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STATUTORY INSTRUMENTS

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**2010 No. 948**

**The Community Infrastructure Levy Regulations 2010**

**PART 8**

**ADMINISTRATION**

**Notice of chargeable development**

**64.**—(1) This regulation applies where planning permission is granted for development by way of a general consent.

(2) Before any development authorised by a general consent is commenced, a notice of chargeable development must be submitted to the collecting authority in respect of that development.

(3) The notice must—

- (a) be submitted in writing on a form published by the Secretary of State (or a form to substantially the same effect); and
- (b) include the particulars specified or referred to in the form.

(4) The notice must be accompanied by—

- (a) a plan which identifies the land to which the notice relates and any buildings in use on that land which are to be demolished;
- (b) a plan which identifies the development which is the subject of the notice; and
- (c) any other plans, drawings, and information necessary to describe the development which is the subject of the notice.

(5) Any plans or drawings required to be provided under paragraph (4) must be drawn to an identified scale and, in the case of plans, must show the direction of North.

(6) The collecting authority must send an acknowledgment of receipt to a person who has submitted a notice of chargeable development.

(7) A person who submits a notice of chargeable development must notify the collecting authority in writing of any changes to the information provided in that notice before the chargeable development is commenced.

(8) A collecting authority may request a person who has submitted a notice of chargeable development to provide it with such further information, documents or materials which the collecting authority considers relevant to assist it in calculating the chargeable amount.

(9) For the purposes of this regulation, a building is considered in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day the notice of chargeable development is submitted.

**Liability notice**

**65.**—(1) The collecting authority must issue a liability notice as soon as practicable after the day on which a planning permission first permits development.

- (2) A liability notice must—
- (a) be issued on a form published by the Secretary of State (or a form to substantially the same effect);
  - (b) include a description of the chargeable development;
  - (c) state the date on which it was issued;
  - (d) state the chargeable amount;
  - (e) state the amount of any charitable relief or relief for exceptional circumstances granted in respect of the chargeable development;
  - (f) where social housing relief has been granted in respect of the chargeable development, state—
    - (i) the particulars of each person benefiting from the relief, and
    - (ii) for each of those persons, the amount of relief from which the person benefits; and
  - (g) contain the other information specified in the form.
- (3) The collecting authority must serve the liability notice on—
- (a) the relevant person;
  - (b) if a person has assumed liability to pay CIL in respect of the chargeable development, that person; and
  - (c) each person known to the authority as an owner of the relevant land.
- (4) The collecting authority must issue a revised liability notice in respect of a chargeable development if the chargeable amount or any of the particulars mentioned in paragraph (2)(e) or (f) change (whether on appeal or otherwise).
- (5) A collecting authority may at any time issue a revised liability notice in respect of a chargeable development.
- (6) A liability notice issued in accordance with paragraph (4) or (5) must be served in accordance with paragraph (3).
- (7) A collecting authority may withdraw a liability notice issued by it by giving notice to that effect in writing to the persons on whom it was served.
- (8) Where a collecting authority issues a liability notice any earlier liability notice issued by it in respect of the same chargeable development ceases to have effect.
- (9) A liability notice issued in respect of a chargeable development ceases to have effect if liability to CIL would no longer arise in respect of that chargeable development.
- (10) Subject to paragraph (11), a liability notice issued in respect of a chargeable development ceases to have effect once all outstanding amounts due in respect of that chargeable development have been paid to the collecting authority.
- (11) A liability notice issued in respect of a chargeable development ceases to have effect at the end of the clawback period if—
- (a) charitable or social housing relief has been granted in respect of that chargeable development; and
  - (b) no disqualifying event occurs before the end of the clawback period.
- (12) In this regulation “relevant person” means—
- (a) in the case of a general consent, the person who has submitted a notice of chargeable development;

- (b) in the case of planning permission granted subject to a condition requiring that further approval is obtained before commencing development, the person who has applied for that approval;
- (c) in all other cases, the person who applied for planning permission.

### **Local land charges**

**66.**—(1) The chargeable amount payable in respect of a chargeable development is a local land charge.

(2) Subject to paragraph (3), the chargeable amount ceases to be a local land charge once all outstanding amounts of CIL due in respect of the chargeable development have been paid to the collecting authority.

