
STATUTORY INSTRUMENTS

1997 No. 822

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**

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

<i>Made</i>	- - - -	<i>13th March 1997</i>
<i>Laid before Parliament</i>		<i>17th March 1997</i>
<i>Coming into force</i>		
<i>for the purposes of</i>		
<i>regulations 7, 8 and 9 and</i>		
<i>Schedules 4 and 5</i>		<i>1st October 1997</i>
<i>for all other purposes</i>		<i>8th April 1997</i>

The Secretary of State for the Environment and the Secretary of State for Transport, acting jointly in exercise of the powers conferred on them by section 11 of, and paragraph 32(5) of Schedule 6 to, the Channel Tunnel Rail Link Act 1996(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

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:

(1) 1996 c. 61. See the definitions of “the appropriate Ministers”, “prescribed” and “relevant planning application” in section 11(6).

“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(2).

(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

SCHEDULE 1

Regulation 3

CASES IN WHICH NO FEE IS PAYABLE

1. No fee shall be payable in respect of a request where, on the date of such request, there is in effect a written agreement between the undertaker and the authority under which the undertaker agrees to make a financial contribution to the authority's costs incurred in handling requests.

2. In paragraphs 3, 4, 5 and 6 below:

“deemed refusal” means deemed refusal of a request pursuant to paragraph 32(3) of the Schedule, and “deemed to be refused” shall be construed accordingly;

“operation” means any operation, work, matter or scheme (including any arrangements with respect to a matter, any bringing into use of works or any additional details) for which approval is required; and

“similar request” means one further request which is made to the same authority and which relates solely to:

- (a) the whole or part of the same site as that to which an earlier request related (and to no other land); and
- (b) an operation which is, in the opinion of the authority, of the same character or description as that which was the subject of the earlier request.

3. Where a request for which the prescribed fee has been paid is withdrawn, and within a period of 12 months beginning with the date of the receipt by the authority of the request, a similar request is made, no fee shall be payable in respect of that similar request.

4. Where:

- (a) a request for which the prescribed fee has been paid is refused by the authority or is deemed to be so refused;
- (b) no appeal is made in respect of the refusal or deemed refusal; and
- (c) within a period of 12 months beginning with the date of such refusal or deemed refusal, a similar request is made—

no fee shall be payable in respect of that similar request.

5. Where:

- (a) a request for which the prescribed fee has been paid is refused, and an appeal is made in respect of it;
- (b) the appeal is dismissed; and
- (c) within a period of 12 months beginning with the date of the dismissal of the appeal, a similar request is made—

no fee shall be payable in respect of that similar request.

6. Where:

- (a) a request for which the prescribed fee has been paid is deemed to be refused, and an appeal is made in respect of it;
- (b) within a period of 12 months beginning with the date of the expiry of the appropriate period mentioned in paragraph 32(4) of the Schedule, a similar request is made; and
- (c) the appeal has not, on or before the date of making of that similar request, been determined in favour of the appellant—

no fee shall be payable in respect of that similar request.

SCHEDULE 2

Regulation 4

QUALIFYING AUTHORITIES

TABLE OF FEES APPLICABLE BEFORE 1ST OCTOBER 1997

Category of development for which approval is sought:	Fee payable:
<p>1. PLANS AND SPECIFICATIONS FOR THE FOLLOWING OPERATIONS OR WORKS</p> <p>(i) The erection, construction, alteration or extension of a building (including any transformer or telecommunication mast) excluding anything within C below.</p> <p>(ii) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression, or any other fences or walls.</p> <p>(iii) The erection or construction of gantries or overhead line supports.</p> <p>(iv) The erection, construction, or installation of lighting equipment.</p> <p>B. The erection, construction, alteration or extension of a road vehicle park.</p> <p>C. The construction, alteration or extension of any terracing, cuttings, embankments or other earth works.</p> <p>(i) The formation, laying out or alteration of any means of access to a highway used, or proposed highway proposed to be used, by vehicular traffic.</p> <p>(ii) The erection, construction, alteration or extension of a pedestrian access to the railway line.</p> <p>E. The disposal of waste or spoil or the excavation of bulk materials from borrow pits.</p>	<p>(a) (a) Where no gross floor space is to be created by the development, £90;</p> <p>(b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £90;</p> <p>(c) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £180; and</p> <p>(d) where the area of gross floor space to be created by the development exceeds 75 square metres, £180 for each 75 square metres, subject to a maximum of £9,000.</p> <p>£90 for each 0.1 hectare of the site area, subject to a maximum of £900.</p> <p>£90.</p> <p>£90 for each 0.1 hectare of the site area, subject to a maximum of £13,500.</p>

2. ARRANGEMENTS

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Category of development for which approval is sought:	Fee payable:
A. Road transport; handling of re-usable spoil or top soil; screening; hours of working; artificial lighting; suppression of noise, dust and vibration; mud on highway; or highway access.	£90
B. Storage sites or construction camps.	£90 for each 0.1 hectare of the site area, subject to a maximum of £900.
3. BRINGING WORKS INTO USE	
Bringing into use works referred to in paragraph 9(2) or 17(2) of the Schedule.	£90.
4. MITIGATION OR SITE RESTORATION SCHEMES	
Mitigation or site restoration schemes.	£90 for each 0.1 hectare of the site area, subject to a maximum of £13,500.

