

**2010 No. 948**

**COMMUNITY INFRASTRUCTURE LEVY, ENGLAND  
AND WALES**

**The Community Infrastructure Levy Regulations 2010**

*Made* - - - - - *23rd March 2010*

*Coming into force* - - - - - *6th April 2010*

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A draft of these Regulations has been laid before the House of Commons in accordance with section 222(2)(b) of the Planning Act 2008<sup>(a)</sup> and approved by resolution of that House.

Accordingly, the Secretary of State in exercise of the powers conferred by sections 205(1) and (2), 208(2)(b), (4), (5), (7) and (8), 209(2)(a), (3) to (6) and (8), 210(1) to (3) and (5), 211(2) and (3) to (7), 212(9) and (10), 213(4), 214(2), 215(1) to (3), 216(1), (3), (4), (6) and (7), 217(1) to (7), 218(1) to (3), (4)(a) and (b), (4)(d) to (k) and (5) to (11), 220(1), (2)(a) to (s) and (3)(a) to (c), 222(1) and 223(1)(a), (2) and (4) of the Planning Act 2008, and with the consent of the Treasury, makes the following Regulations:

## PART 1 INTRODUCTORY

### Citation and commencement

1. These Regulations may be cited as the Community Infrastructure Levy Regulations 2010 and shall come into force on 6th April 2010.

### Interpretation

2.—(1) In these Regulations—

“PA 2008” means the Planning Act 2008;

“PCPA 2004” means the Planning and Compulsory Purchase Act 2004<sup>(b)</sup>;

“TCPA 1990” means the Town and Country Planning Act 1990<sup>(c)</sup>;

“Bank of England base rate” means—

(a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or

(b) where an order under section 19 of the Bank of England Act 1998<sup>(d)</sup> (reserve powers) is in force, any equivalent rate determined by the Treasury under that section;

“chargeable amount” has the meaning given in regulation 40;

“chargeable development” has the meaning given in regulation 9;

“charging schedule” means a document issued in accordance with section 211(1) of PA 2008;

“charitable relief” means an exemption under regulation 43 or discretionary charitable relief;

“CIL” means Community Infrastructure Levy;

“CIL stop notice” means a notice served under regulation 90;

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(a) 2008 c. 29.

(b) 2004 c. 5.

(c) 1990 c. 8.

(d) 1998 c. 11.

“clawback period” means the period of seven years beginning with the day on which a chargeable development is commenced;

“collecting authority” has the meaning given in regulation 10;

“commencement notice” means a notice submitted under regulation 67;

“deemed commencement date” has the meaning given in regulation 68;

“default of liability notice” means a notice issued under regulation 36;

“demand notice” means a notice issued under regulation 69;

“discretionary charitable relief” means relief under regulation 44 or 45;

“disqualifying event” has the meaning given in regulations 48, 53, and 57;

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(a);

“financial year” means any period of twelve months ending with 31st March;

“general consent” has the meaning given in regulation 5(3);

“infrastructure” has the meaning given in section 216(2) of PA 2008 as amended by regulation 63;

“information notice” means a notice served under regulation 35 or 54;

“intended commencement date” means the intended commencement date of a chargeable development as specified in a commencement notice submitted under regulation 67;

“land payment” has the meaning given in regulation 73;

“liability notice” means a notice issued under regulation 65;

“liability transfer notice” means a notice submitted under regulation 32;

“material interest” has the meaning given in regulation 4(2);

“Mayor” means the Mayor of London;

“notice of chargeable development” means a notice submitted under regulation 64;

“outline planning permission” has the same meaning as in section 92(1) of TCPA 1990;

“owner” must be construed in accordance with section 209(7)(a) of PA 2008 and regulation 4;

“planning permission” has the meaning given for the purposes of Part 11 of PA 2008 in regulation 5, and “grant” of planning permission must be construed accordingly;

“planning permission granted for a limited period” has the same meaning as in TCPA 1990;

“qualifying amount” means an amount calculated in accordance with regulation 50;

“qualifying dwelling” must be construed in accordance with regulations 49 and 53(3) ;

“relevant land” means—

- (a) where planning permission is granted for development by way of a general consent, the land identified in the plan submitted to the collecting authority in accordance with regulation 64(4)(a),
- (b) where outline planning permission is granted which permits development to be implemented in phases, the land to which the phase relates,
- (c) in all other cases, the land to which the planning permission relates;

“relief” means charitable relief, social housing relief or relief for exceptional circumstances;

“relief for exceptional circumstances” means relief under regulation 55;

“reserved matters” has the same meaning as in section 92(1) of TCPA 1990;

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(a) 2000 c. 7; section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board<sup>(a)</sup>, or
- (b) if that index is not published for a relevant month, any substituted index or index figures published by that Board;

“social housing relief” means relief under regulation 49;

“surcharge” means a surcharge imposed under Chapter 1 of Part 9;

“the Crown” includes—

- (a) the Duchy of Lancaster,
- (b) the Duchy of Cornwall,
- (c) the Speaker of the House of Lords,
- (d) the Speaker of the House of Commons,
- (e) the Corporate Officer of the House of Lords, and
- (f) the Corporate Officer of the House of Commons; and

“warning notice” means a notice served under regulation 89.

(2) References in these Regulations to development, unless otherwise stated or the reference is to the development of a charging authority’s area, must be construed in accordance with section 209(1) of PA 2008 and regulation 6.

(3) For the purposes of these Regulations, an outline planning permission permits development to be implemented in phases if (in accordance with section 92(5) of TCPA 1990) it provides for the application for approval of reserved matters within separate periods for separate parts of that development.

(4) In these Regulations—

- (a) references to commencement of development must be construed in accordance with regulation 7;
- (b) references to the time at which planning permission first permits development must be construed in accordance with regulation 8;
- (c) references to a building or development situated on land include references to a building or development situated in, under or over that land; and
- (d) references to an assumption of liability are references to an assumption of liability made in accordance with regulation 31.

(5) In these Regulations, and in relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically—

- (a) the expression “address” includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to any other person, the obligation shall not be fulfilled unless the person on whom it is imposed provides a postal address;
- (b) references to notices, representations, forms or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(6) References in these Regulations to an amount which has become payable and which has not been paid (however expressed) include references to—

- (a) any surcharge imposed in respect of, and any interest applied to, that amount; and
- (b) an amount forming part of a larger sum which has become payable and the other part of which has been paid.

(7) For the purposes of these Regulations gross internal area must be measured in square metres.

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(a) The Statistics Board was established by section 1 of the Statistics and Registration Service Act 2007 (c. 18).

## Community Infrastructure Levy

3. There shall be a charge to be known as Community Infrastructure Levy (charged in accordance with section 205 of PA 2008).

## 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(a);
- (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(b) (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(c) (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(d);
- (e) planning permission granted by an order made under section 102 or 104 of TCPA 1990(e) (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.

(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(f),

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(a) 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.

(b) 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.

(c) Section 177(1) was amended by paragraph 24(1) of Schedule 7 to the Planning and Compensation Act 1991.

(d) 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.

(e) Section 102 was amended by paragraph 6 of Schedule 1 and paragraph 21 of Schedule 7 to the Planning and Compensation Act 1991.

(f) 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.



- (iii) by a simplified planning zone scheme within the meaning of sections 82 and 83(a) of TCPA 1990,
  - (iv) in accordance with section 90 of TCPA 1990(b) (development with government authorisation), or
  - (v) by an enterprise zone scheme adopted under Schedule 32 to the Local Government, Planning and Land Act 1980(c); 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
- (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(d) (time when development begun).

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(a) 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).

(b) 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).

(c) 1980 c. 65.

(d) 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.

### **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.

### **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<sup>(a)</sup>;
- (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.

## PART 3

### CHARGING SCHEDULES

#### **Interpretation and application of Part 3**

**11.**—(1) In this Part—

“consultation bodies” has the meaning given in regulation 15;

“differential rate” has the meaning given in regulation 13;

“independent person” means—

- (a) an examiner appointed under section 212(1) of PA 2008, or
- (b) a person appointed under section 212(3) of PA 2008 to assist an examiner;

“relevant consenting authorities” means—

- (a) the Secretary of State,
- (b) the Infrastructure Planning Commission<sup>(b)</sup>,
- (c) the Mayor, if the charging schedule has been approved by a London borough council,
- (d) each London borough council, if the charging schedule has been approved by the Mayor,
- (e) each county council whose area includes any part of the area to which the charging schedule applies, and
- (f) any other body exercising the functions of a local planning authority (within the meaning of TCPA 1990) in the area to which the charging schedule applies;

“relevant evidence” means evidence which is readily available and which, in the opinion of the charging authority, has informed its preparation of the draft charging schedule;

“statement of modifications” means a document which—

- (a) sets out the modifications which the charging authority has made to the draft charging schedule since it was published in accordance with regulation 16, and
- (b) includes a statement specifying that a request to be heard by the examiner on those modifications may be made to the charging authority within the period of four weeks beginning with the day on which the draft charging schedule is submitted to the examiner; and

“zone” means a part of a charging authority’s area.

(2) The provisions of this Part apply to a revision of a charging schedule as they apply to the preparation of a charging schedule.

#### **Format and content of charging schedules**

**12.**—(1) Subject to the provisions of this Part a charging authority may determine the format and content of a charging schedule.

(2) A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain—

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(a) The Homes and Communities Agency was established by section 1 of the Housing and Regeneration Act 2008 (c. 17).  
(b) The Infrastructure Planning Commission was established by section 1 of the Planning Act 2008.

- (a) the name of the charging authority;
  - (b) the rates (set at pounds per square metre) at which CIL is to be chargeable in the authority's area;
  - (c) where a charging authority sets differential rates in accordance with regulation 13(1)(a), a map which—
    - (i) identifies the location and boundaries of the zones,
    - (ii) is reproduced from, or based on, an Ordnance Survey map,
    - (iii) shows National Grid lines and reference numbers, and
    - (iv) includes an explanation of any symbol or notation which it uses; and
  - (d) an explanation of how the chargeable amount will be calculated.
- (3) A charging schedule approved by a charging authority must, in addition to the contents mentioned in paragraph (2), contain—
- (a) the date on which the charging schedule was approved;
  - (b) the date on which the charging schedule takes effect; and
  - (c) a statement that it has been issued, approved and published in accordance with these Regulations and Part 11 of PA 2008.
- (4) In paragraph (2)(c)(ii) “Ordnance Survey map” means a map produced by Ordnance Survey or a map on a similar base at a registered scale.

#### **Differential rates**

**13.—**(1) A charging authority may set differential rates—

- (a) for different zones in which development would be situated;
- (b) by reference to different intended uses of development.

(2) In setting differential rates, a charging authority may set supplementary charges, nil rates, increased rates or reductions.

#### **Setting rates**

**14.—**(1) In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between—

- (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and
- (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

(2) In setting rates in a charging schedule, a charging authority may also have regard to actual and expected administrative expenses in connection with CIL to the extent that those expenses can be funded from CIL in accordance with regulation 61.

(3) In having regard to the potential effects of the imposition of CIL on the economic viability of development (in accordance with paragraph (1)(b)), a London borough council must take into account the rates set by the Mayor.

(4) For the purposes of paragraph (3), the rates set by the Mayor are the rates in the most recent charging schedule approved by the Mayor before the London borough council begins consultation on its preliminary draft charging schedule in accordance with regulation 15.

#### **Consultation on a preliminary draft charging schedule**

**15.—**(1) A charging authority which proposes to issue or revise a charging schedule must prepare a preliminary draft charging schedule for consultation.

- (2) The charging authority must—
- (a) send a copy of the preliminary draft to each of the consultation bodies; and
  - (b) invite each of those bodies to make representations on the preliminary draft.
- (3) For a charging authority in England, the consultation bodies are—
- (a) each of the following whose area is in or adjoins the charging authority’s area—
    - (i) a local planning authority within the meaning of section 37 of PCPA 2004(a),
    - (ii) a local planning authority within the meaning of section 78 of PCPA 2004,
    - (iii) a county council,
    - (iv) a responsible regional authority;
  - (b) each parish council whose area is in the charging authority’s area;
  - (c) the Mayor if the charging authority is a London borough council;
  - (d) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority’s area.
- (4) For a charging authority in Wales, the consultation bodies are—
- (a) each of the following whose area is in or adjoins the charging authority’s area—
    - (i) a local planning authority within the meaning of section 78 of PCPA 2004,
    - (ii) a local planning authority within the meaning of section 37 of PCPA 2004;
  - (b) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority’s area; and
  - (c) the Welsh Ministers.
- (5) The charging authority must also invite representations on the preliminary draft from—
- (a) persons who are resident or carrying on business in its area; and
  - (b) such of the following as the charging authority consider appropriate—
    - (i) voluntary bodies some or all of whose activities benefit the charging authority’s area, and
    - (ii) bodies which represent the interests of persons carrying on business in the charging authority’s area.
- (6) The charging authority must make such arrangements as it considers appropriate for inviting representations under paragraph (5).
- (7) The charging authority must take into account any representations made to it under this regulation before it publishes a draft of the charging schedule for examination in accordance with section 212 of PA 2008.
- (8) In this regulation “responsible regional authority” must be construed in accordance with Part 5 of the Local Democracy, Economic Development and Construction Act 2009(b).

### **Publication of a draft charging schedule**

- 16.**—(1) Before submitting a draft charging schedule for examination in accordance with section 212 of PA 2008, the charging authority must—
- (a) make a copy of the draft charging schedule, the relevant evidence and a statement of the representations procedure available for inspection—
    - (i) at its principal office, and

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(a) Relevant amendments were made to section 37 by paragraph 81 of Schedule 8 to the Housing and Regeneration Act 2008.  
 (b) 2009 c. 20.

- (ii) at such other places within its area as it considers appropriate;
  - (b) publish on its website—
    - (i) the draft charging schedule,
    - (ii) the relevant evidence (to the extent that it is practicable to do so),
    - (iii) a statement of the representations procedure, and
    - (iv) a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected;
  - (c) send to each of the consultation bodies—
    - (i) a copy of the draft charging schedule, and
    - (ii) a statement of the representations procedure; and
  - (d) give by local advertisement notice which sets out—
    - (i) a statement of the representations procedure, and
    - (ii) a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected.
- (2) In this regulation “statement of the representations procedure” means a statement specifying—
- (a) the period within which representations about the draft charging schedule must be made in accordance with regulation 17(2)(a);
  - (b) the address to which, and the name of the person (if any) to whom, representations about the draft charging schedule must be made in accordance with regulation 17(2)(b);
  - (c) that representations may be made in writing or by way of electronic communications;
  - (d) that persons making representations may request the right to be heard by the examiner; and
  - (e) that representations may be accompanied by a request to be notified at a specified address of any of the following—
    - (i) that the draft charging schedule has been submitted to the examiner in accordance with section 212 of PA 2008,
    - (ii) the publication of the recommendations of the examiner and the reasons for those recommendations, and
    - (iii) the approval of the charging schedule by the charging authority.

