
STATUTORY INSTRUMENTS

1997 No. 822

The Channel Tunnel Rail Link (Fees for Requests for Planning Approval) Regulations 1997

Citation, commencement and application

1.—(1) These Regulations may be cited as the Channel Tunnel Rail Link (Fees for Requests for Planning Approval) Regulations 1997, and shall come into force—

- (a) for all purposes, except those of regulations 7, 8 and 9 and Schedules 4 and 5 on 8th April 1997;
- (b) for the purposes of regulations 7, 8 and 9 and Schedules 4 and 5, on 1st October 1997.

(2) Any fee payable under these Regulations shall be calculated in accordance with these Regulations as they have effect on the date on which the request for approval is made.

Interpretation, and general provisions as to fee calculation and payment date

2.—(1) In these Regulations:

“the Act” means the Channel Tunnel Rail Link Act 1996, and “the Schedule” means Schedule 6 to the Act;

“additional details request” means a request for approval of additional details where such approval is required pursuant to paragraph 5(2), 6(2), 14(2), 15(2), 21(2) or 22(2) of the Schedule;

“appeal” means an appeal to the appropriate Ministers pursuant to paragraph 32 of the Schedule;

“approval” means approval under Part II or III of the Schedule;

“authority” means relevant local authority;

“mitigation scheme” means a scheme referred to in paragraph 9(3)(b) or 17(3)(b) of the Schedule;

“qualifying authority” and “non-qualifying authority” mean respectively, an authority which is, and one which is not, a qualifying authority for the purposes of the Schedule;

“request” means a request for approval under the planning permission deemed to be granted by section 9(1) of the Act;

“site restoration scheme” means a scheme referred to in paragraph 8(1) or 24(1) of the Schedule;

“the undertaker” means the nominated undertaker; and

“working day” means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(1).

(2) Where, pursuant to these Regulations, a prescribed fee is calculated by reference to the gross floor space to be created, the area of that space 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.

(3) Where, pursuant to these Regulations, the prescribed fee is calculated by reference to site area, that area shall be taken to consist of the area of land to which the request relates.

(4) Where the gross floor space or the site area (as the case may be) is not an exact multiple of the unit of measurement specified, the fraction of unit remaining after division of the total area by the unit of measurement shall be treated as a complete unit.

(5) Where approval is sought in a single document for:

- (a) the plans and specifications of more than one operation or work;
- (b) arrangements for more than one matter;
- (c) more than one mitigation scheme or site restoration scheme;
- (d) the bringing into use of more than one work referred to in paragraph 9(2) or 17(2) of the Schedule; or
- (e) additional details in more than one respect—

the total of the fees payable shall be calculated by adding together the fees payable in respect of each item, whether or not the document treats each item as a separate request.

(6) Any notice or notification to be given pursuant to these Regulations shall be in writing.

Fees for requests

3. Where the undertaker makes a request to an authority, it shall, subject to the exceptions set out in Schedule 1 hereto, pay a fee to that authority in accordance with these Regulations.

Fees payable to a qualifying authority before 1st October 1997

4. The fee payable to an authority which is a qualifying authority in respect of a request (not being an additional details request) made before 1st October 1997 shall be the amount specified for the appropriate category in the table set out in Schedule 2 hereto.

Fees payable to a non-qualifying authority before 1st October 1997

5. The fee payable to an authority which is a non-qualifying authority in respect of a request (not being an additional details request) made before 1st October 1997 shall be the amount specified for the appropriate category in the table set out in Schedule 3 hereto.

Fee payable in respect of an additional details request made before 1st October 1997

6. The fee payable to an authority in respect of an additional details request made before 1st October 1997 shall be £90.

Increase in fees payable to a qualifying authority on or after 1st October 1997

7. The fee payable to an authority which is a qualifying authority in respect of a request (not being an additional details request) made on or after 1st October 1997 shall be the amount specified for the appropriate category in the table set out in Schedule 4 hereto.

