Planning Jungle Limited

Consolidated Versions of Legislation: The Community Infrastructure Levy Regulations 2010 (as amended)

Last updated: **March 2024** (note: checked for updates on a monthly basis)
Number of Statutory Instruments (SIs) incorporated: **21**

Note: This document **might** include SIs that have **not** yet come into force (see the list below).

Introduction:

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About this document:

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Notes about the formatting of this document:

- Text that has been **added** to the original legislation is shown in dark blue.
- Text that has been **deleted** is shown with a ~~strikethrough~~.
- For each insertion or deletion, a "Comment" box on the right hand side of the page states which Statutory Instrument was responsible for the change.
- All footnotes[99] have been kept (although they have been renumbered due to the process of merging different documents).

Commented [S1]: Inserted by 20XX No. XXX

Commented [S2]: Deleted by 20XX No. XXX

Other Notes:

- This document does not include the "Explanatory Note" sections at the end of the Statutory Instruments.
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- The official version of each piece of legislation is available on www.legislation.gov.uk.

List of Statutory Instruments (SIs) incorporated into this document:

SI Number:	SI Title:	Made:	Came into force:
2010 No. 948	The Community Infrastructure Levy Regulations 2010	23rd March 2010	6th April 2010
2011 No. 987	The Community Infrastructure Levy (Amendment) Regulations 2011	28th March 2011	6th April 2011
2012 No. 666	The Localism Act 2011 (Housing and Regeneration Functions in Greater London) (Consequential, Transitory, Transitional and Saving Provisions) Order 2012	2nd March 2012	31st March 2012
2012 No. 635	The Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012	1st March 2012	1st April 2012
2012 No. 702	The Localism Act 2011 (Housing and Regeneration Functions in Greater London) (Consequential, Transitional and Saving Provisions) (No. 2) Order 2012	5th March 2012	1st April 2012
2012 No. 2975	The Community Infrastructure Levy (Amendment) Regulations 2012	28th November 2012	29th November 2012
2013 No. 982	The Community Infrastructure Levy (Amendment) Regulations 2013	24th April 2013	25th April 2013
2014 No. 385	The Community Infrastructure Levy (Amendment) Regulations 2014	23rd February 2014	24th February 2014
2015 No. 664	The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015	11th March 2015	12th March 2015
2015 No. 377	The Infrastructure Act 2015 (Strategic Highways Companies) (Consequential, Transitional and Savings Provisions) Regulations 2015	2nd March 2015	1st April 2015
2015 No. 836	The Community Infrastructure Levy (Amendment) Regulations 2015	20th March 2015	1st April 2015
2018 No. 172	The Community Infrastructure Levy (Amendment) Regulations 2018	8th February 2018	9th February 2018
2019 No. 966	The Community Infrastructure Levy (Amendment) (England) Regulations 2019	22nd May 2019	23rd May 2019
2019 No. 1103	The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019	9th July 2019	1st September 2019
2020 No. 100	The Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (Consequential, Transitional and Saving Provision) Regulations 2020	27th January 2020	6th April 2020
2020 No. 781	The Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020	21st July 2020	22nd July 2020
2020 No. 1226	The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2020	5th November 2020	16th November 2020
2020 No. 1470	The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020	4th December 2020	31 December 2020 (at 11.00 p.m.)
2021 No. 337	The Community Infrastructure Levy (Amendment) (England) Regulations 2021	16th March 2021	17th March 2021
2022 No. 907	The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022	12 August 2022	1 December 2022
2023 No. 909	The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023	9th August 2023	1st October 2023

Commented [S3]: Note: This SI came into force on "IP completion day", which was "31 December 2020 at 11.00 p.m" as set out by Schedule 1 of 1978 c. 30 and section 39(1) to 39(5) of 2020 c. 1

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Below is the start of the legislation.

STATUTORY INSTRUMENTS

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*

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];

"TCPA 1990" means the Town and Country Planning Act 1990[3];

"acquired land" has the meaning given in regulation 73;

[1] 2008 c. 29.
[2] 2004 c. 5.
[3] 1990 c. 8.

Commented [S4]:
IMPORTANT NOTE:

A CIL authority may authorise a **"contractor"** to exercise functions relating to the setting, charging, collection, enforcement, and spending of CIL, as set out by article 2 of 2011 No. 2918.

Note: As the above legislation does not directly amend the CIL Regulations 2010, it is **not** incorporated into this consolidated version.

"annual infrastructure funding statement" has the meaning given in regulation 121A;

"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 expenditure" includes—

(a) the value of any acquired land on which development (within the meaning in TCPA 1990) consistent with a relevant purpose has been commenced or completed, and

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

but excludes CIL receipts which are allocated but not spent;

"CIL receipts" means—

(a) for a charging authority—

(i) CIL collected by that authority (including the value of any acquired land and the value of infrastructure under an infrastructure payment), 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; and

(ii) CIL recovered by that authority in accordance with regulation 59E, but does not include CIL not yet paid to the charging authority by the parish council;

(b) for a parish council, CIL passed to it under regulations 59(4), 59A(2) or 59B, but does not include funds not yet paid to the parish council by the charging authority in accordance with regulation 59D;

"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;~~

"clawback period" means—

(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,

(aa) in relation to social housing relief, where condition 5 of regulation 49 is satisfied, the period of seven years beginning with the date on which the qualifying dwelling is first let,

(ab) in relation to social housing relief granted in respect of a dwelling which satisfies the criteria set out in condition six of regulation 49, the period beginning with the day on which the chargeable development is commenced and ending with the day on which that qualifying dwelling is first sold in accordance with that condition,

Commented [S5]: Inserted by 2019 No. 1103

Commented [S6]: Inserted by 2019 No. 1103

Commented [S7]: Paragraph (aa) was inserted by 2015 No. 836

[4] 1998 c. 11.

(ac) in relation to social housing relief granted in respect of a dwelling under regulation 49A where the criterion in regulation 49A(2)(c)(i) is satisfied, the period beginning with the day on which the chargeable development is commenced and ending with the day on which that qualifying dwelling is first sold in accordance with that regulation,

(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;

"collecting authority" has the meaning given in regulation 10;

"commencement notice" means a notice submitted under regulation 67;

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

(a) regulation 17 (completion certificates) of the Building Regulations 2010[5]; ~~or~~

(aa) regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, or

(b) section 51 (final certificates) of the Building Act 1984[6]

"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 or 69A;

"discretionary charitable relief" means relief under regulation 44 ~~or 45~~;

"disqualifying event" has the meaning given in regulations 42C, 48, 53, 54D, and 57;

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

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling (other than for the purposes of Part 7);

"electronic communication" has the meaning given in section 15(1) of the Electronic Communications Act 2000[7];

"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;

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

"first sale" of a dwelling means the first material disposal of that particular dwelling other than in circumstances where regulation 52 applies,

"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;

~~"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 list"—

Commented [S8]: Paragraphs (ab) and (ac) were inserted by 2020 No. 1226

Commented [S9]: The definition of "clawback period" was replaced by 2014 No. 385

Commented [S10]: The word "either" was deleted by 2023 No. 909

Commented [S11]: The word "or" was deleted by 2023 No. 909

Commented [S12]: Sub-paragraph (aa) was inserted by 2023 No. 909

Commented [S13]: The definition of "compliance certificate" (consisting of sub-paragraphs (a) and (b)) was inserted by 2014 No. 385

Commented [S14]: Inserted by 2011 No. 987

Commented [S15]: Deleted by 2020 No. 1470

Commented [S16]: Inserted by 2014 No. 385

Commented [S17]: Inserted by 2014 No. 385

Commented [S18]: Inserted by 2014 No. 385

Commented [S19]: Inserted by 2013 No. 982

Commented [S20]: Inserted by 2014 No. 385

Commented [S21]: Inserted by 2020 No. 1226

[5] 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.

[6] 1984 c. 55. Section 55 was amended by S.I. 1996/1905.

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

(a) before 31st December 2020, means the list, if any, published by a charging authority of the infrastructure projects or types of infrastructure which it intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies);

(b) on or after 31st December 2020, has the meaning given in regulation 121A;

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

"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;

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

"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;

"MDC" means a Mayoral development corporation which is a local planning authority for the purposes of section 206(5)(a) of PA 2008[8].

"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;

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

"planning obligation" except in regulation 122, means a planning obligation under section 106 of TCPA 1990;

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

"qualifying dwelling" must be construed in accordance with regulations 49, 49A 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;~~

"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),

Commented [S22]: The definition of "infrastructure list" was inserted by 2014 No. 385 and then replaced by 2019 No. 1103

Commented [S23]: Inserted by 2014 No. 385

Commented [S24]: Inserted by 2011 No. 987

Commented [S25]: Inserted by 2013 No. 982

Commented [S26]: Inserted by 2014 No. 385

Commented [S27]: Inserted by 2019 No. 1103

Commented [S28]: Inserted by 2014 No. 385

Commented [S29]: Inserted by 2014 No. 385

[8] Section 206(5)(a) was inserted by paragraph 61(2) of Schedule 22 to the Localism Act 2011.

(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 expressly 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.

"relevant purpose" has the meaning given in regulation 73(13);

"relief" means an exemption for residential annexes or extensions, an exemption for self-build housing, 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[9], or

(b) if that index is not published for a relevant month, any substituted index or index figures published by that Board;

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

"social housing relief" means relief under regulation 49 or 49A;

"subsequent sale" of a dwelling means a sale of that particular dwelling after its first sale,

"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;

Commented [S30]: The word "outline" was deleted by 2014 No. 385

Commented [S31]: The word "expressly" was inserted by 2014 No. 385

Commented [S32]: The definition of "relevant land" was replaced by 2011 No. 987

Commented [S33]: Inserted by 2019 No. 1103

Commented [S34]: Inserted by 2014 No. 385

Commented [S35]: Inserted by 2014 No. 385

Commented [S36]: Inserted by 2014 No. 385

Commented [S37]: Inserted by 2020 No. 1226

Commented [S38]: Deleted by 2014 No. 385

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

(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[10];

[10] 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[11] (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[12] (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[13];

(e) planning permission granted by an order made under section 102 or 104 of TCPA 1990[14] (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[15],

(iia) by a neighbourhood development order made under section 61E or 61Q[16] (community right to build orders) of TCPA 1990,

(iii) by a simplified planning zone scheme within the meaning of sections 82 and 83[17] of TCPA 1990,

(iv) in accordance with section 90 of TCPA 1990[18] (development with government authorisation), or

(v) by an enterprise zone scheme adopted under Schedule 32 to the Local Government, Planning and Land Act 1980[19]; 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.

Commented [S39]: The words " or 61Q (community right to build orders)" were inserted by 2013 No. 982

Commented [S40]: Sub-paragraph (iia) was inserted by 2012 No. 2975

[11] 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.

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

[13] 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.

[14] Section 102 was amended by paragraph 6 of Schedule 1 and paragraph 21 of Schedule 7 to the Planning and Compensation Act 1991.

[15] 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.

[16] Sections 61E and 61Q were inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).

[17] 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).

[18] 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).

[19] 1980 c. 65.

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).~~

(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[20]; and

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

Commented [S41]: Replaced by 2011 No. 987

(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[21] (time when development begun).

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

[21] 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.

(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.

(4) In the case of a grant of outline planning permission which is not a phased 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.~~

(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).

Commented [S42]: Inserted by 2014 No. 385

Commented [S43]: Inserted by 2014 No. 385

Commented [S44]: Deleted by 2014 No. 385

Commented [S45]: Replaced by 2011 No. 987

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

(4) In the case of a grant of ~~outline planning permission which permits development to be implemented in phases~~ phased planning permission, 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.~~

(5) In Wales, where the effect of a planning permission granted under section 73 of TCPA 1990[22] is only 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 as if that development was commenced.

~~(6) Where the effect of a planning permission granted under section 73 of TCPA 1990 is to change a condition subject to which a previous planning permission was granted so that the amount of CIL payable calculated under regulation 40 (as modified by paragraph (8)) would not change, the chargeable development is the development for which planning permission was granted by the previous permission as if that development was commenced.~~

~~(7) Where the effect of the planning permission granted under section 73 of TCPA 1990 is to change a condition subject to which a previous planning permission was granted so that the amount of CIL payable under regulation 40 (as modified by paragraph (8)) would change, the chargeable development is the most recently commenced or re-commenced chargeable development.~~

~~(8) For the purposes of paragraphs (6) and (7), the liability to CIL under regulation 40 should be calculated in relation to an application made under section 73 of TCPA 1990 as if the date on which the planning permission granted under that application first permits development was the same as that for the application for planning permission to which the application under section 73 of TCPA 1990 relates.~~

(6) Where a planning permission is granted under section 73 of TCPA 1990, the chargeable development is the most recently commenced or re-commenced chargeable development.

(9) For the purposes of ~~paragraph (7)~~ paragraph (6), chargeable development is re-commenced where—

(a) the chargeable development ("the earlier development") was commenced;

(b) work on the earlier development was halted and a different chargeable development ("the later development") that was granted planning permission under section 73 of TCPA 1990 was commenced on the relevant land; and

(c) the later development was subsequently halted and the earlier development is continued.

Commented [S46]: Inserted by 2011 No. 987

Commented [S47]: Replaced by 2014 No. 385

Commented [S48]: Deleted by 2012 No. 2975

Commented [S49]: Paragraph (5) was inserted by 2012 No. 2975

Commented [S50]: Paragraphs (6), (7), and (8) were inserted by 2012 No. 2975 and then deleted by 2019 No. 1103

Commented [S51]: Paragraph (6) was inserted by 2019 No. 1103

Commented [S52]: The words "paragraph (7)" were replaced with "paragraph (6)" by 2019 No. 1103

Commented [S53]: Paragraph (9) was inserted by 2012 No. 2975

[22] Section 73(5), inserted by section 51(3) of the Planning and Compulsory Purchase Act 2004 (c. 5), prevents such permissions from extending the time within which development must be commenced. This provision is yet to be commenced in relation to Wales.

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.~~

(3) In relation to CIL charged by the Mayor—

(a) where the development subject to the levy, or any part of it, is situated in the area of a MDC, the MDC must collect that CIL and accordingly is the collecting authority for that CIL;

(b) where the development subject to the levy is in the area of more than one MDC, the MDC with the greatest proportion of the gross internal area of the development in its area must collect the that CIL and accordingly is the collecting authority for that CIL;

(c) in all other cases, 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.

Commented [S54]: Replaced by 2013 No. 982

(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[23];

(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~~

Commented [S55]: Deleted by 2013 No. 982

(c) an enterprise zone authority designated under Schedule 32 to the ~~Local Government, Planning and Land Act 1980.~~ Local Government, Planning and Land Act 1980; or

Commented [S56]: Replaced by 2013 No. 982

(d) a Mayoral development corporation that is not a local planning authority for the purposes of section 206(5)(a) of PA 2008.

Commented [S57]: Inserted by 2013 No. 982

PART 3

CHARGING SCHEDULES

Interpretation and application of Part 3

11.— (1) In this Part—

"consultation bodies" has the meaning given in ~~regulation 15~~ regulation 16;

Commented [S58]: Replaced by 2019 No. 1103

"differential rate" has the meaning given in regulation 13;

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

Commented [S59]: Inserted by 2014 No. 385

[23] The Homes and Communities Agency was established by section 1 of the Housing and Regeneration Act 2008 (c. 17).

"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[24],~~

(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.

Commented [S60]: Deleted by 2012 No. 635

Exercise of Part 3 functions in anticipation that an MDC will be established

11A. Where—

(a) the Mayor has complied with the requirements of section 197(3)(a) to (e) of the Localism Act 2011 in relation to any proposed Mayoral development corporation;

(b) the time period described in section 197(3)(f) of that Act has expired without the London Assembly having rejected the proposal; and

(c) the Mayor intends that the proposed Mayoral development corporation will become the charging authority for its area under section 206(2) and (5)(a) of PA 2008,

the Mayor may, until that proposed Mayoral development corporation becomes the charging authority for its area, carry out the functions of a charging authority under regulations 12 (format and content of charging schedules) to 23 (publication of the examiner's recommendations) on behalf of the proposed Mayoral development corporation.

Commented [S61]: Regulation 11A was inserted by 2013 No. 982

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.

[24] The Infrastructure Planning Commission was established by section 1 of the Planning Act 2008.

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

(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.~~ development;

(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.

(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.

Commented [S62]:
IMPORTANT NOTE:

Regulations 13 and 25 are subject to the **transitional and savings provisions** set out by regulation 4A of 2020 No. 757 (as amended by 2020 No. 859).

Note: As the above legislation does not directly amend the CIL Regulations 2010, it is **not** incorporated into this consolidated version.

Commented [S63]: Replaced by 2014 No. 385

Commented [S64]: Inserted by 2014 No. 385

Commented [S65]: Deleted by 2014 No. 385

Commented [S66]: Deleted by 2014 No. 385

(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 or MDC 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 or MDC begins consultation on its ~~preliminary draft charging schedule in accordance with regulation 15~~ draft charging schedule in accordance with regulation 16.

(5) For the purposes of section 211(7A) of PA 2008[25], a charging authority's draft infrastructure list is appropriate evidence to inform the preparation of their charging schedule.

Commented [S67]: Inserted by 2013 No. 982

Commented [S68]: Inserted by 2013 No. 982

Commented [S69]: Replaced by 2019 No. 1103

Commented [S70]: Inserted by 2014 No. 385

~~**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[26],~~

~~(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—~~

Commented [S71]: Sub-paragraph (iv) was deleted by 2012 No. 2975

[25] 2008 c. 29. Section 211(7A) was inserted by section 114(2) of the Localism Act 2011 (c. 20).

[26] Relevant amendments were made to section 37 by paragraph 81 of Schedule 8 to the Housing and Regeneration Act 2008.

~~(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[27].~~

Commented [S72]: Paragraph (8) was deleted by 2012 No. 2975

Commented [S73]: Regulation 15 was deleted by 2019 No. 1103

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

(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~~.

Commented [S74]: Replaced by 2019 No. 1103

~~(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.~~

Commented [S75]: Deleted by 2019 No. 1103

(1A) The charging authority must invite representations on the draft charging schedule from such of the following as the authority considers appropriate—

(a) persons who are resident or carrying on business in its area;

(b) voluntary bodies some or all of whose activities benefit the charging authority's area; and

(c) bodies which represent the interests of persons carrying on business in the charging authority's area.

Commented [S76]: Inserted by 2019 No. 1103

(2) In this regulation—

"consultation bodies" means—

[27] 2009 c. 20.

(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;

(ii) a local planning authority within the meaning of section 78 of PCPA 2004;

(iii) a county council;

(b) each parish council or neighbourhood forum 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;

"neighbourhood forum" means an organisation or body designated as such under section 61F(3) of TCPA 1990[28];

Commented [S77]: Inserted by 2019 No. 1103

"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.~~

Commented [S78]: Deleted by 2019 No. 1103

(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.

[28] Section 61F was inserted into the Town and Country Planning Act 1990 by paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).

(5) The charging authority must take into account any representations made to it under this regulation before submitting a draft charging schedule for examination in accordance with section 212 of PA 2008.

Commented [S79]: Inserted by 2019 No. 1103

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;~~

Commented [S80]: Deleted by 2019 No. 1103

(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)~~—

Commented [S81]: Deleted by 2012 No. 2975

(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, and a summary of how the representations received were taken into account, or

Commented [S82]: Inserted by 2019 No. 1103

(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.~~

(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~~ regulation 16; 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).

Commented [S83]: Paragraph (4) was deleted by 2011 No. 987

Commented [S84]: The words "regulation 15" were replaced with "regulation 16" by 2019 No. 1103

Commented [S85]: Paragraphs (4) and (5) were inserted by 2011 No. 987

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[29] (examination in public).

(4) Where a joint examination is carried out under paragraph (3), any other charging schedule prepared by a London borough council or MDC 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

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

Commented [S86]: Replaced by 2019 No. 1103

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Commented [S88]: Inserted by 2013 No. 982

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—

(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, together with any report made under section 213(3B) of

Commented [S89]:
IMPORTANT NOTE:

Regulations 13 and 25 are subject to the **transitional and savings provisions** set out by regulation 4A of 2020 No. 757 (as amended by 2020 No. 859).

