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

D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No.

COMMUNITY INFRASTRUCTURE LEVY, ENGLAND

The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by sections 205(1), 208(8), 211(3) and (5) to (7), 214(4), 215(1) and (3), 216(5), (6) and (7), 216A(1) and (7), 217(3), 218(1), (3) and (4), 220(1) to (3), 222(1) and 223(1) of the Planning Act 2008(**a**), with the consent of Treasury, makes the following Regulations.

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 and approved by resolution of that House.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 and come into force on 1st September 2019 ("the commencement date").

(2) These Regulations apply in relation to England only.

(3) The amendments in regulation 5 (and Schedule 1) do not apply in relation to a planning permission granted before the commencement date or a liability notice, whenever issued, in respect of such a planning permission.

(4) The amendments in regulations 6, 7, 8 and 12(4) to 12(7) apply in relation to any liability notice or revised liability notice issued by a collecting authority under regulation 65 of the Community Infrastructure Levy Regulations 2010(**b**) on or after the commencement date.

(5) The amendments in regulation 10 apply in relation to any planning obligation entered into on or after the commencement date.

(**a**) 2008 c.29. Most of the functions of the Secretary of State under Part 11 of the Act, in relation to Wales, were transferred to Welsh Ministers by article 44 of S.I. 2018/644. Section 216 was amended by section 115 of the Localism Act 2011 (c. 20) and regulation 63 of S.I. 2010/948, and section 216A was inserted by section 115 of the Localism Act 2011. There are amendments to sections 205, 211 and 218 which are not relevant to this instrument.

(**b**) S.I. 2010/948, which was amended by S.I. 2011/987, S.I. 2012/635, S.I. 2012/666, S.I. 2012/702, S.I. 2012/2975, S.I. 2013/982, S.I. 2014/385, S.I. 2015/377, S.I. 2015/664, S.I. 2015/836 and S.I. 2018/172.

Amendments to the Community Infrastructure Levy Regulations 2010

2. The Community Infrastructure Levy Regulations 2010 are amended in accordance with the following provisions of these Regulations.

Charging schedules: consultation etc.

3.—(1) In regulation 11(1) in the definition of "consultation bodies" for "regulation 15" substitute "regulation 16".

(2) In regulation 14(4) for "preliminary draft charging schedule in accordance with regulation 15" substitute "draft charging schedule in accordance with regulation 16".

(3) Omit regulation 15.

(4) In regulation 16—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (c) for "; and" substitute a full stop;

(ii) omit sub-paragraph (d);

(b) after paragraph (1) insert—

"(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.";

(c) in paragraph (2) after "In this regulation" insert—

"—

"consultation bodies" means—

(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(**a**);".

(5) In regulation 17—

(a) omit paragraph (3);

(b) after paragraph (4) insert—

"(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.".

(**a**) 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).

(6) In regulation 18 omit sub-paragraph (b).

(7) In regulation 19—

(a) in paragraph (1)(b)(i) after "raised by the representations," insert "and a summary of how the representations received were taken into account,"; and

(b) in paragraph (4) for "regulation 15" substitute "regulation 16".

(8) In regulation 21(8)—

(a) at the end of sub-paragraph (b) for "; and" substitute a full stop;

(b) omit sub-paragraph (c).

(9) In regulation 25 omit sub-paragraph (c).

(10) In regulation 26(5)(e) omit paragraph (i).

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

4.—(1) In regulation 28 omit paragraph (4).

(2) After regulation 28 insert—

"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—

(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.".

Chargeable development and chargeable amount

5.—(1) In regulation 9—

(a) for paragraphs (6) to (8) substitute—

"(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.";

(b) in paragraph (9) for "paragraph (7)" substitute "paragraph (6)".

(2) For regulation 40 substitute—

"**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.".

(3) For regulation 50 substitute—

"**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.".

(4) In regulation 53(5), after "regulation 50" insert "and paragraph 6 of Schedule 1".

