

**2004 No. 219**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004**

*Made* - - - - - *13th May 2004*

*Coming into force* - - - - - *1st June 2004*

The Scottish Ministers in exercise of the powers conferred by section 252 of the Town and Country Planning (Scotland) Act 1997(a), and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with subsection (4) of that section, been laid before and approved by resolution of the Scottish Parliament:

**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 2004 and shall come into force on 1st June 2004.

(2) These Regulations apply to—

- (a) applications made on or after the day these Regulations come into force for—
  - (i) any planning permission or deemed application for planning permission;
  - (ii) approval of reserved matters;
  - (iii) a certificate of lawful use or development under section 150 or a certificate of proposed use or development under section 151 of the 1997 Act;
  - (iv) consent for the display of advertisements;
  - (v) a determination as to whether the planning authority’s prior approval will be required in relation to development under Schedule 1 to the General Permitted Development Order; and
- (b) deemed applications for planning permission in connection with an enforcement notice issued on or after the day these Regulations come into force.

**Interpretation**

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

“the 1984 Regulations” means the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(b);

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(a) 1997 c.8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).  
(b) S.I. 1984/467, as amended by S.I. 1992/1763 and S.I. 1996/252.

“community council” means a community council established under section 51 of the Local Government (Scotland) Act 1973(a);

“the General Permitted Development Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(b);

“the 1997 Act” means the Town and Country Planning (Scotland) Act 1997(c);

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

“outline planning permission” and “reserved matters” have the same meaning as in the Town and Country Planning (General Development Procedure) (Scotland) Order 1992(d);

“the Schedule” means the Schedule to these Regulations; and

“use of land” includes use of land for the winning and working of minerals.

(2) Expressions used in regulation 14 have the same meaning as in the 1984 Regulations.

(3) Any reference in these Regulations—

(a) to a numbered regulation, is a reference to the regulation so numbered in these Regulations;

(b) to a numbered paragraph, is a reference to the paragraph so numbered in the Schedule; and

(c) to a numbered Table is a reference to the Table so numbered in Part III of the Schedule.

### **Fees for planning applications**

**3.**—(1) Subject to regulations 4 to 9 and paragraph 8(3) of the Schedule, where an application is made to a planning authority for planning permission 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 fee payable in respect of the application shall be calculated in accordance with the Schedule.

(3) Where a fee is due in respect of an application it shall be paid to the planning authority with which the application is lodged and shall accompany the application.

(4) Any fee paid under this regulation shall be refunded if the application is rejected as invalidly made.

### **Exceptions**

**4.**—(1) Regulation 3 shall not apply where the planning authority to which the application is made is satisfied that it relates solely to the carrying out of operations—

(a) in the curtilage or for the alteration or extension of a dwellinghouse, other than the erection of a dwellinghouse, for the purpose of providing means of access to or within the dwellinghouse for a disabled person who resides or proposes to reside in that dwellinghouse, or of providing facilities designed to secure that person’s greater safety, health or comfort; or

(b) 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.

(2) In this regulation, “disabled person” has the same meaning as in section 1 of the Disability Discrimination Act 1995(e).

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(a) Section 51 of the Local Government (Scotland) Act 1973 (c.65) was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 14.

(b) S.I. 1992/223, amended by S.I. 1992/1078 and 2084, 1993/1036, 1994/1442, 2586 and 3294, 1996/1266 and 3023, 2001/266, and 2003/341.

(c) 1997 c. 8.

(d) S.I. 1992/224, amended by S.I. 1992/2083, 1993/1039, 1994/2585 and 3293, 1995/2043, 1996/467, and 2001/245.

(e) 1995 c.50.

**5.—(1)** Regulation 3 shall not apply where the planning authority to which the application is made is satisfied—

- (a) (i) that the application relates solely to development which is within one or more of the classes, other than Class 18, specified in Schedule 1 to the General Permitted Development Order; and
- (ii) 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—
  - (aa) a direction made under article 4 of that Order which is in force on the date when the application is made; or
  - (bb) the requirements of a condition imposed on a permission granted or deemed to be granted under Part III of the 1997 Act otherwise than by that Order; or
- (b) that the application relates to development on land used for the purposes of agriculture, other than dwellinghouses or the buildings excluded by virtue of paragraph (2)(d) of Class 18 in Schedule 1 to the General Permitted Development Order from that class, and the development is to be used for purposes incidental to that use.

