STATUTORY INSTRUMENTS

1990 No. 563 (S.72)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Fees for Applications and Deemed Applications)(Scotland) Regulations 1990

Made - - - -	*7th March 1990*
Coming into force	*4th April 1990*

The Secretary of State, in exercise of the powers conferred on him by section 87 of the Local Government, Planning and Land Act 1980(**a**) and of all other powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has been laid before and approved by each House of Parliament:

Application, citation, commencement and extent

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1990 and shall come into force on the twenty eighth day after the date on which they are made.

(2) These Regulations apply to applications for–

(a) any planning permission or deemed application for planning permission;

(b) approval of reserved matters;

(c) consent for the display of advertisements.

(3) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires–

"the 1972 Act" means the Town and Country Planning (Scotland) Act 1972(**b**);

"the 1984 Regulations" means the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(**c**);

"the General Development Order" means the Town and Country Planning (General Development) (Scotland) Order 1981(**d**);

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

"outline planning permission" and "reserved matters" have the same meaning as in the General Development Order;

"the Schedule" means the Schedule to these Regulations;

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

(2) Subject to paragraph (3) below, expressions used in these Regulations have, unless the context otherwise requires, the meaning which they bear in the 1972 Act.

(3) Expressions used in regulation 12 have, unless the context otherwise requires, the meaning which they bear in the 1984 Regulations.

(**a**) 1980 c.65.
(**b**) 1972 c.52.
(**c**) S.I. 1984/467.
(**d**) S.I. 1981/830, amended by S.I. 1983/1620, 1984/237, 1985/1014 and 2007, 1988/977 and 1249 and 1989/148.

(4) References in regulations 8(e) and 12(6)(e) to particular provisions of these Regulations shall be construed as including references to the corresponding provisions of the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1981(**a**) and the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983(**b**).

(5) A regulation referred to in these Regulations only by number means the regulation so numbered in these Regulations.

Fees for planning applications

3.—(1) Subject to regulations 4 to 9, where an application is made to a planning authority for planning permission or for the approval of reserved matters, a fee shall be paid to that authority in accordance with the provisions of these Regulations.

(2) The fee payable in respect of the application shall be calculated in accordance with the Schedule.

(3) The fee due in respect of an application shall accompany the application.

(4) Where the application is referred to a regional planning authority under section 179(1) of the Local Government (Scotland) Act 1973 (**c**) the planning authority who receive the fee in accordance with the provisions of paragraphs (1) to (3) shall remit the amount of the fee to the regional planning authority at the same time as they refer the application to them.

(5) Any fee paid under this regulation shall be refunded if the application is rejected as invalidly made.

Exceptions

4.—(1) Regulation 3 shall not apply where the planning authority to whom the application is made are satisfied that it relates solely to the carrying out of operations–

(a) in the curtilage or for the alteration or extension of a dwellinghouse, other than the erection of a dwellinghouse, for the purpose of providing means of access to or within the dwellinghouse for a disabled person who resides or proposes to reside in that dwellinghouse, or of providing facilities designed to secure his greater safety, health or comfort; or

(b) 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.

(2) In this regulation, "disabled person" means a person who is blind, deaf, dumb, or substantially and permanently handicapped by illness, injury or congenital deformity, and includes a mentally disordered person of any description.

5.—(1) Regulation 3 shall not apply where the planning authority to whom the application is made are satisfied–

(a) (i) that the application relates solely to development which is within one or more of the classes other than class V, specified in Schedule 1 to the General Development Order; and

(ii) that 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–

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

(bb) the requirements of a condition imposed on a permission granted or deemed to be granted under Part III of the 1972 Act otherwise than by that Order; or

(b) that the application relates to development on land used for the purposes of agriculture, other than dwellinghouses or the buildings excluded by virtue of subparagraph (c) in paragraph (1) of class V in Schedule 1 to the General Development Order

(**a**) S.I. 1981/443, amended by S.I. 1982/759.
(**b**) S.I. 1983/1697, amended by S.I. 1985/1180.
(**c**) Section 179 of the Local Government (Scotland) Act 1973 (c.65), was substituted by paragraph 24 of Schedule 3 to the Local Government and Planning (Scotland) Act 1982 (c.43).

from that class, and the development is to be used for purposes incidental to that use.

