

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2022 No. 50**

**The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022**

**PART 1**

Introductory

**Citation, commencement and application**

**1.—**(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022 and come into force on 1 April 2022.

(2) These Regulations (other than Part 4) apply—

(a) to applications made on or after 1 April 2022 for—

- (i) planning permission,
- (ii) planning permission in principle,
- (iii) approval, consent or agreement required by a condition imposed on a grant of planning permission in principle,
- (iv) a certificate of lawful use or development under section 150 (certificate of lawfulness of existing use or development) or a certificate of proposed use or development under section 151 (certificate of lawfulness of proposed use of development) of the 1997 Act,
- (v) a determination as to whether the planning authority's prior approval is required in relation to development under schedule 1 (classes of permitted development) of the General Permitted Development Order,
- (vi) a consent for the display of advertisements under regulation 15 (how to apply for consent) of the 1984 Regulations,

(b) in respect of charges and fees for—

- (i) carrying out pre-application discussions on or after 1 April 2022,
- (ii) considering a request made on or after 1 April 2022 to vary a planning permission under section 64 (power to vary planning permission) of the 1997 Act, and
- (iii) considering a request made on or after 1 April 2022 for written confirmation of compliance with a condition imposed on the grant of planning permission.

**Interpretation**

**2.** In these Regulations—

“the 1997 Act” means the Town and Country Planning (Scotland) Act 1997,

“the 1984 Regulations” means the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(1),

“the 2004 Regulations” means the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004(2),

“dwellinghouse” means a building or part of a building which is used as a single private dwellinghouse, and for no other purpose,

“equipment” and “fish farming” have the same meanings as in section 26(6) of the 1997 Act(3),

“the General Permitted Development Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(4),

“marine waters” means the waters described in paragraphs (b) and (c) of subsection (6) of section 26 of the 1997 Act(5),

“planning permission in principle” has the meaning in section 59 of the 1997 Act(6),

“use of land” includes use of land for the winning and working of minerals.

## PART 2

### Payment of fees

#### Payment of fees

3.—(1) Subject to Part 3 (applications where no fee is payable) and regulation 5 (waiving or reducing of fees), where an application to which these Regulations apply is made to a planning authority a fee is payable to that planning authority in accordance with the provisions of this regulation.

(2) Subject to paragraph (3), the fee payable for—

(a) an application for—

(i) planning permission,

(ii) planning permission in principle,

(iii) approval, consent or agreement required by a condition imposed on a grant of planning permission in principle,

(iv) a certificate of lawful use or development under section 150 or a certificate of proposed use or development under section 151 of the 1997 Act,

(v) a determination as to whether the planning authority’s prior approval is required in relation to development under schedule 1 of the General Permitted Development Order,

is the fee calculated in accordance with schedule 1,

(b) an application for a consent for the display of advertisements under regulation 15 of the 1984 Regulations is £300 in respect of each site on which one or more than one advertisement is to be displayed.

(1) S.I. 1984/467 as amended by S.I. 1992/1763, S.I. 1996/252, S.S.I. 2003/503, S.S.I. 2004/332, S.S.I. 2006/95, S.S.I. 2013/154 and S.S.I. 2014/139.

(2) S.S.I. 2004/219 as amended by S.S.I. 2007/253, S.S.I. 2007/268, S.S.I. 2009/222, S.S.I. 2010/141, S.S.I. 2010/280, S.S.I. 2013/105, S.S.I. 2014/214, S.S.I. 2014/301, S.S.I. 2017/120, S.S.I. 2017/149, S.S.I. 2017/187 and S.S.I. 2018/110.

(3) Definition of “equipment” inserted by the Water Environment and Water Services (Scotland) Act 2003 (asp 3), section 24(2) (a)(iii). Definition of “fish farming” was amended by S.S.I. 2007/268.

(4) S.I. 1992/223 to which there are amendments not relevant to these Regulations.

(5) Section 26(6) was relevantly amended by the Planning etc. (Scotland) Act 2006 (asp 17) section 3(c)(i).

(6) Section 59 was amended by the Planning etc. (Scotland) Act 2006 (asp 17), section 21, and S.S.I. 2013/26.

(3) The fee payable for an application for planning permission made under section 42 (applications to develop land without complying with previous conditions) of the 1997 Act, is £300.

