Consultation on Fees for Planning Applications 2012

March 2012
1. INTRODUCTION

1.1 Purpose

1. A well functioning planning system is essential to achieving the Scottish Government’s central purpose of increasing sustainable economic growth. An effective, efficient and proportionate planning system which is focused on outcomes will deliver benefits to the wider Scottish economy. This consultation is part of the renewed planning reform programme announced on 28 March 2012.

2. Audit Scotland in their report, Modernising the Planning system, concluded that “the funding model for processing planning applications is becoming unsustainable as the gap between income from fees and expenditure increases, putting greater pressure on already constrained council budgets”. Over the six years to 2009/10 the report reflected that the overall gap between income and expenditure had increased in real terms from £6.7 million to £20 million. In 2009/10, 50% of expenditure on processing planning applications was offset by income from fees, compared with 81% in 2004/05.

3. Respondents to Resourcing a High Quality Planning System: A Consultation Paper also acknowledged that the current fee structure and levels are no longer fit for purpose. In order to strengthen resources and the capability of planning authorities to deliver a high performing planning service, the Scottish Government have reviewed the structure of fees and levels. The changes are being proposed to ensure that the fees associated with processing planning applications reflect more closely the resource required to provide an effective service: it is not the Government’s intention that proposed fee levels should exceed the costs of providing the service or that authorities should make financial gain from providing the development management service. The purpose of this consultation is to seek views on draft regulations that set out a new fee structure and level for planning applications in Scotland.

Aims and Principles

4. The aims and principles underlying these amendments are that;

- the planning fees are more proportionate to the work involved;
- planning authorities should overall receive adequate resources from the planning fee to allow them to carry out their development management functions;
- the regulations are simpler and easier to administer;
- the regulations establish a clear link to the performance of planning authorities;
- the planning service recognises and delivers public value.
5. The proposed changes retain as much as possible of the current structure and approach. However, to ensure that the fee more accurately reflects the time and resources required to process applications the following changes are being proposed:

- the fee maximum is raised to £100,000;
- fees are linked to performance;
- new categories are introduced for retail and leisure and energy generation;
- increases in fees for the following:
  - cost of a single house;
  - retail and leisure developments;
  - energy generation;
- the revised fees are intended to be inclusive of neighbour notification advertising costs. The present requirement to recoup such costs from the applicant will be removed.

These changes to the fee structure and method of calculation aim to recover the relatively high fixed costs for the first unit. The main changes proposed in the draft regulations are detailed in Table 1.

6. The overall resourcing of the planning service is the responsibility of local authorities. The planning service is financed through the local authority’s budget and fees from planning applications. Whilst this paper focuses on fees, Scottish Ministers expect a planning system that is reliable, proportionate and provides a service that is focused on delivery which is able to develop, share and adopt good practice for continuous improvement.

7. Details of how to respond to this consultation can be found at Section F.

Table 1: Summary of the changes
The draft regulations in the main propose that:

- the fee maximum will be set at £100,000 and increases are proposed for residential, retail and energy generating developments
- alterations within the curtilage of existing dwellinghouses are charged at a lower rate than extensions and a lower fee should be charged for householder developments in conservation areas
- advertising costs for the purposes of neighbour notification are included in the fee
- fees for certain categories of business development such as warehousing and offices may reduce
- the requirement to recoup advertising fees for neighbour notification purposes is revoked
- the fees for Section 42 applications are proportionate to the size of the
development
• the fee for subsequent applications made within 12 months of an application being granted, refused or withdrawn is 50% of the application fee
• incremental increases in floor space are raised from 75m² to 100m²
• applicants are to submit a fee to all the relevant planning authorities for developments that are in more than one local authority area
• a new 50% fee is introduced for the renewal of planning permissions which have not yet lapsed
• the fee for applications for Certificates of Proposed Use or Development from householder developments should be removed
• the fee for hazardous substances consents and applications under the Conservation (Natural Habitats, &c) Regulations are also being amended through these draft regulations.

8. In 2010-11 there were over 41,000 applications for planning permission and other consents submitted. The number and types of applications submitted in Scotland vary widely across authorities. For example in many rural authorities the majority of local applications are for housing and the majority of these are for single houses. Given the variation in application numbers and development types and sizes, the proposed changes will have different impacts for each authority. However in all cases the fee income should more closely match the costs borne by authorities in delivering the development management service.

1.2 Business Regulatory Impact Assessment and Equality Impact Assessment

9. A partial Business Regulatory Impact Assessment (BRIA) setting out in more detail the costs, benefits and risks of the proposed changes is included as part of the consultation at Section C. A partial Equality Impact Assessment (EQIA) is also included and can be found at Section D

10. The results of this consultation will be used to refine the statutory instrument, Equality Impact Assessment and Business and Regulatory Impact Assessment. As part of the BRIA process we will need to discuss our final proposals with those directly impacted by the regulations. If you would be willing to take part in further discussions then we would be pleased if you could indicate this in your response.

Question 1: Are there any costs or benefits not identified in the draft BRIA?

Question 2: Do you have any information or can you suggest sources of relevant information on the costs and/or benefits detailed in the BRIA at Section C?

Question 3: We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population. A partial EQIA is attached to this consultation at Section D, for your comment and feedback.
1.3  **Next Steps**

11. The results of this consultation will be used to refine the Statutory Instrument, Equality Impact Assessment and the Partial Business and Regulatory Impact Assessment. We will discuss any changes with stakeholders and expect to lay the SSI in Parliament in autumn 2012. A circular will be produced to accompany the new regulations coming into force.
2. LINKING FEES TO PERFORMANCE

12. Scottish Ministers maintain that any increase in fees must be inextricably linked to sustained improvements in performance. The fee increases proposed in this paper are dependent on this and Ministers are prepared ultimately to take steps to reduce the fee levels in an authority where improved performance is not maintained. Ministers will consider how the link between fees and performance can be maintained and strengthened and if required will bring forward legislation to enable this to happen.

13. The Planning Performance Framework, developed by the Heads of Planning Scotland and the Scottish Government, will provide the foundation for assessing authority performance. Ministers and the Scottish Government would work in partnership with planning authorities to ensure all avenues had been explored and every opportunity had been taken before poorly performing authorities revert back to current fee levels.

14. As part of this work the Scottish Government is keen to introduce opportunities for developers to spread the payment of fees associated with major applications, specifically those that have signed a processing agreement. This would allow developers to pay a percentage both at the very start and at an appropriate point later in the process.

**Question 4:** Do you consider that linking fees to stages within processing agreements is a good or bad idea?

What should the second trigger for payment be?
3. THE CHANGES

3.1 Scope of fees
15. The fees scheme will apply to applications for:
   - planning permission: including “retrospective” applications where development has already taken place
   - consent to display advertisements
   - Certificates of Lawful Use or Development
16. The fees scheme will **not** apply to:
   - Applications for listed building consent
   - Local authorities’ proposals for their own developments which are subject to regulations made under Section 263 of the 1997 Act
   - Applications for certificates of appropriate alternative development
   - Applications to lop or fell trees subject to tree preservation orders
17. The fee will cover pre-application discussions, preparing Section 75 agreements, enforcement and costs associated with administering Local Review Bodies. No separate charge should be developed to recover these costs by the planning authorities – in particular the provision of advice to prospective applicants.

3.2 What is changing

3.2.1 The structure of the Regulations
18. The regulations have been revised to ensure they are easier to understand. The draft regulations can be found at Section B. The proposed legislation contains a short set of regulations covering, citation, commencement, the payment of fees and amendments in respect of fees payable in the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 and the Conservation (Natural Habitats, &c) Regulations 1994. These regulations are followed by schedules that contain provisions on:
   - Planning application fees (Schedule 1)
   - Applications for Certificates of Lawfulness of Proposed Use or Development (Schedule 2)
   - Applications for consent for the display of an advertisement (Schedule 3)

3.2.2 Fee maximum
19. In the majority, applications for large, complicated, developments require significant resources to understand their impact on the community, economy and environment. The fee maximum is therefore being increased for all development types to £100,000. It is anticipated that only the largest developments will pay £100,000.
3.2.3 How the fee is calculated

20. Reviewing a range of cost data supplied by planning authorities, it is clear that irrespective of the size of the development a high proportion of costs relate to processing, validation and notification of an application. Given this the fixed cost of the first unit or 100 m$^2$ of floor space is, in most cases, increasing.

21. This approach is reflected in the new table of fees and will be explained in each circumstance as they arise.

3.2.4 Section 42 applications

22. To address long standing concerns over the costs of processing applications made under section 42 of the Town and Country Planning (Scotland) Act 1997 (the Act), the fee payable for such applications be will be as follows:

- £50 for householder applications
- £250 for local applications
- £500 for major applications

23. We recognise that this new fee structure may still not address all concerns. However given the nature and possible scope of conditions it is unlikely that one single fee would cover every eventuality.

3.2.5 Floor space

24. The proposed regulations amend the incremental increase of floor space from 75 m$^2$ to 100 m$^2$. For example, under the current regulations, a 400 m$^2$ office development would be charged 6x £319 = £1,914. Under the draft regulations the same development would be charged £(1x600)+(3x300) = £1,500. Under these changes certain business and commercial developments will see planning fees decrease which will support more affordable expansion and development.

3.2.6 Conservation areas

25. Many planning authorities have removed permitted development rights within conservation areas. As a result of the amendments to householder permitted development rights introduced in February 2012 householders in conservation areas will continue to submit a planning application but will now have to pay a fee.

26. Given this, we propose that where applications are submitted under categories 2, 3, 4, and 5 for developments in conservation areas which are required because of the restriction on permitted development, then only half the fee would be payable.