Note: As the above legislation does not directly amend the CIL Regulations 2010, it is **not** incorporated into this consolidated version.

PA 2008, on its website;

(b) make the charging schedule, together with any report made under section 213(3B) of PA 2008, 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

Commented [S90]: Inserted by 2012 No. 2975

Commented [S91]: Inserted by 2012 No. 2975

Commented [S92]: Deleted by 2019 No. 1103

Commented [S93]: Deleted by 2019 No. 1103

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[30].

(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.~~

Commented [S94]: Deleted by 2019 No. 1103

Charging schedules: procedure in relation to a charging schedule ceasing to have effect

28A.—(1) Subject to paragraph (2), a charging authority (other than the Mayor) which proposes to make a determination under section 214(3) of PA 2008 that a charging schedule is to cease to have effect must—

[30] As to the requirements relating to service of a liability notice, see regulation 65.

(a) prepare a statement which provides—

(i) details of the CIL receipts for the period of five years immediately preceding the date on which the statement is first published in accordance with sub-paragraph (d), or, where the charging schedule was not in effect for the whole of the five years, the period during which the charging schedule was in effect;

(ii) an assessment, for the period of five years beginning with the date on which it is proposed the charging schedule will cease to have effect in the area, of the potential effects of the proposal on the funding of infrastructure needs for the area; and

(iii) a summary of the measures (in relation to planning obligations or otherwise) the charging authority has or intends to put in place in relation to funding of infrastructure needs for the area, together with an assessment of how effective the authority considers those measures are likely to be in replacing the funding lost on the charging schedule ceasing to have effect;

(b) make a copy of the documents referred to in sub-paragraph (a) available for inspection at its principal office;

(c) send a copy of those documents to the consultation bodies;

(d) publish on its website—

(i) a statement specifying that the authority proposes to determine under section 214(3) of PA 2008 that a charging schedule is to cease to have effect;

(ii) a copy of the statement referred to in sub-paragraph (a); and

(iii) a statement specifying—

(aa) the period (being not less than four weeks) within which representations about the proposal may be made;

(bb) the address to which, and the name of the person (if any) to whom, representations about the proposal must be made;

(cc) that representations may be made in writing or by way of electronic communications;

(dd) that representations may be accompanied by a request to be notified at a specified address of the decision of the charging authority in relation to the proposal; and

(e) consider any representations made to it under this regulation.

(2) Paragraph (1) does not apply where the determination referred to in paragraph (1) is part of a proposal under which the charging authority replaces a charging schedule (A) with a new charging schedule (B) provided that A ceases to have effect on the same day B takes effect.

(3) Where paragraph (2) applies, in addition to publication of B under regulation 25 a charging authority must continue to—

(a) make a copy of A available for inspection at its principal office and at such other offices within its area as it considers appropriate; and

(b) publish A on its website.

(4) Where a charging authority makes a determination under 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; and

(b) notify the relevant consenting authorities of that fact.

Commented [S95]: Regulation 28A was inserted by 2019 No. 1103

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[31] (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] 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.

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

(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.~~

(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.

Commented [S96]: Replaced by 2011 No. 987

(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[32].

(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.

(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

[32] As to the consequences of failure to comply with an information notice, see regulation 86.

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_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 A in paragraph (5) must be calculated by applying the following formula—

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

where—

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

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.

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.

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

$$G_R \quad K_R \left(\frac{G_R \times E}{G} \right)$$

where—

G = the gross internal area of the chargeable development;

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

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

K_R = 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

Commented [S97]: The definition of C_R was replaced by 2011 No. 987

Commented [S98]: Paragraph (6) was deleted by 2012 No. 2975

(c) will be chargeable at rate R.

(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[33]; and the figure for a given year is the figure for 1st November of the preceding year.

(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

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

Commented [S99]: Paragraph (6) was inserted by 2012 No. 2975

Commented [S100]: Paragraph (12) was inserted by 2011 No. 987

Commented [S101]: Regulation 40 was deleted by 2014 No. 385

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.

[33] Registered in England and Wales no. RC000487.

(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[34]; 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 —

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

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 —

(a) whether part of a building falls within a description in the definitions of K_R and E in paragraph (7); or

[34] Registered in England and Wales RC00487.

(b) the gross internal area of any part of a building falling within such a description,

it may deem the gross internal area of the part in question to be zero.

(11) In this regulation—

"building" does not include—

(i) a building into which people do not normally go,

(ii) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery, or

(iii) a building for which planning permission was granted for a limited period;

"in-use building" means a building which—

(i) is a relevant building, and

(ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development;

"new build" means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings;

"relevant building" means a building which is situated on the relevant land on the day planning permission first permits the chargeable development;

"relevant charging schedules" means the charging schedules which are in effect—

(i) at the time planning permission first permits the chargeable development, and

(ii) in the area in which the chargeable development will be situated;

"retained part" means part of a building which will be—

(i) on the relevant land on completion of the chargeable development (excluding new build),

(ii) part of the chargeable development on completion, and

(iii) chargeable at rate R.

Commented [S102]: Regulation 40 was inserted by 2014 No. 385 and then deleted by 2019 No. 1103

40. The collecting authority must calculate the amount of CIL payable ("chargeable amount") in respect of a chargeable development in accordance with the provisions of Schedule 1.

Commented [S103]: Regulation 40 was inserted by 2019 No. 1103

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;

Commented [S104]: Deleted by 2019 No. 1103

"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[35];

"local housing authority" has the same meaning as in section 1 of the Housing Act 1985[36];

"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[37].~~

(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~~.

Commented [S105]: Deleted by 2020 No. 1470

Commented [S106]: Deleted by 2020 No. 1470

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.

Commented [S107]: Deleted by 2011 No. 987

Commented [S108]: Deleted by 2011 No. 987

Commented [S109]: Deleted by 2011 No. 987

Exemption for residential annexes or extensions

42A.—(1) ~~Subject to paragraphs (5) and (6),~~ a person (P) is exempt from liability to pay CIL in respect of development if—

(a) P owns a material interest in a dwelling ("main dwelling");

(b) P occupies the main dwelling as P's sole or main residence; and

(c) the development is a residential annex or a residential extension.

(2) The development is a residential annex if it—

(a) is wholly within the curtilage of the main dwelling; and

(b) comprises one new dwelling.

(3) The development is a residential extension if it—

(a) is an enlargement to the main dwelling; and

(b) does not comprise a new dwelling.

Commented [S110]: The words "Subject to paragraphs (5) and (6)," were deleted by 2020 No. 1470

[35] 2006 c. 50.

[36] 1985 c. 68; section 1 was amended by paragraph 5(1) of Schedule 8 to the Local Government (Wales) Act 1994 (c. 19).

[37] O.J. No. C 115, 9.5.08, p 47.

(4) An exemption or relief under this regulation—

(a) in respect of a residential annex is known as an exemption for residential annexes;

(b) in respect of a residential extension is known as an exemption for residential extensions.

~~(5) An exemption for residential annexes or extensions cannot be granted to the extent that the collecting authority is satisfied that to do so would constitute a State aid which is required to be notified to and approved by the European Commission.~~

~~(6) Where paragraph (5) applies, the collecting authority must grant relief up to the amount that would not constitute a State aid which is required to be notified to and approved by the European Commission.~~

Commented [S111]: Paragraphs (5) and (6) were deleted by 2020 No. 1470

Commented [S112]: Regulation 42A was inserted by 2014 No. 385

Exemption for residential annexes or extensions: procedure

42B.—(1) A person who wishes to benefit from the exemption for residential annexes or extensions must submit a claim to the collecting authority in accordance with this regulation.

(2) The claim must—

(a) subject to paragraph (3A), be received by the collecting authority before commencement of the chargeable development;

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

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

(d) be accompanied by the documents specified or referred to in the form.

Commented [S113]: The words "subject to paragraph (3A)," were inserted by 2019 No. 1103

(3) Subject to paragraph (3A), A claim under this regulation 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.

Commented [S114]: The words "Subject to paragraph (3A)," were inserted by 2019 No. 1103

(3A) Paragraphs (2)(a) and (3) do not apply where an exemption for residential annexes or extensions has been granted in relation to a chargeable development and the annex or extension changes after the commencement of that development.

Commented [S115]: Paragraph (3A) was inserted by 2019 No. 1103

(4) As soon as practicable after receiving a valid claim~~, and subject to regulation 42A(5),~~ the collecting authority must grant the exemption and notify the claimant in writing of the exemption granted (or the amount of relief granted, as the case may be) and, in relation to an exemption for residential annexes, provide an explanation of the requirements of regulation 67(1).

Commented [S116]: The words ", and subject to regulation 42A(5)," were deleted by 2020 No. 1470

Commented [S117]: The words "and, in ... regulation 67(1)" were inserted by 2019 No. 1103

(5) A claim for an exemption for residential annexes or extensions is valid if it complies with the requirements of paragraph (2).

~~(6) A person who is granted an exemption for residential annexes or residential extensions ceases to be eligible for that exemption if a commencement notice is not submitted to the collecting authority before the day the chargeable development is commenced.~~

Commented [S118]: Paragraph 6 was deleted by 2019 No. 1103

Commented [S119]: Regulation 42B was inserted by 2014 No. 385

Withdrawal of the exemption for residential annexes

42C.—(1) This regulation applies if an exemption for residential annexes is granted and a disqualifying event occurs before the end of the clawback period.

(2) For the purposes of this regulation, a disqualifying event is—

(a) the use of the main dwelling for any purpose other than as a single dwelling;

(b) the letting of the residential annex; or

(c) the sale of the main dwelling or the residential annex unless they are sold at the same time

to the same person.

(3) Where this regulation applies the relevant person is liable to pay—

(a) an amount of CIL equal to the amount of CIL that would have been payable on commencement of the development if the exemption had not been granted; ~~or~~

~~(b) if regulation 42A(6) applies, the amount of the relief granted.~~

(4) 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.

(5) As soon as practicable after receiving the notice of the disqualifying event, the collecting authority must notify the relevant person in writing of the amount of CIL payable under paragraph (3).

(6) In this regulation—

(a) "main dwelling" and "residential annex" have the same meaning as in regulation 42A; and

(b) "relevant person" means the person benefitting from the exemption for residential annexes in respect of the dwelling which has ceased to qualify for the exemption.

Commented [S120]: The word "or" was deleted by 2020 No. 1470

Commented [S121]: Paragraph (b) was deleted by 2020 No. 1470

Commented [S122]: Regulation 42C was inserted by 2014 No. 385

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; or

(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.

Commented [S123]: Inserted by 2020 No. 1470

Commented [S124]: Deleted by 2020 No. 1470

Commented [S125]: Deleted by 2020 No. 1470

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.~~

Commented [S126]: Deleted by 2020 No. 1470

~~**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.~~

Commented [S127]: Regulation 45 was deleted by 2020 No. 1470

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).

Commented [S128]: Deleted by 2020 No. 1470

(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~~

(c) make the document available for inspection—

(i) at its principal office, and

(ii) at the places at which the document mentioned in paragraph (1) was made available for inspection under paragraph (1)(c)(ii), or, if the charging authority considers that any such places are no longer appropriate, 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).

(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) subject to paragraph (3A), 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) Subject to paragraph (3A), 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.

(3A) Paragraphs (2)(a) and (3) do not apply where charitable relief has been granted in relation to a chargeable development and the development changes after the commencement of that development.

Commented [S129]: Deleted by 2020 No. 1470

Commented [S130]: Replaced by 2014 No. 385

Commented [S131]: Inserted by 2019 No. 1103

Commented [S132]: Inserted by 2019 No. 1103

Commented [S133]: Inserted by 2019 No. 1103

(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.~~

(b) where relief is granted, the amount of relief granted,

and provide an explanation of the requirements of regulation 67(1).

(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 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.~~

Commented [S134]: Replaced by 2019 No. 1103

Commented [S135]: The words "on or" were deleted by 2014 No. 385

Commented [S136]: Paragraph 7 was deleted by 2019 No. 1103

(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[38]) 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) or12ZA of Schedule 1 to the Housing Act 1988[39];

(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[40] 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[41];

(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.

(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[42] or section 143A of the Housing Act 1996[43] 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.

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38 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.
39 1988 c. 50; Paragraph 12ZA was inserted by section 297(2) of the Housing and Regeneration Act 2008.
40 Paragraph 4ZA was inserted by section 297(1) of the Housing and Regeneration Act 2008.
41 2008 c. 17.
42 Section 20B was inserted by section 15(1) of the Anti-social Behaviour Act 2003 (c. 38).
43 Section 143A was inserted by paragraph 1 of Schedule 1 to the Anti-social Behaviour Act 2003.

~~(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).~~

Commented [S137]: Regulation 49 was deleted by 2014 No. 385

Social housing relief

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

(2) For the purposes of this regulation a qualifying dwelling is a dwelling which satisfies at least one of the following ~~four five~~ six conditions.

Commented [S138]: The word "four" was replaced with "five" by 2015 No. 836 and then the word "five" was replaced with "six" by 2020 No. 1226

(3) Condition 1 is that the dwelling is let by a local housing authority on one of the following—

(a) a demoted tenancy or a prohibited conduct standard contract;

Commented [S139]: The words "or a prohibited conduct standard contract" were inserted by 2022 No. 907

(b) an introductory tenancy or an introductory standard contract;

Commented [S140]: The words "or an introductory standard contract" were inserted by 2022 No. 907

(c) a secure tenancy or a secure contract;

Commented [S141]: The words "or a secure contract" were inserted by 2022 No. 907

(d) an arrangement that would be a secure tenancy but for paragraph 4ZA or 12 of Schedule 1 to the Housing Act 1985[44].

(4) Condition 2 is that all of the following criteria 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[45];

(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 arrangements, the annual rent payable is not more than three per cent of the value of the unsold interest; and

(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.

(5) Condition 3 is that, in England—

(a) the dwelling is let by a private registered provider of social housing on one of the following—

(i) an assured tenancy (including an assured shorthold tenancy);

(ii) an assured agricultural occupancy;

(iii) 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[46];

(iv) a demoted tenancy; and

(b) one of the criteria described in paragraph (6) is met.

(6) The criteria are—

(a) the rent is—

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44 1985 c. 68. Paragraph 4ZA was inserted by section 297(1) of the Housing and Regeneration Act 2008 (c. 17).
45 2008 c. 17.
46 1988 c. 50; Paragraph 12ZA was inserted by section 297(2) of the Housing and Regeneration Act 2008 (2008 c. 17).

(i) subject to the national rent regime, and

(ii) regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008;

(b) the rent is—

(i) not subject to the national rent regime;

(ii) not regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008; and

(iii) no more than 80 per cent of market rent;

(c) the rent is—

(i) not subject to the national rent regime; and

(ii) regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008 which requires the initial rent to be no more than 80 per cent of the market rent of the property (including service charges).

(7) Condition 4 is that, in Wales—

(a) the dwelling is let by a registered social landlord (within the meaning of Part 1 of the Housing Act 1996[47]) on one of the following—

~~(i) an assured tenancy (including an assured shorthold tenancy);~~

(i) a secure contract, a standard contract or an introductory standard contract;

~~(ii) an assured agricultural occupancy;~~

~~(iii) a demoted tenancy;~~

(iii) a prohibited conduct standard contract, and

~~(iv) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) or12ZA of Schedule 1 to the Housing Act 1988; and~~

(b) the rent is no more than 80 per cent of market rent.

(7A) Condition 5 is that—

(a) the dwelling is let by a person who is not a local housing authority, a private registered provider of social housing or a registered social landlord (within the meaning of Part 1 of the Housing Act 1996) on one of the following—

(i) an assured tenancy (including an assured shorthold tenancy), a secure contract, a standard contract or a prohibited conduct standard contract;

(ii) an assured agricultural occupancy;

(iii) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) of Schedule 1 to the Housing Act 1988[48]; and

(b) the following criteria are both met—

(i) the dwelling is let to a person whose needs are not adequately served by the commercial housing market; and

Commented [S142]: Paragraph (i) was replaced by 2022 No. 907

Commented [S143]: Paragraph (ii) was deleted by 2022 No. 907

Commented [S144]: Paragraph (iii) was replaced by 2022 No. 907

Commented [S145]: Paragraph (iv) was deleted by 2022 No. 907

Commented [S146]: The words ", a secure contract, ... conduct standard contract" were inserted by 2022 No. 907

[47] 1996 c. 52.

[48] 1988 c.50. Paragraph 12(1)(h) of Schedule 1 was amended, in relation to Wales, by, and a new paragraph 12(3) inserted by, section 137(2) of the Housing (Wales) Act 2014 (anaw. 7).

(ii) the rent is no more than 80 per cent of market rent (including service charges); and

(c) a planning obligation under section 106 TCPA 1990 designed to ensure compliance with both criteria at sub-paragraph (b) has been entered into in respect of the planning permission which permits the chargeable development.

Commented [S147]: Paragraph (7A) was inserted by 2015 No. 836

(7B) Condition six is that, in England, the following criteria are met—

(a) the first sale of the dwelling is for no more than 70 per cent of its 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); and

(b) a planning obligation has been entered into prior to the first sale of the dwelling designed to ensure that any subsequent sale of the dwelling is for no more than 70 per cent of its market value.

Commented [S148]: Paragraph (7B) was inserted by 2020 No. 1226

(8) Any claim for relief under this regulation relating to qualifying communal development must be made either—

(a) at the same time as the claim for relief in respect of the qualifying dwellings to which the qualifying communal development in question relates; or

(b) where the qualifying dwellings referred to in sub-paragraph (a) are granted permission through a phased planning permission, in relation to any phase of that permission.

(9) Relief under this regulation, or regulation 49A, is referred to in these Regulations as social housing relief.

(10) 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.

(11) 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[49] or section 143A of the Housing Act 1996[50] applies;

"introductory standard contract" has the meaning given by the Renting Homes (Wales) Act 2016 (see section 16 of that Act);

Commented [S149]: The definition of "introductory standard contract" was inserted by 2022 No. 907

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

"market rent" means the rent which the lease might reasonably be expected to fetch at that time on the open market;

~~"national rent regime" means the rent influencing regime set out in the Social Rent Guidance within the Rent Standard Guidance as published by the Regulator of Social Housing in March 2012;~~

"national rent regime" means the rent policy set out in the Social Rent Guidance within the Rent Standard Guidance as published by the Regulator of Social Housing in January 2015.

Commented [S150]: The definition of "national rent regime" was replaced by 2015 No. 836

"prohibited conduct standard contract" has the meaning given by the Renting Homes (Wales) Act 2016 (see section 116 of that Act);

Commented [S151]: The definition of "prohibited conduct standard contract" was inserted by 2022 No. 907

"secure contract" has the meaning given by the Renting Homes (Wales) Act 2016 (see section 8 of that Act);

Commented [S152]: The definition of "secure contract" was inserted by 2022 No. 907

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

[49] Section 20B was inserted by section 15(1) of the Anti-social Behaviour Act 2003 (c. 38).
[50] Section 143A was inserted by paragraph 1 of Schedule 1 to the Anti-social Behaviour Act 2003.

"standard contract" has the meaning given by the Renting Homes (Wales) Act 2016 (see section 8 of that Act), but does not include—

(a) an introductory standard contract,

(b) a prohibited conduct standard contract, or

(c) a supported standard contract;

"supported standard contract" has the meaning given by the Renting Homes (Wales) Act 2016 (see section 143 of that Act);

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

Commented [S153]: The definition of "standard contract" was inserted by 2022 No. 907

Commented [S154]: The definition of "supported standard contract" was inserted by 2022 No. 907

Commented [S155]: Regulation 49 was inserted by 2014 No. 385

Discretionary social housing relief

49A.—(1) A chargeable development is eligible for relief from liability to CIL if—

(a) discretionary social housing relief is available in the area in which the chargeable development will be situated; and

(b) the development comprises or is to comprise qualifying dwellings or qualifying communal development (in whole or in part).