(4) Any fee payable under this regulation must—

- (a) accompany the application, and
- (b) be refunded if the application is rejected as invalidly made.

(5) For the purposes of paragraph (2)(b)—

- (a) “site” has the meaning given in regulation 2 of the 1984 Regulations, but
- (b) where an application for a consent for the display of advertisements under regulation 15 of the 1984 Regulations relates to the display of advertisements on parking meters, litter bins, public seating benches or bus shelters within a specified area, the whole of the area to which the application relates is to be treated as one site.

### **Discretion to charge fees**

4.—(1) Subject to paragraphs (3) to (6), a planning authority may charge a fee for a service specified in paragraph (2) related to the carrying out of their functions.

(2) The services are—

- (a) carrying out pre-application discussions,
- (b) considering a request to vary a planning permission under section 64 of the 1997 Act, and
- (c) considering a request for written confirmation of compliance with a condition imposed on the grant of planning permission.

(3) Where a request is made to a planning authority to vary a planning permission under section 64 of the 1997 Act the fee payable to that planning authority is £200 for each request.

(4) Where a request is made to a planning authority for written confirmation of compliance with a condition imposed on the grant of planning permission the fee payable to that planning authority is £100 for each request.

(5) A planning authority may only charge fees for pre-application discussions after the publication of information setting out—

- (a) for which services a fee is to be charged,
- (b) how fees are to be calculated for those services, and
- (c) under what circumstances the planning authority may waive or reduce that fee.

(6) The information published by a planning authority under paragraph (5) must be published on the planning authority’s website.

### **Waiving or reducing of fees**

5.—(1) A planning authority may waive or reduce any planning fee payable under regulation 3 in accordance with the provisions of this regulation.

(2) A planning authority may only waive or reduce a fee following the publication of a charter setting out the circumstances in which the planning authority will consider waiving or reducing a fee payable to them.

(3) The charter must include but is not limited to the circumstances—

- (a) where the application relates to development which, in the opinion of the planning authority, has the primary purpose of contributing to a not for profit enterprise or a social enterprise, and

- (b) where the application relates to development which, in the opinion of the planning authority, is likely to contribute to improving the health of residents of the area to which the application relates.
- (4) In waiving or reducing any fee payable, the planning authority must state the reasons for doing so on any decision notice.
- (5) A charter produced by a planning authority under paragraph (2) must be published on the planning authority's website.
- (6) For the purposes of paragraph (3) "not for profit enterprise" and "social enterprise" have the meanings in section 252(1F) of the 1997 Act.

### **Applications where a surcharge is payable - retrospective applications**

- 6.—(1) Where, on or after 1 October 2022, an application for planning permission is made after the carrying out of the development to which it relates, a surcharge may be imposed in relation to that application by the planning authority in accordance with this regulation.
- (2) The surcharge is to be an amount calculated by the planning authority but the surcharge payable must not exceed one quarter of the level of the fee that would be payable if the application were for planning permission to carry out that development.
- (3) A planning authority may only impose a surcharge following the publication of information including—
  - (a) how the surcharge is calculated, and
  - (b) under what circumstances the planning authority may impose a surcharge.
- (4) The information published by a planning authority under paragraph (3) must be published on the planning authority's website.

## **PART 3**

### **Applications where no fee is payable**

#### **Means of access etc. for disabled persons**

- 7.—(1) No fee is payable under regulation 3 where the planning authority to which an application is made is satisfied as to the matters specified in paragraphs (2)(a) or (b).
- (2) The matters are that the application relates solely to the carrying out of operations for—
  - (a) the alteration or extension of a dwellinghouse (but not including the erection of a dwellinghouse) or other operations within the curtilage of a dwellinghouse for the purpose of—
    - (i) providing means of access to or within the dwellinghouse for a disabled person who resides or proposes to reside in that dwellinghouse, or
    - (ii) providing facilities designed to secure that person's greater safety, health or comfort,
  - (b) the purpose of providing means of access for disabled persons to or within a building or premises to which members of the public are admitted.
- (3) In this regulation, "disabled person" has the meaning given by section 6 of the Equality Act 2010(7).

