

Island of



Guernsey

Ordinance of the States

XVIII
2011

Made27th July, 2011

Coming into Operation27th July, 2011

The Land Planning and Development (Fees and Miscellaneous Amendments) Ordinance, 2011

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THE STATES, in pursuance of their Resolutions of the 27th June 2002, the 26th January 2005, the 26th September 2007 and the 25th March 2009^a, and in exercise of the powers conferred on them by sections 17(3), 81, 87(9) and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, hereby order:-

PART I

FEEES TO ACCOMPANY APPEALS

Amendment of the 2008 Ordinance.

1. (1) The Land Planning and Development (Fees and Commencement) Ordinance, 2008^c is amended as follows.

(2) After section 4 (refund of part of fee) insert the following Part.

"PART IIA

FEEES FOR CERTAIN APPEALS

^a Billet d'État No. XI of 2002, Article I of Billet d'État No. I of 2005, Articles III and XV of Billet d'État No. XX of 2007 and Article VI of Billet d'État No. VIII of 2009.

^b Order in Council No. XVI of 2005 as amended by Recueil d'Ordonnances Tome XXXII, pp. 224, 257, 369, 419 and 439.

^c Ordinance No. XLI of 2008 as amended by G.S.I. No. 6 of 2010.

Application of this Part.

4A. (1) This Part shall apply in relation to an appeal to the Planning Tribunal made under section 68(1) of the Law, made on or after 1st September, 2011, against -

- (a) the refusal of an application for full planning permission or outline permission,
- (b) the refusal of an application for approval of reserved matters, or
- (c) the grant of outline permission where the application in question was an application for full planning permission.

(2) This Part shall apply in relation to an appeal to an Adjudicator made under section 10(2)(a) or 10(3)(a) of the Appeals Ordinance, made on or after 1st September, 2011, against a rejection of full plans under the building regulations.

Fee payable in respect of an appeal under section 68(1) of the Law.

4B. (1) A fee is payable in respect of an appeal to the Planning Tribunal, to which this Part applies, under section 68(1) of the Law.

(2) The fee payable shall, subject to the following provisions of this Ordinance, be the same as that required under Part I of this Ordinance to accompany the application to which the appeal relates except that the fee shall be calculated as if the appeal were made on the date of the notification sent in accordance with section 4D(1).

(3) A discount of twenty-five per cent shall be applied to the fee payable in accordance with subsection (2) where -

(a) the appeal in question is one in relation to which a single professional member of the Planning Panel may be appointed to hear and determine the appeal without a hearing on the basis of written representations in accordance with section 6(1) of the Appeals Ordinance, and

(b) the appellant has given (and not later withdrawn) his written consent to the appeal in question proceeding on that basis,

whether or not the appeal is in fact determined on that basis.

Fee payable in respect of an appeal in relation to a rejection of full plans under the building regulations.

4C. (1) A fee is payable in respect of an appeal to an Adjudicator, to which this Part applies, against the rejection of full plans under the building regulations.

(2) The fee payable shall, subject to the following provisions of this Ordinance, be the same as that required under Part II of this Ordinance to accompany the deposit of full plans under the building regulations to which the appeal relates except that the fee shall be calculated as if the appeal were made on the date of the notification sent in accordance with section 4D(1).

(3) For the avoidance of doubt, in calculating the fee payable in accordance with subsection (2), the provisions of section 4 (refund of part of fee) shall not apply.

(4) A discount of twenty-five per cent shall be applied to the fee payable in accordance with subsection (2) where the Policy Council have appointed an Adjudicator to determine the appeal in question without a hearing on the basis of written representations.

Procedure for payment of appeal fee.

4D. (1) As soon as possible after the appointment of the Appellate Body to determine the appeal in question, the Appellate Body shall notify the appellant -

- (a) of the fee payable, in relation to the appeal, in accordance with this Part, and
- (b) that, in accordance with subsection (2), the Appellate Body need not take any further action in relation to the appeal until such fee is paid in full.

(2) The Appellate Body need not take any further action in relation to the appeal until the whole of the fee is paid including, for the avoidance of doubt, publication of the notice of appeal under section 14 of the Appeals Ordinance.

(3) Time shall not run for the purpose of any provision under the Law relating to an appeal to which this Part applies until the

whole fee is paid.

Power of Policy Council to provide for level of fee.

4E. The Policy Council may by regulations amend this Ordinance so as to substitute the fee payable under this Part, in relation to an appeal to which this Part applies, for such other amount as the Policy Council thinks fit including, without limitation, substituting the percentage of any discount applied under this Part."

(3) In section 6(1)(c) (fee to accompany request for non-domestic property search), for the words "one of more" substitute "one or more".