(2) The reference in paragraph (1)(a)(i) to an application which relates to development which is within one or more of the classes specified in Schedule 1 to the General Permitted Development Order shall include an application for planning permission for the continuance of a use of land, or the retention of buildings or works, without compliance with a condition subject to which a previous planning permission has been granted, and which prohibits or limits the carrying out of any development which is within one or more of the said classes.

**6.** Regulation 3 shall not apply where the planning authority to which the application is made is satisfied—

- (a) that the application relates solely 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 1997(a);
- (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 a condition imposed on a permission granted or deemed to be granted under Part III of the 1997 Act.

**7.** Where all the conditions set out in regulation 8 and applicable, as the case may be, to paragraph (a) or (b), are satisfied, regulation 3 shall not apply to an application which is made by the same applicant for—

- (a) planning permission for development of the same character or description as development to which an earlier application relates and to no other development and following—
  - (i) the withdrawal, before notice of decision was issued of that earlier application for planning permission;
  - (ii) the granting of planning permission for the development;
  - (iii) the refusal of planning permission; or
  - (iv) the making of an appeal to the Scottish Ministers under section 47(2) of the 1997 Act (appeal in default of planning decision)(b) in relation to an application for planning permission; or
- (b) approval of one or more reserved matters following—
  - (i) the withdrawal before notice of decision was issued of an application for approval of the same reserved matters;
  - (ii) the granting of approval of the same reserved matters;
  - (iii) the refusal to approve the same reserved matters; or

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(a) SI 1997/3061 as amended by SI 1998/1196.

(b) Section 47 was modified by SSI 1999/1, regulation 45.

- (iv) the making of an appeal to the Scottish Ministers under section 47(2) of 1997 Act in relation to an application for approval of the same reserved matters, authorised by the same outline planning permission.

**8.** The conditions referred to in regulation 7 are—

- (a) that the application is made within 12 months of the date—
  - (i) when the earlier application was made, in the case of a withdrawn application;
  - (ii) of the relevant grant of planning permission or grant of approval of details of reserved matters, as the case may be;
  - (iii) of the refusal; or
  - (iv) when under the relevant provisions of the General Permitted Development Order, 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 47(2) of the 1997 Act;
- (b) 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 or that the earlier application was also not made in outline;
- (c) in the case of an application for planning permission, the application relates to the same site as that to which the earlier application related, or to part of that site, and to no other land except land included solely for the purpose of providing a different means of access to the site;
- (d) in the case of an application for approval of reserved matters, the application relates to the same site as that to which the earlier application related, or to part of that site and to no other land;
- (e) no application made by or on behalf of the same applicant in relation to the whole or any part of the site has already been exempted from regulation 3 by virtue of regulation 7 and this regulation; and
- (f) the fee payable in respect of the earlier application was paid.

**9.** Regulation 3 shall not apply to impose a fee in relation to an application to a planning authority for permission to carry out development consisting of the winning and working of minerals where the application—

- (a) is for a permission which consolidates two or more subsisting permissions; or
- (b) does not seek permission for development which is not authorised by a subsisting permission.

**Fees for deemed applications**

**10.**—(1) Subject to paragraphs (3) and (6), a fee shall be paid to the Scottish Ministers where an application for planning permission is deemed to have been made by virtue of section 133(7) of the 1997 Act (in consequence of an appeal against an enforcement notice).

(2) Subject to paragraphs (3) and (4) and regulation 15(2), the fee payable in respect of a deemed application shall be calculated in accordance with the Schedule.

(3) This paragraph applies where an application is deemed to have been made by virtue of section 133(7) of the 1997 Act. Where this paragraph applies—

- (a) a fee shall be paid in respect of the application by every person who has made a valid appeal against the relevant enforcement notice;
- (b) the fee payable shall be twice the fee calculated in accordance with the Schedule;
- (c) half the fee shall be paid to the Scottish Ministers and the other half shall be paid to the planning authority which served the relevant enforcement notice.