(2) The reference in paragraph (1)(a)(i) 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 include an application for planning permission for the continuance of a use of land, or the retention of buildings or works, without compliance with a condition subject to which a previous planning permission has been granted, and which prohibits or limits the carrying out of any development which is within one or more of the said classes.

6. Regulation 3 shall not apply where the planning authority to whom the application is made are satisfied–

(a) that the application relates solely to the use of a building or other land for a purpose of any class specified in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1989(**a**);

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

(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 deemed to be granted under Part III of the 1972 Act.

7. Where all the conditions set out in regulation 8 and applicable to paragraph (a) or (b), as the case may be, are satisfied, regulation 3 shall not apply to an application which is made by the same applicant for–

(a) planning permission for development of the same character or description as development to which an earlier application relates and to no other development and following–

(i) the withdrawal, before notice of decision was issued, of that earlier application for planning permission;

(ii) the granting of planning permission for the development;

(iii) the refusal of planning permission; or

(iv) the making of an appeal to the Secretary of State under section 34 of the 1972 Act (appeal in default of planning decision) in relation to an application for planning permission; or

(b) approval of one or more reserved matters following -

(i) the withdrawal before notice of decision was issued of an application for approval of the same reserved matters;

(ii) the granting of approval of the same reserved matters;

(iii) the refusal to approve the same reserved matters; or

(iv) the making of an appeal to the Secretary of State under section 34 of the 1972 Act in relation to an application for approval of the same reserved matters,

authorised by the same outline planning permission.

8. The conditions referred to in regulation 7 are–

(a) that the application is made within 12 months of the date–

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

(ii) of the relevant grant of planning permission or grant of approval of details of reserved matters, as the case may be;

(iii) of the refusal; or

(iv) when under the relevant provisions of the General Development Order or of section 179(5) of the Local Government (Scotland) Act 1973, 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 section 34 of the 1972 Act;

(**a**) S.I. 1989/147.

(b) 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 or that the earlier application was also not made in outline;

(c) in the case of an application for planning permission, 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 except land included solely for the purpose of providing a different means of access to the site;

(d) in the case of an application for approval of reserved matters, 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;

(e) no application made by or on behalf of the same applicant in relation to the whole or any part of the site has already been exempted from regulation 3 by virtue of regulation 7 and this regulation; and

(f) the fee payable in respect of the earlier application was paid.

9. Regulation 3 shall not apply to impose a fee in relation to an application to a planning authority for permission to carry out development consisting of the winning and working of minerals where the application–

(a) is for a permission which consolidates two or more subsisting permissions; or

(b) does not seek permission for development which is not authorised by a subsisting permission.

Fees for deemed applications

10.—(1) Subject to paragraph (6), a fee shall be paid to the Secretary of State where an application for planning permission is deemed to have been made by virtue of section 85(7) of the 1972 Act (in consequence of an appeal against an enforcement notice) or section 91(5) of the 1972 Act (in consequence of an appeal under that section against a decision of a planning authority on an application for an established use certificate).

(2) Subject to paragraph (4) and regulation 13(2), the fee payable in respect of a deemed application shall be calculated in accordance with the Schedule.

(3) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act, a fee shall be paid by every person who has made a valid appeal against the relevant enforcement notice.

(4) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act where–

(i) an enforcement notice is varied under section 85(5) otherwise than to take account of a grant of planning permission under that section; and

(ii) the fee calculated in accordance with the Schedule 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 no account shall be taken of any change in fees which takes effect after the making of the deemed application.

(5) The fee due in respect of a deemed application shall accompany the written notice of the relevant appeal to the Secretary of State.

(6) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act, this regulation shall not apply where the person who has appealed against the relevant enforcement notice had–

(a) before the date when the notice was served, made an application to the planning authority for planning permission for the development to which the relevant enforcement notice relates and had paid the fee payable in respect of that application; or

(b) before the date specified in the notice as the date on which the notice is to take effect, made an appeal to the Secretary of State under section 33 of the 1972 Act,

and at the date when the relevant enforcement notice was served that application or, in the case of an appeal made before the date on which the enforcement notice is to take effect, that appeal, had not been determined.