~~(2) For the purposes of this regulation a dwelling is a qualifying dwelling if all of the following criteria are met—~~

~~(a) the dwelling is sold for no more than 80% of its 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);~~

~~(b) the dwelling is sold in accordance with any policy published by the charging authority under regulation 49B(1)(a)(iii); and~~

~~(c) the liability to pay CIL in relation to the dwelling remains with the person granted discretionary social housing relief.~~

Commented [S156]: Paragraph (2) was deleted by 2020 No. 1226

(2) For the purposes of this regulation a dwelling is a qualifying dwelling if criteria (a), (b) and (c) are met in relation to it—

(a) criterion (a) is that the dwelling is sold for no more than 80 per cent of its 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);

(b) criterion (b) is that the dwelling is sold in accordance with any policy published by the charging authority under regulation 49B(1)(a)(iii); and

(c) criterion (c) is that at least one of the following requirements is met—

(i) a planning obligation has been entered into prior to the first sale of the dwelling designed to ensure that any subsequent sale of the dwelling is for no more than 80% of its market value; or

(ii) the liability to pay CIL in relation to the dwelling remains with the person granted discretionary social housing relief.

Commented [S157]: Paragraph (2) was inserted by 2020 No. 1226

(3) Any claim for relief under this regulation relating to qualifying communal development must be made either—

(a) at the same time as the claim for relief in respect of the qualifying dwellings to which the qualifying communal development in question relates; or

(b) where the qualifying dwellings referred to in sub-paragraph (a) are granted permission through a phased planning permission, in relation to any phase of that permission.

(4) 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.

Commented [S158]: Regulation 49A was inserted by 2014 No. 385

Discretionary social housing relief: notification requirements

49B.—(1) A charging authority which wishes to make discretionary social housing relief available in its area must—

(a) issue a document which—

(i) gives notice that discretionary social housing relief is available in its area,

(ii) states the date on which the collecting authority will begin accepting claims for relief, and

(iii) to the extent that the charging authority is responsible for allocating the housing to be granted relief, includes a policy statement setting out how that housing is to be allocated 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 allocation of the relevant housing in its area it must—

(a) issue a document which—

(i) gives notice of the revised policy,

(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—

(i) at its principal office, and

(ii) at the places at which the document mentioned in paragraph (1) was made available for inspection under paragraph (1)(c)(ii), or, if the charging authority considers that any such places are no longer appropriate, 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).

(3) A charging authority which no longer wishes discretionary social housing 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—

(i) at its principal office, and

(ii) at the places at which the document mentioned in paragraph (1) was made

available for inspection under paragraph (1)(c)(ii), or, if the charging authority considers that any such places are no longer appropriate, 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).

(4) The day mentioned in paragraph (3)(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.

Commented [S159]: Regulation 49B was inserted by 2014 No. 385

Social housing relief: qualifying communal development

49C.—(1) For the purposes of this regulation, qualifying communal development is the amount of communal development (calculated in accordance with paragraph (4)) which is for the benefit of the occupants of more than one qualifying dwelling.

(2) Subject to paragraph (3), development is communal development if it is development for the benefit of the occupants of more than one qualifying dwelling, whether or not it is also for the benefit of the occupants of relevant development.

(3) Development is not communal development if it is—

(a) wholly or partly made up of one or more dwellings;

(b) wholly or mainly for use by the general public;

(c) wholly or mainly for the benefit of occupants of development which is not relevant development; or

(d) to be used wholly or mainly for commercial purposes.

(4) The gross internal area of any communal development that is qualifying communal development must be calculated by applying the following formula—

$$\frac{X \times A}{B}$$

where—

X = the gross internal area of the communal development;

A = the gross internal area of the qualifying dwellings to which the communal development relates; and

B = the gross internal area of the qualifying dwellings and the relevant development, provided that the communal development is for the benefit of those dwellings and that relevant development.

(5) In this regulation, "relevant development" means development which is granted permission by the same planning permission as the qualifying dwellings in question, but which does not include the qualifying dwellings or the communal development.

Commented [S160]: Regulation 49C was inserted by 2014 No. 385

~~**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—

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.

Commented [S161]: Paragraph (6) was deleted by 2012 No. 2975

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

$$Q_R - K_{QR}\left(\frac{Q_R \times E}{G}\right)$$

where—

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

K_{QR} = an amount equal to 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 but for social housing relief;

E = an amount equal to the aggregate of the gross internal area 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

G = the gross internal area of the chargeable development.

Commented [S162]: Paragraph (6) was inserted by 2012 No. 2975

(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.

(11) Where—

(a) social housing relief has been granted in relation to a development;

(b) planning permission is granted under section 73 of TCPA 1990 in respect of that development; and

(c) the amount of social housing relief calculated in accordance with this regulation that the development is eligible for has not changed as a result of the planning permission referred to in sub-paragraph (b),

anything done in relation to an application for social housing relief made under regulation 51 (social housing relief: procedure) in relation to the development referred to in sub-paragraph (a) is to be treated as if it was done in relation to the development that the planning permission referred to in sub-paragraph (b) relates.

(12) In this regulation "building" and "new build" have the same meaning as in regulation 40.

Commented [S163]: Paragraph (7) was deleted by 2012 No. 2975

Commented [S164]: Paragraph (11) was deleted by 2012 No. 2975

Commented [S165]: Paragraphs (11) and (12) were inserted by 2012 No. 2975

Commented [S166]: Regulation 50 was deleted by 2014 No. 385

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, taken from the relevant charging schedules, at which, but for social housing relief, CIL would be chargeable in respect of the parts of the chargeable development which will comprise—

(a) qualifying dwellings; or

(b) qualifying communal development.

(4) The qualifying amount 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_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.

(5) Paragraph (6) of regulation 40 applies to determine the index figure for a given year.

(6) Paragraphs (7) to (10) of regulation 40 apply for the purpose of calculating A with the following modifications —

(a) for G_R, substitute Q_R, and

(b) for K_R, substitute K_{QR}

where —

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

K_{QR} = the aggregate of the gross internal areas of the following —

(i) relevant retained parts of in-use buildings; and

(ii) for other relevant buildings, relevant 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.

(7) Where —

(a) social housing relief has been granted in relation to a development; and

(b) planning permission is granted under section 73 of TCPA 1990 in respect of that development; and

(c) the amount of social housing relief calculated in accordance with this regulation that the development is eligible for has not changed as a result of the planning permission referred to in sub-paragraph (b),

anything done in relation to an application for social housing relief made under regulation 51 (social housing relief: procedure) in relation to the development referred to in sub-paragraph (a) is to be treated as if it was done in relation to development that the planning permission referred to in sub-paragraph (b) relates to.

(8) In this regulation —

(a) a reference to part of a chargeable development which will comprise qualifying dwellings includes a reference to part of a chargeable development which comprises qualifying dwellings;

(b) "relevant retained part" means part of a building which will be —

(i) on the relevant land on completion of the chargeable development (excluding new build),

~~(ii) part of the chargeable development on completion, and~~

~~(iii) chargeable at rate R but for social housing relief;~~

~~(c) "building", "in-use building", "new build", "relevant building" and "relevant charging schedules" have the same meaning as in regulation 40.~~

Commented [S167]: Regulation 50 was inserted by 2014 No. 385 and then deleted by 2019 No. 1103

50. The amount of social housing relief for which a chargeable development is eligible ("qualifying amount") must be calculated in accordance with paragraph 6 of Schedule 1.

Commented [S168]: Regulation 50 was inserted by 2019 No. 1103

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) subject to paragraph (4A), be received by the collecting authority before commencement of the chargeable development;

Commented [S169]: Inserted by 2014 No. 385

(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, the criteria mentioned in regulation 49A(2) or regulation 49C).

Commented [S170]: Inserted by 2014 No. 385

(4) ~~A claim~~ Subject to paragraph (4A), 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.

Commented [S171]: Replaced by 2014 No. 385

(4A) Paragraphs (3)(b) and (4) do not apply where the provision of qualifying dwellings or qualifying communal development in respect of a chargeable development changes after the commencement of that development.

Commented [S172]: Inserted by 2014 No. 385

(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.~~

(b) if relief is granted, the qualifying amount,

and provide an explanation of the requirements of regulation 67(1).

Commented [S173]: Replaced by 2019 No. 1103

(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~~

(aa) identifies the qualifying communal development (if any) and the gross internal area of that development; and"; and

(b) includes a calculation of the qualifying amount.

(9) Paragraph (10) applies where a charging authority issues a statement (in accordance with regulation 49B(3)(a)) giving notice that discretionary social housing relief will no longer be available in its area.

(10) Any claim for discretionary social housing relief received by the collecting authority on or before the day mentioned in regulation 49B(3)(a) in respect of a chargeable development situated in the charging authority's area must be considered by the collecting authority.

Commented [S174]: Deleted by 2019 No. 1103

Commented [S175]: Deleted by 2014 No. 385

Commented [S176]: Inserted by 2014 No. 385

Commented [S177]: Inserted by 2014 No. 385

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 or qualifying communal development will be situated to another person (P1); and

(c) the disposal is made before those qualifying dwellings are made available for occupation or that qualifying communal development is made available for use.

(2) P1 is deemed to benefit from an amount of social housing relief equal to the qualifying amount for the qualifying dwellings or qualifying communal development 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 or qualifying communal development 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.

Commented [S178]: Inserted by 2014 No. 385

Commented [S179]: Inserted by 2014 No. 385

Commented [S180]: Inserted by 2014 No. 385

Commented [S181]: Inserted by 2014 No. 385

(7) The notification must—

(a) state the gross internal area of the qualifying dwellings or qualifying communal development 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 or development (as the case may be); 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 or qualifying communal development such that it ceases to be a qualifying dwelling or qualifying communal development.

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

(a) the proceeds of sale are spent on a qualifying dwelling or qualifying communal development;

(b) the proceeds of sale are transferred to the Secretary of State, the Welsh Ministers, a local housing authority, the Greater London 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.~~ 2008; ~~or~~

(da) the disposal is a first sale of a dwelling in respect of which social housing relief has been granted under regulation 49 on the basis that the dwelling satisfies condition six in that regulation, and the first sale meets the criteria set out in paragraph (7B) of that regulation; or

(e) discretionary social housing relief has been granted in relation to the dwelling or qualifying communal development, and the dwelling or development (as the case may be) is disposed of in accordance with regulation 49A(2).

(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.

(4A)Where—

(a) the relevant person is liable to pay the withdrawn amount; and

(b) the dwelling in respect of which the relevant person is benefitting from social housing relief was (immediately before it ceased to be a qualifying dwelling) a qualifying dwelling which satisfied condition 5 of regulation 49,

for the purposes of regulation 87 (late payment interest), payment of the withdrawn amount is to be treated as being due on commencement of the chargeable development.

(5) The qualifying amounts mentioned in paragraph (4) must be calculated in accordance with

Commented [S182]: Inserted by 2014 No. 385

Commented [S183]: Inserted by 2014 No. 385

Commented [S184]: Inserted by 2014 No. 385

Commented [S185]: Inserted by 2014 No. 385

Commented [S186]: Inserted by 2014 No. 385

Commented [S187]: Inserted by 2014 No. 385

Commented [S188]: Inserted by 2014 No. 385

Commented [S189]: Inserted by 2012 No. 702

Commented [S190]: Deleted by 2014 No. 385

Commented [S191]: The words "2008." were replaced with "2008; or" by 2014 No. 385 and then the word "or" was deleted by 2020 No. 1226

Commented [S192]: Paragraph (da) was inserted by 2020 No. 1226

Commented [S193]: Inserted by 2014 No. 385

Commented [S194]: Inserted by 2015 No. 836

regulation 50 and paragraph 6 of Schedule 1, 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 (if any) which has ceased to be a qualifying dwelling; ~~and~~

(aa) state the gross internal area of the development which has ceased to be qualifying communal development (if any); and

(b) be accompanied by a map or plan which identifies the location of the dwelling mentioned in sub-paragraph (a) or the development mentioned in sub-paragraph (aa).

(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, or the development which has ceased to be qualifying communal development.

Commented [S195]: Inserted by 2019 No. 1103

Commented [S196]: Inserted by 2014 No. 385

Commented [S197]: Deleted by 2014 No. 385

Commented [S198]: Inserted by 2014 No. 385

Commented [S199]: Inserted by 2014 No. 385

Commented [S200]: Inserted by 2014 No. 385

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[51]).

(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.

Exemption for self-build housing

[51] As to the consequences of failure to comply with an information notice, see regulation 86.

54A.—(1) ~~Subject to paragraphs (10) and (11),~~ a person (P) is eligible for an exemption from liability to pay CIL in respect of a chargeable development, or part of a chargeable development, if it comprises self-build housing or self-build communal development.

(2) Self-build housing is a dwelling built by P (including where built following a commission by P) and occupied by P as P's sole or main residence.

(3) The amount of any self-build communal development that P can claim the exemption in relation to is to be determined in accordance with paragraphs (4) to (6).

(4) Subject to paragraph (5), development is self-build communal development if it is for the benefit of the occupants of more than one dwelling that is self-build housing, whether or not it is also for the benefit of the occupants of relevant development.

(5) Development is not self-build communal development if it is—

(a) wholly or partly made up of one or more dwellings;

(b) wholly or mainly for use by the general public;

(c) wholly or mainly for the benefit of occupants of development which is not relevant development; or

(d) to be used wholly or mainly for commercial purposes.

(6) The amount of any self-build communal development that P can claim the exemption in relation to must be calculated by applying the following formula—

$$\frac{X \times A}{B}$$

where—

X = the gross internal area of the self-build communal development;

A = the gross internal area of the dwelling in relation to which P is claiming the exemption for self-build housing; and

B = the gross internal area of the self-build housing and relevant development, provided that the self-build communal development is for the benefit of that housing and that relevant development.

(7) In this regulation, "relevant development" means development which is authorised by the same planning permission as the self-build housing in question, but which does not include the self-build housing or the self-build communal development.

(8) In order to claim the exemption in relation to self-build communal development, P must assume liability to pay CIL in respect of that development (and may do so jointly in respect of the chargeable development) and either claim the exemption—

(a) at the same time as P claims the exemption in respect of the self-build housing; or

(b) where the self-build housing is granted permission through a phased planning permission, in relation to any phase of that permission.

(9) An exemption or relief under this regulation is known as an exemption for self-build housing.

~~(10) An exemption for self-build housing cannot be granted to the extent that the collecting authority is satisfied that to do so would constitute a State aid which is required to be notified to and approved by the European Commission.~~

~~(11) Where paragraph (10) applies, the collecting authority must grant relief up to an amount which would not constitute a State aid which is required to be notified to and approved by the European Commission.~~

Commented [S201]: The words "Subject to paragraphs (10) and (11)," were deleted by 2020 No. 1470

Commented [S202]: Paragraphs (10) and (11) were deleted by 2020 No. 1470

Commented [S203]: Regulation 54A was inserted by 2014 No. 385

Exemption for self-build housing: procedure

54B.—(1) A person who wishes to benefit from the exemption for self-build housing must submit a claim to the collecting authority in accordance with this regulation.

(2) The claim must—

(a) be made by a person who—

(i) intends to build, or commission the building of, a new dwelling, and intends to occupy the dwelling as their sole or main residence for the duration of the clawback period, and

(ii) has assumed liability to pay CIL in respect of the new dwelling, whether or not they have also assumed liability to pay CIL in respect of other development;

(b) subject to paragraph (3A), be received by the collecting authority before commencement of the chargeable development;

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

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

(e) where more than one person has assumed liability to pay CIL in respect of the chargeable development, clearly identify the part of the development that the claim relates to.

(3) Subject to paragraph (3A), A claim under this regulation 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.

(3A) Paragraphs (2)(b) and (3) do not apply where an exemption for self-build housing has been granted in relation to a chargeable development and the provision of self-build housing or self-build communal development changes after the commencement of that development.

(4) As soon as practicable after receiving a valid claim~~, and subject to regulation 54A(10),~~ the collecting authority must grant the exemption and notify the claimant in writing of the exemption granted (or the amount of relief granted, as the case may be) and provide an explanation of the requirements of regulation 67(1).

(5) A claim for an exemption for self-build housing is valid if it complies with the requirements of paragraph (2).

~~(6) A person who is granted an exemption for self-build housing ceases to be eligible for that exemption if a commencement notice is not submitted to the collecting authority before the day the chargeable development is commenced.~~

Exemption for self-build housing: completion of development

54C.—(1) A person (P) granted an exemption for self-build housing in respect of development (D) must comply with this regulation.

(2) Within six months of the date of the compliance certificate for D, P must submit a form to the collecting authority confirming that D is self-build housing or self-build communal development (as the case may be).

(3) The form referred to in paragraph (2) must—

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

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

(c) be accompanied by the documents specified or referred to in the form.

Commented [S204]: The words "subject to paragraph (3A)," were inserted by 2019 No. 1103

Commented [S205]: The words "Subject to paragraph (3A)," were inserted by 2019 No. 1103

Commented [S206]: Paragraph (3A) was inserted by 2019 No. 1103

Commented [S207]: The words ", and subject to regulation 54A(10)," were deleted by 2020 No. 1470

Commented [S208]: The words "and provide ... regulation 67(1)" were inserted by 2019 No. 1103

Commented [S209]: Paragraph (6) was deleted by 2019 No. 1103

Commented [S210]: Regulation 54B was inserted by 2014 No. 385

Commented [S211]: Regulation 54C was inserted by 2014 No. 385

Withdrawal of the exemption for self-build housing

54D.—(1) This regulation applies if an exemption for self-build housing is granted and a disqualifying event occurs before the end of the clawback period.

(2) For the purposes of this regulation, a disqualifying event is—

(a) any change in relation to the self-build housing or self-build communal development which is the subject of the exemption such that it ceases to be self-build housing or self-build communal development;

(b) a failure to comply with regulation 54C;

(c) the letting out of a whole dwelling or building that is self-build housing or self-build communal development;

(d) the sale of the self-build housing; or

(e) the sale of the self-build communal development.

(3) Subject to paragraphs (5) and (6), where this regulation applies the exemption for self-build housing granted in respect of the self-build housing or self-build qualifying development is withdrawn and the relevant person is liable to pay—

(a) an amount of CIL equal to the amount of CIL that would have been payable on commencement of the development if the exemption had not been granted; ~~or~~

~~(b) where regulation 54A(11) applies, the amount of relief granted.~~

(4) 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.

(5) The collecting authority must notify the relevant person at least 28 days before taking any action in relation to a disqualifying event under paragraph (2)(b), informing them of the date after which they intend to take any such action.

(6) If the relevant person submits to the collecting authority a form which complies with the requirements of regulation 54C(3) before the date mentioned in paragraph (5), the exemption is not withdrawn and the collecting authority may take no further action in relation to that disqualifying event.

(7) As soon as practicable after receiving the notice of the disqualifying event (or the expiry of the period in paragraph (5), as the case may be) the collecting authority must notify the relevant person in writing of the amount of CIL payable under paragraph (3).

(8) In this regulation "relevant person" means the person benefitting from the exemption for self-build housing in respect of the dwelling or communal development which has ceased to qualify for the exemption.

Commented [S212]: The word "or" was deleted by 2020 No. 1470

Commented [S213]: Paragraph (b) was deleted by 2020 No. 1470

Commented [S214]: Regulation 54D was inserted by 2014 No. 385

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[52] 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 or MDC in accordance with regulation 58(3).

Commented [S215]: Deleted by 2014 No. 385

Commented [S216]: Deleted by 2020 No. 1470

Commented [S217]: Deleted by 2020 No. 1470

Commented [S218]: Inserted by 2013 No. 982

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).

(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~~

(c) make the document available for inspection—

(i) at its principal office, and

(ii) at the places at which the document mentioned in paragraph (1) was made available for inspection under paragraph (1)(c)(ii), or, if the charging authority considers that any such places are no longer appropriate, 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).

Commented [S219]: Replaced by 2014 No. 385

[52] 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.

(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 or MDC.

(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).~~

(6) The claimant must—

(a) send a copy of the completed claim form to the owners of the other material interests in the relevant land (if any);

(b) notify those owners that the particulars referred to in paragraph 4(d) are available on request; and

(c) send a copy of those particulars to any owners who ask for them.