(4) The fee due in respect of a deemed application shall accompany the written notice of the relevant appeal to the Scottish Ministers.

(5) In the case of an application deemed to have been made by virtue of section 133(7) of the 1997 Act, this regulation shall not apply where the person who has appealed against the relevant enforcement notice had—

- (a) before the date when the notice was served, made an application to the planning authority for planning permission for the development to which the relevant enforcement notice relates and had paid the fee payable in respect of that application; or
- (b) before the date specified in the notice as the date on which the notice is to take effect, made an appeal to the Scottish Ministers under section 47(2) of the 1997 Act,

and at the date when the relevant enforcement notice was served that application or, in the case of an appeal made before the date on which the enforcement notice is to take effect, that appeal, had not been determined.

(6) Regulations 4, 5 and 6 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 Scottish Ministers; and
- (b) references to the development to which the application relates shall be construed as references to the use of land or the operations to which the relevant enforcement notice relates.

### **Refunds of fees for deemed applications**

**11.—**(1) In the case of an application deemed to have been made by virtue of section 133 (7) of the 1997 Act, the amount of any fee paid in respect of the deemed application shall be refunded to the appellant in the following circumstances—

- (a) where the Scottish Ministers decline jurisdiction on the relevant appeal under section 130 of the 1997 Act on the grounds that it does not comply with one or more of the requirements of subsection (1) of that section;
  - (b) where the Scottish Ministers under section 132(3) of the 1997 Act—
    - (i) dismiss the appeal on the grounds that the appellant has failed to comply with section 130(3) within the time prescribed under section 131(1); or
    - (ii) allow the appeal and quash the enforcement notice on the grounds that the planning authority failed to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of section 131(1);
  - (c) where the planning authority withdraws the relevant enforcement notice before it takes effect or if the Scottish Ministers consider that there was no subject matter to appeal against since the purposed enforcement notice had no legal effect; and
  - (d) 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 or where, on the determination of the appeal, the Scottish Ministers issue a certificate under section 150(a) or section 151 of the 1997 Act in accordance with section 154(3) of that Act, where the Scottish Ministers allow the appeal against the relevant enforcement notice on any of the grounds set out in section 130(1)(b) to (g) of the 1997 Act.
- (2) (a) In the event of the relevant appeal under section 130 or section 154 of the 1997 Act being withdrawn with the result that there are at least 21 days between the date of withdrawal and—
- (i) the date or, in the event of postponement, the latest date appointed for the holding of an inquiry into that appeal; or
  - (ii) in the case of an appeal which is being dealt with by way of written submissions, the date or, in the event of postponement, the latest date appointed for the inspection of the site to which the enforcement notice relates,

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(a) Section 150 was modified by S.S.I. 2000/323, regulation 7(5).

any fee paid in respect of the deemed application shall be refunded to the appellant.

- (b) For the purposes of this paragraph an appeal shall be treated as being withdrawn on the date on which notice in writing of the withdrawal is received by the Scottish Ministers.

(3) The reference in paragraph (2) to an appeal being dealt with by way of written submissions shall be construed as a reference to an appeal in respect of which no local inquiry is to be held under section 265 of the 1997 Act<sup>(a)</sup>.

### **Fees for applications for certificates of lawful use or development**

**12.**—(1) Subject to paragraphs (2), (3) and (4), where an application is made to a planning authority under section 150(1) (certificate of lawful use or development) or section 151 (certificate of proposed use or development) of the 1997 Act a fee shall be paid to that authority.

(2) This regulation shall not apply where the planning authority to which the application is made is satisfied that it relates solely to the carrying out of operations specified in regulation 4 for the purposes specified in that regulation.

(3) Where all of the conditions set out in paragraph (4) are satisfied, 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 applicant;
- (b) an application which is made following the refusal of an application (whether by the planning authority or the Scottish Ministers on appeal) made by or on behalf of the same applicant.

(4) The conditions referred to in paragraph (3) are—

- (a) that the application is made within 12 months of—
  - (i) the date when the earlier application was made, in the case of a withdrawn application; or
  - (ii) the date of refusal, in any other case;
- (b) that the application relates to the same site as that to which the earlier application related, or to part of that site and to no other land;
- (c) that the planning authority to which the application is made is satisfied that it relates to a use, operation or other matter of the same description as the use, operation or matter to which the earlier application related and to no other use, operation or matter;
- (d) that the fee payable in respect of the earlier application was paid; and
- (e) that no application made by or on behalf of the same applicant in relation to the whole or any part of the site has already been exempted from this regulation by paragraph (3).

