Planning (Scotland) Act 2019

2019 asp 13

PART 4

OTHER MATTERS

Charges and fees

41 Fees for planning applications etc.

(1) Section 252 of the Town and Country Planning (Scotland) Act 1997 (fees for planning applications etc.) is amended as follows.

(2) After subsection (1)(b) insert—

"(c) the performance by a person appointed by virtue of a scheme of delegation under section 43A of the person's functions.".

(3) After subsection (1) insert—

"(1ZA) The Scottish Ministers may by regulations make provision for the payment of a charge or fee to the Scottish Ministers in respect of—

(a) the performance by the Scottish Ministers of any of their functions under the planning Acts or any order or regulations made under them,

(b) anything done by the Scottish Ministers which is calculated to facilitate, or is conducive or incidental to, the performance of any such function,

(c) the performance by a person appointed by the Scottish Ministers under paragraph 1 of schedule 4 of the person's functions.".

(4) In subsection (1A), for "The regulations" substitute " Regulations under subsections (1) and (1ZA) ".

(5) In subsection (1A)(b), after "calculated" insert " (including conferring on a planning authority the power to determine how it is to be calculated) ".

(6) Subsection (1A)(da) is repealed.

(7) For subsection (1A)(e) substitute—

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"(e) provide that a planning authority or the Scottish Ministers may waive or reduce the charge or fee,

(ea) specify circumstances in which a planning authority or the Scottish Ministers are or are not to waive or reduce the charge or fee,".

(8) Subsections (1AA) and (1AB) are repealed.

(9) After subsection (1AB) insert—

"(1AC) Regulations under subsection (1) may not make provision for the charge or fee payable to different planning authorities to be of different amounts on the basis of whether the functions of the authority are not being, or have not been, performed satisfactorily.".

(10) After subsection (1B) insert—

"(1C) The power to make provision such as mentioned in subsection (1A)(e) and (ea) includes the power to specify the steps a planning authority are to take before or after waiving or reducing the charge or fee.

(1D) Regulations under subsections (1) and (1ZA) may provide for a surcharge to be imposed in relation to an application for planning permission made after the carrying out of the development to which it relates but those regulations may not provide for the imposition of a surcharge greater than the fee that would be payable otherwise in relation to the application.

(1E) Without prejudice to the generality of paragraphs (e) and (ea) of subsection (1A), in relation to applications for planning permission, provision may be made under those paragraphs for fees and charges to be waived where the application is for a development that, in the opinion of the planning authority—

(a) has the primary purpose of contributing to a social enterprise or not for profit enterprise,

(b) is likely to contribute to improving the health of residents of the area to which the application relates.

(1F) For the purposes of subsection (1E)—

"not for profit enterprise" means an organisation which a person might reasonably consider to exist wholly or mainly to provide benefits for society,

"social enterprise" means an organisation whose activities are wholly or mainly activities which a person might reasonably consider to be activities carried on for the benefit of society ("its social objects"), and which—

(a) generates most of its income through business or trade,

(b) reinvests most of its profits in its social objects,

(c) is independent of any public authority, and

(d) is owned, controlled and managed in a way that is consistent with its social objects.".

(11) Subsection (2) is repealed.

(12) In subsection (3)—

(a) in paragraph (a), for "subsection (1)" substitute " subsections (1) and (1ZA) ",

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(b) paragraph (b) is repealed.

(13) In subsection (7), for "the regulations, the planning authority" substitute " regulations under subsection (1A) or (1ZA), the planning authority or, as the case may be, the Scottish Ministers ".

(14) After subsection (8) insert—

"(9) Subsection (7) does not apply in relation to surcharges imposed by virtue of subsection (1D).".

Commencement Information

I1 S. 41 in force at 1.12.2019 by S.S.I. 2019/385, reg. 2, **sch.**

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.S.I. 2019/377, reg. 9 by S.S.I. 2019/411 reg. 2
- specified provision(s) amendment to earlier commencing S.S.I. 2021/101, regs. 3, 4 by S.S.I. 2021/291 reg. 2