
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Community Infrastructure Levy Regulations 2010

PART 4

LIABILITY

Assumption of liability

31.—(1) A person who wishes to assume liability to pay CIL in respect of a chargeable development must submit an assumption of liability notice to the collecting authority.

(2) An assumption of liability 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.

(3) A person who assumes liability in accordance with this regulation is liable on commencement of the chargeable development to pay an amount of CIL equal to the chargeable amount less the amount of any relief granted in respect of the chargeable development.

(4) A person is deemed to have assumed liability on the day on which the collecting authority receives a valid assumption of liability notice.

(5) On receiving a valid assumption of liability notice the collecting authority must send an acknowledgement of its receipt to the person who assumed liability.

(6) A person may withdraw an assumption of liability at any time before commencement of the chargeable development by giving notice of the withdrawal in writing to the collecting authority.

(7) Other than by way of a transfer of assumed liability, a person may not assume liability to pay CIL in respect of a chargeable development after that development has been commenced.

(8) An assumption of liability notice is valid if it complies with the requirements of paragraph (2).

Transfer of assumed liability

32.—(1) A person who has assumed liability to pay CIL in respect of a chargeable development (P1) may transfer that assumption of liability to another person (P2) by submitting a liability transfer notice to the collecting authority.

(2) A liability transfer 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.

(3) A liability transfer notice must be received by the collecting authority no later than the day on which the final payment of CIL is due in respect of the chargeable development.

(4) On receiving a valid liability transfer notice the collecting authority must send an acknowledgement of its receipt to P1 and P2.

- (5) On the day on which the collecting authority receives a valid liability transfer notice, P2—
- (a) is deemed to have assumed liability to pay CIL in respect of the chargeable development; and
 - (b) becomes liable to pay the outstanding amount of CIL payable in respect of the chargeable development.
- (6) A liability transfer notice is valid if it complies with the requirements of paragraph (2).

Default liability

33.—(1) This regulation applies where a chargeable development is commenced in reliance on planning permission and nobody has assumed liability to pay CIL in respect of that development.

(2) Liability to pay CIL must be apportioned between each material interest in the relevant land.

(3) Paragraph (2) is subject to paragraph (4).

(4) A person (P) is liable to pay the whole amount of CIL payable in respect of the chargeable development if—

- (a) P, or a person acting on behalf of P, has entered on and taken possession of the relevant land (in whole or in part)—
 - (i) pursuant to a power conferred by or under statute, and
 - (ii) without the agreement of the owners of the relevant land;
- (b) P, or a person acting on behalf of P, carries out works on the relevant land which cause the chargeable development to be commenced; and
- (c) at the time the chargeable development is commenced P is not an owner of the relevant land.

Apportionment of liability

34.—(1) This regulation applies where liability to pay CIL is apportioned between each material interest in the relevant land.

(2) The owner (O) of a material interest in the relevant land is liable to pay an amount of CIL calculated by applying the following formula—

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

where—

V_O = the value of the material interest owned by O;

V = an amount equal to the aggregate of the values of each material interest in the relevant land; and

A = the chargeable amount payable in respect of the chargeable development.

(3) But where O is granted relief in respect of the chargeable development, O is liable to pay an amount of CIL equal to the amount calculated in accordance with paragraph (2) less the amount of relief granted to O.

(4) For the purposes of paragraph (2), the value of a material interest is the price (taking into account any value added by the chargeable development) that it might reasonably be expected to obtain if sold on the open market on the day the apportionment takes place.

(5) The price referred to in paragraph (4) shall not be assumed to be reduced on the ground that the whole of the relevant land is to be placed on the open market at the same time.

Apportionment of liability: information notice

35.—(1) Before a collecting authority apportions liability between each material interest in the relevant land it may serve an information notice on an owner of the relevant land.

(2) The information notice may require the owner to give such of the following information as may be specified in the notice—

- (a) information as to the owner’s interest in the relevant land;
- (b) such other information in the owner’s possession or control which the collecting authority considers relevant to assist it in apportioning liability.

(3) An information notice must inform the owner of the possible consequences of a failure to comply with the notice⁽¹⁾.

(4) A requirement of the information notice is complied with by giving the required information to the collecting authority in writing before the end of the period of 14 days beginning with the day on which the notice is served.

Default of liability

36.—(1) This regulation applies where—

- (a) a person (P) assumed liability to pay CIL in respect of a chargeable development; and
- (b) the collecting authority has been unable to recover an amount of CIL (A) payable by P.

(2) The collecting authority may determine that liability to pay A is transferred to the owners of the relevant land.

(3) But a collecting authority may not make a determination under paragraph (2) before it has made all reasonable effort to recover A using one or more of the provisions in Chapter 3 of Part 9.

(4) A collecting authority which makes a determination under paragraph (2) must—

- (a) issue and serve a default of liability notice; and
- (b) apportion liability to pay A between each material interest in the relevant land.

(5) Regulation 34 applies for the purposes of apportioning liability in accordance with paragraph (4)(b) as if references to the chargeable amount were references to A.

(6) The default of liability notice mentioned in paragraph (4)(a) must—

- (a) be issued on a form published by the Secretary of State (or a form to substantially the same effect);
- (b) state the outstanding amount of CIL payable in respect of the chargeable development;
- (c) include the other information specified in the form; and
- (d) be served on the owner of each material interest in the relevant land.

(7) A collecting authority which has made a determination under paragraph (2) may not impose a surcharge or serve a CIL stop notice in respect of the chargeable development to which the determination relates before the end of the period of seven days beginning with the day on which the default of liability notice is issued.

Joint liability

37.—(1) Where two or more persons are joint owners of an interest in land they shall each be jointly and severally liable to pay any CIL payable in respect of that interest.

(1) As to the consequences of failure to comply with an information notice, see regulation 86.

(2) Where two or more persons have assumed liability to pay CIL in respect of a chargeable development they shall each be jointly and severally liable to pay any CIL payable in respect of that chargeable development.

Interests held on trust

38.—(1) Where a material interest in the relevant land is held by a person as a bare trustee, these Regulations apply as if that interest were vested in, and the acts of the trustee in relation to it were the acts of, the person for whom that person is the trustee.

(2) Where the trustees of a settlement are liable to pay CIL, any amount due may be recovered from any one or more of the responsible trustees.

(3) The responsible trustees in relation to a material interest in the relevant land are the persons who were trustees on the day on which the chargeable development was commenced and any person who subsequently becomes a trustee.

(4) In this regulation—

“settlement” means a trust which is not a bare trust; and

“bare trust” means a trust under which property is held by a person as trustee—

(a) for a person who is absolutely entitled as against the trustee, or who would be so entitled but for being a minor or other person under a disability; or

(b) for two or more persons who are or would be jointly so entitled,

and includes a case in which a person holds property as nominee for another.

Effect of death on assumed liability

39.—(1) This regulation applies where a person (P) who has assumed liability to pay CIL in respect of a chargeable development dies before the chargeable development is commenced.

(2) P’s assumption of liability ceases to have effect.

(3) A person may assume liability to pay CIL in respect of the chargeable development before it is commenced.

(4) An assumption of liability under paragraph (3) must be made in accordance with regulation 31; but for the purposes of that regulation as it applies to this paragraph, an assumption of liability notice is not valid unless it is accompanied by P’s death certificate.