(5) Subject to paragraphs (6) to (10), the fee payable in respect of an application to which this regulation applies shall be—

- (a) in the case of an application under section 150(1)(a) or (b) (or under both paragraphs), the amount that would be payable in respect of an application for planning permission to institute the use or carry out the operations specified in the application (or an application to do both, as the case may be);
- (b) in the case of an application under section 150(1)(c), £120, and on or after 1st April 2005, £130;
- (c) in the case of an application under section 151(1), half the amount that would be payable in respect of an application for planning permission to institute the use or carry out the operations specified in the application (or an application to do both, as the case may be).

(6) Where a use specified in an application under section 151(1)(a) is use as one or more separate dwellinghouses, the fee payable in respect of that use shall be £240 for each

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<sup>(a)</sup> Section 265 applied by the Planning (Hazardous Substances) (Scotland) Act 1997 (c.10), sections 36, 40(2) (with sections 9(3), 10(5), 38(6)).

dwellinghouse, subject to a maximum of £12,000, and on or after 1st April 2005, shall be £260 for each dwellinghouse, subject to a maximum of £13,000.

(7) Where an application is made under section 150(1)(a) or (b) (or under both paragraphs) and under section 150(1)(c), the fee payable shall be the sum of the fees that would have been payable if there had been an application under section 150(1)(a) or (b) (or under both paragraphs, as the case may be) and a separate application under section 150(1)(c).

(8) In the case of an application which relates to land in the area of two or more planning authorities, paragraph 8 of Part II of the Schedule shall apply for the purpose of determining the authority to which the fee shall be payable and the amount payable as it applies in the case of an application for planning permission which relates to such land.

(9) Where an application is made by or on behalf of a community council, the fee payable shall be one-half of the amount that would otherwise be payable in accordance with paragraphs (5) to (8).

(10) The fee due in respect of an application to which this regulation applies shall accompany the application when it is lodged with the planning authority.

(11) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalidly made.

### **Fees for certain applications for the prior approval of the planning authority**

**13.**—(1) Where an application is made to a planning authority for determination as to whether the prior approval of the authority will be required in relation to development under Schedule 1 to the General Permitted Development Order a fee shall be paid to that authority of £46, and on or after 1st April 2005, £50.

(2) Any fee paid under this regulation shall be refunded if the application is rejected as invalidly made.

### **Fees for applications for consent for advertisements**

**14.**—(1) Where an application is made to a planning authority under regulation 15 of the 1984 Regulations for consent for the display of an advertisement, a fee shall accompany the application and shall be paid to that authority in accordance with this regulation.

(2) Subject to the provisions of paragraphs (3) to (7) the fee payable in respect of each site on which one or more than one advertisement is to be displayed shall be £120, and on or after 1st April 2005, £130.

(3) Where the application relates to the display of advertisements on parking meters, litter bins, public seating benches 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 purpose of this regulation.

(4) Where the application is made by a community council, the amount of the fee payable in respect of the application shall be reduced by one half.

(5) Where all of the conditions set out in paragraph (6) are satisfied, this regulation shall not apply to an application for the display of advertisements which is made following—

- (a) the withdrawal before notice of decision was issued; or
- (b) the refusal of consent whether by the planning authority or by the Scottish Ministers on appeal,

in respect of an application for the display of advertisements made by the same person.

(6) The conditions referred to in paragraph (5) are—

- (a) that the application is made within 12 months of—
  - (i) the date when the earlier application was made, in the case of a withdrawn application; or
  - (ii) in any other case, the date of refusal;

- (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 planning authority to which the application is made is satisfied that it relates to an advertisement or advertisements, of the same description other than content, as the advertisement or advertisements to which the earlier application related;
- (d) that the fee payable in respect of the earlier application was paid; and
- (e) that no previous application has at any time been made by 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 other than content as any advertisement to which the earlier application related, and which was exempted from the provisions of this regulation by paragraph (5).

