

South Australia

Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019

under the *Planning, Development and Infrastructure Act 2016*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

Act means the *Planning, Development and Infrastructure Act 2016*;

authority means a person or body performing, exercising or discharging a function, power or duty under the Act or a related set of regulations;

designated entity means—

- (a) in relation to an assessment panel acting as a relevant authority under section 82(c), (d) or (e) of the Act—
 - (i) in the case of an assessment panel appointed by a joint planning board—the council for the area in which the development is to be undertaken; or
 - (ii) in the case of an assessment panel appointed by a council—the council; or
 - (iii) in the case of an assessment panel appointed by the Minister—an entity designated by the Chief Executive in the particular case; or
- (ab) the Commission; or
- (b) in relation to an assessment manager—
 - (i) in the case of an assessment manager appointed by a joint planning board—the council for the area in which the development is to be undertaken; or
 - (ii) in the case of an assessment manager appointed by the chief executive of a council—the council; or
 - (iii) in the case of an assessment manager appointed by the Chief Executive—an entity designated by the Chief Executive in the particular case;

fee includes a charge or contribution;

prescribed fee means a fee prescribed for the purposes of the Act, these regulations or a related set of regulations;

quarter means a 3 month period commencing on any of the following days in any year:

- (a) 1 January;
- (b) 1 April;
- (c) 1 July;
- (d) 1 October;

related set of regulations means—

- (a) the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*; or
- (b) the *Planning, Development and Infrastructure (General) Regulations 2017*.

- (2) Words and expressions used in a related set of regulations and in these regulations have the same respective meanings in these regulations as they have in the related set of regulations.
- (3) Subregulation (2) does not apply to the extent that the context or subject matter otherwise indicates or requires.

3A—Fees associated with the work of assessment managers

- (1) A prescribed fee paid or payable to an assessment manager acting as a relevant authority will be taken to be paid or payable to the designated entity that relates to the assessment manager.
- (2) For the purposes of subregulation (1), the entity under paragraph (b) of the definition of *designated entity* that applies in relation to a particular assessment manager will be taken to be the designated entity that relates to that assessment manager.

3B—Fees associated with work of assessment panels

- (1) A prescribed fee paid or payable to an assessment panel acting as a relevant authority under section 82(c), (d) or (e) of the Act will be taken to be paid or payable to the designated entity that relates to the assessment panel.
- (2) For the purposes of subregulation (1), the entity under paragraph (a) of the definition of *designated entity* that applies in relation to a particular assessment panel will be taken to be the designated entity that relates to that assessment panel.

Part 3—General

5—Calculation or assessment of fees

- (1) An authority with which an application is duly lodged under a related set of regulations (including via the SA planning portal)—
 - (a) may require the applicant to provide such information as the authority may reasonably require to calculate a prescribed fee; and
 - (b) may make any other determination for the purposes of these regulations, a related set of regulations or a fee notice (even if it is not a relevant authority).
- (2) If an authority acting under subregulation (1), or a relevant authority in any event, believes that any information provided by an applicant is incomplete or inaccurate, the authority (or relevant authority) may calculate a prescribed fee on the basis of estimates made by it.
- (3) An authority may, at any time, reassess a prescribed fee despite an earlier calculation or acceptance of an amount in respect of the fee.
- (4) On a reassessment under subregulation (3)—
 - (a) if it appears that an overpayment has occurred, a refund is due in accordance with the reassessment; and
 - (b) if it appears that an underpayment has occurred, a further amount becomes payable.

6—Time period suspended if fee not paid

If a prescribed fee is not paid in accordance with the Act, these regulations, a related set of regulations or a fee notice, any period between the date of a request for payment of the fee by an authority entitled to receive payment of the fee and the date of actual payment of the fee will not be taken into account for the purposes of any time limit or period prescribed by a related set of regulations (as relevant).

7—Waiver or refund of fee

An authority to which a prescribed fee is payable under these regulations, a related set of regulations or a fee notice may, as it considers appropriate to do so—

- (a) waive the payment of the fee, or the payment of part of the fee; or
- (b) refund the whole or a part of the fee.

Part 4—Development assessment fees (specific provisions)

8—Variation of authorisation (section 128)

- (1) Subject to subregulation (2), an application seeking the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) will be subject to the prescribed fees as if it were a new application for development authorisation, but only to the extent that a particular fee imposed in relation to the application reflects the step or steps to be undertaken by the relevant authority or another body on account of the application.
- (2) An application seeking a variation that is minor in nature under regulation 65(1) of the *Planning, Development and Infrastructure (General) Regulations 2017* must be accompanied by the prescribed fee.

9—Staged development

- (1) Subject to subregulation (2), if an application for a development authorisation is for a second or subsequent consent because the applicant is seeking the assessment of a particular development in stages, the prescribed fee for the lodgement of an application (referred to as the **base amount**) is only payable in relation to the first application.
- (2) The prescribed fee for the lodgement of an application will again be payable if the application is to be treated as a new application for development authorisation in the manner envisaged by regulation 8(1) (and after taking into account the operation of section 128(2)(b) of the Act).

