STATUTORY INSTRUMENTS

1983 No. 1697 (S. 163)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983

Laid before Parliament in draft

Made - - - - 16*th November* 1983

Coming into Operation 1*st December* 1983

In exercise of the powers conferred on me by section 87 of the Local Government, Planning and Land Act 1980(**a**), and of all other powers enabling me in that behalf, I hereby make the following Regulations:—

Application, citation and commencement

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983 and shall come into operation on 1st December 1983.

(2) These Regulations apply—

(*a*) to applications for planning permission made on or after the date when they come into operation;

(*b*) to applications for approval of reserved matters made on or after the date when they come into operation;

(*c*) to applications for consent for the display of advertisements made on or after the date when they come into operation;

(*d*) to applications for planning permission deemed to have been made, by virtue of section 85(7) of the Town and Country Planning (Scotland) Act 1972(**b**), in connection with an enforcement notice served on or after the date when they come into operation; and

(*e*) to applications for planning permission deemed to have been made, by virtue of section 91(5) of the Town and Country Planning (Scotland) Act 1972(**c**), in connection with an application for an established use certificate made on or after the date when they come into operation.

(**a**) 1980 c. 65. (**b**) 1972 c. 52.

(**c**) Section 91 was amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Schedule 2, paragraph 24.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the 1972 Act" means the Town and Country Planning (Scotland) Act 1972;

"the General Development Order" means the Town and Country Planning (General Development) (Scotland) Order 1981**(a)**;

"dwellinghouse" means a building or part of a building which is used as a single private dwellinghouse, and for no other purpose;

"reserved matters" has the same meaning as in the General Development Order;

"the Schedule" means the Schedule to these regulations;

"use for residential purposes" means use as a dwellinghouse;

"use of land" includes use of land for the winning and working of minerals.

(2) Subject to the provisions of paragraph (3) below, expressions used in these regulations have, unless the contrary intention appears, the meaning which they bear in the 1972 Act.

(3) Expressions used in regulation 9 have, unless the contrary intention appears, the meaning which they bear in the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1961**(b)**.

(4) References in regulation 7(2)(*f*), in regulation 8(5) and in paragraph 4(1) of the Schedule to particular provisions contained in these regulations shall be construed as including references to the provisions of the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981**(c)** which are re-enacted in these provisions.

(5) A regulation referred to in these Regulations only by number means the regulation so numbered in these Regulations.

Fees for planning applications

3.—(1) Subject to the provisions of regulations 4 to 7, where an application is made to a planning authority for planning permission for the development of land or for the approval of reserved matters, a fee shall be paid to that authority in accordance with the provisions of these regulations.

(2) The amount of the fee payable in respect of the application shall be calculated in accordance with the provisions of the Schedule.

(3) The fee due in respect of an application shall be paid at the time when the application is made; and (subject to the provisions of paragraph 6(2) of the Schedule) the amount of the fee shall be sent to the planning authority with whom the application is lodged, together with the application.

(a) S.I. 1981/830.
(b) S.I. 1961/195.
(c) S.I. 1981/443, amended by S.I. 1982/759.

(4) Where the application is referred to a regional planning authority under section 179(1) of the Local Government (Scotland) Act 1973(a), the planning authority who receive the fee in accordance with the provisions of paragraphs (1) to (3) above shall remit the amount of the fee to the regional planning authority at the same time as they refer the application to them:

Provided that where the Secretary of State has upheld an appeal by the planning authority in terms of section 179(2) of the 1973 Act against a direction given to them by the regional planning authority, the regional planning authority shall return the amount of the fee to the planning authority.

4.—(1) The provisions of regulation 3 shall not apply where the planning authority to whom the application is made are satisfied that it relates solely to—

(*a*) the carrying out of operations for the alteration or extension of an existing dwellinghouse; or

(*b*) the carrying out of operations (other than the erection of a dwellinghouse) in the curtilage of an existing dwellinghouse,

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure his greater safety, health or comfort.

(2) The provisions of regulation 3 shall not apply where the planning authority to whom the application is made are satisfied that it relates solely to the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or premises to which members of the public are admitted (whether on payment or otherwise).