(7) Regulations 4, 5 and 6 shall apply to a deemed application as they apply to an application for planning permission made to the planning authority, with the following modifications:–

(a) references to the planning authority to whom the application is made shall be construed as references to the Secretary of State; and

(b) references to the development to which the application relates shall be construed as references to the use of land or the operations to which the relevant enforcement notice relates, or to the use of land in respect of which the relevant application for an established use certificate was made, as the case may be.

Refunds of fees for deemed applications

11.—(1) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act, the amount of any fee paid in respect of the deemed application shall be refunded to the appellant by the Secretary of State in the following circumstances:–

(a) where the Secretary of State declines jurisdiction on the relevant appeal under section 85 of the 1972 Act on the grounds that it does not comply with one or more of the requirements of subsection (1) of that section;

(b) where the Secretary of State under section 85(2C)(**a**) of the 1972 Act–

(i) dismisses the appeal on the grounds that the appellant has failed to comply with subsection (2A) within the time prescribed under subsection (2B)(a) of that section; or

(ii) allows the appeal and quashes the enforcement notice on the grounds that the planning authority failed to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of subsection (2B) of that section;

(c) where the planning authority withdraws the relevant enforcement notice before it takes effect or if the Secretary of State considers that there was no subject matter to appeal against since the purported enforcement notice had no legal effect; and

(d) 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, where the Secretary of State allows the appeal against the relevant enforcement notice on any of the grounds set out in section 85(1)(b) to (e) of the 1972 Act.

(2) In the case of an application deemed to have been made by virtue of section 85(7) of the 1972 Act, in the circumstances set out in regulation 10(4) any amount already paid in excess of the lesser amount shall be refunded.

(3)(a) In the event of the relevant appeal under section 85 or 91 of the 1972 Act being withdrawn with the result that there are at least 21 days between the date of withdrawal and–

(i) the date or, in the event of postponement, the latest date appointed for the holding of an inquiry into that appeal; or

(ii) in the case of an appeal which is being dealt with by way of written submissions, the date or, in the event of postponement, the latest date appointed for the inspection of the site to which the enforcement notice or the application for an established use certificate relates,

any fee paid in respect of the deemed application shall be refunded to the appellant by the Secretary of State.

(b) For the purposes of this paragraph an appeal shall be treated as being withdrawn on the date on which notice in writing of the withdrawal is received by the Secretary of State.

(4) The reference in paragraph (3) to an appeal being dealt with by way of written submissions shall be construed as a reference to an appeal in respect of which no local inquiry is to be held under section 267 of the 1972 Act.

(5) In the case of an application which is deemed to have been made by virtue of section 91(5) of the 1972 Act, the fee paid by the appellant shall be refunded to him by the Secretary of State in the event of the Secretary of State granting him an established use certificate, or

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(**a**) Section 85(2A) to (2D) was inserted by the Local Government and Planning (Scotland) Act 1982 (c.43), Schedule 2, paragraph 20(b).

modifying the certificate granted by the planning authority on the application, under subsection (2)(a) of that section, or determining that he has no power to grant planning permission under subsection (3) of that section.

Fees for applications for consent for advertisements

12.—(1) Where an application is made to a planning authority under regulation 15 of the 1984 Regulations for consent for the display of an advertisement, a fee shall accompany the application and shall be paid to that authority in accordance with this regulation.

(2) Subject to the provisions of paragraphs (3) to (7) the fee payable in respect of each site on which one or more than one advertisement is to be displayed shall be £32.

(3) Where the application relates to the display of advertisements on parking meters, litter bins or bus shelters within a specified area, the whole of the area to which the application relates shall be treated as one site for the purpose of this regulation.

(4) Where the application is made by a community council established under section 51 of the Local Government (Scotland) Act 1973(**a**) the amount of the fee payable in respect of the application shall be reduced by one half.

