
WELSH STATUTORY INSTRUMENTS

2015 No. 1522

The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015

Title, commencement and application

1.—(1) The title of these Regulations is the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 and they come into force on 1 October 2015.

(2) These Regulations apply in relation to Wales.

(3) These Regulations apply—

- (a) to applications for planning permission deemed to have been made, by virtue of section 177(5) of the 1990 Act (grant or modification of planning permission on appeals against enforcement notices)(1), in connection with an enforcement notice issued on or after the date on which these Regulations come into force; and
- (b) to the following applications and site visits made on or after the date on which these Regulations come into force—
 - (i) applications for planning permission;
 - (ii) applications for approval of reserved matters(2);
 - (iii) applications under section 191 of the 1990 Act (certificate of lawfulness of existing use or development)(3);
 - (iv) applications under section 192 of the 1990 Act (certificate of lawfulness of proposed use or development)(4);
 - (v) applications for consent for the display of advertisements;
 - (vi) applications under the General Permitted Development Order referred to in regulation 13;
 - (vii) site visits to a mining site or a landfill site;
 - (viii) applications under planning condition; and
 - (ix) applications under section 96A(4) of the 1990 Act (power to make non-material changes to planning permission)(5).

Interpretation

2.—(1) In these Regulations—

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- (1) Section 177(5) was amended by section 32 of, and paragraphs 8 and 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and by section 123(1) and (6) of the Localism Act 2011 (c. 20).
 - (2) “Reserved matters” are defined in section 92(1) of the 1990 Act.
 - (3) Section 191 was substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34) and was amended by section 124(3) of the Localism Act 2011 (c. 20) and by section 58(1) of, and paragraph 6(1) and (3) of Schedule 4 to, the Mobile Homes (Wales) Act 2013 (2013 anaw 6).
 - (4) Section 192 was substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34).
 - (5) Section 96A was inserted by section 190(1) and (2) of the Planning Act 2008 (c. 29) and amended by S.I. 2014/1770 (W. 182).

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990;

“the 1989 Regulations” (“*Rheoliadau 1989*”) means the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989(6);

“the 1992 Regulations” (“*Rheoliadau 1992*”) means the Town and Country Planning (Control of Advertisements) Regulations 1992(7);

“the Development Management Procedure Order” (“*y Gorchymyn Gweithdrefn Rheoli Datblygu*”) means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(8);

“the General Permitted Development Order” (“*y Gorchymyn Datblygu Cyffredinol a Ganiateir*”) means the Town and Country Planning (General Permitted Development) Order 1995(9);

“dwellinghouse” (“*tŷ annedd*”) means a building(10) which is used as a single private dwellinghouse and for no other purpose;

“glasshouse” (“*tŷ gwydr*”) means a building which—

- (a) has not less than three-quarters of its total external area comprised of glass or other translucent material;
- (b) is designed for the production of flowers, fruit, vegetables, herbs or other horticultural produce; and
- (c) is used, or is to be used, solely for the purposes of agriculture;

“landfill permission” (“*caniatâd tirlenwi*”) means any planning permission for—

- (a) the operational development of land designed to be used wholly or mainly for the purpose of, or
- (b) any material change of use to,

a waste disposal site for the deposit of waste onto or into the land;

“landfill site” (“*safle tirlenwi*”) means the land to which a landfill permission relates;

“mineral permission” (“*caniatâd mwynau*”) means any planning permission for development consisting of—

- (a) the winning and working of minerals; or
- (b) the depositing of mineral waste;

“mining site” (“*safle mwyngloddio*”) means—

- (a) the total area of the land to which any two or more mineral permissions relate where the total area of the land—
 - (i) is worked as a single site; or
 - (ii) is treated as a single site by the local planning authority for the purposes of Schedule 13 to the Environment Act 1995 (review of old mineral planning

(6) S.I. 1989/193. Relevant amending instruments are S.I. 1990/2473, S.I. 1991/2735, S.I. 1992/1817, S.I. 1992/3052, S.I. 1993/3170, S.I. 1996/525, S.I. 1997/37, S.I. 2002/1876 (W. 185), S.I. 2002/2258 (W. 222), S.I. 2003/394 (W. 53), S.I. 2004/2736 (W. 243), S.I. 2006/948 (W. 97), S.I. 2006/1052 (W. 108), S.I. 2006/1282, and S.I. 2009/851 (W. 76).

