Draft Regulations laid before the House of Commons under section 222(2)(b) of the Planning Act 2008, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2014 No.

COMMUNITY INFRASTRUCTURE LEVY, ENGLAND AND WALES

The Community Infrastructure Levy (Amendment) Regulations 2014

Made - - - - ***

Coming into force in accordance with regulation 1

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(**1**).

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 205(1), 208(8), 209(5) and (6), 211(2), (4) to (6) and (7B), 215(3), 217(1) to (4), 218(2) to (6), 220(1) to (3), 222(1) and 223(1) and (2) of the Planning Act 2008, and with consent of the Treasury, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Community Infrastructure Levy (Amendment) Regulations 2014 and shall come into force on the day after the day on which they are made.

Amendments to the Community Infrastructure Levy Regulations 2010

2. The Community Infrastructure Levy Regulations 2010(**2**) are amended in accordance with the following Regulations.

Amendment to Part 1 – introductory

3.—(1) In regulation 2(1) (interpretation)—

(a) for the definition of "clawback period" substitute—

""clawback period" means—

(**1**) 2008 c. 29. Section 205(2) was amended by section 115(2) of the Localism Act 2011 (2011 c. 20). Section 211(4) was amended by section 115(4) of the Localism Act 2011. Section 209(7B) was inserted by section 114(2) of the Localism Act 2011.

(**2**) S.I. 2010/948 as amended by S.I. 2011/987, 2012/2975 and 2013/982.

(a) in relation to the exemption for residential annexes, the period of three years beginning with the date of the compliance certificate relating to the residential annex,

(b) in relation to the exemption for self-build housing, the period of three years beginning with the date of the compliance certificate relating to the relevant dwelling, and

(c) for all other purposes, the period of seven years beginning with the day on which a chargeable development is commenced;";

(b) after the definition of "commencement notice" insert—

""compliance certificate" means a certificate given under either—

(a) regulation 17 (completion certificates) of the Building Regulations 2010(**3**); or

(b) section 51 (final certificates) of the Building Act 1984(**4**)

(c) in the definition of "disqualifying event" before "48" insert "42C," and after "53" insert ", 54D";

(d) after the definition of "disqualifying event" insert—

""draft infrastructure list" has the meaning given in regulation 11;";

(e) after the definition of "electronic communication" insert—

""exemption for residential annexes" has the meaning given in regulation 42A(4)(a);

"exemption for residential extensions" has the meaning given in regulation 42A(4)(b);

"exemption for self-build housing" means an exemption under regulation 54A;";

(f) after the definition of "infrastructure" insert—

""infrastructure list" means a list published by a charging authority for the purposes of paragraph (a) of the definition of "relevant infrastructure" in regulation 123(4);

"infrastructure payment" has the meaning given in regulation 73A;";

(g) after the definition of "owner" insert—

""phased planning permission" means a planning permission which expressly provides for development to be carried out in phases;";

(h) after the definition of "qualifying amount" insert—

""qualifying communal development" must be construed in accordance with regulation 49C;";

(i) in the definition of "qualifying dwelling" after "regulations 49" insert ", 49A";

(j) in paragraph (c) of the definition of "relevant land" omit "outline" and after "granted which" insert "expressly";

(k) in the definition of "relief" after "means" insert "an exemption for residential annexes or extensions, an exemption for self-build housing,";

(l) after the definition of "retail prices index" insert—

(**3**) S.I. 2010/2214. Regulation 17 was amended in relation to England and certain purposes in relation to Wales, and regulation 17A was inserted, by S.I. 2012/3119. Regulation 17 was amended in relation to Wales, and regulation 17A was inserted, by S.I. 2013/747.

(**4**) 1984 c. 55. Section 55 was amended by S.I. 1996/1905.

""self-build housing" and "self-build communal development" must be construed in accordance with regulation 54A;"; and

(m) in the definition of "social housing relief" after "regulation 49" insert "or 49A".

(2) Omit regulation 2(3).

Amendment to Part 2 – definition of key terms

4.—(1) In regulation 8 (time at which planning permission first permits development)—

(a) after paragraph (3) insert—

"(3A) In the case of a phased planning permission, planning permission first permits a phase of the development—

(a) for any phase of an outline planning permission which is granted in outline—

(i) on the day of final approval of the last reserved matter associated with that phase; or

(ii) if earlier, and if agreed in writing by the collecting authority before commencement of any development under that permission, on the day final approval is given under any pre-commencement condition associated with that phase; and

(b) for any other phase—

(i) on the day final approval is given under any pre-commencement condition associated with that phase; or

(ii) where there are no pre-commencement conditions associated with that phase, on the day planning permission is granted.

(3B) In this regulation a "pre-commencement condition" is a condition imposed on a phased planning permission which requires further approval to be obtained before a phase can commence.";

(b) in paragraph (4), after the first mention of "planning permission" insert "which is not a phased planning permission"; and

(c) omit paragraphs (5) and (6).

(2) In regulation 9(4) for "outline planning permission which permits development to be implemented in phases" substitute "phased planning permission".

Amendment to Part 3 – charging schedules

5.—(1) In regulation 11 (interpretation and application of Part 3), after the definition of "differential rate" insert—

""draft infrastructure list" means a draft of the list that the charging authority intends to publish as their infrastructure list;".

(2) In regulation 13 (differential rates)—

(a) in paragraph (1)(b) for "development." substitute "development;"; and

(b) after paragraph (1)(b) insert—

"(c) by reference to the intended gross internal area of development;

(d) by reference to the intended number of dwellings or units to be constructed or provided under a planning permission."

(3) In regulation 14 (setting rates)—

(a) in paragraph (1) omit the words "aim to" and "what appears to the charging authority to be"; and

(b) after paragraph (4) insert—

"(5) For the purposes of section 211(7A) of PA 2008(**5**), a charging authority's draft infrastructure list is appropriate evidence to inform the preparation of their charging schedule."

Amendment to Part 5 – chargeable amount

6. For regulation 40 (calculation of chargeable amount), substitute—

"**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, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

(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, calculated in accordance with paragraph (7);

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) In this regulation the index figure for a given year is—

(a) the figure for 1st November for the preceding year in 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(**6**); or

(b) if the All-in Tender Price Index ceases to be published, the figure for 1st November for the preceding year in the retail prices index.

(7) The value of A must be calculated by applying the following formula—

(**5**) 2008 c. 29. Section 211(7A) was inserted by section 114(2) of the Localism Act 2011 (c. 20).
(**6**) Registered in England and Wales RC00487.

$$G_R - K_R - \frac{(G_R \times E)}{G}$$

where—

G

= the gross internal area of the chargeable development;

G_R

= the gross internal area of the part of the chargeable development chargeable at rate R;

K_R

= the aggregate of the gross internal areas of the following—

(i) retained parts of in-use buildings, and

(ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E

= the aggregate of the following—

(i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and

(ii) for the second and subsequent phases of a phased planning permission, the value E_x (as determined under paragraph (8)), unless E_x is negative,

provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

(8) The value E_x must be calculated by applying the following formula—

$$E_P - (G_P - K_{PR})$$

where—

E_P

= the value of E for the previously commenced phase of the planning permission;

G_P

= the value of G for the previously commenced phase of the planning permission; and

K_{PR}

= the total of the values of K_R for the previously commenced phase of the planning permission.

(9) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish that a relevant building is an in-use building, it may deem it not to be an in-use building.

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