

EXPLANATORY MEMORANDUM TO
THE PLANNING (FEES) (AMENDMENT) REGULATIONS (NORTHERN IRELAND)
2009

2009 No. 256

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Article 127 of the Planning (Northern Ireland) Order 1991 and is subject to the negative resolution procedure.
- 1.3 The Rule is due to come into operation on 3rd August 2009.

2. Purpose

- 2.1 These Regulations amend fee amounts prescribed in the Planning (Fees) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 222 as amended by S.R. 2005 No. 505) (“the 2005 Regulations”). The general effect of the Regulations will be to increase fees by approximately 15%.
- 2.2 The Regulations also make a number of minor changes to the wording of regulation 14 of the 2005 Regulations which deals with fees for applications for consent to display advertisements.

3. Background

- 3.1 This increase of 15% is the first increase in fees since 2005 and is essential to enable the Department to recover the majority of the costs directly incurred in processing planning applications.
- 3.2 During 2008/09 the Department recovered 81.2% of the relevant costs, and it is therefore necessary to achieve greater cost recovery.

4. Consultation

- 4.1 No consultation was carried out as there has been no change to the Department’s policy that the costs of determining planning applications should be fully recovered through fees.

5. Equality Impact

- 5.1 An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any differential impact on any of the section 75 categories.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment has been prepared to accompany these Regulations and is attached at Annex 1. It concludes that the balance between cost and benefits is the right one in the circumstances.

7. Financial Implications

7.1 The costs to a “typical business” are not estimated as most planning applications are not made by businesses and each planning application is unique. Only those which make planning applications will be affected and the costs will be non-recurring.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There are no EU implications.

10. Parity or Replicatory Measure

10.1 This is not a parity or replicatory measure.

11. Additional Information

11.1 None.

Contact

Please direct any queries to Brian Gorman at the Department of the Environment Tel: 028 90416930 or e-mail: Brian.Gorman@doeni.gov.uk

Annex 1

REGULATORY IMPACT ASSESSMENT

Planning (Fees) (Amendment) Regulations (Northern Ireland) 2009

1. Introduction and Summary

This assessment estimates the costs of the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2009.

Planning fees were last increased in May 2005 by the Planning (Fees) Regulations (Northern Ireland) 2005. The general effect was to increase fee income by around 12%. It is a Planning Service target to recover the full costs incurred in processing planning applications. Costs recoverable through fees are identified in line with the statutory authority in Article 127 of the Planning (Northern Ireland) Order 1991 and policy.

The costs incurred in determining planning applications and the income from fees are reviewed annually and assembled within a 'Memorandum Trading Account' (MTA). It has been determined in projecting the MTA for 2009/10 that the costs likely to be incurred are greater than the anticipated income from fees.

In 2007/08 the Planning Service earned sufficient income from planning application fees to cover its costs with recovery at 101% and planning application income amounting to £21.3 million. However, there was an unprecedented downturn in the number of planning applications submitted during 2008/09 with a 25% reduction compared to the previous financial year. As a result income from planning application fees has decreased and the total income for the 2008/09 financial year was £17.2 million.

Despite efficiency measures Planning Service has put in place, costs continue to increase due to inflation, including staff pay awards. The last pay award, which covers the period 1 August 2006 to 31 July 2009, was worth an increase to staff in post of 4% for each of the three years – a cumulative increase of 12%.

Taking account of the increased costs since 2005 and reduced income, the outcome for 2008/09 is that the Planning Service has recovered 81.2% of the relevant costs against a target of 100% cost recovery.

In order to take account of these cost pressures it will be necessary to increase planning fees by 15%. Whilst this income will not be sufficient to achieve 100% cost recovery, the Department believes that increases in excess of 15% would be unacceptable in the current economic climate and has therefore decided not to aim for full cost recovery until this period of economic uncertainty has ended. It is anticipated that the Department will, in future, increase fees annually by a moderate amount. It is exploring other options to address the anticipated income shortfall. The proposed increase is an essential measure towards ensuring that the Planning Service has adequate resources to maintain service delivery.