- (3) The chargeable amount ceases to be a local land charge at the end of the clawback period if—
- (a) charitable or social housing relief is granted in respect of the chargeable development; and
  - (b) no disqualifying event occurs before the end of the clawback period.

(4) The chargeable amount ceases to be a local land charge if liability to CIL would no longer arise in respect of the chargeable development.

(5) For the purposes of the Local Land Charges Act 1975(1), the collecting authority is the originating authority as respects a local land charge created in accordance with this regulation.

### **Commencement notice**

**67.**—(1) Where planning permission is granted for a chargeable development, a commencement notice must be submitted to the collecting authority no later than the day before the day on which the chargeable development is to be commenced.

- (2) A commencement notice must—
- (a) be submitted in writing on a form published by the Secretary of State (or a form to substantially the same effect);
  - (b) identify the liability notice issued in respect of the chargeable development;
  - (c) state the intended commencement date of the chargeable development; and
  - (d) include the other particulars specified or referred to in the form.

(3) A person submitting a commencement notice must serve a copy of it on each person known to that person as an owner of the relevant land.

(4) On receiving a valid commencement notice the collecting authority must send an acknowledgment of its receipt to the person who submitted it.

(5) Where charitable or social housing relief has been granted in respect of the chargeable development, the acknowledgement must state the date on which the clawback period ends (on the assumption that the chargeable development is commenced on the intended commencement date).

(6) Where a collecting authority receives a valid commencement notice any earlier commencement notice received by it in respect of the same chargeable development ceases to have effect.

(7) A person who has submitted a commencement notice may withdraw it at any time before the commencement of the chargeable development to which it relates by giving notice in writing to the collecting authority.

- (8) A commencement notice is valid if it complies with the requirements of paragraph (2).

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(1) 1975 c. 76.

### **Deemed commencement of chargeable development**

**68.** A collecting authority must determine the day on which a chargeable development was commenced (“the deemed commencement date”) if it—

- (a) has not received a commencement notice in respect of the chargeable development but has reason to believe it has been commenced; or
- (b) has received a commencement notice in respect of the chargeable development but has reason to believe that it was commenced earlier than the intended commencement date.

### **Demand notice**

**69.**—(1) The collecting authority must serve a demand notice on each person liable to pay an amount of CIL in respect of a chargeable development.

(2) A demand notice must—

- (a) be issued on a form published by the Secretary of State (or a form to substantially the same effect);
- (b) state the date on which it was issued;
- (c) identify the liability notice to which it relates;
- (d) state the intended commencement date or, where the collecting authority has determined a deemed commencement date, the deemed commencement date;
- (e) state the amount payable by the person on whom the notice is served (including any surcharges imposed in respect of or interest applied to the amount) and the day on which payment of the amount is due;
- (f) where the amount payable is to be paid by way of instalments<sup>(2)</sup>, state the amount of each instalment and the day on which payment of the instalment is due; and
- (g) include the other information specified in the form.

(3) The collecting authority may at any time serve a revised demand notice on a person liable to pay an amount of CIL.

(4) The collecting authority must serve a revised demand notice on a person on whom it has served a demand notice if any of the particulars mentioned in paragraph (2)(d), (e) or (f) change (whether on appeal or otherwise).

(5) Where a collecting authority serves a demand notice on a person, any earlier demand notice served on that person in respect of the same chargeable development ceases to have effect.

### **Payment periods**

**70.**—(1) This regulation applies where—

- (a) a person has assumed liability to pay CIL in respect of a chargeable development (D);
- (b) the collecting authority has received a commencement notice in respect of D; and
- (c) the collecting authority has not determined a deemed commencement date for D.

(2) Where the chargeable amount is equal to or greater than £40,000, payment of the amount of CIL payable in respect of D (A) is due in four equal instalments at the end of the periods of 60, 120, 180 and 240 days beginning with the intended commencement date of D.

(3) Where the chargeable amount is equal to or greater than £20,000 and less than £40,000, payment of A is due in three equal instalments at the end of the periods of 60, 120 and 180 days beginning with the intended commencement date of D.

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(2) See regulation 70.

(4) Where the chargeable amount is equal to or greater than £10,000 and less than £20,000, payment of A is due in two equal instalments at the end of the periods of 60 and 120 days beginning with the intended commencement date of D.

(5) Where the chargeable amount is less than £10,000, payment of A is due in full at the end of the period of 60 days beginning with the intended commencement date of D.