**Question 5:** Do you agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation are restricted, then a reduced fee should be payable? Agree / Disagree
3.2.7 Application for local authority cross border developments

27. The Scottish Government consider that where a development crosses more than one local authority boundary a planning application should be submitted to each authority and the appropriate fee paid. This differs from the previous requirement to only submit a fee to the authority where the largest part of the development lies.

3.2.8 Renewal of planning permission

28. With the changes made to the planning system in 2009, the duration of planning permission is no longer specified as a condition. This means that developers will no longer be able to seek to renew permissions through a section 42 consent. Recognising that there are inherent costs in dealing with such applications and given the current economic climate the Scottish Government have decided to introduce a new fee for renewals of existing permissions. Fees for renewals will be 50% of the fee that would be payable if it were a new consent. An application to renew a lapsed consent will continue to attract a full fee.

**Question 6:** Do you agree or disagree with the proposal that there should be a separate fee for renewals of planning permission? 
Agree/Disagree

3.2.9 Subsequent Applications

29. There are costs associated with dealing with any planning application including processing, registration, validation and neighbour notification. The proposed regulations introduce a new charge for any subsequent application made within 12 months of being granted, refused or withdrawn. The cost of resubmitting such an application will be 50% of the fee that would be payable if it were a new application.

**Question 7:** Do you agree or disagree that the new fee is set at an appropriate level? Agree / Disagree

3.3 Annual increases

30. It is Ministers' intention to make provision within the regulations for fees to increase on an annual basis in line with the retail price index (RPI). This increase would be automatic and the uplift would take place on 1 April each year.

**Question 8:** Do you agree or disagree with the proposal that the fee should increase on an annual basis? Agree/Disagree

3.4 What is not changing

31. The following exemptions will continue to apply:
- Means of access for disabled persons
- Restriction on permitted development rights
• Use specified in the Town and Country Planning (Use Classes) (Scotland) Order 1997
• Winning and working of minerals relating to subsisting permissions

32. The following discounts will continue to apply:
• Applications by community councils
• Applications by non-profit organisations providing facilities for sport or recreation
• Applications arising from a condition of a planning permission in principle: subsequent applications
• Applications to vary or not comply with a condition of a previous planning permission
• Applications relating to 2 or more proposals for development of the same land
• Applications for prior notification and approval although the fee will be increased to £100.

3.5 Categories of Fees

33. The table of fees set out at the end of Schedule 1 contains the categories and appropriate fees for each application. The changes to the category type and fee level are set out below.

34. The proposed fees regulations recognises that different developments have different costs, the regulations introduce new categories for retail and leisure along with one for energy generation projects.

TABLE OF FEES

3.5.1 Category 1 - Residential Development

35. The Scottish Government recognises that, whether a planning application is for a single residential unit or 10, a large proportion of the work that goes into making a decision on the application is dependent on the initial decision on the suitability of the site for housing. With this in mind we have decided that the fee for a single house should therefore more accurately reflect the processing and advertising costs associated with making a determination on the suitability of the site. The cost of a single house development, or the first unit of a larger development will be £800. The planning fee per unit will be £500 for developments between 2 and 49 units (inclusive). Housing developments containing 50 residential units would pay £24,800 and any additional unit will be charged at £200 per unit until the fee maximum of £100,000 is reached.

36. For applications for planning permission in principle (PPP) the fee for one residential unit will be £800 and where the application is based on site size the fee will rise on a £500 per 0.1 ha incremental basis until the maximum for PPP (£50,000) is reached.
3.5.2 **Categories 2, 3, 4 and 5 - Extensions and Alterations to Existing Dwellings**

37. Developments relating to the alteration and extension of dwellings has been split into two different types of development and the fees have been adjusted accordingly. There should also be a clear distinction between the work involved in the creation of an extension to a dwelling and other smaller ancillary developments such as replacement windows, fences and garden huts and that fees are more commensurate with the work involved in making a decision on such applications.

38. The fee for an application to enlarge an existing dwelling will increase to £300. Enlargement should be considered to be any development that alters the internal volume of a dwelling. This would usually be through the addition of extensions or dormer windows. An application relating to two or more dwellings within this category will attract a maximum fee of £600.

39. The fee for an application for alterations to dwellings, as well as operations within the curtilage of an existing dwelling will be £100 per dwelling subject to a maximum of £200. This includes a range a developments that improve or alter a dwelling along with other developments within the curtilage of the dwelling which are for purposes ancillary to the enjoyment of the dwelling. This will include replacement windows, sheds, gates, fences and other enclosures, garages and micro-generation equipment.

40. Applications for PPP for the erection of buildings under these categories will incur the same fees.

3.5.3 **Category 6 – Retail and Leisure**

41. Retail and leisure developments can have significant impacts and require careful consideration from the planning authority and often require retail and traffic impact assessments.

42. Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created.

43. Applications for development creating no new floor space, or not more than 50 m\(^2\) of new floor space will be charged a fee of £200.

44. For developments above 50m\(^2\) the fee is £1,000 for the first 50-100m\(^2\) of the development followed by £500 per 100m\(^2\) thereafter up to 2,500m\(^2\), then the fee rises to £800 per 100m\(^2\) or part thereof subject to a maximum of £100,000. For example the following fees would be payable:
Small 1,500m²
- current = £6,300
- proposed = £8,000

Medium 5,000m²
- current = £15,950
- proposed = £33,000

Large 10,000m²
- current = £15,950
- proposed = £73,000

3.5.4 Category 7 - Business and Commercial

45. Business and industry developments, whilst possibly large, tend not to have significant effect on local authority resources. This category covers those developments not covered by residential, agriculture, retail and leisure. We consider that planning fees should not be a deterrent for the expansion of small to medium enterprises therefore the fees are designed to encourage affordable levels of expansion for small to medium businesses. Fees will be calculated based on the floor area/site size being covered.

46. Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created. Applications for development creating no new floor space, or not more than 50m² of new floor space, are charged a fee of £200. For buildings above that size the fee is £600 for the first 100m² of floor space with this falling to £300 per additional 100m² or part thereof subject to a maximum of £100,000.

47. Applications for PPP will rise on an incremental basis until the maxima for PPP (£50,000) is reached.

3.5.5 Category 8 - Agricultural Buildings And Glasshouses

Agricultural buildings

48. The Scottish Government considers that linking fee levels for agricultural buildings and developments to housing developments as has occurred in the past is disproportionate to the value of the development and the actual work involved in processing such applications.

49. The current regulations provide that an application for planning permission for buildings under 465m² which do not have permitted development rights require no fee to be paid. This will no longer be the case and the fee will rise from the outset based on the development size.

50. Applications for agricultural buildings (other than glasshouses as shown below), as defined in the Interpretation of Part 6 of the General
Permitted Development Order will be charged at the rate of £100 for every 100m² or part thereof subject to a maximum of £100,000.

Glasshouses

51. Applications for the erection of glasshouses on land used for agriculture will attract a fee of £100 per 0.1 ha subject to a maximum of £2,000. There is no provision within the fees regulations for applying for planning permission in principle for such developments.

3.5.6 Categories 9 and 10 - Electricity Generation

52. Currently all such applications fall within the plant and machinery category. Given the rise in numbers of applications for wind turbines, wind farms, energy from waste plants etc., the Scottish Government has concluded that there should be a separate fee category for these. The fee category is split into two parts, one of which covers turbines and windfarms, the other covering all other generation.

Windfarms (category 9)

53. A distinction has been made between single wind turbines under 15 m to hub height, and those over 15 m and 50 m. This is because it is acknowledged that any turbine with a hub height over 15 m is required to be screened for EIA purposes and those over 50 m require significant resource input by authorities. Otherwise the fees for windfarms will be based on their site size.

- A single wind turbine < 15 m will attract a fee of £500
- A single wind turbine > 15 m and <= 50 m will attract a fee of £1,500
- A single wind turbine > 50 m will attract a fee of £5,000
- Windfarms totalling 2 or more turbines will be charged at £500 per 0.1 ha up to a maximum of £100,000.

- Applications for PPP will rise on an incremental basis until the maxima of £50,000 is reached.

**Question 9:** Is using site area the best method of calculating fees for windfarms of more than 2 turbines? Y/N

If not, could you suggest an alternative? In your response please provide any evidence that supports your view.

54. Ministers will give consideration as to whether a revised fee level for Electricity Act applications is appropriate and a separate consultation will be issued in due course on this issue.

Other energy generation projects (category 10)

55. Other energy generation projects which are not windfarms will be based on their site size or floor space and the fees calculated accordingly. The first 100m² of floor space to be created will be £1,000 with £500 for every 100m² thereafter to a maximum of £100,000.
56. Applications for PPP will rise on an incremental basis until the maxima for PPP (£50,000) is reached.

3.5.7 Category 11 – Exploratory Drilling for Oil and Natural Gas
57. There are no changes in how this fee is calculated. Applications in respect of on-shore oil and natural gas exploration will continue to be charged according to the area of the site at a rate of £500 per 0.1 ha or part thereof, subject to a maximum of £100,000.

3.5.8 Category 12 – Placing or Assembly of Equipment on Marine Waters for Fish Farming
58. There are no changes in how fish farming fees are calculated. Whilst responses to the consultation paper did request that there should be a separate fee structure for shellfish and finfish farming, the Scottish Government have concluded that a single fee structure will continue to apply to both these types of marine farms.
59. The fee will increase as noted in the table of fees and will comprise, £200 for each 0.1 hectare of the surface area of the marine waters which are to be used in relation to the placement or assembly of any equipment for the purposes of fish farming and £75 for each 0.1 hectare of the sea bed to be used in relation to such development, subject to a maximum of £100,000.

