

2017 No. 314

INFRASTRUCTURE PLANNING

**The Infrastructure Planning Fees (Amendment) Regulations
2017**

<i>Made</i>	- - - -	<i>8th March 2017</i>
<i>Laid before Parliament</i>		<i>9th March 2017</i>
<i>Coming into force</i>	- -	<i>6th April 2017</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 4 and 232(3) of the Planning Act 2008(a):

Citation and commencement

1. These Regulations may be cited as the Infrastructure Planning Fees (Amendment) Regulations 2017 and come into force on 6th April 2017.

Amendment to the Infrastructure Planning (Fees) Regulations 2010

2.—(1) The Infrastructure Planning (Fees) Regulations 2010(b) are amended as follows.

(2) In regulation 3(1), for “£1,000” substitute “£1,500”.

(3) In regulation 5(2), for “£4,500” substitute “£6,750”.

(4) In regulation 6, for paragraph (2) substitute—

“(2) The pre-examination fee is—

- (a) where a single appointed person will handle the application, £19,500;
- (b) where a Panel of two appointed persons will handle the application, £32,250;
- (c) where a Panel of three appointed persons will handle the application, £45,000;
- (d) where a Panel of more than three appointed persons will handle the application, £64,500.”

(5) In regulation 8, for the definition of “initial payment” in paragraph (2) substitute:

““initial payment” in relation to a notice under paragraph (1) means—

- (a) where the examination is to be handled by a single appointed person, £923 for each estimated relevant day;
- (b) where the examination is to be handled by a Panel of two appointed persons, £1,467 for each estimated relevant day;
- (c) where the examination is to be handled by a Panel of three appointed persons, £2,010 for each estimated relevant day;

(a) 2008 c. 29. Section 4 was amended by the Localism Act 2011 (c. 20), section 128(2) and Schedule 13.

(b) S.I. 2010/106; amended by S.I. 2012/635, S.I. 2013/498.

- (d) where the examination is to be handled by a Panel of more than three appointed persons, £3,060 for each estimated relevant day.”
- (6) In regulation 9, for paragraph (2) substitute—
- “(2) The final payment is—
- (a) where a single appointed person has examined the application, £1,845 for each relevant day;
 - (b) where a Panel of two appointed persons has examined the application, £2,933 for each relevant day;
 - (c) where a Panel of three appointed persons has examined the application, £4,020 for each relevant day;
 - (d) where a Panel of more than three appointed persons has examined the application, £6,120 for each relevant day;
- less the initial payment referred to in regulation 8.”
- (7) In regulation 10, for “section 35(4B)(a) (directions in relation to projects of national significance)”, substitute “section 35ZA(3)(a) (directions under section 35: procedural matters).(a)”.
- (8) After regulation 10, insert—

“Fees payable on or after 1st April 2018

- 12.**—(1) Each relevant fee is increased by the appropriate percentage on 1st April 2018, and on 1st April in each subsequent year, if the appropriate percentage is greater than zero
- (2) The appropriate percentage is the CPI 12-month percentage rate published for the preceding September.
- (3) The amount of any increase is in pounds sterling, rounded up or down to the nearest pound.
- (4) In any year, the increase in a relevant fee described in paragraph (1) applies only where the obligation to pay that fee arises on or after 1st April in that year.
- (5) In this regulation—
- “the CPI 12-month percentage rate” means the measure of the change in prices between one month and the same month in the subsequent year, published by the Statistics Board, a body corporate established by section 1 of the Statistics and Registration Service Act 2007**(b)**; and
- “relevant fee” means any fee prescribed in any of regulations 3, 5, 6, 8 or 9.

Review

- 13.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of the regulatory provision contained in these Regulations; and
 - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 6 April 2022.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015**(c)** requires that a report published under this regulation must, in particular—

(a) Section 35ZA of the Planning Act 2008 was inserted by section 26(1) and (2) of the Growth and Infrastructure Act 2013 (c. 27).

(b) 2007 c. 18.

(c) 2015 c. 26.

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
 - (b) assess the extent to which those objectives are achieved;
 - (c) assess whether those objectives remain appropriate; and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”

Amendment to the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011

3.—(1) The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011(a) are amended as follows.

(2) For regulation 71, substitute—

“**71.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of Schedule 2, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 6th April 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act.)”

(3) In paragraph 2(3) of Schedule 2, for “£4,500” substitute “£6,750”.

(4) In paragraph 3 of Schedule 2, for sub-paragraph (3) substitute—

“(3) The pre-examination fee is—

- (a) where a single appointed person will handle the application, £12,750;
- (b) where two appointed persons will handle the application, £25,500;
- (c) where three appointed persons will handle the application, £38,250;
- (d) where more than three appointed persons will handle the application, £57,750.”