(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 and provide an explanation of the requirements of regulation 67(1).

(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

Commented [S220]: Inserted by 2013 No. 982

Commented [S221]: Deleted by 2014 No. 385

Commented [S222]: Replaced by 2014 No. 385

Commented [S223]: Inserted by 2019 No. 1103

(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 or an exemption for self-build housing or residential annexes or extensions 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")~~ or MDC ("the local charging authority") subject to the following modifications.

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

(3) As soon as practicable after receiving a claim for relief, the ~~borough~~ local charging authority 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~~ local charging authority 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

Commented [S224]: Inserted by 2014 No. 385

Commented [S225]: Replaced by 2013 No. 982

Commented [S226]: Replaced by 2013 No. 982

Commented [S227]: Replaced by 2013 No. 982

Commented [S228]: Replaced by 2013 No. 982

CIL charged by the Mayor (or both) would still have an unacceptable impact on the economic viability of the chargeable development.

(4) A ~~borough~~ local charging authority 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~~ local charging authority 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~~ local charging authority 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~~ local charging authority 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~~ local charging authority and the Mayor) and provide an explanation of the requirements of regulation 67(1).

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

(a) the Mayor;

(b) the collecting authority (if it is not the ~~borough~~ local charging authority);

(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~~ local charging authority, and the ~~borough~~ local charging authority must send a copy of that notification to—

(a) the collecting authority (if it is not the ~~borough~~ local 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).

Carry over of relief in relation to certain section 73 permissions

58ZA.—(1)Where—

(a) any relevant relief has been granted in relation to a development (D);

(b) planning permission (B) is later granted under section 73 of TCPA 1990 in respect of that development; and

(c) the amount of the relevant relief calculated in accordance with this Part of the Regulations that the development is eligible for has not changed as a result of B,

anything done in relation to an application for the relevant relief made in relation to D is to be treated as if it was done in relation to the development that B relates to.

(2) In this regulation "relevant relief" means—

(a) an exemption for residential annexes or extensions;

(b) an exemption for self-build housing;

(c) charitable relief;

Commented [S229]: Replaced by 2013 No. 982

Commented [S230]: Replaced by 2013 No. 982

Commented [S231]: Replaced by 2013 No. 982

Commented [S232]: Replaced by 2013 No. 982

Commented [S233]: Replaced by 2013 No. 982

Commented [S234]: Inserted by 2019 No. 1103

Commented [S235]: Replaced by 2013 No. 982

Commented [S236]: Replaced by 2013 No. 982

Commented [S237]: Replaced by 2013 No. 982

Commented [S238]: Replaced by 2013 No. 982

Commented [S239]: Replaced by 2013 No. 982

(d) social housing relief.

Commented [S240]: Regulation 58ZA was inserted by 2019 No. 1103

PART 7

APPLICATION OF CIL

Interpretation of Part 7

58A. In this Part—

~~"acquired land" and "relevant purpose" have the same meaning as in regulation 73 (payment in kind);~~

~~"CIL expenditure" includes—~~

~~(a) the value of any acquired land on which development (within the meaning in TCPA 1990) consistent with a relevant purpose has been commenced or completed, and~~

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

~~"CIL receipts" means—~~

~~(a) for a charging authority—~~

~~(i) CIL collected by that 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; and~~

~~(ii) CIL recovered by that authority in accordance with regulation 59D, but does not include CIL not yet paid to the charging authority by the local council;~~

~~(b) for a local council, CIL passed to it under regulations 59(4), 59A(2) or 59B, but does not include funds not yet paid to the local council by the charging authority in accordance with regulation 59D.~~

"dwelling" has the meaning given in section 3 of the Local Government Finance Act 1992[53];

~~"I_A" means the index figure for the year in which CIL is passed to the local council;~~

~~"index figure" has the same meaning as in regulation 40(7) and (8) regulation 40(6) (calculation of chargeable amount);~~

"local council" means—

(a) in England, a parish council;

(b) in Wales, a community council; and

"neighbourhood development plan" has the same meaning as in section 38A of the Planning and Compulsory Purchase Act 2004[54].

Commented [S241]: The definitions of "acquired land" and "relevant purpose" were deleted by 2019 No. 1103
Note: The above SI stated that the words ""acquired land" ... regulation 73;" should be deleted. This appears to be an error, and presumably applies to the words ""acquired land" ... regulation 73 (payment in kind);".

Commented [S242]: The definition of "CIL expenditure" was deleted by 2019 No. 1103

Commented [S243]: The definition of "CIL receipts" was deleted by 2019 No. 1103

Commented [S244]: The definition of "I_A" was deleted by 2019 No. 1103

Commented [S245]: The words "regulation 40(7) and (8)" were replaced with "regulation 40(6)" by 2014 No. 385.
Note: The above SI stated that this replacement should be made "in regulation 58". This appears to be an error, and presumably applies to this regulation 58A.

Commented [S246]: The definition of "index figure" was deleted by 2019 No. 1103

Commented [S247]: Regulation 58A was inserted by 2013 No. 982

Application to infrastructure

59.— (1) A charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.

Commented [S248]: Inserted by 2012 No. 2975

[53] 1992 c. 14.
[54] 2004 c. 5. Section 38A was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011 (c. 20).

(2) CIL applied by the Mayor to funding infrastructure must be applied to funding the provision, improvement, replacement, operation or maintenance of 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[55].

(3) A charging authority may apply CIL to funding the provision, improvement, replacement, operation or maintenance of 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 the provision, improvement, replacement, operation or maintenance of infrastructure.

(5) This regulation is subject to regulations 59A, 59E, 59F, 60 and 61.

Commented [S249]: Inserted by 2012 No. 2975

Commented [S250]: Inserted by 2012 No. 2975

Commented [S251]: Inserted by 2012 No. 2975

Commented [S252]: Inserted by 2013 No. 982

Duty to pass CIL to local councils

59A.—(1) This regulation applies to that part of a chargeable development within the area of a local council.

(2) Subject to paragraph (12) and regulation 59E(5) a charging authority, other than the Mayor, must pass to every local council within its area a proportion of CIL receipts calculated in accordance with this regulation and regulation 59B.

(3) In England, where all or part of a chargeable development is within an area that has a neighbourhood development plan in place the charging authority must pass 25 per cent of the relevant CIL receipts to the parish council for that area.

(4) In England, where all or part of a chargeable development—

(a) is not in an area that has a neighbourhood development plan in place; and

(b) was granted permission by a neighbourhood development order made under section 61E or 61Q[56] (community right to build orders) of TCPA 1990,

the charging authority must pass 25 per cent of the relevant CIL receipts to the parish council for that area.

(5) In England, where all or part of a chargeable development—

(a) is not in an area that has a neighbourhood development plan in place; and

(b) was not granted planning permission by a neighbourhood development order made under section 61E or 61Q (including a community right to build orders) of TCPA 1990,

then, subject to paragraph (7), the charging authority must pass 15 per cent of the relevant CIL receipts to the parish council for that area.

(6) In Wales, where all or part of a chargeable development is within the area of a community council then, subject to paragraph (7), the charging authority must pass 15 per cent of the relevant CIL receipts to that community council.

~~(7) The total amount of CIL receipts passed to a local council in accordance with paragraph (5) or (6) shall not exceed an amount equal to £100 per dwelling in the area of the local council multiplied by I_A in each financial year.~~

(7) The total amount of CIL receipts passed to a parish council in each financial year, in accordance with paragraph (5), shall not exceed—

Commented [S253]: Paragraph (7) was deleted by 2019 No. 1103

[55] 2008 c. 18.
[56] Sections 61E and 61Q were inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).

$$£100 \times N \times \frac{Iy}{Io}$$

where—

I_Y is the index figure for the calendar year in which the amount is passed to the parish council (as determined in accordance with paragraph 1(5) of Schedule 1);

I_O is the index figure for 2013 (as determined in accordance with paragraph 1(5) of Schedule 1); and

N is the number of dwellings in the area of the parish council.

(8) In paragraphs (3) to (6) the relevant CIL receipts are the proportion of CIL received in relation to a development equal to the proportion of the gross internal area of the development that is relevant development in the relevant area of the local council.

(9) In paragraph (8), the relevant area is—

(a) in relation to paragraph (3), that part of the parish council's area that has a neighbourhood development plan in place;

(b) in relation to paragraphs (4)(a) and (5)(a), that part of the parish council's area that does not have a neighbourhood development plan in place; and

(c) in relation to paragraph (6), the whole of the community council's area.

(10) In paragraph (8), the relevant development is—

(a) in relation to paragraphs (3) or (6), the whole of the development;

(b) in relation to paragraph (4)(b) that part of the development for which permission was granted by a neighbourhood development order made under section 61E or 61Q (community right to build orders) of TCPA 1990; and

(c) in relation to paragraph (5)(b) that part of the development for which permission was not granted by a neighbourhood development order made under section 61E or 61Q (community right to build orders) of TCPA 1990.

(11) In this regulation an area has a neighbourhood development plan in place in relation to a development, or part of a development, if—

(a) a neighbourhood development plan was made by a local planning authority in accordance with section 38A(4) of the Planning and Compulsory Purchase Act 2004 prior to the time at which planning permission first permits that development; and

(b) that neighbourhood development plan is extant in relation to the relevant area on the day when planning permission first permits that development.

(12) Where a local council notifies the charging authority in writing that it does not want to receive some or all of the CIL receipts that this regulation applies to before that CIL is paid to it, the charging authority must retain those CIL receipts.

Application of regulation 59A to land and infrastructure payments

59B.—(1) Regulation 59A applies to land payments accepted by a charging authority in accordance with regulation 73(1) (payment in kind) and infrastructure payments accepted by a charging authority in accordance with regulation 73A(1) (infrastructure payments) as follows.

(2) For the purposes of regulation 59A(8), the CIL received in relation to a development includes the value of CIL that any land or infrastructure payments were accepted in satisfaction of.

(3) Any payments to a local council relating to a land or infrastructure payment must be paid to the

Commented [S254]: Paragraph (7) was inserted by 2019 No. 1103

Commented [S255]: Regulation 59A was inserted by 2013 No. 982

Commented [S256]: The words "and infrastructure" were inserted by 2014 No. 385

Commented [S257]: The words "and infrastructure … (infrastructure payments)" were inserted by 2014 No. 385

Commented [S258]: The words "or infrastructure" were inserted by 2014 No. 385

Commented [S259]: The words "or infrastructure" were inserted by 2014 No. 385

local council in money.

Commented [S260]: Regulation 59B was inserted by 2013 No. 982

Application of CIL by local councils

59C. A local council must use CIL receipts passed to it in accordance with regulation 59A or 59B to support the development of the local council's area, or any part of that area, by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure; or

(b) anything else that is concerned with addressing the demands that development places on an area.

Commented [S261]: Regulation 59C was inserted by 2013 No. 982

Payment periods

59D.—(1) This regulation applies where a charging authority is required to make a payment to a local council under regulation 59A or 59B.

(2) If the charging authority and the local council agree on a timetable for payment, the charging authority must pay the local council in accordance with that timetable.

(3) In all other cases, the charging authority must pay the local council in accordance with the following paragraphs.

(4) The charging authority must make payment in respect of the CIL it receives from 1st April to 30th September in any financial year to the local council by 28th October of that financial year.

(5) The charging authority must make payment in respect of the CIL it receives from 1st October to 31st March in any financial year to the local council by 28th April of the following financial year.

Commented [S262]: Regulation 59D was inserted by 2013 No. 982

Recovery of CIL passed in accordance with regulation 59A or 59B

59E.—(1) This regulation applies to CIL receipts received by a local council in accordance with regulation 59A or 59B that the local council—

(a) has not applied to support the development of its area within 5 years of receipt; or

(b) has applied otherwise than in accordance with regulation 59C.

(2) The charging authority may serve a notice on the local council requiring it to repay some or all of the CIL receipts that this regulation applies to.

(3) A notice under paragraph (2) will be valid if it contains the following information—

(a) the amount of CIL receipts to be repaid;

(b) the reasons for requiring those receipts to be repaid; and

(c) the date by which repayment is to be made which must be no earlier than 28 days from the day the notice is served.

(4) On receipt of a valid notice the local council must send to the charging authority any CIL receipts it has not spent up to the value set out under sub-paragraph (3)(a) within the time set out under sub-paragraph (3)(c).

(5) If the local council is unable to repay the full amount set out under sub-paragraph (3)(a) out of unspent CIL receipts, the charging authority must recover the rest of that amount out of future CIL receipts that it would otherwise have to pass to the local council in accordance with regulation 59A or 59B.

(6) If the charging authority recovers CIL receipts in accordance with paragraph (5) it must serve a notice on the local council when those receipts would otherwise be passed to the local council stating—

(a) the amount of CIL receipts recovered; and

(b) the amount of CIL receipts still to be recovered by the charging authority from the local council.

(7) A charging authority may withdraw a notice served under paragraph (2) at any time and if it does so any unspent CIL receipts recovered under paragraph (4) or (5) in accordance with the withdrawn notice must be returned to the local council.

(8) A charging authority and a local council may at any time vary the terms of a notice served under paragraph (2) by agreement.

(9) Part 9 (enforcement) does not apply in relation to this regulation.

(10) CIL receipts recovered under this regulation must be used by the charging authority to support the development of the area of the local council they are recovered from by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure; or

(b) anything else that is concerned with addressing the demands that development places on an area.

Commented [S263]: Regulation 59E was inserted by 2013 No. 982

Use of CIL in an area to which regulations 59A and 59B do not apply

59F.—(1) This regulation applies where all or part of a chargeable development is in an area in relation to which regulations 59A and 59B do not apply.

(2) This regulation applies to those CIL receipts that would have been passed to a local council under regulations 59A and 59B had that part of the chargeable development been within the area of a local council.

(3) The charging authority may use the CIL to which this regulation applies, or cause it to be used, to support the development of the relevant area by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure; or

(b) anything else that is concerned with addressing the demands that development places on an area.

(4) In paragraph (3), "relevant area" means that part of the charging authority's area that is not with the area of a local council.

Commented [S264]: Regulation 59F was inserted by 2013 No. 982

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) Subject to paragraph (7A), 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 apply CIL to repay that money, and any interest, if the conditions set out in paragraphs (4) and (5) are both met.

Commented [S265]: Inserted by 2019 No. 966

(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.

(7A) Until ~~31st March 2033~~ 31st March 2043, where the Greater London Authority or Transport for London[57] has borrowed money for the purposes of, or in connection with, the provision of the scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008[58], the Mayor may apply CIL to repay that money and any interest.

(8) In this regulation "functional body" means—

(a) Transport for London~~; or~~

~~(b) the London Development Agency~~.

Commented [S266]: The words "31st March 2033" were replaced with "31st March 2043" by 2021 No. 337

Commented [S267]: Paragraph (7A) was inserted by 2019 No. 966

Commented [S268]: Deleted by 2012 No. 666

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;

[57] The Greater London Authority and Transport for London were established by sections 1(1) and 154(1) respectively of the Greater London Authority Act 1999 (c.29).

[58] 2008 c.18.

(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.

(7A) For the purposes of this regulation reference to CIL collected in a year includes the value of infrastructure provided, or to be provided, by virtue of an infrastructure payment accepted in that year.

Commented [S269]: Inserted by 2014 No. 385

(8) In this regulation—

(a) year one begins on the date on which the charging authority's first charging schedule takes effect[59] 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 (within the meaning in TCPA 1990) consistent with a relevant purpose has not commenced on the acquired land; or~~

Commented [S270]: The words "(within the ... TCPA 1990)" were inserted by 2013 No. 982

~~(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.~~

~~(3A) For the purposes of paragraph (1), CIL collected by a charging authority includes infrastructure payments made in respect of CIL charged by that authority, and CIL collected by way of an infrastructure payment has not been spent if at the end of the reported year the infrastructure to be provided has not been provided.~~

Commented [S271]: Paragraph (3A) was inserted by 2014 No. 385

~~(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 (other than in relation to CIL to which regulation 59E or 59F applied) including—~~

Commented [S272]: The words "(other than ... 59F applied)" were inserted by 2013 No. 982

~~(i) the items of infrastructure to which CIL (including land payments) has been~~

[59] See section 214 of the Planning Act 2008 and regulation 28.

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

(ca) the amount of CIL passed to —

(i) any local council under regulation 59A or 59B; and

(ii) any person under regulation 59(4);

(cb) summary details of the receipt and expenditure of CIL to which regulation 59E or 59F applied during the reported year including —

(i) the total CIL receipts that regulations 59E and 59F applied to;

(ii) the items to which the CIL receipts to which regulations 59E and 59F applied have been applied; and

(iii) the amount of expenditure on each item;

(cc) summary details of any notices served in accordance with regulation 59E, including —

(i) the total value of CIL receipts requested from each local council; and

(ii) any funds not yet recovered from each local council at the end of the reported year.

(d) the total amount of CIL receipts retained at the end of the reported year. —

(i) CIL receipts for the reported year retained at the end of the reported year other than those to which regulation 59E or 59F applied;

(ii) CIL receipts from previous years retained at the end of the reported year other than those to which regulation 59E or 59F applied;

(iii) CIL receipts for the reported year to which regulation 59E or 59F applied retained at the end of the reported year; and

(iv) CIL receipts from previous years to which regulation 59E or 59F applied retained at the end of the reported year

(e) in relation to any infrastructure payments accepted by the charging authority —

(i) the items of infrastructure to which the infrastructure payments relate,

(ii) the amount of CIL to which each item of infrastructure relates,

(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);

(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 —

Commented [S273]: The word “and” was deleted by 2013 No. 982

Commented [S274]: Sub-paragraphs (ca), (cb), and (cc) were inserted by 2013 No. 982

Commented [S275]: The words “CIL receipts ... reported year.” were deleted by 2013 No. 982

Commented [S276]: Sub-paragraphs (i) to (iv) were inserted by 2013 No. 982

Commented [S277]: Sub-paragraph (e) was inserted by 2014 No. 385

"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.

Commented [S278]: Paragraph (7) was deleted by 2013 No. 982

Commented [S279]: Regulation 62 was deleted by 2019 No. 1103

Reporting by local councils

62A. (1) A local council must prepare a report for any financial year ("the reported year") in which it receives CIL receipts.

(2) The report must include—

(a) the total CIL receipts for the reported year;

(b) the total CIL expenditure for the reported year;

(c) summary of CIL expenditure during the reported year including—

(i) the items to which CIL has been applied; and

(ii) the amount of CIL expenditure on each item; and

(d) details of any notices received in accordance with regulation 59E, including—

(i) the total value of CIL receipts subject to notices served in accordance with regulation 59E during the reported year;

(ii) the total value of CIL receipts subject to a notice served in accordance with regulation 59E in any year that has not been paid to the relevant charging authority by the end of the reported year.

(e) the total amount of—

(i) CIL receipts for the reported year retained at the end of the reported year; and

(ii) CIL receipts from previous years retained at the end of the reported year.

(3) The local council must—

(a) publish the report—

(i) on its website;

(ii) on the website of the charging authority for the area if the local council does not have a website; or

(iii) within its area as it considers appropriate if neither the local council nor the charging authority have a website, or the charging authority refuses to put the report on its website in accordance with paragraph (ii); and

(b) send a copy of the report to the charging authority from which it received CIL receipts, no later than 31st December following the reported year, unless the report is, or is to be, published on the charging authority's website.

Commented [S280]: Regulation 62A was inserted by 2013 No. 982 and then deleted by 2019 No. 1103

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

Transitional provision: when a MDC becomes the charging authority for an area

63A.—(1) This regulation has effect when a MDC becomes the charging authority for an area.

(2) If, before the MDC becomes the charging authority for an area, a London borough council—

(a) had in place a charging schedule approved under section 213 of PA 2008; and

(b) granted planning permission for a development, or received or issued a notice of chargeable development in relation to a development under regulation 64 or 64A,

that London borough council shall be entitled to receive the CIL for the development to which the planning permission or notice of chargeable development relates.

(3) The London borough council—

(a) shall remain the collecting authority for the CIL it is entitled to receive; and

(b) shall remain the charging authority for the CIL it is entitled to receive.