11—Development undertaken by councils

A prescribed fee relating to development assessment is not payable in respect of a development to be undertaken by a council unless the primary reason for the proposed development is to raise revenue for the council.

12—Excluded Crown development

A prescribed fee is not payable in respect of a development excluded from the provisions of section 131 of the Act by regulation under section 131(4) of the Act.

13—Development to be assessed by accredited professional

- (1) Subject to subregulation (2), the prescribed fees relating to development assessment and to building activity and use are not payable if the relevant authority is an accredited professional, other than an assessment manager.
- (2) If an application is made to an accredited professional—
 - (a) the following prescribed fees are payable by the applicant to the accredited professional at the time that the application is lodged with the accredited professional:
 - (i) the prescribed fee for the lodgement of an application (referred to as the *base amount*);
 - (ii) if building consent is sought, the prescribed fee for the lodgement of an application (referred to as a *compliance fee*); and
 - (b) the accredited professional must forward those fees to the Chief Executive within 5 business days of their receipt by the accredited professional in accordance with any requirements determined by the Chief Executive.
- (3) Except as provided by subregulation (2), the fee to be paid to an accredited professional (other than an assessment manager) will be determined by agreement between the applicant and the accredited professional.
- (4) To avoid doubt, nothing in this regulation affects the requirement to pay the prescribed fee relating to an application for final development approval in respect of HomeBuilder development.

Part 5—Funds and off-set schemes

16—Open space contribution scheme

- (1) If a variation is made to a prescribed fee relating to rates of contribution under section 198(1)(d), (2)(c) or (8) of the Act, the amount to be applied in a particular case is the amount in force as at the time the relevant application under Part 7 of the Act was made.
- (2) In accordance with section 198(2) of the Act, if an application for the division of land under the *Community Titles Act 1996* or the *Strata Titles Act 1988* relates to an existing building unit scheme, a contribution is not payable under section 198 of the Act unless the plan divides the land into more units than existed on 22 February 1968, and in that case, the contribution will be calculated only in respect of the additional units.
- (3) For the purposes of subregulation (2), an existing building unit scheme is a scheme where—
 - (a) land was, before 22 February 1968, laid out in a building unit scheme consisting of 2 or more properties designed for separate occupation; and
 - (b) as at that date, buildings to which the scheme relates had been erected.

17—Multi-unit buildings

If a variation is made to a prescribed fee relating to rates of contribution for the purposes of section 199(1) of the Act, the amount to be applied in a particular case is the amount in force as at the time the relevant application under Part 7 of the Act was made.

Part 6—Distribution of fees

18—Distribution of fees

- (1) A prescribed fee relating to development assessment will be distributed between the Chief Executive and designated entities under a scheme established by the Chief Executive.
- (2) A reference in subregulation (1) to a prescribed fee extends to a prescribed fee that, although payable, was waived (in whole or in part) by a relevant authority.

19—Payment requirements

A prescribed fee must be paid—

- (a) in the case of a prescribed fee received by a payment via the SA planning portal—to the entity entitled to the prescribed fee under a scheme established by the Chief Executive; and
- (b) in any other case—to the entity entitled to the prescribed fee within 10 business days after the end of the quarter in which the amount is received by the designated entity under a scheme established by the Chief Executive.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2019	12	<i>Gazette 7.2.2019 p441</i>	1.4.2019: r 2
2019	173	<i>Gazette 27.6.2019 p2536</i>	1.7.2019: r 2
2020	235	<i>Gazette 16.7.2020 p3821</i> as revoked by 251/2020	uncommenced—revoked without coming into operation: r 2
2020	251	<i>Gazette 30.7.2020 p4147</i>	30.7.2020: r 2
2020	252	<i>Gazette 30.7.2020 p4148</i>	31.7.2020: r 2
2021	24	<i>Gazette 4.3.2021 p840</i>	19.3.2021: r 2
2021	29	<i>Gazette 11.3.2021 p909</i>	19.3.2021: r 2
2021	68	<i>Gazette 3.6.2021 p1846</i>	1.7.2021: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2019</i>
r 3		
r 3(1)		
<i>allotment</i>	<i>inserted by 173/2019 r 4(1)</i> <i>deleted by 68/2021 r 4(1)</i>	<i>1.7.2019</i> <i>1.7.2021</i>
designated entity	inserted by 173/2019 r 4(2) varied by 252/2020 r 4(1), (2)	1.7.2019 31.7.2020
<i>development cost</i>	<i>inserted by 173/2019 r 4(2)</i> <i>deleted by 68/2021 r 4(2)</i>	<i>1.7.2019</i> <i>1.7.2021</i>
GST	<i>inserted by 173/2019 r 4(3)</i> <i>deleted by 68/2021 r 4(3)</i>	<i>1.7.2019</i> <i>1.7.2021</i>