### **Representations relating to a draft charging schedule**

17.—(1) Any person may make representations about a draft charging schedule which a charging authority proposes to submit to the examiner.

(2) Any such representations must be—

- (a) made within the period which the charging authority specifies for the purposes of this paragraph; and
- (b) sent to the address, and if the charging authority think it appropriate to specify a person, the person, which the charging authority specifies for the purposes of this paragraph.

(3) The period which the charging authority specifies for the purposes of paragraph (2) must be a period of not less than four weeks starting on the day on which notice given pursuant to regulation 16(1)(d) is first published.

(4) A person who has made representations about a draft charging schedule may withdraw those representations at any time by giving notice in writing to the charging authority.

### **Withdrawal of a draft charging schedule**

**18.** Where a charging authority withdraws a draft charging schedule under section 212(11) of PA 2008 it must, as soon as practicable after it is withdrawn—

- (a) publish a statement of that fact on its website;
- (b) give notice of that fact by local advertisement;
- (c) notify any person that was invited to make representations on the draft charging schedule of that fact; and
- (d) remove from its website and from the places at which they were made available any copies, documents, evidence and statements made available or published under regulation 16(1)(a) or (b).

### **Submission of documents and information to the examiner**

**19.—(1)** The charging authority must submit the following to the examiner (in addition to the declaration required under section 212(4) of PA 2008)—

- (a) the draft charging schedule;
- (b) a statement setting out—
  - (i) if representations were made in accordance with regulation 17, the number of representations made and a summary of the main issues raised by the representations, or
  - (ii) that no such representations were made;
- (c) copies of any representations made in accordance with regulation 17;
- (d) where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, a statement of modifications; and
- (e) copies of the relevant evidence.

**(2)** Of the documents and statements mentioned in paragraph (1)—

- (a) a copy of each must be sent in paper form; and
- (b) a copy of those mentioned in paragraph (1)(a), (b) and (d) and, to the extent that it is practicable to do so, of those mentioned in paragraph (1)(c) and (e), must be sent electronically.

**(3)** As soon as practicable after a charging authority submits a draft charging schedule to the examiner it must—

- (a) make available at the places where the documents mentioned in regulation 16(1)(a) were made available, a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1);
- (b) publish on its website—
  - (i) the draft charging schedule and the documents mentioned in paragraph (1)(a), (b) and (d),
  - (ii) any of the documents mentioned in paragraph (1)(c) and (e) which it is practicable to so publish, and
  - (iii) a statement of the fact that a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1) are available for inspection and of the places at which they can be inspected; and
- (c) give notice to those persons who requested to be notified of the submission of the draft charging schedule to the examiner that the draft has been so submitted.

**(4)** Where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, the charging authority must send a copy of the statement of modifications to each of the persons invited to make representations under regulation 15.

### **Consideration of representations by examiner**

20. The examiner must consider any representations made in accordance with regulation 17 before complying with section 212(7) of PA 2008.

### **CIL examination: right to be heard**

21.—(1) A person who makes representations about a draft charging schedule in accordance with regulation 17 must (if the person so requests) be heard by the examiner.

(2) A request under paragraph (1) must be submitted to the charging authority in writing before the end of the period the charging authority specifies for the purposes of regulation 17(2).

(3) Where a charging authority modifies a draft charging schedule after it is published in accordance with regulation 16, any person may request to be heard by the examiner in relation to those modifications.

(4) The right to be heard under paragraph (3) applies only in relation to the modifications made to the draft charging schedule as set out in the statement of modifications.

(5) A request under paragraph (3) must—

- (a) be submitted to the charging authority in writing before the end of the period of four weeks beginning with the day on which the draft charging schedule is submitted to the examiner in accordance with regulation 19(1); and
- (b) include details of the modifications (by reference to the statement of modifications) on which the person wishes to be heard.

(6) The charging authority must submit a copy of each request it receives under paragraph (3) to the examiner as soon as practicable after the end of the period mentioned in paragraph (5)(a).

(7) A person who has made a request to be heard under paragraph (3) may withdraw that request at any time before the opening of the examination by giving notice in writing to the charging authority.

(8) Where a person has submitted a request to be heard by the examiner, the charging authority must—

- (a) publish the matters mentioned in paragraph (9) on its website;
- (b) notify the following of those matters—
  - (i) any person who has made a representation in accordance with regulation 17, and not withdrawn that representation, of those matters,
  - (ii) any person who has made a request to be heard under paragraph (3); and
- (c) give notice by local advertisement of those matters.

(9) The matters referred to in paragraph (8) are—

- (a) the time and place at which the examination is to be held; and
- (b) the name of the examiner.

(10) Subject to paragraph (11), the charging authority must comply with the requirements set out in paragraph (8) at least four weeks before the opening of the examination.

(11) Where a person has made a request to be heard by the examiner under paragraph (3), the charging authority must comply with the requirements in paragraph (8) at least two weeks before the opening of the examination.

(12) Without prejudice to section 212(9) of PA 2008—

- (a) it is for the examiner to decide how the hearing is to be conducted;
- (b) the examiner may, in particular, decide the amount of time to be allowed at an examination for the hearing of representations;
- (c) the examiner may refuse to allow representations to be made at the hearing if the examiner considers that the representations are irrelevant, frivolous, vexatious or repetitious.



### **Joint examinations**

**22.**—(1) Two or more charging schedules may be examined as part of the same examination if the charging authorities who prepared the draft charging schedules all agree.

(2) Examination of a charging schedule may be carried out jointly with—

- (a) an examination of a development plan document under section 20 of PCPA 2004 (independent examination); or
- (b) an examination of a local development plan under section 64 of PCPA 2004 (independent examination).

(3) In relation to Greater London, examination of a charging schedule prepared by the Mayor may be carried out jointly with an examination in public of the spatial development strategy under section 338 of the Greater London Authority Act 1999<sup>(a)</sup> (examination in public).

(4) Where a joint examination is carried out under paragraph (3), any other charging schedule prepared by a London borough may be examined as part of the same examination.

(5) The charging authority and Secretary of State must agree to a joint examination under paragraph (2)(a) or (3).

(6) The charging authority and the Welsh Ministers must agree to a joint examination under paragraph (2)(b).

(7) A joint examination under paragraph (2) may only be carried out in relation to one or more charging schedules and one development plan document or one local development plan (as the case may be).

### **Publication of the examiner's recommendations**

**23.**—(1) The examiner's recommendations and reasons for those recommendations must be submitted in writing to the charging authority.

(2) The charging authority must comply with section 212(8) of PA 2008 (publication of recommendations and reasons) as soon as practicable after the day on which it receives the recommendations and reasons.

(3) When the charging authority complies with section 212(8) of PA 2008 it must—

- (a) make the recommendations and reasons available for inspection at the places at which the documents mentioned in regulation 16(1)(a) were made available;
- (b) publish the recommendations and reasons on its website; and
- (c) give notice to those persons who requested to be notified of the publication of the examiner's recommendations and reasons that they have been so published.

### **Correction of errors in examiner's recommendations**

**24.**—(1) This regulation applies if—

- (a) the document recording the examiner's recommendations and reasons contains a correctable error; and
- (b) the draft charging schedule in respect of which the recommendations were made has not been approved by the charging authority in accordance with section 213 of PA 2008.

(2) The examiner may correct the error—

- (a) of the examiner's own volition; or
- (b) if requested to do so in writing by the charging authority.

(3) If a correction is made under this regulation—

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(a) 1999 c. 29; section 338 was amended by paragraph 52 of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).

- (a) the examiner’s original recommendations and reasons cease to have effect;
  - (b) the charging authority must give notice of the correction to those persons who requested to be notified of the publication of the examiner’s recommendations and reasons;
  - (c) the revised recommendations and reasons must be published in accordance with regulation 23; and
  - (d) the revised recommendations and reasons have effect on the day they are received by the charging authority.
- (4) In paragraph (1) “correctable error” means an error which—
- (a) does not alter the substance of the recommendations or reasons; or
  - (b) must be corrected to make the recommendations consistent with the reasons given for those recommendations.

**Approval and publication of a charging schedule**

25. As soon as practicable after the charging authority approves a charging schedule in accordance with section 213 of PA 2008 it must—

- (a) publish the charging schedule on its website;
- (b) make the charging schedule available for inspection at the places at which the documents mentioned in regulation 16(1)(a) were made available;
- (c) give notice by local advertisement of the approval of the charging schedule, that a copy of the charging schedule is available for inspection, and of the places at which it can be inspected;
- (d) give notice to those persons who requested to be notified of the approval of the charging schedule that it has been so approved; and
- (e) send a copy of the charging schedule to each of the relevant consenting authorities.

**Correction of errors in a charging schedule**

26.—(1) This regulation applies if a charging schedule approved by a charging authority contains a correctable error.

- (2) A correctable error is an error which if corrected—
- (a) would have no effect on the amount of CIL chargeable in respect of any given chargeable development in the charging authority’s area; or
  - (b) would have the effect mentioned in paragraph (2)(a), but the correction is required in order to give effect to the modifications to the draft charging schedule recommended by the examiner.
- (3) The charging authority must correct the error either—
- (a) of its own volition; or
  - (b) if it is requested to do so in writing by any person.
- (4) But the charging authority may not correct the error after the end of the period of six months beginning with the day on which the charging schedule was approved under section 213 of PA 2008.
- (5) If an error is corrected in pursuance of this regulation the charging authority must, as soon as practicable after making the correction—
- (a) issue a notice in writing (a “correction notice”) which specifies the correction of the error;
  - (b) where the correction was requested in accordance with paragraph (3)(b), send a copy of the correction notice to the person who requested the correction;
  - (c) publish the corrected charging schedule and correction notice on its website;
  - (d) make the corrected charging schedule and correction notice available for inspection at the places at which the documents mentioned in regulation 16(1)(a) were made available; and

- (e) where the error is one to which paragraph (2)(b) applies—
  - (i) give notice by local advertisement of the correction, that a copy of the corrected charging schedule and correction notice is available for inspection, and of the places at which they can be inspected,
  - (ii) send a copy of the correction notice to those persons who requested to be notified of the approval of the charging schedule, and
  - (iii) send a copy of the correction notice to the relevant consenting authorities.

**Effect of correction of a charging schedule**

27.—(1) Where a correction is made to a charging schedule in accordance with regulation 26, the charging schedule continues to have effect and is treated as corrected as specified in the correction notice issued under regulation 26(5)(a) with effect from the date that notice is issued.

(2) Paragraph (3) applies where—

- (a) the error corrected is one to which regulation 26(2)(b) applies; and
- (b) as a result of the error, the chargeable amount payable in respect of a chargeable development (D) decreases.

(3) The collecting authority must—

- (a) notify the affected persons in writing of the correction; and
- (b) recalculate—
  - (i) the chargeable amount payable in respect of D, and
  - (ii) where relief has been granted in respect of D, the amount of relief granted.

(4) For the purposes of paragraph (3)(a) the affected persons are—

- (a) where D has been commenced, the persons liable to pay CIL in respect of D;
- (b) where D has not commenced, the persons on whom the collecting authority is required to serve a liability notice in respect of D(a).

(5) For the purposes of paragraph (3)(b), the amount of any relief must be recalculated by reference to the corrected charging schedule, but must otherwise be calculated on the same basis as when originally calculated and using the information available to the collecting authority at that time.

**Charging schedule: effect**

28.—(1) A charging schedule takes effect at the beginning of the day specified for that purpose in the charging schedule.

(2) A charging schedule may not take effect any earlier than the day after the day on which it is published.

(3) A charging schedule issued by a charging authority has effect until—

- (a) the beginning of the day on which that charging authority determines that it should cease to have effect; or
- (b) the end of the day before the day a revised charging schedule issued by that charging authority takes effect.

(4) If a charging authority determines (in accordance with section 214(3) of PA 2008) that a charging schedule is to cease to have effect it must—

- (a) publish a statement of that fact on its website;
- (b) give notice of that fact by local advertisement; and
- (c) notify the relevant consenting authorities of that fact.

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(a) As to the requirements relating to service of a liability notice, see regulation 65.

### **Payment of fees and expenses of independent persons**

**29.**—(1) Subject to paragraph (2), a charging authority which appoints an independent person for the purposes of an examination must defray the fees and expenses of that person.

(2) Where two or more draft charging schedules are examined at the same examination, the fees and expenses of an independent person must be defrayed by each of the charging authorities whose draft charging schedules are the subjects of the examination.

(3) This regulation does not apply where the fees and expenses of the independent person are paid by the Secretary of State and recoverable by the Secretary of State in accordance with regulation 30.

### **Recovery of costs incurred by the Secretary of State**

**30.**—(1) The Secretary of State may require a charging authority whose draft charging schedule is the subject of an examination to pay the whole or any part of the costs incurred by the Secretary of State in relation to that examination.

(2) The costs that may be recovered by the Secretary of State under this regulation include, in particular—

- (a) costs attributable to the remuneration, fees and expenses of an independent person; and
- (b) administrative costs and overheads incurred by the Secretary of State in relation to the examination.

(3) Where two or more draft charging schedules are examined at the same examination, any costs recovered by the Secretary of State in relation to that examination must be recovered from each of the charging authorities whose draft charging schedules are the subject of the examination.

(4) Where a joint examination is carried out in accordance with regulation 22(2) or (3), the costs incurred by the Secretary of State in relation to the examination of a charging schedule at that examination may be recovered by the Secretary of State in accordance with this regulation to the extent that those costs are not recoverable under—

- (a) section 303A(1A) of TCPA 1990<sup>(a)</sup> (responsibility of local planning authorities for costs of holding certain inquiries); or
- (b) section 338(9) of the Greater London Authority Act 1999.

(5) The costs incurred by the Secretary of State in relation to an examination which does not take place may be recovered by the Secretary of State from the charging authorities from which they would have been recoverable had the examination taken place.

(6) The Secretary of State may cause the amount of any costs recoverable in accordance with this regulation to be certified; and any amount so certified and required to be paid by a charging authority is recoverable from that authority as a civil debt.

## **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

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<sup>(a)</sup> Section 303A was inserted by section 1(1) of the Town and Country Planning (Costs of Inquiries etc) Act 1995 (c. 49) and amended by paragraph 11 of Schedule 6 to the Planning and Compulsory Purchase Act 2004.

(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(a).

(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.

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

(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.

(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.

## PART 5 CHARGEABLE AMOUNT

### Calculation of chargeable amount

**40.**—(1) The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with this regulation.

(2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.

(3) But where that amount is less than £50 the chargeable amount is deemed to be zero.

(4) The relevant rates are the rates at which CIL is chargeable in respect of the chargeable development taken from the charging schedules which are in effect—

- (a) at the time planning permission first permits the chargeable development; and
- (b) in the area in which the chargeable development will be situated.

(5) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times A \times I_P}{I_C}$$

where—

A = the deemed net area chargeable at rate R;

I<sub>P</sub> = the index figure for the year in which planning permission was granted; and

I<sub>C</sub> = the index figure for the year in which the charging schedule containing rate R took effect.

