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

DRAFT STATUTORY INSTRUMENTS

2010 No. 0000

COMMUNITY INFRASTRUCTURE LEVY, ENGLAND AND WALES

The Community Infrastructure Levy Regulations 2010

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

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) 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(**2**);

(**1**) 2008 c. 29.
(**2**) 2004 c. 5.

"TCPA 1990" means the Town and Country Planning Act 1990(**3**);

"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(**4**) (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;

"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(**5**);

"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;

(**3**) 1990 c. 8.
(**4**) 1998 c. 11.
(**5**) 2000 c. 7; section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

"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;

"retail prices index" means—

(a) the general index of retail prices (for all items) published by the Statistics Board(**6**), 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;

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

(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.

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(**7**);

(**7**) 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) 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(**8**) (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(**9**) (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(**10**);

(e) planning permission granted by an order made under section 102 or 104 of TCPA 1990(**11**) (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(**12**),

(iii) by a simplified planning zone scheme within the meaning of sections 82 and 83(**13**) of TCPA 1990,

(iv) in accordance with section 90 of TCPA 1990(**14**) (development with government authorisation), or

(v) by an enterprise zone scheme adopted under Schedule 32 to the Local Government, Planning and Land Act 1980(**15**); 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).

(**8**) 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.

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

(**10**) 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.

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

(**12**) 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.

(**13**) 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).

(**14**) 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).

(**15**) 1980 c. 65.