

S.I. No. 130/1994 — Environmental Protection Agency (Licensing Fees) Regulations, 1994.

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ENVIRONMENTAL PROTECTION AGENCY (LICENSING FEES)
REGULATIONS, 1994.

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SCHEDULE

S.I. No. 130 of 1994.

ENVIRONMENTAL PROTECTION AGENCY

(LICENSING FEES) REGULATIONS, 1994.

In exercise of the powers conferred on the Minister for the Environment by sections 6 , 82 , 85 , 88 , 94 and 99 of the Environmental Protection Agency Act, 1992 (No. 7 of 1992), and by sections 83 and 87 of that Act as amended by the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1994 (S.I. No. 84 of 1994) which said powers are delegated to me by the Environment (Delegation of Ministerial Functions) Order, 1993 (S.I. No. 127 of 1993), I, JOHN BROWNE, Minister of State at the Department of the Environment, hereby make the following Regulations:

Citation.

1. These Regulations may be cited as the Environmental Protection Agency (Licensing Fees) Regulations, 1994.

Commencement.

2. These Regulations shall come into operation on the 16th day of May, 1994.

Interpretation.

3. (1) In these Regulations, any reference to a Schedule or article which is not otherwise identified is a reference to a Schedule or article of these Regulations.

(2) In these Regulations, any reference to a sub-article or paragraph which is not otherwise identified is a reference to the sub-article or paragraph of the provision in which the reference occurs.

(3) In these Regulations:

"the Act" means the [Environmental Protection Agency Act, 1992](#) ;

"the Agency" means the Environmental Protection Agency established under section 19 of the Act;

"applicant" means an applicant for a licence;

"application for a licence" means an application for a licence under section 83 of the Act;

"large activity" means

—in the case of an established activity or an activity which is the subject of a review of a licence or revised licence under section 88 of the Act, an activity which has more than 50 employees and other persons working or engaged in connection with the activity of the date after which a licence is required by that activity under section 82 (2) of the Act or the date a notice is given under section 85 (1) (b) of the Act, as appropriate, or during normal levels of operation, whichever is the greater,

—in any other case, an activity where the capital cost to which the application relates exceeds £3 million;

"licence" means a licence under section 83 of the Act;

"objection" means an objection under section 85 of the Act;

"the 1994 Regulations" mean the Environmental Protection Agency (Licensing) Regulations, 1994 ([S.I. No. 85 of 1994](#));

"review" means a review of a licence or revised licence under section 88 of the Act;

"revised licence" means a revised licence under section 88 of the Act;

"small activity" means

—in the case of an established activity or an activity which is the subject of a review of a licence or a revised licence under section 88 of the Act, an activity which has not more than 50 employees and other persons working or engaged in connection with the activity on the date after which a licence is required under section 82 (2) of the Act or the date a notice is given under section 85 (1) (b) of the Act, as appropriate, or during normal levels of operation, whichever is the greater,

—in any other case, an activity where the capital cost to which the application relates does not exceed £3 million.

(4) Where a requirement of these Regulations requires a fee to be paid or a claim in writing to be made within a specified period and the last day of that period is a Saturday, a Sunday, a public holiday (within the meaning of the [Holidays \(Employees\) Act, 1973](#)) or any other day on which the headquarters of the Agency are closed, the fee or claim, as the case may be, shall be regarded as having been received before the expiration of that period if received by the Agency on the next following day on which the headquarters of the Agency are open.

Fee for application for a licence.

4. (1) A fee shall be paid to the Agency by an applicant in respect of an application for a licence.

(2) The fee payable under sub-article (1) shall be either of the amounts, as appropriate, indicated in column, (2) of Part I of the Schedule opposite the relevant activity or class of activity in column (1) of Part I of the Schedule.

Fee for application for a review of a licence or revised licence.

5. (1) A fee shall be paid to the Agency in respect of an application for a review of a licence or revised licence, other than a request from a sanitary authority under section 97 (4) of the Act.

(2) The fee payable under sub-article (1) shall be the amount indicated in column (3) of Part II of the Schedule opposite the mention of application for a review of a licence or revised licence in column (2) of the said part of the Schedule.

Fee for review of a licence or revised licence.

6. (1) A fee shall be paid to the Agency by a licensee in respect of each review of a licence or revised licence where the licensee applied to the Agency under article 15 of the 1994 Regulations to review the licence or revised licence.