### **Restrictions on permitted development rights**

**8.**—(1) No fee is payable under regulation 3 where the planning authority to which an application is made is satisfied as to the matters specified in paragraph (2).

(2) The matters are that—

- (a) the application relates solely to development within one or more of the classes specified in schedule 1 of the General Permitted Development Order, and
- (b) the permission granted by article 3 of that Order does not apply in respect of that development by reason of—
  - (i) a direction made under article 4 of that Order which is in force on the date when the application is made, or
  - (ii) the requirements of a condition imposed on a permission granted under Part III of the 1997 Act otherwise than by that Order.

(3) The reference in paragraph (2)(a) to an application which relates to development which is within one or more of the classes specified in schedule 1 of the General Permitted Development Order includes an application for planning permission for the continuance of a use of land, or the retention of buildings or works, without compliance with a condition subject to which a previous planning permission has been granted, and which prohibits or limits the carrying out of any development which is within one or more of those classes.

### **Advertisements - disapplication of deemed consent**

**9.** No fee is payable under regulation 3 for an application for a consent for the display of advertisements under regulation 15 of the 1984 Regulations if the application is occasioned by a direction under regulation 11 (power to exclude the application of regulation 10) of the 1984 Regulations disapplying regulation 10 (advertisements which may be displayed without express consent) in relation to that advertisement.

### **Use specified in the Town and Country Planning (Use Classes) (Scotland) Order 1997**

**10.** No fee is payable under regulation 3 for an application for planning permission where the planning authority to which an application is made is satisfied that—

- (a) the application relates solely to the use of a building or other land for a purpose of any class specified in the schedule of the Town and Country Planning (Use Classes) (Scotland) Order 1997<sup>(8)</sup>,
- (b) the existing use of that building or other land is for another purpose of the same class, and
- (c) the making of an application for planning permission for the use to which the application relates is necessary because of a condition imposed on a permission granted under Part III of the 1997 Act.

### **Repeat applications for planning permission**

**11.**—(1) This regulation applies to an application for planning permission made—

- (a) for development of the same character or description as development to which an earlier application for planning permission related and for no other development,
- (b) by the same applicant who made that earlier application for planning permission, and
- (c) following—

---

(8) [S.I. 1997/3061](#) to which there are amendments not relevant to these Regulations.

- (i) the withdrawal, before notice of the planning authority's decision on that earlier application for planning permission was given,
  - (ii) the grant of planning permission for the development,
  - (iii) the refusal of planning permission,
  - (iv) the making of an appeal to the Scottish Ministers under section 47(2) of the 1997 Act (appeal in default of planning decision)<sup>(9)</sup>, or
  - (v) a requirement to review the application for planning permission under section 43A(8)(c) of the 1997 Act (review in default of planning decision)<sup>(10)</sup>.
- (2) No fee is payable under regulation 3 where all the conditions set out in paragraph (3) are met.
- (3) The conditions are—
- (a) that the application is made within 12 months of the date—
    - (i) when the earlier application was made, in the case of a withdrawn application,
    - (ii) of the relevant grant of planning permission,
    - (iii) of the refusal, or
    - (iv) in the case of an application which is made following an appeal under section 47(2) of the 1997 Act or a review under section 43A(8)(c) of the 1997 Act, the expiry of the period prescribed by virtue of section 47(2) or section 43A(8)(c) of the 1997 Act as the case may be,
  - (b) in the case of an application for planning permission which is not an application for planning permission in principle, that the planning permission which has been granted is not a planning permission in principle or that the earlier application was also not an application for planning permission in principle,
  - (c) the application relates to the same site as that to which the earlier application related, or to part of that site, and to no other land except land included solely for the purpose of providing a different means of access to the site,
  - (d) no application made by the same applicant in relation to the whole or any part of the site has already been exempted from payment of a fee by virtue of this regulation or regulations 7 and 8 of the 2004 Regulations, and
  - (e) the fee payable in respect of the earlier application was paid.

**Repeat applications for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle**

**12.—**(1) This regulation applies to an application for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle made—

- (a) in respect of the same matters as an earlier application for approval, consent or agreement required by a condition imposed on a grant of that planning permission in principle,
- (b) by the same applicant, and
- (c) following—
  - (i) the withdrawal before a notice of decision was issued in respect of the earlier application,
  - (ii) the grant of such earlier application,
  - (iii) the refusal of such earlier application,

<sup>(9)</sup> Section 47 was amended by the Planning etc. (Scotland) Act 2006 (asp 17), section 19(1).