(6) The value of A in paragraph (5) must be calculated by applying the following formula—

$$\frac{C_R \times (C - E)}{C}$$

where—

C<sub>R</sub> = the gross internal area of the part of the chargeable development chargeable at rate R;

C = the gross internal area of the chargeable development; and

E = an amount equal to the aggregate of the gross internal areas of all buildings which—

- (a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
- (b) are to be demolished before completion of the chargeable development.

(7) The index referred to in paragraph (5) is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors<sup>(a)</sup>; and the figure for a given year is the figure for 1st November of the preceding year.

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(a) Registered in England and Wales no. RC000487.



(8) But in the event that the All-in Tender Price Index ceases to be published, the index referred to in paragraph (5) is the retail prices index; and the figure for a given year is the figure for November of the preceding year.

(9) Where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish—

- (a) the gross internal area of a building situated on the relevant land; or
- (b) whether a building situated on the relevant land is in lawful use,

the collecting authority may deem the gross internal area of the building to be zero.

(10) For the purposes of this regulation a building is 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 planning permission first permits the chargeable development.

(11) In this regulation “building” does not include—

- (a) a building into which people do not normally go;
- (b) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery; or
- (c) a building for which planning permission was granted for a limited period.

## PART 6

### EXEMPTIONS AND RELIEF

#### Interpretation of Part 6

**41.**—(1) In this Part—

“apportionment assessment” means an assessment (carried out in accordance with regulation 34) of how liability to pay CIL in respect of the chargeable development should be apportioned between each material interest in the relevant land;

“by local advertisement” means by publication on at least one occasion in a local newspaper circulating in the whole of the area of the charging authority;

“charitable institution” means—

- (a) a charity,
- (b) a trust of which all the beneficiaries are charities, or
- (c) a unit trust scheme in which all the unit holders are charities,

and for the purposes of this definition “charity” means any person or trust established for charitable purposes only;

“charitable purpose” has the same meaning as in section 2 of the Charities Act 2006(a);

“local housing authority” has the same meaning as in section 1 of the Housing Act 1985(b);

“material disposal” means—

- (a) a transfer of a legal estate, or
- (b) the grant of a lease for a term of more than seven years from the date of the grant; and

“State aid” means aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union(c).

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(a) 2006 c. 50.

(b) 1985 c. 68; section 1 was amended by paragraph 5(1) of Schedule 8 to the Local Government (Wales) Act 1994 (c. 19).

(c) O.J. No. C 115, 9.5.08, p 47.

(2) For the purposes of this Part a person is eligible for charitable relief if that person is exempt from liability to pay CIL under regulation 43 or is eligible for relief from liability to pay CIL under regulation 44 or 45.

#### **Exemption for minor development**

**42.**—(1) Liability to CIL does not arise in respect of a chargeable development if, on completion of that development, the gross internal area of new build on the relevant land will be less than 100 square metres.

(2) But paragraph (1) does not apply where the chargeable development will comprise one or more dwellings.

(3) In paragraph (1) “new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.

#### **Exemption for charities**

**43.**—(1) An owner (C) of a material interest in the relevant land is exempt from liability to pay CIL in respect of a chargeable development if—

- (a) C is a charitable institution; and
- (b) the chargeable development will be used wholly or mainly for charitable purposes (whether of C or of C and other charitable institutions).

(2) But paragraph (1) does not apply where—

- (a) that part of the chargeable development to be used for charitable purposes will not be occupied by or under the control of a charitable institution;
- (b) the material interest is owned by C jointly with a person who is not a charitable institution; or
- (c) exemption of C from liability to pay CIL would constitute a State aid.

(3) For the purposes of paragraph (1) use of a chargeable development for charitable purposes includes leaving it unoccupied.

#### **Discretionary charitable relief: investment activities**

**44.**—(1) An owner (C) of a material interest in the relevant land is eligible for relief from liability to pay CIL in respect of a chargeable development if—

- (a) discretionary charitable relief is available in the area in which the chargeable development will be situated;
- (b) C is a charitable institution; and
- (c) the whole or the greater part of the chargeable development will be held by C or by C and other charitable institutions as an investment from which the profits will be applied for charitable purposes (whether of C or of C and other charitable institutions).

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

(3) Relief may not be granted under paragraph (1) if—

- (a) C intends to occupy that part of the chargeable development mentioned in paragraph (1)(c) and use it for ineligible trading activities; or
- (b) the material interest is owned by C jointly with a person who is not a charitable institution.

(4) In paragraph (3)(a) “ineligible trading activities” means trading activities other than the sale of goods donated to C where the proceeds of sale of the goods (after any deduction of expenses) are applied to the charitable purposes of C.

(5) A collecting authority may not grant relief under paragraph (1) if it is satisfied that to do so would constitute a State aid which is required to be notified to and approved by the European Commission.

#### **Other discretionary charitable relief**

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

- (a) the exemption of a charitable institution (C) from liability to pay CIL in respect of a chargeable development would constitute a State aid; and
  - (b) C would otherwise be exempt from liability in respect of that development under regulation 43.
- (2) C is eligible for relief from liability to pay CIL in respect of the chargeable development if—
- (a) discretionary charitable relief is available in the area in which the chargeable development will be situated; and
  - (b) the collecting authority is satisfied that the aid in question does not need to be notified to and approved by the European Commission.

#### **Discretionary charitable relief: notification requirements**

**46.**—(1) A charging authority which wishes to make discretionary charitable relief available in its area must—

- (a) issue a document which—
    - (i) gives notice that discretionary charitable relief is available in its area and whether relief is available under regulation 44 or 45 (or both),
    - (ii) states the date on which the collecting authority will begin accepting claims for relief, and
    - (iii) includes a policy statement setting out the circumstances in which discretionary charitable relief will be granted in its area;
  - (b) publish the document on its website;
  - (c) make the document available for inspection—
    - (i) at its principal office, and
    - (ii) at such other places within its area as it considers appropriate; and
  - (d) send a copy of the document to the collecting authority (if it is not the charging authority).
- (2) Where a charging authority wishes to revise its policy on the granting of discretionary charitable relief in its area it must—
- (a) issue a document which—
    - (i) gives notice of the revised policy and whether relief is available under regulation 44 or 45 (or both),
    - (ii) states the date from which the revised policy applies, and
    - (iii) includes a revision of the policy statement mentioned in paragraph (1)(a)(iii);
  - (b) publish the document on its website;
  - (c) make the document available for inspection at the places at which the document mentioned in paragraph (1) was made available for inspection; and
  - (d) send a copy of the document to the collecting authority (if it is not the charging authority).
- (3) A charging authority which no longer wishes discretionary charitable relief to be available in its area must—

- (a) issue a statement giving notice to that effect and stating the last day on which the collecting authority will accept claims for relief;
- (b) publish the statement on its website;
- (c) make the statement available for inspection at the places at which the document mentioned in paragraph (1) was made available for inspection; and
- (d) send a copy of the statement to the collecting authority (if it is not the charging authority).

(4) The day mentioned in paragraph (3)(a) must be no earlier than the end of the period of 14 days beginning with the date on which the statement mentioned in that paragraph is published on the charging authority's website.

**Charitable relief: procedure**

47.—(1) A person who wishes to benefit from charitable relief must submit a claim for charitable relief to the collecting authority.

(2) A claim for charitable relief must—

- (a) be received by the collecting authority before the commencement of the chargeable development to which it relates;
- (b) be submitted in writing on a form published by the Secretary of State (or a form to substantially the same effect);
- (c) include the particulars specified or referred to in the form; and
- (d) where there is more than one material interest in the relevant land, be accompanied by an apportionment assessment.

(3) A claim for charitable relief will lapse where the chargeable development to which it relates is commenced before the collecting authority has notified the claimant of its decision on the claim.

(4) Where a claim is accompanied by an apportionment assessment the collecting authority may either—

- (a) accept the claimant's assessment; or
- (b) substitute its own assessment.

(5) As soon as practicable after receiving a valid claim, the collecting authority must notify the claimant in writing of—

- (a) its decision on the claim and the reasons for the decision; and
- (b) where relief is granted, the amount of relief granted.

(6) A claim for charitable relief is valid if it complies with the requirements of paragraph (2).

(7) A person who is granted charitable relief ceases to be eligible for that relief if a commencement notice is not submitted to the collecting authority on or before the day the chargeable development is commenced.

(8) Paragraph (9) applies where a charging authority issues a statement (in accordance with regulation 46(3)(a)) giving notice that discretionary charitable relief will no longer be available in its area.

(9) Any claim for discretionary charitable relief received by the collecting authority on or before the day mentioned in regulation 46(3)(a) in respect of a chargeable development situated in the charging authority's area must be considered by the collecting authority.

**Withdrawal of charitable relief**

48.—(1) This regulation applies if charitable relief is granted and one of the following ("the disqualifying event") occurs before the end of the clawback period—

- (a) the owner of a relevant interest ceases to be eligible for charitable relief;
- (b) the whole of a relevant interest is transferred to a person who is not eligible for charitable relief; or

(c) a relevant interest which is a lease is terminated before the end of its term and the owner of the reversion is not eligible for charitable relief.

(2) The charitable relief granted in respect of the relevant interest is withdrawn and the relevant person is liable to pay an amount of CIL equal to the withdrawn relief.

(3) The relevant person must notify the collecting authority in writing of the disqualifying event before the end of the period of 14 days beginning with the day on which the disqualifying event occurs.

(4) In this regulation—

“relevant interest” means an interest in land in respect of which charitable relief was granted; and

“relevant person” means the owner of the relevant interest immediately before the disqualifying event occurs.

### **Social housing relief**

**49.**—(1) A chargeable development which comprises or is to comprise qualifying dwellings (in whole or in part) is eligible for relief from liability to CIL.

(2) A qualifying dwelling is a dwelling which satisfies at least one of the following two conditions.

(3) Condition 1 is that the dwelling is let by a private registered provider of social housing, a registered social landlord (within the meaning of Part 1 of the Housing Act 1996<sup>(a)</sup>) or a local housing authority on one of the following—

- (a) an assured tenancy (excluding an assured shorthold tenancy);
- (b) an assured agricultural occupancy;
- (c) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) or 12ZA of Schedule 1 to the Housing Act 1988<sup>(b)</sup>;
- (d) a demoted tenancy;
- (e) an introductory tenancy;
- (f) a secure tenancy;
- (g) an arrangement that would be a secure tenancy but for paragraph 4ZA<sup>(c)</sup> or 12 of Schedule 1 to the Housing Act 1985;
- (h) an intermediate rent basis.

(4) Condition 2 is that all of the following conditions are met—

- (a) the dwelling is occupied in accordance with shared ownership arrangements within the meaning of section 70(4) of the Housing and Regeneration Act 2008<sup>(d)</sup>;
- (b) the percentage of the value of the dwelling paid as a premium on the day on which a lease is granted under the shared ownership arrangement does not exceed 75 per cent of the market value (where the market value at any time is the price which the dwelling might reasonably be expected to fetch if sold at that time on the open market);
- (c) on the day on which a lease is granted under the shared ownership arrangement, the annual rent payable is not more than three per cent of the value of the unsold interest;
- (d) in any given year the annual rent payable does not increase by more than the percentage increase in the retail prices index for the year to September immediately preceding the anniversary of the day on which the lease was granted plus 0.5 per cent.

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(a) 1996 c. 52; Part 1 was amended by sections 61 to 63 of the Housing and Regeneration Act 2008 so as to restrict its application to Wales.

(b) 1988 c. 50; Paragraph 12ZA was inserted by section 297(2) of the Housing and Regeneration Act 2008.

(c) Paragraph 4ZA was inserted by section 297(1) of the Housing and Regeneration Act 2008.

(d) 2008 c. 17.

(5) Relief under this regulation is referred to in these Regulations as social housing relief.

(6) Social housing relief is given by deducting the qualifying amount from what would otherwise be the amount of liability to CIL that would arise in respect of the chargeable development.

(7) In this regulation—

“assured agricultural occupancy”, “assured shorthold tenancy” and “assured tenancy” have the same meanings as in Part 1 of the Housing Act 1988;

“demoted tenancy” means a tenancy to which section 20B of the Housing Act 1988(a) or section 143A of the Housing Act 1996(b) applies;

“introductory tenancy” has the same meaning as in Chapter 1 of Part 5 of the Housing Act 1996;

“secure tenancy” has the same meaning as in Part 4 of the Housing Act 1985; and

“unsold interest” means the freehold interest or the leasehold interest owned by the person providing the dwelling.

(8) For the purposes of this regulation, a dwelling is let on an intermediate rent basis if it is let on an assured shorthold tenancy under which the rent is not more than 80 per cent of the market rent (where the market rent of a lease at any time is the rent which the lease might reasonably be expected to fetch at that time on the open market).

#### **Social housing relief: qualifying amount**

**50.**—(1) The amount of social housing relief for which a chargeable development is eligible (“the qualifying amount”) must be calculated in accordance with this regulation.

(2) The qualifying amount is an amount equal to the aggregate of the qualifying amounts at each of the relevant rates.

(3) The relevant rates are the rates at which, but for social housing relief, CIL would be chargeable in respect of the part of the chargeable development which will comprise qualifying dwellings.

(4) The relevant rates must be taken from the charging schedules which are in effect—

(a) at the time planning permission first permits the chargeable development; and

(b) in the area in which the chargeable development is or will be situated.

(5) The qualifying amount at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times N_R \times I_P}{I_C}$$

where—

$N_R$  = the deemed net area chargeable at rate R;

$I_P$  = the index figure for the year in which planning permission was granted; and

$I_C$  = the index figure for the year in which the charging schedule containing rate R took effect.

(6) The value of  $N_R$  in paragraph (5) must be calculated by applying the following formula—

$$\frac{Q_R \times N}{Q}$$

where—

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(a) Section 20B was inserted by section 15(1) of the Anti-social Behaviour Act 2003 (c. 38).

(b) Section 143A was inserted by paragraph 1 of Schedule 1 to the Anti-social Behaviour Act 2003.

$Q_R$  = the gross internal area of the part of the chargeable development which will comprise qualifying dwellings, and in respect of which, but for social housing relief, CIL would be chargeable at rate R;

$Q$  = the gross internal area of the part of the chargeable development which will comprise qualifying dwellings; and

$N$  = the deemed net area of the part of the chargeable development which will comprise qualifying dwellings.

(7) The value of  $N$  in paragraph (6) must be calculated by applying the following formula—

$$Q - \left( \frac{Q \times E}{C} \right)$$

where—

$Q$  = the gross internal area of the part of the chargeable development which will comprise qualifying dwellings;

$E$  = an amount equal to the aggregate of the gross internal areas of all buildings which—

(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use, and

(b) are to be demolished before completion of the chargeable development; and

$C$  = the gross internal area of the chargeable development.

(8) The index referred to in paragraph (5) has the same meaning as in regulation 40.