SCHEDULE 3

Regulation 5

NON-QUALIFYING AUTHORITIES

TABLE OF FEES APPLICABLE BEFORE 1ST OCTOBER 1997

Category of development for which approval is sought:	Fee payable:
A. The erection, construction, alteration or extension of any building.	<ul style="list-style-type: none"> (a) (a) where no gross floor space is to be created by the development, £90; (b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £90; (c) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £180, and (d) where the area of gross floor space to be created by the development exceeds 75 square metres, £180 for each 75 square metres subject to a maximum of £9,000.
B. The formation, laying out or alteration of any means of access to any highway used by vehicular traffic.	£90.

SCHEDULE 4

Regulation 7

QUALIFYING AUTHORITIES

TABLE OF FEES APPLICABLE ON AND AFTER 1ST OCTOBER 1997

Category of development for which approval is sought:	Fee payable:
1. PLANS AND SPECIFICATIONS FOR THE FOLLOWING OPERATIONS OR WORKS	
<ul style="list-style-type: none"> (i) The erection, construction, alteration or extension of a building (including any transformer or telecommunication mast) excluding anything within C below. (ii) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression, or any other fences or walls. (iii) The erection or construction of gantries or overhead line supports. (iv) The erection, construction, or installation of lighting equipment. 	<ul style="list-style-type: none"> (a) (a) Where no gross floor space is to be created by the development, £95; (b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £95; (c) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £190; and (d) where the area of gross floor space to be created by the development exceeds 75 square metres, £190 for each 75 square metres, subject to a maximum of £9,500.
B. The erection, construction, alteration or extension of a road vehicle park.	£95.
C. The construction, alteration or extension of any terracing, cuttings, embankments or other earth works.	£95 for each 0.1 hectare of the site area, subject to a maximum of £950.
<ul style="list-style-type: none"> (i) The formation, laying out or alteration of any means of access to a highway used, or proposed highway proposed to be used, by vehicular traffic. (ii) The erection, construction, alteration or extension of a pedestrian access to the railway line. 	<ul style="list-style-type: none"> £95.
E. The disposal of waste or spoil or the excavation of bulk materials from borrow pits.	£95 for each 0.1 hectare of the site area, subject to a maximum of £14,250.

2. ARRANGEMENTS

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Category of development for which approval is sought:	Fee payable:
A. Road transport; handling of re-usable spoil or top soil; screening; hours of working; artificial lighting; suppression of noise, dust and vibration; mud on highway; or highway access.	£95.
B. Storage sites or construction camps.	£95 for each 0.1 hectare of the site area, subject to a maximum of £950.
3. BRINGING WORKS INTO USE	
Bringing into use works referred to in paragraph 9(2) or 17(2) of the Schedule.	£95.
4. MITIGATION OR SITE RESTORATION SCHEMES	
Mitigation or site restoration schemes.	£95 for each 0.1 hectare of the site area, subject to a maximum of £14,250.

SCHEDULE 5

Regulation 8

NON-QUALIFYING AUTHORITIES

TABLE OF FEES APPLICABLE ON AND AFTER 1ST OCTOBER 1997

Category of development for which approval is sought:	Fee payable:
A. The erection, construction, alteration or extension of any building.	<ul style="list-style-type: none"> (a) (a) where no gross floor space is to be created by the development, £95; (b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £95; (c) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £190, and (d) where the area of gross floor space to be created by the development exceeds 75 square metres, £190 for each 75 square metres subject to a maximum of £9,500.
B. The formation, laying out or alteration of any means of access to any highway used by vehicular traffic.	£95.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about fees for requests for planning approval made by the undertaker to relevant local authorities pursuant to Schedule 6 to the Channel Tunnel Rail Link Act 1996.

Regulation 3 stipulates that a fee shall be payable for such a request except in the circumstances mentioned in Schedule 1. There are separate scales of fees in respect of qualifying authorities and non-qualifying authorities for the purposes of Schedule 6 to the Act (except in relation to additional details requests), and in respect of requests made before 1st October 1997 and on and after that date. Regulations 4 and 5, and Schedules 2 and 3 respectively, deal with fees payable before 1st October 1997. Fees in respect of additional details requests before that date are set by regulation 6. Regulations 7 and 8, and Schedules 4 and 5 respectively, deal with fees payable on and after that date, with regulation 9 setting the fee then payable in respect of additional details requests. The fee increase then effected is of approximately 5%. Regulations 10, 11 and 12 contain provisions concerning fee payment, possible termination of a request if the prescribed fee is not paid, and resolution of fee disputes.