(5) Where all of the conditions set out in paragraph (6) are satisfied, this regulation shall not apply to an application for the display of advertisements which is made following–

(a) the withdrawal before notice of decision was issued; or

(b) the refusal of consent whether by the planning authority or by the Secretary of State on appeal,

in respect of an application for the display of advertisements made by the same person.

(6) The conditions referred to in paragraph (5) are–

(a) that the application is made within 12 months of–

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

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

(b) that the application relates to the same site as that to which the earlier application related, or to part of that site;

(c) that the planning authority to whom the application is made are satisfied that it relates to an advertisement or advertisements, of the same description other than content, as the advertisement or advertisements to which the earlier application related;

(d) that the fee payable in respect of the earlier application was paid; and

(e) that no previous application has at any time been made by the same applicant which related to–

(i) the same site as the site to which the earlier application related; and

(ii) an advertisement of the same description other than content as any advertisement to which the earlier application related,

and which was exempted from the provisions of this regulation by paragraph (5).

(7) No fee is payable under this regulation in respect of an application for consent to display an advertisement if the application is occasioned by a direction under regulation 11 of the 1984 Regulations disapplying regulation 10 in relation to that advertisement.

(8) Any fee paid under this regulation shall be refunded if the relevant application is rejected as invalidly made.

Revocation

13.—(1) Subject to paragraph (2), the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983(**b**) and the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 1985(**c**) are hereby revoked.

(**a**) 1973 c.65.
(**b**) S.I. 1983/1697.
(**c**) S.I. 1985/1180.

(2) The Regulations referred to in paragraph (1) shall continue to apply to applications for planning permission deemed to have been made by virtue of section 85(7) or section 91(5) of the 1972 Act in connection with an enforcement notice served or, as the case may be, an application for an established use certificate made before the date when these Regulations come into force.

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

St. Andrew's House, Edinburgh
7th March 1990

SCHEDULE

Regulations 3(2) and 10(2)

FEES IN RESPECT OF APPLICATIONS AND DEEMED APPLICATIONS FOR PLANNING PERMISSION OR FOR APPROVAL OF RESERVED MATTERS

PART I

INTRODUCTION

1. In this Schedule–

(a) any reference to a category of development shall be taken to mean one of the categories of development specified in column 1 of the table set out in Part III;

(b) in the case of an application for approval of reserved matters, references to the category of development to which an application relates shall be construed as references to the category of development authorised by the relevant outline planning permission;

(c) in the case of an application for planning permission which is deemed to have been made by virtue of section 85(7) of the 1972 Act, references to -

(i) the development to which an 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;

(ii) the amount of floor space or the number of dwellinghouses to be created by the development shall be construed as references to the amount of floor space or the number of dwellinghouses to which that enforcement notice relates; and

(iii) the purposes for which it is proposed that floor space be used shall be construed as references to the purposes for which floor space was stated to be used in the enforcement notice.

PART II

GENERAL PROVISIONS

2. Subject to paragraphs 3 to 10, the fee payable under regulation 3 or regulation 10 for a category of development shall be calculated in accordance with the appropriate entry specified in column 2 of the table set out in Part III of this Schedule and paragraphs 11 to 16.

3. Where an application or deemed application is made or deemed to be made by a community council, established under section 51 of the Local Government (Scotland) Act 1973(**a**), the fee payable shall be one-half of the amount as would otherwise be payable.

4.—(1) Where an application or deemed application is made or deemed to be made by a club, society, trust or other organisation which is not established or conducted for profit and whose objects are the provision of facilities for sport or recreation, and the conditions specified in sub-paragraph (2) are satisfied, the fee payable shall be £64.

(2) The conditions referred to in sub-paragraph (1) are–

(a) that the application or deemed application relates to–

(i) the making of a material change in the use of land to use as a playing field; or

(ii) the carrying out of operations other than the erection of a building containing floor space, for purposes ancillary to the use of land as a playing field,

and to no other development; and

(b) that the planning authority with whom the application is lodged or, in the case of a deemed application, the Secretary of State is satisfied that the development is to be carried out on land which is, or is intended to be, occupied by the club, society, trust or organisation and used wholly or mainly for the carrying out of its objects.