(5) In regulation 64(4)(b), after "regulation 40" insert "and Schedule 1".

(6) In regulation 64A(2)(c)(iii)(**a**), for "regulation 40;" substitute "regulation 40 and Schedule 1.".

(7) In regulation 65(12)(c)(**b**) omit "phased".

(8) In regulation 74B(6)(b)(**c**), after "regulation 40" insert "and Schedule 1".

(9) In regulation 74B(13), after "regulation 40", in each place it occurs, insert "and Schedule 1".

(10) In regulation 128, for paragraphs (1) and (2) of regulation 128 substitute—

"(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.

(**a**) Regulation 64A was inserted by S.I. 2011/987 and amended by S.I. 2014/385.
(**b**) Regulation 65(12) was amended by S.I. 2014/385.
(**c**) Regulation 74B was inserted by S.I. 2014/385.

(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.".

(11) Omit regulation 128A(**a**).

(12) At the end of the Community Infrastructure Levy Regulations 2010 insert as Schedule 1 the schedule set out in Schedule 1 to these Regulations.

Reliefs: commencement notices and other amendments relating to applications for relief

6.—(1) In regulation 41(1) omit the definition of "by local advertisement".

(2) In regulation 42B(**b**)—

(a) in paragraph (2), in sub-paragraph (a) at the beginning insert "subject to paragraph (3A),";

(b) in paragraph (3) at the beginning insert "Subject to paragraph (3A),";

(c) after paragraph (3) insert—

"(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.";

(d) in paragraph (4), after "case may be)" insert "and, in relation to an exemption for residential annexes, provide an explanation of the requirements of regulation 67(1)"; and

(e) omit paragraph (6).

(3) In regulation 47—

(a) in paragraph (2), in sub-paragraph (a) at the beginning insert "subject to paragraph (3A),";

(b) in paragraph (3) at the beginning insert "Subject to paragraph (3A),";

(c) after paragraph (3) insert—

"(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.";

(d) in paragraph (5), for sub-paragraph (b) substitute—

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

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

(e) omit paragraph (7).

(4) In regulation 51—

(a) in paragraph (5), for sub-paragraph (b) substitute—

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

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

(b) omit sub-paragraph (a) of paragraph (7).

(5) In regulation 54B(**c**)—

(a) in paragraph (2), in sub-paragraph (b) at the beginning insert "subject to paragraph (3A),";

(**a**) Regulation 128A was inserted by S.I. 2012/2975 and amended by S.I.s 2014/385 and 2018/172.
(**b**) Regulation 42B was inserted by S.I. 2014/385.
(**c**) Regulation 54B was inserted by S.I. 2014/385.

(b) in paragraph (3) at the beginning insert "Subject to paragraph (3A),";

(c) after paragraph (3) insert—

"(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.";

(d) in paragraph (4), after "case may be)" insert "and provide an explanation of the requirements of regulation 67(1)"; and

(e) omit paragraph (6).

(6) In regulation 57(7) after "relief granted" insert "and provide an explanation of the requirements of regulation 67(1)".

(7) In regulation 58(6) after "and the Mayor)" insert "and provide an explanation of the requirements of regulation 67(1)".

(8) In regulation 83—

(a) at the beginning of paragraph (1) insert "Subject to paragraph (1A),";

(b) after paragraph (1) insert—

"(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.";

(c) after paragraph (4) insert—

"(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.".

Section 73 permissions: carry over of relief and instalments

7.—(1) After regulation 58, within Part 6 of the Regulations, insert—

"**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;

(d) social housing relief.".

(2) In regulation 70(**a**) after paragraph (8) insert—

"(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.".

Enforcement by taking control of goods

8.—(1) In regulation 95(1) insert the following definitions in the appropriate places—

""enforcement agent" has the meaning given in Schedule 12;";

""Schedule 12" means Schedule 12 to the Tribunals, Courts and Enforcement Act 2007;";

""the Schedule 12 procedure" means the procedure in Schedule 12.".