(3) In this regulation, "disabled person" means a person who is blind, deaf or dumb, and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity.

5.—(1) The provisions of regulation 3 shall not apply where the planning authority to whom the application is made are satisfied—

(*a*) that the application relates to development which is within one or more of the classes specified in Schedule 1 to the General Development Order and solely to such development; and

(*b*) that the permission granted by article 3 of that Order does not apply in respect of that development by reason of (and only by reason of)—

(i) a direction made under article 4 of that Order which is in force on the date when the application is made; or

(ii) the requirements of a condition imposed on any permission granted or deemed to be granted under Part III of the 1972 Act otherwise than by that Order.

(*c*) that the application relates to the erection, on land used for the purposes of agriculture, of buildings (other than dwellinghouses) to be used for purposes incidental to that use.

(a) 1973 c. 65.

(2) The reference in subparagraph (1)(*a*) above to an application which relates to development which is within one or more of the classes specified in Schedule 1 to the General Development Order shall be construed as including an application for planning permission for the continuance of a use of land, or the retention of buildings or works on land, without compliance with a condition subject to which a previous planning permission has been granted, where the condition in question prohibits or limits the carrying out of any development which is within one or more of the said classes.

6.—(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 granting 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) for development which the planning authority are satisfied is development of the same character or description as the development to which the application relates, on an application for planning permission made by or on behalf of the same applicant; or

(*b*) an application for approval of one or more reserved matters which is made following the granting of approval (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) of details relating to the same reserved matters authorised by the same outline planning permission, on an application made by or on behalf of the same applicant.

(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 the date of the relevant grant of planning permission or grant of approval of details of reserved matters, as the case may be;

(*b*) that the application relates—

(i) in the case of an application for planning permission, to the same site as that to which the grant of planning permission 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 authorised by the planning permission, that land shall be disregarded for the purpose of this paragraph); or

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

(*c*) in the case of an application for planning permission which is not made in outline, that the planning permission which has been granted is not an outline planning permission (within the meaning of that term as defined in the General Development Order);

(*d*) 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 relevant grant of planning permission or grant of approval of reserved matters, as the case may be, relates (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.

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(**a**) (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.

(**a**) 1972 c. 52.

(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) the period for the giving of notice of a decision on the earlier application 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—

(i) in the case of an application for planning permission, to 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); or

(ii) in the case of an application for approval of reserved matters, to 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.

Fees for deemed applications

8.—(1) Subject to the provisions of paragraph (5) below, a fee shall be paid to the Secretary of State in every case where an application for planning permission is deemed to have been made—

(*a*) by virtue of the provisions of subsection (7) of section 85 of the 1972 Act (in consequence of an appeal under that section against an enforcement notice); or

(*b*) by virtue of the provisions of subsection (5) of section 91 of the 1972 Act (in consequence of an appeal under that section against a decision of a planning authority on an application for an established use certificate).

(2) The amount of the fee payable in respect of a deemed application shall be calculated in accordance with the provisions of the Schedule.

(3) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act, a fee shall be paid in respect of that deemed application by every person who appeals against the relevant enforcement notice.

(4) The fee due in respect of a deemed application shall be paid at the time when written notice of the relevant appeal is given to the Secretary of State and the amount of the fee shall be sent to the Secretary of State.

(5) 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.

(6) The provisions of regulations 4 and 5 shall apply to a deemed application as they apply to an application for planning permission made to the planning authority, with the following modifications:—

(*a*) references to the planning authority to whom the application is made shall be construed as references to the Secretary of State; and

(*b*) references to the development to which the application relates shall be construed as references to the use of land or the operations (as the case may be) to which the relevant enforcement notice relates, or to the use of land in respect of which the relevant application for an established use certificate was made, as the case may be.

(7) 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.

(8) In the event of the relevant appeal under section 85 or 91 being withdrawn at any time before the date appointed for the holding of an inquiry into that appeal or, in the case of an appeal which is being dealt with by way of written representations, the date appointed for the inspection of the site to which the enforcement notice or the application for an established use certificate relates, the amount of the fee paid in respect of the deemed application shall be refunded to the appellant by the Secretary of State.

