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STATUTORY INSTRUMENTS

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**2010 No. 948**

**The Community Infrastructure Levy Regulations 2010**

**PART 12**

**MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

**Payment of CIL by the Crown**

**124.**—(1) CIL payable in accordance with these Regulations by the Chancellor of the Duchy of Lancaster may be raised and paid under section 25 of the Duchy of Lancaster Act 1817<sup>(1)</sup> (application of monies) as an expense incurred in improvement of land belonging to Her Majesty in right of the Duchy.

(2) In the case of land belonging to the Duchy of Cornwall, the purposes authorised by section 8 of the Duchy of Cornwall Management Act 1863<sup>(2)</sup> (application of monies) for the advancement of parts of such gross sums mentioned in that section shall include the payment of CIL in accordance with these Regulations.

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**Commencement Information**

**I1** Reg. 124 in force at 6.4.2010, see [reg. 1](#)

**Enforcement in relation to the Crown and Parliament**

**125.**—(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under these Regulations.

(2) Regulations [80](#) to [86](#) do not apply in relation to CIL payable by persons responsible for administering property belonging to Her Majesty in her private capacity; and this is to be construed as if section 38(3) (meaning of Her Majesty in her private capacity) of the Crown Proceedings Act 1947<sup>(3)</sup> were contained in these Regulations.

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**Commencement Information**

**I2** Reg. 125 in force at 6.4.2010, see [reg. 1](#)

**Service of documents: general**

**126.**—(1) A notice or other document required or authorised to be served, given, submitted or sent under these Regulations may be served, given, submitted or sent in any of the following ways—

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(1) 1817 c. 97.  
(2) 1863 c. 49.  
(3) 1947 c. 44.

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given, submitted or sent;
  - (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address;
  - (c) by sending it by post, addressed to that person at that person’s usual or last known place of abode or, in the case where an address for service has been given by that person, at that address;
  - (d) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at that person’s usual or last known place of abode or, in a case where an address for service has been given that person, at that address;
  - (e) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address; or
  - (f) in the case of an incorporated company or body—
    - (i) by delivering it to the secretary or clerk of the company or body at their registered or principal office,
    - (ii) by sending it by post, addressed to the secretary or clerk of the company or body at that office, or
    - (iii) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) The condition mentioned in paragraph (1)(e) is that the notice or other document must be—
- (a) capable of being accessed by the person mentioned in that provision;
  - (b) legible in all material respects; and
  - (c) in a form sufficiently permanent to be used for subsequent reference.
- (3) For the purposes of paragraph (2), “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, submitted, given or supplied by means of a notice or document in printed form.
- (4) Where a notice or document sent by electronic communications is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank holiday or other public holiday.
- (5) A requirement in these Regulations that any notice, or other document should be in writing is fulfilled where that notice or document fulfils the condition mentioned in paragraph (2), and “written” and cognate expressions must be construed accordingly.
- (6) This regulation is without prejudice to section 233 of the Local Government Act 1972(4) (general provisions as to service of notices by local authorities).
- (7) Where two or more persons are joint owners of an interest in land, a requirement under these Regulations to serve a notice or other document on an owner of that interest is fulfilled by serving it on any one of the joint owners.
- (8) This regulation is subject to any contrary provision made by these Regulations.

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**Commencement Information**

**I3** Reg. 126 in force at 6.4.2010, see [reg. 1](#)

## Service of documents on the Crown and Parliament

**127.**—(1) Any notice or other document required under these Regulations to be served on or given or sent to the Crown must be served on or given or sent to the appropriate Crown authority.

(2) Regulation 126 does not apply for the purposes of the service, giving or sending of such a notice or document.

(3) In this regulation “appropriate Crown authority” has the same meaning as in section 227 of PA 2008.

### Commencement Information

**I4** Reg. 127 in force at 6.4.2010, see [reg. 1](#)

## Transitional provision: general

[<sup>F1</sup>(1) Subject to paragraph (2), liability to CIL charged by a charging authority does not arise in respect of development if, on the day planning permission is granted for that development, the authority has no charging schedule in effect.

(2) Where the planning permission referred to in paragraph (1) is granted for development by way of a relevant general consent, liability to CIL charged by a charging authority does not arise in respect of that development if—

- (a) it is commenced before 6th April 2013; or
- (b) on the day on which it is commenced, the charging authority for the area in which the development is situated has no charging schedule in effect.]

(3) In paragraph (2) “relevant general consent” means—

  - (a) a development order made under section 59 of TCPA 1990;
  - (b) a local development order adopted under section 61A of TCPA 1990; or
  - (c) an enterprise zone scheme adopted under Schedule 32 to the Local Government, Planning and Land Act 1980.

