STATUTORY INSTRUMENTS

1985 No. 1180 (S. 98)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 1985

Laid before Parliament in draft

Made - - -	*25th July* 1985
Coming into Operation	*22nd August* 1985

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 of which a draft has been laid before and approved by resolution of each House of Parliament:—

1.—(1) These regulations may be cited as the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 1985 and the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983 (**b**) and these regulations may be cited together as the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983 and 1985.

(2) These regulations shall come into operation on the twenty-eighth day after the date on which they are made.

2. The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983 are hereby amended as follows:—

(a) the following regulation shall be inserted after regulation 5:—

"5A. 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 the use of a building or other land for a purpose of any class specified in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1973 (**c**) and solely to such use; and

(b) that the existing use of that building or other land is for another purpose of the same class; and

(c) that the making of an application for planning permission in respect of the use to which the application relates is necessary by reason of (and only by reason of) the requirements of a condition imposed on any permission granted, or deemed to have been granted, under Part III of the 1972 Act (**d**).";

(b) in regulation 8 (fees for deemed applications):—

(i) the following paragraph shall be substituted for paragraph (5):—

"(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

(**a**) 1980 c.65.
(**b**) S.I. 1983/1697.
(**c**) S.I. 1973/1165.
(**d**) 1972 c.52.

regulation shall not apply where the person who has appealed against the relevant enforcement notice had, before the date when the relevant enforcement notice was served, made:—

(a) an application to the planning authority for planning permission for the development 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); or

(b) an appeal to the Secretary of State against the refusal of the planning authority to grant such permission;

and that application or that appeal (as the case may be) had not been determined on or before the date when the relevant enforcement notice was served.";

(ii) in paragraph (6), for the words "The provisions of regulations 4 and 5" there shall be substituted the words "The provisions of regulations 4, 5 and 5A";

(iii) in paragraphs (7), (8) and (10) for the words "the amount of the fee paid", wherever they occur there shall be substituted the words "the amount of any fee paid";

(iv) at the end of paragraph (12) there shall be added the words "or determining that he has no power to grant planning permission under section 91(3) of the 1972 Act.";

(c) in regulation 9 (fees for applications for consent for advertisements) in paragraph (2) for "£24" there should be substituted "£27".

(d) in Part I of the Schedule:—

(i) in paragraph 1, for the words "paragraphs 2 to 8 below" there shall be substituted the words "paragraphs 1A to 8 below";

(ii) the following paragraph shall be inserted after paragraph 1:—

"1A. Where an application or deemed application relates to the retention of buildings or works which were constructed or carried out without planning permission, or to the continuance of a use of land which was instituted without planning permission, the amount of the fee payable shall be calculated in accordance with the table set out in Part II of this Schedule, as if the application or deemed application were one for planning permission to construct or carry out those buildings or works or to institute that use.";

(iii) in paragraph 3(1), for "£47" there shall be substituted "£53";

(iv) the following paragraph shall be substituted for paragraph 5:—

"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 have been payable had there

been one application for approval of all of the matters reserved by the relevant outline planning permission (and in relation to the whole of the development authorised by that permission) and that application had been made on the day on which the present application was made,

the amount of the fee payable in respect of the application shall be the sum of £53.";

(v) in paragraph 7(1), after the words "made in respect of all of the alternative proposals on the same date" there shall be inserted the words "and by or on behalf of the same applicant";

(vi) in paragraph 8, for "£47" there shall be substituted "£53";

(e) the table set out in the Schedule to these Regulations shall be substituted for the table set out in Part II of the Schedule.

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

New St Andrew's House,
Edinburgh.
25th July 1985.