Commented [S281]: Regulation 63A was inserted by 2013 No. 982

Transitional provision: when a MDC ceases being the charging authority for an area

63B.—(1) This regulation has effect when a MDC ceases to be the charging authority for an area.

(2) If, before the MDC ceases to be the charging authority for an area, it—

(a) had in place a charging schedule approved under section 213 of PA 2008; and

(b) granted planning permission for a development, or received or issued a notice of chargeable development in relation to a development under regulation 64 or 64A,

it shall be entitled to receive the CIL for the development to which the planning permission or notice of chargeable development relates.

(3) Subject to paragraphs (4) to (6), the MDC—

(a) shall remain the collecting authority for the CIL it is entitled to receive; and

(b) shall remain the charging authority for the CIL it is entitled to receive.

(4) Where—

(a) the Mayor has made a transfer scheme under section 216(1) of the Localism Act 2011;

(b) the property transferred under the transfer scheme includes CIL which the MDC is entitled to receive; and

(c) the permitted recipient is a London borough council,

the permitted recipient shall act as the collecting authority for the CIL it is entitled to receive, and

all references in Parts 7 (application of CIL) to 10 (appeals) of these Regulations to "collecting authority" and "charging authority" shall be read as a reference to it.

(5) Where—

(a) the Mayor has made a transfer scheme under section 216(1) of the Localism Act 2011;

(b) the property transferred under the transfer scheme includes CIL which the MDC is entitled to receive; and

(c) the permitted recipient is not a London borough council,

the permitted recipient may agree with a charging authority (C) that C shall be the collecting authority for the CIL which the permitted recipient is entitled to receive, and all references in Parts 8 (administration) to 10 (appeals) of these Regulations to "collecting authority" shall be read as a reference to C.

(6) Where paragraph (5) applies the permitted recipient is a charging authority that (C) is collecting CIL on behalf of for the purposes of regulations 61 (administrative expenses) and 76 (payments to charging authorities).

(7) In this regulation, "permitted recipient" has the meaning given in section 216(4) of the Localism Act 2011.

Commented [S282]: Regulation 63B was inserted by 2013 No. 982

Notice of chargeable development

64.— (1) This regulation applies where planning permission is granted for development by way of a general consent.

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

(a) to which regulation 42 applies; ~~or~~

(aa) in relation to which no CIL is payable because an exemption for residential extensions was granted; or

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

Commented [S283]: The word "or" was deleted by 2014 No. 385

Commented [S284]: Sub-paragraph (aa) was inserted by 2014 No. 385

Commented [S285]: Paragraph (1A) (consisting of sub-paragraphs (a) and (b)) was inserted by 2011 No. 987

(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.~~

Commented [S286]: Paragraph (4) was deleted by 2011 No. 987

(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~~

Commented [S287]: Sub-paragraphs (b) and (c) were deleted by 2014 No. 385

(b) any building that is relevant for the purpose of calculating E or K_R under regulation 40 and Schedule 1;

(d) 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, 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.~~;

Commented [S288]: The words "and Schedule 1" were inserted by 2019 No. 1103

Commented [S289]: Sub-paragraph (b) was inserted by 2014 No. 385

Commented [S290]: Paragraph (4) was inserted by 2011 No. 987

Commented [S291]: Deleted by 2011 No. 987

Commented [S292]: The words ", or on the … is the later" were inserted by 2011 No. 987

Commented [S293]: Paragraph (9) was deleted by 2014 No. 385

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.~~

(ii) in relation to the development—

(aa) the exemption conferred by regulation 42 does not apply; or

(bb) the exemption for residential extensions does not reduce the CIL liability to zero.

Commented [S294]: Sub-paragraph (c)(ii) was replaced by 2014 No. 385

(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.~~

(iii) where the collecting authority has sufficient information to do so, any building that is relevant for the purpose of calculating E or K_R under ~~regulation 40;~~ regulation 40 and Schedule 1.

(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).

Commented [S295]: Sub-paragraphs (c)(iii) and (c)(iv) were deleted by 2014 No. 385

Commented [S296]: The words "regulation 40;" were replaced with "regulation 40 and Schedule 1." by 2019 No. 1103

Commented [S297]: Sub-paragraph (c)(iii) was inserted by 2014 No. 385

Commented [S298]: Regulation 64A was inserted by 2011 No. 987

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;

(da) where the chargeable amount may be paid by way of instalments[60], include a copy of the charging authority's current instalment policy (if any);

(e) state the amount of any exemption for residential annexes or extensions, charitable relief or relief for exceptional circumstances granted in respect of the chargeable development;

(f) where social housing relief or an exemption for self-build housing has been granted in respect of the chargeable development, state—

(i) the particulars of each person benefiting from the relief or exemption, and

(ii) for each of those persons, the amount of relief or exemption from which the person benefits; and

(g) contain the other information specified in the form.

Commented [S299]: Inserted by 2011 No. 987

Commented [S300]: Inserted by 2014 No. 385

Commented [S301]: Inserted by 2014 No. 385

Commented [S302]: Inserted by 2014 No. 385

Commented [S303]: Inserted by 2014 No. 385

(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).~~

(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

[60] See regulation 70.

arrangements which relate to the chargeable development.

(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, or an exemption for residential annexes or self-build housing, has been granted in respect of that chargeable development; and

(b) no disqualifying event occurs before the end of the clawback period (or, if a disqualifying event under regulation 54D(2)(b) has occurred and the collecting authority may take no further action in relation to that event).

(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 phased 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 ~~phased~~ 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, or an exemption for residential annexes or self-building housing, is granted in respect of the chargeable development; and

(b) no disqualifying event occurs before the end of the clawback period (or, if a disqualifying event under regulation 54D(2)(b) has occurred and the collecting authority may take no further action in relation to that event).

(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.

Commented [S304]: Replaced by 2011 No. 987

Commented [S305]: Inserted by 2014 No. 385

Commented [S306]: Inserted by 2014 No. 385

Commented [S307]: Inserted by 2014 No. 385

Commented [S308]: The word "phased" was inserted by 2014 No. 385 and then deleted by 2019 No. 1103
Note: The above SI 2014 No. 385 stated that "in paragraph (12)" the word "phased" should be inserted before "planning permission". As such, this replacement applied to both (12)(b) and (12)(c), but the latter appears to have been an error.

Commented [S309]: Inserted by 2014 No. 385

Commented [S310]: Inserted by 2014 No. 385

(5) For the purposes of the Local Land Charges Act 1975[61], 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.

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

(a) to which regulation 42 applies; ~~or~~

(aa) in relation to which no CIL is payable because an exemption for residential extensions was granted; or

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

(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).

~~(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.~~

(6) Subject to paragraphs (6A) and (6B), 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.

(6A) Paragraph (6B) applies where—

(a) a commencement notice (A) has ceased to have effect under paragraph (6); and

(b) the person who submitted A wishes to implement the planning permission to which A related.

(6B) Where this paragraph applies—

(a) notice must be given in writing to the collecting authority that A is to have effect again before commencing the development to which A relates; and

(b) when the collecting authority receive this notice, A is to have effect and any other commencement notices previously received by the collecting authority in respect of the chargeable development cease to have effect.

Commented [S311]: The word "or" was deleted by 2014 No. 385

Commented [S312]: Sub-paragraph (aa) was inserted by 2014 No. 385

Commented [S313]: Paragraph (1A) was inserted by 2011 No. 987

Commented [S314]: Replaced by 2012 No. 2975

[61] 1975 c. 76.

(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[62], 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.

Commented [S315]: Inserted by 2011 No. 987

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.

[62] See regulation 70.

(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[63], 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,

until a demand notice is issued under paragraph (6) or (7).

(5) Where—

(a) a declaration is made under paragraph (1); and

(b) works which are part of the chargeable development are subsequently commenced on the land in which P has a material interest,

P must notify the collecting authority in writing no later than the day before the day on which the works are commenced that the works are being commenced.

(6) Where a collecting authority —

(a) receives notice under paragraph (5), or

(b) has not received notice under paragraph (5), but is of the view that works which are part of the chargeable development have been commenced on the land,

it must serve a demand notice on P.

(7) Where a collecting authority is of the view that P has agreed, in a contract enforceable under section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, to transfer all or any part of P's material interest in the land to any other person, it must serve a demand notice on that person.

(8) Where a collecting authority serves a demand notice on P under paragraph (6)(b), the charging authority may impose a surcharge equal to 20 per cent of the chargeable amount payable by P or £2500, whichever is the lower amount.

[63] 1989 c. 34.

(9) A demand notice served under paragraph (6) or (7) must comply with the requirements of regulation 69(2).

Commented [S316]: Regulation 69A was inserted by 2011 No. 987

Instalment policies

69B.—(1) A charging authority which wishes to allow persons liable to pay CIL to do so by instalments must publish on its website an instalment policy containing only the information described in paragraph (2) ("the instalment policy").

(2) The instalment policy must state—

(a) the date on which it takes effect, which must be no earlier than the day after the instalment policy is published on the website;

(b) the number of instalment payments;

(c) the amount or proportion of CIL payable in any instalment;

(d) the time (to be calculated from the date the development is commenced) that the first instalment payment is due, and the time that any subsequent instalment payments are due; and

(e) any minimum amount of CIL below which CIL may not be paid by instalment.

(3) The charging authority must—

(a) make the instalment policy available for inspection—

(i) at its principal office, and

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

(b) send a copy of the instalment policy to the collecting authority (if it is not the charging authority).

(4) Subject to paragraph (5), a charging authority may bring into effect a new instalment policy at any time; any new instalment policy must comply with paragraphs (1) to (3).

(5) A new instalment policy may not take effect earlier than the period of 28 days beginning with the date on which the previous instalment policy took effect.

(6) A charging authority which no longer wishes to have an instalment policy must—

(a) publish on its website a notice stating the date on which the instalment policy shall cease to have effect;

(b) make the notice available for inspection—

(i) at its principal office, and

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

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

(7) The date mentioned in paragraph (6)(a) must be no earlier than the period of 28 days beginning with the date on which the instalment policy came into effect.

Commented [S317]: Regulation 69B was inserted by 2011 No. 987

~~**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.~~

~~(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.~~

Commented [S318]: Regulation 70 was deleted by 2011 No. 987

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.

(2) The amount of CIL payable (A) to all charging authorities in respect of D is payable in accordance with the following paragraphs.

(3) Where—

(a) A is charged by both the Mayor of London and a London borough council or MDC; and

(b) the London borough council or MDC has issued an instalment policy on or before the commencement date stated in the commencement notice received under paragraph (1)(b),

A is payable in accordance with that instalment policy.

Commented [S319]: The words "or MDC" were inserted by 2013 No. 982

Commented [S320]: The words "or MDC" were inserted by 2013 No. 982

(4) Where—

(a) A is charged by both the Mayor of London and a London borough council or MDC;

(b) the London borough council or MDC has not issued an instalment policy on or before the commencement date stated in the commencement notice received under paragraph (1)(b); and

(c) the Mayor of London has issued an instalment policy on or before the commencement date stated in the commencement notice received under paragraph (1)(b),

A is payable in accordance with the Mayor's instalment policy.

Commented [S321]: The words "or MDC" were inserted by 2013 No. 982

Commented [S322]: The words "or MDC" were inserted by 2013 No. 982

(5) Where—

(a) A is charged by a London borough council or MDC but not by the Mayor of London; and

(b) the London borough council or MDC has issued an instalment policy on or before the commencement date stated in the commencement notice received under paragraph (1)(b),

A is payable in accordance with that instalment policy.

Commented [S323]: The words "or MDC" were inserted by 2013 No. 982

Commented [S324]: The words "or MDC" were inserted by 2013 No. 982

(5A) Where—

(a) A is charged by the Mayor of London but not by a London borough council or MDC; and

(b) the Mayor has issued an instalment policy on or before the commencement date stated in the commencement notice received under paragraph (1)(b),

A is payable in accordance with that instalment policy.

(6) Where—

(a) A is charged by a charging authority other than the Mayor of London or a London borough council or MDC; and

(b) the charging authority has issued an instalment policy on or before the commencement date stated in the commencement notice received under paragraph (1)(b),

A is payable in accordance with that instalment policy.

(7) In all other cases, A is payable in full at the end of the period of 60 days beginning with the intended commencement date of D.

(8) 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.

(9) Where—

(a) the amount of CIL in respect of a chargeable development which is granted planning permission is payable in accordance with an instalment policy; and

(b) a new planning permission (B) is later granted in relation to the development under section 73 of TCPA 1990,

then the amount of CIL in respect of the development granted by B is payable in accordance with that instalment policy.

Commented [S325]: The words "or MDC" were inserted by 2013 No. 982

Commented [S326]: Paragraph (5A) was inserted by 2012 No. 2975

Commented [S327]: The words "or MDC" were inserted by 2013 No. 982

Commented [S328]: Paragraph (9) was inserted by 2019 No. 1103

Commented [S329]: Regulation 70 was inserted by 2011 No. 987

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[64], 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

[64] See regulation 36(2).

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.

Payment: deferral

72A.—(1) If a person (P)—

(a) has an annual turnover not exceeding £45,000,000,

(b) has been served with a demand notice by a collecting authority under regulation 69,

(c) is required to pay an amount of CIL in respect of a chargeable amount (whether by instalment or otherwise) during the material period, and

(d) is experiencing financial difficulties for reasons connected to the effects of coronavirus resulting in difficulty paying that amount,

P may make a request in writing to the collecting authority to defer payment of that CIL amount ("a deferral request").

(2) A deferral request must be submitted to the collecting authority—

(a) no more than 14 days before, or

(b) on or as soon as practicable after,

the day payment of the CIL amount is due.

(3) The collecting authority must—

(a) consider a deferral request as soon as practicable after it is received, and

(b) subject to paragraph (6), grant or refuse to grant in writing that request as soon as practicable, and in any event before the end of the period of 40 days beginning with the day the authority receives such a request.

(4) The collecting authority may grant a deferral request—

(a) if the authority considers it is appropriate in the circumstances, and

(b) in that case, for no more than six months beginning with the day the authority receives the request in writing.

(5) As soon as practicable after the collecting authority grants a deferral request, that authority must serve a revised demand notice under regulation 69(3) on P, and that notice must state—

(a) the CIL amount payable by P (including any surcharges imposed in respect of, or interest applied to, the amount), and

(b) the day on which payment of the CIL amount is due taking account of any deferral which the collecting authority has granted.

(6) In relation to CIL charged by the Mayor, the collecting authority may only grant a deferral request for that CIL amount under paragraph (3)(b) if the Mayor is of the view that it is appropriate for any CIL payment charged by the Mayor to be deferred under this regulation.

(7) If a collecting authority grants a deferral request under paragraph (3)(b) for a CIL amount, that amount must be paid by P in accordance with the revised demand notice that is required to be served under paragraph (5).

(8) If a collecting authority refuses to grant a deferral request under paragraph (3)(b) for a CIL amount, that amount must be paid by P in accordance with—

(a) the demand notice which was served under regulation 69 and applied to that amount before the deferral request was made, or

(b) a revised demand notice which is not served pursuant to paragraph (5), and which applies to that CIL amount at any time after the deferral request was made.

(9) In this regulation—

(a) the "material period" means the period beginning with the day these Regulations come into force and ending at midnight on 31st July 2021,

(b) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and

(c) the reference in paragraph (1)(d) to "financial difficulties" includes such difficulties which would be likely to have an unacceptable impact on the economic viability of P.

Commented [S330]: Regulation 72A was inserted by 2020 No. 781

Deferral: payment of surcharge and interest

72B.—(1) During the period when a collecting authority is considering a deferral request under regulation 72A(3), made by a person (P) mentioned in paragraph (1) of that regulation—

(a) a surcharge may not be imposed on P under regulation 85 (surcharge for late payment) by that collecting authority, and

(b) P is not required to pay interest on that amount under regulation 87 (late payment interest) and such interest does not accrue on that amount.

(2) If a collecting authority has refused to grant a deferral request under regulation 72A(3)(b) in respect of a CIL amount—

(a) a surcharge for late payment of that amount may not be imposed on the person (P) who made that request, and

(b) P is not required to pay late payment interest on that amount and such interest does not accrue on that amount,

for 7 days beginning with the day on which the deferral request is refused.

(3) If—

(a) late payment interest has accrued on an amount of CIL which is the subject of a deferral request made by P under regulation 72A(1), and

(b) that interest accrued on a day falling within the period beginning with 21st March 2020 and ending with the day before the collecting authority receives that deferral request,

P may request that the collecting authority credits the interest accrued against the CIL amount due under the revised demand notice that is required under regulation 72A(5) ("an interest request").

(4) A collecting authority may grant an interest request if it considers that is appropriate in the circumstances.

(5) In relation to interest which has accrued on CIL charged by the Mayor, the collecting authority

may only grant an interest request under paragraph (4), if the Mayor is of the view that it is appropriate for—

(a) any CIL payment charged by the Mayor to be deferred under regulation 72A, and

(b) any late payment interest which has accrued on CIL charged by the Mayor to be the subject of an interest request.

(6) If a collecting authority refuses to grant an interest request, the interest which is the subject of that request must be paid by P in accordance with regulations 87 and 88.

Commented [S331]: Regulation 72B was inserted by 2020 No. 781

Deferral: information

72C.—(1) A collecting authority may request, in writing, that the person (P) mentioned in regulation 72A(1) and 72B(2) supply it with such relevant information as may be specified by that authority for the purpose of—

(a) carrying out the authority's functions under those regulations, and

(b) assisting the authority to decide any request made by P under those regulations.

(2) P must provide any information that is requested under paragraph (1), in so far as that information is in P's possession or control, within 14 days beginning with the day on which the request in paragraph (1) is made.

(3) A collecting authority may refuse to grant a request made by P under regulation 72A(1) or 72B(2) if P fails to provide that authority with information that is requested under paragraph (1) within the time specified in paragraph (2).

Commented [S332]: Regulation 72C was inserted by 2020 No. 781

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;~~

Commented [S333]: Deleted by 2011 No. 987

(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.

Infrastructure payments

73A.—(1) If a charging authority has made infrastructure payments available in its area it may accept one or more infrastructure payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development.

(2) An infrastructure payment is the provision of one or more items of infrastructure by a person (P) who would be liable to pay CIL in respect of a chargeable development on commencement of that development.

(3) Where CIL is paid by way of an infrastructure payment the amount of CIL paid is an amount equal to the value of the infrastructure provided.

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

(5) A charging authority must aim to ensure that the infrastructure provided through an infrastructure payment will be used to support the development of its area.

(6) A charging authority may accept an infrastructure payment relating to infrastructure to be provided outside its area if it considers that the infrastructure will support the development of its area.

(7) A charging authority may not accept an infrastructure payment unless—

(a) it is satisfied that P—

(i) has, or is likely to have, sufficient control over the land on which the infrastructure is to be constructed to enable P to provide the infrastructure, and

(ii) has provided the charging authority with evidence that P has obtained, or will be likely to be able to obtain, any relevant statutory authorisations that are necessary to enable the infrastructure to be constructed;

(b) it is satisfied that the infrastructure to be provided—

(i) is relevant infrastructure, and

(ii) is not necessary to make the development granted permission by the relevant permission acceptable in planning terms;

(c) the infrastructure will be provided to the charging authority or a person nominated by the charging authority (with that person's agreement);

(d) P has assumed liability to pay CIL in respect of the chargeable development; and

(e) an agreement to provide the infrastructure is entered into before the chargeable development mentioned in paragraph (2) is commenced.

(8) The agreement mentioned in paragraph (7)(e) must—

(a) be in writing;

(b) state the value of the infrastructure;

(c) state the date by which the infrastructure is to be provided and provide for payment to the charging authority of—

(i) the CIL cash amount, and

(ii) interest,

in money if the infrastructure is not provided by that date, or in accordance with an agreed extension to that date; and

(c) must satisfy the requirements of paragraph (9).