(9) The reference in paragraph (8) above to an appeal being dealt with by way of written representations shall be construed as a reference to an appeal in respect of which neither the appellant nor the planning authority has asked for an opportunity of appearing before and being heard by a person appointed by the Secretary of State and in respect of which no local inquiry is to be held under section 267 of the 1972 Act.

(10) In the case of an application which is deemed to have been made by virtue of section 85(7) of the 1972 Act, the amount of the fee paid by an appellant shall be refunded to him by the Secretary of State in the event of the planning authority withdrawing the relevant enforcement notice before it takes effect.

(11) Save in the case of an application deemed to have been made in connection with an enforcement notice alleging a breach of planning control by the use of land as a caravan site, the amount of the fee paid by an appellant in respect of an application deemed to have been made under section 85(7) of the 1972 Act shall be refunded to him by the Secretary of State in the event of the Secretary of State allowing the appeal against the relevant enforcement notice on any of the grounds (*b*) to (*e*) set out in subsection (1) of section 85.

(12) In the case of an application which is deemed to have been made by virtue of subsection (5) of section 91 of the 1972 Act, the fee paid by the appellant shall be refunded to him by the Secretary of State in the event of the Secretary of State granting him an established use certificate, or modifying the certificate granted by the planning authority on the application, in pursuance of the provisions of subsection (2)(*a*) of that section.

Fees for applications for consent for advertisements

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) to (6) below the amount of the fee payable in respect of each application shall be £24.

(3) 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.

(4) 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.

(5) Where the application relates to the display of advertisements on parking meters, litter bins or bus shelters within a specified area, the whole of the area to which the application relates shall be treated as one site for the purposes of this regulation.

(6) Where the application is made by or on behalf of a community council, within the meaning of section 51 of the Local Government (Scotland) Act 1973**(b)** the amount of the fee payable in respect of the application shall be one-half of the amount calculated (in accordance with paragraphs (2) to (5) of this regulation) to be appropriate to the display of the advertisement to which the application relates.

(7) 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.

(8) Where all of the conditions set out in paragraph (9) below are satisfied, the provisions of this regulation shall not apply to—

(*a*) an application which is made following the withdrawal (before notice of decision was issued) of an application made by or on behalf of the same person; or

(*b*) an application which is made following the refusal of consent for the display of advertisements issued on an application made by or on behalf of the same person.

(9) The conditions referred to in paragraph (8) 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; or

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

(a) S.I. 1961/195.

(b) 1973 c. 65.

(*b*) that the application relates to the same site as that to which the earlier application related, or to part of that site;

(*c*) that the local planning authority to whom the application is made are satisfied that it related to an advertisement, or advertisements, of the same description as the advertisement or advertisements to which the earlier application related;

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

(*e*) that no previous application has at any time been made by or on behalf of the same applicant which related to—

(i) the same site as the site to which the earlier application related; and

(ii) an advertisement of the same description as the advertisement (or any of the advertisements) to which the earlier application related,

and which was exempted from the provisions of this regulation by paragraph (8) above.

Revocation

10. The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981**(a)** and the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (Scotland) Regulations 1982**(b)** are hereby revoked:

Provided that, notwithstanding such revocation, the said regulations shall continue to apply to applications for planning permission deemed to have been made by virtue of section 85(7) or section 91(5) of the 1972 Act in connection with an enforcement notice served before the date when these regulations come into operation or an application for an established use certificate made before the date when these regulations come into operation, as the case may be.

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

New St. Andrew's House,
Edinburgh.
16th November 1983.

(a) S.I. 1981/443.

(b) S.I. 1982/759.

SCHEDULE

FEES IN RESPECT OF APPLICATIONS AND DEEMED APPLICATIONS FOR PLANNING PERMISSION OR FOR APPROVAL OF RESERVED MATTERS

PART I

GENERAL PROVISIONS

1. Subject to the provisions of paragraphs 2 to 8 below, the amount of the fee payable under regulation 3 or regulation 8 in respect of an application or deemed application shall be calculated in accordance with the table set out in Part II of this Schedule and (where applicable) the provisions of paragraphs 9 to 13 below: Provided that, in the case of an application for approval of reserved matters, references in this Schedule to the category of development to which an application relates shall be construed as references to the category of development authorised by the relevant outline planning permission.