(7) S.I. 1992/666. Regulation 9 was substituted by regulation 2 of S.I. 2012/791 (W. 106). See regulation 15 of S.I. 2008/1848 (W. 177) in relation to the application of the 1992 Regulations to the display on any site in a voting area of an advertisement relating specifically to a referendum. Other amendments are not relevant to these Regulations.

(8) S.I. 2012/801 (W. 110), amended by S.I. 2014/1772 (W. 183). Other amendments are not relevant to these Regulations.

(9) S.I. 1995/418.

(10) “Building” includes a part of a building, see definition in section 336(1) of the 1990 Act.

permissions)(11) or Schedule 14 to that Act (periodic review of mineral planning permissions)(12); and

(b) in any other case, the land to which a mineral permission relates;

“outline planning permission” (“*caniatâd cynllunio amlinellof*”) has the same meaning as in article 2(1) of the Development Management Procedure Order;

“site visit” (“*ymweliad safle*”) means entry by a local planning authority on to a mining site or landfill site—

(a) to ascertain whether there is or has been any breach of planning control on the site;

(b) to determine whether any of the powers conferred on the local planning authority by Part 7 of the 1990 Act (enforcement)(13) should be exercised in relation to the site;

(c) to determine how any such power should be exercised in relation to the site; or

(d) to ascertain whether there has been any compliance with any requirement imposed as a result of any such power having been exercised in relation to the site;

“use of land” (“*defnydd o dir*”) includes use of land for the winning and working of minerals.

(2) Expressions used in regulation 12 and Schedule 2 have the meaning which they bear in the 1992 Regulations.

(3) In these Regulations references to a local planning authority are references to a local planning authority in Wales.

Fees for planning applications

3.—(1) Subject to regulations 4 to 8, where an application is made to a local planning authority for planning permission for the development of land or for the approval of reserved matters, a fee must be paid to that authority.

(2) The fee payable in respect of the application is calculated in accordance with Schedule 1.

(3) Where a fee is payable in respect of an application, the fee must be paid to the local planning authority with whom the application is lodged and must accompany the application.

(4) Where the local planning authority who receive the fee in accordance with paragraphs (1) to (3) are not the local planning authority who have to determine the application, they must remit the fee to that authority at the same time as they forward the application to them.

(5) Any fee paid pursuant to this regulation must be refunded if the application is rejected as invalid.

Exceptions – access and facilities for disabled persons

4.—(1) Regulation 3 does not apply where the local planning authority to whom the application is made are satisfied that it relates solely to—

(11) 1995 c. 25. Schedule 13 was amended by: sections 76(1) and 93 of, and paragraph 10 of Schedule 10 and paragraph 13 of Schedule 15 to, the Countryside and Rights of Way Act 2000 (c. 37); sections 3 and 4 of, and Part 3 of Schedule 1 and paragraph 60 of Schedule 2 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11) and by S.I. 2004/3156 (W. 273).

(12) Schedule 14 was amended by: section 118(2) of, and paragraph 19(1) and (4) of Schedule 7 to the Planning and Compulsory Purchase Act 2004 (c. 5); section 10(1) of, and paragraphs 1 to 9 of Schedule 3 to the Growth and Infrastructure Act 2013 (c. 27), sections 3 and 4 of, and Part 3 of Schedule 1 and paragraph 60 of Schedule 2 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11) and by S.I. 2004/3156 (W. 273).

(13) Part 7 was amended by: sections 1 to 11, 32 and 84 of, and paragraph 11 of Schedule 1, paragraphs 22 to 33 of Schedule 7, and Part 1 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34); section 20(4)(b) of and paragraph 24(5) of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19); section 196(4) of, and paragraphs 1, 5 and 6 of Schedule 10 and paragraph 3 of Schedule 11 to, the Planning Act 2008 (c. 29); sections 123 to 126 of the Localism Act 2011 (c. 20); section 63 of, and paragraphs 4, 5 and 6 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24); section 58(1) of, and paragraph 6(1) and (3) of Schedule 4 to, the Mobile Homes (Wales) Act 2013 (2013 anaw 6) and by S.I. 2004/3156 (W. 273), S.I. 2009/1307 and by S.I. 2014/2773 (W. 280). Other amendments are not relevant to these Regulations.