(6) Where an amount payable in accordance with this regulation is not received in full on or before the day on which it is due—

- (a) the unpaid balance of A becomes payable in full immediately; and
- (b) the collecting authority must send a copy of any demand notice which it serves as a result of the non-payment to each person known to the authority as an owner of the relevant land.

### **Payment in full**

**71.**—(1) The amount of CIL payable in respect of a chargeable development (D) is due in full on the intended commencement date if—

- (a) nobody has assumed liability to pay CIL in respect of D;
- (b) the collecting authority has received a commencement notice in respect of D; and
- (c) the collecting authority has not determined a deemed commencement date for D.

(2) Where the collecting authority determines a deemed commencement for a chargeable development, the amount of CIL payable in respect of that chargeable development is due in full on the deemed commencement date.

(3) Where the collecting authority transfers liability to pay an amount to the owners of the relevant land<sup>(3)</sup>, payment of that amount is due in full immediately.

(4) Where a person is liable to pay an amount as a result of a disqualifying event, payment of that amount is due in full—

- (a) at the end of the period of seven days beginning with the day on which a demand notice requiring payment of the amount is issued, if the collecting authority receives notification of the disqualifying event; or
- (b) immediately, if the collecting authority does not receive notification of the disqualifying event.

### **Payment: general**

**72.**—(1) This regulation applies to CIL which is paid in money.

(2) Payment must be made to the collecting authority.

(3) Payment is deemed to have been received by the collecting authority on the day on which it receives the cleared funds.

(4) On receiving a payment the collecting authority must send an acknowledgment of receipt to the person making the payment.

### **Payment in kind**

**73.**—(1) A charging authority may accept one or more land payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development.

(2) A land payment is an acquisition of land from a person who would be liable to pay CIL in respect of a chargeable development on commencement of that chargeable development.

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(3) See regulation 36(2).

(3) Where CIL is paid by way of a land payment the amount of CIL paid is an amount equal to the value of the acquired land.

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

(5) A charging authority must aim to ensure that acquired land is used for a relevant purpose.

(6) A charging authority may not accept a land payment unless—

- (a) the chargeable amount payable in respect of the chargeable development is greater than £50,000;
- (b) the acquired land is acquired by the charging authority or a person nominated by the charging authority (with that person's agreement);
- (c) the person from whom the land will be acquired has assumed liability to pay CIL in respect of the chargeable development; and
- (d) an agreement to make the land payment is entered into before the chargeable development is commenced.

(7) The agreement mentioned in paragraph (6)(d)—

- (a) must be in writing and state the value of the land to be acquired; and
- (b) may not form part of a planning obligation entered into under section 106 of TCPA 1990.

(8) Where a person other than the charging authority is to acquire the land, the charging authority may not enter into the agreement mentioned in paragraph (6)(d) unless it is satisfied that the person acquiring the land intends to use it for a relevant purpose.

(9) If acquired land is used for a purpose other than a relevant purpose, the charging authority must deem an appropriate cash amount held by it to be CIL.

(10) The appropriate cash amount in respect of a given land payment must be calculated by applying the following formula—

$$\frac{N \times V}{A}$$

where—

- N = the area of the part of the acquired land not used for a relevant purpose;
- A = the area of the acquired land; and
- V = the value of the acquired land as stated in the agreement entered into in accordance with paragraph (6)(d).

(11) For the purposes of this regulation, the value of acquired land must be determined by an independent person and is the price that the land might reasonably be expected to obtain if sold on the open market on the day the valuation takes place.

(12) The price referred to in paragraph (11) shall not be assumed to be reduced on the ground that the whole of the acquired land is to be placed on the open market at the same time.

(13) For the purposes of this regulation, land is used for a relevant purpose if it is used to provide or facilitate (in any way) the provision of infrastructure to support the development of the charging authority's area.

(14) In this regulation—

“acquired land” means land acquired by way of a land payment;

“independent person” means a person who—

- (a) is appointed by a person other than the charging authority with the agreement of—
  - (i) the charging authority, and

- (ii) the person liable to pay CIL in respect of the chargeable development, and
  - (b) has appropriate qualifications and experience; and
- “land” includes existing buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land.

