
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Community Infrastructure Levy Regulations 2010

PART 8

ADMINISTRATION

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.

(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.