- (a) the carrying out of operations for the alteration or extension of an existing dwellinghouse; or
- (b) the carrying out of operations within the curtilage of an existing dwellinghouse (other than the erection of a dwellinghouse),

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure that person's greater safety, health or comfort.

(2) Regulation 3 does not apply where the local planning authority to whom the application is made are satisfied that it relates solely to the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or to premises to which members of the public are admitted (whether on payment or otherwise).

(3) For the purposes of this regulation a person is disabled if—

- (a) the person's sight, hearing or speech is substantially impaired;
- (b) the person has a mental disorder; or
- (c) the person is physically substantially disabled by any illness, any impairment present since birth, or otherwise.

(4) In this regulation "mental disorder" ("*anhwylder meddyliol*") means any disorder or disability of the mind.

Exceptions – permission granted by General Permitted Development Order not applying

5.—(1) Regulation 3 does not apply where the local planning authority are satisfied that—

- (a) the application relates solely to development which is within one or more of the classes specified in Schedule 2 to the General Permitted Development Order(14); and
- (b) the permission granted by article 3 of that Order (permitted development)(15) does not apply in respect of that development by reason of (and only by reason of)—
 - (i) a direction made under article 4 of that Order (directions restricting permitted development)(16) which is in force on the date when the application is made; or
 - (ii) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act (control over development)(17) otherwise than by that Order.

(2) Applications referred to in paragraph (1)(a) must be construed as including applications 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 was granted, where the condition prohibits or limits the carrying out of any development within one or more of the classes specified in Schedule 2 to the General Permitted Development Order.

(14) Schedule 2 was amended by section 76(7) of the Utilities Act 2000 (c. 27) and S.I. 1996/528, S.I. 1997/366, S.I. 1999/1661, S.I. 2001/1149, S.I. 2001/4050, S.I. 2002/1878 (W. 187), S.I. 2003/2155, S.I. 2004/945, S.I. 2006/124 (W. 17), S.I. 2006/1386 (W. 136), S.I. 2007/952 (W. 83), S.I. 2008/502 (W. 43), S.I. 2009/2193 (W. 185), S.I. 2011/2085, S.I. 2012/1346 (W. 167), S.I. 2012/2318 (W. 252), S.I. 2013/1776 (W. 177), S.I. 2014/592 (W. 69) and S.I. 2014/2692. Other amendments are not relevant to these Regulations.

(15) Article 3 was amended by section 76(7) of the Utilities Act 2000 (c. 27), S.I. 1999/293, S.I. 1999/1783, S.I. 2004/3156 and S.I. 2006/1386. Other amendments are not relevant to these Regulations.

(16) Article 4 was amended by S.I. 1996/528, S.I. 2006/124 (W. 17), S.I. 2006/1386 (W. 136) and S.I. 2013/1776 (W. 177). Other amendments are not relevant to these Regulations.

(17) Part 3 was amended by: section 16(1) of the Transport and Works Act 1992 (c. 42); sections 40 and 41 of the Planning and Compulsory Purchase Act 2004 (c. 5) and section 21 of the Growth and Infrastructure Act 2013 (c. 27). Other amendments are not relevant to these Regulations.

Exceptions – application relating to same use class necessary because of condition

6. Regulation 3 does not apply where the local planning authority are satisfied that—
- (a) 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) Order 1987(18);
 - (b) the existing use of that building or other land is for another purpose of the same class; and
 - (c) 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) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act.

Exceptions – consolidation of subsisting minerals permissions

7. Regulation 3 does not apply in relation to an application to a local 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; and
 - (b) does not seek permission for development which is not authorised by a subsisting permission.

Exemptions – application following withdrawal of earlier application or refusal of planning permission etc.

- 8.—(1) Where all the conditions set out in paragraph (2) are satisfied, regulation 3 does not apply to—
- (a) an application for planning permission which is made following the withdrawal (before notice of decision was issued) of a valid application for planning permission made by or on behalf of the same applicant;
 - (b) an application for planning permission which is made following the refusal of planning permission (whether by the local planning authority or by the Welsh Ministers on appeal or following the reference of the application to the Welsh Ministers for determination) on a valid application for planning permission made by or on behalf of the same applicant;
 - (c) an application for planning permission which is made following the making of an appeal to the Welsh Ministers under section 78(2) of the 1990 Act(19) in relation to a valid application for planning permission made by or on behalf of the same applicant;
 - (d) an application for approval of one or more reserved matters which is made following the withdrawal (before notice of decision was issued) of a valid application made by or on behalf of the same applicant for approval of the same reserved matters in relation to the same outline planning permission;
 - (e) an application for approval of one or more reserved matters which is made following the refusal (whether by the local planning authority or by the Welsh Ministers on appeal) of approval of the same reserved matters which were submitted in a valid application made by or on behalf of the same applicant and in relation to the same outline planning permission;
- or