5.—(1) Where an application for planning permission or for approval of reserved matters–

(a) is made not more than 28 days after the lodging with the planning authority of an application for planning permission or for approval of reserved matters respectively;

(**a**) 1973 c.65.

(b) is made by the same applicant;

(c) relates to the same site;

(d) relates to the same development or, in the case of an application for approval of reserved matters, relates to the same reserved matters in respect of the same building or buildings authorised by the same outline planning permission; and

(e) a fee of the full amount payable in respect of the category or categories of development to which the applications relate has been paid in respect of the earlier application,

the fee payable in respect of the later application shall be one-quarter of the amount paid in respect of the earlier application.

(2) Sub-paragraph (1) shall apply only in respect of one application made by the same applicant in relation to the same development or in relation to the same reserved matters, as the case may be.

6.—(1) This paragraph applies where–

(a) an application is made for approval of one or more reserved matters ("the current application");

(b) the applicant has previously applied for such approval under the same outline planning permission and paid fees in relation to one or more such applications; and

(c) no application has been made under that permission other than by the applicant.

(2) Where the amount paid as mentioned in sub-paragraph (1)(b) is not less than the amount which would be payable if the applicant were by his current application seeking approval of all the matters reserved by the outline permission and in relation to the whole of the development authorised by the permission, the fee payable in respect of the current application shall be £64.

(3) Where–

(a) a fee has been paid as mentioned in sub-paragraph (1)(b) at a rate lower than that prevailing at the date of the current application; and

(b) sub-paragraph (2) would apply if that fee had been paid at the rate applying at that date,

the fee in respect of the current application shall be £64.

7. Where application is made for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted the fee payable in respect of the application shall be £32.

8.—(1) This paragraph applies where applications are made or deemed to have been made by virtue of section 85(7) of the 1972 Act for planning permission or for the approval of reserved matters in respect of the development of land lying in the areas of two or more planning authorities.

(2) The amount payable in respect of all the applications shall not exceed one and a half times the amount which would have been payable if application had been made to a single authority in respect of the whole development.

(3) In applications other than deemed applications the fee payable under sub-paragraph (2) shall accompany only the application to the planning authority in whose area the larger or largest part of the land to which the applications relate is situated.

(4) In deemed applications the fee payable to the Secretary of State shall be the amount which would be payable by virtue of sub-paragraph (2) if applications for the like permission had been made to the relevant planning authorities on the date on which notice of appeal was given in accordance with section 85(2) of the 1972 Act.

9.—(1) Where application is made–

(a) for planning permission in respect of two or more proposals for the development of the same land; or

(b) for approval of reserved matters in respect of two or more proposals for the carrying out of the development authorised by an outline planning permission,

and application is made in respect of all of the proposals on the same date and by the same applicant, a single fee shall be payable in respect of all such proposals, calculated as provided in sub-paragraph (2).

(2) Calculations shall be made in accordance with this Schedule of the fee appropriate to each of the proposals and the single fee payable in respect of all the proposals shall be the sum of–

(a) an amount equal to the highest fee calculated in respect of each of the proposals; and

(b) an amount calculated by adding together the fees appropriate to all of the proposals, other than the fee referred to in sub-paragraph (a) and dividing that total by the figure of 2.

10. In the case of an application for planning permission which is deemed to have been made by virtue of section 91(5) of the 1972 Act, the fee payable shall be the sum of £64.

PART III

SCALE OF FEES ETC

11. Where an application or deemed application relates to the retention of buildings or works or to the continuance of a use of land, the fee payable shall be calculated as if the application or deemed application were one for planning permission to construct or carry out those buildings or works or to institute that use.

12. Where, in respect of any category of development the fee is to be calculated by reference to the site area–

(a) that area shall be taken as consisting of the area of land to which the application relates or, in the case of an application for planning permission which is deemed to have been made by virtue of section 85(7) of the 1972 Act, the area of land to which the relevant enforcement notice relates; and

(b) where the area referred to in sub-paragraph (a) is not an exact multiple of the unit of measurement specified in respect of the relevant category of development, the fraction of a unit remaining after division of the total area by the unit of measurement shall be treated as a complete unit.

