Draft Regulations laid before Parliament under section 303(8)(a) of the Town and Country Planning Act 1990 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013

Made - - - -	*2013*
Coming into force - -	*1st October 2013*

The Secretary of State, in exercise of the powers conferred by sections 303 and 333(2A) of the Town and Country Planning Act 1990(**1**), makes the following Regulations:

In accordance with section 303(8)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013 and come into force on 1st October 2013.

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

(3) In these Regulations "the 2012 Regulations" means the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(**2**).

Amendment in relation to Secretary of State pre-application advice

2. After regulation 2 of the 2012 Regulations insert—

(**1**) 1990 c. 8. Section 62A was inserted by section 1 of, and paragraph 5 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c. 27). Section 303 was substituted by section 199 of the Planning Act 2008 (c.29). Section 303(1A) was inserted by Section 1 of, and paragraph 10 of Schedule 1 to, the Growth and Infrastructure Act 2013. Section 333(2A) was inserted by section 118(1) of, and paragraphs 1 and 14 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5).

(**2**) S.I. 2012/2920.

"**Pre-application advice about applying under section 62A of the 1990 Act**

2A.—(1) Where the Secretary of State gives advice about applying for any permission, approval or consent under section 62A of the 1990 Act ("pre-application advice"), a fee shall be paid to the Secretary of State.

(2) The fee payable in respect of pre-application advice shall be the time (in hours or parts thereof) spent by a planning inspector, or as the case may be, a planning officer, giving such advice multiplied by—

(a) where the advice is given by a planning inspector, the hourly rate for a planning inspector; or

(b) where the advice is given by a planning officer, the hourly rate for a planning officer.

(3) The hourly rate for a planning inspector, and for a planning officer, shall be—

(a) set from time to time by the Secretary of State;

(b) calculated by reference to the average hourly cost to the Secretary of State of providing the services of a planning inspector or, as the case may be, a planning officer;

(c) set at a level which ensures that, taking one financial year with another, the income from fees charged for pre-application advice does not exceed the cost of providing that advice; and

(d) published by the Secretary of State in such manner as the Secretary of State considers appropriate.

(4) In this regulation—

"planning inspector" means a person appointed by the Secretary of State under section 76D(1) of, or paragraph 1 of Schedule 6 to, the 1990 Act(**3**) at any time in the 12 months preceding the request for advice; and

"planning officer" means an officer of the Department for Communities and Local Government working for the part of that Department known as the Planning Inspectorate."

Amendments in relation to applications under section 62A of the 1990 Act

3.—(1) In regulation 1(4) of the 2012 Regulations—

(a) before sub-paragraph (a) insert—

"(za) to the giving of advice about applying under section 62A of the 1990 Act for any permission, approval or consent;"

(b) after sub-paragraph (b)(ii) insert—

"(iia) applications under section 62A (applications made directly to Secretary of State) of the 1990 Act;"

(2) In regulation 10(7)(a) of the 2012 Regulations after "local planning authority" insert ", or, in the case of an application under section 62A of the 1990 Act, the Secretary of State,".

(3) After regulation 11 of the 2012 Regulations insert—

(**3**) Section 76D was inserted into the 1990 Act by section 1 of, and paragraph 5 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c. 27).

"**Fees payable in respect of applications under section 62A of the 1990 Act**

11A.—(1) When an application is made under section 62A of the 1990 Act a fee is payable to the Secretary of State.

(2) A fee is only payable under this regulation if a fee would have been payable to a local planning authority under these Regulations (excluding regulation 8 or 9) had the application been made to that authority ("the relevant authority").

(3) The amount of the fee payable to the Secretary of State under paragraph (1) shall be the same as the amount of the fee that would have been payable to the relevant authority under these Regulations.

(4) Where all the conditions set out in paragraph (5) are satisfied, paragraph (1) shall not apply to—

(a) an application for planning permission, which is made following the granting of planning permission (by the Secretary of State under section 62A of the 1990 Act), for development which the Secretary of State is satisfied is development of the same character or description as the development to which the application relates, on an application for planning permission made by or on behalf of the same applicant; or

(b) an application for approval of one or more reserved matters, which is made following the granting of approval (by the Secretary of State under section 62A of the 1990 Act) of details relating to the same reserved matters authorised by the same outline planning permission, on an application made by or on behalf of the same applicant.

(5) The conditions referred to in paragraph (4) are—

(a) that the application is made within 12 months of the date of the grant of planning permission or grant of approval of details of reserved matters, as the case may be;

(b) that the application relates—

(i) in the case of an application for planning permission, to the same site as that to which the grant of planning permission 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; or

(ii) in the case of an application for approval of reserved matters, to the same site as that in respect of which the approval was granted, or to part of that site (and no other land);

(c) in the case of an application for planning permission which is not made in outline, that the planning permission which has been granted is not an outline planning permission; and

(d) that 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 by paragraph (4).

(6) Where all the conditions set out in paragraph (7) are satisfied, paragraph (1) shall not apply to—

(a) an application for planning permission which is made following the withdrawal (before notice of decision was issued) of a valid application for planning permission made to the Secretary of State under section 62A of the 1990 Act by or on behalf of the same applicant;

(b) an application for planning permission which is made following the refusal of planning permission (by the Secretary of State under section 62A of the 1990 Act) on a valid application for planning permission made by or on behalf of the same applicant;