2. Where an application or deemed application is made or deemed to be made by or on behalf of a community council, the amount of the fee payable in respect of the application shall be one-half of such amount as is calculated, in accordance with the table set out in Part II of this Schedule (and the following provisions of this part of this Schedule), to be the amount appropriate to the application having regard to the development to which it relates and the circumstances in which it is made.

3.—(1) Where an application or deemed application for planning permission is made or deemed to be made by or on behalf of a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit and whose objects are the provision of facilities for sport or recreation, and the conditions specified in subparagraph (2) below are satisfied, the amount of the fee payable in respect of the application or deemed application shall be £47.

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

(*a*) that the application or deemed application relates to one or both of the following categories of development:—

(i) the making of a material change in the use of land to use as a playing field; or

(ii) the carrying out of operations (other than the erection of a building containing floor space) for purposes ancillary to the use of land as a playing field,

and to no other development; and

(*b*) that the planning authority with whom the application is lodged, or (in the case of a deemed application) the Secretary of State, is satisfied that the development is to be carried out on land which is, or is intended to be, occupied by the club, society or organisation and used wholly or mainly for the carrying out of its objects.

4.—(1) Where an application for planning permission or an application for approval of reserved matters is made not more than 28 days after the lodging with the planning authority of an application for planning permission or, as the case may be, an application for approval of reserved matters—

(*a*) made by or on behalf of the same applicant;

(*b*) relating to the same site; and

(*c*) relating to the same development or, in the case of an application for approval of reserved matters, relating to the same reserved matters in respect of the same building or buildings authorised by the relevant outline planning permission,

and a fee of the full amount (calculated in accordance with the provisions of the following paragraphs of this Part of this Schedule and the table set out in Part II of this Schedule) payable in respect of the category or categories of development to which the applications relate has been paid in respect of the earlier application, the amount of the fee payable in respect of the later application shall, subject to the provisions of subparagraph (2) below, be one-quarter of the full amount paid in respect of the earlier application.

(2) The provisions of subparagraph (1) above allowing payment of a reduced fee shall apply only in respect of one application made by or on behalf of the same applicant in relation to the same development or in relation to the same reserved matters (as the case may be).

(3) The provisions of subparagraphs (1) and (2) above shall apply where more than one application for planning permission or for approval of reserved matters is made by or on behalf of the same applicant on the same day (provided that all of the conditions specified in subparagraph (1)(*a*) to (*c*) are fulfilled) as though one of those applications had been lodged earlier than the other application or applications.

5. Where application is made for approval of one or more reserved matters and where all of the following conditions are met, namely—

(*a*) one or more applications for approval of reserved matters has or have previously been made under the same outline planning permission; and

(*b*) that application was, or all of those applications were (as the case may be), made by or on behalf of the person who has made the present application; and

(*c*) the amount of the fee paid in respect of that previous application, or the total amount of the fees paid in respect of those previous applications taken together (as the case may be), was not less than the amount which would be payable in respect of one application for approval made in relation to all of the matters reserved by the relevant outline planning permission and in relation to the whole of the development authorised by that outline planning permission,

the amount of the fee payable in respect of the application shall be the sum of £47.

6.—(1) Where application for planning permission or for approval of reserved matters is made, or is deemed to be made, in respect of development which is to be carried out in, on, under or over land which is not wholly within the area of one planning authority (so that separate applications have to be made to two or more planning authorities in whose areas parts of the land are situated), the total amount of the fees payable in respect of all the applications shall not exceed one-and-a-half times the amount which, in accordance with the provisions of this Schedule would be payable if an application were made to a single planning authority in respect of the whole development.

(2) In a case to which subparagraph (1) above applies the total amount payable in respect of all the applications (calculated in accordance with that subparagraph) shall be paid to the planning authority in whose area the largest part of the land to which the application relates is situated.

