1982 No. 376

TOWN AND COUNTRY PLANNING

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

Made	*18th November 1982*
Coming into operation . . .	*10th December 1982*

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

Citation and commencement

1.—(1) These regulations may be cited as the Planning (Prescribed Fees) (Amendment No. 2) Regulations (Northern Ireland) 1982 and the Planning (Prescribed Fees) Regulations (Northern Ireland) 1981(**b**), the Planning (Prescribed Fees) (Amendment) Regulations (Northern Ireland) 1982(**c**) and these regulations may be cited together as the Planning (Prescribed Fees) Regulations (Northern Ireland) 1981 and 1982.

(2) These regulations shall come into operation on 10th December 1982.

Amendment

2. The Planning (Prescribed Fees) Regulations (Northern Ireland) 1981 are hereby amended as follows:—

(*a*) after regulation 8 there shall be inserted the following regulation:—

"*Fees for deemed applications*

8A.—(1) Subject to paragraphs (5) and (6) a fee shall be paid for deemed applications to the Planning Appeals Commission in every case 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(**d**) of that Order against an enforcement notice).

(2) Subject to paragraph (6) the amount of the fee payable in respect of a deemed application for planning permission 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) The fee due in respect of a deemed application shall be paid at the time when written notice of the relevant appeal is given to the Planning Appeals Commission.

(5) In the case of a deemed application, the provisions of this regulation shall not apply where the person who appeals against the relevant enforcement notice had, before the date when the relevant enforcement notice was issued, made an application to the Department for planning permission for the use of the land or the operations (as the case may be) to which the relevant enforcement notice

---

(**a**) S.I. 1972/1634 (N.I. 17) as amended by S.I. 1982/1537 (N.I. 20) Article 13
(**b**) S.R. 1981 No. 220
(**c**) S.R. 1982 No. 199
(**d**) As inserted by S.I. 1982/1537 (N.I. 20) Article 8

relates and had paid to the Department the amount of the fee payable in respect of that application, in accordance with the requirements of regulation 4 and where that application had not been determined on or before the date when the relevant enforcement notice was issued.

(6) Regulations 5 to 7 shall apply to a deemed application for planning permission as they apply to an application for planning permission with the following modifications:—

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

(*b*) references in regulations 6 and 7 to regulation 4 shall be construed as references to paragraph (2);

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

(*d*) references to the development to which the application relates shall be construed as references to the use of land or the operations (as the case may be) to which the relevant enforcement notice relates; and

(*e*) references to the person by whom or on whose behalf the application was made shall be construed as references to the person who made the relevant appeal against the enforcement notice.

(7) If in the case of a deemed application the Planning Appeals 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 amount of the fee paid in respect of the deemed application shall be refunded to the appellant.

(8) If the relevant appeal is withdrawn at any time before the date appointed for the holding of a hearing into that appeal or in the case of an appeal which is being dealt with by way of written representations, the date appointed for the inspection of the site to which the enforcement notice relates, the amount of the fee paid in respect of the deemed application shall be refunded.

(9) The reference in paragraph (8) to an appeal being dealt with 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 Planning Appeals Commission.

(10) The amount of 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 amount of the fee paid by an appellant in respect of a deemed application for planning permission shall be refunded to him in the event of the Planning Appeals Commission allowing the appeal against the relevant enforcement notice on any of the grounds (*b*) to (*e*) set out in Article 43(2) of the 1972 Order.".

(*b*) The following regulation shall be substituted for regulation 9:—

"**9.** The prescribed fee for:—

(*a*) an application for planning permission to which regulations 6, 7 and 8 apply; and

(*b*) an application deemed to have been made by virtue of Article 43B(3) of the 1972 Order to which regulations 6 and 7 apply,

shall be £6.".