(2) The fee payable under sub-article (1) shall be either of the amounts, as appropriate, indicated in column (3) of Part I of the Schedule opposite the relevant activity or class of activity in column (1) of Part I of the Schedule.

(3) A notice given in writing under section 85 (1) (b) of the Act to the licensee shall specify the amount of the fee mentioned in sub-article (2) and shall state that the fee is to be paid to the Agency within one month of the giving of the notice.

Fee for application or review transferred to the Agency under section 99 (4) of the Act.

7. (1) A fee shall be paid to the Agency by—

(a) an applicant for a licence or revised licence or permit or revised permit, or

(b) a licensee or permit holder in the case of a review of a licence or revised licence or permit or revised permit where the licensee or permit holder applied to the local authority, sanitary authority or the Department of the Marine, as appropriate, for such review,

under any of the enactments mentioned in section 99 (1) of that Act, as appropriate, where the application or review is dealt with and decided by the Agency pursuant to section 99 (4) of the Act.

(2) The amount of the fee payable under subarticle (1) shall be—

(a) in the case of an application for a licence or revised licence or permit or revised permit, either of the amounts, whichever is appropriate, indicated in column (2) of Part I of the Schedule opposite the relevant activity or class of activity in column (1) of Part I of the Schedule, or

(b) in the case of a review of a licence or revised licence or permit or revised permit mentioned in subarticle (1), either of the amounts, whichever is appropriate, indicated in column (3) of Part I of the Schedule opposite the relevant activity or class of activity in column (1) of Part I of the Schedule,

reduced by the amount of the fee (if any) previously paid to the local authority, sanitary authority or the Minister for the Marine in connection with the application or review.

(3) Notwithstanding any other provision of this article, the Agency shall have an absolute discretion to refund or waive such portion of the fee specified in sub-article (2) as it considers appropriate where it is satisfied that the payment in full of such fee would not be just and reasonable.

(4) A notice under article 5 (3) of the 1994 Regulations shall specify the amount of the

fee payable under this article and that such fee shall be paid to the Agency at its headquarters within one month of the giving of the notice.

Fee for an objection.

8. (1) A fee shall be paid to the Agency in respect of an objection.

(2) Subject to sub-article (3), the fee payable under subarticle (1) shall be the amount indicated in column (3) of Part II of the Schedule opposite the appropriate mention of objection in column (2) of the said Part of the Schedule.

(3) Where an objection is made to the Agency by—

- (a) a local authority,
- (b) a planning authority,
- (c) a sanitary authority,
- (d) the National Monuments Advisory Council,
- (e) the Central Fisheries Board,
- (f) Bord Fáilte Éireann,
- (g) in the case of an activity any part of which is situate within the functional area of the Shannon Free Airport Development Company Ltd., that company, and
- (h) An Taisce — The National Trust for Ireland,

the fee payable in respect of the objection shall be the amount indicated in column (3) of Part II of the Schedule opposite the mention of a reduced fee for an objection in column (2) of the said Part of the Schedule.

Refund of fee in case of certain repeat applications.

9. (1) Where an application for a licence is either

- (a) withdrawn before a decision on the application for a licence is made by the Agency, or
- (b) decided upon by the Agency,

and a subsequent such application is made by or on behalf of the same applicant, the Agency shall, subject to article 11, refund three quarters of the fee paid to it in respect of the subsequent application if, and only if, each of the conditions mentioned in sub-article (2) is complied with.

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

(*a*) the Agency is satisfied that the subsequent application relates to an activity of the same class or classes, nature and scale as the activity to which the earlier application related,

(*b*) a fee in respect of the class or classes of activity to which the subsequent application relates has been paid in respect of the earlier application,

(*c*) the period between the withdrawal of, or the decision on, the first application for a licence and the date of receipt of the subsequent application for a licence which complies with the requirements of article 10 of the 1994 Regulations does not exceed twelve months,

(*d*) no previous refund under sub-article (1) has at any time been made to the same applicant in respect of an application which related substantially to the same activity as that to which the subsequent application relates, and

(*e*) the case is not a case where a reduced fee has been paid under article 13.

Refund of fee in case of certain reviews of licences or revised licences.

