
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Community Infrastructure Levy Regulations 2010

PART 2

DEFINITION OF KEY TERMS

Meaning of “owner” and “material interest”

4.—(1) For the purposes of section 208 of PA 2008 (liability) a person is not an owner of the relevant land unless the person owns a material interest in the relevant land.

(2) A material interest in the relevant land is a legal estate in that land which is—

- (a) a freehold estate; or
- (b) a leasehold estate, the term of which expires more than seven years after the day on which planning permission first permits the chargeable development.

Meaning of “planning permission”

5.—(1) For the purposes of Part 11 of PA 2008, “planning permission” means—

- (a) planning permission granted by a local planning authority under section 70, 73 or 73A of TCPA 1990(1);
- (b) planning permission granted by the Secretary of State under the provisions mentioned in sub-paragraph (a) as applied by sections 76A(10), 77(4) and 79(4) of TCPA 1990(2) (including permission so granted by a person appointed by the Secretary of State in accordance with regulations made under Schedule 6 to TCPA 1990);
- (c) planning permission granted or modified under section 177(1) of TCPA 1990(3) (grant or modification of planning permission on appeals against enforcement notices);
- (d) modification of a planning permission under section 97 or 100 of TCPA 1990(4);
- (e) planning permission granted by an order made under section 102 or 104 of TCPA 1990(5) (orders requiring discontinuance of use or alteration or removal of buildings or works);
- (f) development consent granted by an order made under section 114(1)(a) of PA 2008; or
- (g) a general consent.

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- (1) Section 70 was amended by paragraph 14 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34). Section 73 was amended by sections 42(2) and 51(3) of the Planning and Compulsory Purchase Act 2004 (c. 5). Section 73A was inserted by paragraph 16 of Schedule 7 to the Planning and Compensation Act 1991.
 - (2) Section 76A was inserted by section 44 of the Planning and Compulsory Purchase Act 2004. Section 77 was amended by section 40(2)(d) of the Planning and Compulsory Purchase Act 2004, paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991 and paragraph 2 of Schedule 10 to the Planning Act 2008 (c. 29). Section 79 was amended by section 18 of the Planning and Compensation Act 1991 and paragraph 4 of Schedule 10 to the Planning Act 2008.
 - (3) Section 177(1) was amended by paragraph 24(1) of Schedule 7 to the Planning and Compensation Act 1991.
 - (4) Section 97 was amended by paragraph 4 of Schedule 1 to the Planning and Compensation Act 1991. Section 100 was amended by paragraph 5 of Schedule 1 to the Planning and Compensation Act 1991.
 - (5) Section 102 was amended by paragraph 6 of Schedule 1 and paragraph 21 of Schedule 7 to the Planning and Compensation Act 1991.

- (2) But planning permission does not include planning permission granted for a limited period.
- (3) In paragraph (1)(g) “general consent” means—
- (a) planning permission granted—
 - (i) by a development order made under section 59 of TCPA 1990,
 - (ii) by a local development order adopted under section 61A of TCPA 1990(6),
 - (iii) by a simplified planning zone scheme within the meaning of sections 82 and 83(7) of TCPA 1990,
 - (iv) in accordance with section 90 of TCPA 1990(8) (development with government authorisation), or
 - (v) by an enterprise zone scheme adopted under Schedule 32 to the Local Government, Planning and Land Act 1980(9); or
 - (b) development authorised by an Act of Parliament or an order approved by both Houses of Parliament which designates specifically the nature of the development authorised and the land on which it may be carried out.

Meaning of “development”

6.—(1) The following works are not to be treated as development for the purposes of section 208 of PA 2008 (liability)—

- (a) anything done by way of, or for the purpose of, the creation of a building of a kind mentioned in paragraph (2); and
 - (b) the carrying out of any work to, or in respect of, an existing building if, after the carrying out of that work, it is still a building of a kind mentioned in paragraph (2).
- (2) The kinds of buildings mentioned in paragraph (1)(a) and (b) are—
- (a) a building into which people do not normally go;
 - (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Commencement of development

7.—(1) This regulation has effect for determining when development is to be treated as commencing for the purposes of Part 11 of PA 2008.

