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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**The Community Infrastructure Levy Regulations 2010**

**PART 9**

**ENFORCEMENT**

**CHAPTER 1**

**SURCHARGES AND INTEREST**

**Surcharge for failure to assume liability**

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

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

**Surcharge: apportionment of liability**

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

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

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

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

**82.**—(1) Where—

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

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

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

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

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

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

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

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

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

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

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

### **Surcharge: disqualifying events**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Surcharge for late payment**

**85.**—(1) Where—

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

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

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

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

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

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

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

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

### **Late payment interest**

**87.**—(1) Where—

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

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

(2) Late payment interest must be calculated—

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

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

(4) Paragraph (2)(a) applies even if the day on which payment of A is due is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(1) (computation of time).

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

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

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

(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.