(5) In paragraph 5 of Schedule 2, for the definition of “initial payment” in sub-paragraph (2) substitute—

““initial payment” in relation to a notice under sub-paragraph (1) means—

- (a) where the examination is to be handled by a single appointed person, £923 for each estimated relevant day;
- (b) where the examination is to be handled by two appointed persons, £1,467 for each estimated relevant day;

(a) S.I. 2011/2055. Schedule 2 was amended by S.I. 2012/635 and S.I. 2015/760.

- (c) where the examination is to be handled by three appointed persons, £2,010 for each estimated relevant day;
- (d) where the examination is to be handled by more than three appointed persons, £3,060 for each estimated relevant day.”

(6) In paragraph 6 of Schedule 2, for sub-paragraph (2) substitute—

“(2) The final payment is—

- (a) where a single appointed person has examined the application, £1,845 for each relevant day;
- (b) where two appointed persons have examined the application, £2,933 for each relevant day;
- (c) where three appointed persons have examined the application, £4,020 for each relevant day;
- (d) where more than three appointed persons have examined the application, £6,120 for each relevant day

less the initial payment referred to in paragraph 5.”

(7) After paragraph 7 in Schedule 2, insert—

“Fees payable on or after 1st April 2018

8.—(1) Each relevant fee is increased by the appropriate percentage on 1st April 2018, and on 1st April in any subsequent year, if the appropriate percentage is greater than zero.

(2) The appropriate percentage is the CPI 12-month percentage rate published for the preceding September.

(3) The amount of any increase is in pounds sterling, rounded up or down to the nearest pound.

(4) In any year, the increase in a relevant fee described in paragraph (1) applies only where the obligation to pay that fee arises on or after 1st April in that year.

(5) In this regulation—

“the CPI 12-month percentage rate” means the measure of the change in prices between one month and the same month in the subsequent year, published by the Statistics Board, a body corporate established by section 1 of the Statistics and Registration Service Act 2007(a); and

“relevant fee” means any fee prescribed in any of paragraphs 2, 3, 5 or 6 of this Schedule.”

Transitional provisions

4.—(1) Regulations 2(4) to (6) and 3(4) to (6) of these Regulations do not apply in the case of—

- (a) any fee in respect of an application for an order granting development consent made under the 2010 Regulations, or
- (b) any fee in respect of an application for a change to a development consent order made under the 2011 Regulations

where that application was made before 6th April 2017.

(2) Paragraph (1) shall not prevent an application made before 6 April 2017 being considered by two appointed persons, and where it is so considered, the fee to be charged under the 2010 Regulations is the fee for consideration by a Panel of three appointed persons.

(a) 2007 c. 18.

(3) Any increase in the amount of fees payable by virtue of the provisions made by regulations 2(8) or 3(7) does not apply to any application made before 6th April 2017.

(4) In this regulation “the 2010 Regulations” means the Infrastructure Planning (Fees) Regulations 2010 and “the 2011 Regulations” means the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011.

Gavin Barwell
Minister of State

8th March 2017

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Planning Act 2008 provides for the granting of development consent for certain types of nationally significant infrastructure projects. The Infrastructure Planning (Fees) Regulations 2010 and the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 make provision for the charging of fees for applications for development consent, and changes to and revocation of Development Consent Orders respectively.

These Regulations amend the Infrastructure Planning (Fees) Regulations 2010 and the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011. The level of fees set out in each set of Regulations is generally increased by 50%.

These Regulations insert a mechanism in each set of Regulations for each fee to be increased annually in line with the consumer prices index, starting from 1st April 2018.

Regulation 2(7) makes a minor amendment to the Infrastructure Planning (Fees) Regulations 2010 to replace an out of date reference.

Regulation 2(8) inserts a new regulation 13 into the Infrastructure Planning (Fees) Regulations 2010 providing that those Regulations will be reviewed by 6th April 2022, and thereafter at intervals not exceeding five years. Regulation 3(2) substitutes regulation 71 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 and provides that the fees set out at Schedule 2 of those Regulations will be reviewed by 6th April 2022 and thereafter at intervals not exceeding five years.

Regulation 4 provides transitional provisions, providing that, where an application was made prior to 6th April 2017, the fees regime existing at the time the application was made remains in force. This provision does not prevent an application being considered by two appointed persons, and where it is considered by two appointed persons, the fee to be charged under the Infrastructure Planning (Fees) Regulations 2010 is the fee applicable to a three person Panel. Regulation 4(3) provides that no increase in fees in line with the consumer prices index will apply to any application made before 6th April 2017.

A full regulatory impact assessment of the effect that this instrument will have has not been prepared as it is not required under the Small Business, Employment and Enterprise Act 2015. However an assessment of impacts has been carried out and is available from the Planning – Infrastructure Division, Department for Communities and Local Government, 3rd Floor North East Fry Building, 2 Marsham Street, London, SW1P 4DF (telephone 030 3444 1632).

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