(7) No fee is payable under this regulation in respect of an application for consent to display an advertisement if the application is occasioned by direction under regulation 11 of the 1984 Regulations disapplying regulation 10 in relation to that advertisement.

(8) Any fee paid under this regulation shall be refunded if the relevant application is rejected as invalidly made.

### **Revocation**

**15.**—(1) Subject to paragraph (2), and insofar as they have been not revoked already, the Town and Country Planning (Fees for Applications and Deemed Applications)(Scotland) Regulations 1997(a), The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2000(b), and the Town and County Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2002(c) are hereby revoked.

(2) The Regulations referred to in paragraph (1) shall continue to apply to applications for planning permission deemed to have been made by virtue of section 133(7) of the 1997 Act in connection with an enforcement notice served before the date when these Regulations come into force.

*MARY MULLIGAN*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
13th May 2004

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(a) SI 1997/10.  
(b) SSI 2000/150.  
(c) SSI 2002/122.

## SCHEDULE

Regulation 3

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

#### PART I

##### INTRODUCTION

**1.** In this Schedule—

- (a) any reference to a category of development shall be taken to mean one of the categories of development specified in column 1 of the tables set out in Part III;
- (b) in the case of an application for approval of reserved matters, references 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;
- (c) in the case of an application for planning permission which is deemed to have been made by virtue of section 133(7) of the 1997 Act, references to—
  - (i) 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;
  - (ii) 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
  - (iii) 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

##### GENERAL PROVISIONS

**2.** Subject to paragraphs 3 to 10, the fee payable under regulation 3 or regulation 10 for a category of development shall be calculated in accordance with—

- (a) for the period up to and including 31 March 2005, the appropriate entry specified in Column 2 of Table 1;
- (b) for the period on or after 1st April 2005, the appropriate entry specified in Column 2 of Table 2; and

paragraphs 11 to 14.

**3.** Where an application or deemed application is made or deemed to be made by a community council, the fee payable shall be one half of the amount that would otherwise be payable.

**4.—(1)** Where an application or deemed application is made or deemed to be made by a club, society, trust or other organisation 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 sub-paragraph (2) are satisfied, the fee payable shall be £240, and on or after 1st April 2005, £260.

(2) The conditions referred to in sub-paragraph (1) are—

- (a) that the application or deemed application relates to—

- (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 playing field,

and to no other development; and

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

**5.—**(1) This paragraph applies where—

- (a) an application is made for approval of one or more reserved matters (“the current application”);
- (b) the applicant has previously applied for such approval under the same outline planning permission and paid fees in relation to one or more such applications; and
- (c) no application has been made under that permission other than by the applicant.

(2) Where the amount paid as mentioned in sub-paragraph (1)(b) is not less than the amount which would be payable if the applicant were by the current application seeking approval of all the matters reserved by the outline permission and in relation to the whole of the development authorised by the permission, the fee payable in respect of the current application shall be £240, and on or after 1st April 2005, £260.

(3) Where—

- (a) a fee has been paid as mentioned in sub-paragraph (1)(b) at a rate lower than that prevailing at the date of the current application; and
- (b) sub-paragraph (2) would apply if that fee had been paid at the rate applying at that date, the fee in respect of the current application shall be £240, and on or after 1st April 2005, £260.

**6.** Where application is made for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted the fee payable in respect of the application shall be £120, and on or after 1st April 2005, £130.

**7.** Where an application relates to development to which section 33 of the 1997 Act applies, the fee payable in respect of the application shall be—

- (a) where the application relates to development carried out without permission, the fee that would be payable if the application were for planning permission to carry out that development; and
- (b) in any other case, £120, and on or after 1st April 2005, £130.

**8.—**(1) This paragraph applies where applications are made or deemed to have been made by virtue of section 133(7) of the 1997 Act for planning permission or for the approval of reserved matters in respect of the development of land lying in the areas of 2 or more planning authorities.

(2) The amount payable in respect of all the applications shall be one and a half times the amount which would have been payable if application had been made to a single authority in respect of the whole development or the sum of the amounts which would have been payable but for this paragraph whichever is the lesser.

