1983 No. 329

TOWN AND COUNTRY PLANNING

Planning (Fees) Regulations (Northern Ireland) 1983

Made	*20th October 1983*
Coming into operation . . .	*1st December 1983*

The Department of the Environment, in exercise of the powers conferred on it by Article 105A(**a**) of the Planning (Northern Ireland) Order 1972(**b**) and of all other powers enabling it in that behalf hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Planning (Fees) Regulations (Northern Ireland) 1983 and shall come into operation on 1st December 1983.

Revocations

2. The following are hereby revoked:—

(*a*) Planning (Prescribed Fees) Regulations (Northern Ireland) 1981(**c**);

(*b*) Planning (Prescribed Fees) (Amendment) Regulations (Northern Ireland) 1982(**d**);

and

(*c*) Planning (Prescribed Fees) (Amendment No. 2) Regulations (Northern Ireland) 1982(**e**).

Interpretation

3.—(1) In these regulations—

"the 1972 Order" means the Planning (Northern Ireland) Order 1972;

"the General Development Order" means the Planning (General Development) Order (Northern Ireland) 1973(**f**);

"the Commission" means the Planning Appeals Commission;

"the Department" means the Department of the Environment;

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

"glasshouse" means a building which—

(*a*) has not less than three-quarters of its total external 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

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(a) As inserted by Article 13 of The Planning (Amendment) (Northern Ireland) Order 1982 (S.I. 1982/1537 (N.I. 20))
(b) S.I. 1972/1634 (N.I. 17)
(c) S.R. 1981 No. 220
(d) S.R. 1982 No. 199
(e) S.R. 1982 No. 376
(f) S.R. & O. (N.I.) 1973 No. 326

"reserved matters" has the same meaning as in the General Development Order;

"use for residential purposes" means use as a dwellinghouse;

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

(2) Expressions used in regulation 11 and Schedule 2 have the meaning which they bear in the Planning (Control of Advertisements) Regulations (Northern Ireland) 1973(**a**).

Fees for planning applications

4.—(1) Subject to regulation 5, where an application is made to the Department for planning permission or for the approval of reserved matters, a fee shall be paid to the Department in accordance with the provisions of these regulations.

(2) Subject to regulation 9, the fee in respect of the application shall be calculated in accordance with the provisions of Schedule 1.

Exemptions

5.—(1) Regulation 4 shall not apply where the Department is satisfied that the 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 4 shall not apply where the Department is satisfied that the 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(**b**) applies.

6.—(1) Regulation 4 shall not apply where:—

(*a*) the application relates to development which is within one or more of the classes specified in Schedule 1 to the General Development Order and solely to such development; and

(*b*) the permission granted by article 3 of that Order does not apply in respect of that development by reason of (and only by reason of):—

(i) a direction made under article 4 of that Order which is in force on the date when the application is made; or

(ii) the requirements of a condition imposed on any permission granted or having the like effect as a permission granted under Part IV of the 1972 Order.

(2) The reference in sub-paragraph (1)(*a*) to an application which relates to development which is within one or more of the classes specified in Schedule 1 to the General Development Order shall be construed as including an application for planning permission for the continuance of a use of land, or the retention of buildings

(**a**) S.R. & O. (N.I.) 1973 No. 324
(**b**) 1978 c. 53

or works on land, without compliance with a condition subject to which a previous planning permission has been granted, where the condition in question prohibits or limits the carrying out of any development which is within one or more of the said classes.

7.—(1) Where the conditions set out in paragraph (2) are satisfied, regulation 4(2) shall not apply to:—

(*a*) an application for planning permission which is made following the granting of planning permission (whether by the Department or by the Commission on appeal) for development which the Department is satisfied is 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;

(*b*) an application for approval of one or more reserved matters which is made following the granting of approval (whether by the Department or by the Commission on appeal) 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.

(2) The conditions referred to in paragraph (1) are:—

(*a*) that the application is made before the end of a period of 12 months following the date of the relevant 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 (save that where additional land is included in the application solely for the purpose of providing a means of access to the site which differs from that authorised by the planning permission, that land shall be disregarded for the purposes of this paragraph);

(ii) in the case of an application for approval of reserved matters, to the same land as that in respect of which the approval was granted, or to part of that land (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 (as defined in the General Development Order);

(*d*) that no previous application has at any time been made by or on behalf of the same applicant which related to the site to which the relevant grant of planning permission or grant of approval of reserved matters, as the case may be, relates (or which related wholly or in part to any part of that site) and which was exempted from regulation 4(2) by this regulation.