(9) The agreement mentioned in paragraph (7)(e) must ensure that by the time the CIL cash amount would be payable if it was being paid in money, an amount equal to the CIL cash amount must either—

(a) have been used to provide the infrastructure; or

(b) be subject to an arrangement so that—

(i) it can only be used by P for the purposes of providing the infrastructure,

(ii) P cannot use that amount as a means of securing additional funding or in any other way that would benefit P,

(iii) any interest or other benefit received in relation to that amount from that date belong to the charging authority,

(iv) any funds subject to the arrangement remaining once the infrastructure has been provided belong to the charging authority, and

(v) if the CIL cash amount becomes payable in money, any funds subject to the arrangement are used for that purpose.

(10) Where the infrastructure is to be provided to a person other than the charging authority, the charging authority may not enter into the agreement mentioned in paragraph (7)(e) unless it is satisfied that that person will use the infrastructure to support the development of the charging authority's area.

(11) For the purposes of this regulation, the value of the infrastructure provided must be determined by an independent person, and is the cost to P of providing that infrastructure (including related design costs) on the day the valuation takes place.

(12) In this regulation—

(a) "the CIL cash amount" means the CIL the infrastructure payment is accepted in satisfaction of;

(b) "independent person" has the same meaning as in regulation 73(14) (payment in kind);

(c) infrastructure is "provided to" a person if it is completed and ownership of it is transferred to that person;

~~(d) "relevant infrastructure" has the same meaning as in regulation 123 (further limitations on the use of planning obligations); and~~

(d) "relevant infrastructure" means—

(i) the infrastructure projects or the types of infrastructure listed by a charging authority on its infrastructure list; and

(ii) in relation to any time before 31st December 2020, where no such list has been published, any infrastructure; and

(e) "relevant permission" means the planning permission which grants permission for the chargeable development mentioned in paragraph (2).

Commented [S334]: Sub-paragraph (d) was replaced by 2019 No. 1103

Commented [S335]: Regulation 73A was inserted by 2014 No. 385

Infrastructure payments: notification requirements

73B.—(1) A charging authority which wishes to allow infrastructure payments in its area must—

(a) issue a document which—

(i) gives notice that it is willing to accept infrastructure payments in its area,

(ii) states the date on which the charging authority will begin accepting infrastructure payments, and

(iii) includes a policy statement setting out the infrastructure projects, or types of infrastructure, which it will consider accepting the provision of as infrastructure payments (this may be done by reference to the charging authority's infrastructure list);

(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 allowing infrastructure payments in its area it must—

(a) issue a document which—

(i) gives notice of the revised policy,

(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—

(i) at its principal office; and

(ii) at the places at which the document mentioned in paragraph (1) was made available for inspection under paragraph (1)(c)(ii), or, if the charging authority considers that such places are no longer appropriate, 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).

(3) A charging authority which no longer wishes to allow infrastructure payments in its area must—

(a) issue a statement giving notice to that effect and stating the last day on which the charging authority will consider entering into an agreement under regulation 73A(7)(e);

(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.

Commented [S336]: Regulation 73B was inserted by 2014 No. 385

Payment in kind and infrastructure payments: further provision

Commented [S337]: Inserted by 2014 No. 385

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 or infrastructure payments.

Commented [S338]: Inserted by 2014 No. 385

(2) References in regulations 36, 69 and 70 to an amount which is payable (however expressed) include references to a land or infrastructure payment which is payable.

Commented [S339]: Inserted by 2014 No. 385

(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.

(3A) An infrastructure payment is deemed to have been received on the day on which the funds to be used to provide that infrastructure have either been used to provide it or are subject to an arrangement made in accordance with regulation 73A(9)(b).

Commented [S340]: Inserted by 2014 No. 385

(4) For the purposes of regulation 70—

(a) an instalment may be paid by way of a land payment, an infrastructure payment or in money, or a combination of the ~~two~~ three; and

Commented [S341]: Inserted by 2014 No. 385

(b) more than one instalment may be paid by way of a given land or infrastructure payment.

Commented [S342]: Replaced by 2014 No. 385

(5) For the purposes of regulation ~~70(6)~~ 70(8), the unpaid balance must be paid in money.

Commented [S343]: Inserted by 2014 No. 385

(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.

Commented [S344]: Replaced by 2011 No. 987

(7) An agreement to make a land or infrastructure payment is void if, and to the extent that, it purports to bind a charging authority to accept a land or infrastructure payment other than in accordance with these Regulations.

Commented [S345]: Inserted by 2014 No. 385

Commented [S346]: Inserted by 2014 No. 385

Abatement: section 73 applications

74A.—(1) This regulation applies where—

(a) CIL has been paid in respect of a chargeable development;

(b) a new planning permission is later granted in relation to that development under section 73 of TCPA 1990; and

(c) the collecting authority has issued a new or revised liability notice in respect of that development because the chargeable amount has changed.

(2) Where this regulation applies a person liable to pay CIL for that chargeable development may request that the charging authority credits the CIL already paid against the amount due under the new or revised liability notice.

(3) To be valid a request under paragraph (2) must be accompanied by proof of the amount of CIL that has already been paid.

(4) The charging authority must grant any valid request made under paragraph (2).

Commented [S347]: The words ": section 73 applications" were inserted by 2014 No. 385

Commented [S348]: Regulation 74A was inserted by 2012 No. 2975

Abatement: implementation of a different planning permission

74B.—(1) This regulation applies where—

(a) a chargeable development has been commenced under a planning permission (A);

(b) a different planning permission (B) has been granted for development on all or part of the land on which the chargeable development under A is authorised to be carried out; and

(c) the charging authority receives notice from a person who has assumed liability to pay CIL in relation to B that the chargeable development under A will cease to be carried out and that the chargeable development under B will commence.

(2) Where this regulation applies a person who has assumed liability to pay CIL in relation to B may request that the charging authority credits any CIL paid in relation to A against the amount due in relation to B.

(3) To be valid a request under paragraph (2) must be—

(a) made before the chargeable development under B is commenced; and

(b) accompanied by proof of the amount of CIL that has already been paid.

(4) Subject to the following paragraphs of this regulation, the charging authority must grant any valid request made under paragraph (2).

(5) This regulation does not apply where B is a planning permission granted under section 73 of TCPA 1990.

(6) Any CIL paid in relation to A can only be credited against the CIL due in relation to B to the extent that the CIL paid in relation to A relates to buildings ("relevant buildings") that—

(a) have not been completed when the request is made; and

(b) are not taken into account in reducing the chargeable amount in relation to B through the operation of regulation 40 and Schedule 1.

(7) Where—

(a) B is a phased planning permission; and

(b) the amount to be credited against the CIL due in relation to B is greater than the amount due in relation to the first phase of B commenced after a request under this regulation has been granted,

Commented [S349]: The words "and Schedule 1" were inserted by 2019 No. 1103

the remainder must be credited against the next phase or phases of B until there is no remainder.

(8) Paragraph (9) applies where—

(a) a request under paragraph (2), which is a valid request, is made in respect of the amount due in relation to B;

(b) a relevant building is completed under A after the valid request is made (whether the completion occurs before or after the chargeable development under B commences); and

(c) a reduced amount of CIL is paid in relation to B as a result of the grant of the request under this regulation.

(9) Where this paragraph applies the person who was granted the abatement under this regulation must pay to the collecting authority an amount equal to the amount of CIL paid in relation to that relevant building which was credited against the amount due in relation to B.

(10) For the purposes of this regulation the amount payable under paragraph (9), if paid, is to be treated as CIL paid in relation to B.

(11) Abatement may be granted more than once in relation to a planning permission.

(12) Paragraph (13) applies where a request under paragraph (2) in respect of the amount due in relation to B is made within the period ending three years after the grant of A and that request is granted.

(13) Where this paragraph applies, any parts of buildings which—

(a) were demolished under A,

(b) were taken into account in reducing the chargeable amount in relation to A through the operation of regulation 40 and Schedule 1,

(c) would have been taken into account under regulation 40 and Schedule 1 in relation to B had they not been demolished, and

(d) are not otherwise taken into account under regulation 40 and Schedule 1,

are to be taken into account under regulation 40 and Schedule 1 in relation to B as if they are parts of in-use buildings that are to be demolished before the completion of the chargeable development under B (or, if B is a phased permission, in relation to the first phase of B).

(14) The difference between the amount paid in relation to A and amount due in relation to B after any abatement has been granted under this regulation is not to be treated as an overpayment for the purposes of regulation 75.

Commented [S350]: The words “and Schedule 1” were inserted by 2019 No. 1103

Commented [S351]: The words “and Schedule 1” were inserted by 2019 No. 1103

Commented [S352]: The words “and Schedule 1” were inserted by 2019 No. 1103

Commented [S353]: The words “and Schedule 1” were inserted by 2019 No. 1103

Commented [S354]: Regulation 74B was inserted by 2014 No. 385

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 or infrastructure payment.

Commented [S355]: Inserted by 2014 No. 385

(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.

(4) Paragraph (3) does not apply where—

(a) the overpayment is as the result of an application made under section 73 of TCPA 1990; and

(b) the chargeable amount was calculated correctly in relation to that application and the chargeable development it was made in relation to.

Commented [S356]: Inserted by 2012 No. 2975

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.~~

(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—

(a) 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; and

(b) any overpayment (including interest) which the collecting authority has repaid under regulation 75.

Commented [S357]: Replaced by 2012 No. 2975

(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); or

(c) the ~~Secretary of State; or~~ Secretary of State.

~~(d) the Infrastructure Planning Commission.~~

Commented [S358]: Inserted by 2012 No. 635

Commented [S359]: Replaced by 2012 No. 635

Commented [S360]: Deleted by 2012 No. 635

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) Subject to paragraph (1A), 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.

Commented [S361]: Inserted by 2019 No. 1103

(1A) Subject to paragraph (1B), where a relevant development is commenced before the collecting authority has received a valid commencement notice in respect of the development, then instead of any surcharge which may be imposed under paragraph (1) the collecting authority must impose a surcharge equal to 20 per cent of the notional chargeable amount or £2,500, whichever is the lower amount.

(1B) A collecting authority is not required to impose a surcharge under paragraph (1A) where it is satisfied that the amount of the surcharge is less than any reasonable administrative costs which it would incur in relation to the surcharge.

Commented [S362]: Inserted by 2019 No. 1103

(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.

(5) In this regulation—

"notional chargeable amount" means the amount of CIL that would have been payable, calculated

in accordance with regulation 40 and Schedule 1, in relation to the development, as if the relief had not been granted;

"relevant development" means a chargeable development in relation to which a person has been granted—

(a) an exemption for residential annexes;

(b) an exemption for self-build housing;

(c) charitable relief; or

(d) social housing relief.

Commented [S363]: Inserted by 2019 No. 1103

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).

(5A) Where the disqualifying event occurs in relation to an exemption for residential annexes, the surcharge is payable by the relevant person within the meaning of regulation 42C(6).

(5B) Where the disqualifying event occurs in relation to an exemption for self-build housing, the surcharge is payable by the relevant person within the meaning of regulation 54D(8).

Commented [S364]: Inserted by 2014 No. 385

(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[65] (computation of time).

(5) In this regulation "relevant amount" means—

[65] 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(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.

(3) A surcharge paid to a collecting authority under this Chapter must be treated—

(a) for the purposes of regulations 59A (payment of CIL to local councils) and 59E (use of CIL in an area to which regulation 59A does not apply), as if it were not CIL; and

(b) for all other purposes of Part 7 as if it were CIL.

Commented [S365]: Deleted by 2013 No. 982

Commented [S366]: Inserted by 2013 No. 982

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.

(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[66].

(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 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

[66] As to the consequences of failure to comply with a CIL stop notice, see regulations 93 and 94.

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~~

on summary conviction, or on conviction on indictment, to a fine.

Commented [S367]: Replaced by 2015 No. 664

(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;

"enforcement agent" has the meaning given in Schedule 12;

Commented [S368]: Inserted by 2019 No. 1103

"liability order" means an order under regulation 97; and

"reminder notice" means a notice served under regulation 96.

"Schedule 12" means Schedule 12 to the Tribunals, Courts and Enforcement Act 2007;

"the Schedule 12 procedure" means the procedure in Schedule 12.

Commented [S369]: Inserted by 2019 No. 1103

(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[67] (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.~~

~~(4) Schedule 3 to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989[68] applies for the purpose of determining the sum referred to in paragraph (3)(b).~~

[67] 1980 c. 43.

[68] 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.

(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[69] (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.

Commented [S370]: Regulation 98 was deleted by 2019 No. 1103

Enforcement by taking control of goods

98. Where a liability order has been made, payment may be enforced by using the Schedule 12 procedure.

Commented [S371]: Regulation 98 was inserted by 2019 No. 1103

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

[69] 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).

~~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.~~

Commented [S372]: Regulation 99 was deleted by 2019 No. 1103

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~~

(b) the authority has sought to enforce payment by use of the Schedule 12 procedure pursuant to regulation 98 and the enforcement agent reports that they were unable (for whatever reason) to find any or sufficient goods of the debtor to enforce payment; and

Commented [S373]: Replaced by 2019 No. 1103

(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~~

(a) the amount outstanding (within the meaning of Schedule 12); and

Commented [S374]: Replaced by 2019 No. 1103

(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~~

(a) the amount outstanding (within the meaning of Schedule 12); 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[70] (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)~~ the amount outstanding (within the meaning of Schedule 12) 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

Commented [S375]: Replaced by 2019 No. 1103

Commented [S376]: Replaced by 2019 No. 1103

[70] S.I. 1981/552; relevant amending instruments are S.I. 2001/610 and S.I. 2005/617.

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) regulation 97(2) must be construed subject to rule 2 of the Justices' Clerks Rules 2005[71] (which authorises certain matters authorised to be done by a justice of the peace to be done by a justices' clerk).~~

(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

Commented [S377]: The words "regulations 97(2) and 99(2)" were replaced with "regulation 97(2)" by 2019 No. 1103

Commented [S378]: Paragraph (3) was deleted by 2020 No. 100

Commented [S379]: Deleted by 2019 No. 1103

[71] S.I. 2005/545.

(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[72] (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).

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[73] or the Land Registration Act 2002[74], an order under paragraph (4) discharging the charging order may direct that the entry be cancelled.

Insolvency

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[72] 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).

[73] 1972 c. 61.

[74] 2002 c. 9.

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[75] (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

(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

[75] 1986 c. 45.

all the same powers and remedies under the Law of Property Act 1925[76] 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.

(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.

Power to require information

108A. A collecting authority may require any owner of a material interest in any relevant land to provide it with such further information, documents or materials as the collecting authority considers relevant to assist it to ascertain whether a notice of chargeable development must be submitted under regulation 64(2).

Commented [S380]: Regulation 108A was inserted by 2011 No. 987

Powers of entry

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

[76] 1925 c. 20.

(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. or

(f) where no notice of chargeable development has been submitted, for the purposes of gathering information required by the collecting authority in order for it to ascertain whether a notice of chargeable development must be submitted under regulation 64(2).

(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).

(3A) A person may not enter the relevant land for the purpose mentioned in paragraph (1)(f) unless the collecting authority has first requested the information referred to in that paragraph in accordance with regulation 108A.

(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 charging authority or a collecting authority in response to a requirement under these Regulations.

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

Commented [S381]: Deleted by 2011 No. 987

Commented [S382]: Inserted by 2011 No. 987

Commented [S383]: Inserted by 2011 No. 987

Commented [S384]: Inserted by 2011 No. 987

Commented [S385]: Inserted by 2011 No. 987

(a) on summary conviction, to ~~a fine not exceeding £20000~~ a fine; or

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

Commented [S386]: Replaced by 2015 No. 664

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~~ 115, 116, 116A or 116B—

(i) a valuation officer appointed under section 61 of the Local Government Finance Act 1988[77], or

(ii) a district valuer within the meaning of section 622 of the Housing Act 1985[78],

(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;

Commented [S387]: Replaced by 2014 No. 385

~~"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);~~

"representations period" means, in any appeal under this Part, 14 days beginning with the date the acknowledgement of receipt is sent under regulation 120(3), or such longer period as the appointed person may in any particular case determine.

Commented [S388]: Replaced by 2011 No. 987

"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~~

[77] 1988 c. 41; section 61 was amended by paragraph 69 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

[78] 1985 c. 68; the definition of "district valuer" in section 622 was substituted by S.I. 1990/434.

~~development, or~~

~~(ii) the relevant person within the meaning of regulation 65(12);~~

(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;

(ii) the relevant person within the meaning of regulation 65(12); or

(iii) a person who has been served with a notice of chargeable development in accordance with regulation 64A(3).

Commented [S389]: Replaced by 2011 No. 987

(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.

(c) in the case of an appeal under regulation 116A, the person is the person who was granted the exemption for residential annexes;

(d) in the case of an appeal under regulation 116B, the person is the person who was granted the exemption for self-build housing.

Commented [S390]: Inserted by 2014 No. 385

(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~~, 116 or 116A, the person is—

Commented [S391]: Replaced by 2014 No. 385

(i) the charging authority,

(ii) the collecting authority (if it is not the charging authority), or

(iii) an interested person (other than the appellant);

(aa) in the case of an appeal under regulation 116B, the person is—

(i) the charging authority,

(ii) the collecting authority (if it is not the charging authority), or

(iii) any person that is jointly liable to pay CIL with the appellant in respect of the chargeable development to which the appeal relates;

Commented [S392]: Inserted by 2014 No. 385

(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) subject to paragraph (9A), once the relevant development has been commenced.

(9A) A review may be requested after the relevant development has been commenced if planning permission was granted in relation to that development after it was commenced

(10) A review under this regulation will lapse if it was requested before the relevant development was commenced and 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.

Commented [S393]: Inserted by 2014 No. 385

Commented [S394]: Inserted by 2014 No. 385

Commented [S395]: Inserted by 2014 No. 385

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~~ Subject to paragraph (3A), a person may not appeal under this regulation if the relevant development has been commenced.

(3A) A person may appeal under this regulation after the relevant development has been commenced if planning permission was granted in relation to that development after it was commenced.

(4) An appeal under this regulation will lapse if it was made before the relevant development was commenced and 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.

Commented [S396]: Replaced by 2014 No. 385

Commented [S397]: Inserted by 2014 No. 385

Commented [S398]: Inserted by 2014 No. 385

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.

Exemption for residential annexes: appeal

116A.—(1) An interested person who is aggrieved at the decision of a collecting authority to grant an exemption for residential annexes may appeal to the appointed person on the ground that the collecting authority has incorrectly determined that the development is not wholly within the curtilage of the main dwelling.

(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 exemption for residential annexes.

(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 exemption for residential annexes granted to the appellant.

(5) In this regulation "main dwelling" has the same meaning as in regulation 42A.

Commented [S399]: Regulation 116A was inserted by 2014 No. 385

Exemption for self-build housing: appeal

116B.—(1) An interested person who is aggrieved at the decision of a collecting authority to grant an exemption for self-build housing may appeal to the appointed person on the ground that the collecting authority has incorrectly determined the value of the exemption 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 exemption for self-build housing.

(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 exemption for self-build housing granted to the appellant.

Commented [S400]: Regulation 116B was inserted by 2014 No. 385

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;~~ The appointed person must have received any comments the appellant and the interested parties have on each other's representations in writing within 14 days of the end of the representations period (or such longer period as the appointed person may in any particular case determine) 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.

Commented [S401]: Replaced by 2014 No. 385

(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 10A

Reporting and monitoring on CIL and planning obligations

Commented [S402]: Part 10A was inserted by 2019 No. 1103

Annual infrastructure funding statements

121A.—(1)Subject to paragraph (2), no later than 31st December in each calendar year a contribution receiving authority must publish a document ("the annual infrastructure funding statement") which comprises the following—

(a) a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies) ("the infrastructure list");

(b) a report about CIL, in relation to the previous financial year ("the reported year"), which includes the matters specified in paragraph 1 of Schedule 2 ("CIL report");

(c) a report about planning obligations, in relation to the reported year, which includes the matters specified in paragraph 3 of Schedule 2 and may include the matters specified in paragraph 4 of that Schedule ("section 106 report").

(2) The first annual infrastructure funding statement must be published by 31st December 2020.

(3) A contribution receiving authority must publish each annual infrastructure funding statement on its website.