### Textual Amendments

**F1** [Reg. 128\(1\)\(2\)](#) substituted (E.) (1.9.2019) by [The Community Infrastructure Levy \(Amendment\) \(England\) \(No. 2\) Regulations 2019 \(S.I. 2019/1103\)](#), [regs. 1, 5\(10\)](#) (with [regs. 1\(3\), 13](#))

### Commencement Information

**I5** Reg. 128 in force at 6.4.2010, see [reg. 1](#)

## [<sup>F2</sup>Transitional provision: section 73 of TCPA 1990 applications

[<sup>F3</sup>**128A.**—(1) Where all the criteria set out in paragraph (2) are satisfied by a development, paragraphs (3) to (6) shall apply.

- (2) The criteria are—
- (a) on the day planning permission (A) is granted in relation to the development, the development is situated in an area in which a charging authority has no charging schedule in effect;

- (b) a new planning permission (B) is later granted in relation to the development under section 73 of TCPA 1990; and
  - (c) on the day B is granted, the development is situated in an area in which that charging authority has a charging schedule in effect.
- (3) Liability to CIL shall arise in respect of the development, and the amount of CIL payable (“chargeable amount”) shall be—

$$X - Y$$

where—

- X = the chargeable amount for the development for which B was granted, calculated in accordance with regulation 40; and
- Y the amount, calculated in accordance with regulation 40, that would have been the chargeable amount for the development for which A was granted, if A first permitted development on the same day as B.

[<sup>F4</sup>(4) For the purposes of calculating Y, regulation 40 applies as if—

- (a) the index figure (Ip) for A were the index figure for the year in which B was granted;
- (b) a reference to a relevant charging schedule were a reference to the charging schedule which was in effect—
  - (i) at the time B first permits development; and
  - (ii) in the area in which the development will be situated.]

(5) If Y is greater than or equal to X, the chargeable amount is deemed to be zero.

(6) Part 11 of these Regulations (planning obligations) shall not apply in relation to that development.]]

#### Textual Amendments

- F2** Reg. 128A inserted (29.11.2012) by [The Community Infrastructure Levy \(Amendment\) Regulations 2012 \(S.I. 2012/2975\)](#), regs. 1, **9(1)** (with reg. 10(1))
- F3** Reg. 128A omitted (E.) (1.9.2019) by virtue of [The Community Infrastructure Levy \(Amendment\) \(England\) \(No. 2\) Regulations 2019 \(S.I. 2019/1103\)](#), regs. 1, **5(11)** (with regs. 1(3), 13)
- F4** Reg. 128A(4) substituted (9.2.2018) by [The Community Infrastructure Levy \(Amendment\) Regulations 2018 \(S.I. 2018/172\)](#), regs. 1(1), **2(2)** (with reg. 1(2))

#### [<sup>F5</sup>Transitional provision: article 18(1) of DMPO applications

**128B.**—(1) In this regulation “DMPO” means the Town and Country Planning (Development Management Procedure) (England) Order 2010.

- (2) Where all the criteria set out in paragraph (3) are satisfied, paragraph (4) shall apply.
- (3) The criteria are—
  - (a) on the day planning permission (A) is granted in relation to a development, the development is situated in an area in which a charging authority has no charging schedule in place;
  - (b) a new planning permission (B) is later granted in relation to the development;
  - (c) B is granted in accordance with regulation 18(1)(b) or (c) of DMPO (consultations before the grant of planning permission pursuant to section 73 or the grant of a replacement planning permission subject to a new time limit); and

- (d) on the day B is granted, the development is situated in an area in which that charging authority has a charging schedule in effect.
- (4) Other than this regulation these Regulations shall not apply in relation to that development.]

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**Textual Amendments**

- F5** Reg. 128B inserted (29.11.2012) by [The Community Infrastructure Levy \(Amendment\) Regulations 2012 \(S.I. 2012/2975\)](#), regs. 1, **9(2)** (with reg. 10(6))

**Transitional provision: charging schedule ceases to have effect**

**129.**—(1) This regulation applies where a charging authority determines (in accordance with section 214(3) of PA 2008) that its charging schedule shall cease to have effect.

(2) A person who would otherwise be liable on commencement of a chargeable development to pay an amount of CIL charged by that authority in respect of that chargeable development will not be liable to pay that amount if the chargeable development is not commenced on or before the day on which the charging authority makes the determination referred to in paragraph (1).

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**Commencement Information**

- I6** Reg. 129 in force at 6.4.2010, see [reg. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Community Infrastructure Levy Regulations 2010, PART 12.