3.5.9 Category 13 – Plant and Machinery
60. Applications for the installation of plant and machinery are charged according to the area of the site at a rate of £500 per 0.1 hectare or part thereof, subject to a maximum of £100,000.

3.5.10 Category 14 – Access, Car Parks etc. for Existing Uses
61. We are making no change to this category. Applications for the construction of service roads, other accesses, or car parks serving an existing use on a site are subject to a flat rate fee of £250.

3.5.11 Categories 15, 16 and 17– Winning and Working of Minerals, peat and other operations
62. Applications for the winning and working of minerals (other than peat) will continue to be charged according to the area of the site at a rate of £500 for the first 0.1 ha of the site and after that at a rate of £250 per 0.1 ha or part thereof, subject to a maximum of £100,000.
63. No change has been made to how fees for applications for the winning and working of peat are calculated. They will continue to be charged at the rate of £200 for each hectare of the site area, subject to a maximum of £5,000.
64. Operations for any other purpose are charged at the rate of £200 for each 0.1 hectare of the site area, subject to a maximum of £4,000.
3.5.12 Categories 18 and 19 – Waste Disposal and Minerals Stocking

65. Applications for the disposal of waste or minerals stocking, will be charged according to the area of the site with the first 0.1 ha requiring a fee of £500 followed by a rate of £200 per 0.1 ha or part thereof, subject to a maximum of £100,000.

3.5.13 Categories 20, 21 and 22 - Changes of Use

Conversion of Flats and Houses Etc (category 20)

66. Applications for the change of use of any building to use as one or more separate dwellinghouses are charged at the same rate as residential units. £800 for the first house and £500 for each new dwellinghouse created between 2 and 49 units and thereafter £200 per house, subject to a maximum of £100,000. Whilst there is no major change to how this is calculated, the calculation of the fee will reflect the new higher charge for the first house.

Other Changes of Use (categories 21 and 22)

67. Given the responses to the consultation and discussions held with planning authorities we consider that the fee for change of use needs to be changed. We appreciate that applications for the change of use of large site areas can be resource intensive. In view of this applications for the change of use of buildings or land (other than the conversion to, or subdivision of, dwellinghouses, the tipping of waste or the stocking of minerals and spoil) will be now be charged separately.

68. Change of use of a building will be charged at £500 per application.

69. The fee for a change of use of land will be based on the site area with an initial fee of £500 for the first 0.1 ha and £200 for each 0.1 ha or part thereof up to a maximum of £100,000.

Question 10: Please list any types of developments not included within the proposed categories that you consider should be.

SCHEDULE 2 – APPLICATIONS FOR CERTIFICATES OF LAWFUL USE OR DEVELOPMENT AND CERTIFICATES FOR PROPOSED USE OR DEVELOPMENT

70. There are two changes to the provisions contained within this schedule, one new provision has been introduced for applications for certificates that relate to householder developments and a change to how fees should be calculated for cross boundary developments.

71. While current legislation enables applicants to seek a certificate of lawfulness of proposed use, they should also be able to request straightforward advice from the planning authority about whether or not their proposals require planning permission. In some cases, however, applications for certificates are promoted as the only option open to applicants seeking written advice on whether or not planning permission is required. Given the changes to householder permitted
development rights and continuing concerns about that practice we propose that no fee will be payable for applications for proposed development under this category. Applications for proposed use falling under categories 2, 3, 4 and 5 of the table of fees should therefore attract no fee. Those relating to established use would continue to attract a fee.

72. As noted earlier in the paper where an application falls over more than one authority area the appropriate fee should be paid to each authority.

**SCHEDULE 3 – APPLICATIONS FOR CONSENT FOR THE DISPLAY OF AN ADVERTISEMENT**

73. There are no changes to the provisions contained within this schedule apart from the increase in the fee to £300.

**Question 11:** We would welcome any other views or comments you may have on the contents and provisions of the new regulations.
SECTION B – DRAFT REGULATIONS


SCOTTISH STATUTORY INSTRUMENTS

2012 No.

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2012

Made - - - -

Coming into force - -

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 252 of the Town and Country Planning (Scotland) Act 1997(1) and all other powers enabling them to do so.

In accordance with section 252(6)(2) of that Act, a draft of the Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications) (Scotland) Regulations 2012 and come into force on [      ].

(2) These Regulations apply to applications described in regulation 3 that are made on or after the day these Regulations come into force.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

the 1997 Act” means the Town and Country Planning (Scotland) Act 1997;

application” means an application referred to in regulation 3(2);

community council” means a community council established under section 51 of the Local Government (Scotland) Act 1973(3);

dwellinghouse” means a building or part of a building used as a single private dwelling but does not include a flat;

equipment”(4) has the same meaning as in section 26(6) of the 1997 Act;

(1) 1997 c. 8. Section 252 was amended by section 31(b) of the Planning etc. (Scotland) Act 2006 (asp 17). The functions of the Secretary of State in so far as within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) Section 252(6) was modified by paragraph 5 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(3) 1973 c. 65. Section 51 was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 14, paragraph 1.
—fish farming”(5) has the same meaning as in section 26(6) of the 1997 Act;  
—Hat” means a dwelling which is a separate and self-contained set of premises whether or not on the same floor and forming part of a building from some other part of which it is divided horizontally;  
—the General Permitted Development Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(6);  
—local developments” has the meaning given by regulation 2 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009(7);  
—major developments” has the meaning given by regulation 2 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;  
—marine waters” means the waters described in section 26(6)(b) and (c)(8) of the 1997 Act;  
—national developments” means development or classes of development designated as such in the National Planning Framework under section 3A(4)(b) of the 1997 Act(9);  
—planning permission in principle” has the same meaning as in section 59(10) of the 1997 Act; and  
—the table” means the table set out in Part 3 of Schedule 1 (fees for applications for planning permission and for applications for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle).

(2) In these Regulations a reference to a numbered paragraph in a Schedule is a reference to the paragraph with that number in that Schedule.

Payment of fees

3.—(1) When an application is made to a planning authority a fee is payable to that authority in accordance with the provisions of this regulation.

(2) The fee payable for an application for—

(a) planning permission or approval, consent or agreement required by a condition imposed on a grant of planning permission in principle is to be determined in accordance with Schedule 1;

(b) a certificate of lawful use or development under section 150 of the 1997 Act or a certificate of proposed use or development under section 151 of that Act is to be determined in accordance with Schedule 2; and

(c) consent for the display of an advertisement is to be determined in accordance with Schedule 3.

(d) a determination as to whether the prior approval of the authority will be required in relation to development under Schedule 1 to the General Permitted Development Order (classes of permitted development) is £100.

(3) Any fee payable under this regulation must—

(a) accompany the application; and

(b) be refunded if the application is rejected as invalidly made.

(4) The definition of “equipment” was inserted into section 26(6) by the Water Environment and Water Services (Scotland) Act 2003 (asp 3), section 24(2)(a)(iii).

(5) The definition of “fish farming” was inserted into section 26(6) by the Planning etc. (Scotland) Act 2006 (asp 17), section 3(1)(c)(iv).

(6) S.I. 1992/223, as amended by [   ].

(7) [   ].

(8) Section 26(6)(a) to (c) was substituted by the Planning etc. (Scotland) Act 2006, section 3(1)(c)(i).

(9) 1997 c. 8. Section 3A was inserted by section 1 of the Planning (Scotland) Act 2006 (asp 17).

(10) Section 59 was amended by the Planning etc. (Scotland Act 2006, section 21.
Amendments

4.—(1) The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993(11) are amended in accordance with this regulation.

(2) In regulation 25—
   (a) in paragraph (1) (fees for applications for hazardous substances consent)—
      (i) in sub-paragraph (a), for “£200” substitute “£500”;
      (ii) in sub-paragraph (b), for “£400” substitute “£1,000”; and
      (iii) in sub-paragraph (c), for “£250” substitute “£500”; and
   (b) in paragraph (2) (fees for applications for continuation of hazardous substances consent), for “£200” substitute “£500”.

5.—(1) The Conservation (Natural Habitats, &c.) Regulations 1994(12) are amended in accordance with this regulation.

(2) For regulation 63(2) (general development orders: fees for applications for approval) substitute—
   “(2) The fee payable in connection with an application for such approval is £100.”.

Revocation

6. The Orders specified in column 1 in Schedule 4 are revoked to the extent specified in the corresponding entry in column 3.

SCHEDULE 1

Regulation 3(2)(a)

FEES FOR APPLICATIONS FOR PLANNING PERMISSION AND FOR APPLICATIONS FOR APPROVAL, CONSENT OR AGREEMENT REQUIRED BY A CONDITION IMPOSED ON A GRANT OF PLANNING PERMISSION IN PRINCIPLE

Part 1

Applications where no fee is payable

Means of access for disabled persons

1.—(1) No fee is payable under regulation 3(1) and (2)(a) where the planning authority to which an application is made is satisfied as to the matters specified in sub-paragraph (2)(a) or (b).

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(11) S.I. 1993/323, to which there are amendments not relevant to this instrument.
(2) The matters referred to in paragraph (1) are that—

(a) the application relates solely to the carrying out of operations for the alteration or extension of a dwellinghouse (but not including the erection of a dwellinghouse) or other operations within the curtilage of a dwellinghouse for the purpose of—

(i) providing means of access to or within the dwellinghouse for a disabled person who resides or proposes to reside in that dwellinghouse; or

(ii) providing facilities designed to secure that person’s greater safety, health or comfort; or

(b) the application 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 premises to which members of the public are admitted.