<sup>(10)</sup> Section 43A(8)(c) was amended by S.S.I. 2013/24.

- (iv) the making of an appeal to the Scottish Ministers under section 47(2) of the 1997 Act in relation to such earlier application, or
  - (v) a requirement to review such earlier application under section 43A(8)(c) of the 1997 Act.
- (2) No fee is payable under regulation 3 where all the conditions set out in paragraph (3) are met.
- (3) The conditions are—
- (a) the application is made within 12 months of the date—
    - (i) when the earlier application was made, in the case of a withdrawn application,
    - (ii) of the relevant grant of approval, consent or agreement sought by the earlier application,
    - (iii) of the refusal of the earlier application, or
    - (iv) in the case of an application which is made following an appeal under section 47(2) of the 1997 Act or a review under section 43A(8)(c) of the 1997 Act, the expiry of the period prescribed by virtue of section 47(2) or section 43A(8)(c) of the 1997 Act as the case may be,
  - (b) the application relates to the same site as that to which the earlier application related, or to part of that site and to no other land,
  - (c) no application made by the same applicant in relation to the whole or any part of the site has already been exempted from payment of a fee by virtue of this regulation or regulations 7 and 8 of the 2004 Regulations, and
  - (d) the fee payable in respect of the earlier application was paid.

**Repeat applications for certificates of lawful use or development or certificates of proposed use or development**

13.—(1) This regulation applies to an application for a certificate of lawful use or development under section 150 or a certificate of proposed use or development under section 151 of the 1997 Act made following—

- (a) the withdrawal (before notice of decision was issued) of an earlier application made by the same applicant, or
  - (b) the refusal of an earlier application made by the same applicant (whether by the planning authority or the Scottish Ministers on appeal).
- (2) No fee is payable under regulation 3 where all the conditions set out in paragraph (3) are met.
- (3) The conditions are that—
- (a) the application is made within 12 months of the date—
    - (i) when the earlier application was made, in the case of a withdrawn application, or
    - (ii) of refusal, in any other case,
  - (b) the application relates to the same site as that to which the earlier application related, or to part of that site and to no other land,
  - (c) the planning authority to which the application is made is satisfied that it relates to a use, operation or other matter of the same description as the use, operation or matter to which the earlier application related and to no other use, operation or matter,
  - (d) the fee payable in respect of the earlier application was paid, and

- (e) no application made by or on behalf of the same applicant in relation to the whole or any part of the site has already been exempted from payment of a fee by virtue of this regulation or regulation 12 of the 2004 Regulations.

### **Winning and working of minerals**

**14.** No fee is payable under regulation 3 in relation to an application for permission to carry out development consisting of the winning and working of minerals where the application—

- (a) is for a permission which consolidates two or more subsisting permissions, or
- (b) does not seek permission for development which is not authorised by a subsisting permission.

## **PART 4**

### **General provisions**

#### **Amendment of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 and saving provision**

**15.**—(1) Subject to paragraph (3), the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015<sup>(11)</sup> (“the 2015 Regulations”) are amended in accordance with paragraph (2).

(2) In regulation 55(1) (fees for applications) of the 2015 Regulations—

- (a) in sub-paragraph (a) for “£1,000” substitute “£1,200”, and
- (b) in sub-paragraph (b) for “£500” substitute “£600”.

(3) The amendments made by this regulation apply only to applications made under regulations 6, 7 and 8 of the 2015 Regulations on or after 1 April 2022 and the 2015 Regulations continue to apply in respect of any application made before 1 April 2022 as they did immediately before that date.

#### **Revocations and saving provision**

**16.**—(1) Subject to paragraph (2), the 2004 Regulations and the regulations listed in schedule 2 are revoked.

(2) The 2004 Regulations continue to apply in respect of any application made before 1 April 2022 as they did immediately before that date.

St Andrew’s House,  
Edinburgh  
9th February 2022

*TOM ARTHUR*  
Authorised to sign by the Scottish Ministers

---

(11) [S.S.I. 2015/181](#) to which there are amendments not relevant to these Regulations.