(18) S.I. 1987/764. The Schedule was amended by S.I. 1991/1567, S.I. 1992/610, S.I. 1994/724, S.I. 1995/297 and S.I. 2006/1386 (W. 136). Other amendments are not relevant to these Regulations.

(19) Section 78(2) was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 24). Other amendments are not relevant to these Regulations.

- (f) an application for approval of one or more reserved matters which is made following the making of an appeal to the Welsh Ministers under section 78(2) of the 1990 Act in relation to a valid application made by or on behalf of the same applicant for approval of the same reserved matters in relation to the same outline planning permission.
- (2) The conditions referred to in paragraph (1) are—
- (a) the application is made within 12 months of—
- (i) in the case of an earlier valid application which was withdrawn, the date when that application was received;
 - (ii) in the case of an application which is made following an appeal under section 78(2) of the 1990 Act, the date when (by virtue of article 22 or 23 of the Development Management Procedure Order, as the case may be) the period for the giving of notice of a decision on the earlier valid application expired; or
 - (iii) in any other case, the date of the refusal;
- (b) the application relates—
- (i) in the case of an application for planning permission, 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; or
 - (ii) in the case of an application for approval of reserved matters, to the same site as that to which the earlier application related, or to part of that site (and no other land);
- (c) in the case of an application for planning permission, the local planning authority to whom the application is made are satisfied that it relates to development of the same character or description as the development to which the earlier application related (and to no other development);
- (d) in the case of an application for planning permission which is not made in outline, the earlier application was also not made in outline;
- (e) the fee payable in respect of the earlier application was paid; and
- (f) no application made by or on behalf of the applicant in relation to the whole or any part of the site has already been exempted from regulation 3 by this regulation.
- (3) In this regulation “valid application” (“*cais dilys*”) has the same meaning as in article 22(3) of the Development Management Procedure Order.

Refund of fees in relation to applications not determined within specified periods

9.—(1) Subject to paragraph (4), any fee paid by an applicant in respect of an application for planning permission or for the approval of reserved matters, must be refunded to the applicant in the event that the local planning authority fail to determine the application within the periods specified in paragraph (2).

- (2) The periods specified are—
- (a) where an application for planning permission relates to a category of development which falls within category 6 or 7 in the table set out in Part 2 of Schedule 1, 8 weeks;
 - (b) in any other case, 16 weeks.

(3) The periods specified in paragraph (2) start on the expiry of the period for the giving of notice of a decision on the application specified in article 22(2) of the Development Management Procedure Order.

- (4) Paragraph (1) does not apply where—

- (a) the Welsh Ministers give a direction under section 77 of the 1990 Act (reference of applications to the Welsh Ministers)⁽²⁰⁾ in relation to the application before the periods specified in paragraph (2) have expired;
- (b) the applicant has appealed to the Welsh Ministers under section 78(2) of the 1990 Act before the periods specified in paragraph (2) have expired; or
- (c) any person who is aggrieved by any decision of the local planning authority in relation to the application has made an application to the High Court before the periods specified in paragraph (2) have expired.

Fees in respect of deemed applications

10.—(1) In this regulation—

- (a) “appellant” (“*apelydd*”) means the person who has appealed against the relevant enforcement notice;
- (b) “relevant authority” (“*awdurdod perthnasol*”) means the local planning authority which issued the enforcement notice; and
- (c) “relevant date” (“*dyddiad perthnasol*”) means the date on which the appeal against the enforcement notice is made.

(2) Subject to paragraphs (3), (8) and (9), where an application for planning permission is deemed to have been made by virtue of section 177(5) of the 1990 Act (a “deemed application”), a fee must be paid to the relevant authority.

(3) A fee is only payable under this regulation in respect of a deemed application if a fee would have been payable under these Regulations for an application for planning permission made to the relevant authority on the relevant date in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(4) The amount of the fee is twice the amount of the fee which would have been payable to the relevant authority in respect of the application as described in paragraph (3).

