Draft Regulations laid before the National Assembly for Wales under section 303(8) of the Town and Country Planning Act 1990, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY INSTRUMENTS

2016 No. (W.)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 ("the 2015 Regulations").

Regulation 2 makes provision for fees payable in respect of requests for pre-application services made to local planning authorities(**1**).

Regulation 3 makes minor amendments to regulations 8(3), 9(3) and 15 of the 2015 Regulations in relation to applications for approval of reserved matters. These amendments are consequential to amendments to be made to articles 22 and 23 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 by the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.

Regulation 4(1) provides for reduced fees to be payable for applications under section 73 of the Town and Country Planning Act 1990 where an earlier application under section 96A(4) of that Act has been

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(**1**) For pre-application services, see the Town and Country Planning (Pre-Application Services) (Wales) Regulations 2016 (S.I. 2016/● (W. ●).

refused, partially refused or not determined within the relevant period(**1**).

Regulation 5(1) makes provision for fees payable in respect of amendments to applications for major development submitted before the local planning authority determine the application (post submission amendments).

The Regulatory Impact Assessment applicable to these Regulations is obtainable from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government website at www.wales.gov.uk.

(**1**) The relevant period is 28 days or such longer period as may be agreed, see article 28A of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (S.I. 2012/801 (W. 110).

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DRAFT WELSH STATUTORY INSTRUMENTS

2016 No. (W.)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2016

Made	*****
Coming into force	*16 March 2016*

The Welsh Ministers, in exercise of the powers conferred on them by sections 303 and 333(2A) of the Town and Country Planning Act 1990([1]), make the following Regulations:

In accordance with section 303(8) of that Act, a draft of this instrument was laid before and approved by resolution of the National Assembly for Wales.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2016 and they come into force on 16 March 2016.

(**1**) 1990 c. 8. Section 303 was substituted by section 199 of the Planning Act 2008 (c. 29) and was amended by section 27 of, and paragraph 18 of Schedule 4 to, the Planning (Wales) Act 2015 (anaw. 4). See section 336(1) of the 1990 Act for the meaning of “prescribed”. Other amendments are not relevant to these Regulations. Section 333(2A) was inserted by section 118(1) of, and paragraphs 1 and 14 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c .5).

(2) These Regulations apply in relation to Wales.

(3) In these Regulations "the 2015 Regulations" ("*Rheoliadau 2015*") means the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015(**1**).

Amendments in relation to requests for pre-application services

2.—(1) The 2015 Regulations are amended as follows.

(2) In regulation 1(3)—

(a) in sub-paragraph (a), after "these Regulations come into force;" omit "and";

(b) in sub-paragraph (ix), after "planning permission)" insert "; and";

(c) after sub-paragraph (b) insert—

"(c) to requests for the provision of pre-application services by a local planning authority."

(3) In regulation 2 at the appropriate places insert—

""the 2016 Regulations" ("*Rheoliadau 2016*") means the Town and Country Planning (Pre-Application Services) (Wales) Regulations 2016;" and

""waste development" ("*datblygiad gwastraff*") has the same meaning as in article 2(1) of the Development Management Procedure Order."

(4) After regulation 2 insert—

"**Fees for requests for pre-application services under the 2016 Regulations**

2A.—(1) Where a request for pre-application services is made to a local planning authority under the 2016 Regulations, a fee must be paid to that authority.

(2) The fee payable in respect of a request for pre-application services is calculated in accordance with Schedule 4.

(3) The fee must be paid to the local planning authority with whom the request is lodged and must accompany the request.

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

(5) After Schedule 3 insert Schedule 4 contained in the Schedule to these Regulations.

(**1**) S.I. 2015/1522 (W. 179).

Amendments relating to applications for approval of reserved matters

3.—(1) The 2015 Regulations are further amended as follows.

(2) For regulation 8(3) substitute—

"(3) In this regulation "valid application" ("*cais dilys*") has, in the case of an application for planning permission the same meaning as in article 22(3) of the Development Management Procedure Order, and in the case of an application for approval of reserved matters the same meaning as in article 23(3) of that Order(**1**)."

(3) In regulation 9(3)—

(a) after "in article 22(2)" insert " or 23(1)"; and

(b) after "the Development Management Procedure Order" insert " as the case may be".

(4) In regulation 15(1) after "Where an application" insert "(other than an application for approval of reserved matters)".

(5) In regulation 15(2) for "article 23" substitute "article 23(1)".

Amendments relating to applications made pursuant to section 73 of the 1990 Act

4.—(1) The 2015 Regulations are further amended as follows.

(2) In regulation 16(1)(a) for "householder application" substitute "householder change application".

(3) In regulation 16(5)—

(i) after "In this regulation" insert " and in paragraph 5A of Part 1 of Schedule 1" and

(ii) for ""householder application" ("*cais deiliad tŷ*")" substitute ""householder change application ("*cais am newid gan ddeiliad tŷ*")".

(4) In paragraph 5 of Part 1 of Schedule 1, for "Where" substitute "Subject to paragraph 5A, where".

(5) After paragraph 5 insert—

"**5A.**—(1) Where application is made pursuant to section 73 of the 1990 Act —

(a) following the refusal or partial refusal of an earlier application under section 96A(4) of the 1990 Act made by or on behalf of the same applicant; or

(**1**) Article 22(3) was amended by S.I. 2016/xxxx (W.xxxx)

(b) where the local planning authority have not given notice of their decision in respect of an earlier application under section 96A(4) of the 1990 Act made by or on behalf of the same applicant within the period specified in article 28A(7) of the Development Management Procedure Order([1]);

and all the conditions set out in sub-paragraph (2) are satisfied, the fee payable is the fee specified in sub-paragraph (3).