7.—(1) Where—

(*a*) application for planning permission is made in respect of two or more alternative proposals for the development of the same land; or

(*b*) application for approval of reserved matters is made, pursuant to a condition on an outline planning permission, in respect of two or more alternative proposals for the carrying out of the development authorised by that permission,

and application is made in respect of all of the alternative proposals on the same date, the fees payable in respect of all such alternative proposals shall be calculated as provided in subparagraph (2) below.

(2) Separate calculations shall be made, in accordance with the provisions of this Schedule, of the amount of the fee appropriate to each of the alternative proposals; and the total amount of the fees payable in respect of all the alternative proposals shall be the sum of the following amounts:—

(i) an amount equal to the highest of the amounts calculated in respect of each of the alternative proposals; and

(ii) an amount calculated by adding together the amounts of the fees appropriate to all of the alternative proposals, other than the amount referred to in subparagraph (i) above, and dividing that total by the figure of 2.

8. 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**(a)**, the amount of the fee payable shall be the sum of £47.

9. Where, in respect of any category of development specified in the table set out in Part II of this Schedule, the amount of the fee is to be calculated by reference to the site area—

(*a*) that area shall be taken as consisting of the area of land to which the application relates or, 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, the area of land to which the relevant enforcement notice relates; and

(*b*) where the area referred to in subparagraph (*a*) above is not an exact multiple of the unit of measurement specified in respect of the relevant category of development, the fraction of a unit remaining after division of the total area by the unit of measurement shall be treated, for the purposes of calculating the fee payable in respect of the application or deemed application, as a complete unit.

10. In relation to development within category 2 specified in the table in Part II of this Schedule, the area of gross floor space to be created by the development shall be ascertained by external measurement of the floor space, whether or not it is to be bounded (wholly or partly) by external walls of a building and where that area exceeds 75 sq. metres and is not an exact multiple of 75 sq. metres, the area remaining after division of the total number of square metres of gross floor space by the figure of 75 shall be treated as being 75 sq. metres.

(a) 1972 c. 52.

11.—(1) Where an application or a deemed application relates to development consisting of or including the erection of a building or buildings which it is proposed to use in part for residential purposes and in part for other purposes, the provisions of the following subparagraph shall apply for the purpose of calculating the amount of the fee payable in respect of the application or deemed application.

(2) An assessment shall be made of the total amount of gross floor space which is to be created by the development and which it is proposed to use for purposes other than residential purposes (hereafter in this paragraph referred to as 'the non-residential floor space'), and the sum payable in respect of the non-residential floor space to be created by the development (calculated in accordance with the table in Part II of this Schedule) shall be added to the sum payable in respect of the number of dwellinghouses to be created by the development (calculated in accordance with the table in Part II of this Schedule):

Provided that, where any of the buildings is to contain floor space which it is proposed to use for the purposes of providing common access or common services or facilities for persons occupying or using that building for residential purposes and for persons occupying or using it for non-residential purposes (such floor space being hereafter referred to as 'common floor space'), the amount of non-residential floor space shall be assessed, in relation to that building, as including such proportion of the common floor space as the amount of non-residential floor space in the building bears to the total amount of gross floor space in the building to be created by the development.

12. Where an application or deemed application relates to development which is within more than one of the categories specified in the table set out in Part II of this Schedule—

(*a*) an amount shall be calculated, in accordance with the provisions of this Schedule, in respect of the development which is within each such category (subject to the provisions of paragraph 11 above, where the development to which the application or deemed application relates includes 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 all of the development to which the application or deemed application relates.

13. 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 12 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 11 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.

14. 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, references in this Schedule to the development to which an application relates shall be construed as references to the use of land or the operations (as the case may be) to which the relevant enforcement notice relates, references to the amount of floor space or the number of dwellinghouses to be created by the development shall be construed as references to the amount of floor space or the number of dwellinghouses to which that enforcement notice relates, and references to the purposes for which it is proposed that floor space be used shall be construed as references to the purposes for which floor space was stated to be used in the enforcement notice.