(4) After section 9 (exemption from fees payable under Part II for certain building work in relation to controlled services or fittings) insert the following sections -

"Reduction or waiver of fee payable under Part IIA for certain persons.

9A. Where it appears to the -

- (a) Chairman of the Planning Panel, in the case of an appeal to the Planning Tribunal, or
- (b) the Adjudicator, in the case of an appeal to that Adjudicator,

that the payment of any fee payable under Part IIA would, owing to the exceptional circumstances of the particular case, involve undue financial hardship to the appellant, the Chairman of the Planning Panel or the Adjudicator, as the case may be, may reduce or waive the fee payable in

that case.

Power to refund whole or part of fee payable under Part IIA.

9B. The Appellate Body may, where it thinks fit, refund any fee, in whole or in part, paid in accordance with Part IIA where any of the following occurs in relation to an appeal -

- (a) the Department concedes the appeal, in whole or in part, under section 68(7) of the Law,
- (b) the Appellate Body declines to determine, or to proceed with the determination of, the appeal in accordance with section 69(4) of the Law or regulation 1 of the Appeals Regulations,
- (c) the Planning Tribunal dismisses the appeal under section 69(5) of the Law, or
- (d) prior to any hearing in relation to the appeal, the appellant agrees to withdraw the appeal following an agreement in writing with the Department in relation to the application or deposit of plans to which the appeal relates."

(5) In section 13 (interpretation) insert the following definitions at the appropriate places -

"**Adjudicator**" means a person appointed by the Policy Council under section 13 of the Appeals Ordinance to hear and determine an appeal

under section 10 of the Appeals Ordinance,

"Appeals Ordinance" means the Land Planning and Development (Appeals) Ordinance, 2007,

"Appeals Regulations" means the Land Planning and Development (Appeals) Regulations, 2008,

"Appellate Body" means in relation to an appeal made under -

- (a) section 68(1) of the Law, the Planning Tribunal, and
- (b) section 10 of the Appeals Ordinance, an Adjudicator,

"Chairman of the Planning Panel" means the person who is designated, from time to time, as the Chairman of the Planning Panel pursuant to section 86(3)(c) of the Law or, if he is unavailable, the Deputy Chairman of the Planning Panel,

"Deputy Chairman of the Planning Panel" means the person who is designated, from time to time, as the Deputy Chairman of the Planning Panel pursuant to section 86(3)(d) of the Law,

"notify" means notify in writing and related expressions shall be construed accordingly,

"Planning Panel" means the Planning Panel established under section 86 of the Law,

"Planning Tribunal" means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

"Policy Council" means the States of Guernsey Policy Council,

"reserved matters" shall be construed in accordance with section 18(1) of the Land Planning and Development (General Provisions) Ordinance, 2007,".

PART II
AMENDMENTS OF THE LAW AND THE SPECIAL CONTROLS
ORDINANCE

Amendment of the Law.

2. (1) The Land Planning and Development (Guernsey) Law, 2005 is amended as follows.

(2) In section 45A (glasshouse land etc.) for the words "any Plan or Brief" substitute "any Development Plan, Subject Plan or Local Planning Brief".

(3) In section 46 (power to make provision where special or additional controls required) for each reference to "Chapters 1 to 6" substitute "Chapters 1 to 5A".

(4) In section 63(4) (evidential presumptions), for the words "section 59(3)(c)" substitute "section 70(1)(c)".

(5) In section 84(2) (entry on land for authorised purposes), for paragraph (d) substitute -

"(d) a member of the Planning Tribunal or an Adjudicator (within the meaning of the Land Planning and Development (Appeals) Ordinance, 2007) appointed to determine an appeal under this Law."

Amendment of the Special Controls Ordinance.

3. In section 4(2) (notifications and publicity) of the Land Planning and Development (Special Controls) Ordinance, 2007^d, omit the first reference to "brief particulars of".

Amendment of the Appeals Ordinance.

4. In section 6 (determination of appeals by single Planning Tribunal member) of the Land Planning and Development (Appeals) Ordinance, 2007^e, renumber the second subsection (2) as subsection (3).

Interpretation.

5. In this Ordinance any reference to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation and Commencement.

6. This Ordinance may be cited as the Land Planning and Development

^d Recueil d'Ordonnances Tome XXXII, p. 371.

^e Recueil d'Ordonnances Tome XXXII, p. 439 as amended by Ordinance No. XLI of 2008.

(Fees and Miscellaneous Amendments) Ordinance, 2011 and shall come into force on the 27th July, 2011.

D.J. ROBILLIARD,
Her Majesty's Deputy Greffier.

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