

EXPLANATORY MEMORANDUM TO

The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2014

2014 No. 127

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of the Environment to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 This Statutory Rule is made by the Department under powers conferred on it by Article 127 of the Planning (Northern Ireland) Order 1991. The SR will be subject to negative resolution as set out in Article 129(2).
- 1.3 The Rule is due to come into operation on 28 May 2014.

2. Purpose

- 2.1 The purpose of the draft Rule is to introduce an inflationary uplift of 1.3% across all fee categories in line with the Department's cost recovery policy and also to make a number of changes to the current Regulations, i.e.
 - The introduction of a nil fee exemption for applications submitted by non-profit organisations in respect of community facilities (including sports grounds) and playing fields. The new fee has been inserted under Regulation 5A.
 - The removal of the current concessionary fee within Regulation 14 for re-submitted Consent to Display applications, i.e. where an application has been withdrawn before a notice of decision is issued, and the same applicant makes an application within 12 months of the date of the previous application.
 - The removal of current the concessionary fee within Regulation 18 for re-submitted Certificates of Lawful Use or Development, i.e. where an application has been withdrawn before a notice of decision is issued, and the same applicant makes an application within 12 months of the date of the previous application.
 - The introduction of a new concessionary fee of one-quarter of the normal fee for applications submitted to renew extant planning permissions within Schedule 1, Part 1, paragraph 3.
 - An amendment on how mixed use applications are calculated is detailed within Schedule 1, Part 1, paragraph 8. The highest amount calculated now applies to **only** those applications where the fee for one or more of the components is calculated according to the area of the red line (Categories 5, 7 & 8). All other applications are based on the sum of the uses.
 - Regulation 2(6)(d) substitutes Part 2 of Schedule 1. The new Part 2 corrects an anomaly in the existing fee for two or more dwelling houses (i.e.

Category 2(i)) and provides a revised methodology for calculating the fee for Category 8 applications (based on multiplications of 0.1 hectare of the site area subject to a maximum).

3. Background

3.1 On 19th April 2013, the Department issued a consultation paper on the *Review of Planning Fees and Funding: Consultation on Proposed Changes* which sought views on a package of proposed changes to the planning fees charged under the Planning (Fees) Regulations (Northern Ireland) 2005 (as amended). This consultation formed the first part of Phase 2 of the Department's review of planning fees and funding; Phase 1 was completed in April 2011 with the implementation of a number of measures to address areas of under recovery and cross-subsidisation in the existing fees structure.

3.2 Phase 2 of the review considers more long term changes on how the planning system is resourced, along with fee anomalies not addressed in Phase 1 of the review.

4. Equality Impact

4.1 Equality Impact Screenings carried out in respect of these proposals found no evidence of any differential impact on any of the section 75 categories.

5. Regulatory Impact

5.1 A Regulatory Impact Assessment carried out in respect of the changes is attached to this memorandum at Annex A.

6. Financial Implications

6.1 The Department recognises the significant challenges it faces in the coming months in terms of the impending transfer of planning to local government. Through Phase 1 and 2 of the Fees and Funding Review the Department has attempted to develop a robust, fit for purpose charging and funding system which will ensure that the planning function is properly resourced, where fee levels are proportionate to the work involved in processing and making decisions.

6.2 Phase 2 of the review which is currently ongoing considers more fundamental long term changes to how the planning system as a whole is resourced. In line with *Managing Public Money Northern Ireland*, this includes looking at the potential for full cost recovery in relation to those areas covered by fees as well as looking critically at the cost of those functions covered by DEL.

7. Section 24 of the Northern Ireland Act 1998

7.1 The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

8. EU Implications

8.1 There are no EU transpositional implications.

9. Parity or Replicatory Measure

9.1 This is not a parity or replicatory measure.

10. Additional Information

10.1 None.

11. Contact

11.1 Please direct any queries to Kate Rice at the Department of the Environment

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REGULATORY IMPACT ASSESSMENT

The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2014

1. Introduction and Summary

This assessment estimates the costs of the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2014.

The Department is proposing to proceed with an annual inflationary increase in planning fees of 1.3%. The metric proposed is the GDP deflator, which is regarded as the most stable, comprehensive inflationary measure. It is widely used by the UK Government, including the Treasury. It is anticipated that an inflationary increase of 1.3% will increase planning income by approximately £156k per annum.

HM Treasury/DFP guidance required the Department to recover in full the costs incurred in processing planning applications. The last inflationary increase in planning fees, which at 2% was lower than the GDP forecast for 2012/13, took effect in October 2012.

2. Purpose and effect of the Regulations

The Regulations amend the Planning (Fees)(Amendment) Regulations (Northern Ireland) 2005 which prescribe fees payable to the Department in respect of applications made under the Planning (Northern Ireland) Order 1991. The general effect of the 2014 Regulations will be to increase fee income by 1.3% overall in respect of –

- a. applications for planning permission and for approval of matters reserved in an outline planning permission;
- b. consent to display advertisements;
- c. certificates of lawful use or development; and
- d. hazardous substances consent.

The Regulations will affect any individual or company making an application for planning permission to develop land. However, planning permission goes with the land and since applications are for new development proposals only, the costs are non-recurring.

This Amendment will also incorporate a number of changes to current Fees Regulations previously consulted on in April to June 2013. A partial Regulatory Impact Assessment was carried out at that time.

3. Targeting Social Need (TSN)

It is not considered that the proposal has any implications for new TSN.

4. Issues of Equality

The Regulations have been screened with regard to Section 75 of the Northern Ireland Act 1998 and it is considered that they are not likely to have any significant implications for equality of opportunity or community relations.

The Regulations continue to provide for 'no fee' where an application relates to operations providing facilities in the curtilage of an existing dwellinghouse to secure the greater safety, health or comfort of a disabled person, or an application relating solely to operations for the provision of a means of access for disabled persons to or within a building or premises to which members of the public are admitted.

5. Benefits

Income from fees is needed to pay for the costs of processing planning applications, the most significant of which is staff costs. Development management applies planning policies which have been the subject of public consultation and which are deemed to be in the public interest. The increase in income resulting from these Regulations will reduce the burden on the taxpayer arising from the current need to subvent the provision of development management services.

6. Compliance Costs for a "Typical" Business

It is not possible to estimate the costs to a "typical business", as most planning applications are not made by businesses and every planning application is different. Most businesses will be totally unaffected. Only those which make planning applications will be affected and the costs will be non-recurring. The cost of the planning application will also generally be more than offset by the enhanced value of land or property.

Costs vary according to the type of application. For example, a business involved in commercial house building will incur an additional fee of £529 for an application to build 50 houses. This cost is very small compared with the cost of building those 50 houses; indeed it will not be borne by the developer, but passes on to the house purchaser.

The fee cost for an application for the erection of a wind farm over a site of 15 hectares in area would increase from £28,095 to £28,444. Again this increase of £349 would be very small compared with the development value of the site.

7. Monitoring and Review

The Department will continue to monitor and review the cost of processing planning applications, and adjustments will be made as necessary.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment



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