(3) In this paragraph, “disabled person” has the meaning given by section 6 of the Equality Act 2010(13).

Restrictions on permitted development rights

2.—(1) No fee is payable under regulation 3(1) and (2)(a) where the planning authority to which an application is made is satisfied as to the matters specified in sub-paragraph (2).

(2) The matters referred to in paragraph (1) are that—

(a) the application relates solely to development within one or more of the classes specified in Schedule 1 to the General Permitted Development Order; and

(b) the permission granted by article 3 of that Order does not apply in respect of that development by reason of—

(i) a direction made under article 4 of that Order 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 III of the 1997 Act otherwise than by that Order.

(3) The reference in sub-paragraph (2)(a) to an application which relates to development which is within one or more of the classes specified in Schedule 1 to the General Permitted Development Order includes an application 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 has been granted, and which prohibits or limits the carrying out of any development which is within one or more of those classes.

Use specified in the Town and Country Planning (Use Classes) (Scotland) Order 1997

3. No fee is payable under regulation 3(1) and (2)(a) where the planning authority to which an application is made is 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) (Scotland) Order 1997(14);

(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 for the use to which the application relates is necessary because of a condition imposed on a permission granted or deemed to be granted under Part III of the 1997 Act.

(13) 2010, c. 15.
(14) S.I. 1997/3061, as relevantly amended by [ ].
Winning and working of minerals

4. No fee is payable under regulation 3(1) and (2)(a) in relation to an application 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; or
(b) does not seek permission for development which is not authorised by a subsisting permission.

PART 2
Modified Fees

Applications by community councils

5. Where an application is made by a community council, the fee payable is 50 percent of the fee that would have been payable were it not for this paragraph.

Applications by non-profit organisations providing facilities for sport or recreation

6.—(1) Where an application is made by a club, society, trust or other organisation not established or conducted for profit and whose objects are the provision of facilities for sport or recreation, and the conditions specified in sub-paragraph (2) are satisfied, the fee payable is £500.

(2) The conditions referred to in sub-paragraph (1) are that—

(a) the application relates to—

(i) the making of a material change in the use of land to use as a playing field; or
(ii) the carrying out of operations other than the erection of a building containing floor space, for purposes ancillary to the use of land as playing field, and to no other development; and

(b) the planning authority with which the application is lodged is satisfied that the development is to be carried out on land which is, or is intended to be, occupied by the club, society, trust or organisation and used wholly or mainly for the carrying out of its objects.

Applications for development relating to an existing dwelling in a conservation area

7.—(1) A fee calculated in accordance with sub-paragraph (2) is payable where the planning authority to which an application is made is satisfied that the application relates solely to development—

(a) within a conservation area; and

(b) within classes 1A to 4A (development relating to an existing dwelling in a conservation area) of Schedule 1 to the General Permitted Development Order.

(2) The fee payable for the application for planning permission is 50 percent of the fee that would have been payable were it not for this paragraph.

(3) The reference in sub-paragraph (1) to an application which relates to development within classes 1A to 4A of Schedule 1 to the General Permitted Development Order includes an application 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 has been granted, and which prohibits or limits the carrying out of any development which is within one or more of those classes.
Applications arising from a condition of a planning permission in principle: subsequent applications

8.—(1) This paragraph applies where—

(a) an application is made for approval, consent or agreement in respect of one or more matters requiring approval, consent or agreement in terms of a condition imposed on a grant of a planning permission in principle (“the current application”);

(b) the applicant has previously applied for approval, consent or agreement under the same planning permission in principle and paid fees in relation to one or more application; and

(c) no application for approval, consent or agreement has been made under that permission other than by the applicant.

(2) Where the amount of the fees referred to in sub-paragraph (1)(b) is the same or more than the amount that would be payable if the current application was in respect of all the matters requiring approval, consent or agreement in terms of conditions imposed on a grant of a planning permission in principle and in relation to the whole of the development authorised by the permission, the fee payable in respect of the current application is £500.

(3) Where—

(a) a fee referred to in sub-paragraph (1)(b) was paid at a rate lower than that payable at the date of the current application; and

(b) sub-paragraph (2) would apply if that fee had been paid at the rate applying at that date, the fee in respect of the current application is £500.

Expiry of planning permission

9.—(1) Where planning permission has been granted and the development to which the permission relates will not begin before the permission expires, the fee for an application for planning permission for the same development, and no other development, made before expiry of the existing permission is 50 percent of the fee which would be payable were it not for this paragraph.

Application following non-compliance with a condition of previous planning permission

10. Where an application relates to development to which section 42 of the 1997 Act applies (determination of applications to develop land without compliance with conditions previously attached) the fee for the application is—

(a) where the application relates to development within categories 2, 3, 4 or 5, £50;

(b) for development in the category of local developments, other than development described in sub-paragraph (a), £250; and

(c) for development in the category of major developments or national developments, other than development described in sub-paragraph (a), £500.

Subsequent applications

11.—(1) If a planning authority to whom an application described in paragraph 12 is made is satisfied as to the matters referred to in paragraph (2) the fee payable for the application is 50 percent of the fee which would be payable were it not for this paragraph.

(2) The matters are that—

(a) the application is made within the relevant period set out in paragraph 13; and

(b) the conditions in paragraph 14 are met.

12. The applications referred to in paragraph 12 are—
(a) applications for planning permission for development of the same character or description as development to which a previous application relates, and to no other development, made following—
(i) the withdrawal, before a notice of decision was issued, of the previous application;
(ii) the granting of planning permission for the development;
(iii) the refusal of the previous application by a planning authority or the Scottish Ministers, (which does not include a refusal of a review under section 43A(8) of the 1997 Act or a refusal of an appeal under section 47(1) of the 1997 Act);
(iv) a requirement to review the refusal of the previous application under section 43A(8)(a) of the 1997 Act (review by planning authority of refusal of planning permission);
(v) the making of an appeal against the refusal of the previous application under section 47(1)(a) of the 1997 Act (appeal to Scottish Ministers against refusal of planning permission);
(vi) a requirement to review the previous application under section 43A(8)(c) of the 1997 Act (review in default of planning decision);
(vii) the making of an appeal to the Scottish Ministers under section 47(2) of the 1997 Act (appeal in default of planning decision) in respect of the previous application.

(b) applications for approval, consent or agreement in respect of one or more matters requiring approval, consent or agreement under a condition imposed on a grant of a planning permission in principle, made following—
(i) the withdrawal, before a notice of decision was issued, of a previous application;
(ii) the granting of a previous application;
(iii) the refusal of a previous application by a planning authority or the Scottish Ministers;
(iv) a requirement to review a previous application under section 43A(8) of the 1997 Act (review of decision on application for planning permission);
(v) the making of an appeal to the Scottish Ministers under section 47(1) of the 1997 Act (right to appeal against planning decisions) in relation to a previous application;
(vi) a requirement to review a previous application under section 43A(8)(c) of the 1997 Act (review in default of a planning decision);
(vii) the making of an appeal to the Scottish Ministers under section 47(2) of the 1997 Act (appeal in default of a planning decision) in relation to a previous application.

(c) in this paragraph—
(i) in sub-paragraph (a) “previous application” means an application for planning permission made by the same applicant.
(ii) in sub-paragraph (b) “previous application” means an application for approval, consent or agreement under a condition imposed on a grant of planning permission in principle made by the same applicant.

13.—(1) The period within which an application must be made for the purpose of paragraph 11(2)(a) is 12 months from the date of, as the case may be—
(a) the making of the previous application where that application was withdrawn;
(b) the grant of planning permission in respect of the previous application;
(c) the grant of approval, consent or agreement under a condition imposed on a grant of a planning permission in principle in respect of the previous application;
(d) the refusal of the previous application by a planning authority or the Scottish Ministers (which does not include a refusal of a review under section 43A(8) of the 1997 Act or a refusal of an appeal under section 47(1) of the 1997 Act);
(e) the planning authority being required to review the decision on the previous application under section 43A(8) of the 1997 Act (review of decision on application for planning permission);

(f) the making of an appeal to the Scottish Ministers under section 47(1) of the 1997 Act (right to appeal against planning decisions) in respect of the previous application;

(g) where an application is made following a review under section 43A(8)(c) of the 1997 Act in respect of the previous application (review in default of a planning decision), the expiry of the period prescribed for the purposes of said section 43A(8)(c)(15); and

(h) where an application is made following an appeal under section 47(2) of the 1997 Act in respect of the previous application (appeal in default of a planning decision), the expiry of the period prescribed for the purposes of said section 47(2)(16).

(2) In this paragraph ―previous application‖ means, as the case may be,—

(a) an application by the same applicant for planning permission for development of the same character or description as development to which the new application relates, and to no other development; or

(b) an application by the same applicant for approval, consent or agreement under a condition imposed on a grant of a planning permission in principle in respect of the same matters, to which the new application relates and to no other matters.

14. The conditions referred in paragraph 12 are that—

(a) in the case of an application for planning permission which is not an application for planning permission in principle—

(i) the planning permission previously granted is not planning permission in principle; or

(ii) the previous application was not an application for planning permission in principle.

(b) in the case of an application for planning permission, the application relates to the same site as that to which the previous 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;

(c) in the case of an application for approval, consent or agreement required by a condition imposed on a grant of a planning permission in principle, the application relates to the same site as that to which the previous application related, or to part of that site and to no other land;

(d) no reduced fee has previously been paid for an application made by the same applicant in relation to the whole or any part of the site by virtue of paragraph 12, 13, 14 and this paragraph; and

(e) the fee payable in respect of the previous application was paid.