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

(a) the application is made within 6 months following—

(i) the date of the refusal or partial refusal of the earlier application; or

(ii) as the case may be, expiry of the period specified in article 28A(7) of the Development Management Procedure Order in relation to the earlier application;

(b) the local planning authority to whom application is made are satisfied that the application relates to development of the same character or description as the development to which the earlier application related (and to no other development);

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

(d) the applicant has not already paid a fee under this paragraph in respect of a previous application made pursuant to section 73 of the 1990 Act that related to development of the same character or description as the development to which the current application relates.

(3) The fee is—

(a) if the application is a householder change application, £160;

(b) in any other case, £95.”

Amendments in relation to fees for post submission amendments to applications for major development

5.—(1) The 2015 Regulations are further amended as follows.

(2) After regulation 16, insert—

(**1**) Article 28A was inserted by S.I.2014/1772 (W. 183).

“**Fees for post submission amendments to major development applications**

16A.—(1) Where an amendment to a valid application to which paragraph (2) applies has been submitted to a local planning authority in accordance with article 22(1A) of the Development Management Procedure Order, the fee specified in paragraph (3) must be paid to the local planning authority.

(2) This paragraph applies to an amendment to a valid application for major development.

(3) The fee is £190.

(4) In this regulation—

(a) “valid application” (“*cais dilys*”) has the same meaning as in article 22(3) of the Development Management Procedure Order;

(b) “major development” (“*datblygiad mawr*”) has the same meaning as in article 2(1) of the Development Management Procedure Order.”

Transitional Provision

6. The provisions in paragraphs (2) and (3) of regulation 3 of these Regulations do not apply in relation to an application for the approval of reserved matters made before these Regulations come into force.

Minister for Natural Resources, one of the Welsh Ministers
Date

SCHEDULE

“SCHEDULE 4 Regulation 2A

Fees in Respect of Requests for Pre-Application Services

PART 1

Fees payable under Regulation 2A

1.—(1) Subject to paragraph 2 of this Part, the fee payable under regulation 2A is calculated in accordance with the table set out in Part 2 and paragraphs 3 to 5.

(2) In this Part—

(a) a reference to a category is to a category of proposed development specified in the table set out in Part 2; and a reference to a numbered category is to the category so numbered in the table; and

(b) “householder application” (“*cais deiliad tŷ*”) has the same meaning as in article 2(1) of the Development Management Procedure Order.

2. Where a request for pre-application services relates to a proposed householder application, the fee payable is £25.

3. Where, in respect of any category, the fee is to be calculated by reference to the site area, that area must be taken as consisting of the area of land to which the proposed application relates.

4. In relation to proposed development within category 2 or 3, the area of the gross floor space to be created by the proposed development must 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.

5. Where a request for pre-application services relates to proposed development within more than one category, a single fee is payable which is the higher or highest of the fees calculated in accordance with each such category.

PART 2

Fees in Respect of Requests for Pre-Application Services

Category of proposed development	*Fee Payable*
1. The erection of dwellinghouses	(a) Where— (i) the number of dwellinghouses to be created by the proposed development is one to nine, £250, (ii) the number of dwellinghouses to be created by the proposed development is 10 to 24, £600, (iii) the number of dwellinghouses to be created by the proposed development exceeds 24, £1,000; (b) where the number of dwellinghouses to be created is not known and— (i) the proposed site area does not exceed 0.49 hectares, £250, (ii) the proposed site area is 0.5 to 0.99 hectares, £600, (iii) the proposed site area exceeds 0.99 hectares, £1,000.
2. The erection of buildings (other than dwellinghouses)	(a) Where— (i) the area of the gross floor space to be created by the proposed development does not exceed 999 square metres, £250, (ii) the area of the gross floor space to be created by the proposed development is 1,000 to 1,999 square metres, £600, (iii) the area of the gross floor space to be created by the proposed development exceeds 1,999 square metres, £1,000; (b) where the gross floor space to be created by the proposed development is not known and— (i) the proposed site area does not exceed 0.49 hectares, £250, (ii) the proposed site area is 0.5 to 0.99 hectares, £600, (iii) the proposed site area exceeds 0.99 hectares, £1,000.
3. The making of a material change in the use of a building or land	(a) Where the request for pre-application services relates to a proposed application for permission for a material change in the use of a building and— (i) the area of the gross floor space of the proposed development does not exceed 999 square metres, £250, (ii) where the area of the gross floor space of the proposed development is 1,000 to 1,999 square metres, £600,

		(iii) where the area of the gross floor space of the proposed development exceeds 1,999 square metres, £1,000; (b) where the request for pre-application services relates to a proposed application for permission for a material change in the use of land and— (i) the site area does not exceed 0.49 hectares, £250, (ii) the site area is 0.5 to 0.99 hectares, £600, (iii) the site area exceeds 0.99 hectares, £1,000.
4. The winning and working of minerals or the use of land for mineral-working deposits(**1**)	£600.	
5. Waste development	£600.	

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(**1**) For the definition of “mineral-working deposit” see section 336 of the 1990 Act.