8.—(1) Where the conditions set out in paragraph (2) are satisfied, regulation 4(2) shall not apply to:—

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

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

(*c*) an application for planning permission which is made following the making of an appeal to the Commission under Article 24 of the 1972 Order (appeal in default of planning decision) in relation to an application for planning permission made by or on behalf of the same applicant;

(*d*) an application for approval of one or more reserved matters which is made following the withdrawal (before it is determined) of an application made by or on behalf of the same applicant for approval of details relating to the same reserved matters authorised by the same outline planning permission;

(*e*) an application for approval of one or more reserved matters which is made following the refusal (whether by the Department or by the Commission) to approve details relating to the same reserved matters which were submitted in an application made by or on behalf of the same applicant and in relation to the same outline planning permission;

(*f*) an application for approval of one or more reserved matters which is made following the making of an appeal to the Commission under Article 24 of the 1972 Order in relation to an application made by or on behalf of the same applicant for approval of details relating to the same reserved matters referred to in the same outline planning permission.

(2) The conditions referred to in paragraph (1) are:—

(*a*) that the application is made before the end of a period of 12 months following:—

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

(ii) the date when (by virtue of Article 7(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 24 of the 1972 Order;

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

(*b*) that the application relates:—

(i) in the case of an application for planning permission, to the same site as that to which the earlier application related, or to part of that site, and to no other land (other than additional land required for the provision of access to the development);

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

(*c*) in the case of an application for planning permission, that the Department is satisfied that it relates to development of the same character or description as the development to which the earlier application related (and to no other development);

(*d*) in the case of an application for planning permission which is not made in outline, that the earlier application was also not made in outline;

(*e*) that the fee payable in respect of the earlier application was paid;

(*f*) that no previous application has at any time been made by or on behalf of the same applicant which related to the site to which the earlier application related (or which related wholly or in part to any part of that site) and which was exempted from regulation 4(2) by this regulation or exempted under the corresponding provisions of the Planning (Prescribed Fees) Regulations (Northern Ireland) 1981.

9. The fee for an application for planning permission to which regulation 6, 7 or 8 applies shall be £7.

Fees for deemed applications

10.—(1) Subject to paragraph (4), a fee shall be paid where an application for planning permission is deemed to have been made by virtue of the provisions of Article 43B(3) of the 1972 Order (in consequence of an appeal under Article 43(**a**) of that Order against an enforcement notice).

(2) Subject to paragraph (6), the amount of the fee payable in respect of a deemed application shall be calculated in accordance with the provisions of Schedule 1.

(3) A fee shall be paid in respect of a deemed application by every person who appeals against the relevant enforcement notice.

(4) In the case of a deemed application, paragraph (1) shall not apply where the appellant, before the date when the relevant enforcement notice was issued, had made an application to the Department for planning permission for the development to which the notice relates and had paid to the Department the fee for that application, in accordance with the requirements of regulation 4 and that application had not been determined on or before the date when the notice was issued.

(5) Regulations 5 and 6 shall apply to a deemed application as they apply to an application for planning permission with the following modifications:—

(*a*) references in regulation 5 to regulation 4 shall be construed as a reference to paragraph (1);

(*b*) reference in regulation 6(1) to regulation 4(2) shall be construed as a reference to paragraph (2);

(*c*) references to the Department shall be construed as references to the Commission; and

(*d*) references to the development to which the application relates shall be construed as references to the development to which the relevant enforcement notice relates.

(6) The fee for an application deemed to have been made by virtue of Article 43B(3) of the 1972 Order to which regulation 6 applies shall be £7.

(7) If, in the case of a deemed application, the Commission declines jurisdiction on the grounds that the relevant appeal does not comply with one or more of the requirements of Article 43(1) to (3) of the 1972 Order, the fee paid in respect of the deemed application shall be refunded.

(8) 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 enforcement notice relates, the fee paid in respect of the deemed application shall be refunded.

(9) The reference in paragraph (8) 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 Department has asked for an opportunity of appearing before and being heard by the Commission.

(10) The fee paid by an appellant shall be refunded to him in the event of the Department withdrawing the relevant enforcement notice before it takes effect.

(11) Save in the case of an application deemed to have been made in connection with an 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 Commission allowing the appeal against the enforcement notice on any of the grounds (*b*) to (*e*) set out in Article 43(2) of the 1972 Order.

(a) As substituted by Article 8 of the Planning (Amendment) (Northern Ireland) Order 1982 (S.I. 1982/1537 (N.I. 20)).