13. In relation to development within category 2–

(a) the area of gross floor space to be created by the development shall be ascertained by external measurement of the floor space, whether or not it is to be bounded wholly or partly by external walls of a building;

(b) where the area of gross floor space to be created by the development exceeds 75 sq metres and is not an exact multiple of 75 sq metres, the area remaining after division of the total number of square metres of gross floor space by the figure of 75 shall be treated as being 75 sq metres.

14.—(1) Where an application, or a deemed application other than an outline application, relates to development which is partly within category 1 and partly within category 2, the following sub-paragraphs shall apply for the purpose of calculating the fee.

(2) The amount of gross floor space which is to be created by that part of the development which is within category 2 ("the non-residential floor space"), shall be calculated and the sum payable in respect of that non-residential floor space shall be added to the sum payable in respect of that part of the development which is within category 1 and, subject to sub-paragraph (4), the result of the addition shall be the fee payable.

(3) For the purpose of sub-paragraph (2) where any of the buildings is to contain floor space for the purposes of providing common access or common services or facilities for persons occupying or using that building for residential purposes and for persons occupying or using it for non-residential purposes ("common floor space"), the amount of non-residential floor space shall be assessed in relation to that building, as including such proportion of the common floor space as the amount of non-residential floor space in the building bears to the total amount of gross floor space in the building.

(4) Where an application or deemed application to which this paragraph applies relates to development which is also within one or more than one of categories 3 to 11 an amount shall be calculated in accordance with each such category and if any of the amounts so calculated exceeds the amount calculated in accordance with sub-paragraph (2) that higher amount shall be the fee payable in respect of all of the development to which the application or deemed application relates.

15. Subject to paragraph 14 where an application or deemed application, other than an outline application, relates to development which is within more than one of the categories–

(a) an amount shall be calculated in respect of each such category; and

(b) the highest amount so calculated shall be the fee payable in respect of the application or deemed application.

16. Where an application is for outline planning permission and relates to development which is within more than one of the categories the fee payable in respect of the application shall be £64 for each 0.1 hectares of the site area, subject to a maximum of £1,600.

TABLE

1 *(Category of development)*	2 *(Fee payable)*
I. *Operations*	
1. The erection of dwellinghouses (other than development within category 5).	Where the application is for– (a) outline planning permission, £64 for each 0.1 hectare of the site area, subject to a maximum of £1,600; or for one dwellinghouse, £64; (b) other than outline planning permission, £64 for each dwellinghouse to be created by the development, subject to a maximum of £3,200.
2. The erection of buildings (other than buildings coming within category 1, 3 or 5).	Where the application is for– (a) outline planning permission, £64 for each 0.1 hectare of the site area, subject to a maximum of £1,600; (b) other than outline planning permission– (i) where no floor space is to be created by the development, £32; (ii) where the area of gross floor space to be created by the development does not exceed 40 sq metres, £32; (iii) where the area of gross floor space to be created by the development exceeds 40 sq metres but does not exceed 75 sq metres, £64; and (iv) where the area of gross floor space to be created by the development exceeds 75 sq metres, £64 for each 75 sq metres, subject to a maximum of £3,200.
3. The erection on land used for the purposes of agriculture, of those buildings excluded by virtue of subparagraph (c) in paragraph (1) of class V in Schedule 1 to the General Development Order from that class.	(a) Where the application is for outline planning permission, £64 for each 0.1 hectare of the site area, subject to a maximum of £1,600 (b) In all other cases– (i) where the area of gross floor space to be created by the development does not exceed 465 sq metres, nil; (ii) where the area of gross floor space to be created by the development exceeds 465 sq metres but does not exceed 540 square metres, £64; (iii) where the area of gross floor space to be created by the development exceeds 540 sq metres, £64 for the first 540 sq metres and £64 for each 75 square metres in excess of that figure subject to a maximum of £3,200.
4. The erection, alteration or replacement of plant or machinery.	£64 for each 0.1 hectare of the site area, subject to a maximum of £3,200.
5. The enlargement, improvement or other alteration of existing dwellinghouses.	(a) Where the application relates to one dwellinghouse, £32; (b) where the application relates to 2 or more dwellinghouses, £64.
6. (a) The carrying out of operations, including the erection of a building, within the curtilage of an existing dwellinghouse, for purposes ancillary to the enjoyment of the dwellinghouse as such; (b) the erection or construction of gates, fences, walls or other means of enclosure along a boundary of the curtilage of an existing dwellinghouse; or (c) the construction of car parks, service roads and other means of access on land used for the purposes of a single undertaking, where the development is required for a purpose incidental to the existing use of the land.	£32

