STATUTORY RULES OF NORTHERN IRELAND

2015 No. 136

PLANNING FEES

The Planning Fees (Deemed Planning Applications and Appeals) Regulations (Northern Ireland) 2015

Made - - - -	*6th March 2015*
Coming into operation	*1st April 2015*

The Office of the First Minister and deputy First Minister makes the following regulations in exercise of the powers conferred by section 223(7) and section 223(9) of the Planning Act (Northern Ireland) 2011(**1**).

Citation and Commencement

1. These regulations may be cited as the Planning Fees (Deemed Planning Applications and Appeals) Regulations (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

Interpretation

2. In these regulations—

"the 2011 Act" means the Planning Act (Northern Ireland) 2011;

"appeals commission" means the planning appeals commission;

"appellant" in relation to any deemed application means any person who appealed against the relevant enforcement notice under section 143 of the 2011 Act;

"deemed application" means an application for planning permission deemed to have been made under section 145(5) of the 2011 Act;

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

"EIA development" has the same meaning as in the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015(**2**);

"the Fees Regulations" means the Planning (Fees) Regulations (Northern Ireland) 2015(**3**);

"glasshouse" means a building which—

(**1**) 2011 c. 25 (N.I.)
(**2**) S.R. 2015 No. 74
(**3**) S.R. 2015 No. 73

(a) has not less than three quarters of its total area comprised of glass or other translucent material;

(b) is designed for the production of flowers, fruit, vegetables, herbs or other horticultural produce; and

(c) is used, or is to be used, solely for the purposes of agriculture;

"relevant enforcement notice" in relation to any deemed application means the enforcement notice stating the matters to which that deemed application relates;

"use of land" includes use of land for the winning and working of minerals.

Fees for deemed planning applications

3.—(1) Subject to regulations 4, 5 and 6, a fee shall be paid to the appeals commission where an application for planning permission is deemed to have been made by virtue of the provisions of section 145(5) of the 2011 Act.

(2) Where a fee is payable in respect of a deemed application, the amount of the fee shall be calculated in accordance with the provisions of the Schedule.

(3) Where a fee is payable in respect of a deemed application under paragraph (1), it shall be paid by every person who appeals against the relevant enforcement notice under section 143 of the 2011 Act.

Exemptions

4.—(1) Regulation 3(1) shall not apply where the appeals commission is satisfied that the deemed application relates solely to—

(a) the carrying out of operations for the alteration or extension of an existing dwellinghouse; or

(b) the carrying out of operations (other than the erection of a dwellinghouse) in the curtilage of an existing dwellinghouse,

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure his greater safety, health or comfort.

(2) Regulation 3(1) shall not apply where the appeals commission is satisfied that the deemed application relates solely to the carrying out of operations for 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 (whether on payment or otherwise).

(3) In this regulation "disabled person" means a person who is within any of the descriptions of persons to whom section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978(**4**) applies.

5. Regulation 3(1) shall not apply where the appeals commission is satisfied—

(a) that the deemed application relates to the use of a building or other land for a purpose of a class specified in the Planning (Use Classes) Order (Northern Ireland) 2015(**5**) and solely to such use;

(b) that the existing use of that building or other land is for another purpose of the same class; and

(**4**) 1978 c. 53
(**5**) S.R. 2015 No. 40

(c) that the making of an application for planning permission in respect of the use to which the application relates is necessary by reason of (and only by reason of) a condition imposed on a permission granted or having the like effect as a permission granted under Part 3 of the 2011 Act.

6. Regulation 3(1) shall not apply to a deemed application where the appellant, before the date when the relevant enforcement notice was issued, made—

(a) an application for planning permission for the development to which the enforcement notice relates and has paid the fee for that application under and in accordance with the Fees Regulations or the Planning (Fees) Regulations (Northern Ireland) 2005(**6**), as appropriate; or

(b) an appeal to the appeals commission against the refusal to grant such permission,

and that application or that appeal (as the case may be) has not been determined on or before the date when the relevant enforcement notice was issued.

Fee for a deemed application for EIA development

7. Where an application is deemed to have been made for EIA development, the fee payable in respect of the deemed application shall be the sum of £10,632, in addition to the amount that would otherwise be payable, subject to the maximum amount for the category of development as specified in Part 2 of the Schedule to these regulations.

Refunds for deemed applications

8.—(1) If, in the case of a deemed application, the appeals commission declines jurisdiction on the grounds that the relevant appeal does not comply with one or more of the requirements of section 143(1) to (4) of the 2011 Act, the fee paid in respect of the deemed application shall be refunded.

(2) If the relevant appeal is withdrawn before the date appointed for its hearing or, where the appeal is by way of written representations, before the date appointed for the inspection of the site to which the relevant enforcement notice relates, the fee paid in respect of the deemed application shall be refunded.

(3) The reference in paragraph (2) to an appeal being by way of written representations shall be construed as a reference to an appeal in respect of which neither the appellant nor the authority which issued the notice has asked for an opportunity of appearing before and being heard by the appeals commission.

(4) The fee paid by an appellant shall be refunded to him in the event of the council or, as the case may be, the Department withdrawing the relevant enforcement notice before it takes effect or if the appeals commission decides that the enforcement notice is a nullity.

(5) Save in the case of an application deemed to have been made in connection with a relevant enforcement notice alleging a breach of planning control by the use of land as a caravan site, the fee paid by an appellant in respect of a deemed application shall be refunded to him in the event of the appeals commission allowing the appeal against the enforcement notice on any of the grounds (b) to (e) set out in section 143(3) of the 2011 Act.

(6) Where planning permission is deemed to have been applied for by virtue of section 145(5) of the 2011 Act and—

(a) the terms of a relevant enforcement notice are varied under section 144 otherwise than to take account of grant of planning permission under section 145; and

(**6**) S.R. 2005 No. 222

(b) the amount of the fee calculated in accordance with the Fees Regulations would have been a lesser amount if the original notice had been in the terms of the varied notice,

the fee payable shall be that lesser amount and any excess amount already paid shall be refunded.

(7) In determining a fee under paragraph (6) no account shall be taken of any change in fees which takes effect after the making of the deemed application.

Fees for appeals

9.—(1) The fee for an appeal to the appeals commission shall be £126.

(2) No fee shall be payable in respect of—

(a) an appeal pursuant to the Planning (Trees) Regulations (Northern Ireland) 2015(**7**) against a refusal or conditional grant of consent to cut down, top or lop trees or in default of a decision on an application for such consent; or

(b) an appeal under the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015(**8**) against a refusal or conditional grant of consent to display an advertisement.

Revocations

10.—(1) Regulation 17 of the Planning (Fees) Regulations (Northern Ireland) 1995(**9**) is revoked.

(2) Regulations 11 to 13 and, in as much as they relate to a deemed application, the provisions of Schedule 1 of the Planning (Fees) Regulations (Northern Ireland) 2005(**10**) are revoked.

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 6th March 2015.

L.S.

Siobhan Broderick
A senior officer of the Office of the First Minister and deputy First Minister

(**7**) S.R. 2015 No. 84
(**8**) S.R. 2015 No. 66
(**9**) S.R. 1995 No. 78
(**10**) S.R. 2005 No. 222