

South Australia

Development (Fees) Variation Regulations 2009

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Fees) Variation Regulations 2009*.

2—Commencement

These regulations will come into operation on 1 July 2009.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Development Regulations 2008*

4—Variation of regulation 63B—Prescribed fee

Regulation 63B(1)(a)—delete "\$1 470" and substitute:
\$1 532

5—Variation of regulation 93A—Register of private certifiers

- (1) Regulation 93A(2)(b)—delete "\$115" and substitute:
\$120
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- (2) Regulation 93A(6)(a)—delete "\$58" and substitute:
\$60.50

6—Substitution of Schedule 6

Schedule 6—delete the Schedule and substitute:

Schedule 6—Fees

- 1 The following fees are payable in relation to an application under Part 4 of the Act:
- (1) A Lodgement Fee (the *base amount*) \$50.50
 - plus
 - (a) if the application is seeking the relevant authority to assess a *non-complying* development under the Development Plan, other than where the application relates to development that involves the division of land; and \$81.00
 - (b) if the application is seeking the relevant authority to assess an application that relates to the division of land—
 - (i) if the number of allotments resulting from the division under the application is equal to or less than the number of existing allotments; or \$40.50
 - (ii) if the number of allotments resulting from the division under the application is greater than the number of existing allotments; and \$119.00
 - (c) if the development involves building work that is, under the provisions of the Act, subject to the requirement to obtain building rules consent and the development cost exceeds \$5 000 (including a case where the relevant assessment is undertaken by a private certifier) \$57.50

(2) If the application requires the relevant authority to assess the development against the provisions of the relevant Development Plan, other than where the application relates—

(a) to a *complying* development under these regulations or the Development Plan, other than if the development is *complying* development under Schedule 4, clause 1(2) or (3), 2A or 2B; or

(b) to a proposed division of land into allotments which does not involve the performance of building work,

a Development Plan Assessment Fee of the following amount:

(c) if the development cost does not exceed \$10 000 \$31.50

(d) if the development cost exceeds \$10 000 but does not exceed \$100 000 \$86.50

(e) if the development cost exceeds \$100 000 0.125% of the development cost up to a maximum of \$200 000

(3) If the application relates to a proposed division of land—

(a) other than where the application relates to a *complying* development under these regulations or the Development Plan, a Land Division Fee of the following amount:

(i) if the number of allotments resulting from the division is equal to or less than the number of existing allotments \$58.50

(ii) if the number of allotments resulting from the division is greater than the number of existing allotments \$128.00 plus \$12.10 for each allotment up to a maximum of \$5 832

and

- (b) a Statement of Requirements Fee for the purposes of section 33(1)(c) or (d) of the Act—
 - (i) if the number of allotments resulting from the division is equal to or less than the existing number of allotments \$239.00
 - (ii) if the number of allotments resulting from the division is greater than the number of existing allotments \$338.00

and

- (c) a Development Assessment Commission Consultation Report Fee—
 - (i) if the number of allotments resulting from the division is equal to or less than the existing number of allotments \$56.50
 - (ii) if the number of allotments resulting from the division is greater than the existing number of allotments \$168.00

and

- (d) a Certificate of Approval Fee for the purposes of section 51 of the Act—
 - (i) if the number of allotments resulting from the division is equal to or less than the existing number of allotments \$84.00
 - (ii) if the number of allotments resulting from the division is greater than the existing number of allotments \$281.00
- (4) If the application relates to a proposed development that is of a kind described as a *non-complying* development under the relevant Development Plan—
 - (a) a Non-complying Development Administration Fee (in respect of the requirement for a concurrence under section 35(2) of the Act (1 fee)) \$103.00

- and
- (b) a Non-complying Development Assessment Fee of the following amount (unless no assessment is to be undertaken due to an immediate refusal of the application):
 - (i) if the development cost does not exceed \$10 000 \$43.25
 - (ii) if the development cost exceeds \$10 000 but does not exceed \$100 000 \$103.00
 - (iii) if the development cost exceeds \$100 000 0.125% of the development cost up to a maximum of \$200 000
 - (iv) if the application relates to the proposed division of land—
 - (A) if the number of allotments resulting from the division is equal to or less than the existing number of allotments \$43.25
 - (B) if the number of allotments resulting from the division is greater than the number of existing allotments \$103.00 plus \$12.10 for each new allotment up to a maximum of \$1 800
 - (5) If the application must be referred to a body prescribed under Schedule 8 for the purposes of section 37 of the Act—
 - (a) except to the extent that paragraph (b) applies, for each body to which the application must be referred—a Referral Fee of the following amount:
 - (i) unless subparagraph (ii) applies \$180.00
 - (ii) if the development cost exceeds \$1 000 000 \$300.00
 - (b) for a referral—
 - (i) that falls within the ambit of clauses 1(6), 2(3), 2(7), 2(8), 2(10) or 3(3) of Schedule 22 for the referral to the Environment Protection Authority \$300.00

