

2018 No. (W.)

WATER INDUSTRY, WALES

**The Sustainable Drainage
(Application for Approval Fees)
(Wales) Regulations 2018**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for an approving body to charge fees in relation to applications for approval of sustainable drainage systems pursuant to Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

Regulation 3 provides that an approving body may charge a fee (an “application fee”) in relation to an application for approval of a drainage system, and that such fees must be determined in accordance with these Regulations.

Regulation 4 provides for the method of determination of application fees, subject to regulations 5 to 9.

Regulation 5 provides for discounted application fees in cases where an application is made by a community council.

Regulation 6 provides that in cases where, before it is determined, an application is modified by agreement between the approving body and the applicant, no additional fee is payable with respect to the agreed modification.

Regulation 7 provides for discounted fees in relation to applications involving two or more alternative proposals for a drainage system.

Regulation 8 provides for fees to be payable for inspections, where an approving body grants approval subject to a condition that one or more inspections take place.

Regulation 9 provides for a discounted application fee where a developer makes a subsequent application for approval relating wholly or mainly to a drainage system that has been previously approved within the period of 12 months preceding the subsequent application.

Regulation 10 provides for refund of application fees in certain circumstances.

A regulatory impact assessment in relation to Wales has been prepared on the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales.

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**The Sustainable Drainage
(Application for Approval Fees)
(Wales) Regulations 2018**

Made 10 October 2018

Laid before the National Assembly for Wales
15 October 2018

Coming into force 7 January 2019

The Welsh Ministers, in exercise of the powers conferred by sections 32 and 48(2) of, and paragraphs 4(a) and 13 of Schedule 3 to, the Flood and Water Management Act 2010⁽¹⁾ make the following Regulations.

In accordance with paragraph 13(3) of Schedule 3 to that Act, in relation to fees for applications for approval, the Welsh Ministers have had regard to the desirability of ensuring that fee income does not significantly exceed the costs (direct and indirect) that approving bodies⁽²⁾ incur in connection with approval.

Title and commencement

1.—(1) The title of these Regulations is the Sustainable Drainage (Application for Approval Fees) (Wales) Regulations 2018.

(2) These Regulations come into force on 7 January 2019.

Interpretation

2.—(1) In these Regulations—

(1) 2010 c. 29. Schedule 3 was amended by sections 21(3), 88(a) and 88(b) of the Water Act 2014 (c. 21) and S.I. 2012/1659 and 2013/755 (W. 90).

(2) “Approving body” is defined in paragraph 6 of Schedule 3.

“application” (“*cais*”) means an application for approval made to an approving body in accordance with paragraph 9(2) or 10(2) of Schedule 3 and references to an “applicant” (“*ceisydd*”) are to be construed accordingly;

“application fee” (“*ffi am gais*”) means a fee chargeable in relation to an application;

“approval” (“*cymradwyaeth*”) means an approval pursuant to paragraph 7(1) of Schedule 3;

“Schedule 3” (“*Atodlen 3*”) means Schedule 3 to the Flood and Water Management Act 2010.

(2) In these Regulations a reference to “construction work”(1) is to be construed as a reference to construction work having drainage implications(2).

Application fees

3.—(1) An approving body may charge an applicant an application fee.

(2) An application fee must be determined in accordance with these Regulations.

Scale of fees

4.—(1) Subject to regulations 5 to 9 an application fee is to be determined as follows—

- (a) £350 for each application, and
- (b) an additional amount up to a maximum of £7,500 calculated by reference to the size of the construction area as follows—
 - (i) £70 for each 0.1 hectare or fraction of 0.1 of a hectare, for the first 0.5 hectare;
 - (ii) £50 for each 0.1 hectare or fraction of 0.1 of a hectare, from 0.5 hectare up to and including 1.0 hectare;
 - (iii) £20 for each 0.1 hectare or fraction of 0.1 of a hectare, from 1.0 hectare up to and including 5.0 hectares;
 - (iv) £10 for each additional 0.1 hectare or fraction of 0.1 of a hectare in excess of 5.0 hectares.

(2) In this regulation “construction area” means—

- (a) the area of land identified on a plan accompanying an application for planning permission(3), or

(1) “Construction work” is defined in paragraph 7(2)(a) of Schedule 3.

(2) “Drainage implications” is defined in paragraph 7(2)(b) of Schedule 3.

(3) “Planning permission” is defined in paragraph 8(4) of Schedule 3.

- (b) if an application for planning permission has not been made, the area of land on which construction work has commenced or is proposed to be commenced.

Fee chargeable for application by community council

5.—(1) If the applicant is a community council the application fee is half the amount that would, but for this regulation, be chargeable in accordance with regulation 4.

(2) In this regulation “community council” means a community or town council in accordance with Part 2 of the Local Government Act 1972(1).

Application modified by agreement before determination

6. Where before determination by the approving body, an application for approval is modified by agreement between the approving body and the applicant, the approving body may not charge a fee in relation to the agreed modification.

Fees for applications involving alternative proposals

7.—(1) An application fee must be determined in accordance with paragraph (2) where an applicant—

- (a) makes two or more applications for approval of a drainage system(2) for construction work, each setting out an alternative proposal for construction of a drainage system for that construction work, or
- (b) makes a single application for approval of a drainage system for construction work setting out two or more alternative proposals for construction of a drainage system for that construction work.

(2) The application fee is the sum of—

- (a) the fee chargeable for the application or (in the case of paragraph (1)(b)) proposal, which would attract the highest fee in accordance with regulation 4, and
- (b) half the sum of the fees chargeable but for this regulation, in accordance with regulation 4 with respect to each of the remaining applications or proposals.

(3) For the purposes of regulations 3(2) and 4 in the case of an application falling within paragraph (1)(b)

(1) 1972 c. 70.

(2) “Drainage system” is defined in paragraph 1 of Schedule 3.

each proposal is to be treated as if it were a separate application.

Fees for inspection as a condition of approval

8. Where an approving body grants approval subject to a condition (irrespective of whether or not the approval is subject to any other conditions) that one or more inspections take place, it may charge a fee of £168 for each inspection.

Fee chargeable for application relating to previous application

9.—(1) This regulation applies where an approving body has previously approved an application (“the previous application”) in relation to a drainage system.

(2) Subject to paragraph (3) the application fee is half the amount chargeable but for this regulation in accordance with regulation 4, if a subsequent application is made—

- (a) within 12 months of the date of approval of the previous application, and
- (b) which relates wholly or mainly to the drainage system which was the subject of the previous application, including construction proposals and conditions of approval of the previous application.

(3) An approving body may not charge a fee where an application under paragraph (2) relates only to a condition, other than a condition under paragraph 11(2)(a) of Schedule 3, of approval of the previous application.

Refund of application fees

10. Where any application fee or part of an application fee is charged in error an approving body must as soon as practicable after discovering the error, refund that fee or part of that fee.

Hannah Blythyn

Minister for Environment under authority of the
Cabinet Secretary for Energy, Planning and Rural
Affairs, one of the Welsh Ministers
10 October 2018