Draft Order 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

2011 No.

COMMUNITY INFRASTRUCTURE LEVY, ENGLAND AND WALES

The Community Infrastructure Levy (Amendment) Regulations 2011

Made - - - -	***
Coming into force - -	*6th April 2011*

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**) and approved by resolution of that House.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 205(1), 208(4), 209(2)(a) and (6), 210(2)(b), 215(1) and (3)(b), 217(1) and (2)(b), 218(1), (3) and (4)(e) and (g), 220(1), 220(2)(e), (h)-(j) and (s), 220(3), 222(1)(c) and 223(1)(a) of the Planning Act 2008, and with the consent of the Treasury, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Community Infrastructure Levy (Amendment) Regulations 2011 and shall come into force on 6th April 2011.

Amendment of 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. In regulation 2(1) (interpretation)—

(a) in the definition of "demand notice" after "regulation 69" insert "or 69A";

(b) before the definition of "land payment" insert—

(**1**) 2008 c. 29.
(**2**) S.I. 2010/948.

""instalment policy" means a document issued under regulation 69B(1) or (4).";
and

(c) for the definition of "relevant land" substitute—

""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 planning permission is granted for development by way of a general consent, and no notice of chargeable development is submitted under regulation 64(2), the land identified in the plan prepared by the collecting authority and served in accordance with regulation 64A(3),

(c) where outline planning permission is granted which permits development to be implemented in phases, the land to which the phase relates, and

(d) in all other cases, the land to which the planning permission relates."

Amendment to Part 2 - definition of key terms

4.—(1) For regulation 6(1) (meaning of "development"), substitute—

"(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);

(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);

(c) the carrying out of any work to, or in respect of, an existing building for which planning permission is required only because of provision made under section 55(2A) of TCPA 1990(**3**); and

(d) the change of use of any building previously used as a single dwellinghouse to use as two or more separate dwellinghouses."

(2) For regulation 8(7) (time at which planning permission first permits development), substitute —

"(7) In the case of a general consent, planning permission first permits development—

(a) on the day on which the collecting authority receives a notice of chargeable development submitted to it in accordance with regulation 64 in respect of that development; or

(b) if no notice of chargeable development is submitted in accordance with regulation 64, the day on which the last person is served with a notice of chargeable development in accordance with regulation 64A(3)."

(3) In regulation 9(3) (meaning of "chargeable development"), after "regulation 64" insert—

", or prepared by the collecting authority in accordance with regulation 64A."

Amendment to Part 3 - charging schedules

5. For regulation 19(4) (submission of documents and information to the examiner), substitute—

(**3**) Section 55(2A) was inserted by section 49 of the Planning and Compulsory Purchase Act 2004.

"(4) Where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, the charging authority must—

(a) send a copy of the statement of modifications to each of the consultation bodies invited to make representations under regulation 15; and

(b) publish the statement of modifications on its website.

(5) The charging authority must comply with paragraph (4) before submitting to the examiner the documents mentioned in paragraph (1)."

Amendment to Part 4 - liability

6. For regulation 34(4) (apportionment of liability), substitute—

"(4) For the purposes of paragraph (2)—

(a) the value of a material interest is the price that it might reasonably be expected to obtain if sold on the open market on the day the apportionment takes place; and

(b) the valuation shall assume that the chargeable development has been completed on the day before the apportionment takes place."

Amendment to Part 5 – chargeable amount

7.—(1) In regulation 40(6) (calculation of chargeable amount), for the definition of C_R, substitute —

"C_R = the gross internal area of the part of the chargeable development chargeable at rate R, less an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which —

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

(b) will be part of the chargeable development upon completion; and

(c) will be chargeable at rate R."

(2) After regulation 40(11), insert—

"(12) In this regulation "new build" means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings."

Amendment to Part 6 - exemptions and relief

8. In regulation 42 (exemption for minor development)—

(a) in paragraph (1), delete "chargeable";

(b) in paragraph (2), delete "chargeable"; and

(c) in paragraph (3), delete "chargeable".

Amendment to Part 8 - administration

9.—(1) After regulation 64(1) (notice of chargeable development), insert —

"(1A) Paragraph (2) does not apply to a development—

(a) to which regulation 42 applies; or

(b) in relation to which the chargeable amount, calculated under regulation 40, is zero.