Increase in fees payable to a non-qualifying authority on or after 1st October 1997

8. The fee payable to an authority which is a non-qualifying authority in respect of a request (not being an additional details request) made on or after 1st October 1997 shall be the amount specified for the appropriate category in the table set out in Schedule 5 hereto.

Increase in fee payable in respect of an additional details request on or after 1st October 1997

9. The fee payable to an authority in respect of an additional details request made on or after 1st October 1997 shall be £95.

General provisions concerning fee payment

10.—(1) Any fee paid pursuant to these Regulations shall be refunded if the request is rejected as invalidly made.

(2) Where a fee due in respect of a request has been paid by a cheque which is subsequently dishonoured, the appropriate period for the purposes of paragraph 32(3) of the Schedule shall be calculated without regard to any time between the date when the authority dispatches to the undertaker notice of the dishonouring of the cheque and the date on which the authority is satisfied that it has received the full amount of the fee.

Termination of request on non-payment of fee

11.—(1) Where—

- (a) the prescribed fee is not paid to the authority within a period of 6 weeks beginning with the date of its receipt of the request; and
- (b) the undertaker has not, within that period, notified the authority that it disputes the amount of the fee payable pursuant to these Regulations or that it claims an exception set out in Schedule 1 hereto is applicable—

the authority may treat the request as terminated.

(2) Where the authority decides to treat an application as terminated pursuant to paragraph (1), it shall, before the expiry of the appropriate period for the purposes of paragraph 32(3) of the Schedule, give notice of its decision to the undertaker.

(3) For the purposes of this regulation and of regulation 12:

- (a) a fee or the balance of a fee is paid when a cheque is tendered to the authority in payment of it, except where the cheque is dishonoured; and
- (b) where a cheque is dishonoured, the fee or balance of the fee is paid when the authority is satisfied that it has received the full amount of the fee or balance.

Resolution of disputes

12.—(1) Where paragraph 32(3) of the Schedule applies and, on making an appeal to the appropriate Ministers, the undertaker notifies them that there is a dispute with the authority as to:

- (a) the amount of the fee payable pursuant to these Regulations; or
- (b) whether any exception set out in Schedule 1 hereto is applicable—

the appropriate Ministers may determine that issue prior to their consideration of the appeal.

(2) Where:

- (a) the appropriate Ministers have determined that issue;

- (b) they have notified the undertaker and the authority of the prescribed fee; and
- (c) that fee is a sum larger than that already paid to the authority, or no fee has been paid to the authority—

the undertaker shall, within a period of 3 working days beginning with the date of the undertaker's receipt of such notification, pay to the authority the prescribed fee, or the balance of that fee, as the case may be.

(3) Where the undertaker does not pay the prescribed fee or the balance of that fee, as the case may be, within the period mentioned in paragraph (2), the authority shall, within a period of 10 working days beginning with the date of its receipt of the appropriate Ministers' notification under paragraph (2)(b), decide whether or not to treat the request as terminated.

(4) Where:

- (a) the authority, pursuant to paragraph (3), decides not to treat the request as terminated;
- (b) the cheque tendered in payment of the balance of the fee is dishonoured; and
- (c) notice of the dishonour had not been received by the authority prior to its decision—

the authority may, within a period of 7 working days beginning with the date of its receipt of the notice of dishonour, decide to treat the request as terminated.

(5) Where an authority makes a decision pursuant to paragraph (3) or (4), it shall, within a period of 7 working days beginning with the date of the decision, give to the appropriate Ministers and to the undertaker notice of its decision.

(6) Where the authority has decided to treat a request as terminated pursuant to paragraph (3) or (4), the date of termination of the request shall be the date of receipt by the appropriate Ministers of the notice mentioned in paragraph (5), and on and after that date, the appeal shall be treated for all purposes as terminated.

Signed by authority of the Secretary of State for the Environment

12th March 1997

Robert Jones
Minister of State,
Department of the Environment

Signed by authority of the Secretary of State for Transport

13th March 1997

Goschen
Parliamentary Under Secretary of State,
Department of Transport