PART II

SCALE OF FEES

Category of development	Fee payable
1. *Operations*	
1. The erection of dwellinghouses (other than development within category 4 below).	(*a*) Where the application is for outline planning permission, £47 for each 0.1 hectare of the site area, subject to a maximum of £1175; except in the case of an application in respect of one dwellinghouse, in which case the fee will be £47. (*b*) in other cases, £47 for each dwellinghouse to be created by the development, subject to a maximum of £2350.
2. The erection of buildings (other than dwellinghouses, buildings coming within category 5 or buildings in the nature of plant or machinery).	(*a*) Where the application is for outline planning permission, £47 for each 0.1 hectare of the site area, subject to a maximum of £1175; (*b*) in other cases— (i) where no floor space is to be created by the development, £24; (ii) where the area of gross floor space to be created by the development does not exceed 40 sq metres, £24; (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, £47; and (iv) where the area of gross floor space to be created by the development exceeds 75 sq. metres, £47 for each 75 sq. metres, subject to a maximum of £2350.
3. The erection, alteration or replacement of plant or machinery.	£47 for each 0.1 hectare of the site area, subject to a maximum of £2350.

PART II—*contd.*

SCALE OF FEES—*contd.*

Category of development	Fee payable
4. The enlargement, improvement or other alteration of existing dwellinghouses.	(*a*) Where the application relates to one dwellinghouse, £24; (*b*) where the application relates to 2 or more dwellinghouses, £47.
5. (*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 (*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.	£24
6. (*a*) The winning and working of minerals (other than peat); (*b*) the winning and working of peat.	£24 for each 0.1 hectare of the site area, subject to a maximum of £3600. £24 for each hectare of the site area, subject to a maximum of £360.
7. The carrying out of any operations not coming within any of the above categories.	£24 for each 0.1 hectare of the site area, subject to a maximum of £240.
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 two or more single dwellinghouses, £47 for each additional dwellinghouse to be created by the development, subject to a maximum of £2350; (*b*) in other cases, £47 for each dwellinghouse to be created by the development, subject to a maximum of £2350.

PART II—*contd.*

SCALE OF FEES—*contd.*

Category of development	Fee payable
9. (*a*) The use of land for the disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land; or (*b*) the use of land for the storage of minerals in the open.	£24 for each 0.1 hectare of the site area, subject to a maximum of £3600.
10. (*a*) 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); or (*b*) the continuance of a use of land, or the retention of buildings or works on land, without compliance with a condition subject to which a previous planning permission has been granted (including a condition requiring the discontinuance of the use or the removal of the building or works at the end of a specified period).	£47

EXPLANATORY NOTE

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

These Regulations consolidate, with amendments, the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981 and the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (Scotland) Regulations 1982. They 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 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 in connection with an application for an established use certificate.

The alterations of substance to the provisions of the former regulations made by these regulations are as follows:—

(*a*) all fees are increased by approximately 7%: the charges in respect of applications and deemed applications to which a flat-rate charge of £22 applies under the 1982 Regulations are raised to £24, flat-rate charges of £44 are raised to £47 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 £22 per unit and £44 per unit to £24 per unit and £47 per unit respectively; maximum charges are increased by the same proportion (the maximum of £1100 which applies to outline applications for planning permission being raised to £1175, the maximum of £2200 which applies to detailed applications and deemed applications relating to the erection of buildings or the erection of plant or machinery being raised to £2350, the maximum of £3300 which applies in relation to the carrying out of mining operations (except the winning and working of peat) or the use of land for the disposal of refuse or waste materials being raised to £3600, the maximum of £330 which applies in relation to the winning and working of peat being raised to £360 and the maximum of £220 which applies in relation to the carrying out of any other operations being raised to £240; and the fee in respect of applications for consent for the display of advertisements is raised from £22 to £24.

