
DRAFT STATUTORY INSTRUMENTS

2014 No.

**The Community Infrastructure Levy
(Amendment) Regulations 2014**

Amendment to Part 8 – administration

- 9.—(1) In regulation 64 (notice of chargeable development)—
- (a) in paragraph (1A)—
 - (i) at the end of sub-paragraph (a) omit “or”, and
 - (ii) after sub-paragraph (a) insert—
 - “(aa) in relation to which no CIL is payable because an exemption for residential extensions was granted; or”;
 - (b) in paragraph (4), for sub-paragraphs (b) and (c) substitute—
 - “(b) any building that is relevant for the purpose of calculating E or K_R under regulation 40;”;
 - (c) omit paragraph (9).
- (2) In regulation 64A (preparation and service of notice of chargeable development by collecting authority)—
- (a) in paragraph (1)(c) for paragraph (ii) substitute—
 - “(ii) in relation to the development—
 - (aa) the exemption conferred by regulation 42 does not apply; or
 - (bb) the exemption for residential extensions does not reduce the CIL liability to zero.”;
 - (b) in paragraph (2)(c), for paragraphs (iii) and (iv) substitute—
 - “(iii) where the collecting authority has sufficient information to do so, any building that is relevant for the purpose of calculating E or K_R under regulation 40;”.
- (3) In regulation 65 (liability notice)—
- (a) in paragraph (2)(e) after “amount of any” insert “exemption for residential annexes or extensions.”;
 - (b) in paragraph (2)(f)—
 - (i) after “social housing relief” insert “or an exemption for self-build housing”, and
 - (ii) in paragraphs (i) and (ii) after “relief” insert “or exemption”;
 - (c) in paragraph (11)(a) after “social housing relief” insert “, or an exemption for residential annexes or self-build housing.”;
 - (d) in paragraph (11)(b) after “clawback period” insert “(or, if a disqualifying event under regulation 54D(2)(b) has occurred and the collecting authority may take no further action in relation to that event); and
 - (e) in paragraph (12) before “planning permission” insert “phased”.

- (4) In regulation 66 (local land charges)—
- (a) in paragraph (3)(a) after “social housing relief” insert “, or an exemption for residential annexes or self-building housing,”; and
 - (b) in paragraph (3)(b) after “clawback period” insert “(or, if a disqualifying event under regulation 54D(2)(b) has occurred and the collecting authority may take no further action in relation to that event).”
- (5) In regulation 67 (commencement notice)—
- (a) at the end of paragraph (1A)(a) omit “or”;
 - (b) after paragraph (1A)(a) insert—
 - “(aa) in relation to which no CIL is payable because an exemption for residential extensions was granted; or”.
- (6) After regulation 73 (payment in kind) insert—

“Infrastructure payments

73A.—(1) If a charging authority has made infrastructure payments available in its area it may accept one or more infrastructure payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development.

(2) An infrastructure payment is the provision of one or more items of infrastructure by a person (P) who would be liable to pay CIL in respect of a chargeable development on commencement of that development.

(3) Where CIL is paid by way of an infrastructure payment the amount of CIL paid is an amount equal to the value of the infrastructure provided.

(4) Paragraph (1) is subject to the following provisions of this regulation.

(5) A charging authority must aim to ensure that the infrastructure provided through an infrastructure payment will be used to support the development of its area.

(6) A charging authority may accept an infrastructure payment relating to infrastructure to be provided outside its area if it considers that the infrastructure will support the development of its area.

(7) A charging authority may not accept an infrastructure payment unless—

- (a) it is satisfied that P—
 - (i) has, or is likely to have, sufficient control over the land on which the infrastructure is to be constructed to enable P to provide the infrastructure, and
 - (ii) has provided the charging authority with evidence that P has obtained, or will be likely to be able to obtain, any relevant statutory authorisations that are necessary to enable the infrastructure to be constructed;
- (b) it is satisfied that the infrastructure to be provided—
 - (i) is relevant infrastructure, and
 - (ii) is not necessary to make the development granted permission by the relevant permission acceptable in planning terms;
- (c) the infrastructure will be provided to the charging authority or a person nominated by the charging authority (with that person’s agreement);
- (d) P has assumed liability to pay CIL in respect of the chargeable development; and
- (e) an agreement to provide the infrastructure is entered into before the chargeable development mentioned in paragraph (2) is commenced.