(9) A reference in this regulation to part of a chargeable development which will comprise qualifying dwellings includes a reference to part of a chargeable development which comprises qualifying dwellings.

(10) For the purposes of this regulation, a building is 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 planning permission first permits the chargeable development.

(11) In this regulation “building” has the same meaning as in regulation 40.

### **Social housing relief: procedure**

**51.**—(1) A person wishing to benefit from social housing relief must submit a claim in accordance with this regulation.

(2) The claimant must—

(a) assume liability to pay CIL in respect of the chargeable development for which relief is claimed; and

(b) be an owner of the relevant land.

(3) The claim must—

(a) be submitted to the collecting authority in writing on a form published by the Secretary of State (or a form to substantially the same effect);

(b) be received by the collecting authority before commencement of the chargeable development;

(c) include the particulars specified or referred to in the form; and

(d) be accompanied by—

(i) a relief assessment, and

(ii) evidence that the chargeable development qualifies for social housing relief (by reference to the conditions mentioned in regulation 49).

(4) A claim for social housing relief will lapse where the chargeable development to which the claim relates is commenced before the collecting authority has notified the claimant of its decision on the claim.

(5) As soon as practicable after receiving a valid claim for social housing relief, the collecting authority must notify the claimant in writing of—

- (a) its decision on the claim and the reasons for the decision; and
- (b) if relief is granted, the qualifying amount.

(6) If social housing relief is granted in respect of the chargeable development the claimant is deemed to benefit from an amount of relief equal to the qualifying amount.

(7) A chargeable development ceases to be eligible for social housing relief if, before that chargeable development is commenced—

- (a) a commencement notice is not submitted to the collecting authority;
- (b) the claimant's assumption of liability is withdrawn or otherwise ceases to have effect; or
- (c) the claimant transfers liability to another person in accordance with regulation 32.

(8) In this regulation "relief assessment" means an assessment of the extent to which the chargeable development is eligible for social housing relief which—

- (a) identifies the qualifying dwellings and the gross internal area of those dwellings; and
- (b) includes a calculation of the qualifying amount.

### **Social housing relief: disposal of land before occupation**

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

- (a) social housing relief has been granted in respect of a chargeable development;
- (b) an owner (O) of the relevant land makes a material disposal of land on which qualifying dwellings will be situated to another person (P1); and
- (c) the disposal is made before those qualifying dwellings are made available for occupation.

(2) P1 is deemed to benefit from an amount of social housing relief equal to the qualifying amount for the qualifying dwellings which will be situated on the land O disposed of to P1.

(3) The qualifying amount mentioned in paragraph (2) must be calculated in accordance with regulation 50, and for the purposes of that calculation—

- (a) the value of  $Q_R$  is the gross internal area of the part of the chargeable development—
  - (i) which will comprise qualifying dwellings and be situated on the land O disposed of to P1, and
  - (ii) in respect of which, but for social housing relief, CIL would be chargeable at rate R; and
- (b) the value of E is the value of E as calculated at the time social housing relief was granted in respect of the chargeable development.

(4) The person (P2) who, before O disposed of the land, benefited from social housing relief in respect of the part of the chargeable development situated on that land is deemed to benefit from an amount of relief equal to the residual amount.

(5) The residual amount is the difference between the amount of social housing relief from which P2 benefited before O disposed of the land and the amount from which P1 is deemed to benefit calculated in accordance with paragraph (2).

(6) O must notify the collecting authority in writing of the disposal as soon as practicable after it occurs.

(7) The notification must—

- (a) state the gross internal area of the qualifying dwellings which will be situated on the land which has been disposed of;
- (b) be accompanied by a map or plan which identifies the location of those dwellings; and
- (c) state the name and address of O, P1 and (if P2 is not O) P2.

(8) O must send a copy of the notification to P1 and (if P2 is not O) P2.



(9) On receiving the notification the collecting authority must send an acknowledgment of receipt to O, P1 and (if P2 is not O) P2.

### **Withdrawal of social housing relief**

**53.**—(1) This regulation applies whenever a disqualifying event occurs before the end of the clawback period in respect of a chargeable development for which social housing relief has been granted.

(2) A disqualifying event is any change in relation to a qualifying dwelling such that it ceases to be a qualifying dwelling.

(3) The material disposal of a qualifying dwelling does not cause it to cease being a qualifying dwelling if—

- (a) the proceeds of sale are spent on a qualifying dwelling;
- (b) the proceeds of sale are transferred to the Secretary of State, the Welsh Ministers, a local housing authority or the Homes and Communities Agency;
- (c) the disposal is made to the Welsh Ministers under paragraph 15 or 27 of Schedule 1 to the Housing Act 1996; or
- (d) the disposal is made to the Regulator of Social Housing under section 167 or 253 of the Housing and Regeneration Act 2008.

(4) The relevant person is liable to pay an amount of CIL (“the withdrawn amount”) equal to the difference between the qualifying amount immediately before the disqualifying event and the qualifying amount immediately after the disqualifying event.

(5) The qualifying amounts mentioned in paragraph (4) must be calculated in accordance with regulation 50, and for the purposes of that calculation the value of E is the value of E as calculated at the time social housing relief was granted in respect of the chargeable development.

(6) The relevant person must notify the collecting authority in writing of a disqualifying event before the end of the period of 14 days beginning with the day on which it occurs.

(7) The notification must—

- (a) state the gross internal area of the dwelling which has ceased to be a qualifying dwelling; and
- (b) be accompanied by a map or plan which identifies the location of the dwelling mentioned in sub-paragraph (a).

(8) As soon as practicable after receiving notice of the disqualifying event, the collecting authority must notify the relevant person in writing of the withdrawn amount.

(9) The notification must be accompanied by an explanation of how the withdrawn amount was calculated.

(10) In this regulation “relevant person” means the person benefiting from social housing relief in respect of the dwelling which has ceased to be a qualifying dwelling.

### **Social housing relief: information notice**

**54.**—(1) A collecting authority may serve an information notice on—

- (a) a person claiming social housing relief;
- (b) a person who has made a material disposal of land in accordance with regulation 52; or
- (c) a person required to notify the collecting authority of a disqualifying event in accordance with regulation 53(6).

(2) The information notice may require the person to give such information, documents or materials as are specified in the notice, and which are in the person’s possession or control, which the collecting authority considers relevant to assist it in—

- (a) determining the extent to which a chargeable development is eligible for social housing relief; and

(b) calculating the qualifying amount in respect of the chargeable development.

(3) An information notice must inform the person on whom it is served of the possible consequences of a failure to comply with the notice(a).

(4) A requirement of the information notice is complied with by giving the required information to the collecting authority in writing or sending the required documents or materials to the collecting authority (as the case may be) before the end of the period of 14 days beginning with the day on which the notice is served.

(5) A reference in this regulation to a chargeable development includes a reference to part of a chargeable development.

### **Discretionary relief for exceptional circumstances**

**55.**—(1) A charging authority may grant relief (“relief for exceptional circumstances”) from liability to pay CIL in respect of a chargeable development (D) if—

(a) it appears to the charging authority that there are exceptional circumstances which justify doing so; and

(b) the charging authority considers it expedient to do so.

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

(3) A charging authority may only grant relief for exceptional circumstances if—

(a) it has made relief for exceptional circumstances available in its area;

(b) a planning obligation under section 106 of TCPA 1990(b) has been entered into in respect of the planning permission which permits D; and

(c) the charging authority—

(i) considers that the cost of complying with the planning obligation is greater than the chargeable amount payable in respect of D,

(ii) considers that to require payment of the CIL charged by it in respect of D would have an unacceptable impact on the economic viability of D, and

(iii) is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

(4) The Mayor may not grant relief for exceptional circumstances in respect of a chargeable development unless a claim for that relief is referred to the Mayor by a London borough council in accordance with regulation 58(3).

### **Exceptional circumstances: notification requirements**

**56.**—(1) A charging authority which wishes to make relief for exceptional circumstances available in its area must—

(a) issue a statement which—

(i) gives notice that relief for exceptional circumstances is available in its area, and

(ii) states the date on which the charging authority will begin accepting claims for relief for exceptional circumstances;

(b) publish the statement on its website;

(c) make the statement available for inspection—

(i) at its principal office, and

(ii) at such other places within its area as it considers appropriate; and

(d) send a copy of the statement to the collecting authority (if it is not the charging authority).

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

(b) Section 106 was substituted by section 12 of the Planning and Compensation Act 1991 and amended by section 33 of the Greater London Authority Act 2007 (c. 24) and section 174 of the Planning Act 2008.

(2) A charging authority which no longer wishes relief for exceptional circumstances to be available in its area must—

- (a) issue a statement giving notice to that effect and stating the last day on which it will accept claims for relief for exceptional circumstances;
- (b) publish the statement on its website;
- (c) make the statement available for inspection at the places at which the statement mentioned in paragraph (1)(a) was made available; and
- (d) send a copy of the statement to the collecting authority (if it is not the charging authority).

(3) The day mentioned in paragraph (2)(a) must be no earlier than the end of the period of 14 days beginning with the day on which the statement mentioned in that paragraph is published on the charging authority's website.

### **Exceptional circumstances: procedure**

**57.**—(1) Relief for exceptional circumstances must be claimed in accordance with this regulation.

(2) This regulation is subject to regulation 58 in the case of a chargeable development situated in the area of a London borough council.

(3) The person claiming relief ("the claimant") must be an owner of a material interest in the relevant land.

(4) A claim for relief must—

- (a) be submitted to the charging authority in writing on a form published by the Secretary of State (or a form to substantially the same effect);
- (b) be received by the charging authority before commencement of the chargeable development;
- (c) include the particulars specified or referred to in the form; and
- (d) be accompanied by—
  - (i) an assessment carried out by an independent person of the cost of complying with the planning obligation mentioned in regulation 55(3)(b),
  - (ii) an assessment carried out by an independent person of the economic viability of the chargeable development,
  - (iii) an explanation of why, in the opinion of the claimant, payment of the chargeable amount would have an unacceptable impact on the economic viability of that development,
  - (iv) where there is more than one material interest in the relevant land, an apportionment assessment, and
  - (v) a declaration that the claimant has complied with paragraph (6).

(5) For the purposes of paragraph (4)(d) an independent person is a person who—

- (a) is appointed by the claimant with the agreement of the charging authority; and
- (b) has appropriate qualifications and experience.

(6) The claimant must send a copy of the completed claim form and the particulars referred to in paragraph (4)(d) to the owners of the other material interests in the relevant land (if any).

(7) As soon as practicable after receiving a claim for relief, the charging authority must notify the claimant in writing of its decision on the claim and (where relief is granted) the amount of relief granted.

(8) Where relief is granted the charging authority must send a copy of the decision to—

- (a) the collecting authority (if it is not the charging authority); and
- (b) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority).

(9) A claim for relief for exceptional circumstances will lapse where the chargeable development to which it relates is commenced before the charging authority has notified the claimant of its decision on the claim.

(10) A chargeable development ceases to be eligible for relief for exceptional circumstances if there is a disqualifying event.

(11) A disqualifying event occurs if—

(a) before the chargeable development is commenced—

(i) charitable or social housing relief is granted in respect of the chargeable development, or

(ii) an owner of a material interest in the relevant land makes a material disposal of that interest; or

(b) at the end of the period of 12 months beginning with the day on which the charging authority issues its decision on the claim, the chargeable development has not been commenced.

(12) Where a disqualifying event occurs an owner of a material interest in the relevant land must—

(a) notify the charging authority in writing of the disqualifying event before the end of the period of 14 days beginning with the day on which it occurs; and

(b) send a copy of the notification to the owners of the other material interests in the relevant land (if any).

(13) On receipt of the notification the charging authority must send a copy to—

(a) the collecting authority (if it is not the charging authority); and

(b) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority).

(14) Paragraph (15) applies where a charging authority issues a statement (in accordance with regulation 56(2)(a)) giving notice that relief for exceptional circumstances will no longer be available in its area.

(15) Any claim for relief for exceptional circumstances received by the charging authority on or before the day mentioned in regulation 56(2)(a) must be considered by the charging authority.

### **Exceptional circumstances: procedure in London**

**58.**—(1) Regulation 57 applies to a claim for relief for exceptional circumstances in respect of a chargeable development situated in the area of a London borough council (“the borough”) subject to the following modifications.

(2) A claim for relief for exceptional circumstances must be submitted to the borough.

(3) As soon as practicable after receiving a claim for relief, the borough must refer the claim to the Mayor if the Mayor has made relief for exceptional circumstances available in the Mayor’s area, and the borough either—

(a) has not made relief for exceptional circumstances available in its area, or

(b) considers that, despite the amount of relief that it proposes to grant in respect of the chargeable development, to require payment of any remaining CIL charged by it or any CIL charged by the Mayor (or both) would still have an unacceptable impact on the economic viability of the chargeable development.

(4) A borough refers a claim to the Mayor by—

(a) sending to the Mayor a copy of the claim form and the particulars mentioned in regulation 57(4)(d); and

(b) where the borough proposes to grant relief, informing the Mayor in writing of the amount of that relief.

(5) If a claim is referred to the Mayor in accordance with paragraph (3) the Mayor must, as soon as practicable after receiving the referral—

- (a) decide whether to grant relief on the amount of CIL chargeable by the Mayor in respect of the chargeable development; and
- (b) notify the borough in writing of the Mayor's decision and the amount of relief (if any) granted.

(6) As soon as practicable after receiving the Mayor's decision, the borough must notify the claimant in writing of the decision on the claim and the amount of any relief granted (including, where relevant, any separate decisions and amounts in respect of relief granted by the borough and the Mayor).

(7) Where relief is granted the borough must send a copy of the decision to—

- (a) the Mayor;
- (b) the collecting authority (if it is not the borough);
- (c) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority).

(8) Notification of a disqualifying event must be submitted to the borough, and the borough must send a copy of that notification to—

- (a) the collecting authority (if it is not the borough); and
- (b) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority).

## PART 7

### APPLICATION OF CIL

#### **Application to infrastructure**

**59.**—(1) A charging authority must apply CIL to funding infrastructure to support the development of its area.

(2) CIL applied by the Mayor to funding infrastructure must be applied to funding roads or other transport facilities, including, in particular, funding for the purposes of, or in connection with, scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008(a).

(3) A charging authority may apply CIL to funding infrastructure outside its area where to do so would support the development of its area.

(4) For the purposes of this regulation, any reference to applying CIL includes a reference to causing it to be applied, and includes passing CIL to another person for that person to apply to funding infrastructure.

(5) This regulation is subject to regulations 60 and 61.

#### **Reimbursement of expenditure incurred and repayment of loans**

**60.**—(1) A charging authority may apply CIL to reimburse expenditure already incurred on infrastructure.

(2) Where a charging authority, other than the Mayor, has borrowed money for the purposes of funding infrastructure, it may apply CIL to repay that money, and any interest, if the conditions set out in paragraphs (4) and (5) are both met.