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<i>GST component</i>	<i>inserted by 173/2019 r 4(3)</i>	<i>1.7.2019</i>
	<i>deleted by 68/2021 r 4(3)</i>	<i>1.7.2021</i>
<i>GST law</i>	<i>inserted by 173/2019 r 4(3)</i>	<i>1.7.2019</i>
	<i>deleted by 68/2021 r 4(3)</i>	<i>1.7.2021</i>
prescribed fee	inserted by 68/2021 r 4(4)	1.7.2021
quarter	inserted by 173/2019 r 4(3)	1.7.2019
r 3A	inserted by 173/2019 r 5	1.7.2019
r 3A(1)	varied by 68/2021 r 5	1.7.2021
r 3B	inserted by 252/2020 r 5	31.7.2020
r 3B(1)	varied by 68/2021 r 6	1.7.2021
<i>Pt 2 before deletion by 68/2021</i>		
<i>r 4</i>		
<i>r 4(1)</i>	<i>r 4 redesignated as r 4(1) by 173/2019 r 6</i>	<i>1.7.2019</i>
<i>r 4(2)</i>	<i>inserted by 173/2019 r 6</i>	<i>1.7.2019</i>
	<i>varied by 24/2021 r 4(1)</i>	<i>19.3.2021</i>
<i>r 4(3) and (4)</i>	<i>inserted by 24/2021 r 4(2)</i>	<i>19.3.2021</i>
Pt 2	<i>deleted by 68/2021 r 7</i>	<i>1.7.2021</i>
<i>Pt 3</i>		
r 5		
r 5(1)	varied by 68/2021 r 8(1), (2)	1.7.2021
r 5(2)	varied by 68/2021 r 8(3)	1.7.2021
r 5(3)	substituted by 68/2021 r 8(4)	1.7.2021
r 5(4)	varied by 68/2021 r 8(5)	1.7.2021
r 6	varied by 68/2021 r 9(1), (2)	1.7.2021
r 7	varied by 68/2021 r 10(1), (2)	1.7.2021
<i>Pt 4</i>	<i>inserted by 173/2019 r 7</i>	<i>1.7.2019</i>
<i>r 8</i>		
r 8(1)	varied by 68/2021 r 11	1.7.2021
<i>r 8(2)</i>	<i>substituted by 252/2020 r 6</i>	<i>31.7.2020</i>
<i>r 9</i>		
<i>r 9(1)</i>	<i>varied by 252/2020 r 7(1)</i>	<i>31.7.2020</i>
<i>r 9(2)</i>	<i>varied by 252/2020 r 7(2), (3)</i>	<i>31.7.2020</i>
<i>r 10</i>	<i>deleted by 252/2020 r 8</i>	<i>31.7.2020</i>
r 11	varied by 68/2021 r 12	1.7.2021
r 12	varied by 68/2021 r 13	1.7.2021
<i>r 13</i>	<i>substituted by 252/2020 r 9</i>	<i>31.7.2020</i>
r 13(1)	varied by 68/2021 r 14(1)	1.7.2021
<i>r 13(2)</i>	<i>substituted by 24/2021 r 5</i>	<i>19.3.2021</i>
	varied by 68/2021 r 14(2)	1.7.2021
<i>r 13(4)</i>	<i>inserted by 29/2021 r 4</i>	<i>19.3.2021</i>
	substituted by 68/2021 r 14(3)	1.7.2021
rr 14 and 15	<i>deleted by 68/2021 r 15</i>	<i>1.7.2021</i>

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Pt 5	inserted by 173/2019 r 7	1.7.2019
r 16		
r 16(1)	varied by 68/2021 r 16	1.7.2021
r 17	varied by 68/2021 r 17	1.7.2021
Pt 6	inserted by 173/2019 r 7	1.7.2019
r 18	substituted by 252/2020 r 10	31.7.2020
r 18(1)	varied by 68/2021 r 18(1), (2)	1.7.2021
r 18(2)	substituted by 68/2021 r 18(3)	1.7.2021
r 18(3)	deleted by 68/2021 r 18(3)	1.7.2021
r 19	inserted by 252/2020 r 10	31.7.2020
	varied by 68/2021 r 19(1)—(6)	1.7.2021
<i>Sch 1 before deletion by 68/2021</i>	<i>substituted by 173/2019 r 8</i>	<i>1.7.2019</i>
<i>Pt 2</i>	<i>substituted by 252/2020 r 11(1)</i>	<i>31.7.2020</i>
	<i>varied by 24/2021 r 6(1)—(3)</i>	<i>19.3.2021</i>
	<i>varied by 29/2021 r 5</i>	<i>19.3.2021</i>
<i>Pt 3</i>	<i>varied by 252/2020 r 11(2)—(4)</i>	<i>31.7.2020</i>
<i>Pt 4</i>	<i>varied by 252/2020 r 11(5)—(8)</i>	<i>31.7.2020</i>
<i>Pt 5</i>	<i>varied by 252/2020 r 11(9)—(11)</i>	<i>31.7.2020</i>
	<i>varied by 24/2021 r 6(4), (5)</i>	<i>19.3.2021</i>
Sch 1	deleted by 68/2021 r 20	1.7.2021
<i>Sch 2</i>	<i>inserted by 173/2019 r 8</i>	<i>1.7.2019</i>
	<i>deleted by 252/2020 r 12</i>	<i>31.7.2020</i>

Historical versions

1.7.2019
 31.7.2020
 19.3.2021