinghouses) is extended to cover a change of use of any building to use as one or more separate dwellinghouses (with a flat-rate charge of £44 for each new dwellinghouse created by the development subject to a maximum of £2,200).

There are also some minor drafting amendments.

SI 1982/759
ISBN 0-11-026759-1

