

Draft Regulations laid before the National Assembly for Wales under section 303(5) of the Town and Country Planning Act 1990, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2014 No. (W.)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Town and Country Planning
(Fees for Non-Material Changes)
(Wales) Regulations 2014**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the payment of fees to local planning authorities in Wales in respect of applications for non-material changes to planning permission made under section 96A of the Town and Country Planning Act 1990. Regulation 4 provides for an exemption from fees in relation to the provision of access to or within a dwellinghouse for a disabled person. Regulation 5 provides for an exemption from fees in certain cases where permitted development rights have been withdrawn.

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.

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Made

Coming into force

1 September 2014

The Welsh Ministers, in exercise of the powers conferred by section 303 of the Town and Country Planning Act 1990 (“the 1990 Act”)(1), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is The Town and Country Planning (Fees for Non-Material Changes) (Wales) Regulations 2014.

(2) These Regulations come into force on 1 September 2014.

(3) These Regulations apply in relation to Wales.

(4) These Regulations apply to applications under section 96A(4) of the 1990 Act (power to make non-material changes to planning permission) made on or after the date on which these Regulations come into force.

(1) 1990 c. 8; sub-sections (1), (2) and (2A) of section 303 were substituted for sub-sections (1) and (2) as originally enacted by the Planning and Compulsory Purchase Act 2004 (c. 5) section 53(1) and (2). There are other amendments to section 303 and the rest of the 1990 Act which are not relevant to these Regulations.

Interpretation

2. In these Regulations—

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990;

“the 1995 Order” (“*Gorchymyn 1995*”) means the Town and Country Planning (General Permitted Development) Order 1995(1);

“dwellinghouse” (“*ty annedd*”) means a building or part of a building which is used as a single private dwelling and for no other purpose;

“householder application” (“*cais gan ddeiliad aelwyd*”) means an application to change a planning permission relating to development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse but does not include an application for change of use or an application to change the number of dwellings in a building.

Fees for applications for non-material changes to planning permission

3.—(1) Where an application is made under section 96A(4) of the 1990 Act (power to make non-material changes to planning permission) the following fee must be paid to the local planning authority—

- (a) if the application is a householder application, £25;
- (b) in any other case, £83.

(2) Where the local planning authority who receive the fee in accordance with this regulation—

- (a) are not the local planning authority who have to determine the application; and
- (b) forward the application to that authority,

they must transfer the fee to that authority at the same time as they forward the application to them.

(3) Any fee paid pursuant to this regulation must be refunded if the application is rejected as invalid.

Applications not subject to a fee: access

4.—(1) Regulation 3 does not apply where the local planning authority to whom the application is made are satisfied that it relates solely to—

- (a) the carrying out of operations for the alteration or extension of an existing dwellinghouse; or

(1) S.I. 1995/418.

- (b) the carrying out of operations (other than the erection of a dwellinghouse) in the curtilage of an existing dwellinghouse,

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure that person's greater safety, health or comfort.

(2) Regulation 3 does not apply where the local planning authority to whom the application is made are satisfied that it 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 (whether on payment or otherwise).

(3) In this regulation, "disabled person" means—

- (a) a person who is within any of the descriptions of persons to whom section 29 of the National Assistance Act 1948(1) applies; or
- (b) a child who is disabled for the purposes of Part III of the Children Act 1989(2).

Applications not subject to a fee: permitted development

5.—(1) Regulation 3 does not apply where the local planning authority to whom the application is made are satisfied—

- (a) that the application relates solely to development which is within one or more of the classes specified in Schedule 2 to the 1995 Order; and
- (b) that the permission granted by article 3 of that Order does not apply in respect of that development by reason of (and only 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 3 of the 1990 Act otherwise than by that Order.

(2) The reference in paragraph (1)(a) to an application which relates to development which is

(1) 1948 c. 29 section 29(1) has been amended by the Local Government Act 1972 (c. 70) section 195, Schedule 23, paragraph 2 and the Children Act 1989 (c. 41) section 108(5) and (6), Schedule 13, paragraph 11(2), Schedule 14, paragraph 1. There are other amendments which are not relevant to these Regulations.

(2) 1989 c. 41. There are amendments to this Act which are not relevant to these Regulations.

within one or more of the classes specified in Schedule 2 to the 1995 Order is to be construed as including an application for non-material changes to a 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, where the condition in question prohibits or limits the carrying out of any development which is within one or more of those classes.

Name

Minister for Housing and Regeneration, one of the
Welsh Ministers

Date