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WELSH STATUTORY INSTRUMENTS

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**2006 No. 1052 (W.108)**

**TOWN AND COUNTRY PLANNING, WALES**

**The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment No.2) (Wales) Regulations 2006**

*Made* - - - - 4 April 2006  
*Coming into force* - - 6 April 2006

The National Assembly for Wales (“the National Assembly”), in exercise of its powers as appropriate authority for the purposes of section 303 of the Town and Country Planning Act 1990(1), makes the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment No.2) (Wales) Regulations 2006 and they come into force on 6 April 2006.

(2) These Regulations apply in relation to Wales.

**Fees in respect of the monitoring of mining and landfill sites**

2.—(1) The Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989(2) are amended as follows.

(2) In regulation 1 (application, citation and commencement)—

(a) in paragraph (2)—

(i) at the end of sub-paragraph (d) delete “and”; and

(ii) at the end of paragraph (2) add—

“(f) to site visits made to a mining site or a landfill site on or after 6 April 2006.”;

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(1) 1990 c. 8; section 303 was amended by paragraph 10 of Schedule 13 to the Environmental Protection Act 1990 (c. 43), section 6(6) of the Planning and Compensation Act 1991 (c. 34) and section 53 of the Planning and Compulsory Purchase Act 2004 (c. 5). See section 303(2A) of the Town and Country Planning Act 1990 for the meaning of “appropriate authority” and section 336(1) of that Act for the definition of “prescribed”.

(2) S.I. 1989/193; relevant amendments were made in relation to England and Wales by S.I. 1990/2473, 1991/2735, 1992/1817, 1992/3052, 1993/3170 and 1997/37 and, in relation to Wales, by S.I. 2002/1876 (W.185), 2002/2258 (W.222), 2004/2736 (W.243) and 2006/931 (C.26) [i.e. 2006 Fees Regs].

(b) in paragraph (3), after sub-paragraph (c), insert—

“(d) in the case of site visits referred to in paragraph (2)(f) above, on the date on which the visit is made.”.

(3) In regulation 2 (interpretation)—

(a) after the definition of “glasshouse” insert—

““landfill permission” means any planning permission for—

(a) operational development designed to be used wholly or mainly for the purpose of; or

(b) material change of use to,

a waste disposal site for the deposit of waste onto or into the land;

“landfill site” means the land to which a landfill permission relates;

“mineral permission” means any planning permission for development consisting of—

(a) the winning and working of minerals; or

(b) the depositing of mineral waste;

“mining site” means—

(a) the aggregate of the land to which any two or more mineral permissions relate where the aggregate of the land—

(i) is worked as a single site; or

(ii) is treated as a single site by the local planning authority for the purposes of Schedule 13 (review of old mineral planning permissions) or Schedule 14 (periodic review of mineral planning permissions) to the Environment Act 1995(3); and

(b) in any other case, the land to which a mineral permission relates;”;

(b) after the definition of “outline planning permission” insert—

““site visit” means entry by a local planning authority on to a mining site or landfill site—

(a) to ascertain whether there is or has been any breach of planning control on the site;

(b) to determine whether any of the powers conferred on the local planning authority by Part 7 of the Town and Country Planning Act 1990(4) (enforcement) should be exercised in relation to the site;

(c) to determine how any such power should be exercised in relation to the site; or

(d) to ascertain whether there has been any compliance with any requirement imposed as a result of any such power having been exercised in relation to the site.”.

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(3) Schedule 13 was amended by sections 3 and 4 of, and Part III of Schedule 1 and paragraph 60(1)(b) of Schedule 3 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11), sections 76(1) and 93 of, and Part II of Schedule 10 and Part I of Schedule 15 to, the Countryside and Rights of Way Act 2000 (c. 37), and, in relation to Wales, S.I. 2004/3156 (W.273). Schedule 14 was amended by sections 3 and 4 of, and Part III of Schedule 1 and paragraph 60(2) of Schedule 3 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (C.11), section 118(2) of, and paragraph 19 of Schedule 7 to, the Planning and Compulsory Purchase Act 2004 (c. 5), and, in relation to Wales, S.I. 2004/3156 (W.273).