(3) Where the Greater London Authority or a functional body has borrowed money for the purposes of funding infrastructure consisting of roads or other transport facilities, the Mayor may

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(a) 2008 c. 18.

apply CIL to repay that money, and any interest, if the conditions set out in paragraphs (4) and (5) are both met.

(4) Condition 1 is that the charging authority has collected CIL, or CIL has been collected on its behalf, for at least one full financial year before the date on which CIL is to be applied to repay the money.

(5) Condition 2 is that the total amount to be applied in any one financial year does not exceed the relevant percentage of CIL collected by or on behalf of the charging authority in the preceding financial year.

(6) For the purposes of paragraph (5), the relevant percentage is such percentage as the Secretary of State may direct or, in the absence of a direction, zero per cent.

(7) A direction under paragraph (6)—

- (a) must be made in respect of authorities generally;
- (b) must be in writing;
- (c) may be substituted or revoked at any time, any substitution or revocation being made by a further direction in writing.

(8) In this regulation “functional body” means—

- (a) Transport for London; or
- (b) the London Development Agency.

### **Administrative expenses**

**61.**—(1) A charging authority may apply CIL to administrative expenses incurred by it in connection with CIL.

(2) A collecting authority which collects CIL on behalf of a charging authority may apply that CIL to administrative expenses incurred by it in connection with that collection.

(3) In relation to a charging authority which collects CIL charged by it—

- (a) in years one to three, the total amount of CIL that may be applied to administrative expenses incurred during those three years, and any expenses incurred before the charging schedule was published, shall not exceed five per cent of CIL collected over the period of years one to three;
- (b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred during that year shall not exceed five per cent of CIL collected in that year.

(4) In relation to a collecting authority which collects CIL on behalf of a charging authority—

- (a) in years one to three the total amount of CIL that may be applied to administrative expenses incurred in connection with that collection during those three years, and any expenses incurred before the charging schedule was published, shall not exceed four per cent of CIL collected on behalf of the charging authority over the period of years one to three;
- (b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred in connection with that collection during that year shall not exceed four per cent of CIL collected on behalf of the charging authority in that year.

(5) In relation to a charging authority which does not collect CIL charged by it—

- (a) in years one to three the total amount of CIL that may be applied to administrative expenses incurred during those three years, and any expenses incurred before the charging schedule was published, shall not exceed the relevant percentage of CIL collected over the period of years one to three;
- (b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred during that year shall not exceed the relevant percentage of CIL collected in that year.

(6) In paragraph (5) the relevant percentage is five per cent less any CIL which is applied by the collecting authority pursuant to paragraph (4).

(7) For the purposes of this regulation reference to CIL collected in a year includes the value of acquired land acquired by virtue of a land payment made in that year.

(8) In this regulation—

- (a) year one begins on the date on which the charging authority's first charging schedule takes effect<sup>(a)</sup> and ends at the end of the first subsequent full financial year;
- (b) years two to four are the consecutive financial years that follow; and
- (c) in relation to a collecting authority, the reference to a charging authority in this paragraph is a reference to the charging authority on behalf of whom CIL is collected.

## Reporting

**62.**—(1) A charging authority must prepare a report for any financial year (“the reported year”) in which—

- (a) it collects CIL, or CIL is collected on its behalf; or
- (b) an amount of CIL collected by it or by another person on its behalf (whether in the reported year or any other) has not been spent.

(2) Nothing in paragraph (1) requires an authority to prepare a report about CIL which it collects on behalf of another charging authority.

(3) For the purposes of paragraph (1), CIL collected by a charging authority includes land payments made in respect of CIL charged by that authority, and CIL collected by way of a land payment has not been spent if at the end of the reported year—

- (a) development consistent with a relevant purpose has not commenced on the acquired land; or
- (b) the acquired land (in whole or in part) has been used or disposed of for a purpose other than a relevant purpose; and the amount deemed to be CIL by virtue of regulation 73(9) has not been spent.

(4) The report must include—

- (a) the total CIL receipts for the reported year;
- (b) the total CIL expenditure for the reported year;
- (c) summary details of CIL expenditure during the reported year including—
  - (i) the items of infrastructure to which CIL (including land payments) has been applied,
  - (ii) the amount of CIL expenditure on each item,
  - (iii) the amount of CIL applied to repay money borrowed, including any interest, with details of the infrastructure items which that money was used to provide (wholly or in part),
  - (iv) the amount of CIL applied to administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation; and
- (d) the total amount of CIL receipts retained at the end of the reported year.

(5) The charging authority must publish the report on its website no later than 31st December following the end of the reported year.

(6) For the purposes of this regulation—

- (a) the value of acquired land is the value stated in the agreement made with the charging authority in respect of that land in accordance with regulation 73(6)(d);

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(a) See section 214 of the Planning Act 2008 and regulation 28.

(b) the value of a part of acquired land must be determined by applying the formula in regulation 73(10) as if references to N were references to the area of the part of the acquired land whose value is being determined.

(7) In this regulation—

“acquired land” and “relevant purpose” have the same meanings as in regulation 73;

“development” has the same meaning as in TCPA 1990;

“CIL expenditure” includes—

(a) the value of any acquired land on which development consistent with a relevant purpose has been commenced or completed, and

(b) CIL receipts transferred by the charging authority to another person to spend on infrastructure (including money transferred to such a person which it has not yet spent); and

“CIL receipts” means CIL collected by the charging authority (including the value of any acquired land) but does not include CIL collected on behalf of the charging authority by another public authority but which that authority has not yet paid to the charging authority.

### **Infrastructure: amendment to section 216 of the Planning Act 2008**

**63.**—(1) Section 216(2) of PA 2008 (application) is amended as follows.

(2) At the end of paragraph (e) insert “ and”.

(3) At the end of paragraph (f) for “, and” substitute “.”.

(4) Omit paragraph (g).

## **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(a), 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).

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(a) 1975 c. 76.

(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).

### **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>(a)</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.

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(a) See regulation 70.

(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.

(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>(a)</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.

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(a) See regulation 36(2).

## 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.

**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.

**PART 9**  
**ENFORCEMENT**  
**CHAPTER 1**  
**SURCHARGES AND INTEREST**

**Surcharge for failure to assume liability**

**80.** A collecting authority may impose a surcharge of £50 on each person liable to pay CIL in respect of a chargeable development if—

- (a) nobody has assumed liability to pay CIL in respect of the chargeable development; and
- (b) the chargeable development has been commenced.

**Surcharge: apportionment of liability**

**81.—**(1) Where a collecting authority is required to apportion liability to pay CIL between each material interest in the relevant land, it may impose a surcharge of £500 in respect of each of those interests.

(2) A surcharge imposed in respect of a material interest under paragraph (1) is payable by the owner of that interest.

(3) A surcharge is not payable under this regulation where the collecting authority is required to apportion a surcharge.

**Surcharge for failure to submit a notice of chargeable development**

**82.—**(1) Where—

- (a) planning permission is granted for a chargeable development (D) by way of a general consent; and
- (b) D is commenced before the collecting authority has received a notice of chargeable development,

the collecting authority may impose a surcharge equal to 20 per cent of the chargeable amount payable in respect of D or £2500, whichever is the lower amount.

(2) Where the collecting authority is required to apportion liability between each material interest in the relevant land in respect of D—

- (a) the surcharge must be apportioned on the same basis; and
- (b) the owner of a material interest must pay the part of the surcharge apportioned to that interest.

(3) In all other cases the surcharge is payable by the person liable to pay CIL in respect of D.

**Surcharge for failure to submit a commencement notice**

**83.—**(1) Where a chargeable development (D) is commenced before the collecting authority has received a valid commencement notice in respect of D, the collecting authority may impose a surcharge equal to 20 per cent of the chargeable amount payable in respect of D or £2500, whichever is the lower amount.

(2) Where a person has assumed liability to pay CIL in respect of D, the collecting authority must notify in writing each person known to it as an owner of the relevant land of the imposition of the surcharge.

(3) Where the collecting authority is required to apportion liability between each material interest in the relevant land in respect of D—

- (a) the surcharge must be apportioned on the same basis; and



- (b) the owner of a material interest must pay the part of the surcharge apportioned to that interest.
- (4) In all other cases the surcharge is payable by the person liable to pay CIL in respect of D.

### **Surcharge: disqualifying events**

**84.**—(1) This regulation applies where a person who is required to notify the relevant authority of a disqualifying event fails to do so before the end of the period of 14 days beginning with the day on which the disqualifying event occurs.

(2) The relevant authority may impose a surcharge equal to 20 per cent of the chargeable amount payable in respect of the chargeable development to which the disqualifying event relates, or £2500, whichever is the lower amount.

(3) Where the disqualifying event occurs before commencement of the chargeable development, the surcharge is payable on commencement of that chargeable development.

(4) In all other cases the surcharge is payable on the day that it is imposed.

(5) Where the disqualifying event occurs in relation to a grant of social housing relief, the surcharge is payable by the relevant person within the meaning of regulation 53(10).

(6) Where the disqualifying event occurs in relation to a grant of charitable relief, an owner of a material interest in the relevant land in respect of which charitable relief was granted must pay an appropriate portion of the surcharge.

(7) The appropriate portion is an amount which bears to the total surcharge the same proportion as the value of the material interest bears to the total value of all the material interests in the relevant land in respect of which charitable relief was granted.

(8) For the purposes of paragraph (7) the value of a material interest must be determined in accordance with paragraphs (4) and (5) of regulation 34.

(9) Paragraphs (10) and (11) apply where the disqualifying event occurs in relation to a grant of relief for exceptional circumstances.

(10) Where liability in respect of the chargeable development is apportioned between each material interest in the relevant land—

- (a) the surcharge must be apportioned on the same basis; and
- (b) the owner of a material interest must pay the part of the surcharge apportioned to that interest.

(11) In all other cases the surcharge is payable by the person liable to pay CIL in respect of the chargeable development.

(12) In this regulation “relevant authority” means—

- (a) where the disqualifying event occurs in relation to a grant of relief for exceptional circumstances, the charging authority;
- (b) in all other cases, the collecting authority.

### **Surcharge for late payment**

**85.**—(1) Where—

- (a) a person (P) is liable to pay an amount (A) under these Regulations; and
- (b) A is not received in full after the end of the period of 30 days beginning with the day on which payment of A is due,

the collecting authority may impose a surcharge on P equal to five per cent of A or £200, whichever is the greater amount.

(2) If any part of A is not received after the end of the period of six months beginning with the day on which payment of A is due, the collecting authority may impose a surcharge on P equal to five per cent of the unpaid amount or £200, whichever is the greater amount.

(3) If any part of A is not received after the end of the period of 12 months beginning with the day on which payment of A is due, the collecting authority may impose a surcharge on P equal to five per cent of the unpaid amount or £200, whichever is the greater amount.

#### **Surcharge for failure to comply with an information notice**

**86.**—(1) This regulation applies where a person (P) fails to comply with any requirement of an information notice before the end of the period of 14 days beginning with the day on which the notice is served.

(2) The collecting authority may impose a surcharge on P equal to 20 per cent of the relevant amount or £1000, whichever is the lower amount.

(3) In paragraph (2) “relevant amount” means the amount of CIL P is liable to pay in respect of the chargeable development.

#### **Late payment interest**

**87.**—(1) Where—

- (a) a person (P) is liable to pay an amount (A) under these Regulations; and
- (b) A is not received (in whole or in part) on the day payment of A is due,

P must pay interest (“late payment interest”) on the relevant amount.

(2) Late payment interest must be calculated—

- (a) for the period starting on the day after the day payment was due and ending on the day the unpaid amount is received; and
- (b) at an annual rate of 2.5 percentage points above the Bank of England base rate.

(3) Late payment interest is not payable on late payment interest.

(4) Paragraph (2)(a) applies even if the day on which payment of A is due is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(a) (computation of time).

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

- (a) where A is an unpaid instalment (payable in accordance with regulation 70), the unpaid balance of the amount payable by P in respect of the chargeable development;
- (b) in all other cases the unpaid amount.

#### **Surcharges and interest: general**

**88.**—(1) A surcharge or interest payable by a person under this Chapter must be collected by treating it as if it were part of the CIL that person is liable to pay.

(2) A surcharge or interest paid to a collecting authority under this Chapter must be treated for the purposes of Part 7 as if it were CIL.

## CHAPTER 2 CIL STOP NOTICES

#### **Preliminary steps**

**89.**—(1) This regulation applies if—

- (a) an amount which has become payable in respect of a chargeable development has not been paid; and
- (b) the collecting authority considers it expedient that development should stop until the amount has been paid.

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(a) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(2) The collecting authority may issue a notice warning of its intention to impose a CIL stop notice (“warning notice”) in respect of the chargeable development.

(3) A warning notice must be served on—

- (a) the person who is liable for the unpaid amount;
- (b) each person known to the authority as an owner of the relevant land;
- (c) each person known to the authority as an occupier of the relevant land; and
- (d) any other person whom the collecting authority considers may be materially affected by a CIL stop notice.

(4) A warning notice must be in writing and must—

- (a) state the date of the notice;
- (b) set out the authority’s reasons for issuing the warning notice;
- (c) state the unpaid amount;
- (d) state that payment of the unpaid amount is due in full immediately;
- (e) state the period after which a CIL stop notice may be issued if the unpaid amount is not paid (which must not be less than three days or more than 28 days after the warning notice is issued); and
- (f) specify the effect of, and possible consequences of failure to comply with, a CIL stop notice<sup>(a)</sup>.

(5) The collecting authority must display a copy of the warning notice on the relevant land.

### **Service of CIL stop notice**

**90.**—(1) This regulation applies if—

- (a) the collecting authority has issued a warning notice in respect of a chargeable development; and
- (b) the amount specified in the warning notice is unpaid (in whole or in part) at the end of the period specified in the notice.

(2) The collecting authority may serve a CIL stop notice in respect of the chargeable development.

(3) A CIL stop notice must be served on—

- (a) the person who is liable to pay the unpaid amount;
- (b) each person known to the authority an owner of the relevant land;
- (c) each person known to the authority as an occupier of the relevant land; and
- (d) any other person whom the collecting authority considers may be materially affected by the CIL stop notice.

(4) The CIL stop notice must be in writing and must—

- (a) state the date on which it is to take effect;
- (b) set out the authority’s reasons for issuing the notice;
- (c) state the unpaid amount;
- (d) state that payment of the unpaid amount is due in full immediately;
- (e) specify the relevant activity which must cease; and
- (f) specify the possible consequences of failure to comply with the notice.

(5) In paragraph (4)(e) “relevant activity” means any activity connected with the chargeable development which is specified in the CIL stop notice as an activity which the collecting authority

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(a) As to the consequences of failure to comply with a CIL stop notice, see regulations 93 and 94.

requires to cease, and any activity carried out as part of that activity or associated with that activity.

(6) The collecting authority must display a copy of the CIL stop notice on the relevant land.

(7) A CIL stop notice does not prohibit any works on the relevant land which are necessary in the interests of health and safety.

(8) A CIL stop notice has effect from the date specified in the notice until the date it is withdrawn by the collecting authority.