(4) Nothing in paragraph (1) requires a contribution receiving authority to include in its annual infrastructure funding statement any information in relation to CIL which it collects on behalf of another charging authority.

(5) In this regulation, "contribution receiving authority" means—

(a) any charging authority which issues a liability notice during the reported year;

(b) any local planning authority (within the meaning in section 1 of the TCPA 1990 as that section has effect subject to sections 2 to 9 of that Act) to which a sum is required to be paid under a planning obligation, entered into during the reported year, or which will receive a non-monetary contribution under the obligation.

Commented [S403]: Regulation 121A was inserted by 2019 No. 1103

Reporting by parish councils

121B.—(1)A parish council must prepare a report for any financial year ("the reported year") in which it receives CIL receipts.

(2) 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 to which CIL has been applied;

(ii) the amount of CIL expenditure on each item;

(d) details of any notices received in accordance with regulation 59E, including—

(i) the total value of CIL receipts subject to notices served in accordance with regulation 59E during the reported year;

(ii) the total value of CIL receipts subject to a notice served in accordance with regulation 59E in any year that has not been paid to the relevant charging authority by the end of the reported year;

(e) the total amount of—

(i) CIL receipts for the reported year retained at the end of the reported year;

(ii) CIL receipts from previous years retained at the end of the reported year.

(3) The parish council must—

(a) publish the report—

(i) on its website;

(ii) on the website of the charging authority for the area if the parish council does not have a website; or

(iii) within its area as it considers appropriate if neither the parish council nor the charging authority have a website, or the charging authority refuses to put the report on its website in accordance with paragraph (ii); and

(b) send a copy of the report to the charging authority from which it received CIL receipts, no later than 31st December following the reported year, unless the report is, or is to be, published on the charging authority's website.

Commented [S404]: Regulation 121B was inserted by 2019 No. 1103

Annual CIL rate summary

121C.—(1)Each calendar year, no earlier than 2nd December and no later than 31st December, a charging authority must publish a statement ("annual CIL rate summary") in relation to the next calendar year (YN).

(2) Each annual CIL rate summary must—

(a) state the name of the charging authority (A) to which it relates;

(b) state the year, YN, to which it relates;

(c) state the date when each charging schedule and revised charging schedule, issued by A, took effect;

(d) specify each of the rates, taken from the charging schedule, at which CIL is chargeable in A's area, together with a description of the development to which the rate applies;

(e) specify, for each rate (R)—

(i) the index figure for the calendar year in which the charging schedule containing rate R took effect (as determined in accordance with paragraph 1(5) of Schedule 1);

(ii) the index figure for the calendar year YN (as determined in accordance with paragraph 1(5) of Schedule 1);

(iii) the indexed rate calculated by applying the following formula—

$$\frac{R \times Iy}{Ic}$$

where—

I_Y is the figure referred to in sub-paragraph (e)(ii);

I_C is the figure referred to in sub-paragraph (e)(i); and

(f) where A's area is in Greater London and the Mayor has a charging schedule in effect which applies in all or part of A's area, include a statement explaining that the Mayor also charges CIL in relation to all or part of the area.

(3) The charging authority must publish each annual CIL rate summary on its website.

Commented [S405]: Regulation 121C was inserted by 2019 No. 1103

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

Commented [S406]: Inserted by 2019 No. 1103

(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.

(2A) Paragraph (2) does not apply in relation to a planning obligation which requires a sum to be paid to a local planning authority in respect of the cost of monitoring (including reporting under these Regulations) in relation to the delivery of planning obligations in the authority's area, provided—

(a) the sum to be paid fairly and reasonably relates in scale and kind to the development; and

(b) the sum to be paid to the authority does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that 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 70,73, 76A or 77 of TCPA 1990[79] 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[80] of an appeal ~~where the application which gives rise to the appeal is not one to which section 73 of TCPA 1990 applies~~.

Commented [S407]: Inserted by 2019 No. 1103

Commented [S408]: Inserted by 2011 No. 987

Commented [S409]: Deleted by 2011 No. 987

Commented [S410]: Deleted by 2011 No. 987

~~**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 (including, subject to paragraph (2B), through requiring a highway agreement to be entered into).~~

~~(2A) Subject to paragraph (2B) a condition falling within either of the following descriptions may not be imposed on the grant of planning permission—~~

~~(a) a condition that requires a highway agreement for the funding or provision of relevant infrastructure to be entered into;~~

~~(b) a condition that prevents or restricts the carrying out of development until a highway agreement for the funding or provision of relevant infrastructure has been entered into.~~

~~(2B) Paragraphs (2) and (2A) do not apply in relation to highway agreements to be entered into with—~~

~~(a) the Minister, for the purposes of section 1(1) of the 1980 Act[81]; or~~

~~(b) Transport for London.; or~~

~~(c) a strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2015[82]~~

~~(3) A planning obligation Other than through requiring a highway agreement to be entered into, a planning obligation ("obligation A") may not constitute a reason for granting planning permission~~

Commented [S411]: The words "(including, ... entered into)" were inserted by 2014 No. 385

Commented [S412]: The word "or" was deleted by 2015 No. 377

Commented [S413]: The words "; or (c) a strategic ... Infrastructure Act 2015" were inserted by 2015 No. 377

Commented [S414]: Paragraphs (2A) and (2B) were inserted by 2014 No. 385

Commented [S415]: The words "A planning obligation" were replaced with "Other than ... a planning obligation" by 2014 No. 385

[79] 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).

[80] 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.

[81] 1980 c.66. In relation to Wales, the functions of the Minister were transferred to the National Assembly for Wales by S.I. 1999/672, and to Welsh Ministers by paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

[82] 2015 c.7.

to the extent that—

(a) obligation A provides for the funding or provision of an infrastructure project or provides for the funding or provision of a 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 or provide for the funding or provision of that type of infrastructure,

have been entered into before the date that obligation A was entered into on or after 6th April 2010.

(4) In this regulation—

"the 1980 Act" means the Highways Act 1980[83];

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

"condition", in relation to a planning permission, has the same meaning as in section 70(1)(a) of TCPA 1990;

"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 70,73, 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;

"highway agreement" means an agreement under section 278 of the 1980 Act[84];

"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—

(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 6th April 2015 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 (other than CIL to which regulation 59E or 59F applies), those infrastructure projects or types of infrastructure, or

(b) where no such list has been published, any infrastructure

(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.

Commented [S416]: The words "provides for ... of a" were inserted by 2014 No. 385

Commented [S417]: The word ", or" was replaced with "or provide ... of that" by 2014 No. 385

Commented [S418]: The words "before the ... entered into" were replaced with "on or ... April 2010" by 2011 No. 987

Commented [S419]: The definition of "the 1980 Act" was inserted by 2014 No. 385

Commented [S420]: The definition of "condition" was inserted by 2014 No. 385

Commented [S421]: The word "73," was inserted by 2011 No. 987

Commented [S422]: The words "which is ... TCPA 1990 applies" were deleted by 2011 No. 987

Commented [S423]: The words "where the ... section 73 applies" were deleted by 2011 No. 987

Commented [S424]: The definition of "highway agreement" was inserted by 2014 No. 385

Commented [S425]: The words "6th April 2014" were replaced with "6th April 2015" by 2014 No. 385

Commented [S426]: The words "(other than ... 59F applies)" were inserted by 2013 No. 982

Commented [S427]: Sub-paragraphs (a) and (b) were deleted by 2014 No. 385

[83] 1980 c. 66.

[84] Section 278 was substituted by section 23 of the New Roads and Street Works Act 1991 (c. 22).

~~(other than CIL to which regulation 59E or 59F applies), those infrastructure projects or those types of infrastructure;~~

~~(b) except where paragraph (c) applies, where no such list has been published, any infrastructure; or~~

~~(c) in relation to any planning obligation requiring a highway agreement to be entered into or condition falling within paragraph (2A), where no such list has been published, no infrastructure.~~

Commented [S428]: Sub-paragraphs (a), (b), and (c) were inserted by 2014 No. 385

Commented [S429]: Regulation 123 was deleted by 2019 No. 1103

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[85] (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[86] (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[87] 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;

(d) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed

[85] 1817 c. 97.
[86] 1863 c. 49.
[87] 1947 c. 44.

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[88] (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

[88] 1972 c. 70.

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.~~

~~(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.~~

(1) Subject to paragraph (2), liability to CIL charged by a charging authority does not arise in respect of development if, on the day planning permission is granted for that development, the authority has no charging schedule in effect.

(2) Where the planning permission referred to in paragraph (1) is granted for development by way of a relevant general consent, liability to CIL charged by a charging authority 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, the charging authority for the area in which the development is situated has no charging schedule in effect.

Commented [S430]: Paragraphs (1) and (2) were replaced by 2019 No. 1103

(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: section 73 of TCPA 1990 applications**~~

~~**128A.** (1)Where all the criteria set out in paragraph (2) are satisfied by a development, paragraphs (3) to (6) shall apply.~~

~~(2) The criteria are—~~

~~(a) on the day planning permission (A) is granted in relation to the development, the development is situated in an area in which a charging authority has no charging schedule in effect;~~

~~(b) a new planning permission (B) is later granted in relation to the development under section 73 of TCPA 1990; and~~

~~(c) on the day B is granted, the development is situated in an area in which that charging authority has a charging schedule in effect.~~

~~(3) Liability to CIL shall arise in respect of the development, and the amount of CIL payable ("chargeable amount") shall be—~~

~~$X = Y$~~

~~where—~~

~~X = the chargeable amount for the development for which B was granted, calculated in accordance with regulation 40; and~~

~~Y = the amount, calculated in accordance with regulation 40, that would have been the chargeable amount for the development for which A was granted, if A first permitted development on the same day as B.~~

~~(4) For the purposes of calculating Y, for regulation 40(4) substitute—~~

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

~~(a) at the time B was granted; and~~

~~(b) in the area in which the development will be situated."~~

~~(4) For the purpose of calculating Y, for the definition of "relevant charging schedules" in regulation 40(11) substitute—~~

~~"relevant charging schedules" means the charging schedules which are in effect—~~

~~(i) at the time B was granted, and~~

~~(ii) in the area in which the development will be situated;"~~

~~(4) For the purposes of calculating Y, regulation 40 applies as if—~~

~~(a) the index figure (I_p) for A were the index figure for the year in which B was granted;~~

~~(b) a reference to a relevant charging schedule were a reference to the charging schedule which was in effect—~~

~~(i) at the time B first permits development; and~~

~~(ii) in the area in which the development will be situated.~~

~~(5) If Y is greater than or equal to X, the chargeable amount is deemed to be zero.~~

~~(6) Part 11 of these Regulations (planning obligations) shall not apply in relation to that development.~~

Commented [S431]: Paragraph (4) was deleted by 2014 No. 385

Commented [S432]: Paragraph (4) was inserted by 2014 No. 385 and deleted by 2018 No. 172

Commented [S433]: Paragraph (4) was inserted by 2018 No. 172

Commented [S434]: Regulation 128A was inserted by 2012 No. 2975 and then deleted by 2019 No. 1103

Transitional provision: article 18(1) of DMPO applications

128B.—(1)In this regulation "DMPO" means the Town and Country Planning (Development Management Procedure) (England) Order 2010[89].

(2) Where all the criteria set out in paragraph (3) are satisfied, paragraph (4) shall apply.

(3) The criteria are—

(a) on the day planning permission (A) is granted in relation to a development, the development is situated in an area in which a charging authority has no charging schedule in place;

(b) a new planning permission (B) is later granted in relation to the development;

(c) B is granted in accordance with regulation 18(1)(b) or (c) of DMPO (consultations before the grant of planning permission pursuant to section 73 or the grant of a replacement planning permission subject to a new time limit); and

(d) on the day B is granted, the development is situated in an area in which that charging authority has a charging schedule in effect.

(4) Other than this regulation these Regulations shall not apply in relation to that development.

Commented [S435]: Regulation 128B was inserted by 2012 No. 2975

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

[89] S.I. 2010/2184.

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

Ian Austin
Parliamentary Under Secretary of State
22nd March 2010 Department for Communities and Local Government

We consent

Bob Blizzard
Tony Cunningham
23rd March 2010 Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1 Regulations 40 and 50

Calculation of chargeable amount etc

PART 1

Standard cases

Chargeable amount: standard cases

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

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

(3) The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

(4) 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 sub-paragraph (6);

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

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

(5) In this paragraph the index figure for a given calendar year is—

(a) in relation to any calendar year before 2020, the figure for 1st November for the preceding calendar year in the national All-in Tender Price Index published from time to time by the Royal Institution of Chartered Surveyors;

(b) in relation to the calendar year 2020 and any subsequent calendar year, the RICS CIL Index published in November of the preceding calendar year by the Royal Institution of Chartered Surveyors;

(c) if the RICS CIL index is not so published, the figure for 1st November for the preceding calendar year in the national All-in Tender Price Index published from time to time by the Royal Institution of Chartered Surveyors;

(d) if the national All-in Tender Price Index is not so published, the figure for 1st November for the preceding calendar year in the retail prices index.

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

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

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 sub-paragraph (7)), 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.

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

$$E_P - \left(G_P - K_{PR}\right)$$

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.

(8) Where the 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.

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

(a) whether part of a building falls within a description in the definitions of K_R and E in sub-paragraph (6); or

(b) the gross internal area of any part of a building falling within such a description,

it may deem the gross internal area of the part in question to be zero.

(10) In this paragraph—

"building" does not include—

(i) a building into which people do not normally go;

(ii) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery; or

(iii) a building for which planning permission was granted for a limited period;

"in-use building" means a building which—

(i) is a relevant building, and

(ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the

chargeable development;

"new build" means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings, and in relation to a chargeable development granted planning permission under section 73 of TCPA 1990 ("the new permission") includes any new buildings and enlargements to existing buildings which were built pursuant to a previous planning permission to which the new permission relates;

"relevant building" means a building which is situated on the relevant land on the day planning permission first permits the chargeable development;

"relevant charging schedules" means the charging schedules which are in effect—

(i) at the time planning permission first permits the chargeable development, and

(ii) in the area in which the chargeable development will be situated;

"retained part" means part of a building which will be—

(i) on the relevant land on completion of the chargeable development (excluding new build),

(ii) part of the chargeable development on completion, and

(iii) chargeable at rate R.

Chargeable amount: outline permissions where first permits date is after new charging schedule

2.— (1) Where the criteria in sub-paragraph (2) are satisfied by a chargeable development, paragraph 1 applies (with the modifications in sub-paragraph (3)) for determining the chargeable amount in respect of the chargeable development.

(2) The criteria are—

(a) on the day an outline planning permission (A) is granted in relation to the development, the development is situated in an area for which the charging authority has a charging schedule in effect;

(b) a new or revised charging schedule is later brought into effect before the day on which A first permits development.

(3) For the purposes of calculating the chargeable amount of the chargeable development, paragraph 1 applies as if—

(a) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect at the time A was granted; and

(b) I_C were the index figure for the calendar year in which that charging schedule took effect.

PART 2

'Amended' planning permissions

Chargeable amount etc: 'amended' planning permissions

3.— (1) Where a planning permission (B) for a chargeable development, which is granted under section 73 of TCPA 1990, changes a condition subject to which a previous planning permission (A) for a chargeable development was granted, then—

(a) where the notional amount for B is the same as the notional amount for A, the chargeable amount for the development for which B was granted is the chargeable amount shown in the most recent liability notice or revised liability notice issued in relation to the

development for which A was granted;

(b) where the notional amount for B is larger than the notional amount for A, paragraph 4 applies; and

(c) where the notional amount for B is smaller than the notional amount for A, paragraph 5 applies.

(2) The notional amount for A is the amount of CIL that would be payable in relation to the development for which A was granted, calculated in accordance with paragraph 1, minus any applicable relief for the development for which A was granted.

(3) The notional amount for B is the amount of CIL that would be payable in relation to the development for which B was granted, calculated in accordance with paragraph 1 (as modified by sub-paragraph (4)), minus any applicable relief for the development for which B was granted (as modified by sub-paragraph (5)).

(4) For the purposes of calculating the notional amount for B, paragraph 1 applies as if—

(a) B first permits development on the same day as A;

(b) I_P for B were the index figure for the calendar year in which A was granted;

(c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—

(i) at the time A first permits development; and

(ii) in the area in which the development will be situated.

(5) For the purposes of calculating the applicable relief for the development for which B was granted—

(a) regulation 50 and paragraph 6 apply with the modifications set out in paragraphs (a) to (c) of sub-paragraph (4);

(b) for the purposes of calculating a withdrawn amount under regulation 53(4), regulation 53(5) applies as if for "in accordance with regulation 50 and paragraph 6 of Schedule 1" there were substituted "in accordance with regulation 50 and paragraph 6 of Schedule 1 as modified by paragraph 3(5)(a) of that Schedule".

(6) Where A is an outline planning permission and the notional amount for B is calculated under this paragraph before A first permits development then paragraph 1 (as modified by sub-paragraph (7)) applies for determining the chargeable amount for the chargeable development for which B was granted.

(7) For the purposes referred to in sub-paragraph (6), paragraph 1 applies as if–

(a) B first permits development on the day A was granted;

(b) I_P for B were the index figure for the calendar year A was granted;

(c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—

(i) at the time A was granted;

(ii) in the area in which the development will be situated.

(8) Where sub-paragraph (6) applies in relation to a development and after B was granted—

(a) a new planning permission (C) is granted under section 73 of TCPA 1990 in relation to the development, and

(b) C changes a condition subject to which A was granted,

then when calculating the notional amount for C, this paragraph applies as if references to A were

references to B, and references to B (except in this sub-paragraph and sub-paragraph (6)) were references to C.

(9) Where sub-paragraph (6) does not apply and after B was granted, a new planning permission is granted in relation to the development under section 73 of TCPA 1990, this paragraph (except sub-paragraphs (6) to (8)) applies as if any reference to B were a reference to the new planning permission.

(10) In this paragraph, "applicable relief" means—

(a) in relation to A, any relief which, at the time the development for which A is granted is commenced or the time any calculation under this paragraph is carried out (whichever is earlier),

(b) in relation to B, any relief (including any relief carried over under regulation 58ZA) which, at the time any calculation under this paragraph is carried out,

has been granted in relation to the development by the collecting authority in accordance with Part 6 of these Regulations (as modified by this paragraph) and not withdrawn.

(11) This paragraph does not apply in relation to a development to which paragraph 7 or 8 applies.

Amount of CIL payable: section 73 permissions which increase liability

4.— (1) Where paragraph (b) of paragraph 3(1) applies in relation to a chargeable development, this paragraph applies for determining the amount of CIL payable in respect of the development.

(2) The amount of CIL payable in respect of the development shall be the chargeable amount for the development minus the relief amount where—

(a) the chargeable amount for the development is—

$$(X - Y) + Z$$

(b) the relief amount is—

$$(Rx - Ry) + Rz$$

and—

X = the chargeable amount for the development for which B was granted calculated in accordance with paragraph 1;

Rx = the amount of any applicable relief in relation to the development for which B was granted under Part 6 of these Regulations;

Y = the chargeable amount for the development for which A was granted calculated in accordance with paragraph 1 (as modified by sub-paragraph (3));

Ry = the amount of any applicable relief in relation to the development for which A was granted under Part 6 of these Regulations (as modified by sub-paragraph (4));

Z = the chargeable amount for the development for which A was granted calculated in accordance with paragraph 1 (as shown in the most recent CIL notice issued in relation to A);

Rz = the amount of any applicable relief in relation to the development for which A was granted under Part 6 of these Regulations.

(3) For the purposes of calculating Y, paragraph 1 applies as if—

(a) A first permits development on the same day as B;

(b) I_P for A were the index figure for the calendar year in which B was granted;

(c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—

(i) at the time B first permits development; and

(ii) in the area in which the development will be situated.

(4) For the purposes of calculating Ry—

(a) regulation 50 and paragraph 6 apply with the modifications set out in paragraphs (a) to (c) of sub-paragraph (3);

(b) for the purposes of calculating a withdrawn amount under regulation 53(4), regulation 53(5) applies as if for "in accordance with regulation 50 and paragraph 6 of Schedule 1" there were substituted "in accordance with regulation 50 and paragraph 6 of Schedule 1 as modified by paragraph 4(4)(a) of that Schedule".