(*b*) the exemption from the requirement for the payment of a fee which was given by regulation 4 of the former regulations in respect of applications and deemed applications made in relation to the alteration of dwellinghouses in which disabled persons are resident has been extended to cover cases where the alteration is carried out for the benefit of a disabled person who is proposing to take up residence in the dwellinghouse and to cover applications and deemed applications relating to works of alteration to public buildings which are carried out for the sole purpose of providing means of access for disabled persons (regulation 4);

(*c*) the exemption given by regulation 5 of the former regulations in respect of applications and deemed applications relating to development which is within Schedule 1 to the General Development Order (but which is not permitted by that Order because of the existence of an article 4 direction or because of the terms of a condition imposed on a grant of planning permission) is modified so as to include applications and deemed applications relating to the continuation of a use or the retention of a building or works without complying with a condition imposed on a grant of planning permission which prohibits or restricts development which is within the said Schedule (regulation 5);

(*d*) regulation 5 is further amended to extend its scope to buildings erected on agricultural land and to be used for purposes incidental to the agricultural use;

(*e*) the exemption given by regulation 6 of the former regulations in respect of applications and deemed applications relating to the continuation of a use or the retention of a building or works for which temporary planning permission has been given is removed; and such applications and deemed applications have been included in category

10 in the Table in the Schedule to the regulations with the result that a flat-rate charge of £47 is payable in respect of them;

(*f*) a new regulation is included in the regulations, giving an exemption in respect of applications for planning permission or for approval of reserved matters which are made for the purpose of obtaining permission or approval for a modified proposal; the application must be made within 12 months after the granting of planning permission or the giving of approval (as the case may be) and must be made by the same applicant (regulation 6);

(*g*) the provisions contained in regulation 8 of the former regulations relating to fees for deemed applications have been amended to provide for the refunding of the fee paid in respect of an application deemed to be made in connection with an enforcement notice in the event of the Secretary of State's allowing the appeal against the enforcement notice on the ground that the notice is invalid or defective (regulation 8(11));

(*h*) the provisions contained in regulation 9 of the former regulations (fees for applications for consent for advertisements) have been amended in relation to applications for consent for the display of advertisements on parking meters, litter bins or bus shelters within a specified area (under the modified provisions one fee is payable in respect of all such advertisements covered by the application); there is a new provision that a concessionary fee of half the normal fee is payable in respect of applications for consent for the display of advertisements made by or on behalf of community councils; and there is a new provision giving exemption from the requirement for the payment of a fee in a case where an application is made by the same applicant, in respect of the display of advertisements of the same description on the same site, following the withdrawal of an application or refusal of consent (regulation 9(5), (6), (8) and (9));

(*i*) a new paragraph has been added to Part I of the Schedule to the regulations providing that a fee of one-half of the normal amount shall be payable in respect of an application made or deemed to be made by or on behalf of a community council (paragraph 2);

(*j*) the provisions formerly contained in paragraph 4 of Part I of the Schedule relating to the amount of the fee payable in respect of an application for approval of details have been replaced by a paragraph which provides that once the total of the fees paid in respect of applications for approval of reserved matters under a particular outline planning permission have reached an amount equal to the full amount of the fee payable (in accordance with the provisions of the Schedule) in respect of an application for approval of all of the matters reserved by the outline planning permission, in relation to the whole of the land covered by that permission, all subsequent applications for approval of the matters reserved by that outline planning permission shall be subject to a flat-rate charge of £47 (paragraph 5);

(*k*) a new paragraph has been added to Part I of the Schedule relating to applications made or deemed to be made in respect of development of land which straddles the boundary between two planning authorities: it provides that the total amount of the fees payable in respect of the applications shall not exceed one-and-a-half times the amount which would be payable in respect of a single application for the whole development (paragraph 6);

(*l*) a new paragraph has been added to Part I of the Schedule to provide for payment of a special rate of fee where applications relating to several alternative proposals are submitted to the planning authority by the same applicant on the same date (the fee being a sum calculated by taking the amount of the highest fee payable in respect of any of the alternative proposals and adding to it half of the total of the fees payable in respect of the other alternative proposals) (paragraph 7);

(*m*) category 9 in the table in Part II of the Schedule relating to the use of land for the disposal of refuse or waste materials, has been extended to include the use of land for the deposit of material remaining after minerals have been extracted from land and the use of land for the open storage of minerals.

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