1 *(Category of development)*	2 *(Fee payable)*
7. The carrying out of any operations connected with exploratory drilling for oil or natural gas.	£64 for each 0.1 hectare of the site area, subject to a maximum of £4,800.
8. The carrying out of any operations not within categories 1 to 7.	In the case of operations for– (a) the winning and working of minerals, £32 for each 0.1 hectare of the site area, subject to a maximum of £4,800; (b) the winning and working of peat, £32 for each hectare of the site area, subject to a maximum of £480; (c) any other purpose, £32 for each 0.1 hectare of the site area, subject to a maximum of £320.
II. *Uses of Land*	
9. The change of use of a building to use as one or more separate dwellinghouses.	£64 for each additional dwellinghouse to be created by the development, subject to a maximum of £3,200.
10. (a) The use of land for the disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land; or (b) the use of land for the storage of minerals in the open.	£32 for each 0.1 hectare of the site area, subject to a maximum of £4,800.
11. The making of a material change in the use of a building or land, other than a material change of use within category 9 or 10.	£64.
12. The continuance of a use of land, or the retention of buildings or works on land, without compliance with a condition subject to which a previous planning permission has been granted, including a condition requiring the discontinuance of the use or the removal of the building or works at the end of a specified period.	£32.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace, with amendments, the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1983 and the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 1985.

They make provision for the payment of fees to planning authorities in respect of applications made under Part III of the Town and Country Planning (Scotland) Act 1972 for planning permission for development or for approval of matters reserved by an outline planning permission and in respect of applications for consent for the display of advertisements; and for the payment of fees to the Secretary of State in respect of applications for planning permission which are deemed to have been made, by virtue of the provisions of section 85(7) or 91(5) of the 1972 Act, in connection with an appeal against an enforcement notice or in connection with an application for an established use certificate respectively.

The main changes made by these Regulations are–

(a) all fees are increased by approximately 20%;

(b) specific provision for refund of fee is made where the application concerned is found to be invalid (regulation 3(5));

(c) a fee is now required for applications for agricultural buildings removed by virtue of subparagraph (c) in paragraph (1) of class V in Schedule 1 to the General Development Order 1981 from that class (ie buildings exceeding 465 square metres in area for housing pigs, poultry, rabbits or animals held for their skin or fur and any associated structure or excavation for storing slurry or sewage sludge);

(d) an exemption from fees is introduced for applications to consolidate existing mineral working permissions (regulation 9);

(e) exemption from fees for deemed applications is extended (regulation 11(1)(b));

(f) provision for refund of fee is made if it is considered that there was no subject matter to appeal against since the purported enforcement notice had no legal effect (regulation 11(1)(c));

(g) provision for refund of part of the fee, in appropriate cases, where an enforcement notice is varied (regulations 11(2) and 10(4));

(h) a 21 day limit is inserted in regulation 11(3)(a) (repayment of fee on withdrawal of appeal under section 85 or 91 of the 1972 Act);

(i) provision for exemption from fee where an advertisement consent application is made necessary as a consequence of the withdrawal of deemed consent under the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (regulation 12(7));

(j) paragraph 6 of the Schedule has been expanded from previous provisions to ensure that the concession regarding the submission of several sets of "reserved matters" applications will apply where the sequence of events extends across the date when an increase in fees becomes operative;

(k) a special category of fee for oil and gas exploration is introduced (category 7 in the table in the Schedule).

Regulation 13 revokes the existing Regulations except in relation to applications for planning permission deemed to have been made before the Regulations came into force.