(5) The fee must be paid in respect of the deemed application by every person who has made a valid appeal against the enforcement notice and whose appeal is not withdrawn before the date on which the Welsh Ministers issue a notice under paragraph (7).

(6) The fee must be paid to the relevant authority.

(7) The fee must be paid at such time as the Welsh Ministers may in the particular case specify by notice in writing to the appellant.

(8) Regulations 4, 5 and 6 apply to a deemed application as they apply to an application made to the local planning authority, with the following modifications—

- (a) references to the local planning authority must be construed as references to the Welsh Ministers; and
- (b) references to the development to which the application relates must be construed as references to the use of land or the operations to which the relevant enforcement notice relates.

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

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

⁽²⁰⁾ Section 77 was amended by section 32 of, and paragraphs 1 and 18 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2014/2773 (W. 280). Other amendments are not relevant to these Regulations.

- (b) before the date specified in the relevant enforcement notice as the date on which the notice is to take effect, made an appeal to the Welsh Ministers against the refusal of the local planning authority to grant such permission,

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

(10) Any fee paid in respect of the deemed application must be refunded to the appellant in the event—

- (a) the Welsh Ministers—
- (i) decline jurisdiction on the relevant appeal under section 174 of the 1990 Act (appeal against enforcement notice)(**21**) on the grounds that it does not comply with one or more of the requirements of subsections (1) to (3) of that section;
 - (ii) dismiss the relevant appeal in exercise of the powers contained in section 176(3)(a) of the 1990 Act on the grounds that the appellant has failed to comply with section 174(4) of the 1990 Act within the prescribed period; or
 - (iii) allow the relevant appeal and quash the relevant enforcement notice in exercise of the powers contained in section 176(3)(b) of the 1990 Act;
- (b) the relevant appeal under section 174 of the 1990 Act is withdrawn such 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 representations, the date (or in the event of postponement, the latest date) appointed for the inspection of the site to which the enforcement notice relates; or
- (c) the relevant authority withdraws the relevant enforcement notice before it takes effect or the Welsh Ministers decide that the enforcement notice is a nullity.

(11) For the purpose of paragraph (10)(b) an appeal is treated as being withdrawn on the date on which notice in writing of the withdrawal is received by the Welsh Ministers.

(12) Except on the determination of an appeal where the Welsh Ministers issue a certificate under section 191 of the 1990 Act (certificate of lawfulness of existing use or development)(**22**) in accordance with section 177(1)(c) of that Act(**23**), the fee paid by the appellant in respect of a deemed application must be refunded to the appellant if the Welsh Ministers allow the appeal against the relevant enforcement notice on—

- (a) grounds set out in section 174(2)(b) to (f) of the 1990 Act; or
- (b) the ground that the notice is invalid, or that it contains a defect, error or misdescription which cannot be corrected in pursuance of the Welsh Ministers' powers under section 176(1) of the 1990 Act(**24**).

(13) Half the fee paid by the appellant in respect of a deemed application must be refunded to the appellant in the event of the Welsh Ministers allowing the appeal against the relevant enforcement notice on the ground set out in section 174(2)(a) of the 1990 Act.

(21) Section 174(2) and (3) was substituted by section 6(1) of the Planning and Compensation Act 1991 (c. 34) and section 174(6) was amended by sections 32 and 84 of, and paragraph 22 of Schedule 7 and Part 1 of Schedule 19 to, that Act and by S.I. 2004/3156 (W. 273). Other amendments are not relevant to these Regulations.

(22) Section 191 was substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34), and amended by section 124(3) of the Localism Act 2011 (c. 20) and section 58(1) of, and paragraph 6(1) and (3) of Schedule 4 to, the Mobile Homes (Wales) Act 2013 (2013 anaw 6).

(23) Section 177(1) was amended by section 32 of, and paragraphs 8 and 24 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(24) Section 176(1) was substituted by section 32 of, and paragraphs 8 and 23 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(14) In the case of a deemed application where—

- (a) an enforcement notice is varied under section 176(1) of the 1990 Act otherwise than to take account of a grant of planning permission under section 177(1) of the 1990 Act; and
- (b) the fee calculated in accordance with paragraphs (3) and (4) 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.