Applications for planning permission for development already carried out

15. Where an application relates to development to which section 33 of the 1997 Act (planning permission for development already carried out) applies, the fee payable in respect of the application is—

(a) where the application relates to development carried out without permission, the fee that would be payable if the application were for planning permission to carry out that development; and

(b) in any other case, £500.

(15) Under regulation 8 of the Town and Country Planning (Schemes of Delegation and Local Review) (Scotland) Regulations 2008 (S.S.I. 2008/433) the period is 2 months from the date on which the application is made.

(16) Under regulation 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 (S.S.I. 2008/432) (―the DMP Regulations‖) the period is 2 months from the date on which the application is made.
Applications relating to 2 or more proposals for development of the same land

16.—(1) Where an application is made—

(a) for planning permission in respect of 2 or more proposals for the development of the same land; or

(b) for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle in respect of 2 or more proposals for the carrying out of the development authorised by a planning permission in principle,

and application is made in respect of all the proposals on the same date and by the same applicant a single fee is payable in respect of all the proposals, calculated in accordance with sub-paragraph (2).

(2) The fee for each proposal must be calculated in accordance with paragraph 5 and the single fee payable in respect of all the proposals is the sum of—

(a) the amount equal to the highest fee calculated in respect of each of the proposals; and

(b) the amount calculated by adding together the fees for each of the proposals, other than the fee referred to in sub-sub-paragraph (a), and dividing that total by 2.

Mixed development: erection of buildings which are residential and non-residential

17.—(1) Where an application, other than an application for planning permission in principle, relates to development which is partly for a use referred to in category 1 and partly for a use referred to in category 6 or 7, the fee is to be calculated in accordance with sub-paragraphs (2) to (4).

(2) The amount of gross floor space to be created by that part of the development which is for a use within category 6 or 7 (―non-residential floor space‖) must be calculated in accordance with the relevant entry in column 3 of the table, and the sum payable in respect of that non-residential floor space is to be added to the sum payable in respect of that part of the development which is for a use within category 1 and, subject to sub-paragraph (4), the resulting sum is the fee payable.

(3) For the purpose of sub-paragraph (2), where any part of the development is to contain floor space for the purpose of providing common access or common services or facilities for persons occupying or using that building for residential purposes and for persons occupying or using it for non-residential purposes (―common floor space‖), the amount of non-residential floor space is to be assessed as including the same proportion of the common floor space as the amount of non-residential floor space in the building bears to the total amount of gross floor space in the building.

(4) Where an application to which this paragraph applies relates to development which is also within one or more than one of categories 2, 3 and 5 to 13 an amount must be calculated in accordance with each such category and if any of the amounts calculated exceeds the amount calculated in accordance with sub-paragraph (2) that higher amount is the fee payable in respect of all of the development to which the application relates.

(5) Where an application for planning permission in principle relates to development which is within more than one of the categories the fee payable in respect of the application is £500 for each 0.1 hectares of the site area, subject to a maximum of £50,000.

Other mixed development

18.—(1) Where an application, other than an application for planning permission in principle or an application referred to in paragraph 17, relates to development which is within more than one category the fee payable is calculated in accordance with paragraphs (2) and (3).

(2) The fee is calculated by—

(a) adding together the site area covered by each category of development to which the application relates (total site area); and

(b) calculating the fee which would be payable for each category of development referred to in the application if it covered the total site area.
(3) The fee payable is the highest of the sums calculated under paragraph (2)(b).

PART 3
Table of Fees.

Table of fees

19. Subject to paragraphs 1 to 18 the fee payable under regulation 3(1) and (2)(a) for a category of development in column 1 of the table must be calculated in accordance with the appropriate entry in column 3 of that table and paragraphs 20 to 23.

Categories of development

20. In this Part of Schedule 1—
(a) any reference to a category of development is a reference to one of the categories of development specified in column 1 of the table;
(b) in the case of an application for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle, references to the category of development to which an application relates are to be construed as references to the category of development authorised by the relevant planning permission in principle.

Calculation of area or floor space

21. Where, in respect of any category of development the fee must be calculated by reference to—
(a) the site area—
(i) that area is to be taken as consisting of the area of land to which the application relates; and
(ii) where the area is not an exact multiple of the unit of measurement specified in respect of the relevant category of development, the fraction of a unit remaining after division of the total area by the unit of measurement is to be treated as a complete unit; and
(b) gross floor space—
(i) the area of gross floor space is to be ascertained by external measurement of the floor space, whether or not it is to be bounded wholly or partly by external walls of a building; and
(ii) where the floor is to be measured by units of 100 square metres any floor space remaining after division of the gross floor space by 100 square metres is to be treated as 100 square metres.

Retail or leisure use

22. In relation to development within category 6, “retail or leisure use” includes use—
(a) as a theatre;
(b) as an amusement arcade or centre or funfair;
(c) for the sale of fuel for motor vehicles;
(d) for the sale or display for sale of motor vehicles;
(e) as a public house;
(f) for the sale of hot food for consumption off the premises;
(g) as a shop—
(i) for the retail sale of goods other than hot food;
(ii) that is a post office;
(iii) for the sale of tickets;
(iv) as a travel agency;
(v) for the sale of cold food for consumption off the premises;
(vi) for hairdressing;
(vii) for the direction of funerals;
(viii) for the display of goods for sale;
(ix) for the hiring out of domestic or personal goods or articles;
(x) as a launderette or dry cleaners; or
(xi) for the reception of goods to be washed, cleaned or repaired;
(h) for the sale of food or drink for consumption on the premises;
(i) as a hotel, boarding house, guest house or hostel, where no significant element of care is provided, other than—
   (i) premises where alcohol (within the meaning given by section 2 of the Licensing (Scotland) Act 2005) is sold, pursuant to a premises licence issued under that Act to persons other than residents or to persons other than persons consuming meals on the premises; and
   (ii) use as a dwellinghouse, a bed and breakfast establishment or a guesthouse where not more than 2 bedrooms are used for that purpose;
(j) as a cinema;
(k) as a concert hall;
(l) as a bingo hall or casino;
(m) as a dance hall or discotheque; or
(n) as a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreation, not involving motorised vehicles or firearms.

Fish farming in marine waters

23. In relation to development within category 8, the area of the sea bed to be used in relation to the development is the area which, if the anchorage or mooring points used in relation to the development were to be connected by straight lines, would be enclosed by such imaginary lines.

<table>
<thead>
<tr>
<th>Type of development</th>
<th>Type of permission sought</th>
<th>Fee</th>
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</thead>
<tbody>
<tr>
<td>I RESIDENTIAL BUILDINGS</td>
<td>Planning permission in principle</td>
<td>(a) Where only one dwelling is to be created, £800;</td>
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</tbody>
</table>
### Existing dwellings

2. The carrying out of operations which will result in a dwelling with increased or reduced volume [or which will replace existing volume]

3. The carrying out of operations to improve, add to or otherwise alter an existing dwelling (other than development within category 2);

4. The carrying out of any building, engineering or other operation or installation within the curtilage of an existing dwellinghouse or building containing one or more flats, including the erection of a building, for a purpose incidental to the enjoyment of that dwellinghouse or a flat within that building (other than development within category 2 or 3);

5. The erection or construction of gates, fences, walls or other means of

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<th>Type of development</th>
<th>Type of permission sought</th>
<th>Fee</th>
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<td></td>
<td>Planning permission</td>
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- **Planning permission in principle or planning permission**

<table>
<thead>
<tr>
<th>Where the application relates to—</th>
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<tr>
<td>(a) one dwelling, £300;</td>
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<tr>
<td>(b) 2 or more dwellings, £600.</td>
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<th>Planning permission in principal or planning permission</th>
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<th>Where the application relates to—</th>
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<tr>
<td>(a) one dwelling, £100;</td>
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<tr>
<td>(b) 2 or more dwellings, £200.</td>
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<tr>
<th>Planning permission in principle or planning permission</th>
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<tr>
<th>Where the application relates to—</th>
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<tbody>
<tr>
<td>(a) one dwellinghouse or flat, £100;</td>
</tr>
<tr>
<td>(b) 2 or more dwellinghouses or flats, £200.</td>
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<tr>
<td>Type of development</td>
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<tr>
<td>enclosure along a boundary of the curtilage of an existing dwellinghouse or building containing one or more flats.</td>
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</tbody>
</table>

II NON-RESIDENTIAL BUILDINGS

6. The construction of buildings, structures or erections for retail or leisure use (other than construction within category 1, 2, 4, 7 or 8).

