

2024 No. 333

INFRASTRUCTURE PLANNING

**The Infrastructure Planning (Fees) (Amendment) Regulations
2024**

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| <i>Made</i> | - - - - | <i>6th March 2024</i> |
| <i>Laid before Parliament</i> | | <i>8th March 2024</i> |
| <i>Coming into force</i> | | <i>1st April 2024</i> |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 4 and 54A of the Planning Act 2008(a).

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Infrastructure Planning (Fees) (Amendment) Regulations 2024 and come into force on 1st April 2024.

(2) These Regulations extend to England, Wales and (subject to paragraph (3)) to Scotland.

(3) These Regulations extend to Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline—

- (a) one end of which is in England or Wales, and
- (b) the other end of which is in Scotland.

(4) In these Regulations—

“the Act” means the Planning Act 2008;

“the 2010 Regulations” means the Infrastructure Planning (Fees) Regulations 2010(b).

Amendment to the 2010 Regulations

2. The 2010 Regulations are amended in accordance with regulations 3 to 8.

Insertion of Part 1: introduction

3.—(1) Regulations 1 and 2 become Part 1.

(2) Before regulation 1 (citation and commencement) insert—

(a) 2008 c. 29. Section 4 was amended by Schedule 13 to the Localism Act 2011 (c. 20). Section 54A was added by section 126(1) of the Levelling-up and Regeneration Act 2023 (c. 55).

(b) S.I. 2010/106 as amended by S.I. 2012/635, S.I. 2013/498 and S.I. 2017/314.

“PART 1 Introduction”

Amendment of regulation 2: interpretation

4. In regulation 2(1) for the definitions of “applicant” and “application”, substitute—
- ““applicant” means—
- (a) for the purposes of Part 2, an applicant for an order granting development consent or a person who proposes to apply for such an order;
 - (b) for the purposes of Part 3, an applicant or a person who proposes to apply for—
 - (i) an order granting development consent, or
 - (ii) an order to change or revoke such an order granting development consent.
- “application” means—
- (a) for the purposes of Part 2, an application for an order granting development consent;
 - (b) for the purposes of Part 3, an application or proposed application for—
 - (i) an order granting development consent, or
 - (ii) an order to change or revoke such an order granting development consent.”.

Insertion of Part 2: charging of fees by the Secretary of State

- 5.—(1) Regulation 2A (as inserted by these Regulations) to regulation 12 become Part 2.
(2) After regulation 2 (interpretation) insert—

“PART 2 Charging of fees by the Secretary of State

Fee in respect of pre-application services

- 2A.—(1) Where the applicant notifies the Secretary of State of a proposed application and requests pre-application services in relation to that proposed application, the Secretary of State may charge the applicant a fee in relation to the provision of those services.
- (2) The fee payable is £2300 multiplied by the number of relevant days.
 - (3) The Secretary of State must notify the applicant in writing of the number of relevant days and the fee.
 - (4) The applicant must pay the fee to the Secretary of State within the period of 28 days beginning with the date of the notice referred to in paragraph (3).
 - (5) If the applicant fails to pay the fee within the period specified in paragraph (4) the Secretary of State need take no further steps in relation to the proposed application until payment has been received by the Secretary of State.
 - (6) The Secretary of State may waive the fee (in whole or in part) in relation to the proposed application.
 - (7) The fee referred to in paragraph (1) must not exceed the costs reasonably incurred by the Secretary of State in providing the pre-application services.
 - (8) For the purposes of this regulation—

“pre-application services” means services provided to the applicant by the Secretary of State in connection with the Secretary of State’s major infrastructure functions in relation to a proposed application^(a) and include the services listed in Schedule 1;

“relevant day” means a day on which the Secretary of State provides pre-application services.”.

(3) Before the Explanatory Note, insert—

“SCHEDULE 1

Regulation 2A

Pre-application services

Table

Description of pre-application services

Giving of advice to the applicant under section 51(1) (Advice to potential applicants and others).

Services provided to the applicant in relation to the environmental impact assessment process under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017^(b).

Services provided to the applicant in relation to section 98 (Timetable for examining, and reporting on, applications).

Services provided to the applicant in relation to any matters which the Secretary of State thinks may be both important and relevant to the Secretary of State’s decision under section 104 (Decisions in cases where national policy statement has effect) and section 105 (Decisions in cases where no national policy statement has effect).”.

Amendment to Regulation 12 of the 2010 Regulations

6. In regulation 12(5) in the definition of “relevant fee” insert “2A, ” after “regulations”.

Insertion of Part 3: charging of fees by public authorities

7.—(1) Regulation 12A (as inserted by these Regulations) becomes Part 3.

(2) After regulation 12 (fees payable on or after 1st April 2018) insert—

“PART 3

Charging of fees by public authorities

Fees in relation to the provision of relevant services

12A.—(1) The public authorities listed in Schedule 2 are prescribed for the purposes of section 54A(1) (power to provide for fees for certain services in relation to nationally significant infrastructure projects).

(2) Subject to paragraph (4), each public authority listed in Schedule 2 may charge fees to the applicant in relation to the provision of those relevant services.