(15) In determining a fee under paragraph (14) no account is taken of any change in fees which takes effect after the making of the deemed application.

Fees for applications for certificates of lawful use or development

11.—(1) Subject to paragraphs (2) and (4), where an application is made to a local planning authority under section 191 or 192 of the 1990 Act, a fee must be paid to that authority.

(2) This regulation does not apply where the local planning authority are satisfied that the application relates solely to the carrying out of operations specified in regulation 4 for the purposes specified in that regulation.

(3) Subject to paragraphs (6) to (9) the fee payable in respect of an application to which this regulation applies is—

- (a) in the case of an application under section 191(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 191(1)(c), £190;
- (c) in the case of an application under section 192(1)(a) or (b) (or under both paragraphs), 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).

(4) Where all of the conditions set out in paragraph (5) are satisfied, this regulation does not apply to an application—

- (a) under section 191 or 192 which is made—
 - (i) following the withdrawal (before notice of decision was issued) of a valid application made by or on behalf of the same applicant;
 - (ii) following the refusal of a valid application (whether by the local planning authority or the Welsh Ministers on appeal) made by or on behalf of the same applicant; or
- (b) which is made following the making of an appeal to the Welsh Ministers under section 195(1)(b) of the 1990 Act⁽²⁵⁾ in relation to a valid application made by or on behalf of the same applicant.

(5) The conditions referred to in paragraph (4) are—

- (a) the application is made within 12 months of—
 - (i) in the case of an earlier valid application which was withdrawn, the date when the application was received;
 - (ii) in the case of an application which is made following an appeal under section 195(1)(b) of the 1990 Act, the date when by virtue of article 28(10) of the Development

⁽²⁵⁾ Section 195(1) was amended by section 32 of, and paragraphs 8 and 32 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

Management Procedure Order the period for the giving of written notice of a decision on the earlier valid application expired; or

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

- (b) 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) the local 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) the fee payable in respect of the earlier application was paid; and
- (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 this regulation by paragraph (4).

(6) Where a use specified in an application under section 191(1)(a) is use as one or more separate dwellinghouses, the fee payable in respect of that use will be—

- (a) where the use so specified is use as 50 or fewer dwellinghouses, £380 for each dwellinghouse;
- (b) where the use so specified is use as more than 50 dwellinghouses, £19,000 and an additional £100 for each dwellinghouse in excess of 50, subject to a maximum in total of £287,500.

(7) Where an application is made under section 191(1)(a) or (b) (or under both paragraphs) and under section 191(1)(c), the fee payable is the sum of the fees that would have been payable if there had been an application under section 191(1)(a) or (b) (or under both paragraphs, as the case may be) and a separate application under section 191(1)(c).

(8) In the case of an application which relates to land in the area of two or more local planning authorities, paragraph 8(2) of Part 1 of Schedule 1 applies for the purpose of determining the amount payable as it applies in the case of an application for planning permission which relates to such land.

(9) Where an application is made by or on behalf of a community council, the fee payable is one half of the amount that would otherwise be payable in accordance with paragraphs (3), (6) and (7).

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

(11) Where the local planning authority who receive the fee in accordance with this regulation are not the local planning authority who have to determine the application, they must remit the fee to that authority at the same time as they forward the application to them.

(12) Any fee paid pursuant to this regulation must be refunded if the application is rejected as invalid.

(13) In this regulation “valid application” (“*cais dilys*”) has the same meaning as in article 28(12) of the Development Management Procedure Order.

Fees for applications for consent for advertisements

12.—(1) Subject to paragraphs (9) and (11), where an application is made to a local planning authority under regulation 9 of the 1992 Regulations⁽²⁶⁾ for express consent for the display of an advertisement, a fee must be paid to that authority in accordance with this regulation.

(2) Where the application relates to the display of one advertisement only the fee payable in respect of the application is the amount specified in the table in Schedule 2 for the appropriate category.

(26) Regulation 9 was substituted by regulation 2 of S.I. 2012/791 (W. 106).

(3) Where the application relates to the display of more than one advertisement on the same site, a single fee is payable in respect of all of the advertisements to be displayed on that site and listed in the application and—

- (a) if all of the advertisements are within the same category the fee payable is the amount specified for that category;
- (b) if all of the advertisements are within categories 1 and 2 the fee payable is the amount specified for category 1;
- (c) if one or more of the advertisements is within category 3 the fee payable is the amount specified for category 3.

