
STATUTORY INSTRUMENTS

2015 No. 627

The Planning (Hazardous Substances) Regulations 2015

PART 5

Other matters relating to hazardous substances consent and enforcement

Fees for deemed applications

22.—(1) Subject to paragraph (5), a fee must 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 177(5) of the principal Act (in consequence of an appeal under section 174 of that Act against a hazardous substances contravention notice).

(2) The fee mentioned in paragraph (1) is payable by every person who has made a valid appeal against the relevant hazardous substances contravention notice and whose appeal has not been withdrawn before the date on which the Secretary of State issues a notice under paragraph (4).

(3) Subject to paragraph (7), the fee payable is the amount which would be payable under regulation 21 if the application were an application to which that regulation applied.

(4) The fee due must be paid at such time as the Secretary of State may in the particular case specify by notice in writing to the appellant.

(5) This regulation does not apply where the appellant had—

- (a) before the date when the hazardous substances contravention notice was issued, applied to the hazardous substances authority for hazardous substances consent for the presence of the quantity of the substance to which the notice relates, and had paid to the authority 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 against the refusal of the hazardous substances authority to grant consent,

and at the date when the relevant notice was issued that application or, in the case of an appeal made before that date, that appeal, had not been determined.

(6) Any fee paid in respect of the deemed application must be refunded to the appellant by the Secretary of State 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) to (3) of section 174 of the principal Act;
- (b) the Secretary of State dismisses the relevant appeal in exercise of the powers under section 176(3)(a) of the principal Act (on the grounds that the appellant has failed to comply with section 174(4) of that Act);
- (c) the Secretary of State allows the relevant appeal and quashes the relevant hazardous substances contravention notice in exercise of the powers under section 176(3)(b) of the principal Act (on the grounds that the hazardous substances authority have failed to comply with regulation 16(2) of these Regulations);

- (d) 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 written representations, the date (or in the event of postponement, the latest date) appointed for the inspection of the site to which the notice relates;
- (e) the hazardous substances authority withdraws the relevant hazardous substances contravention notice before it takes effect, or the Secretary of State decides that the notice is a nullity;
- (f) the Secretary of State allows the relevant appeal on any of the grounds set out in section 174(2)(b) to (e) of the principal Act; or
- (g) the Secretary of State allows the relevant appeal on the ground that the relevant hazardous substances contravention notice is invalid, or that it contains a defect, error or misdescription which cannot be corrected under section 176(1)(a) of the principal Act.

(7) Where a hazardous substances contravention notice is varied under section 176(1) of the principal Act otherwise than to take account of a grant of hazardous substances consent under section 177(1), and the fee calculated in accordance with paragraph (3) would have been a lesser amount if the original notice had been in the terms of the varied notice, the fee payable is that lesser amount and any excess amount already paid must be refunded.

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