(ii)	that falls within the ambit of item 19, 20 or 21—for a referral under those items	\$300.00
(6)	If the proposed development is a Category 2 or Category 3 development for the purposes of section 38 of the Act—a Public Notification Fee	\$86.50
(7)	If the proposed development is a Category 3 development for the purposes of section 38 of the Act—an Advertisement Fee	An amount determined by the relevant authority as being appropriate to cover its reasonable costs in giving public notice of the application under section 38(5)(c) of the Act
(8)	If the application requires a relevant authority to assess the development against the provisions of the Building Rules—	
(a)	in the case of a building that has a floor area	$F = 0.0023 \times CI \times A \times CF$, or \$53.50, whichever is the greater
(b)	in the case of a building that does not have a floor area	$F = 0.0023 \times CI \times S \times CF$, or \$53.50, whichever is the greater
	where—	
	<i>F</i> is the fee (in dollars) payable under this component (unless the \$53.50 minimum applies)	
	<i>CI</i> is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the Gazette	
	<i>A</i> is the prescribed floor area	
	<i>S</i> is the projected area of the largest side or plane of the building	
	<i>CF</i> is the complexity factor	
(9)	If the application requires a relevant authority to grant consent to a development that is at variance with the Building Rules	\$126.00
(10)	If the application requires referral to the Building Rules Assessment Commission for concurrence before granting consent to a development that is at variance with the performance requirements of the Building Code	\$253.00

- (11) If—
- (a) a council is the relevant authority with respect to a particular development; and
 - (b) the development requires both development plan consent and building rules consent (including in a case where a private certifier may exercise the powers of a relevant authority to give the building rules consent),
- a Development Authorisation (Staged Consents) Fee, other than where— \$50.50
- (c) the application relates to a *complying* development under these regulations or the Development Plan; or
 - (d) the applicant applies to the council at the same time for both development plan consent and building rules consent.
- (12) If— \$42.00
- (a) a council is the relevant authority with respect to a particular development; and
 - (b) the application is within the ambit of Schedule 1A, other than clause 2,
- (being a fee due and payable to the council).

For the purposes of this item:

- (a) **development cost** does not include any fit-out costs;
- (b) **allotment** does not include an allotment for road or open space requirements;
- (c) subject to Schedule 7, a body prescribed under Schedule 8 for the purposes of section 37 of the Act may waive the whole or part of a fee due to the body under component (5), or refund any such fee (in whole or in part);
- (d) if an application must be referred to the same body under more than 1 item in Schedule 8, only 1 fee is payable under component (5) with respect to the referral to that particular body (being, if relevant, the higher or highest fee);
- (e) if—
 - (i) a State agency lodges an application for approval with the Development Assessment Commission under section 49 of the Act; or

- (ii) a prescribed person lodges an application for approval with the Development Assessment Commission under section 49A of the Act,
- then—
- (iii) if—
 - (A) the development cost exceeds \$100 000; or
 - (B) the development involves the division of land and the number of allotments resulting from the division is greater than the existing number of allotments,
- any relevant fee under components (1), (2) and (3) of this item will be payable to the Development Assessment Commission as if it were a relevant authority (but not so as to require any payment by the Development Assessment Commission to a council under Schedule 7);
- (iv) in any other case—no fee is payable;
- (f) no fee is payable in respect of a development—
 - (i) excluded from the provisions of section 49 of the Act by a regulation under section 49(3); or
 - (ii) excluded from the provisions of section 49A of the Act by a regulation under section 49A(3);
 - (g) no fee is payable in respect of a development which is to be undertaken by a council, except where the primary reason for the proposed development is to raise revenue for the council;
 - (h) an application seeking the variation of a development authorisation previously given under the Act (including a condition imposed in relation to a development) will be subject to the fees prescribed by this item as if it were an application for a new development, 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 relevant body on account of the application and not so as to require the payment of a fee for a minor variation that makes no substantive change to the development authorisation that has been previously given;

- (i) if an application is for a second or subsequent consent because the applicant is seeking the assessment of a particular development in stages, the base amount under component (1) is only payable in relation to the first application (but the base amount will again be payable if the application is to be treated as a new application for a new development in the manner envisaged by paragraph (h) and taking into account the operation of section 39(7)(b) of the Act);
 - (j) the Development Authorisation (Staged Consents) Fee is not payable unless or until the council receives an application for building rules consent or, if building rules consent is given by a private certifier, unless or until the private certifier notifies the council of his or her decision to grant the consent under section 93(1)(b) of the Act.
- 2 The following fee is payable in respect of an application for assignment of a classification to a building or a change in the classification of a building for the purposes of section 66 of the Act:
- (a) in the case of a building that has a floor area $F = 0.00184 \times CI \times A \times CF$, or \$53.50, whichever is the greater
 - (b) in the case of a building that does not have a floor area $F = 0.00184 \times CI \times S \times CF$, or \$53.50, whichever is the greater
- where—
- F** is the fee (in dollars) payable under this component (unless the \$53.50 minimum applies)
- CI** is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the Gazette
- A** is the prescribed floor area
- S** is the projected area of the largest side or plane of the building
- CF** is the complexity factor.
- 3 A fee of \$36.25 is payable in respect of an application for a certificate of occupancy.
- 4 A fee of \$78.00 is payable in respect of an application under regulation 76(4)(c).
- 5 (1) If the matter involves an application to a private certifier for an assessment of a development against the provisions of the Building Rules, a fee equal to 5% of the fee that would apply under component (8) of item 1 if a council were the relevant authority for that assessment, exclusive of any GST component, is payable by the applicant.