<table>
<thead>
<tr>
<th>Planning permission in principle</th>
<th>Planning permission</th>
<th>£500 for each 0.1 hectare of the site area, subject to a maximum of £50,000;</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Where no floor area is created or where the area of gross floor space to be created does not exceed 50 square metres, £200</td>
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<tr>
<td>(b) Where the area of gross floor space to be created exceeds 50 square metres but does not exceed 100 square metres, £1,000</td>
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<tr>
<td>(c) Where the area of gross floor space to be created exceeds 100 square metres but does not exceed 2,500 square metres, £1,000 plus £500 per 100 square metres in excess of 100 square metres</td>
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<tr>
<td>(d) Where the area of gross floor space to be created exceeds 2,500 square metres, £13,000 plus £800 per 100 square metres, subject to a maximum of £100,000.</td>
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<td>Type of development</td>
<td>Type of permission sought</td>
<td>Fee</td>
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<tr>
<td>7. The construction of buildings, structures or erections for non-residential use (other than construction within category 4, 6 or 8).</td>
<td>Planning permission in principle</td>
<td>£300 for each 0.1 hectare of the site area, subject to a maximum of £50,000;</td>
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<td>Planning permission</td>
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<tr>
<td></td>
<td>(a) Where no floor space is to be created or the area of gross floor space to be created does not exceed 50 square metres, £200;</td>
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<td></td>
<td>(b) Where the area of gross floor space to be created exceeds 50 square metres but does not exceed 100 square metres, £600 per 100 square metres.</td>
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<td></td>
<td>(c) Where the area of gross floor space to be created exceeds 100 square metres, £600 plus £300 for each 100 square metres in excess of 100 square metres, subject to a maximum of £100,000.</td>
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<tr>
<td>8. The erection on land used for the purposes of agriculture of—</td>
<td>Planning permission in principle</td>
<td>£100 for each 0.1 hectare of the site area, subject to a maximum of £50,000.</td>
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<td>Planning permission</td>
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<td></td>
<td>Planning permission</td>
<td>£100 for each 100 square metres of the site area, subject to a maximum of £100,000.</td>
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<td>Planning permission</td>
<td>£100 for each 0.1 hectare of the site area, subject to a maximum of £2,000.</td>
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<td>Planning permission</td>
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<td></td>
<td>(a) buildings to be used for agricultural purposes (other than glasshouses;</td>
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<td>(b) glasshouses.</td>
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<td>Type of development</td>
<td>Type of permission sought</td>
<td>Fee</td>
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<td><strong>III ENERGY GENERATION</strong></td>
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<tr>
<td>9. The erection of wind turbines and the carrying out of other operations ancillary to the generation of electricity by wind.</td>
<td>Planning permission in principle</td>
<td>£500 for each 0.1 hectare of the site area, subject to a maximum of £50,000</td>
</tr>
<tr>
<td></td>
<td>Planning permission</td>
<td>(a) Where only one turbine is to be installed and— (i) it will not exceed 15 metres in height, £500; (ii) it will exceed 15 metres in height, but will not exceed 50 metres in height, £1,500; (iii) it will exceed 50 metres in height, £5,000;</td>
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<td></td>
<td>(b) Where more than 1 turbine is to be installed, £500 for each 0.1 hectare of the site area subject to a maximum of £100,000.</td>
</tr>
<tr>
<td>10. Other energy generation projects, including biomass and energy from waste.</td>
<td>Planning permission in principle</td>
<td>£500 for each 0.1 hectare of the site area subject to a maximum of £50,000</td>
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<td></td>
<td>Planning permission</td>
<td>(a) Where the area of gross floor space to be created does not exceed 100 square metres, £1,000</td>
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<td>(b) Where the area of gross floor space to be created exceeds 100 square metres, £1,000 plus £500 for each 100 square metres, subject to a maximum of £100,000</td>
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<tr>
<td>11. The carrying out of any operations connected with the exploratory drilling for oil or natural gas.</td>
<td>Planning permission</td>
<td>£500 for each 0.1 hectare of the site area, subject to a maximum of £100,000.</td>
</tr>
<tr>
<td>Type of development</td>
<td>Type of permission sought</td>
<td>Fee</td>
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</tr>
<tr>
<td>12. The placing or assembly of equipment in any part of any marine waters for the purpose of fish farming.</td>
<td>Planning permission</td>
<td>£200 for each 0.1 hectare of the surface area of the marine waters to be used in relation to the placement or assembly of any equipment for the purposes of fish farming and £75 for each 0.1 hectare of the sea bed to be used in relation to such development, subject to a maximum of £100,000.</td>
</tr>
<tr>
<td>13. The erection, alteration or replacement of plant or machinery.</td>
<td>Planning permission</td>
<td>£500 for each 0.1 hectare of the site area, subject to a maximum of £100,000.</td>
</tr>
<tr>
<td>14. The construction of car parks, service roads and other means of access on land used for the purposes of a single undertaking, where the development is required for a purpose incidental to the existing use of the land.</td>
<td>Planning permission</td>
<td>£250.</td>
</tr>
<tr>
<td>15. Operations for the winning and working of minerals.</td>
<td>Planning permission</td>
<td>(a) Where the site area does not exceed 0.1 hectare, £500. (b) Where the site area exceeds 0.1 hectare, £500 plus £250 for each 0.1 hectares of the site area in excess of 0.1 hectare, subject to a maximum of £100,000.</td>
</tr>
<tr>
<td>16. Operations for the winning and working of peat.</td>
<td>Planning permission</td>
<td>£200 for each hectare of the site area, subject to a maximum of £5,000.</td>
</tr>
<tr>
<td>17. The carrying out of any operations not coming within any of the above categories.</td>
<td>Planning permission</td>
<td>£200 for each 0.1 hectare of the site area, subject to a maximum of £4,000.</td>
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</tbody>
</table>

**IV USE OF LAND**
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<thead>
<tr>
<th>Type of development</th>
<th>Type of permission sought</th>
<th>Fee</th>
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<tbody>
<tr>
<td>18. The use of land for the disposal of refuse [or waste materials] or for the deposit of material remaining after minerals have been extracted from land.</td>
<td>Planning permission</td>
<td>(a) Where the site area does not exceed 0.1 hectare, £500</td>
</tr>
<tr>
<td>19. The use of land for the storage of minerals in the open.</td>
<td>Planning permission</td>
<td>(b) Where the site area exceeds 0.1 hectares, £200 for each 0.1 hectare in excess of 0.1 hectares, subject to a maximum of £100,000;</td>
</tr>
<tr>
<td><strong>V CHANGE OF USE OF BUILDINGS OR LAND</strong></td>
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</tr>
<tr>
<td>20. The change of use of a building to use as one or more dwellings.</td>
<td>Planning permission</td>
<td>(a) Where the site area does not exceed 0.1 hectare, £500;</td>
</tr>
<tr>
<td>21. A material change in the use of a building (other than change of use referred to in category 20).</td>
<td>Planning permission</td>
<td>(b) Where the site area exceeds 0.1 hectares, £200 for each 0.1 hectare in excess of 0.1 hectares, subject to a maximum of £100,000;</td>
</tr>
<tr>
<td>22. A material change in the use of land (other than—</td>
<td>Planning permission</td>
<td>(c) Where the number of dwellings to be created exceeds 49 £24,800 plus £200 for each dwelling in excess of 49, subject to a maximum of £100,000.</td>
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<td>(a) a change of use within</td>
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<td>(a) Where the site area does not exceed 0.1 hectares, £500.</td>
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<tr>
<td><strong>Type of development</strong></td>
<td><strong>Type of permission sought</strong></td>
<td><strong>Fee</strong></td>
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<tr>
<td>category 20; (b) a change to use within category 18 or 19; or (c) a change in the use of equipment placed or assembled in marine waters for the purposes of fish farming.</td>
<td>(b) Where the site area exceeds 0.1 hectares, £500 plus £200 for each 0.1 hectares (or part there), subject to a maximum of £100,000.</td>
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SCHEDULE 2

APPLICATIONS FOR CERTIFICATES OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT AND CERTIFICATES OF LAWFULNESS OF PROPOSED USE OR DEVELOPMENT

Part 1

Applications where no fee is payable

Means of access for disabled persons

1. No fee is payable under regulation 3(1) and (2)(b) where the planning authority is satisfied that an application under section 150 or 151 of the 1997 Act relates solely to the carrying out of operations specified in paragraph 1 of Schedule 1 (means of access for disabled persons) for the purposes specified in that paragraph.

Development relating to existing dwellings

2. No fee is payable under regulation 3(1) and (2)(b) where the planning authority is satisfied that an application under section 151 of the 1997 Act relates solely to the carrying out of operations in categories 2 to 5 of the table.

Part 2

Fees payable

Applications for certificates of lawfulness of existing use or development

3.—— (1) Subject to paragraphs 4 to 7, the fee payable under regulation 3(1) and (2)(b) is—

   (a) in the case of an application under section 150(1)(a) or (b) of the 1997 Act (or both, as the case may be), 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 150(1)(c) of the 1997 Act, £500; and

   (c) in the case of an application under section 151(1) of the 1997 Act, 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).

Applications for certificates of lawfulness for proposed use or development

4. Where a use specified in an application under section 151(1)(a) of the 1997 Act is use as one or more separate dwellings, the fee payable in respect of that use is—

   (a) where the application relates to only one dwelling, £800;

   (b) where the application relates to more than one dwelling, £800 plus £400 for each dwelling in excess of one, subject to a maximum of £100,000.
Applications for certificates of lawfulness for existing and proposed use or development

5. Where an application is made under section 150(1)(a) or (b) of the 1997 Act (or under both paragraphs) and under section 150(1)(c) of the 1997 Act, the fee payable is the sum of the fees that would have been payable if there had been an application under section 150(1)(a) or (b) (or under both paragraphs, as the case may be) and a separate application under section 150(1)(c).

Subsequent applications

6.—(1) If all of the conditions in sub-paragraph (2) are satisfied, the fee set out in paragraph (3) is payable where—
   (a) an application under section 150 or 151 of the 1997 Act is made following the withdrawal (before notice of decision was issued) of an application made by or on behalf of the same applicant; or
   (b) an application under section 150 or 151 is made following the refusal of an application (whether by the planning authority or the Scottish Ministers on appeal) made by or on behalf of the same applicant.

   (2) The conditions referred to in sub-paragraph (1) are that—
      (a) the application is made within 12 months of—
         (i) the date when the earlier application was made, in the case of a withdrawn application; or
         (ii) the date of refusal, in any other case;
      (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 planning authority to which the application is made is 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 paragraph by paragraph 1 and 2.

   (3) The fee payable for an application for a certificate of lawfulness of existing use or development or proposed use is 50 percent of the fee which would otherwise be payable.

