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STATUTORY INSTRUMENTS

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**1992 No. 1951 (S.198)**

**TOWN AND COUNTRY PLANNING, SCOTLAND**

**The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 1992**

*Made - - - - 16th July 1992*

*Coming into force*

*For the purpose of regulation 4(2)(b) 25th August 1992*

*For all other purposes 25th September 1992*

The Secretary of State, in exercise of the powers conferred upon him by section 87 of the Local Government, Planning and Land Act 1980(1) 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:

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations, which extend to Scotland only, may be cited as the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 1992 and shall come into force for the purpose of regulation 4(2)(b) on 25th August 1992 and for all other purposes on 25th September 1992.

(2) In these Regulations “the principal Regulations” means the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1990(2).

**Application**

2.—(1) The amendment to regulation 11(1)(d) of the principal Regulations made by regulation 3 of these Regulations applies where the Secretary of State determines an appeal against an enforcement notice on or after 25th September 1992.

(2) Regulation 11A of the principal Regulations, inserted by regulation 4(2)(a) of these Regulations, and the amendments to the Schedule to the principal Regulations made by regulation 5 of these Regulations, apply to applications made on or after 25th September 1992.

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(1) 1980 c. 65; section 87(3) was amended by the Planning and Compensation Act 1991 (c. 34), Schedule 13, paragraph 45.  
(2) S.I.1990/563, amended by S.I. 1990/2474 and 1991/2765.

(3) Regulation 11B of the principal Regulations, inserted by regulation 4(2)(b) of these Regulations, applies to applications made on or after 25th August 1992.

### **Fees for deemed application in consequence of an enforcement notice appeal**

3. In regulation 11(1)(d) of the principal Regulations, after “site” there shall be inserted—  
“or where, on the determination of the appeal, the Secretary of State issues a certificate under section 90 of the 1972 Act in accordance with section 85(5)(d) of that Act((3)).”

### **Fees for applications for certificates of lawful use or development or for prior approval**

4.—(1) In regulation 1(2) of the principal Regulations, after sub-paragraph (b) there shall be inserted the following sub-paragraph:—

“(bb) a certificate of lawful use or development under sections 90 and 90A of the 1972 Act((4)).”

(2) After regulation 11 of the principal Regulations there shall be inserted—

“(a) Fees for applications for certificates of lawful use or development

**11A.**—(1) Subject to paragraphs (2), (3), (4) and (9), where an application is made to a planning authority under section 90 or 90A (certificate of lawful use or development) of the 1972 Act a fee shall be paid to that authority.

(2) This regulation 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 specified in regulation 4 for the purposes specified in that regulation.

(3) Where all of the conditions set out in paragraph (4) are satisfied, this regulation 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 planning authority or the Secretary of State on appeal) made by or on behalf of the same applicant.

(4) The conditions referred to in paragraph (3) 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) 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;
- (c) that the planning authority to whom the application is made are satisfied that it relates to a use, operation or other matter of the same description as the use, operation or matter to which the earlier application related and to no other use, operation or matter;
- (d) that the fee payable in respect of the earlier application was paid; and

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(3) Section 85(5)(d) is substituted by paragraph 20(c)(ii) of Schedule 13 to the Planning and Compensation Act 1991 (c. 34) (“the 1991 Act”) and section 90 is substituted by section 42(1) of that Act, with effect from 25th September 1992 ( seeS.I. 1992/1937 (C.66) (S.197)).

(4) Section 90A is inserted by section 42(1) of the 1991 Act with effect from 25th September 1992 ( SeeS.I. 1992/1937 (C.66) (S.197)).

(e) that 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 this regulation by paragraph (3).

(5) Subject to paragraphs (6) to (10), the fee payable in respect of an application to which this regulation applies shall be—

(a) in the case of an application under section 90(1)(a) or (b) (or under both paragraphs), the amount that would be payable in respect of an application for planning permission to institute the use or carry out the operations specified in the application (or an application to do both, as the case may be);

(b) in the case of an application under section 90(1)(c), £46;

(c) in the case of an application under section 90A(1), half the amount that would be payable in respect of an application for planning permission to institute the use or carry out the operations specified in the application (or an application to do both, as the case may be).

(6) Where a use specified in an application under section 90(1)(a) is use as one or more separate dwellinghouses, the fee payable in respect of that use shall be £92 for each dwellinghouse, or £46 for each dwellinghouse if the use is established, subject to a maximum of £4,600.

(7) Where a use specified in an application under section 90(1)(a) (other than a use to which paragraph (6) applies) is established, the fee payable in respect of that use shall be half the amount that would otherwise be payable in accordance with paragraph (5)(a).

(8) Where an application is made under section 90(1)(a) or (b) (or under both paragraphs) and under section 90(1)(c), the fee payable shall be the sum of the fees that would have been payable if there had been an application under section 90(1)(a) or (b) (or under both paragraphs, as the case may be) and a separate application under section 90(1)(c).

(9) In the case of an application which relates to land in the area of two or more planning authorities, paragraph 8 of Part II of the Schedule shall apply for the purpose of determining the authority to whom the fee shall be payable and the amount payable as it applies in the case of an application for planning permission which relates to such land.

(10) Where an application is made by or on behalf of a community council, established under section 51 of the Local Government (Scotland) Act 1973((5)), the fee payable shall be one half of the amount that would otherwise be payable in accordance with paragraphs (5) to (9).

(11) The fee due in respect of an application to which this regulation applies shall accompany the application when it is lodged with the planning authority.

(12) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalidly made.

(13) In this regulation, a use shall be treated as established if it was certified as established by an established use certificate granted under section 90 or 91 of the 1972 Act as originally enacted.”;

“(b) Fees for certain applications for the prior approval of the planning authority

**11B.**—(1) Where an application is made to a planning authority under Part 6 (agricultural buildings and operations) or Part 7 (forestry buildings and operations) of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992((6)) for a determination as to whether the prior approval of the authority will be required to the

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(5) 1973 c. 65.

(6) S.I. 1992/223, amended by S.I. 1992/1078.

erection, significant extension or significant alteration of a building, a fee of £20 shall be paid to the authority.

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

#### **Miscellaneous amendments**

5. In the Schedule to the principal Regulations—

(a) after paragraph 7 in Part II, there shall be inserted—

“7A. Where an application relates to development to which section 29 of the 1972 Act applies, the fee payable in respect of the application shall be—

(a) where the application relates to development carried out without permission, the fee that would be payable if the application were for planning permission to carry out that development;

(b) in any other case, £46.”;

(b) there shall be omitted paragraph 11 of Part III and paragraph 12 of the Table.

St Andrew’s House,  
Edinburgh  
16th July 1992

*Allan Stewart*  
Parliamentary Under Secretary of State, Scottish  
Office

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 1990.

The main changes are the introduction of fees in respect of:

- (a) applications for certificates of lawful use or development under sections 90 and 90A of the Town and Country Planning (Scotland) Act 1972, as substituted by section 42(1) of the Planning and Compensation Act 1991;
- (b) applications under Part 6 (agricultural buildings and operations) and Part 7 (forestry buildings and operations) of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

The provisions relating to applications for planning permission for development which has already been carried out are clarified.