2. Purpose and effect of the Regulations

The Regulations amend the Planning (Fees) Regulations (Northern Ireland) 2005, as amended, which prescribe fees payable to the Department of the Environment in respect of applications made under the Planning (Northern Ireland) Order 1991. The general effect of these Regulations will be

to increase fee income by approximately 15% overall in respect of applications to the Department particularly those for –

- a. planning permission and for approval of matters reserved in an outline planning permission and determinations of the need for listed building consent;
- b. consent to display advertisements;
- c. listed building consent;
- d. certificates of lawful use or development.

The Regulations will affect any individual or company making an application. Planning permission enures for the benefit of the land and since applications are for new development only, the costs are non-recurring.

3. Targeting Social Need (TSN)

It is not considered that the proposal has any implications for new TSN.

4. Issues of Equality

The Regulations have been screened with regard to Section 75 of the Northern Ireland Act 1998 and it is considered that they are not likely to have any significant implications for equality of opportunity or community relations.

The Regulations continue to provide for ‘no fee’ where an application relates to operations providing facilities in the curtilage of an existing dwelling house to secure the greater safety, health or comfort of a disabled person, or an application relates solely to operations for the provision of a means of access for disabled persons to or within a building or premises to which members of the public are admitted.

5. Benefits

The income from fees is needed to contribute to the costs of processing planning applications, the most significant of which is staff costs. Whilst the number of planning applications being submitted has declined considerably in the last year the Planning Service needs to maintain staff to deal with the backlog of applications in the system caused by the unprecedented rise in application numbers in the last few years and to maintain a fit for purpose planning function to be transferred to new district councils in 2011.

Planning control applies planning policies which have been the subject of public consultation and which are adjudged to be in the public interest. The income generated from planning fees is intended to pay for that planning control. The increase in income from the fee increases applied by the Regulations will enable the Planning Service to maintain and improve the services provided.

As part of the Reform of the Planning System the Planning Service will be carrying out a fundamental review of planning fees, to take account of the implications of the Review of Public Administration and the various reform initiatives. Full public consultation will then take place with the intention of simplifying the fee regime as far as possible and amending the Fees Regulations prior to the transfer of development control responsibilities to the new councils in 2011.

Whilst the short term reform measures already introduced as part of the reform programme (such as new pre-application discussion arrangements with applicants, and a joint pilot scheme with Derry City Council to streamline non-contentious applications¹) have delivered improvements in efficiency and services, and the implementation of the e-PIC I.T. project during 2009/10 will also contribute to increased output, fee income needs to keep pace with costs until the outcome of this full review.

6. Compliance Costs for a “Typical” Business

The costs to a “typical business” are not estimated, as most planning applications are not made by businesses and each planning application is unique. Most businesses will be totally unaffected. Only those which make planning applications will be affected and the costs will be non-recurring. The cost of the planning application will also generally be more than offset by the enhanced value of land or property.

The types of planning applications processed in 2008/2009 and the number in each category were as follows –

Type of development	Number received	Number decided
Agricultural	290	357
Commercial	1,407	1,472
Government and Civic	1,914	1,947
Industrial	387	425
Residential	15,155	18,975
Other	1,363	1,482
Totals	20,516	24,658

Costs vary according to the type of application. For example, a business involved in commercial house building will incur an additional fee of £1,150 for an application to build 50 or more houses. This cost is very small compared with the cost of building 50 houses; indeed it will not be borne by the developer, but passed on to the house purchaser.

The fee cost for a planning application for mineral extraction on a site 15 hectares in area would increase from £32,450 to £37,318. Again this increase of £4,868 would be very small compared with the development value of the site.

7. Monitoring and Review

In addition to the comprehensive review of fees and funding for planning, the Department will continue to monitor and review the cost of processing planning applications, and adjustments will be made as necessary.

¹ Non-contentious applications are defined as minor applications with no objections.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.

Marianne Fleming

3rd July 2009