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

DRAFT STATUTORY INSTRUMENTS

2013 No.

COMMUNITY INFRASTRUCTURE LEVY, ENGLAND AND WALES

The Community Infrastructure Levy (Amendment) Regulations 2013

Made - - - - ***

Coming into force in accordance with regulation 1

A draft of these Regulations has been laid before the House of Commons in accordance with section 222(2)(b) of the Planning Act 2008(**1**).

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 206(6)(**2**), 209(5), 216A, 216B(**3**), 217(5), 220(1) and 222(1) of the Planning Act 2008, and with the consent of the Treasury, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Community Infrastructure Levy (Amendment) Regulations 2013 and shall come into force on the day after the day on which they are made.

Amendments to the Community Infrastructure Levy Regulations 2010

2. The Community Infrastructure Levy Regulations 2010(**4**) are amended in accordance with the following regulations.

Amendment to Part 1 – introductory

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

(a) in the definition of "dwelling" insert at the end "(other than for the purposes of Part 7)"; and

(**1**) 2008 c. 29. Section 205(2) was amended by section 115(2)(a) of the Localism Act 2011 (2011 c. 20) and section 216(1) and (4)(a) was amended by section 115(5)(a)(ii) and (c) of the Localism Act 2011.
(**2**) Section 206(6) was inserted by paragraph 61(3) of Schedule 22 to the Localism Act 2011.
(**3**) Sections 216A and 216B were inserted by section 115(6) of the Localism Act 2011.
(**4**) S.I. 2010/948 as amended by S.I. 2011/987 and 2012/2975.

(b) after the definition of "Mayor" insert—

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

Amendment to Part 2 – definition of key terms

4. In regulation 5(3)(a)(iia) (meaning of planning permission)(**6**) after "section 61E" insert " or 61Q(**7**) (community right to build orders)".

5. In regulation 10 (meaning of "collecting authority")—

(a) for paragraph (3) substitute—

"(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."; and

(b) in paragraph (6)—

(i) after sub-paragraph (b) omit "or";

(ii) in sub-paragraph (c) for "Local Government, Planning and Land Act 1980." substitute "Local Government, Planning and Land Act 1980; or"; and

(iii) after sub-paragraph (c) insert—

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

Amendment to Part 3 – charging schedules

6.—(1) After regulation 11 (interpretation and application of Part 3) insert—

"**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

(**5**) Section 206(5)(a) was inserted by paragraph 61(2) of Schedule 22 to the Localism Act 2011.
(**6**) Regulation 5(3)(a)(iia) was inserted by regulation 3(1) of S.I. 2012/2975.
(**7**) Sections 61E and 61Q were inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).

regulations 12 (format and content of charging schedules) to 23 (publication of the examiner's recommendations) on behalf of the proposed Mayoral development corporation."

(2) In regulation 14(3) and (4) (setting rates) after "London borough council" insert "or MDC" in both places it appears.

(3) In regulation 22(4) after "London borough" insert "council or MDC".

Amendment to Part 6 – exemptions and relief

7.—(1) In regulation 55(4) (discretionary relief for exceptional circumstances) after "London borough council" insert "or MDC".

(2) In regulation 57(2) (exceptional circumstances: procedure) after "London borough council" insert "or MDC".

(3) In regulation 58 (exceptional circumstances: procedure in London)—

(a) in paragraph (1) (exceptional circumstances: procedure in London) for "("the borough")" substitute "or MDC ("the local charging authority")"; and

(b) in paragraphs (2) to (8) for "borough" substitute "local charging authority" wherever it appears.

Amendment to Part 7 – application of CIL

8.—(1) Before regulation 59 (application to infrastructure), insert—

"**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(**8**);

(**8**) 1992 c. 14.

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” 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) (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(**9**).”.

(2) In regulation 59(5) before “60 and 61” insert “59A, 59E, 59F,”.

(3) After regulation 59 insert—

“**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(**10**) (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

(**9**) 2004 c. 5. Section 38A was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011 (c. 20).
(**10**) Sections 61E and 61Q were inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).

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in each financial year.

(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 payments

59B.—(1) Regulation 59A applies to land payments accepted by a charging authority in accordance with regulation 73(1) (payment in kind) 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 payments were accepted in satisfaction of.

(3) Any payments to a local council relating to a land payment must be paid to the local council in money.

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