(2) For regulation 98 substitute—

"**Enforcement by taking control of goods**

98. Where a liability order has been made, payment may be enforced by using the Schedule 12 procedure.".

(3) Omit regulation 99.

(4) In regulation 100—

(a) in paragraph (1) for sub-paragraph (b) substitute—

"(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";

(b) in paragraph (4) for sub-paragraph (a) substitute—

"(a) the amount outstanding (within the meaning of Schedule 12); and";

(c) in paragraph (7) for sub-paragraph (a) substitute—

"(a) the amount outstanding (within the meaning of Schedule 12); and".

(5) In regulation 101(2) for "the appropriate amount mentioned in regulation 98(3)" substitute "the amount outstanding (within the meaning of Schedule 12)".

(6) In regulation 102—

(a) in paragraph (3) for "regulations 97(2) and 99(2)" substitute "regulation 97(2)";

(b) in paragraph (4) omit ", 99".

(**a**) Regulation 70 was substituted by S.I. 2011/987 and amended by S.I.s 2012/2975 and 2013/982.

Annual infrastructure funding statements and CIL rate summary

9.—(1) In regulation 2(1) —

(a) insert the following definitions in the appropriate places—

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

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

""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;";

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

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

(b) for the definition of "infrastructure list" substitute—

""infrastructure list"—

(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;".

(2) In regulation 58A(**a**) omit—

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

(b) the definitions of "CIL expenditure", "CIL receipts", "I_A" and "index figure".

(3) For regulation 59A(7)(**b**) substitute—

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

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

(**a**) Regulation 58A was inserted by S.I. 2013/982 and amended by S.I. 2014/385.
(**b**) Regulation 59A was inserted by S.I. 2013/982.

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.".

(4) Omit regulations 62 and 62A.

(5) In regulation 73A(12)(**a**) for sub-paragraph (d) substitute—

"(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".

(6) After Part 10 insert—

"PART 10A

Reporting and monitoring on CIL and planning obligations

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.

(**a**) Regulation 73A was inserted by S.I. 2014/385.

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.

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 (Y_N).

(2) Each annual CIL rate summary must—

(a) state the name of the charging authority (A) to which it relates;

(b) state the year, Y_N, 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 Y_N (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.".

(7) At the end of the Community Infrastructure Levy Regulations 2010 insert as Schedule 2 the schedule set out in Schedule 2 to these Regulations.

Fees for monitoring planning obligations

10. In regulation 122(**a**)—

(a) at the beginning of paragraph (2) insert "Subject to paragraph (2A),"; and

(b) after paragraph (2) insert—

"(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.".

Removal of pooling restrictions

11. Omit regulation 123.

Consequential amendments to other secondary legislation

12.—(1) In article 6 of the Local Authorities (Contracting Out of Community Infrastructure Levy Functions) Order 2011(**b**)—

(a) for "distress", where it first occurs, substitute "taking control of goods";

(b) in sub-paragraph (c) for "to levy any amount of distress and sale of goods" substitute "to take control of goods".

(2) In regulation 34(5) of the Town and Country Planning (Local Planning) (England) Regulations 2012(**c**)—

(a) for "regulation 62", where it first occurs, substitute "regulation 121A(1)(b)"; and

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(**a**) There are amendments to regulation 122 which are not relevant to this instrument.
(**b**) S.I. 2011/2918.
(**c**) S.I. 2012/767.

(b) for "regulation 62(4) of" substitute "paragraph 1 of Schedule 2 to".

Transitional and saving provisions

13.—(1) Part 3 of the 2010 Regulations continues to apply, in relation to a draft charging schedule which is published in accordance with regulation 16(1) of the 2010 Regulations before the commencement date, as if the amendments in regulation 3 had not been made.

(2) Where before the commencement date a charging authority has sent a preliminary charging schedule to consultation bodies in accordance with regulation 15 of the 2010 Regulations, the charging authority must take into account any representations made to it before it publishes a draft charging schedule in accordance with regulation 16(1) of the 2010 Regulations.