(a) See the definition of “the proposed application” in section 41(2) of the Planning Act 2008.

(b) S.I. 2017/572 was amended by section 19 of the Enterprise Act 2016 (c. 12); sections 128, 133, 134, 138(2) and 237 of, paragraphs 1, 14 and 56 of Part 1 of Schedule 13 to, and Part 20 of Schedule 25 to the Localism Act 2011 (c. 20); section 43 of the Wales Act 2017 (c. 4); section 160 of the Housing and Planning Act 2016 (c. 22); sections 3 and 23 of the Marine and Coastal Access Act 2009 (c. 23). Relevant amending instruments are S.I. 2010/439, 2010/602, 2012/635, 2012/2654, 2012/2732, 2013/522, 2012/755, 2014/469, 2014/2381, 2015/377, 2015/1682, 2017/1012, 2018/695, 2018/1232, 2020/1534.

(3) Fees may take account of the expenses of anything which is reasonably incidental to the provision of the relevant services by the public authority.

(4) The public authority may charge fees under paragraph (2) only in accordance with a statement published on its website which—

- (a) describes the relevant services in respect of which fees are charged,
- (b) sets out the fees (or, if applicable, the method by which the fees are to be calculated), and
- (c) refers to any provision in an enactment pursuant to which the relevant services are provided.

(5) The public authority may notify the applicant in writing of the estimated fees before providing the relevant services.

(6) The public authority must notify the applicant in writing of the fees.

(7) The applicant must pay the fees to the public authority within such period as may be specified in the notice in paragraph (6), provided such period is not less than 21 days beginning with the date of that notice.

(8) If the applicant fails to pay the fees within the period specified in paragraph (7), the public authority may—

- (a) recover from the applicant as a civil debt the unpaid amount of the fees; and
- (b) if applicable, notwithstanding any requirement to provide the relevant services, withhold the relevant services until the fees are paid.

(9) The fees referred to in paragraph (2) must not exceed the costs reasonably incurred by the public authority in providing the relevant services.

(10) This regulation is without prejudice to any power to charge fees under section 43(1) of the Environment Act 1995(a), section 27 of the Marine and Coastal Access Act 2009(b) and section 33(6) of the National Heritage Act 1983(c).

(11) For the purposes of this Part “the estimated fees” means the amount of fees estimated by the public authority as payable by the applicant for relevant services in respect of the application.”.

(3) After Schedule 1 (as inserted by these Regulations), insert—

“SCHEDULE 2

Regulation 12A

Prescribed Public Authorities

The Environment Agency

Natural England(d)

Historic Buildings and Monuments Commission for England

National Highways

The Coal Authority

The Health and Safety Executive

Marine Management Organisation(e)

(a) 1995 c. 25.

(b) 2009 c. 23. Section 27(3) was amended by paragraphs 5(a) and (b) of Schedule 10(1) to the Fisheries Act 2020 (c. 22).

(c) 1983 c. 47.

(d) See section 1 of the Natural Environment and Rural Communities Act 2006 (c. 16).

(e) See section 1 of the Marine and Coastal Access Act 2009 (c. 23).

Natural Resources Wales”.

Insertion of Part 4: review

8. Before Regulation 13 (review), insert—

**“PART 4
Review”.**

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Lee Rowley
Minister of State

6th March 2024

Department for Levelling Up, Housing and Communities

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Planning Act 2008 (c. 29) (“the Act”) provides for the granting of development consent for certain types of nationally significant infrastructure projects.

These regulations amend the Infrastructure Planning (Fees) Regulations 2010 (“the 2010 Regulations”).

Regulation 3 inserts a new heading of Parts 1 (introduction), and regulation 4 amends regulation 2(1) of the 2010 Regulations by substituting a new definition for “application” and “applicant”.

Regulation 5 inserts a new heading of Part 2 (charging of fees by the Secretary of State) into the 2010 Regulations. It also inserts a new regulation 2A and Schedule 1 into the 2010 Regulations. New regulation 2A provides for the charging of fees by the Secretary of State to the applicant for pre-application services, and Schedule 1 lists pre-application services which may be charged for by the Secretary of State.

Regulation 6 amends regulation 12(5) of the 2010 Regulations so that the new regulation 2A comes within the definition of “relevant fee” for the purposes of regulation 12.

Regulation 7 inserts Part 3 (charging of fees by prescribed public authorities), new regulation 12A and schedule 2 into the 2010 Regulations. Schedule 2 of the 2010 Regulations prescribes the public authorities for the purposes of regulation 12A of the 2010 Regulations.

New regulation 12A provides for the payment of fees by an applicant or proposed applicant to prescribed public authorities in relation to the provision of relevant services. Regulation 12A specifies the effect where the fee is not received by the public authority. It provides that a public authority may charge a fee only in accordance with a statement published on its website.

Regulation 8 inserts a new heading of Part 4 (review) into the 2010 Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

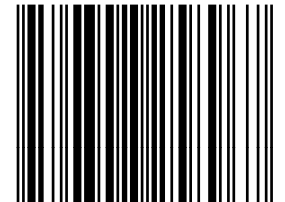
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