SCHEDULE

Regulation 2(*e*)

REPLACEMENT PART II OF THE SCHEDULE

"PART II

SCALE OF FEES

Category of development	*Fee payable*
I. *Operations*	
1. The erection of dwellinghouses (other than development within category 4 below).	*(a)* Where the application is for outline planning permission, £53 for each 0.1 hectare of the site area, subject to a maximum of £1,325; except in the case of an application in respect of one dwellinghouse, in which case the fee will be £53; *(b)* in other cases, £53 for each dwellinghouse to be created by the development, subject to a maximum of £2,650.
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, £53 for each 0.1 hectare of the site area, subject to a maximum of £1,325;

Category of development	*Fee payable*
	(b) in other cases:— (i) where no floor space is to be created by the development, £27; (ii) where the area of gross floor space to be created by the development does not exceed 40 sq. metres, £27; (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, £53; and (iv) where the area of gross floor space to be created by the development exceeds 75 sq. metres, £53 for each 75 sq. metres, subject to a maximum of £2,650.
3. The erection, alteration or replacement of plant or machinery.	£53 for each 0.1 hectare of the site area, subject to a maximum of £2,650.
4. The enlargement, improvement or other alteration of existing dwellinghouses.	*(a)* Where the application relates to one dwellinghouse, £27; *(b)* where the application relates to 2 or more dwellinghouses, £53.
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.	£27
6. *(a)* The winning and working of minerals (other than peat);	£27 for each 0.1 hectare of the site area, subject to a maximum of £4,050.
(b) the winning and working of peat.	£27 for each hectare of the site area, subject to a maximum of £405.
7. The carrying out of any operations not coming within any of the above categories.	£27 for each 0.1 hectare of the site area, subject to a maximum of £270.
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, £53 for each additional dwellinghouse to be created by the development, subject to a maximum of £2,650; *(b)* in other cases, £53 for each dwellinghouse to be created by the development, subject to a maximum of £2,650.

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.	£27 for each 0.1 hectare of the site area, subject to a maximum of £4,050.
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).	£53
11. 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).	£27."

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 1983, which make provision for the payment of fees in respect of certain applications made or deemed to be made under the Town and Country Planning (Scotland) Act 1972. Under those regulations, fees are payable to the planning authority in respect of applications for planning permission, applications for approval of matters reserved by an outline planning permission and applications for consent for the display of advertisements; and fees are payable to the Secretary of State in respect of applications for planning permission which are deemed to be made in connection with an appeal against an enforcement notice or in connection with an application for an established use certificate.

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

(a) with the exception referred to below, all fees are increased (by approximately 12½%);

(b) there is a reduction of £20 in the fee in relation to applications, and deemed applications, for planning permission to continue a use of land or retain a building or works without complying with a condition imposed on a previous grant of planning permission (the new amount being £27);

(c) a new regulation (regulation 5A) is added which provides exemption from payment of a fee in respect of an application or deemed application relating to a change of use of a building or other land from a purpose of one of the classes specified in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1973 to another purpose of the same class in a case where planning permission is required solely because the change is prohibited by a condition imposed on a previous grant of planning permission;

(d) regulation 8 (fees for deemed applications) is amended (i) to provide exemption from payment of a fee in the case of an enforcement appeal if there is an undetermined appeal before the Secretary of State against refusal of planning permission for the development to which the enforcement notice relates; and (ii) to provide for the repayment of the fee in the case of an established use certificate appeal or application if the Secretary of State determines that he has no power to grant planning permission under section 91(3) of the 1972 Act;

(e) a new paragraph (paragraph 1A) is included in Part I of the Schedule and provides that the fee payable in respect of an application or deemed application for permission for the retention of a building or works, or the continuance of a use which has been constructed, carried out or begun without planning permission is to be the same as that which would have been payable if the application had been for planning permission to construct or carry out the building or works or to institute the use;

(f) paragraph 7(1) of Part I of the Schedule (which provides for payment of a special rate of fee where applications relating to several alternative proposals are submitted to the planning authority on the same date) is amended to provide that the special rate does not apply unless the applications are submitted by or on behalf of the same applicant.

Some minor drafting amendments have also been made.

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