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

(5) Where the application relates to the display of advertisements on more than one site, the fee payable in respect of the application is the aggregate of the sums payable in respect of the display of advertisements on each such site.

(6) Where the application is made by or on behalf of a community council, the fee payable in respect of the application is one half of the amount that would otherwise be payable under this regulation.

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

(8) Where the local planning authority who receive the fee in accordance with this regulation are not the local planning authority who have to determine the application, they must remit the fee to that authority at the same time as they forward the application to them.

(9) Where all of the conditions set out in paragraph (10) are satisfied, this regulation does not apply to—

- (a) an application under regulation 9 of the 1992 Regulations which is made following the withdrawal (before notice of decision was issued) of a valid application made by or on behalf of the same person; or
- (b) an application under that regulation which is made following the refusal of consent (whether by the local planning authority or by the Welsh Ministers on appeal) for the display of advertisements on a valid application made by or on behalf of the same person.

(10) The conditions referred to in paragraph (9) are—

- (a) the application is made within 12 months of—
 - (i) in the case of an earlier valid application which was withdrawn, the date when that application was received; or
 - (ii) in any other case, the date of refusal;
- (b) the application relates to the same site as that to which the earlier application related, or to part of that site;
- (c) the local planning authority to whom the application is made are satisfied that it relates to an advertisement of the same description as the advertisement to which the earlier application related;
- (d) the fee payable in respect of the earlier application was paid; and
- (e) no previous application has at any time been made by or on behalf of the same applicant which related to—
 - (i) the same site as that to which the earlier application related, or part of that site; and

(ii) an advertisement of the same description as the advertisement (or any of the advertisements) to which the earlier application related,

and which was exempted from the provisions of this regulation by paragraph (9).

(11) 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 7 of the 1992 Regulations (directions restricting deemed consent) disapplying regulation 6 of those Regulations (deemed consent for the display of advertisements)(27) in relation to the advertisement (or any of the advertisements) in question.

(12) Any fee paid pursuant to this regulation must be refunded if the relevant application is rejected as invalid.

Fees for certain applications under the General Permitted Development Order

13.—(1) Where an application is made to a local planning authority for their determination as to whether the prior approval of the authority will be required in relation to development under Schedule 2 to the General Permitted Development Order a fee must be paid to the authority in the following amounts—

- (a) for an application under Parts 6 (agricultural buildings and operations)(28), 7 (forestry buildings and operations)(29) or 31 (demolition of buildings)(30) of that Schedule, £80; and
- (b) for an application under Part 24 of that Schedule (development by electronic communications code operators)(31), £380.

(2) Where the local planning authority who receive the fee in accordance with this regulation are not the local planning authority who have to determine the application, they must remit the fee to that authority at the same time as they forward the application to them.

(3) Any fee paid pursuant to this regulation must be refunded if the application is rejected as invalid.

Fees in respect of the monitoring of mining and landfill sites

14.—(1) Subject to paragraphs (2) and (3), where a site visit is made, the operator of the site must pay to the local planning authority a fee in the amount specified in paragraphs (4) or (5).

(2) The maximum number of site visits to any one such site for which a fee is payable under this regulation in any period of 12 months beginning with the date of the first visit during that period is—

- (a) where the site is an active site, eight; or
- (b) where the site is an inactive site, one.

(3) Where—

- (a) the person liable to pay the fee in respect of a site visit is the owner of the site; and
- (b) there is more than one owner,

the amount of the fee is to be divided equally between the total number of owners and each owner is liable to pay one part of the amount so divided.

(27) See regulation 15 of S.I. 2008/1848 (W. 177) in relation to the application of the 1992 Regulations to the display on any site in a voting area of an advertisement relating specifically to a referendum.

(28) Part 6 was amended by S.I. 1997/366 and S.I. 2012/2318 (W. 252). Other amendments are not relevant to these Regulations.

(29) Part 7 was amended by S.I. 2012/2318 (W. 252). Other amendments are not relevant to these Regulations.

(30) There are amendments to Part 31 but none is relevant to these Regulations.

(31) Part 24 was substituted in relation to Wales by S.I. 2002/1878 (W. 187) and amended by S.I. 2003/2155 and S.I. 2004/945. Other amendments are not relevant to these Regulations.