#### **Withdrawal of a CIL stop notice**

**91.**—(1) A collecting authority may withdraw a CIL stop notice at any time (without prejudice to its power to issue another) by serving written notice to that effect on the persons served with the CIL stop notice.

(2) A collecting authority must withdraw a CIL stop notice when the unpaid amount stated in the notice is paid in full to the collecting authority.

(3) A collecting authority which withdraws a CIL stop notice must display a notice of the withdrawal on the relevant land in place of the CIL stop notice.

(4) A CIL stop notice ceases to have effect on the day the collecting authority serves notice of its withdrawal.

#### **Registration of a CIL stop notice**

**92.**—(1) The register kept under section 188 of TCPA 1990 (register of enforcement and stop notices) must, in addition to the information specified in subsection (1) of that section, include the following information in respect of every CIL stop notice issued in relation to land in the area of the authority maintaining the register—

- (a) the address of the land to which the notice relates or a plan by reference to which its location can be ascertained;
- (b) details of the relevant planning permission sufficient to enable it to be identified;
- (c) the name of the collecting authority;
- (d) the date of issue of the notice;
- (e) the date of service of the notice;
- (f) the date specified in the notice as the date on which it is to take effect; and
- (g) a statement or summary of the activity prohibited by the notice.

(2) All entries relating to a CIL stop notice must be removed from the register if the notice is withdrawn or quashed.

(3) Where a collecting authority which does not maintain a register issues a CIL stop notice it must—

- (a) supply the information specified in paragraph (1) to the authority which maintains the register for the land to which the notice relates; and
- (b) inform that authority in writing if the CIL stop notice is withdrawn or quashed.

(4) The information specified in paragraph (1) must be entered in the register as soon as practicable and in any event before the end of the period of 14 days beginning with the day on which the CIL stop notice is issued.

#### **Offence**

**93.**—(1) A person commits an offence if the person contravenes a CIL stop notice—

- (a) which has been served on that person; or
- (b) a copy of which has been displayed in accordance with regulation 90(6).

(2) Contravention of a CIL stop notice includes causing or permitting the contravention of the notice.

(3) An offence under this regulation may be charged by reference to a day or a longer period of time.

(4) A person may be convicted of more than one such offence in relation to the same CIL stop notice by reference to different days or periods of time.

(5) It is a defence for a person charged with an offence under this regulation to prove that—

(a) the CIL stop notice was not served on the person; and

(b) the person did not know, and could not reasonably have been expected to know, of its existence.

(6) A person convicted of an offence under this regulation is liable—

(a) on summary conviction, to a fine not exceeding £20,000; or

(b) on conviction on indictment, to a fine.

(7) In determining the amount of the fine the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.

### **Injunctions**

**94.**—(1) A collecting authority may apply to the court for an injunction if it considers it necessary or expedient for any actual or apprehended breach of a CIL stop notice to be restrained by injunction.

(2) On an application under this regulation the court may grant such an injunction as the court thinks fit for the purpose of restraining the breach.

(3) In this regulation “the court” means the High Court or a county court.

## **CHAPTER 3 RECOVERY OF CIL**

### **Interpretation and application of Chapter 3**

**95.**—(1) In this Chapter—

“authority concerned” means the collecting authority which applied for one or more liability orders against a debtor under regulation 97;

“charging order” means an order under regulation 103;

“debtor” means a person against whom a liability order has been made;

“liability order” means an order under regulation 97; and

“reminder notice” means a notice served under regulation 96.

(2) An amount which has become payable to a collecting authority under these Regulations and which has not been paid is recoverable in accordance with this Chapter.

### **Liability orders: reminder notice**

**96.**—(1) Before a collecting authority applies for a liability order it must serve on the person against whom the application is to be made a notice (“reminder notice”) which must state every amount in respect of which the authority is to make the application.

(2) A reminder notice may be served in respect of an amount at any time after it has become due.

### **Application for liability order**

**97.**—(1) Where the amount stated in a reminder notice is wholly or partly unpaid at the end of the period of seven days beginning with the day on which the reminder notice was served, the collecting authority may apply to a magistrates' court for an order ("liability order") against the person by whom it is payable.

(2) An application is instituted by making a complaint to a justice of the peace, and requesting the issue of a summons directed to that person to appear before the court to show why the person has not paid the outstanding amount.

(3) Section 127(1) of the Magistrates' Courts Act 1980(a) (limitation of time) does not apply to such an application; but no application may be instituted in respect of an outstanding amount after the period of six years beginning with the day that amount became due.

(4) Section 55(2) of the Magistrates' Courts Act 1980 (non-appearance of defendant) does not apply to any proceedings under this regulation.

(5) The court must make the liability order if it is satisfied that the amount has become payable by the defendant and has not been paid.

(6) An order made pursuant to paragraph (5) must be made in respect of an amount equal to the aggregate of—

- (a) the outstanding amount; and
- (b) an amount equal to the costs reasonably incurred by the collecting authority in obtaining the order.

(7) Where the outstanding amount is paid after an order has been applied for under paragraph (2) but before it has been made, the court must nonetheless (if so requested by the collecting authority) make the order in respect of an amount equal to the costs reasonably incurred by the authority in making the application.

(8) A single liability order may deal with one person and one such amount as is mentioned in paragraph (6) and (7) or, if the court thinks fit, may deal with more than one person and more than one such amount.

(9) No liability order may be made in pursuance of a summons issued under paragraph (2) before the end of the period of 14 days beginning with the day on which the summons was served.

(10) The amount in respect of which a liability order is made is enforceable in accordance with this Chapter; and accordingly for the purposes of Part 3 of the Magistrates' Court Act 1980 (satisfaction and enforcement) it is not to be treated as a sum adjudged to be paid by order of the court.

### **Distress**

**98.**—(1) Where a liability order has been made the authority concerned may levy the appropriate amount by distress and sale of goods of the debtor against whom the liability order was made.

(2) Without prejudice to paragraph (12) no person making a distress may seize any clothing, bedding, furniture, household equipment or provisions which are necessary for satisfying the basic domestic needs of the debtor and his family.

(3) The appropriate amount for the purposes of paragraph (1) is the aggregate of—

- (a) an amount equal to any amount which is or forms part of the amount in respect of which the liability order was made; and
- (b) a sum in respect of charges connected with distress.

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(a) 1980 c. 43.

(4) Schedule 3 to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(a) applies for the purpose of determining the sum referred to in paragraph (3)(b).

(5) If, before any goods are seized, the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority must accept the amount and not proceed with the levy.

(6) Where an authority has seized goods of the debtor in pursuance of distress, but before sale of the goods the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority must—

- (a) accept the amount and not proceed with the levy; and
- (b) make the goods available for collection by the debtor.

(7) The person levying distress on behalf of the authority must—

- (a) produce written evidence of the person's authority, if so requested by the debtor;
- (b) hand to the debtor, or leave at the premises where the distress is levied, a copy of this regulation and a memorandum setting out the appropriate amount; and
- (c) hand to the debtor a copy of any close or walking possession agreement entered into.

(8) A distress may be made anywhere in England and Wales.

(9) No distress under this regulation may be made other than by a person who is authorised to act as a bailiff by a general certificate granted under section 7 of the Law of Distress Amendment Act 1888(b) (distress to be levied by certified bailiffs).

(10) A distress shall not be deemed unlawful on account of any defect or want of form in the liability order, and no person making a distress shall be deemed a trespasser on that account.

(11) No person making a distress shall be deemed a trespasser from the beginning on account of any subsequent irregularity in making the distress; but a person sustaining special damage by reason of the subsequent irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise.

(12) The provisions of this regulation do not affect the operation of any enactment which protects goods of any class from distress.

### **Appeals in connection with distress**

**99.**—(1) A person aggrieved by the levy of, or an attempt to levy, a distress may appeal to a magistrates' court.

(2) The appeal must be instituted by making a complaint to a justice of the peace, and requesting the issue of a summons directed to the authority which levied or attempted to levy the distress to appear before the court to answer to the matter by which the person is aggrieved.

(3) If the court is satisfied that a levy was irregular, it may—

- (a) order the goods distrained to be discharged if they are in the possession of the authority;
- (b) by order award compensation in respect of any goods distrained and sold.

(4) The amount of compensation that may be awarded under paragraph (3)(b) is an amount equal to the amount which, in the opinion of the court, would be awarded by special damages in respect of the goods if proceedings were brought in trespass or otherwise in connection with the irregularity under regulation 98(11).

(5) If the court is satisfied that an attempted levy was irregular, it may by order require the authority to desist from levying in the manner giving rise to the irregularity.

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(a) S.I. 1989/1058, relevant amending instruments are S.I. 1993/774, S.I. 1998/3089, S.I. 2003/2210, S.I. 2004/1013, S.I. 2006/3395 and S.I. 2007/501.

(b) 1888 c. 21; section 7 was amended by paragraph 2 of Schedule 8 to the Courts Act 1971 (c. 23) and section 74 of the Courts and Legal Services Act 1990 (c. 41).

## Commitment to prison

**100.**—(1) A collecting authority may apply to a magistrates' court for the issue of a warrant committing a debtor to prison where—

- (a) the debtor is an individual;
- (b) the authority has sought to levy an amount by distress under regulation 98 and the person making the distress reports that they were unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount; and
- (c) the authority is able to demonstrate to the court that it is unable to recover the amount payable by the debtor by means of a charging order under regulation 103.

(2) On such an application being made the court must (in the debtor's presence) inquire as to the debtor's means and inquire whether the failure to pay the debt which led to the liability order being made against the debtor was due to the debtor's wilful refusal or culpable neglect.

(3) If (and only if) the court is of the opinion that the failure to pay the debt was due to the debtor's wilful refusal or culpable neglect it may if it thinks fit—

- (a) issue a warrant of commitment against the debtor; or
- (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as the court thinks just.

(4) The warrant must be made in respect of the relevant amount; and the relevant amount for this purpose is the aggregate of—

- (a) the appropriate amount mentioned in regulation 98(3), or (as the case may be) so much of it as remains outstanding; and
- (b) a sum of an amount equal to the costs reasonably incurred by the collecting authority in respect of the application.

(5) The warrant—

- (a) must state the relevant amount mentioned in paragraph (4);
- (b) may be directed to the authority making the application and to such other persons as the court issuing it thinks fit; and
- (c) may be executed anywhere in England and Wales by any person to whom it is directed.

(6) If—

- (a) before a warrant has been issued, or a term of imprisonment fixed and the issue of a warrant postponed, an amount determined in accordance with paragraph (7) is paid or tendered to the authority;
- (b) after a term of imprisonment has been fixed and the issue of a warrant postponed, any amount the court has ordered the debtor to pay is paid or tendered to the authority; or
- (c) after a warrant has been issued, the amount stated in it is paid or tendered to the authority,

the authority must accept the amount concerned, take no further steps as regards its recovery, and the debtor, if committed to prison, must be released.

(7) The amount referred to in paragraph (6)(a) is the aggregate of—

- (a) the appropriate amount mentioned in regulation 98(3) (or so much of it as remains outstanding); and
- (b) the authority's reasonable costs incurred up to the time of payment or tender.

(8) Subject to paragraphs (9) and (10) the warrant must order that the debtor be imprisoned for a time specified in the warrant (which must not exceed three months) unless the amount stated in the warrant is paid sooner.

(9) Where—

- (a) a warrant is issued after a postponement under paragraph (3)(b); and



- (b) since the term of imprisonment was fixed but before the issue of the warrant, the amount mentioned in paragraph (4)(a) with respect to which the warrant would (but for the postponement) have been made has been reduced by a part payment,

the period of imprisonment ordered under the warrant must be the term fixed under paragraph (3) reduced by such numbers of days as bears to the total number of days in that term less one day the same proportion as the part paid bears to that amount.

(10) Where, after the issue of a warrant, a part payment of the amount stated in it is made, the period of imprisonment must be reduced by such number of days as bears to the total number of days in the term of imprisonment specified in the warrant less one day the same proportion as the part paid bears to the amount so stated.

(11) In calculating a reduction required under paragraphs (9) and (10)—

- (a) any fraction of a day must be left out of account; and
- (b) rule 55(1), (2) and (3) of the Magistrates' Courts Rules 1981(a) (payment after imprisonment imposed) applies (so far as is relevant) to a part payment as if the imprisonment concerned were imposed for want of sufficient distress to satisfy a sum adjudged to be paid by a magistrates' court.

### **Commitment to prison: further provision**

**101.**—(1) A single warrant may not be issued under regulation 100 against more than one person.

(2) Where an application under regulation 100 has been made, and after the making of the inquiries mentioned in paragraph (2) of that regulation no warrant is issued or term of imprisonment fixed, the court may remit all or part of the appropriate amount mentioned in regulation 98(3) to which the application relates.

(3) Where an application under regulation 100 has been made but no warrant is issued or term of imprisonment fixed, the application may be renewed (except so far as regards any sum remitted under paragraph (2)) on the ground that the circumstances of the debtor have changed.

(4) A statement in writing to the effect that wages of any amount have been paid to the debtor during any period, purporting to be signed by or on behalf of the debtor's employer, shall in any proceedings under regulation 100 be evidence of the facts there stated.

(5) For the purpose of enabling enquiry to be made as to the debtor's conduct and means under regulation 100(2), a justice of the peace may—

- (a) issue a summons to the debtor to appear before a magistrates' court and (if the debtor does not obey the summons) issue a warrant for the debtor's arrest; or
- (b) issue a warrant for the debtor's arrest without issuing a summons.

(6) A warrant issued under paragraph (5) may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within the constable's police area.

### **Magistrates' courts**

**102.**—(1) A magistrates' court must not under this Chapter hear a summons, entertain an application for a warrant or hold an inquiry as to means on such an application except when composed of at least two justices.

(2) Paragraph (1) is subject to any enactment authorising a District Judge (Magistrates' Courts) or other person to act alone.

(3) References to a justice of the peace in regulations 97(2) and 99(2) must be construed subject to rule 2 of the Justices' Clerks Rules 2005(b) (which authorises certain matters authorised to be done by a justice of the peace to be done by a justices' clerk).

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(a) S.I. 1981/552; relevant amending instruments are S.I. 2001/610 and S.I. 2005/617.

(b) S.I. 2005/545.

(4) In any proceedings under regulations 97, 99 or 100, a statement contained in a document constituting or forming part of a record compiled by the applicant authority is admissible as evidence of any fact stated in it of which direct oral evidence would be admissible.

(5) In paragraph (4) “statement” includes any representation of fact, whether made in words or otherwise; and the reference to an application under regulation 100 includes a reference to an application made in the circumstances mentioned in regulation 101(3).

