EXPLANATORY MEMORANDUM TO

THE PLANNING (FEES) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010

S.R. 2010 No. 294

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 Article 127 of the Planning (Northern Ireland) Order 1991 and is subject to the negative resolution procedure.

1.3 The Rule is due to come into operation on 4th October 2010.

2. Purpose

2.1 These Regulations amend fee amounts prescribed in the Planning (Fees) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 222 as amended by S.R. 2005 No. 505 and S.R. 2009 No. 256) ("the 2005 Regulations"). The general effect of the Regulations will be to increase fees by approximately 2.9%.

3. Background

3.1 This increase of 2.9% is based on the GDP deflator forecast for 2010/11 and is intended to be the first modest annual increase based on an accepted inflationary metric. Planning fees were last increased (by 15%) by the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 256) which came into operation on 3 August 2009. At that time, planning fees had not been increased in over four years.

3.2 The Department is required to recover in full the costs incurred in processing planning applications, and full cost recovery, through fee income, was achieved up to 2007/8. However, since mid 2008 there has been an unprecedented significant decline in planning applications and a corresponding reduction in fee income. The Agency only recovered 81.2% of relevant costs in 2008/09 and, despite the fee increase of 15% in August 2009, only 61.4% of relevant costs were recovered through planning application fees during 2009/10.

3.3 Current projections indicate that there is likely to be a shortfall in the planning application receipts budget of circa £8.4m for 2010/11. It is anticipated that an inflationary increase of 2.9% will reduce this deficit by approximately £350k per annum.

4. Consultation

4.1 No consultation was carried out as there has been no change to the Department's policy that the costs of determining planning applications should be fully recovered through fees.

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 which 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.

Contact

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REGULATORY IMPACT ASSESSMENT

Planning (Fees) (Amendment) Regulations (Northern Ireland) 2010

Introduction and Summary

This assessment estimates the costs of the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2010.

Planning fees were last increased by 15% in August 2009 by the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 256). At that time, it had been over four years since planning fees had been increased and Planning Service advised the Environment Committee that it would, in future seek to, increase fees annually by a moderate amount. The Committee were also advised of the intention to review future funding for planning, in the context of the transfer of planning powers and functions to local government. This work has now been subsumed within a wider Review of Planning Fees and Charges. In the meantime, Planning Service is proposing to proceed with an increase in fees, based on the GDP deflator forecast for 2010/11 of 2.9%.

The costs incurred in determining planning applications and the income from fees are reviewed annually and assembled within a 'Memorandum Trading Account' (MTA). Following an unprecedented downturn in the number of planning applications submitted since July 2008 (circa 29% reduction in applications submitted during 2009/10 compared to 2007/08), income from planning application fees has correspondingly reduced and the total income for the 2009/10 financial year was £15.3 million compared to £21.3 million in 2007/08. The outcome for 2009/10 is that we have recovered just 61.4% of the relevant costs in processing planning applications.

It is difficult, particularly since the downturn, to accurately forecast future income. Planning application receipts and monthly fee income are continuing to fall. Current projections indicate that there is likely to be a shortfall in the planning application receipts budget of circa £8.4m for 2010/11. It is anticipated that an inflationary increase of 2.9% would reduce this deficit by approximately £350k per annum. The Agency is exploring other options to address the remaining income shortfall.

1.0 Purpose and effect of the Regulations

The Regulations amend the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2009 which prescribe fees payable to the Department of the Environment in respect of applications made under the Planning (Northern Ireland) Order 1991 ("the 1991 Order"). The general effect of these regulations will be to increase fee income by 2.9% overall in respect of –

a. Applications for planning permission and for approval of matters reserved in an outline planning permission and determinations of the need for listed building consent;

b. consent to display advertisements;

c. listed building consent;

d. certificates of lawful use or development.

The Regulations will affect any individual or company making an application for planning permission to develop land. However planning permission goes with the land and since applications are for new development only, the costs are non-recurring.

2.0 Targeting Social Need (TSN)

It is not considered that the proposal has any implications for new TSN.

3.0 Issues of Equality

The Regulations have been screened with Regard to Section 75 of the Northern Ireland Act 1998 and it is considered that they are not likely to have any significant implications for equality of opportunity or community relations.

The Regulations continue to provide for 'no fee' where an application relates to operations providing facilities in the curtilage of an existing dwellinghouse to secure the greater safety, health or comfort of a disabled person, or an application relates solely to operations for the provision of a means of access for disabled persons to or within a building or premises to which members of the public are admitted.

4.0 Benefits

The income from fees is needed to pay for the costs of processing planning applications, the most significant of which is staff costs. Development management applies planning policies which have been the subject of public consultation and which are adjudged to be in the public interest. The income generated from planning fees is intended to pay for that development management. The increase in income from the fee increases applied by the Regulations will reduce the burden on the taxpayer arising from the current need to subvent the provision of development management services and to provide a level of service in line with performance set out in the Agency's PSA targets.

This in-year increase takes place whilst Planning Service is carrying out the wider Review of Planning Fees and Charges. To take this work forward the Agency has procured specialist advice on a new, more sustainable fee regime within which fees charged reflect the cost of providing the service and which is more transparent. The Review will produce further proposals for changes to planning fees for consultation in the autumn to come into operation in the 2011/12 financial year, subject to Assembly scrutiny.

5.0 Compliance Costs for a "Typical" Business

It is not possible to estimate the costs to a "typical business", as most planning applications are not made by businesses and every planning application is different. Most businesses will be totally unaffected. Only those which make planning applications will be affected and the costs will be non-recurring. The cost of the planning application will also generally be more than offset by the enhanced value of land or property.

The types of planning applications processed in 2009/2010 and the number in each category were as follows –

Type of development	Number received	Number decided
Agricultural	274	233
Commercial	1,385	1,425
Government and Civic	1,744	1,702
Industrial	256	349
Residential	14,623	15,179
Other	1,287	1,345
Totals	19,569	20,233

Costs vary according to the type of application. For example, a business involved in commercial house building will incur an additional fee of £334 for an application to build 50 or more houses. This cost is very small compared with the cost of building 50 houses; indeed it will not be borne by the developer, but passed on to the house purchaser.

The fee cost for an application for mineral extraction would increase from £37,318 to £38,400 for a site 15 hectares in area. Again this increase of £1,082 would be very small compared with the development value of the site.

6.0 Monitoring and Review

The Department will continue to monitor and review the cost of processing planning applications, and adjustments will be made as necessary.

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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Date 6th September 2010

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