(4) Where the whole or a part of the site is an active site, the fee payable is £330.

(5) Where the site is an inactive site the fee payable is £110.

(6) In this regulation—

“active site” (“*safle gweithredol*”) means the whole or a part of a mining site or landfill site, or a site which is partly a mining site and partly a landfill site, where—

- (a) development to which the relevant mineral permission or landfill permission relates is being carried out to any substantial extent on the site or (as the case may be) that part of it; or
- (b) other works to which a condition attached to such permission relates are being carried out to any substantial extent or (as the case may be) that part of it;

“inactive site” (“*safle anweithredol*”) means a mining site or landfill site, or a site which is partly a mining site and partly a landfill site, which is not an active site;

“operator” (“*gweithredwr*”) means—

- (a) the person—
 - (i) carrying out on the land operations consisting of the winning and working of minerals;
 - (ii) using the land for the deposit of mineral waste;
 - (iii) carrying out on the land operations for the purposes of, or using the land as, a waste disposal site for the deposit of waste onto or into the land; or
 - (iv) carrying out on the land other works to which a condition or limitation attached to a mineral permission or landfill permission relates;
- (b) where there is more than one person carrying out the operations, works or using the land in the way described in sub-paragraph (a), the person in overall control of the site; or
- (c) where there is no person who falls within the descriptions in sub-paragraph (a) or (b), the owner of the site; and

“owner” (“*perchennog*”) means—

- (a) the person who is entitled to a tenancy of the site granted or extended for a term of years certain of which not less than seven years remains unexpired, but does not include an underlessee; or
- (b) where there is no person who falls within the description in sub-paragraph (a), the owner in fee simple of the site.

Fees for applications made under planning condition

15.—(1) Where an application is made to a local planning authority under article 23 of the Development Management Procedure Order, a fee must be paid to that authority as follows—

- (a) where the application relates to a permission for development which falls within category 6 or 7 specified in the table set out in Part 2 of Schedule 1, £30 for each application;
- (b) in any other case, £95 for each application.

(2) Any fee paid under this regulation must be refunded if the local planning authority fail to determine the application within a period of 8 weeks from the expiry of the period for the giving of notice of a decision specified in article 23 of the Development Management Procedure Order.

(3) Paragraph (2) does not apply where before the period mentioned in paragraph (2) has expired—

- (a) the Welsh Ministers give a direction under section 77 of the 1990 Act in relation to the application;

- (b) the applicant appeals to the Welsh Ministers under section 78(2) of the 1990 Act; or
- (c) any person who is aggrieved by any decision of the local planning authority in relation to the application makes an application to the High Court.

Fees for applications for non-material changes to planning permission

16.—(1) Subject to paragraph (3), where an application is made under section 96A(4) of the 1990 Act the following fee must be paid to the local planning authority—

- (a) if the application is a householder application, £30;
- (b) in any other case, £95.

(2) Where the local planning authority who receive the fee in accordance with this regulation are not the local planning authority who have to determine the application, they must remit the fee to that authority at the same time as they forward the application to them.

(3) Paragraph (1) does not apply in the circumstances set out in regulations 4 and 5.

(4) Any fee paid pursuant to this regulation must be refunded if the application is rejected as invalid.

(5) In this regulation “householder application” (“*cais deiliad ty*”) means an application to make a change to a planning permission relating to—

- (a) development of an existing dwellinghouse, or
- (b) development within the curtilage of such a dwellinghouse,

for any purpose incidental to the enjoyment of the dwellinghouse, but does not include an application for change of use or an application to change the number of dwellings in a building.

Revocation, transitional provisions and savings

17.—(1) Subject to paragraphs (2) and (3), the Regulations specified in the table in Schedule 3 are revoked in so far as they apply in relation to Wales.

(2) A reference in regulations 8(2)(f), 11(5)(e) or 12(10)(e) to the fee for an application being exempted under a particular provision of these Regulations must be construed as including a reference to the application being exempted from payment of a fee under (as the case may be) regulation 8, 10A(3) and 11(9) of the 1989 Regulations.

(3) The relevant provisions of the 1989 Regulations continue to have effect in relation to any application for planning permission deemed to have been made by virtue of section 177(5) of the 1990 Act in connection with an enforcement notice issued before the date on which these Regulations come into force.

Carl Sargeant
Minister for Natural Resources, one of the Welsh
Ministers

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