
STATUTORY INSTRUMENTS

1993 No. 323

The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993

PART 7

MISCELLANEOUS

Fees for applications

25.—(1) Subject to paragraph (3), the fee which shall be payable to a planning authority with an application for hazardous substances consent shall be as follows—

- (a) if section 56H applies (new consent without previous conditions), £200;
- (b) if section 56H(1) does not apply and the quantity specified in the application as the maximum quantity proposed to be present exceeds twice the controlled quantity £400;
- (c) in any other case, £250;

(2) Subject to paragraph (3), a fee shall be payable to a planning authority on an application for the continuation of hazardous substances consent under section 56K(2) of £200.

(3) Where applications relating to the same site are made to 2 or more planning authorities, a fee shall be payable only to the authority in whose area the largest part of the site is situated and the amount payable shall be the amount that would have been payable if application had fallen to be made to one authority in relation to the whole site.

(4) Any fee due in respect of an application shall accompany the application when it is made to the planning authority.

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

Fees for deemed applications

26.—(1) Subject to paragraph (4), a fee shall be paid to the Secretary of State in every case where an application for hazardous substances consent is deemed to have been made by virtue of section 85(7) (in consequence of an appeal against a hazardous substances contravention notice) by every person who has made a valid appeal against the relevant hazardous substances contravention notice.

(2) Subject to paragraph (6), the fee payable shall be the amount which would be payable under regulation 25 if the application were an application to which that regulation applied.

(3) The fee due shall accompany the written notice of the relevant appeal to the Secretary of State.

(4) This regulation shall not apply where the appellant had—

- (a) before the date on which the hazardous substances contravention notice was issued, applied to the planning authority for hazardous substances consent for the presence of

the quantity of the substance to which the 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 it is to take effect, made an appeal to the Secretary of State under section 33,

and at the date on which the relevant notice was issued 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.

- (5) Any fee paid in respect of the deemed application shall be refunded to the appellant if—
 - (a) the Secretary of State declines jurisdiction on the relevant appeal on the grounds that it does not comply with one or more of the requirements of subsections (1) and (2) of section 85;
 - (b) where the Secretary of State under section 85(2C)—
 - (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) the relevant appeal is withdrawn with the result that there are at least 21 days between the date on which notice in writing of the withdrawal is received by the Secretary of State and—
 - (i) the date or, in the event of postponement, the latest date appointed for the holding of an inquiry or hearing 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 notice relates;
 - (d) 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; of
 - (e) the Secretary of State allows the relevant appeal on any of the grounds set out in section 85(1)(b) to (e).

(6) Where a hazardous substances contravention notice is varied under section 85(5) otherwise than to take account of a grant of hazardous substances consent under that section, and the fee calculated in accordance with paragraph (2) would have 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 any excess amount already paid shall be refunded.

(7) In determining a fee under paragraph (6) no account shall be taken of any change in fees which takes effect after the making of the deemed application.

Applications by a planning authority

27.—(1) Any application by a planning authority for hazardous substances consent shall be made to the Secretary of State.

(2) Regulations 5 to 9 shall apply to the making of such applications as they apply to applications made to a planning authority.

(3) For the purpose of regulation 24, an application made to the Secretary of State by a planning authority shall be treated as an application made to the planning authority and referred to the Secretary of State under section 32, as applied by section 56F(1).

(4) Section 56E (other than subsection(2)(e))(2) shall apply in relation to an application made to the Secretary of State by a planning authority as it applies in relation to an application made to a planning authority.

(5) For the purpose of section 233(3), a decision of the Secretary of State on an application made to him by a planning authority shall be treated as a decision under section 32 as applied by section 56F.

(1) Section 56F of the Act was inserted by section 35 of the 1986 Act and amended by the Environmental Protection Act 1990, Schedule 16, Part VII.

(2) Section 56E of the Act was inserted by section 35 of the 1986 Act and amended by the Environmental Protection Act 1990, Schedule 13, paragraph 11(6) and Schedule 16, Part VII.

(3) Section 233 was amended by the 1986 Act, Schedule 12, Part IV.