- (2) The fee must be paid by the applicant to the private certifier at the time of application.
 - (3) The fee must be held by the private certifier pending payment to the Minister under Schedule 7.
 - (4) Except as provided above, the fee to be paid to a private certifier will be determined by agreement between the applicant and the private certifier.
- 6 The following fees are payable in respect of a referral to the Building Rules Assessment Commission under section 36(2b) of the Act:
- (a) for Class 1 and 10 buildings—\$397.00;
 - (b) for Class 2 to 9 buildings—\$870.00.
- 7 (1) A fee of \$60.50 is payable in respect of the registration of an agreement under section 57 or 57A of the Act.
- (2) A fee of \$11.30 is prescribed for the purposes of section 57(2d) or 57A(7) of the Act.
- 8 (1) A fee of \$120.00 is payable in respect of an application to the Minister for an approval under section 101 of the Act.
- (2) A fee under this item must be paid in a manner determined by the Minister.
- 9 A fee of \$81.00 is payable in respect of an application to extend a period under regulation 48.
- 10 For the purposes of items 1(8) and 2—
- (a) the prescribed floor area is—
 - (i) for the purpose of calculating the fee on an application for assessment against the provisions of the Building Rules that consists of the erection of a building or the demolition of a building—the aggregate of the floor areas of the building proposed to be erected or demolished;
 - (ii) for the purpose of calculating the fee on an application for assessment against the provisions of the Building Rules where the building work consists of an alteration to a building—
 - (A) the aggregate of the floor areas of the rooms or compartments to be altered; or
 - (B) if the alteration consists of the fixing or erection of an attachment that does not have a floor area—the floor area of the building within a distance of 3 metres of where the attachment is to be fixed or erected;

- (iii) for the purpose of calculating the fee on application for assignment of a classification to, or a change in the classification of, a building—the aggregate of the floor areas of the building;
- (b) the floor area of a building is to be measured over any enclosing walls and is to include the area of the floor of any fully or partly covered carport, portico, verandah, balcony, porch or other similar structure attached or to be attached to the building;
- (c) if a building is without storeys, or has a storey of a height of more than 10 metres, the floor area is to be calculated as if the building contained floors at 10 metre intervals, measured vertically;
- (d) a building is to be taken not to have any floor area if it is principally of open framework or web construction or solid construction and without any fully or partly enclosed space intended for occupation or use by persons;
- (e) the *complexity factor* is—
 - (i) except as below—1.0;
 - (ii) for building work for the erection or alteration of a building that exceeds 6 storeys—1.3;
 - (iii) for building work for the erection or alteration of a building that contains an atrium—1.3;
 - (iv) for building work for the erection or alteration of a building that contains an arcade exceeding 40 metres in length—1.3;
 - (v) for building work that consists solely of the demolition of a building—0.2;
 - (vi) for assignment of classification or a change in classification where no building work is proposed—0.8;
- (f) if a building is made up of parts that have different construction indices, the fee payable for the assessment of building work against the provisions of the Building Rules, the assignment of classification or a change in classification, is the aggregate of the fees calculated in accordance with this Schedule for those parts;
- (g) if an application for the assessment of building work against the provisions of the Building Rules incorporates an application for the assignment of a classification to, or a change in the classification of, the building, 1 fee is payable in respect of the applications, being whichever of the fees for those applications that is of the greater amount.

7—Variation of Schedule 7—Provisions regulating the distribution of fees between authorities

- (1) Schedule 7, clause 2(a)(vii)—delete "\$16.10" and substitute:
\$16.80
- (2) Schedule 7, clause 2(b)(i)—delete "\$140" and substitute:
\$146
- (3) Schedule 7, clause 2(b)(ii)—delete "\$256" and substitute:
\$267
- (4) Schedule 7, clause 2(c)—delete "\$256" and substitute:
\$267
- (5) Schedule 7, clause 3(a)(iv)—delete "\$143" and substitute:
\$149
- (6) Schedule 7, clause 3(a)(x)—delete "\$32.25" and substitute:
\$33.50
- (7) Schedule 7, clause 3(b)(i)—delete "\$140" and substitute:
\$146
- (8) Schedule 7, clause 3(b)(ii)—delete "\$256" and substitute:
\$267
- (9) Schedule 7, clause 3(c)—delete "\$256" and substitute:
\$267

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 4 June 2009

No 79 of 2009

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