

EXPLANATORY MEMORANDUM TO

THE PLANNING (FEES) REGULATIONS (NORTHERN IRELAND) 2015

S.R. 2015 No. 73

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under Section 223(1), and (9) and Section 247(1) of the Planning Act (Northern Ireland) 2011 and is subject to the negative resolution procedure.

1.3 The Rule is due to come into operation on 01 April 2015.

2. Purpose

2.1 These Regulations revoke and replace the Planning (Fees) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 222 as amended by S.R. 2005 No. 505, S.R. 2009 No. 256, S.R. 2010 No. 294, S.R. 2011 No. 99, S.R. 2011 No 398, S.R. 2012 No. 293 and S.R. 2014 No. 127). The effect of these Regulations is to provide for the charging of a fee for the processing of a planning application.

3. Background

3.1 Responsibility for the majority of planning decisions will transfer to councils on 1st April 2015 and will operate under the Planning Act (Northern Ireland) 2011. These Regulations enable councils, or as the case may be, the Department, to charge a fee for the processing of a planning application.

4. Consultation

4.1 Consultation was not necessary as there has been no change to the Department's policy that the costs of determining planning applications should be recovered through prescribed fees. The fees payable have not changed.

5. Equality Impact

5.1 An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any differential impact on any of the Section 75 categories.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment has been prepared and concludes that the balance between cost and benefits is the right one in the circumstances.

7. Financial Implications

7.1 The costs to a “typical business” are not estimated as most planning applications are not made by businesses and each planning application is unique. Only those businesses that make planning applications will be affected and the costs will be non-recurring.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the legislation complies with the requirements of Section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There are no EU implications.

10. Parity or Replicatory Measure

10.1 This is not a parity or replicatory measure.

11. Additional Information

11.1 None.

REGULATORY IMPACT ASSESSMENT (FINAL)

Planning Fees

1. Title of Proposal

The Planning (Fees) Regulations (Northern Ireland) 2015

2. Purpose and intended effect of measure

i) The objective:

The main objective of the Statutory Rule is to provide for the charging of a fee for processing planning applications.

ii) The background:

Key changes ensure the Regulations are made in accordance with the primary power in the Planning Act (Northern Ireland) 2011.

iii) Risk Assessment and Rationale for Government Intervention:

The Planning Act (Northern Ireland) 2011 provides the legislative background for the transfer of most planning functions to local government. In order to allow Councils and as the case may be the Department to charge a fee for the processing of planning applications The Planning (Fees) Regulations (Northern Ireland) have been updated.

3. Options Appraisal

Option 1 – Do Nothing

The current provisions do not allow councils to charge a fee for planning applications.

Option 2 – Changes to the Planning (Fees) Regulations (Northern Ireland)

The new Planning (Fees) Regulations (Northern Ireland) 2015 are drafted to take account of the change to Primary Legislation and the introduction of the provisions in the Planning Act (Northern Ireland) 2011.

4. Costs and Benefits

There are unlikely to be any compliance costs. The introduction of new Planning (Fees) Regulations will allow councils and the Department, as the case may be, to charge a fee for processing planning applications.

Option 1: Do Nothing

The Councils could not operate a planning system effectively without the benefit of this legislation.

DFP guidance indicates that all Government Departments should aim for full cost recovery when setting fees, this policy will also apply to councils in charging a fee for processing planning applications.

Option 2: Changes to the Planning (Fees) Regulations

The new Planning (Fees) Regulations (Northern Ireland) 2015 are drafted to take account of the change in Primary legislation to the Planning Act (Northern Ireland) 2011.

5. Sectors and Groups Affected

The main sectors and groups affected are anyone who applies for a planning application and they are all affected equally.

6. Enforcement and Sanctions

For a planning application to be valid it must be accompanied by the appropriate planning fee. The planning enforcement regime will continue to operate in the same way as it does currently. Available sanctions will include powers to compel developers to submit a planning application with the accompanying fee for works which require planning permission and powers to stop construction work and require the demolition or rebuilding of works which are unacceptable. All such sanctions are subject to the right of appeal by the affected developer.

7. Consideration of Impacts

Equality Impact Assessment

An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any of the Section 75 categories.

Health Impact

No impact on health has been identified.

Small Firms Impact Test

No impact on Small Firms has been identified.

Human Rights Assessment

The Department considers that the proposed amendments are fully compliant with the Human Rights Act 1998.

Rural Impact Assessment

There will be no significant differential impact of the proposals between urban and rural areas because of the specific scope and technical nature of the changes.

8. Monitoring and Review

The responsibility for setting planning fees will remain with the Department of the Environment. Fees may be increased in line with inflation as the need arises.

9. Consultation

No public consultation was necessary as this is purely a technical amendment.

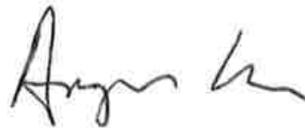
10. Summary and Recommendations

Option 2 is the recommended option. This option will enable councils and the Department, as the case may be, to charge a fee for processing a planning application.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.



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