

**EXPLANATORY MEMORANDUM TO
THE HEALTH AND SAFETY (FEES) REGULATIONS**

2007 No. 813

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Health and Safety (Fees) Regulations 2007 (“the Fees Regulations”) revoke and replace the Health and Safety (Fees) Regulations 2006 (S.I. 2006/336). They update charges made, mainly by the Health and Safety Executive (“HSE”), for the performance of a wide range of statutory functions in areas such as licensing activities, approving equipment and conducting testing associated with the issue of such approvals. HSE also charges for safety case assessment, inspection and approvals in relation to the “permissioning” regimes (involving HSE assessing and approving safety cases) of gas transportation, offshore oil and gas and also establishments covered by the Control of Major Accident Hazards Regulations 1999 (S.I. 1999/743) (“COMAH”) (fees for work in relation to COMAH establishments are not provided for in the Fees Regulations, but in COMAH.)

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Increases above inflation continue in three schemes where, historically, charges had been set below full cost. A catch-up exercise is currently underway to allow HSE to move towards full cost recovery as required by HM Treasury’s Fees and Charges Guide. The schemes currently in catch-up are:

Dosimetry services under the Ionising Radiation Regulations 1999 (S.I. 1999/3232);

Licensing and registration under the Manufacture and Storage of Explosives Regulations 2005 (S.I. 2005/1082);

Approvals under the Health and Safety (First Aid) Regulations 1981 (S.I. 1981/917).

3.2 The proposed hourly rate which forms the basis for the fee in the offshore sector is £155 per hour. This represents an £8 (5%) increase on the current rate of £147 to reflect inflationary increases in most budget areas, including the impact of the current pay agreement. Additional costs, like relocation expenses, are being incurred and have

also been factored into the rate. The proposed hourly fee for gas transportation increases by an inflationary amount.

- 3.3 A new lower fee is proposed in relation to some applications for an explosive certificate under the Control of Explosives Regulations 1991 (S.I. 1991/1531) (“COER”) (Table 1 of Part 9 of Schedule 8 to the Fees Regulations). This will apply where someone applies to the chief officer of police for an explosive certificate under COER who holds a licence or registration under the Manufacture and Storage of Explosives Regulations 2005 and additionally holds or applies for a firearm or shotgun certificate or registration as a firearms dealer, which are certificates or registration under the Firearms Act 1968 also granted by the chief officer of police. Since there are some common issues relevant to deciding whether to grant explosive certificates and certificates and registration under the Firearms Act 1968, the new fees are to prevent people paying twice in respect of this same work carried out by the police.

4. Legislative background

- 4.1 Section 43 (2) of the Health and Safety at Work etc. Act 1974 allows for regulations to provide for fees, fixed or determined under the regulations, to be payable for or in connection with the performance by or on behalf of an authority referred to in section 43(3) (which includes the HSE) of any function conferred on that authority by or under any of the relevant statutory provisions.

5. Extent

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required

7 Policy background

- 7.1 The Health and Safety Commission’s policy is that HSE should charge for a range of activities collectively described as permissioning work. This allows the duty holder, for example, to trade in a dangerous substance or carry out work in hazardous conditions, once HSE is satisfied with the control mechanisms in place.
- 7.2 Permissioning activities that are charged for include:
- i) assessing and accepting safety cases;
 - ii) issuing licences;

- iii) issuing certificates;
- iv) granting approvals;
- v) granting exemptions from regulations;
- vi) accepting notifications.

7.3 HM Treasury guidance requires full cost recovery for chargeable statutory functions. Fees in the Fees Regulations are reviewed annually with a new set of Regulations created to reflect any changes.

7.4 HSE has developed well established mechanisms (charging review groups) for the large permissioning schemes for consulting or advising duty holders each year about proposed changes in fees. Relevant trade associations in the offshore, COMAH and gas transportation industries were informed in writing around October/November 2006 about the proposed increases in fees and welcomed the opportunity to comment.

7.5 For other schemes, relevant industries have been notified of the proposals by various means.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument. There is no impact on the private or voluntary sectors as fees remain the same, are increased for inflation or are in catch up.

8.2 There is no impact on the public sector.

9. Contact

9.1 Mark Reyland at the Health and Safety Executive can answer any questions regarding the instrument.

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