(3) In applications other than deemed applications the fee payable under sub-paragraph (2) shall accompany only the application to the planning authority in whose area the larger or largest part of the land to which the applications relate is situated.

(4) In deemed applications the fee payable to the Scottish Ministers shall be the amount which would be payable by virtue of sub-paragraph (2) if applications for the like permission had been made to the relevant planning authorities on the date on which notice of appeal was given in accordance with section 130(2) of the 1997 Act.

**9.—**(1) Where application is made—

- (a) for planning permission in respect of 2 or more proposals for the development of the same land; or
- (b) for approval of reserved matters in respect of 2 or more proposals for the carrying out of the development authorised by an outline planning permission,

and application is made in respect of all the proposals on the same date and by the same applicant a single fee shall be payable in respect of all such proposals, calculated as provided in sub-paragraph (2).

(2) Calculations shall be made in accordance with this Schedule of the fee appropriate to each of the proposals and the single fee payable in respect of all the proposals shall be the sum of—

- (a) an amount equal to the highest fee calculated in respect of each of the proposals; and
- (b) an amount calculated by adding together the fees appropriate to all of the proposals, other than the fee referred to in sub-sub-paragraph (a) and dividing that total by the figure of 2.

### PART III

#### SCALES OF FEES ETC

**10.** Where, in respect of any category of development 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 133(7) of the 1997 Act, the area of land to which the relevant enforcement notice relates; and
- (b) where the area referred to in sub-paragraph (a) 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 as a complete unit.

**11.** In relation to development within category 2—

- (a) 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,
- (b) where the area of gross floor space to be created by the development exceeds 75 square metres and is not an exact multiple of 75 square 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 square metres.

**12.—(1)** Where an application, or a deemed application other than an outline application, relates to development which is partly within category 1 and partly within category 2, the following sub-paragraphs shall apply for the purpose of calculating the fee.

(2) The amount of gross floor space which is to be created by that part of the development which is within category 2 (“the non-residential floor space”), shall be calculated and the sum payable in respect of that non-residential floor space shall be added to the sum payable in respect of that part of the development which is within category 1 and, subject to sub-paragraph (4), the result of the addition shall be the fee payable.

(3) For the purpose of sub-paragraph (2) where any of the buildings is to contain floor space 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 (“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.

(4) Where an application or deemed application to which this paragraph applies relates to development which is also within one or more than one of categories 3 to 12 an amount shall be calculated in accordance with each such category and if any of the amounts so calculated exceeds the amount calculated in accordance with sub-paragraph (2) that higher amount shall be the fee payable in respect of all of the development to which the application or deemed application relates.

13. Subject to paragraph 12 where an application or deemed application, other than an outline application, relates to development which is within more than one of the categories–

- (a) an amount shall be calculated in respect of each category; and
- (b) the highest amount so calculated shall be the fee payable in respect of the application or deemed application.

14. Where an application is for outline planning permission and relates to development which is within more than one of the categories the fee payable in respect of the application shall be £240 for each 0.1 hectares of the site area, subject to a maximum of £6,000, and on or after 1st April 2005, £260 for each 0.1 hectares of the site area, subject to a maximum of £6,500.

TABLE 1  
FEES PAYABLE ON OR AFTER 1ST JUNE 2004

| <i>1</i><br><i>(Category of development)</i>   | <i>2</i><br><i>(Fee Payable)</i>   |
|--|--|
| <i>I. Operations</i>   |  |
| 1. The erection of dwellinghouses (other than development within category 6).            | Where the application is for–<br><ul style="list-style-type: none"> <li>(a) outline planning permission, £240 for each 0.1 hectare of the site area, subject to a maximum of £6,000; or for one dwellinghouse, £240;</li> <li>(b) other than outline planning permission, £240 for each dwellinghouse to be created by the development, subject to a maximum of £12,000.</li> </ul>  |
| 2. The erection of buildings (other than buildings coming within category 1, 3, 4 or 6). | Where the application is for–<br><ul style="list-style-type: none"> <li>(a) outline planning permission, £240 for each 0.1 hectare of the site area, subject to a maximum of £6,000;</li> <li>(b) other than outline planning permission– <ul style="list-style-type: none"> <li>(i) where no floor space is to be created by the development, £120;</li> <li>(ii) where the area of gross floor space to be created by the development does not exceed 40 square metres, £120;</li> </ul> </li> </ul> |