10. (1) Where a notice in writing under section 85 (1) (*b*) of the Act has been given to the licensee and the Agency has made a decision on the review of a licence or revised licence, it may, subject to article 11, refund up to half of the fee paid to it in respect of the particular review, if and only if, each of the conditions mentioned in sub-article (2) is complied with.

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

(*a*) a limited aspect of the licence or revised licence was reviewed,

(*b*) the review is similar to a previous review carried out for that particular activity, and

(*c*) the review was carried out within 3 years of the date on which the licence or revised licence was granted.

Claim for refunds to be in writing.

11. A refund under article 9 or 10 shall be made on a claim in that behalf made in writing to the headquarters of the Agency and received by it within the period of two months beginning on the day of the giving of the decision by the Agency on the subsequent application or the particular review, as the case may be.

Refund of fee in certain other cases.

12. Where the Agency gives a notice in accordance with article 11 (2) (b) (i) of the 1994 Regulations it shall refund not more than three quarters of the fee paid to it in respect of the application for a licence.

Discretionary power to refund or waive fee in certain limited circumstances.

13. (1) Notwithstanding any other provision of these Regulations, the Agency shall have an absolute discretion to refund or waive up to half of the fee payable in respect of a particular application for a licence or the review of a licence or revised licence where it is satisfied that the payment in full of the fee would not be just and reasonable having regard to any of the following—

(a) the limited scale of the activity,

(b) the limited capital or operational costs, or both, as appropriate, of the activity,

(c) the fee payable in respect of an application or review for any other activity of a similar character, extent or description.

(2) Notwithstanding any other provision of these Regulations, the Agency shall have an absolute discretion to refund or waive up to half of the lesser or least fee payable in respect of particular activities where more than one activity exists on the same site and the application for a licence or review of a licence or revised licence, as appropriate, for each or every such activity is considered at the same time.

(3) A decision under sub-article (1) or (2) shall contain a statement specifying the reasons for the decision.

SCHEDULE

PART I

Fees payable to the Agency in respect of an application for a licence or review of a licence or revised licence.

(1) Paragraph No. and activity or class of activity in the First Schedule to the Act	(2) Amount of fee for an application for a licence (article 4)		(3) Amount of fee for a review of a licence or revised licence (article 6)	
	Small Activity £	Large Activity £	Small Activity £	Large Activity £
1. Minerals and Other Materials	4,500	10,000	3,500	7,000

2. Energy	6,000	13,000	4,500	10,000
4. Mineral Fibres and Glass	4,000	7,000	2,500	5,500
5. Chemicals (excluding 5.6)	6,000	16,000	4,500	11,500
5.6 The manufacturer of pesticides, pharmaceutical or veterinary products and their intermediates	8,000	18,000	6,000	13,000
7. Food and Drink	4,500	10,000	3,500	7,000
8. Wood, Paper, Textiles and Leather	4,000	7,000	2,500	5,500
10. Cement	6,000	13,000	4,500	10,000
11. Waste	4,500	11,000	3,500	8,000

PART II

Other fees payable to the Agency in relation to licences or revised licences.

(1)	(2)	(3) Amount of Fee £
Article 5	Application for a review of a licence or revised licence.	100
Article 8 (2)	Objection by the applicant or licensee.	200
	Objection by any other person other than a person mentioned in article 8 (3).	100
Article 8 (3)	Reduced fee for an objection.	50

Dated this 5th day of May, 1994.

JOHN BROWNE,

Minister of State at the Department of
the Environment.

The Minister for Finance hereby consents, in accordance with section 94 (3) of the Act, to these Regulations.

Given under the Official Seal of the Minister for Finance, this 9th day of May, 1994.

BERTIE AHERN,

Minister for Finance.

The Minister for Enterprise and Employment hereby consents, in accordance with section 94 (3) of the Act, to these Regulations.

Given under the Official Seal of the Minister for Enterprise and Employment,

this 5th day of May, 1994.

RUAIRÍ QUINN,

Minister for Enterprise and Employment.

EXPLANATORY NOTE.

These Regulations provide for a scale of fees payable to the Environmental Protection Agency for applications for licences, reviews of licences or revised licences, and objections.

The Regulations also set out the fees for applications or reviews transferred under section 99 (4) of the Environmental Protection Agency Act, 1992 to the Agency from local authorities, sanitary authorities or the Minister for the Marine and the arrangements for refunds of fees, reduced fees and waiver of fees.