(5) In this paragraph—

"A" and "B" have the same meaning as in paragraph 3;

"applicable relief" means—

(a) in relation to A, any relief[90] which, at the time the development for which A is granted is commenced or the time any calculation under this paragraph is carried out (whichever is earlier),

(b) in relation to B, any relief (including any relief carried over under regulation 58ZA) which, at the time any calculation under this paragraph is carried out,

has been granted in relation to the development by the collecting authority in accordance with Part 6 of these Regulations (as modified by this paragraph) and not withdrawn;

"CIL notice" means a liability notice or revised liability notice.

(6) This paragraph does not apply in relation to a development to which paragraph 7 or 8 applies.

Amount of CIL payable: section 73 permissions which reduce liability

5.— (1) Where sub-paragraph (c) of paragraph 3(1) applies in relation to a chargeable development, this paragraph applies for determining the amount of CIL payable in respect of the development.

(2) The amount of CIL payable in respect of the development shall be the chargeable amount for the development minus the relief amount where—

(a) the chargeable amount for the development is—

$$(X - Y) + Z$$

(b) the relief amount is—

$$(Rx - Ry) + Rz$$

and—

X = the chargeable amount for the development for which B was granted, calculated in accordance with paragraph 1 (as modified by sub-paragraph (3));

Rx = the amount of any applicable relief in relation to the development for which B was granted under Part 6 of these Regulations (as modified by sub-paragraph (4));

Y = the chargeable amount for the development for which A was granted, calculated in

[90] See regulation 2 for the definition of "relief".

accordance with paragraph 1 (as modified by sub-paragraph (5));

Ry = the amount of any applicable relief in relation to the development for which A was granted under Part 6 of these Regulations (as modified by sub-paragraph (6));

Z = the chargeable amount for the development for which A was granted calculated in accordance with paragraph 1 (as shown in the most recent CIL notice in relation to A);

Rz = the amount of any applicable relief in relation to the development for which A was granted under Part 6 of these Regulations.

(3) For the purposes of calculating X, paragraph 1 applies as if—

(a) B first permits development on the same day as the first planning permission (O);

(b) I_P for B were the index figure for the calendar year in which O was granted;

(c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—

(i) at the time O first permits development; and

(ii) in the area in which the development will be situated.

(4) For the purposes of calculating Rx—

(a) regulation 50 and paragraph 6 apply with the modifications set out in paragraphs (a) to (c) of sub-paragraph (3);

(b) for the purposes of calculating a withdrawn amount under regulation 53(4), regulation 53(5) applies as if for "in accordance with regulation 50 and paragraph 6 of Schedule 1" there were substituted "in accordance with regulation 50 and paragraph 6 of Schedule 1 as modified by paragraph 5(4)(a) of that Schedule".

(5) For the purposes of calculating Y, paragraph 1 applies as if—

(a) A first permits development on the same day as the first planning permission (O);

(b) I_P for A were the index figure for the calendar year in which O was granted;

(c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—

(i) at the time O first permits development; and

(ii) in the area in which the development will be situated.

(6) For the purposes of calculating Ry—

(a) regulation 50 and paragraph 6 apply with the modifications set out in paragraphs (a) to (c) of sub-paragraph (5);

(b) for the purposes of calculating a withdrawn amount under regulation 53(4), regulation 53(5) applies as if for "in accordance with regulation 50 and paragraph 6 of Schedule 1" there were substituted "in accordance with regulation 50 and paragraph 6 of Schedule 1 as modified by paragraph 5(6)(a) of that Schedule".

(7) In this paragraph—

"A" and "B" have the same meaning as in paragraph 3;

"applicable relief" means—

(a) in relation to A, any relief[91] which, at the time the development for which A is granted is commenced or the time any calculation under this paragraph is carried out (whichever is

[91] See regulation 2 for the definition of "relief".

earlier),

(b) in relation to B, any relief (including any relief carried over under regulation 58ZA) which, at the time any calculation under this paragraph is carried out,

has been granted in relation to the development by the collecting authority in accordance with Part 6 of these Regulations (as modified by this paragraph) and not withdrawn;

"CIL notice" means a liability notice or revised liability notice;

"first planning permission" means the first planning permission granted in relation to the development ignoring any planning permission granted under section 73 of TCPA 1990.

(8) This paragraph does not apply in relation to a development to which paragraph 7 or 8 applies.

PART 3

Calculation of social housing relief

Social housing relief: calculating qualifying amount

6.— (1) The qualifying amount, for the purpose of regulation 50, is an amount equal to the aggregate of the qualifying amounts at each of the relevant rates.

(2) The relevant rates are the rates, taken from the relevant charging schedules, at which, but for social housing relief, CIL would be chargeable in respect of the part of the chargeable development which will comprise—

(a) qualifying dwellings; or

(b) qualifying communal development.

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

$$\frac{R \times A \times Ip}{Ic}$$

where—

A = the deemed net area chargeable at rate R;

I_P and I_C have the same meaning as in paragraph 1.

(4) Paragraphs 1(6) to (9) apply for the purpose of calculating A with the following modifications—

(a) for G_R substitute Q_R, and

(b) for K_R substitute K_{QR},

where—

Q_R = the gross internal area of the part of the chargeable development which will comprise the qualifying dwellings or qualifying communal development, and in respect of which, but for social housing relief, CIL would be chargeable at rate R; and
K_{QR} = the aggregate of the gross internal areas of the following—

(i) relevant retained parts of the in-use buildings; and

(ii) for other relevant buildings, relevant 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.

(5) In this paragraph—

(a) a reference to part of a chargeable development which will comprise qualifying dwellings includes a reference to part of a chargeable development which comprises qualifying dwellings;

(b) "relevant retained part" means part of a building which will be—

(i) on the relevant land on completion of the chargeable development (excluding new build),

(ii) part of the chargeable development on completion, and

(iii) chargeable at rate R but for social housing relief;

(c) "building", "in-use building", "new build", "relevant building" and "relevant charging schedules" have the same meaning as in paragraph 1.

PART 4

Pre-CIL permissions 'amended' when CIL is in effect

Amount of CIL payable: pre-CIL permissions 'amended' when CIL is in effect

7.— (1) Where all the criteria set out in sub-paragraph (2) are satisfied by a chargeable development which is granted planning permission (B) under section 73 of TCPA 1990, this paragraph applies for determining the amount of CIL payable in respect of the development.

(2) The criteria are—

(a) a pre-CIL permission is granted in relation to the development;

(b) B is later granted in relation to the development and B is an in-CIL permission; and

(c) B changes a condition subject to which a previous planning permission (P) in relation to the development was granted.

(3) Where P is a pre-CIL permission, the amount of CIL payable in respect of the development granted by B shall be the chargeable amount for the development minus the relief amount where—

(a) the chargeable amount for the development is—

$$(X - Y)$$

(b) the relief amount is—

$$(Rx - NRy)$$

and—

X = the chargeable amount for the development for which B was granted, calculated in accordance with paragraph 1;

Rx = the amount of any applicable relief in relation to the development for which B was granted under Part 6 of these Regulations;

Y = the amount that would have been the chargeable amount for the development for

which P was granted, calculated in accordance with paragraph 1 (as modified by sub-paragraph (4));

NRy= the amount of any notional relief in relation to the development for which P was granted, determined in accordance with sub-paragraph (5).

(4) For the purposes of calculating Y, paragraph 1 applies as if—

(a) P first permitted development on the same day as B;

(b) I_P for P were the index figure for the calendar year in which B was granted;

(c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—

(i) at the time B first permits development; and

(ii) in the area in which the development will be situated.

(5) Notional relief is the amount of any one or more types of relief from liability to pay CIL which the charging authority determines, having regard to—

(a) all the circumstances of the development for which P was granted;

(b) the requirements of Part 6 of these Regulations (as modified by sub-paragraph (6)),

should be applied in relation to the development for which P was granted.

(6) For the purpose of determining any notional relief—

(a) the requirements of Part 6 of these Regulations apply as if—

(i) in relation to social housing relief, regulation 50 and paragraph 6 apply with the modifications set out paragraphs (a) to (c) of sub-paragraph (4);

(ii) the withdrawal provisions did not apply;

(b) except for social housing relief, a charging authority may not apply a notional relief for P where the type of relief the authority is considering applying is not applied in relation to B.

(7) Where P is an in-CIL permission, the amount of CIL payable in respect of the chargeable development granted by B shall be calculated in accordance with sub-paragraphs (3) to (6) as if any reference to P in those provisions were a reference to the most recently granted pre-CIL permission (ignoring any planning permissions where none of the conditions of that permission are of a type changed by B).

(8) If the amount calculated under sub-paragraph (3) is negative then the amount of CIL payable is deemed to be zero.

(9) Subject to sub-paragraph (12), where after B was granted a new planning permission is granted in relation to the development under section 73 of TCPA 1990, this paragraph applies as if any reference to B were a reference to the new planning permission.

(10) Where P is a pre-CIL permission, which is an outline planning permission, and the amount of CIL payable in respect of B is calculated under this paragraph before P first permits development then—

(a) if the charging authority is satisfied it has sufficient information to calculate Y, that figure is the amount so calculated;

(b) if the charging authority is satisfied it does not have sufficient information to calculate Y, the amount of CIL payable in respect of B is deemed to be zero.

(11) Sub-paragraph (10)(b) applies only once in relation to a development.

(12) Where sub-paragraph (10) applies in relation to B and after B was granted—

(a) a new planning permission (C) is granted in relation to the development under section 73 of TCPA 1990; and

(b) C changes a condition subject to which the P referred to in sub-paragraph (10) was granted,

then when calculating the chargeable amount in relation to C, sub-paragraphs (3) to (6) apply as if any reference to B were a reference to that P.

(13) In this paragraph—

"applicable relief" means any relief[92] (including any relief carried over under regulation 58ZA) which, at the time any calculation under this paragraph is carried out, has been granted in relation to the development by the collecting authority in accordance with Part 6 of these Regulations (as modified by this paragraph) and not withdrawn;

"in-CIL permission" means a planning permission granted in relation to a development where on the date the permission is granted the development is situated in an area for which the charging authority has a charging schedule in effect;

"pre-CIL permission" means a planning permission granted in relation to a development where on the date the permission is granted the development is situated in an area for which the charging authority has no charging schedule in effect;

"withdrawal provisions" means—

(a) regulation 42C (withdrawal of the exemption for residential annexes);

(b) regulation 48 (withdrawal of charitable relief);

(c) regulation 53 (withdrawal of social housing relief);

(d) regulation 54D (withdrawal of the exemption for self-build housing); and

(e) regulation 67(5) (acknowledgment to specify date clawback period ends).

(14) Part 11 of these Regulations (planning obligations) shall not apply in relation to the development referred to in sub-paragraph (1).

Transitional cases: pre-CIL phased permissions 'amended' when CIL is in effect

8.— (1) Where all the criteria set out in sub-paragraph (2) are satisfied by a chargeable development which is granted planning permission (B) under section 73 of TCPA 1990, paragraph 7 applies for determining the chargeable amount with the modifications set out in sub-paragraph (3).

(2) The criteria are—

(a) a pre-CIL phased permission is granted in relation to the development;

(b) B is later granted in relation to the development and B is an in-CIL phased permission; and

(c) B changes a condition subject to which a previous phased planning permission (PP) in relation to the development was granted.

(3) The modifications referred to in sub-paragraph (1) are that paragraph 7 applies as if—

(a) any reference to the development were a reference to the phase of the development;

(b) any reference to P were a reference to PP; and

(c) after sub-paragraph (8) there were inserted—

[92] See regulation 2 for the definition of "relief".

"(8A) If the amount calculated under sub-paragraph (3) is negative, a phase credit is created from that phase ("the donating phase") equal to the difference.

(8B) Where—

(a) development under B, in relation to the donating phase, has commenced, and

(b) a developer has applied to the collecting authority on a form published by the Secretary of State (or a form to substantially the same effect),

all or part of a phase credit is applied to reduce the amount of CIL due (and not already paid) in respect of another phase ("the receiving phase").

(8C) Subject to sub-paragraph (8D), a phase credit (or the part of a phase credit) which has been applied in one receiving phase may not be used in any other phase.

(8D) Where after a phase credit has been applied to a receiving phase an amended phased planning permission is granted and the effect of that permission (before the application of the phase credit to the amended receiving phase) is such that there is no amount of CIL payable, then the phase credit may, at the discretion of the developer (and provided the developer makes a new valid application under sub-paragraph (8B)), be applied in relation to another receiving phase.

(8E) In sub-paragraphs (8A) to (8D)—

"amended phased planning permission" means a phased planning permission granted under section 73 of TCPA 1990 in relation to the development which is or forms part of a receiving phase;

"developer" means a person who—

(a) has assumed liability to pay CIL in respect of both the donating phase and the receiving phase; or

(b) has assumed liability to pay CIL in respect of only the receiving phase and has the written agreement, for the phase credit to be applied to the receiving phase, from the person who has assumed liability to pay CIL in respect of the donating phase.".

PART 5

Pre-CIL permissions 'amended' when CIL in effect: appeal

Pre-CIL permissions 'amended' when CIL in effect: appeal in relation to notional relief

9.— (1) An interested person who is aggrieved at the decision of a collecting authority to grant a notional relief under paragraph 7(5), may appeal to the appointed person on the ground that the collecting authority has incorrectly determined the value of the notional relief allowed.

(2) An appeal under this paragraph must be made before the end of the period of 60 days beginning with the day on which the liability notice stating the chargeable amount calculated under paragraph 7 (and the amount of notional relief) was issued.

(3) Where an appeal under this paragraph is allowed the appointed person may amend the amount of any notional relief granted to the appellant.

(4) Regulations 120 (appeal procedure) and 121 (costs) shall apply to an appeal under this paragraph as if—

(a) any reference to an interested party were a reference to—

(i) the charging authority, or

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

(b) any reference to the representations period were a reference to 14 days beginning with the date the acknowledgement of receipt is sent under regulation 120(3), or such longer period as the appointed person may in any particular case determine.

(5) In this paragraph—

"appointed person" means—

(a) a valuation officer appointed under section 61 of the Local Government Finance Act 1988[93], or

(b) a district valuer within the meaning of section 622 of the Housing Act 1985[94]; and

"interested person" means the person who was granted the notional relief.

Commented [S436]: Schedule 1 (consisting of Parts 1-5, and paragraphs 1-9) was inserted by 2019 No. 1103

[93] 1988 c. 41; section 61 was amended by paragraph 69 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

[94] 1985 c. 68; the definition of "district valuer" in section 622 was substituted by S.I. 1990/434.

SCHEDULE 2 Regulation 121A

Matters to be included in the annual infrastructure funding statement

1. The matters to be included in the CIL report are—

(a) the total value of CIL set out in all demand notices issued in the reported year;

(b) the total amount of CIL receipts for the reported year;

(c) the total amount of CIL receipts, collected by the authority, or by another person on its behalf, before the reported year but which have not been allocated;

(d) the total amount of CIL receipts, collected by the authority, or by another person on its behalf, before the reported year and which have been allocated in the reported year;

(e) the total amount of CIL expenditure for the reported year;

(f) the total amount of CIL receipts, whenever collected, which were allocated but not spent during the reported year;

(g) in relation to CIL expenditure for the reported year, summary details of—

(i) the items of infrastructure on which CIL (including land payments) has been spent, and the amount of CIL spent on each item;

(ii) the amount of CIL spent on repaying money borrowed, including any interest, with details of the items of infrastructure which that money was used to provide (wholly or in part);

(iii) the amount of CIL spent on administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation;

(h) in relation to CIL receipts, whenever collected, which were allocated but not spent during the reported year, summary details of the items of infrastructure on which CIL (including land payments) has been allocated, and the amount of CIL allocated to each item;

(i) the amount of CIL passed to—

(i) any parish council under regulation 59A or 59B; and

(ii) any person under regulation 59(4);

(j) summary details of the receipt and expenditure of CIL to which regulation 59E or 59F applied during the reported year including—

(i) the total CIL receipts that regulations 59E and 59F applied to;

(ii) the items of infrastructure to which the CIL receipts to which regulations 59E and 59F applied have been allocated or spent, and the amount of expenditure allocated or spent on each item;

(k) summary details of any notices served in accordance with regulation 59E, including—

(i) the total value of CIL receipts requested from each parish council;

(ii) any funds not yet recovered from each parish council at the end of the reported year;

(l) the total amount of—

(i) CIL receipts for the reported year retained at the end of the reported year other than those to which regulation 59E or 59F applied;

(ii) CIL receipts from previous years retained at the end of the reported year other than those to which regulation 59E or 59F applied;

(iii) CIL receipts for the reported year to which regulation 59E or 59F applied retained at the end of the reported year;

(iv) CIL receipts from previous years to which regulation 59E or 59F applied retained at the end of the reported year.

2. For the purposes of paragraph 1—

(a) CIL collected by an authority includes land payments made in respect of CIL charged by that authority;

(b) CIL collected by way of a land payment has not been spent if at the end of the reported year—

(i) development (within the meaning in TCPA 1990) consistent with a relevant purpose has not commenced on the acquired land; or

(ii) 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;

(c) CIL collected by an authority includes infrastructure payments made in respect of CIL charged by that authority;

(d) CIL collected by way of an infrastructure payment has not been spent if at the end of the reported year the infrastructure to be provided has not been provided;

(e) 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);

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

(g) the value of an infrastructure payment is the CIL cash amount stated in the agreement made with the charging authority in respect of the infrastructure in accordance with regulation 73A(7)(e).

3. The matters to be included in the section 106 report for each reported year are—

(a) the total amount of money to be provided under any planning obligations which were entered into during the reported year;

(b) the total amount of money under any planning obligations which was received during the reported year;

(c) the total amount of money under any planning obligations which was received before the reported year which has not been allocated by the authority;

(d) summary details of any non-monetary contributions to be provided under planning obligations which were entered into during the reported year, including details of—

(i) in relation to affordable housing, the total number of units which will be provided;

(ii) in relation to educational facilities, the number of school places for pupils which will be provided, and the category of school at which they will be provided;

(e) the total amount of money (received under any planning obligations) which was allocated

but not spent during the reported year for funding infrastructure;

(f) the total amount of money (received under any planning obligations) which was spent by the authority (including transferring it to another person to spend);

(g) in relation to money (received under planning obligations) which was allocated by the authority but not spent during the reported year, summary details of the items of infrastructure on which the money has been allocated, and the amount of money allocated to each item;

(h) in relation to money (received under planning obligations) which was spent by the authority during the reported year (including transferring it to another person to spend), summary details of—

(i) the items of infrastructure on which that money (received under planning obligations) was spent, and the amount spent on each item;

(ii) the amount of money (received under planning obligations) spent on repaying money borrowed, including any interest, with details of the items of infrastructure which that money was used to provide (wholly or in part);

(iii) the amount of money (received under planning obligations) spent in respect of monitoring (including reporting under regulation 121A) in relation to the delivery of planning obligations;

(i) the total amount of money (received under any planning obligations) during any year which was retained at the end of the reported year, and where any of the retained money has been allocated for the purposes of longer term maintenance ("commuted sums"), also identify separately the total amount of commuted sums held.

4. The matters which may be included in the section 106 report for each reported year are—

(a) summary details of any funding or provision of infrastructure which is to be provided through a highway agreement under section 278 of the Highways Act 1980 which was entered into during the reported year,

(b) summary details of any funding or provision of infrastructure under a highway agreement which was provided during the reported year.

5. For the purposes of paragraph 3—

(a) where the amount of money to be provided under any planning obligations is not known, an authority must provide an estimate;

(b) a non-monetary contribution includes any land or item of infrastructure provided pursuant to a planning obligation;

(c) where the amount of money spent in respect of monitoring in relation to delivery of planning obligations is not known, an authority must provide an estimate.

Commented [S437]: Schedule 2 (consisting of paragraphs 1-5) was inserted by 2019 No. 1103

Above is the end of the legislation.