

EXECUTIVE NOTE

THE TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS AND DEEMED APPLICATIONS) (SCOTLAND) AMENDMENT REGULATIONS 2010 (SSI 2010/DRAFT)

The above instrument was made in exercise of the powers conferred by section 252 of the Town and Country Planning (Scotland) Act 1997. The instrument is subject to the affirmative resolution procedure.

Policy objective

The purpose of the instrument is to restore and maintain the policy target of achieving full recovery of those local authority costs associated with the processing of planning applications from initial registration to decision stage. It amends The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 (SSI 2004/219).

The fees for fish farming are not being increased as this sector has only recently come under the planning regime. We are working closely with the sector to understand the evidence base and establish whether the charging regime is proportionate for this industry.

Consultation

Discussions with COSLA, local authorities and the development industry has been ongoing in relation to this issue

Financial Effects

A full Regulatory Impact Assessment accompanies the draft SSI.

Directorate for the Built Environment
February 2010

REGULATORY IMPACT ASSESSMENT (RIA)

THE TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS AND DEEMED APPLICATIONS) (SCOTLAND) AMENDMENT REGULATIONS 2010

Introduction and Summary

1. This is a Regulatory Impact Assessment (RIA) for proposals to increase planning fees through The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2010
2. This assessment examines the impact of the proposed regulations on business and other interests. It considers the additional costs that may be imposed by legislative changes and seeks to address the wider benefits which may be brought by the changes.

Background and Policy

3. The proposals contained in the draft SSI are intended to increase the fee income for planning authorities to help restore and maintain the policy objectives of achieving full recovery of those local authority costs associated with processing planning applications from initial registration to decision stage.
4. Fees for planning applications and development control matters are currently as set out in SSI 200/219 The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 as amended.
5. There will be an expected increase in quality of services linked to fees increases, including planning authorities contributing to economic recovery.
6. The target date for implementation is 1st April 2010.

Consultation

7. Fees regulations are already in place, the draft SSI seeks to further increase the fees based on financial returns made by Local Authorities to the Scottish Government. There have been discussions with key stakeholders including COSLA, Heads of Planning Scotland, and the development industry in advance of the decision to raise fees.

Options

8. **The Scottish Government considered 2 options and these are identified below:**

Option 1 - Do nothing

9. We do not consider that “do nothing” is an option. Planning application fees have not increased since 2007 and financial returns indicate an ever widening gap

between costs of determining planning applications and income received. Furthermore planning authorities have been required during this period to undertake the implementation of the new development management processes being introduced.

Option 2 - Increase fees

10 An across the board increase of around 10% on all fees for planning applications except those of marine fish farming. For example, this increase in fees will increase the cost of planning applications from £145 to £160 for improvements to an existing dwelling house or by £29 to £319 for determining other applications for example an individual dwelling house or for each 0.1 hectare for detailed planning permission to a maximum of £15,950.

Costs and Benefits

11. The main impact of the regulations will be on developers. We expect this group to include individuals as well as small, medium and large businesses, particularly property developers and businesses carrying out developments in the housing, retailing and service sectors. There will also be an impact on planning authorities as an increase in fee will raise additional revenues as well as expectation of an improved and more efficient service.

Costs

Option 1 - Do Nothing

12. There will be no additional direct costs as applicants would not have to pay increased fees. However, the planning system would remain under funded and it is likely that this would continue to affect efficiency and delay determination of applications.

Option 2 - Increase Fees

1.1 Planning authorities

13. The planning service would receive additional income and will start addressing the current shortfall between costs and income. The amount of increased income is not known exactly as the volume and type of applications have been changing over the last few years. An estimate of the level and profile of applications has not been prepared.

Developers

14. The proposed percentage increase is modest, particularly when placed against the total cost of development. Furthermore the increase would affect most applications equitably. The costs of planning fees for larger applications are generally small compared with other costs, and have been shown to be substantially lower than the costs actually incurred in determining them. Fees have not been increased since 2007. All developers should benefit, however, as increased resources should lead to greater efficiency.

Benefits

Option 1 - Do Nothing

15. This would have no additional benefit. Applicants would not have to pay increased fees but the planning system would remain under funded and it is likely that this would continue to affect the effectiveness and efficiency of the service provided by planning authorities.

Option 2 - Fee Increase

16. Higher fees should bring about more funding for planning authorities which should lead to an improved level of service. Fees would remain relatively low compared to other development costs.

Small/Micro Firms Impact Test

17. We take the view that the proposed increase in fees will impact across all developments and all developers. Whilst developers will have to pay increased fees we consider that these will still be relatively low compared to other development costs incurred.

Legal Aid Impact Test

18. The Legal Aid Impact Test looks at an individual's right to access to justice through availability of legal aid and possible expenditure from the legal aid fund.

19. The draft Regulations do not create new rights or responsibilities that could give rise to increased use of legal processes. The draft Regulations will not impact on an individual's right of access to justice through the availability of legal aid.

Competition Assessment

20. We do not believe that the changes proposed in the draft regulations would have a disproportionate impact on any particular sector. Therefore it is considered unlikely that there would be appreciable competition impact arising from a rise in fees.

Test run of business forms

21. There will be no new forms introduced regarding this piece of legislation.

Post-implementation review

22. Failure to submit the correct fee with an application may mean that the application will not be considered by the local planning authority.

23. We will keep the scale of fees and costs of the planning service under review to ensure that the appropriate levels of fees have been set to optimise cost recovery.

Summary and recommendations

24. The Town and Country Planning (Fees for Applications and Deemed Applications)(Scotland) Amendment Regulations 2010 will ensure that planning authorities are resourced to enable them to carry out their development management function.

25. In view of the above, it is recommended that option 2 be implemented and that the regulations are introduced into Scottish law.

Declaration and publication

26. I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

Date

John Swinney MSP
Cabinet Secretary for Finance and Sustainable Growth