- (8) The agreement mentioned in paragraph (7)(e) must—
- (a) be in writing;
 - (b) state the value of the infrastructure;
 - (c) state the date by which the infrastructure is to be provided and provide for payment to the charging authority of—
 - (i) the CIL cash amount, and
 - (ii) interest,in money if the infrastructure is not provided by that date, or in accordance with an agreed extension to that date; and
 - (c) must satisfy the requirements of paragraph (9).

(9) The agreement mentioned in paragraph (7)(e) must ensure that by the time the CIL cash amount would be payable if it was being paid in money, an amount equal to the CIL cash amount must either—

- (a) have been used to provide the infrastructure; or
- (b) be subject to an arrangement so that—
 - (i) it can only be used by P for the purposes of providing the infrastructure,
 - (ii) P cannot use that amount as a means of securing additional funding or in any other way that would benefit P,
 - (iii) any interest or other benefit received in relation to that amount from that date belong to the charging authority,
 - (iv) any funds subject to the arrangement remaining once the infrastructure has been provided belong to the charging authority, and
 - (v) if the CIL cash amount becomes payable in money, any funds subject to the arrangement are used for that purpose.

(10) Where the infrastructure is to be provided to a person other than the charging authority, the charging authority may not enter into the agreement mentioned in paragraph (7)(e) unless it is satisfied that that person will use the infrastructure to support the development of the charging authority's area.

(11) For the purposes of this regulation, the value of the infrastructure provided must be determined by an independent person, and is the cost to P of providing that infrastructure (including related design costs) on the day the valuation takes place.

(12) In this regulation—

- (a) "the CIL cash amount" means the CIL the infrastructure payment is accepted in satisfaction of;
- (b) "independent person" has the same meaning as in regulation 73(14) (payment in kind);
- (c) infrastructure is "provided to" a person if it is completed and ownership of it is transferred to that person;
- (d) "relevant infrastructure" has the same meaning as in regulation 123 (further limitations on the use of planning obligations); and
- (e) "relevant permission" means the planning permission which grants permission for the chargeable development mentioned in paragraph (2).

Infrastructure payments: notification requirements

73B.—(1) A charging authority which wishes to allow infrastructure payments in its area must—

- (a) issue a document which—
 - (i) gives notice that it is willing to accept infrastructure payments in its area,
 - (ii) states the date on which the charging authority will begin accepting infrastructure payments, and
 - (iii) includes a policy statement setting out the infrastructure projects, or types of infrastructure, which it will consider accepting the provision of as infrastructure payments (this may be done by reference to the charging authority's infrastructure list);
- (b) publish the document on its website;
- (c) make the document available for inspection—
 - (i) at its principal office, and
 - (ii) at such other places within its area as it considers appropriate; and
- (d) send a copy of the document to the collecting authority (if it is not the charging authority).

(2) Where a charging authority wishes to revise its policy on allowing infrastructure payments in its area it must—

- (a) issue a document which—
 - (i) gives notice of the revised policy,
 - (ii) states the date from which the revised policy applies, and
 - (iii) includes a revision of the policy statement mentioned in paragraph (1)(a)(iii);
- (b) publish the document on its website;
- (c) make the document available for inspection—
 - (i) at its principal office; and
 - (ii) at the places at which the document mentioned in paragraph (1) was made available for inspection under paragraph (1)(c)(ii), or, if the charging authority considers that such places are no longer appropriate, such other places within its area as it considers appropriate; and
- (d) send a copy of the document to the collecting authority (if it is not the charging authority).

(3) A charging authority which no longer wishes to allow infrastructure payments in its area must—

- (a) issue a statement giving notice to that effect and stating the last day on which the charging authority will consider entering into an agreement under regulation 73A(7)(e);
- (b) publish the statement on its website;
- (c) make the statement available for inspection at the places at which the document mentioned in paragraph (1) was made available for inspection; and
- (d) send a copy of the statement to the collecting authority (if it is not the charging authority).