(2) Development is to be treated as commencing on the earliest date on which any material operation begins to be carried out on the relevant land.

(3) Paragraph (2) is subject to the following provisions of this regulation.

(4) Development is to be treated as commencing on the day planning permission is granted for that development if planning permission had previously been granted for that development for a limited period.

(5) Development for which planning permission is—

- (a) granted under section 73A of TCPA (planning permission for development already carried out); or

(6) Section 61A was inserted by section 40(1) of the Planning and Compulsory Purchase Act 2004 and amended by the Planning Act 2008, sections 188 and 238 and Schedule 13.

(7) Section 83 was amended by section 45 of the Planning and Compulsory Purchase Act 2004 and paragraph 2 of Schedule 5 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20).

(8) Section 90 was amended by paragraph 12 of Schedule 6 to the Planning and Compensation Act 1991, section 16(1) of the Transport and Works Act 1992 (c. 42) and paragraph 32(4) of Schedule 10 to the Environment Act 1995 (c. 25).

(9) 1980 c. 65.

- (b) granted or modified under section 177(1) of TCPA 1990 (grant or modification of planning permission on appeals against enforcement notices),

is to be treated as commencing on the day planning permission for that development is granted or modified (as the case may be).

(6) In this regulation “material operation” has the same meaning as in section 56(4) of TCPA 1990(10) (time when development begun).

Time at which planning permission first permits development

8.—(1) This regulation has effect for determining the time at which planning permission is treated as first permitting development for the purposes of Part 11 of PA 2008.

(2) Planning permission first permits development on the day that planning permission is granted for that development.

(3) Paragraph (2) is subject to the following provisions of this regulation.

(4) In the case of a grant of outline planning permission, planning permission first permits development on the day of the final approval of the last reserved matter associated with the permission.

(5) But where the outline planning permission permits development to be implemented in phases, planning permission first permits a phase of the development on the day of the final approval of the last reserved matter associated with that phase.

(6) In the case of a grant of planning permission which—

(a) is not an outline planning permission; and

(b) is subject to a condition requiring further approval to be obtained before development can commence,

planning permission first permits development on the day final approval is given.

(7) In the case of a general consent, planning permission first permits development on the day on which the collecting authority sends an acknowledgment of receipt of a notice of chargeable development submitted to it in respect of that development.

Meaning of “chargeable development”

9.—(1) The chargeable development is the development for which planning permission is granted.

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

(3) Where planning permission is granted by way of a general consent, the chargeable development is the development identified in a notice of chargeable development submitted to the collecting authority in accordance with regulation 64.

(4) In the case of a grant of outline planning permission which permits development to be implemented in phases, each phase of the development is a separate chargeable development.

(5) Where planning permission is granted under section 73 of TCPA 1990, the effect of which is to change a condition subject to which a previous planning permission was granted by extending the time within which development must be commenced, the chargeable development is the development for which permission was granted by the previous permission.

(10) Relevant amendments to section 54 were made by paragraph 10 of Schedule 6 and paragraph 10(2) of Schedule 7 to the Planning and Compensation Act 1991 and section 40(2)(a) of the Planning and Compulsory Purchase Act 2004.

Meaning of “collecting authority”

10.—(1) A charging authority is the collecting authority for CIL charged in its area.

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

(3) In relation to CIL charged by the Mayor, the London borough council in whose area the development subject to the levy is situated must collect that CIL and accordingly is the collecting authority for that CIL.

(4) In England a county council for an area for which there is more than one district council is the collecting authority for CIL charged in its area in respect of development for which it grants planning permission.

(5) A relevant consenting authority (P) may agree with a charging authority (C) that P shall be the collecting authority for CIL charged by C in respect of development for which P grants planning permission.

(6) In paragraph (5) “relevant consenting authority” means—

- (a) the Homes and Communities Agency⁽¹¹⁾;
- (b) an urban development corporation established by order of the Secretary of State under section 135(1) of the Local Government, Planning and Land Act 1980; or
- (c) an enterprise zone authority designated under Schedule 32 to the Local Government, Planning and Land Act 1980.

⁽¹¹⁾ The Homes and Communities Agency was established by section 1 of the Housing and Regeneration Act 2008 (c. 17).