Applications by community councils

7. 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 to 6.
SCHEDULE 3

APPLICATIONS FOR CONSENT FOR THE DISPLAY OF AN ADVERTISEMENT

PART 1
Applications where no fee is payable

Disapplication of deemed consent

1. No fee is payable under regulation 3(1) and (2)(c) if the application is occasioned by a direction under regulation 11 (power to exclude the application of regulation 10) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(17) disapplying regulation 10 (advertisements which may be displayed without express consent) in relation to that advertisement

Subsequent applications

2.—(1) The fee payable for an application described in paragraph (2) is the fee set out in sub-paragraph (4) if the planning authority to which the application is made is satisfied that the conditions in paragraph (3) are met and that the application is made by the same applicant.

(2) The applications referred to in paragraph (1) are applications made following—

(a) the withdrawal of the application before notice of decision was issued; or

(b) the refusal of consent by the planning authority or by the Scottish Ministers on appeal, in respect of an application for the display of advertisements made by the same person.

(3) The conditions referred to in sub-paragraph (1) are—

(a) that the application is made within 12 months of—

(i) the date when the earlier application was made, in the case of a withdrawn application; or

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

(b) that the application relates to the same site as that to which the earlier application related, or to part of that site;

(c) that the planning authority to which the application is made is satisfied that it relates to an advertisement or advertisements, of the same description other than content, as the advertisement or advertisements to which the earlier application related;

(d) that the fee payable in respect of the earlier application was paid; and

(e) that no previous application has at any time been made by the same applicant which related to—

(i) the same site as the site to which the earlier application related; and

(ii) an advertisement of the same description other than content as any advertisement to which the earlier application related, and which was exempted from the provisions of this paragraph by sub-paragraph (1).

(f) The fee payable is 50 percent of the fee which would otherwise have been payable.

(17) S.S.I. 1984/467, as amended by [ ].
PART 2
Fees payable

Fee for each site

3.—(1) Subject to the provisions of sub-paragraphs (2) and paragraph 4, the fee payable in respect of each site on which one or more than one advertisement is to be displayed is £300.

(2) 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 is to be treated as one site for the purpose of this paragraph.

Applications by community councils

4. Where the application is made by a community council, the amount of the fee payable in respect of the application must be reduced by one half.

PART 3
Interpretation

5. Expressions used in this Schedule and in the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(18) have the meaning given in those Regulations.

(18)
### SCHEDULE 4

#### Regulation 4

**REVOCATIONS**

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
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<tbody>
<tr>
<td>The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004</td>
<td>S.S.I. 2004/219</td>
<td>The whole instrument</td>
</tr>
<tr>
<td>The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2007</td>
<td>S.S.I. 2007/253</td>
<td>The whole instrument</td>
</tr>
<tr>
<td>The Town and Country Planning (Charges for Publication of Notices) (Scotland) Regulations 2009</td>
<td>S.S.I. 2009/257</td>
<td>The whole instrument</td>
</tr>
<tr>
<td>The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2010</td>
<td>S.S.I. 2010/141</td>
<td>The whole instrument</td>
</tr>
<tr>
<td>The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment (No. 2) Regulations 2010</td>
<td>S.S.I. 2007/280</td>
<td>The whole instrument</td>
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</tbody>
</table>
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations repeal and replace the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations.
SECTION C - PARTIAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

1. Title of Proposal

The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2012.

2. Purpose and intended effect

2.1 Objectives

To ensure;

- that planning fees are more proportionate to the work involved
- planning authorities should overall receive adequate resources from the planning fee to allow them to carry out their development management functions
- the regulations are simpler and easier to administer
- the regulations establish a clear link to the performance of planning authorities
- the planning service recognises and delivers public value

2.2 Background

The resourcing of the planning system has long been an issue. There has been unanimous agreement that fee levels are too low and in many instances not proportionate to the work involved in processing applications. Having consulted on the issue in Resourcing a High Quality Planning System there was support for the retention of the fees structure but that it required to be modernised and updated to reflect the development types coming forward in Scotland.

The Town and Country Planning (Fees for Planning Applications) (Scotland) Regulations 2012, set out the scope of fees, exemptions, discounts, fee levels and how fees should be calculated for developments.

The new regulations have been restructured and simplified to ensure that they are easy to read and understand. The main changes to the regulations can be summarised as:-

- Increasing the fee maximum from £15,950 to £100,000
- Creation of new leisure and retail and energy generation classes to reflect complexities of such applications
- Increase in fee for the first house or 100m² of floorspace to reflect fixed processing costs
• Removal of the „free-go‟, which removes the right of the applicant to re-submit an application within 12 months of it being granted, refused or withdrawn
• New fees to renew permissions that have not yet lapsed and applications to vary or not comply with a condition
• Reduced fees for householder developments within Conservation Areas that do not benefit from permitted development rights

3. Consultation

3.1 Within Government

In light of the 2010 Resourcing a High Quality Planning System paper, the Scottish Government has worked with Heads of Planning Scotland (the umbrella body of local authority planning managers) and planning authorities through a series of workshops to develop a revised set of categories and fee levels.

Colleagues in other policy areas such as energy and marine fish farming were also consulted about the proposal.

3.2 Public Consultation

The draft regulations and consultation are being subjected to 3 months of public consultation. During this period we will also explore the issues further with stakeholders in a series of workshops. These will be detailed further in the finalised BRIA.

3.3 Business

We will use the consultation period to hold a number of workshops and one to one discussions with a wider range of business stakeholders.

4. Options

Five options on possible changes to the fees structure were put forward in the Resourcing a High Quality Planning System consultation paper. The most popular with both planning authority and business stakeholders was option 5 which was to retain the current structure but to update it to reflect the changes in applications coming forward.

4.1 Option 1: Do nothing

Do not change the current fees regulations. This would result in a continuing gap in resources between income received from planning applications and the costs of processing and making decisions.
4.2 Option 2: Introduce a new set of planning fees regulations

This is a fundamental revision of the current fees regulations. The proposed regulations attempt to ensure that planning fees are proportionate to the work involved in processing and deciding an application. The new regulations also introduce new fee categories to more closely reflect the changing face of development in Scotland with new specific categories for retail and leisure and energy generation. These new fees will provide certainty to developers in that the fee is expected to cover any pre-application discussions undertaken prior to the submission of an application and also advertising for the purposes of neighbour notification.

4.3 Sectors and groups affected

The sectors most likely to be affected by the proposals are:

- Planning authorities that are required to resource their development management service.
- All those who submit a planning application.

4.4 Benefits

It is difficult to accurately predict the impact on resources this will have for planning authorities. As noted in the consultation the types of development and the number of applications submitted vary hugely by authority in Scotland and it is inevitable that when it comes to the fees payable for developments there will be winners and losers.

The potential benefits of the changes to fee levels made by the regulations to planning authorities and business are as follows:

- Householders, depending on the type of development they wished to undertake, could pay less under the new regulations.
- The removal of the fee for Certificates of Proposed Use or Development for householder developments mean that there will be less ambiguity for householders who are seeking a view on whether or not they require to submit a planning application and fee for the work they wish to undertake.
- For those householders living in conservation areas there will be a reduced rate of fee in recognition of their lack of permitted development rights.
- Planning authorities will receive a fee more commensurate with the work actually involved in processing and dealing with an application. It is expected that such an increase will allow authorities to ensure their resources are appropriately allocated within their service.
- The fee is wrapped up in a single payment. Developers have the certainty that no other costs or fees will be required to be paid for either
pre-application discussions or advertising for neighbour notification purposes.

- The revocation of the need to recover the costs of advertising for the purposes of neighbour notification would remove a regulatory burden and allow local authorities to issue decisions immediately, rather than wait for payments to be made.

4.5 Costs

In most instances the costs for developers submitting planning applications will inevitably rise especially for those applications which currently meet the maximum fee cap as this is being increased from £15,950 to £100,000. For example, currently a 50 or 500 house development would pay £15,950. The consultation sets a fee maximum of £100,000. Under the proposals a housing development of 427 houses, a retail development of 13,000m² or a 20 hectare windfarm would reach this maximum. From discussions we have had with stakeholders it would appear that the planning application fee will still remain a small proportion of the total costs, which include land values, building standards as well as arranging finance.

The consultation recognises that all applications have a certain high fixed cost irrespective of size. It is therefore proposed that we increase the fee for the first unit – in particular for housing, retail and leisure and energy generation. This higher fee will also incorporate the advertising charges currently recovered from the applicant.

We have modelled the impact of the proposed changes on planning application data for 2010-11 provided by five planning authorities. To put this data into context, these five authorities determined over 14,000 applications (about 35% of all applications determined in Scotland). The fees associated with processing these applications was over £5 million.

Due to the quality of the data we have had to make a number of assumptions and have focused resources on examining the impact on householder applications (as they account for over 40% of all applications), housing (as this is a key sector and accounts for over 15% of all applications) and business and industry (5% of all applications).

It should be noted that development types and size will change year by year, the summary of the models illustrate that across the 5 authorities examined:-

- Householder applications currently generate over £0.9million. This may potentially increase to £1.2million. The average fee increasing from £170 to £230 a 35% increase. However, with a more permissive permitted development rights that were
introduced earlier this year we should see a decrease in householder applications.

- Housing applications currently generate over £2.5million. This may potentially increase to £5.2million. Applications for single dwellings will potentially see an increase in fees from £380 to £800. Applicants building between 2-10 dwellings will see their average fee increase from £1,200 to £1,800. Housing developments containing between 11-49 dwellings will see their average fee increase from £8,000 to £13,000. Whilst developments over 50 dwellings will see their average fee increase from £16,000 to over £40,000.

