STATUTORY RULES OF NORTHERN IRELAND

2003 No. 446

PLANNING

Planning (Fees) (Amendment No. 2) Regulations (Northern Ireland) 2003

Made - - - -	*9th October 2003*
Coming into operation	*12th November 2003*

The Department of the Environment, in exercise of the powers conferred on it by Articles 127 and 129(1) of the Planning (Northern Ireland) Order 1991(**1**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Planning (Fees) (Amendment No. 2) Regulations (Northern Ireland) 2003 and shall come into operation on 12th November 2003.

(2) In these regulations –

"the 1991 Order" means the Planning (Northern Ireland) Order 1991;

"the principal regulations" means the Planning (Fees) Regulations (Northern Ireland) 1995(**2**).

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with paragraphs (2) to (5).

(2) Subject to paragraph (3), regulation 10 shall be substituted by –

"**Fee for application made following a determination as to whether listed building consent required**

10. Where the Department receives an application for a determination under Article 48(1) of the 1991 Order and determines that the proposed work to a listed building would involve the alteration or extension of the building in a manner which would affect its character as a building of special architectural or historic interest, the fee for the application for listed building consent made by or on behalf of the same applicant as a result of the determination shall be reduced by the amount paid for the determination under regulation 18(1).".

(**1**) S.I.1991/1220 (N.I. 11). Art. 2(2) contains definitions of "the Department" and "prescribed"

(**2**) S.R. 1995 No. 78 amended by S.R. 1996 No. 41, S.R. 1997 No. 104, S.R. 1998 No. 223, S.R. 2000 No. 35 , S.R. 2001 No. 225 and S.R. 2003 No. 41

(3) Where a person –

(a) applies for a determination under Article 41(1) of the 1991 Order prior to 12th November 2003; and

(b) the Department determines that planning permission is required, regulation 10 (as originally enacted) shall continue to have effect in relation to an application for planning permission made by or on behalf of that person as a result of that determination.

(4) Regulation 18 shall be substituted by –

"**Fee for application for determination as to whether listed building consent required or for certificate of lawful use or development**

18.—(1) The fee for an application under Article 48(1) (application to determine whether listed building consent is required) of the 1991 Order shall be £35.

(2) Paragraph (1) shall not apply where the Department, in relation to the application, is satisfied as set out in paragraphs (1) or (2) of regulation 4 in relation to the application referred to in those paragraphs.".

(5) After regulation 18 insert –

"**Fees for applications for certificates of lawful use or development**

18A.—(1) Subject to paragraphs (2), (3) and (4), an application made to the Department under Article 83A (certificate of lawfulness of existing use or development) or 83B (certificate of lawfulness of proposed use or development) of the 1991 Order shall be accompanied by a fee.

(2) Paragraph (1) shall not apply where the Department is satisfied that it relates solely to the carrying out of operations specified in regulation 4 for the purposes specified in that regulation.

(3) Where all of the conditions set out in paragraph (4) are satisfied, paragraph (1) shall not apply to –

(a) an application which is made following the withdrawal (before notice of decision was issued) of an application made by or on behalf of the same applicant;

(b) an application which is made following the refusal of an application (whether by the Department or the Commission on appeal) made by or on behalf of the same applicant; or

(c) an application which is made following the making of an appeal to the Commission under Article 83E(1)(b) of the 1991 Order (appeal against failure or refusal to give decision) in relation to an application made by or on behalf of the same applicant.

(4) The conditions referred to in paragraph (3) are –

(a) that the application is made before the end of a period of 12 months following –

(i) the date when an earlier application was made, in the case of a withdrawn application;

(ii) the date when (by virtue of Article 11(1) of the General Development Order) the period for the giving of notice of a decision on the earlier application expired, in the case of an application which is made following an appeal under Article 83E(1)(b) of the 1991 Order; or

(iii) the date of refusal, in any other case;

(b) that 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;