
STATUTORY INSTRUMENTS

2015 No. 483

The Control of Major Accident Hazards Regulations 2015

PART 9

FEEES

Fees payable by operators to the competent authority

28.—(1) A fee is payable by the operator of an establishment to the competent authority for the performance by, or on behalf of, the competent authority of any function conferred on the competent authority by these Regulations.

(2) A fee is payable by the operator of an upper tier establishment to the competent authority for the performance by or on behalf of the Executive or of the ONR (as the case may be), or by an inspector appointed by or on behalf of them, of any function conferred on the Executive or the ONR, or the inspector, by the 1974 Act (as the case may be) which relates to the enforcement of any of the relevant statutory provisions against one or more of the following—

- (a) the operator of the establishment; or
- (b) a contractor in relation to any work carried out by the contractor on or in connection with that establishment,

except in the case of an establishment where the presence of the dangerous substance at the establishment is, in the opinion of the competent authority, for a purpose ancillary to the main activity at the establishment.

(3) A fee under this regulation may not exceed the sum of the costs reasonably incurred by the competent authority, the Executive or the ONR (as the case may be) in the performance of their functions in relation to the establishment concerned.

(4) A fee is payable within 30 days from the date of the invoice sent by or on behalf of the competent authority to the operator.

(5) An invoice must include a statement of the work done and the costs incurred by or on behalf of the competent authority, the Executive or the ONR, including the period to which the statement relates.

(6) Where a fee has been paid under paragraph (1) to the Executive or the ONR, as the case may be, it must pay to the appropriate agency any fee or part of any fee it recovers as is attributable to work done by or on behalf of the appropriate agency or by an authorised person in performing the agency's functions.

(7) Where a fee has been paid under paragraph (1) or (2) to the appropriate agency, it must pay to the Executive or the ONR, as the case may be, any fee or part of any fee it recovers as is attributable to work done by or on behalf of the Executive or the ONR or by an inspector in performing the Executive's or the ONR's functions.

(8) A fee payable under this regulation is recoverable only as a civil debt.

(9) A fee payable under this regulation may not include any costs connected with—

- (a) in England and Wales, any criminal investigation or prosecution incurred, in either case, from the date any summons is obtained from a Magistrates Court;
- (b) in Scotland, any criminal investigation or prosecution incurred, in either case, after—
 - (i) the inspector or authorised person undertaking the investigation submits a report to the Procurator Fiscal for a decision as to whether a prosecution should be brought; or
 - (ii) the Procurator Fiscal intervenes in the investigation,whichever is the sooner;
- (c) any appeal under section 24 of the 1974 Act incurred from the date a claim is presented pursuant to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013;
- (d) functions of the competent authority related to regulation 13.

(10) In this regulation any reference to work carried out by a contractor is a reference to work carried out by the contractor or by the contractor's employees for the benefit of the person by whom the fees are payable under this regulation, whether under an agreement or an arrangement made with that person or with another person.

Fees payable to local authorities for the preparation, review and testing of external emergency plans

29.—(1) A local authority may charge the operator a fee for performing its functions under regulation 13 or 14.

(2) A fee under paragraph (1) may not exceed the sum of the costs reasonably incurred by the local authority in the performance of its functions referred to in that paragraph in relation to the establishment concerned.

(3) A fee may include any costs reasonably incurred by the local authority in arranging for the designated authorities to participate in the testing of the external emergency plan.

(4) A fee is payable within 30 days from the date of the invoice sent by or on behalf of the local authority to the operator.

(5) An invoice must include a statement of the work done and the costs incurred by or on behalf of the local authority, including the period to which the statement relates.

(6) A fee payable under this regulation is recoverable only as a civil debt.