
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Community Infrastructure Levy Regulations 2010 (“the 2010 Regulations”) provide for the imposition of a charge known as the Community Infrastructure Levy (“CIL”). Regulations 49 and 49A of the 2010 Regulations provides that a chargeable development is eligible for relief from liability to CIL where it comprises, or is to comprise, “qualifying dwellings”. A qualifying dwelling is currently one which meets at least one of five conditions set out in regulation 49(3) to (7A), or the criteria in regulation 49A(2). Regulation 53 of the 2010 Regulations provides that relief must be withdrawn if a dwelling ceases to be a qualifying dwelling before the end of a “clawback period” (as defined by regulation 2(1)).

These Regulations amend the 2010 Regulations to add a sixth condition to regulation 49 (regulation 4). In order to be a qualifying dwelling by virtue of this condition, the first sale of the dwelling must be for no more than 70% of the dwelling’s market value. In addition, a planning obligation under section 106 of the Town and Country Planning Act 1990 must have been entered into designed to ensure that any subsequent sale of the dwelling is for no more than 70% of its market value.

These Regulations also make amendments to the discretionary social housing relief under regulation 49A of the 2010 Regulations (regulation 5). For a dwelling to be a qualifying dwelling under the existing Regulation 49A, it must be sold for no more than 80% of its market value; it must be sold in accordance with a relevant policy published by the CIL charging authority; and liability to pay any CIL in relation to the dwelling must remain with the person granted relief under regulation 49A. These Regulations introduce, as an alternative to the last of these criteria, a requirement that a planning obligation has been entered into designed to ensure that any subsequent sale of the dwelling is for no more than 80% of its market value.

These Regulations also amend the definition of “clawback period” in regulation 2(1) of the 2010 Regulations (regulation 3(a)). Where relief is granted under condition 6 as set out in regulation 49(7B), it will be withdrawn only if the dwelling ceases to be a qualifying dwelling before being first sold in accordance with the criteria in that paragraph. Where relief is granted under regulation 49A, and a planning obligation has been entered into as mentioned in that regulation, it will be withdrawn only if the dwelling ceases to be a qualifying dwelling before being first sold in accordance with the criteria set out in regulation 49A(2).

No formal impact assessment was produced for these Regulations and one is not required as it is a financial instrument.