(3) For the purposes of this regulation—

"the 2010 Regulations" means the Community Infrastructure Levy Regulations 2010;

"commencement date" has the meaning given in regulation 1.

We Consent

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Name
Minister of State
Date Ministry of Housing, Communities and Local Government

SCHEDULE 1 Regulation 5

"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—

$$E_P - (G_P - K_{PR})$$

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.

(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(**a**) 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—

(**a**) See regulation 2 for the definition of "relief".

$$(X - Y) + Z$$

(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 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(**a**) 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;

"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—

$$\frac{R \times A \times I_P}{I_C}$$

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—

(**a**) See regulation 2 for the definition of "relief".

(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(**a**) (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—

"(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),

(**a**) See regulation 2 for the definition of "relief".

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(**a**), or

(b) a district valuer within the meaning of section 622 of the Housing Act 1985(**b**); and

"interested person" means the person who was granted the notional relief."

SCHEDULE 2

Regulation 9

"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;

(**a**) 1988 c. 41; section 61 was amended by paragraph 69 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).
(**b**) 1985 c. 68; the definition of "district valuer" in section 622 was substituted by S.I. 1990/434.

(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."

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 11 of the Planning Act 2008 provides for the imposition of a charge known as the Community Infrastructure Levy ("the Levy"). The Community Infrastructure Levy Regulations 2010 ("the CIL Regulations") (S.I. 2010/948) implement the detail of the Levy. These Regulations amend the CIL Regulations. The CIL Regulations and these Regulations apply in relation to England only.

Regulation 3 amends the requirements in relation to charging schedules, including changing the requirement from two rounds of consultation before adopting a schedule to one. Regulation 4 enhances the procedure where a charging authority is proposing that a charging schedule should cease to have effect.

Regulation 5 makes provision in relation to calculation of chargeable amounts in different cases. The calculations previously in regulations 40, 50 and 128A of the CIL Regulations have been moved into a new schedule, Schedule 1. Additionally the new Schedule includes new provision for calculation of CIL in relation to cases where the granting of an 'amended' planning permission under section 73 of the Town and Country Planning Act 1990 ("section 73 permission") leads to an increase or decrease in CIL liability, and in relation to phase credits where a pre-CIL phased planning permission is 'amended' by a section 73 permission once CIL is in effect in the area.

Regulation 6 provides for removal of the provisions which resulted in reliefs being lost if a commencement notice was not submitted before starting the development. Instead a provision has been added requiring the imposition of a surcharge for failing to provide a commencement notice.

Regulation 7 provides for carry over of relief where the planning permission for a development is 'amended' by a section 73 permission (provided the amount of relief does not change) and for payment by instalments to continue to apply.

Regulation 8 replaces reference to distress with reference to the new procedure for taking control of goods set out in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (c. 3).

Regulation 9 inserts regulation 121A and a new schedule, Schedule 2, which require local authorities to publish an annual infrastructure funding statement setting out how much CIL is collected, how much is spent and what it is spent on, and makes similar provision in relation to planning obligations (i.e. agreements under section 106 of the Town and Country Planning Act 1990 (c. 8)). It also inserts regulation 121B which makes provision for reporting by parish councils. Regulation 10 also requires (through new regulation 121C) for charging authorities to publish an annual CIL rate summary showing the rates of CIL in its area adjusted for inflation.

Regulation 10 amends regulation 122 to ensure charging authorities can include provision for monitoring fees in agreements under section 106 of the Town and Country Planning Act 1990.

Regulation 11 removes regulation 123, which restricted the number of agreements under section 106 of the Town and Country Planning Act 1990 which a charging authority could enter into in relation to funding particular infrastructure.

Regulation 12 makes consequential amendments and regulation 14 makes transitional and saving provisions.

No formal impact assessment was produced for these Regulations as one is not required for a financial instrument.

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