

Draft laid before Parliament under section 303 of the Town and Country Planning Act 1990, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Fees for
Applications and Deemed Applications)
(Amendment) (England) Regulations 2006

Made - - - - 2006
Coming into force - - 6th April 2006

The First Secretary of State, in exercise of the powers conferred by section 303 of the Town and Country Planning Act 1990(1), makes the following Regulations, a draft of which has been laid before and approved by each House of Parliament:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2006 and shall come into force on 6th April 2006.

(2) These Regulations apply in relation to England only.

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—

(1) 1990 c. 8; section 303 was amended by section 6(6) of the Planning and Compensation Act 1991 (c. 34) and by section 53 of the Planning and Compulsory Purchase Act 2004 (c. 5). The functions of the Secretary of State under section 303 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Town and Country Planning Act 1990.

(2) S.I. 1989/193; relevant amendments were made by S.I. 1991/2735, 1992/3052, 1997/37 and 2001/2719.

- “(f) to site visits made to a mining site or a landfill site on or after 6th April 2006.”;
- (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.”.
- (4) After regulation 11A (fees for certain applications under the General Permitted Development Order) insert—

(3) 1995 c. 25.

(4) 1990 c. 8. Part 7 was amended by the Planning and Compensation Act 1991 (c. 34), sections 1 to 9 and Schedule 7, by the Planning and Compulsory Purchase Act 2004 (c. 5), section 52 and by S.I. 2003/956.

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

11B.—(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 shall pay to the authority a fee of an amount specified in paragraph (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 shall be divided equally by the total number of owners and each owner shall 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 shall be £288.

(5) Where the site is an inactive site the fee payable shall be £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 a 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 the 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—

- (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 (b), the estate owner in respect of the fee simple of the site.”.

Signed by authority of the First Secretary of State

2006

Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (the 1989 Regulations). 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 for the payment of fees to the Secretary of State 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.

A Regulatory Impact Assessment has been prepared in relation to these Regulations. It has been placed in the library of each House of Parliament and copies may be obtained from MWP Division, Office of the Deputy Prime Minister, Zone 4/C2, Eland House, Bressenden Place, London, SW1E 5DU (Telephone: 020 7944 8138).