(2) For regulation 64(4), substitute—

"(4) The notice must be accompanied by a plan which identifies —

(a) the land to which the notice relates;

(b) any buildings in use on that land which are to be demolished before the completion of the chargeable development;

(c) any buildings in use on that land which will be part of the chargeable development on completion, and

(d) the development which is the subject of the notice."

(3) Paragraphs (5) and (6) of regulation 64 are omitted.

(4) In regulation 64(9), after "submitted", insert—

", or on the day the last person who is to be served with a notice of chargeable development under regulation 64A(3) is served, whichever is the later."

(5) After regulation 64, insert—

"**Preparation and service of notice of chargeable development by collecting authority**

64A.—(1) This regulation applies where—

(a) planning permission for a development is granted by way of a general consent;

(b) no notice of chargeable development has been submitted to the collecting authority under regulation 64(2) in respect of that development; and

(c) the collecting authority is of the view that—

(i) the development has been commenced; and

(ii) the exemption conferred by regulation 42 does not apply in relation to the development.

(2) The collecting authority must prepare a notice of chargeable development which—

(a) is in writing on a form published by the Secretary of State (or a form to substantially the same effect);

(b) includes the particulars specified or referred to in the form; and

(c) is accompanied by a plan which identifies—

(i) the land to which the notice relates;

(ii) the building which is the subject of the notice;

(iii) where the collecting authority has sufficient information to do so, any buildings in use on that land which are to be demolished before the completion of the chargeable development; and

(iv) where the collecting authority has sufficient information to do so, any buildings in use on that land which will be part of the chargeable development upon completion.

(3) The collecting authority must serve the notice of chargeable development on each person known to the authority as an owner of the relevant land, together with the liability notice served under regulation 65(3)."

(6) After regulation 65(2)(d) (liability notice), insert—

"(da) where the chargeable amount may be paid by way of instalments(**4**), include a copy of the charging authority's current instalment policy (if any);"

(7) For regulation 65(4), substitute—

(**4**) *See* regulation 70.

"(4) The collecting authority must issue a revised liability notice in respect of a chargeable development if—

(a) the chargeable amount or any of the particulars mentioned in paragraph 2(e) or (f) change (whether on appeal or otherwise); or

(b) the charging authority issue a new instalment policy which changes the instalment arrangements which relate to the chargeable development."

(8) After regulation 67(1) (commencement notice), insert—

"(1A) This regulation does not apply to a development—

(a) to which regulation 42 applies; or

(b) in relation to which the chargeable amount, calculated under regulation 40, is zero.

(9) In regulation 69(2)(f) (demand notice), after "payable is to" insert "be".

(10) After regulation 69, insert—

"**Suspension of demand notice**

69A.—(1) A person (P) who has been served with a demand notice under regulation 69(1) may request the collecting authority to make a declaration that P is not required to pay the amount of CIL stated in the demand notice until works which are part of the chargeable development are commenced on the land in which P has a material interest.

(2) A request under paragraph (1) must be made in writing and include sufficient particulars to enable the collecting authority to decide whether it is satisfied as to the matters described in paragraph (3)(a) to (e).

(3) The collecting authority must make a declaration under paragraph (1) if it is satisfied that—

(a) P's liability under the demand notice arises because that liability has been apportioned to P under regulation 33(2) or 36(4)(b);

(b) no works which are part of the chargeable development have been commenced on the land in which P has a material interest;

(c) P has not agreed that any works which are part of the chargeable development may be commenced on the land in which P has a material interest;

(d) P has not agreed, in a contract enforceable under section 2 of the Law of Property (Miscellaneous Provisions) Act 1989(**5**), to transfer all or any part of P's material interest in the land to any other person; and

(e) in all the circumstances of the case it is reasonable that P is not required to pay the amount of CIL stated in the demand notice until works which are part of the chargeable development are commenced on the land in which P has a material interest.

(4) Where a declaration is made under paragraph (1)—

(a) P shall not be liable for any late interest payment under regulation 87 (late payment interest);

(b) no measures to recover CIL under Chapter 3 of Part 9 (recovery of CIL) may be taken against P; and

(c) no measures to recover CIL under Chapter 4 of Part 9 (other enforcement provisions) may be taken against P's executor or administrator,

(**5**) 1989 c. 34.