- Business and Industry applications currently generate over £1.0million. We have assumed that the majority of these applications relate to retail and leisure applications and therefore the fee will potentially increase income to over £1.5million – with the sharpest increase for developments between 50-100m². A small decrease in fee for the smallest developments with a floor space less than 50m² is expected.

The proposed approach ensures that fees reflect costs and that small to medium housing developers building between 2 and 10 dwellings (these account for 16% of all housing applications) see the smallest increase.

- Cost data we have received has shown that even small householder developments can be costly to process and whilst the fee has risen for those more substantial householder extensions it has also been substantially reduced for smaller more ancillary developments.

- Picking up on the point above a new reduced fee has been introduced for householder developments within a conservation area. The permitted development rights for householders do not extend to those dwellings in a conservation area therefore where an application comes forward for a development which, if it were not in a conservation area would otherwise have permitted development rights then only half the fee is payable.

- Anecdotal evidence has pointed to an increase in the number of applications for Certificates of Lawful Use of Development (CLUD) for householder developments. However, in most cases it would involve a simple judgement as to whether a development could rightly be carried out without the need for a planning application. Given this the fee for a CLUD for householder developments has been removed.

5. Scottish Firms Impact Test

As part of the consultation process we will consult directly with a range of businesses to understand the direct impacts of this legislation on their business. We are proposing to identify a number of impacted organisations through this consultation as well as discussions with umbrella organisations.
The relevant outcome of discussions will be fed into further development of the legislation.

5.1 Competition Assessment

The proposals are not expected to impact significantly more on some firms than others nor restrict new entrants to the market. The need to produce detailed plans are not impacted by these changes.

We consider that the freedom of firms to choose the price, quality range or location of their products will be unaffected. However we will check this view with the Office of Fair Trading for their views during the consultation period.

5.2 Test run of business forms

No new forms will be introduced as a result of this legislation therefore there is no requirement for a test run.

6. Legal Aid Impact Test

As far as we are aware these proposals have no impact in relation to Legal Aid, as the policy does not introduce any new procedures or right of appeal to a court or tribunal. We will consider this further in discussions with those colleagues who have policy responsibility for Legal Aid.

7. Enforcement, sanctions and monitoring

An application for planning permission is not valid unless the appropriate fee has been paid. Where the fee is incorrect or missing the planning authority can turn the application away.

Where a developer considers they have paid the correct fee but this is disputed by the planning authority then they can seek either a local review or appeal against non-determination.

As the consultation notes fee income and planning authority performance are inextricably linked. With an increase in resources through fee income Ministers expect to see an increase in performance and service delivery. As part of this planning authorities will be monitored and assessed against the Planning Performance Assessment Framework. Ministers are seeking powers to allow them to reduce fee levels for those authorities who do not show sustained improvement in performance.

8. Implementation and delivery plan

It is anticipated that the amendments will be laid before the Scottish Parliament in autumn 2012 and will come into force in late 2012. The consultation period will also be used to consider any transitional arrangements that may be required.
8.1 Post-implementation review

The Government will monitor how the changes have impacted on planning authority resources, the number and type of developments that come forward and whether the increased income has impacted on service and performance. We will continue to have close dialogue with all stakeholders to assess how the new regime is working and whether there are any particular areas of ambiguity.

The Government will liaise specifically with Heads of Planning Scotland to understand the effects of the changes.

9. Summary and recommendation

It is recommended that these regulations are implemented to ensure that the planning fees regime is proportionate, fit for purpose and accurately reflects the developments coming forward in modern Scotland. Planning authorities will see an increase in resources especially for those larger more resource intensive developments. The simplification of the regulations will make understanding and interpreting fees simpler. There will however be an impact on developers and development costs with such an increase but there is an expectation that any increase in resources will see an increase in performance level from authorities and the service they provide to business.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.
SECTION D – PARTIAL EQUALITIES IMPACT ASSESSMENT

The public sector equality duty requires the Scottish Government to pay “due regard” to the need to:

- Eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a relevant protected characteristic.

These three requirements apply across the “protected characteristics” of age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

Equality considerations are therefore integrated into all the functions and policies of Scottish Government Directorates and Agencies.

Equalities Impact Assessment (EQIA) enables us to consider how our policies may impact, either positively or negatively, on different sectors of the population in different ways.

This consultation paper sets out the Scottish Governments’ proposals for a new planning application fees structure and fee levels. These changes will ensure that the fees paid for planning applications are more proportionate and commensurate to the work involved in processing them.

Who is affected by the policy

The primary burden of these regulations will fall on those applicants and developers who wish to develop land and are therefore required to pay a fee for their planning application. In most circumstances these regulations will see an increase in fees for applicants although there will remain concessions for applications to create disabled access and reduced fees for community council applications, creation of playing fields and certain types of householder development in conservation areas.

Policy delivery

The initial consideration of the changes to fees lies with Scotland’s planning authorities. There is already a requirement to pay the appropriate fee to make a planning application valid and this lies with the applicant. A new circular will be produced to accompany the regulations.

How will the proposals affect the diverse needs and/or experiences of users of the planning system?

We are not aware of any evidence that any of the equality strands will be affected by the proposals. The proposals will affect all those seeking approval of a relevant planning application proportionately. However we recognise that there is scope to increase our knowledge as to how the proposals in the
consultation paper may affect particular sections of society. To assist in this, we have included a specific question in the consultation paper seeking views on whether these regulations have any particular impacts on societal groups that we should be aware of.
SECTION E – HOW TO RESPOND

Consultation is an essential and important aspect of the Scottish Government's working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a consultation paper inviting answers to specific questions or more general views about the material presented. Consultation papers are distributed to organisations and individuals with an interest in the issue, electronically or in hard copy and are placed on the Scottish Government's consultations webpage to allow for participation from a wider audience. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

The Scottish Government also has an email alert system for all consultations (SEconsult: [http://www.scotland.gov.uk/consultations/seconsult.aspx](http://www.scotland.gov.uk/consultations/seconsult.aspx)). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations. SEconsult allows you to register for consultations on specific topic areas across the Government. Please follow the SEconsult link above if you wish to register.

**Responding to this consultation paper**
We are inviting written responses to this consultation paper by **Friday 22 June 2012**. Please send your response to:

feesforplanningapplications2012@scotland.gsi.gov.uk

or

Fees for Planning Applications  
Directorate for the Built Environment  
Scottish Government  
2J (South) Victoria Quay  
Edinburgh  
EH6 6QQ
Please make sure you return your:

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<tr>
<td>1)</td>
<td>Response</td>
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<td>2)</td>
<td>Respondent Information Form</td>
</tr>
<tr>
<td>3)</td>
<td>Any comments on the partial Business Regulatory Impact Assessment</td>
</tr>
</tbody>
</table>

If you have any queries on the content of the consultation paper or the consultation process, please contact marie.ferguson@scotland.gsi.gov.uk on 0131 244 7067. Please indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

**Handling your response**

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** which forms part of this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

**While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.**

**Publishing responses**

Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library and on the SEconsult web pages within 6 weeks of the close of the consultation. Where agreement to publish has been given, we will check all responses for any potentially defamatory material before logging them in the library or placing them on the website.

You can make arrangements to view responses by contacting the Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

**What happens next?**

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the draft regulations. Final regulations will require to be laid in Parliament. Further details on the timing of this process will be available through the Modernising Planning page on the Scottish Government's Planning Homepage at [www.scotland.gov.uk/Topics/planning](http://www.scotland.gov.uk/Topics/planning).
All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: SEconsult (http://www.scotland.gov.uk/consultations).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to marie.ferguson@scotland.gsi.gov.uk on 0131 244 7067.
SECTION F - RESPONDENT INFORMATION FORM AND QUESTIONS

Please Note this form must be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

   Organisation Name

   Title  Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

   Surname

   Forename

2. Postal Address

   Postcode  Phone  Email

3. Permissions - I am responding as...

   Individual   /   Group/Organisation

   (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

      Please tick as appropriate  Yes  No

   (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

      Please tick ONE of the following boxes

      Yes, make my response, name and address all available
      Yes, make my response available, but not my name and address or
      Yes, make my response and name available, but not my address

   (c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

      Are you content for your response to be made available?

      Please tick as appropriate  Yes  No

   (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

      Please tick as appropriate  Yes  No
## CONSULTATION QUESTIONS

**Question 1:** Are there any costs or benefits not identified in the draft BRIA?

Comments

**Question 2:** Do you have any information or can you suggest sources of relevant information on the costs and/or benefits detailed in the BRIA at Section C?

Comments

**Question 3:** We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population. A partial EQIA is attached to this consultation at Section D, for your comment and feedback.

Comments

**Question 4:** Do you consider that linking fees to stages within processing agreements is a good or bad idea? What should the second trigger payment be?

Comments

**Question 5:** Do you agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation are restricted, then a reduced fee should be payable?

Agree [ ] Disagree [ ]

**Question 6:** Do you agree or disagree with the proposal that there should be a separate fee for renewals of planning permission?

Agree [ ] Disagree [ ]

**Question 7:** Do you agree or disagree that the new fee is set at an appropriate level?

Agree [ ] Disagree [ ]

**Question 8:** Do you agree or disagree with the proposal that the fee should increase on an annual basis?

Agree [ ] Disagree [ ]
Question 9: Is using site area the best method of calculating fees for windfarms of more than 2 turbines? If not, could you suggest an alternative? In your response please provide any evidence that supports your view.

Yes ☐ No ☐

Comments

Question 10: Please list any types of developments not included within the proposed categories that you consider should be.

Comments

Question 11: We would welcome any other views or comments you may have on the contents and provisions of the new regulations.

Comments