### Charging orders

**103.**—(1) An application to the appropriate court may be made under this regulation where—

- (a) a magistrates’ court has made one or more liability orders pursuant to regulation 97(5);
- (b) the amount mentioned in regulation 97(6)(a) in respect of which the liability order was made, or, where more than one liability order was made, the aggregate of the amounts mentioned in regulation 97(6)(a) in respect of which each such liability order was made, is an amount the debtor is liable to pay under these Regulations; and
- (c) at the time the application under this regulation is made at least £2000 of the amount in respect of which the liability order was made, or, where more than one liability order was made, the aggregate of the amounts in respect of which those liability orders were made, remains outstanding.

(2) The application which may be made to the appropriate court under this regulation is an application by the authority concerned for an order imposing a charge on a relevant interest to secure the due amount.

(3) Before making the application referred to in paragraph (2) the authority concerned must notify the debtor of its intention to do so.

(4) The notification must be in writing and—

- (a) set out the authority’s reasons for seeking a charging order;
- (b) specify the effect of a charging order; and
- (c) state the due amount and the steps the authority concerned will take if payment of the due amount is not forthcoming.

(5) The notification must be sent to the debtor and any other person the authority considers may be prejudiced by the making of the charging order.

(6) Where the charge would be imposed on land the notification must be displayed on that land.

(7) If the authority concerned does not receive payment of the due amount within 21 days of the date of the notification, it may make the application referred to in paragraph (2).

(8) For the purposes of this regulation—

“appropriate court” has the meaning given in section 1 of the Charging Orders Act 1979(a) (charging orders);

“due amount” means the aggregate of—

- (a) an amount equal to any outstanding sum which is, or forms part of, the amount in respect of which the one or more liability orders referred to in paragraph (1)(a) were made, and
- (b) an amount equal to the costs reasonably incurred by the collecting authority in obtaining the charging order;

“relevant interest” means any interest held by the debtor beneficially in any asset of a kind mentioned in section 2(2) of the Charging Orders Act 1979 (property which may be charged).

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(a) 1979 c. 53; section 1 was amended by paragraphs 2, 3 and 6 of Schedule 3 to the Administration of Justice Act 1982 (c. 53) and paragraph 71 of Schedule 2 to the County Courts Act 1984 (c. 28).

### **Charging orders: further provision**

**104.**—(1) In deciding whether to make a charging order, the court must consider all the circumstances of the case, and in particular any evidence before it as to—

- (a) the personal circumstances of the debtor; and
- (b) whether any other person would be likely to be unduly prejudiced by the making of the order.

(2) A charging order—

- (a) must specify the interest on which the charge is imposed; and
- (b) may, as the court thinks fit, be made absolutely or subject to conditions as to the time when the charge is to become enforceable or as to other matters.

(3) A charge imposed by a charging order has the like effect and is enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under the debtor's hand.

(4) The court by which a charging order was made may at any time, on the application of the debtor or the collecting authority on whose application the order was made, make an order discharging or varying the charging order.

(5) Where a charging order has been protected by an entry registered under the Land Charges Act 1972<sup>(a)</sup> or the Land Registration Act 2002<sup>(b)</sup>, an order under paragraph (4) discharging the charging order may direct that the entry be cancelled.

### **Insolvency**

**105.**—(1) Where a liability order has been made against a debtor who is an individual, the amount due is deemed to be a debt for the purposes of section 267 of the Insolvency Act 1986<sup>(c)</sup> (grounds of creditor's petition).

(2) Where a liability order has been made against a debtor which is a company, the amount due is deemed to be a debt for the purposes of section 122(1)(f) (winding up of companies by the court) or, as the case may be, 221(5)(b) (winding up of unregistered companies) of the Insolvency Act 1986.

### **Recovery in a court of competent jurisdiction**

**106.**—(1) An amount—

- (a) which has become payable to a collecting authority in accordance with these Regulations;
- (b) which has not been paid; and
- (c) in respect of which a liability order has not been made,

may (as an alternative to recovery under a liability order) be recovered in a court of competent jurisdiction.

(2) A liability order may not be made in respect of any amount in relation to which proceedings have been instituted under paragraph (1).

### **Enforcement of local land charges**

**107.**—(1) This regulation applies where a collecting authority wishes to enforce a local land charge imposed under these Regulations in respect of a chargeable development.

(2) The collecting authority must notify—

- (a) the owners of the relevant land; and

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(a) 1972 c. 61.

(b) 2002 c. 9.

(c) 1986 c. 45.

(b) any other person the authority considers may be prejudiced by enforcement of the charge, of its intention to enforce the charge.

(3) The notification must—

- (a) be in writing;
- (b) be displayed on the relevant land;
- (c) set out the collecting authority’s reasons for seeking to enforce the charge; and
- (d) state the outstanding amount of CIL due in respect of the chargeable development and the steps the collecting authority will take if payment of that amount is not forthcoming.

(4) If the collecting authority does not receive payment of the amount referred to in paragraph (3)(d) within 21 days of the date of the notification, it may apply to a county court for consent to enforce the local land charge.

(5) In deciding whether to grant consent to enforce the charge the court must consider all the circumstances of the case, and in particular any evidence before it as to whether any person would be likely to be unduly prejudiced by enforcement of the charge.

(6) The collecting authority may not enforce a local land charge imposed in respect of the chargeable development if the outstanding amount of CIL due in respect of that development is less than £2000.

(7) For the purpose of enforcing a local land charge under this regulation, the collecting authority has all the same powers and remedies under the Law of Property Act 1925<sup>(a)</sup> and otherwise as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

## CHAPTER 4

### OTHER ENFORCEMENT PROVISIONS

#### **Outstanding liabilities on death**

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

- (a) a person (the “deceased”) who is liable to pay CIL in respect of a chargeable development dies after that chargeable development is commenced; and
- (b) at the time of the deceased’s death an amount which the deceased was liable to pay has not been paid.

(2) The deceased’s executor or administrator is liable to pay—

- (a) the unpaid amount; and
- (b) any interest, surcharges and costs applied to the unpaid amount, or imposed on the deceased in respect of the unpaid amount,

and may deduct out of the assets and effects of the deceased any payments made (or to be made).

(3) But liability of the executor or administrator does not arise until the service on that person of a notice requiring payment of the amounts referred to in paragraph (2).

(4) Where before the deceased’s death an amount in excess of the deceased’s liability for CIL has been paid and has not been repaid under regulation 75, the deceased’s executor or administrator is entitled to the amount.

(5) The liability of the executor or administrator under this regulation is a liability in the executor or administrator’s capacity as such.

(6) Insofar as it is relevant to the executor’s or administrator’s liability under this regulation in the administration of the deceased’s estate, the executor or administrator may initiate, continue or withdraw an appeal under regulation 117, 118 or 119.

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(a) 1925 c. 20.

(7) Any amount which an executor or administrator is liable to pay under this regulation may be recovered from the executor or administrator by the collecting authority in accordance with the provisions in Chapter 3 of this Part.

### **Powers of entry**

**109.**—(1) A person authorised in writing by a collecting authority may at any reasonable hour enter the relevant land—

- (a) to ascertain whether a chargeable development has been commenced;
- (b) to determine whether any of the powers conferred on a collecting authority by this Part should be exercised in relation to a chargeable development or the relevant land;
- (c) to ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to a chargeable development or the relevant land;
- (d) to display any notice required to be displayed on land in accordance with these Regulations; or
- (e) where a person has submitted a notice of chargeable development, for the purposes of gathering information required by the collecting authority in order for it to calculate the chargeable amount payable in respect of the chargeable development.

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

(3) A person may not enter the relevant land for the purpose mentioned in paragraph (1)(e) unless the collecting authority has first requested the information referred to in that paragraph in accordance with regulation 64(8).

(4) A person may not enter any part of the relevant land which is used as a private dwelling unless a justice of the peace has issued a warrant authorising the person to do so.

(5) A justice of the peace may only issue such a warrant if satisfied that there is good reason to believe that the collecting authority will not be able to enforce CIL without the warrant.

(6) A warrant issued under paragraph (4) remains in force—

- (a) for one month; or
- (b) until the purpose for which it is issued has been fulfilled,

whichever is the sooner.

(7) A person authorised in accordance with this regulation to enter the relevant land—

- (a) must, if so required, produce evidence of the person's authority, and state the purpose of the person's entry, before entering; and
- (b) may take such other persons as may be necessary.

(8) A person commits an offence if the person wilfully obstructs a person acting in the exercise of powers under this regulation.

(9) A person guilty of an offence under paragraph (8) is liable on summary conviction to a fine not exceeding level three on the standard scale.

### **Offence for supplying false information**

**110.**—(1) It is an offence for a person, knowingly or recklessly, to supply information which is false or misleading in a material respect to a collecting authority in response to a requirement under these Regulations.

(2) A person guilty of an offence under this regulation is liable—

- (a) on summary conviction, to a fine not exceeding £20000; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

## Prosecution of CIL offences

111. A collecting authority may prosecute proceedings for any offence under these Regulations.

## PART 10

### APPEALS

#### Interpretation of Part 10

112.—(1) In this Part—

“appointed person” means—

- (a) in the case of an appeal under regulation 114, 115 or 116—
  - (i) a valuation officer appointed under section 61 of the Local Government Finance Act 1988(a), or
  - (ii) a district valuer within the meaning of section 622 of the Housing Act 1985(b),
- (b) in the case of an appeal under regulation 117 or 118, the Secretary of State or a person appointed by the Secretary of State, or
- (c) in the case of an appeal under regulation 119, a person appointed by the Secretary of State;

“representations period” means—

- (a) in the case of an appeal under regulation 114, 116, 117, 118 or 119, 14 days beginning with the date of the acknowledgment of receipt under regulation 120(3),
- (b) in the case of an appeal under regulation 115, such period as the appointed person may determine but not less than 14 days beginning with the date of the acknowledgment of receipt under regulation 120(3);

“review start date” means the date on which a collecting authority receives a request for review under regulation 113; and

“relevant development” means the chargeable development which is the subject of the review or appeal (as the case may be).

(2) For the purposes of this Part a person is an interested person if—

- (a) in the case of a request for review under regulation 113 or an appeal under regulation 114, the person is—
  - (i) the person who has assumed liability to pay CIL in respect of the chargeable development, or
  - (ii) the relevant person within the meaning of regulation 65(12);
- (b) in the case of an appeal under regulation 116, the person is—
  - (i) the person who claimed the charitable relief, or
  - (ii) the person who has assumed liability to pay CIL in respect of the chargeable development to which the charitable relief relates.

(3) For the purposes of this Part a person is an interested party if—

- (a) in the case of an appeal under regulation 114 or 116, the person is—
  - (i) the charging authority,
  - (ii) the collecting authority (if it is not the charging authority), or
  - (iii) an interested person (other than the appellant);

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(a) 1988 c. 41; section 61 was amended by paragraph 69 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

(b) 1985 c. 68; the definition of “district valuer” in section 622 was substituted by S.I. 1990/434.

- (b) in the case of an appeal under regulation 115, the person is—
  - (i) a person mentioned in paragraph (2)(a), or
  - (ii) an owner of the relevant land (other than the appellant);
- (c) in the case of an appeal under regulation 117, the person is—
  - (i) the charging authority,
  - (ii) the collecting authority (if it is not the charging authority),
  - (iii) the person who is liable for the unpaid amount, or
  - (iv) a person known to the collecting authority as an owner of the relevant land;
- (d) in the case of an appeal under regulation 118, the person is—
  - (i) a person on whom a demand notice was served in respect of the relevant development,
  - (ii) the charging authority, or
  - (iii) the collecting authority (if it is not the charging authority);
- (e) in the case of an appeal under regulation 119, the person is—
  - (i) the charging authority,
  - (ii) the collecting authority (if it is not the charging authority),
  - (iii) the person who is liable to pay the unpaid amount,
  - (iv) any person known to the collecting authority as an owner of the relevant land,
  - (v) any person known to the collecting authority as an occupier of the relevant land, or
  - (vi) any other person who the collecting authority considers may be materially affected by a CIL stop notice.

### **Review of chargeable amount**

- 113.**—(1) An interested person may request a review of the calculation of a chargeable amount.
- (2) A request for review must be made—
- (a) in writing to the collecting authority; and
  - (b) before the end of the period of 28 days beginning with the day on which the liability notice stating the chargeable amount subject to the request for review was issued.
- (3) A request for review may be accompanied by written representations in connection with the review.
- (4) If a request is made in accordance with paragraph (2), the collecting authority must review the calculation.
- (5) The review must be carried out by a person senior to the person making the original calculation and who had no involvement in the original calculation.
- (6) The collecting authority must consider any representations accompanying the request for review.
- (7) Within 14 days of the review start date the collecting authority must notify the person requesting the review in writing of—
- (a) the decision of the review; and
  - (b) the reasons for the decision.
- (8) In making a decision the collecting authority may either confirm the original chargeable amount or calculate a revised chargeable amount.
- (9) A person may not request a review
- (a) of the decision reached on an earlier review; or
  - (b) once the relevant development has been commenced.

(10) A review under this regulation will lapse if the relevant development is commenced before the collecting authority has notified the interested person of the decision of the review.

(11) A person may not request a review under this regulation if a claim for relief has been submitted to the charging authority and the claim has not been withdrawn.

#### **Chargeable amount: appeal**

**114.**—(1) A person who has requested a review under regulation 113 and—

(a) is aggrieved at the decision on the review; or

(b) is not notified of the decision on the review within 14 days of the review start date,

may appeal to the appointed person on the ground that the revised chargeable amount or the original chargeable amount (as the case may be) has been calculated incorrectly.

(2) An appeal under this regulation must be made before the end of the period of 60 days beginning with day on which the liability notice stating the original chargeable amount was issued.

(3) A person may not appeal under this regulation if the relevant development has been commenced.

(4) An appeal under this regulation will lapse if the relevant development is commenced before the appointed person has notified the appellant of the decision on the appeal.

(5) Only one appeal may be made under this regulation in respect of a given chargeable development.

(6) Where an appeal under this regulation is allowed the appointed person must calculate a revised chargeable amount.

#### **Apportionment of liability: appeal**

**115.**—(1) An owner of a material interest in land (O) who is aggrieved at a decision of a collecting authority on the apportionment of liability with respect to that interest may appeal to the appointed person.

(2) An appeal under this regulation must be made before the end of the period of 28 days beginning with the day on which the demand notice stating the amount payable by O is issued.

(3) Paragraphs (4) to (6) apply where an appeal under this regulation is allowed.

(4) All demand notices issued by the collecting authority in respect of the relevant development before the appeal was allowed cease to have effect.

(5) The appointed person may quash a surcharge imposed by the collecting authority on the appellant.

(6) The appointed person must reapportion liability between each material interest in the relevant land.

#### **Charitable relief: appeal**

**116.**—(1) An interested person who is aggrieved at the decision of a collecting authority to grant charitable relief may appeal to the appointed person on the ground that the collecting authority has incorrectly determined the value of the interest in land in respect of which the claim was allowed.

(2) An appeal under this regulation must be made before the end of the period of 28 days beginning with the date of the decision of the collecting authority on the claim for charitable relief.

(3) An appeal under this regulation will lapse if the relevant development is commenced before the appointed person has notified the appellant of the decision on the appeal.