| <i>1</i><br><i>(Category of development)</i>   | <i>2</i><br><i>(Fee Payable)</i>   |
|--|--|
|  | (iii) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £240; and  |
|  | (iv) where the area of gross floor space to be created by the development exceeds 75 square metres, £240 for each 75 square metres, subject to a maximum of £12,000.   |
| 3. The erection on land used for the purposes of agriculture, of those works, structures or buildings excluded by virtue of paragraph 2(d) of Class 18 in Schedule 1 to the General Permitted Development Order from that class (other than buildings coming within category 4). | (a) Where the application is for outline planning permission, £240 for each 0.1 hectare of the site area, subject to a maximum of £6,000;<br>(b) in all other cases—<br>(i) where the ground area to be covered by the development exceeds 465 square metres but does not exceed 540 square metres, £240;<br>(ii) where the ground area to be covered by the development exceeds 540 square metres, £240 for the first 540 square metres and £240 for each 75 square metres in excess of that figure, subject to a maximum of £12,000. |
| 4. The erection on land used for the purposes of agriculture, of glasshouses excluded by virtue of paragraph 2(d) of Class 18 of the General Permitted Development Order.  | Where the ground area to be covered by the development exceeds 465 square metres, £1,380.  |
| 5. The erection, alteration or replacement of plant or machinery.  | £240 for each 0.1 hectare of the site area, subject to a maximum of £12,000.   |
| 6. The enlargement, improvement or other alteration of existing dwellinghouses.  | (a) Where the application relates to one dwellinghouse, £120;<br>(b) where the application relates to two or more dwellinghouses, £240.  |
| 7. (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;  | £120.  |

| <i>1</i><br><i>(Category of development)</i>   | <i>2</i><br><i>(Fee Payable)</i>  |
|--|---|
| <ul style="list-style-type: none"> <li>(b) the erection or construction of gates, fences, walls or other means of enclosure along a boundary of the curtilage of an existing dwellinghouse; or</li> <li>(c) 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.</li> </ul> |   |
| 8. The carrying out of any operations connected with exploratory drilling for oil or natural gas.  | £240 for each 0.1 hectare of the site area, subject to a maximum of £18,000.  |
| 9. The carrying out of any operations not within categories 1 to 8.  | <p>In the case of operations for–</p> <ul style="list-style-type: none"> <li>(a) the winning and working of minerals, £120 for each 0.1 hectare of the site area, subject to a maximum of £18,000;</li> <li>(b) the winning and working of peat, £120 for each hectare of the site area, subject to a maximum of £1,800;</li> <li>(c) any other purpose, £120 for each 0.1 hectare of the site area, subject to a maximum of £1,200.</li> </ul> |
| <i>II. Uses of Land</i>  |   |
| 10. The change of use of a building to use as one or more separate dwellinghouses.   | £240 for each additional dwellinghouse to be created by the development, subject to a maximum of £12,000.   |
| 11. (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<br>(b) the use of land for the storage of minerals in the open.  | £120 for each 0.1 hectare of the site area, subject to a maximum of £18,000.  |
| 12. The making of a material change in the use of a building or land, other than a material change of use within category 10 or 11.  | £240.   |