- (4) The day mentioned in paragraph (3)(a) must be no earlier than the end of the period of 14 days beginning with the date on which the statement mentioned in that paragraph is published on the charging authority’s website.”
- (7) In regulation 74 (payment in kind: further provision)—
- (a) in the heading after “in kind” insert “and infrastructure payments”;
 - (b) in paragraph (1) after “land” insert “or infrastructure”;
 - (c) in paragraph (2) after “land” insert “or infrastructure”;
 - (d) after paragraph (3) insert—
 - “(3A) An infrastructure payment is deemed to have been received on the day on which the funds to be used to provide that infrastructure have either been used to provide it or are subject to an arrangement made in accordance with regulation 73A(9)(b).”;
 - (e) in paragraph (4)—
 - (i) in sub-paragraph (a) after “land payment” insert “, an infrastructure payment” and for “two” substitute “three”, and
 - (ii) in sub-paragraph (b) after “land” insert “or infrastructure”; and
 - (f) in paragraph (7) after “land”, in both places, insert “or infrastructure”.
- (8) In regulation 74A (abatement) in the heading after “Abatement” insert “: section 73 applications”.
- (9) After regulation 74A insert—

“Abatement: implementation of a different planning permission

- 74B.**—(1) This regulation applies where—
- (a) a chargeable development has been commenced under a planning permission (A);
 - (b) a different planning permission (B) has been granted for development on all or part of the land on which the chargeable development under A is authorised to be carried out; and
 - (c) the charging authority receives notice from a person who has assumed liability to pay CIL in relation to B that the chargeable development under A will cease to be carried out and that development under B will commence (or re-commence).
- (2) Where this regulation applies a person who has assumed liability to pay CIL in relation to B may request that the charging authority credits any CIL paid in relation to A against the amount due in relation to B.
- (3) Paragraph (2) is subject to the following provisions of this regulation.
- (4) This regulation does not apply where B is a planning permission granted under section 73 of TCPA 1990.
- (5) Any CIL paid in relation to A can only be credited against the CIL due in relation to B to the extent that the CIL paid in relation to A relates to buildings that—
- (a) have not been completed when the request is made; and
 - (b) are not taken into account in reducing the chargeable amount in relation to B through the operation of regulation 40.
- (6) Where—
- (a) B is a phased planning permission; and

- (b) the amount to be credited against the CIL due in relation to B is greater than the amount due in relation to the first phase of B commenced after a request under this regulation has been granted,

the remainder must be credited against the next phase or phases of B until there is no remainder.

- (7) To be valid a request under paragraph (2) must be—

- (a) made before the chargeable development under B is commenced (or, if the request relates to the re-commencement of chargeable development under a permission, before development is re-commenced); and

- (b) accompanied by proof of the amount of CIL that has already been paid.

- (8) Abatement granted in relation to the amount of CIL due under B ceases to have effect if—

- (a) the person granted the abatement does not either—

- (i) submit a commencement notice in accordance with regulation 67(1) in relation to B, or

- (ii) give notice in accordance with regulation 67(6B) in relation to B;

- (b) the chargeable development under A is re-commenced or continued after abatement is granted; or

- (c) abatement under this regulation is granted in relation to another planning permission which authorises development to be carried out on the land on which the chargeable development under A is authorised to be carried out.

- (9) Abatement may be granted more than once in relation to a planning permission if development under that planning permission is re-commenced.

- (10) Paragraph (11) applies where a request for abatement made in relation to B within the period ending three years after the grant of A is granted and the abatement has not ceased to have effect.

- (11) Where this paragraph applies, any parts of buildings which—

- (a) were demolished under A,

- (b) were taken into account in reducing the chargeable amount in relation to A through the operation of regulation 40,

- (c) would have been taken into account under regulation 40 in relation to B had they not been demolished, and

- (d) are not otherwise taken into account under regulation 40,

are to be taken into account under regulation 40 in relation to B as if they are parts of in-use buildings that are to be demolished before the completion of the chargeable development under B (or, if B is a phased permission, in relation to the first phase of B).

- (12) In this regulation a chargeable development is re-commenced under a planning permission where—

- (a) the chargeable development was commenced under that permission;

- (b) work on that chargeable development is halted and a chargeable development under a different planning permission is commenced on the land on which the chargeable development referred to in (a) is authorised to be carried out;

- (c) the chargeable development under that different planning permission is subsequently halted and work on the chargeable development referred to in sub-paragraph (a) is continued.”.

- (10) In regulation 75 (overpayments) in paragraph (2)—

- (a) in paragraph (a), after “repayment;” delete “or”
- (b) in paragraph (b), after “land” insert “or infrastructure; or”;
- (c) after paragraph (b), insert—
 - “(c) abatement of the amount paid by P is or would have been available under regulation 74B or was granted under that provision.”