(4) Where an appeal under this regulation is allowed the appointed person may amend the amount of charitable relief granted to the appellant.



### **Surcharge: appeal**

**117.**—(1) A person who is aggrieved at a decision of a collecting authority to impose a surcharge may appeal to the appointed person on any of the following grounds—

- (a) that the claimed breach which led to the imposition of the surcharge did not occur;
- (b) that the collecting authority did not serve a liability notice in respect of the chargeable development to which the surcharge relates; or
- (c) that the surcharge has been calculated incorrectly.

(2) Where the imposition of a surcharge is subject to an appeal under this regulation, no amount is payable in respect of that surcharge while the appeal is outstanding.

(3) An appeal under this regulation must be made before the end of the period of 28 days beginning with the day on which the surcharge is imposed.

(4) Where an appeal under this regulation is allowed the appointed person may quash or recalculate the surcharge which is the subject of the appeal.

### **Deemed commencement**

**118.**—(1) A person on whom a demand notice is served which states a deemed commencement date may appeal to the appointed person on the ground that the collecting authority has incorrectly determined that date.

(2) An appeal under this regulation must be made before the end of the period of 28 days beginning with the day on which the demand notice is issued.

(3) Paragraphs (4) to (6) apply where an appeal under this regulation is allowed.

(4) All demand notices issued by the collecting authority in respect of the relevant development before the appeal was allowed cease to have effect.

(5) The appointed person must determine a revised deemed commencement date for the relevant development.

(6) The appointed person may quash a surcharge imposed by the collecting authority on the appellant.

### **CIL stop notices**

**119.**—(1) A person who is aggrieved at a decision of a collecting authority to impose a CIL stop notice may appeal to the appointed person on either (or both) of the following grounds—

- (a) that the collecting authority did not serve a warning notice before imposing the CIL stop notice; or
- (b) that the chargeable development in respect of which the CIL stop notice was imposed has not commenced.

(2) A CIL stop notice which is subject to an appeal under this regulation continues to have effect while the appeal is outstanding.

(3) An appeal under this regulation must be made before the end of the period of 60 days beginning with the day on which the CIL stop notice takes effect.

(4) On an appeal under this regulation the appointed person may—

- (a) correct any defect, error or misdescription in the CIL stop notice; or
- (b) vary the terms of the CIL stop notice,

if the appointed person is satisfied that the correction or variation will not cause injustice to the appellant or any of the interested parties.

(5) Where an appeal under this regulation is allowed the appointed person may quash the CIL stop notice.

## **Appeal procedure**

- 120.**—(1) An appeal under this Part must—
- (a) be made in writing on a form obtained from the Secretary of State (or a form to substantially the same effect); and
  - (b) include the particulars specified or referred to in the form.
- (2) An appellant may withdraw an appeal at any time by giving notice in writing to the appointed person.
- (3) The appointed person must, as soon as practicable after receipt of an appeal, send—
- (a) an acknowledgment of receipt to the appellant in writing, which must include—
    - (i) the reference number allocated to the appeal, and
    - (ii) the address to which written communications to the appointed person about the appeal are to be sent;
  - (b) a copy of the acknowledgement mentioned in sub-paragraph (a) to each interested party together with—
    - (i) a copy of the completed appeal form, and
    - (ii) notice that written representations in relation to the appeal may be sent to the appointed person before the end of the representations period.
- (4) The completed appeal form comprises the appellant’s representations in relation to the appeal.
- (5) Any written representations from the interested parties in relation to the appeal must be received by the appointed person before the end of the representations period.
- (6) On receipt of an interested party’s representations, the appointed person must, as soon as practicable, send a copy of those representations to the appellant and each of the other interested parties.
- (7) The appellant and the interested parties must send any comments they have on each other’s representations to the appointed person in writing within 14 days of the end of the representations period; and the appointed person must, as soon as practicable after receipt, send a copy of those comments to each of the other parties to the appeal.
- (8) The appointed person must consider any representations and comments made by the appellant and interested parties.
- (9) The appointed person must notify the appellant and the interested parties in writing of—
- (a) the decision on the appeal; and
  - (b) the reasons for the decision.

## **Costs**

**121.** The appointed person may make orders as to the costs of the parties to the appeal and as to the parties by whom such costs are to be paid.

# **PART 11**

## **PLANNING OBLIGATIONS**

### **Limitation on use of planning obligations**

**122.**—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

(3) In this regulation—

“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation; and

“relevant determination” means a determination made on or after 6th April 2010—

- (a) under section 70, 76A or 77 of TCPA 1990(a) of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies; or
- (b) under section 79 of TCPA 1990(b) of an appeal where the application which gives rise to the appeal is not one to which section 73 of TCPA 1990 applies.

### **Further limitations on use of planning obligations**

**123.**—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure.

(3) A planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that—

- (a) obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and
- (b) five or more separate planning obligations that—
  - (i) relate to planning permissions granted for development within the area of the charging authority; and
  - (ii) which provide for the funding or provision of that project, or type of infrastructure, have been entered into before the date that obligation A was entered into.

(4) In this regulation—

“charging authority” means the charging authority for the area in which the development will be situated;

“funding” in relation to the funding of infrastructure, means the provision of that infrastructure by way of funding;

“determination” means a determination—

- (a) under section 70, 76A or 77 of TCPA 1990 of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies, or
- (b) under section 79 of TCPA 1990 of an appeal where the application which gives rise to the appeal is not one to which section 73 applies;

“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation but does not include a planning obligation that relates to or is connected with the funding or provision of scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008;

“relevant determination” means—

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- (a) Section 70 was amended by paragraph 14 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34). Section 76A was inserted by section 44 of the Planning and Compulsory Purchase Act 2004 (c. 5). 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).
  - (b) 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.

- (a) in relation to paragraph (2), a determination made on or after the date when the charging authority's first charging schedule takes effect, and
- (b) in relation to paragraph (3), a determination made on or after 6th April 2014 or the date when the charging authority's first charging schedule takes effect, whichever is earlier; and

“relevant infrastructure” means—

- (a) where a charging authority has published on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL, those infrastructure projects or types of infrastructure, or
- (b) where no such list has been published, any infrastructure.

## PART 12

### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

#### **Payment of CIL by the Crown**

**124.**—(1) CIL payable in accordance with these Regulations by the Chancellor of the Duchy of Lancaster may be raised and paid under section 25 of the Duchy of Lancaster Act 1817<sup>(a)</sup> (application of monies) as an expense incurred in improvement of land belonging to Her Majesty in right of the Duchy.

(2) In the case of land belonging to the Duchy of Cornwall, the purposes authorised by section 8 of the Duchy of Cornwall Management Act 1863<sup>(b)</sup> (application of monies) for the advancement of parts of such gross sums mentioned in that section shall include the payment of CIL in accordance with these Regulations.

#### **Enforcement in relation to the Crown and Parliament**

**125.**—(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under these Regulations.

(2) Regulations 80 to 86 do not apply in relation to CIL payable by persons responsible for administering property belonging to Her Majesty in her private capacity; and this is to be construed as if section 38(3) (meaning of Her Majesty in her private capacity) of the Crown Proceedings Act 1947<sup>(c)</sup> were contained in these Regulations.

#### **Service of documents: general**

**126.**—(1) A notice or other document required or authorised to be served, given, submitted or sent under these Regulations may be served, given, submitted or sent in any of the following ways—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given, submitted or sent;
- (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address;
- (c) by sending it by post, addressed to that person at that person's usual or last known place of abode or, in the case where an address for service has been given by that person, at that address;

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(a) 1817 c. 97.  
 (b) 1863 c. 49.  
 (c) 1947 c. 44.

- (d) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at that person's usual or last known place of abode or, in a case where an address for service has been given that person, at that address;
- (e) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address; or
- (f) in the case of an incorporated company or body—
  - (i) by delivering it to the secretary or clerk of the company or body at their registered or principal office,
  - (ii) by sending it by post, addressed to the secretary or clerk of the company or body at that office, or
  - (iii) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) The condition mentioned in paragraph (1)(e) is that the notice or other document must be—

- (a) capable of being accessed by the person mentioned in that provision;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference.

(3) For the purposes of paragraph (2), “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, submitted, given or supplied by means of a notice or document in printed form.

(4) Where a notice or document sent by electronic communications is received by the recipient outside the recipient's business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank holiday or other public holiday.

(5) A requirement in these Regulations that any notice, or other document should be in writing is fulfilled where that notice or document fulfils the condition mentioned in paragraph (2), and “written” and cognate expressions must be construed accordingly.

(6) This regulation is without prejudice to section 233 of the Local Government Act 1972(a) (general provisions as to service of notices by local authorities).

(7) Where two or more persons are joint owners of an interest in land, a requirement under these Regulations to serve a notice or other document on an owner of that interest is fulfilled by serving it on any one of the joint owners.

(8) This regulation is subject to any contrary provision made by these Regulations.

**Service of documents on the Crown and Parliament**

**127.**—(1) Any notice or other document required under these Regulations to be served on or given or sent to the Crown must be served on or given or sent to the appropriate Crown authority.

(2) Regulation 126 does not apply for the purposes of the service, giving or sending of such a notice or document.

(3) In this regulation “appropriate Crown authority” has the same meaning as in section 227 of PA 2008.

**Transitional provision: general**

**128.**—(1) Subject to paragraph (2), liability to CIL does not arise in respect of development if, on the day planning permission is granted for that development, it is situated in an area in which no charging schedule is in effect.

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(a) 1972 c. 70.

(2) Where planning permission is granted for development by way of a relevant general consent, liability to CIL does not arise in respect of that development if—

- (a) it is commenced before 6th April 2013; or
- (b) on the day on which it is commenced it is situated in an area in which no charging schedule is in effect.

(3) In paragraph (2) “relevant general consent” means—

- (a) a development order made under section 59 of TCPA 1990;
- (b) a local development order adopted under section 61A of TCPA 1990; or
- (c) an enterprise zone scheme adopted under Schedule 32 to the Local Government, Planning and Land Act 1980.

**Transitional provision: charging schedule ceases to have effect**

**129.**—(1) This regulation applies where a charging authority determines (in accordance with section 214(3) of PA 2008) that its charging schedule shall cease to have effect.

(2) A person who would otherwise be liable on commencement of a chargeable development to pay an amount of CIL charged by that authority in respect of that chargeable development will not be liable to pay that amount if the chargeable development is not commenced on or before the day on which the charging authority makes the determination referred to in paragraph (1).

Signed by authority of the Secretary of State for Communities and Local Government

22nd March 2010

*Ian Austin*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

We consent

23rd March 2010

*Bob Blizzard*  
*Tony Cunningham*  
Two of the Lords Commissioners of Her Majesty's Treasury

## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

Part 11 of the Planning Act 2008 (c. 29) (“the Act”) provides for the imposition of a charge to be known as Community Infrastructure Levy (CIL). It specifies who may charge CIL (known as “charging authorities”) and includes outline provision on other aspects of the charge including how liability to pay CIL is incurred, how CIL is charged and collected and the application of CIL to infrastructure and enforcement. These Regulations implement the detail of CIL using powers provided in Part 11 of the Act.

Part 2 of these Regulations defines a number of key terms required by the Act and which are referred to in the Regulations. In particular regulation 5 defines planning permission for the purposes of Part 11 of the Act, regulation 6 modifies the definition of development in section 209(1) of the Act and regulation 7 defines when development is to be treated as commencing for the purposes of CIL.

A charging authority proposing to charge CIL must issue a charging schedule setting the rates and other criteria by reference to which the amount of CIL chargeable in its area is to be determined. Part 3 of these Regulations includes provision relating to the content of charging schedules and their preparation, examination by an independent person and publication. Regulation 14 sets out matters to which a charging authority must and may have regard when setting the rates in its charging schedule.

Part 3 sets out how liability to pay CIL is incurred. Regulation 31 sets out the procedure where a person wishes to assume liability to pay CIL in accordance with section 208(1) of the Act. Where nobody has assumed liability and development has commenced, liability is in most cases apportioned between the owners of the land on which the development will be situated (regulations 33 and 34). Regulation 40 specifies how the amount of CIL payable in respect of a chargeable development (“the chargeable amount”) must be calculated.

Part 6 sets out exemptions and relief from liability to pay CIL. Regulation 42 provides that liability does not arise where the gross internal area of new buildings and enlargements to existing buildings would be less than 100 square metres. Regulations 43 to 48 provide for an exemption and relief from liability for charitable institutions. Regulation 49 to 54 provide for an exemption where a development is to include social housing. These provisions also provide for the withdrawal of relief where development ceases to be eligible for relief (regulations 48 and 53). Regulations 55 to 58 allow a charging authority to grant other relief in exceptional circumstances.

Part 7 sets out how CIL should be spent. Subject to regulations 60 and 61, regulation 59 provides that a charging authority must apply CIL to funding infrastructure to support the development of its area. Infrastructure is defined in section 216(2) of the Act as amended by regulation 63. Regulations 60 and 61 set out the circumstances in which CIL may be applied to administrative expenses, reimburse expenditure already incurred on infrastructure and repay loans. Regulation 62 sets out the reporting requirements with respect to CIL.

Part 8 contains a number of provisions relating to the administration of CIL. In particular regulation 65 requires the collecting authority to issue a liability notice in respect of each chargeable development stating the chargeable amount payable. The collecting authority must also serve a demand notice on each person liable to pay CIL in respect of a chargeable development stating the amounts payable by the person and the dates on which those payments are due. Regulations 70 to 76 contain provision on payment of CIL. In particular regulation 73 allows payment to be made by way of an acquisition of land with the agreement of the charging authority.

Part 9 contains provisions on the enforcement of CIL. Chapter 1 provides for the imposition of surcharges and interest for late payment. Chapter 2 provides for the imposition of a CIL stop notice to stop development until payment of an amount due is forthcoming. Chapter 3 provides for the recovery of CIL which has not been paid. The collecting authority may apply to a magistrates’ court for a liability order, levy distress, apply for a charging order and ultimately apply for a

warrant committing a debtor to prison. Chapter 4 contains a number of other enforcement provisions including a power to enter land and a power to prosecute offences.

Part 10 provides for appeals in a number of circumstances. A person may request a review of the calculation of a chargeable amount and, if aggrieved at the decision on review, appeal that decision (regulations 113 and 114). Appeals are also available in respect of apportionment of liability (regulation 115) and a grant of charitable relief (regulation 116). A person may also appeal against the imposition of a surcharge (regulation 117), a determination by the collecting authority of when development is deemed to have commenced (regulation 118) and the imposition of a CIL stop (regulation 119).

Part 11 sets out a number of limitations on the use of planning obligations under section 106 of the Town and Country Planning Act 1990 (c. 8) in respect of CIL liable development.

Part 12 includes provision on collection and enforcement in relation to the Crown, provision on service of documents and transitional provision.

An impact assessment has been prepared in relation to these Regulations. This assessment has been placed in the Library of the House of Commons and copies may be obtained from the Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU.

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