TABLE 2  
FEES PAYABLE ON OR AFTER 1ST APRIL 2005

| <i>1</i><br><i>(Category of development)</i>   | <i>2</i><br><i>(Fee Payable)</i>  |
|--|---|
| <i>I. Operations</i>   |   |
| 1. The erection of dwellinghouses (other than development within category 6).  | Where the application is for—<br>(a) outline planning permission, £260 for each 0.1 hectare of the site area, subject to a maximum of £6,500; or for one dwellinghouse, £260;<br>(b) other than outline planning permission, £260 for each dwellinghouse to be created by the development, subject to a maximum of £13,000.   |
| 2. The erection of buildings (other than buildings coming within category 1, 3, 4 or 6).   | Where the application is for—<br>(a) outline planning permission, £260 for each 0.1 hectare of the site area, subject to a maximum of £6,500;<br>(b) other than outline planning permission—<br>(i) where no floor space is to be created by the development, £130;<br>(ii) where the area of gross floor space to be created by the development does not exceed 40 square metres, £130;<br>(iii) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £260; and<br>(iv) where the area of gross floor space to be created by the development exceeds 75 square metres, £260 for each 75 square metres, subject to a maximum of £13,000. |
| 3. The erection on land used for the purposes of agriculture, of those works, structures or buildings excluded by virtue of paragraph 2(d) of Class 18 in Schedule 1 to the General Permitted Development Order from that class (other than buildings coming within category 4). | (a) Where the application is for outline planning permission, £260 for each 0.1 hectare of the site area, subject to a maximum of £6,500;<br>(b) in all other cases—<br>(i) where the ground area to be covered by the development exceeds 465 square metres but does not exceed 540 square metres, £260;   |

| <i>1</i><br><i>(Category of development)</i>  | <i>2</i><br><i>(Fee Payable)</i>  |
|---|---|
|   | (ii) where the ground area to be covered by the development exceeds 540 square metres, £260 for the first 540 square metres and £260 for each 75 square metres in excess of that figure, subject to a maximum of £13,000.   |
| 4. The erection on land used for the purposes of agriculture, of glasshouses excluded by virtue of paragraph 2(d) of Class 18 of the General Permitted Development Order.   | Where the ground area to be covered by the development exceeds 465 square metres, £1,520.   |
| 5. The erection, alteration or replacement of plant or machinery.   | £260 for each 0.1 hectare of the site area, subject to a maximum of £13,000.  |
| 6. The enlargement, improvement or other alteration of existing dwellinghouses.   | (a) Where the application relates to one dwellinghouse, £130;<br>(b) where the application relates to two or more dwellinghouses, £260.   |
| 7. (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;<br>(b) the erection or construction of gates, fences, walls or other means of enclosure along a boundary of the curtilage of an existing dwellinghouse; or<br>(c) 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. | £130.   |
| 8. The carrying out of any operations connected with exploratory drilling for oil or natural gas.   | £260 for each 0.1 hectare of the site area, subject to a maximum of £19,500.  |
| 9. The carrying out of any operations not within categories 1 to 8.   | In the case of operations for–<br>(a) the winning and working of minerals, £130 for each 0.1 hectare of the site area, subject to a maximum of £19,500;<br>(b) the winning and working of peat, £130 for each hectare of the site area, subject to a maximum of £1,950; |

| <i>1</i><br><i>(Category of development)</i>  | <i>2</i><br><i>(Fee Payable)</i>  |
|---|---|
|   | (c) any other purpose, £130 for each 0.1 hectare of the site area, subject to a maximum of £1,300.        |
| <br><i>II. Uses of Land</i>   |   |
| 10. The change of use of a building to use as one or more separate dwellinghouses.  | £260 for each additional dwellinghouse to be created by the development, subject to a maximum of £13,000. |
| 11. (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<br>(b) the use of land for the storage of minerals in the open. | £130 for each 0.1 hectare of the site area, subject to a maximum of £19,500.                              |
| 12. The making of a material change in the use of a building or land, other than a material change of use within category 10 or 11.   | £260.   |

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations revoke the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1997, the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2000 and the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulation 2002 and make provision for the payment of fees:–

- (a) to planning authorities in respect of applications made under Part III of the Town and Country Planning (Scotland) Act 1997 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;
- (b) to the Scottish Ministers in respect of applications for planning permission which are deemed to have been made, by virtue of the provisions of section 133(7) of the 1997 Act, in connection with an appeal against an enforcement notice; and
- (c) for applications for certificates of lawful use or development made under section 150(1) and certificates of proposed use or development under section 151(1) of the 1997 Act.

The effect of these Regulations is that all fees are increased by approximately 10%, from the date the regulations come into force on or after 1st June 2004, and by a further 10% approximately which is to apply on or after 1st April 2005.



**2004 No. 219**

**TOWN AND COUNTRY PLANNING**

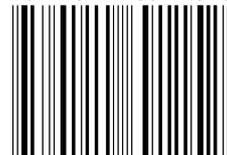
**The Town and Country Planning (Fees for Applications and  
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