### **Payment in kind: further provision**

**74.**—(1) This regulation applies where the CIL payable in respect of a chargeable development is payable (in whole or in part) by way of one or more land payments.

(2) References in regulations 36, 69 and 70 to an amount which is payable (however expressed) include references to a land payment which is payable.

(3) A land payment is deemed to have been received on the day on which the land which is the subject of the payment is acquired.

(4) For the purposes of regulation 70—

(a) an instalment may be paid by way of a land payment or in money, or a combination of the two; and

(b) more than one instalment may be paid by way of a given land payment.

(5) For the purposes of regulation 70(6), the unpaid balance must be paid in money.

(6) Where the collecting authority has determined a deemed commencement date in respect of the chargeable development in accordance with regulation 68, the amount of CIL payable in respect of that chargeable development is due in full and must be paid in money.

(7) An agreement to make a land payment is void if, and to the extent that, it purports to bind a charging authority to accept a land payment other than in accordance with these Regulations.

### **Overpayment**

**75.**—(1) Where a person (P) is liable to pay CIL and the amount paid by P proves to be greater than the amount for which P is liable, the collecting authority must, as soon as practicable, repay the overpayment.

(2) But the collecting authority is not required to repay an overpayment where—

(a) it is satisfied that the amount of the overpayment is less than any reasonable administrative costs which it would incur in making the repayment; or

(b) the overpayment is a result of a land payment.

(3) Where a person is entitled to a repayment, the collecting authority must pay that person an additional amount by way of interest on the repayment at a rate which is the higher of—

(a) 0.5% per annum; and

(b) a percentage per annum equal to the Bank of England base rate less one percentage point.

### **Payments to charging authorities**

**76.**—(1) This regulation applies where a collecting authority collects CIL on behalf of a charging authority.

(2) The collecting authority must pay to a charging authority an amount (X) equal to the payments it receives (Y) in respect of CIL charged by that charging authority less that part of Y which (in accordance with regulation 61(4)) the collecting authority applies to administrative expenses incurred by it in connection with collecting Y.

(3) Subject to paragraph (4), X must be paid to the charging authority by the collecting authority by the end of the financial quarter in which Y is received.

(4) Where the collecting authority first collects CIL on behalf of the charging authority, X must be paid to the charging authority by the end of the first full financial quarter following the day on which the collecting authority first receives a payment of CIL charged by that charging authority.

(5) In this regulation “financial quarter” means a period of three months ending with the last day of March, June, September or December.

### **Duty to supply information to collecting authority**

77.—(1) The relevant person (where that person is not the collecting authority) must supply the collecting authority with the following information within 14 days of the day on which planning permission first permits a chargeable development—

- (a) sufficient information to identify the planning permission;
- (b) the name and address of the person who applied for the planning permission;
- (c) the name and address of each person known to the relevant person as an owner of the relevant land;
- (d) the address of the site to which the planning permission relates;
- (e) the date on which planning permission first permitted the chargeable development; and
- (f) any information held by the relevant person which the relevant person considers the collecting authority requires in order to calculate the chargeable amount.

(2) In paragraph (1) “relevant person” means the person who granted planning permission.

(3) This regulation does not apply where planning permission is granted by way of a general consent.

### **Requests for information by collecting authority**

78.—(1) A collecting authority may request, by notice given in writing, a relevant person to supply to it such relevant information as is specified in the notice.

(2) Information requested under paragraph (1) must be supplied by the person requested to supply it if it is in that person’s possession or control, and it must be so supplied within 21 days of the day on which the request is made.

(3) A relevant person may, so far as that person does not have the power to do so apart from under this regulation, supply relevant information to a collecting authority even if it is not requested to supply the information.

(4) Information is relevant information for the purposes of this regulation if it is information which the collecting authority requires for the purposes of carrying out its functions under these Regulations.

(5) In this regulation “relevant person” means—

- (a) a charging authority;
- (b) a local planning authority (within the meaning of TCPA 1990);
- (c) the Secretary of State; or
- (d) the Infrastructure Planning Commission.



### **Use of information by collecting authority**

**79.**—(1) In carrying out its functions under these Regulations a collecting authority may use information obtained under any other enactment provided it does not fall within paragraph (2).

(2) Information falls within this paragraph if—

- (a) it was obtained by a committee of the authority in its capacity as a police authority; or
- (b) it was obtained by the authority in its capacity as an employer.