(4) Part 7 was amended by section 6 of, and paragraphs 1,3 and 4 of Schedule 4 to, the Planning (Consequential Provisions) Act 1990 (c. 11), sections 1 to 11, 21, 32 and 84 of, and paragraph 11 of Schedule 1, paragraphs 22 to 33 of Schedule 7 and Part I of Schedule 9 to, the Planning and Compensation Act 1991 (c. 34), section 20(4) of, and paragraph 24(5) of Schedule 6 to, the Local Government (Wales) Act 1994 (c. 19), section 52 of the Planning and Compulsory Purchase Act 2004 (c. 5) and, in relation to Wales, S.I. 2004/3156 (W.273).

(4) After regulation 11B (fees in respect of the monitoring of mining and landfill sites), insert—

**“Fees in respect of the monitoring of mining and landfill sites – Wales**

**11C.**—(1) Subject to paragraphs (2) and (3), where a site visit is made to a mining site or a landfill site by a local planning authority, the operator of the site must pay to the authority a fee of an amount specified in paragraphs (4) or (5).

(2) The maximum number of visits to any one such site for which a fee is payable under this regulation in any period of 12 months beginning with the date of the first such visit is—

- (a) where the site is an active site, eight; or
- (b) where the site is an inactive site, one.

(3) Where—

- (a) the person liable to pay the fee in respect of a site visit is the owner of the site; and
- (b) there is more than one owner,

the amount of the fee is to be divided equally by the total number of owners and each owner will be liable to pay one part of the amount so divided.

(4) Where the site is an active site, or partly an active site and partly an inactive site, the fee payable is £288.

(5) Where the site is an inactive site the fee payable is £96.

(6) In this regulation—

“active site” means a mining site or landfill site, or a site which is partly a mining site and partly a landfill site, where—

- (a) development to which the relevant mineral permission or landfill permission relates is being carried out to any substantial extent; or
- (b) other works to which a condition attached to such permission are being carried out to any substantial extent;

“inactive site” means a mining site or landfill site, or a site which is partly a mining site and partly a landfill site, which is not an active site;

“operator” means—

- (a) the person—
  - (i) carrying out operations on the land consisting of the winning and working of minerals;
  - (ii) using the land for the deposit of mineral waste;
  - (iii) carrying out operations on the land for the purposes of, or using the land as, a waste disposal site for the deposit of waste onto or into the land; or
  - (iv) carrying out on the land other works to which a condition attached to a mineral permission or landfill permission relates;
- (b) where there is more than one person carrying out the operations, works or using the land in the way described in sub-paragraph (a), the person in overall control of the mining site, landfill site or, where a site is both a mining site and a landfill site, the mining site and landfill site, as the case may be; or
- (c) where there is no person who falls within the description in sub-paragraph (a) or (b), the owner of the site; and

“owner” means—

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- (a) the person who is entitled to a tenancy of the site granted or extended for a term of years certain of which not less than seven years remains unexpired, but does not include an underlessee; or
- (b) where there is no person who falls within the description in sub-paragraph (a), the estate owner in respect of the fee simple of the site.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(5)

4 April 2006

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

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

These Regulations further amend the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (“the 1989 Regulations”) in relation to Wales.

The 1989 Regulations make provision for the payment of fees to local planning authorities in respect of applications made under the Town and Country Planning Act 1990 and, in relation to Wales, for the payment of fees to the National Assembly for Wales in respect of applications for planning permission which are deemed to have been made in connection with an appeal against an enforcement notice.

These Regulations amend the 1989 Regulations to provide for the payment of fees in respect of site visits carried out by local planning authorities to mining sites and landfill sites to monitor compliance with the planning permissions to which they are subject. The Regulations also provide for situations where there is more than one operator on site, where the site is inactive, and where two or more sites are grouped together for the purpose of monitoring and limit the number of chargeable visits in any one year.