
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

2012 No.

**COMMUNITY INFRASTRUCTURE LEVY, ENGLAND
AND WALES**

**The Community Infrastructure Levy (Amendment) Regulations
2012**

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - - - *6th April 2012*

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(a) and approved by resolution of that House.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 206(6), 209(5), 211(2)(b), 216(6)(c), 216A(1), (2), (6) and (7)(c), 217(5), 218(7), 220(2)(l) and (r), and 222(1)(c) of the Planning Act 2008(b), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Community Infrastructure Levy (Amendment) Regulations 2012 and shall come into force on 6th April 2012.

Amendment of the Community Infrastructure Levy Regulations 2010

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

Amendment to Part 1 – introductory

3. In regulation 2(1) (interpretation), 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.”

(a) 2008 c. 29.

(b) Section 206(6) was inserted by paragraph 60(3) of Schedule 22 to the Localism Act 2011 (c.). Section 216A was inserted by section 103(4) of that Act. [NB – section numbering is as per 20 July 2011 print].

(c) S.I. 2010/948, amended by S.I. 2011/987.

Amendment to Part 2 – definition of key terms

4. In regulation 5(1)(a) (meaning of “planning permission”), after “section” insert “61E,”.
5. For regulation 10(3) (meaning of “collecting authority”), 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 an area in respect of which an MDC is the local planning authority, the MDC must collect that CIL and accordingly is the collecting authority for that CIL,
 - (b) 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.”
6. For regulation 10(6), substitute—
 - “(6) In paragraph (5) “relevant consenting authority” means—
 - (a) the Homes and Communities Agency(a);
 - (b) an urban development corporation established by order of the Secretary of State under section 135(1) of the Local Government, Planning and Land Act 1980(b);
 - (c) an enterprise zone authority designated under Schedule 32 to the Government, Planning and Land Act 1980; or
 - (d) an MDC.”

Amendment to Part 3 – charging schedules

7. 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 173(3)(a) to (e) of the Localism Act 2011 in relation to any anticipated MDC;
- (b) the time period described in section 173(3)(f) of that Act has expired; and
- (b) the Mayor intends that the anticipated MDC will become the charging authority for its area under section 206(2) and (5)(a) of the PA2008,

the Mayor may, until that MDC becomes the charging authority for its area, carry out the functions of a charging authority on behalf of the anticipated MDC under regulations 12 to 24.”

8. In regulation 14(3) (setting rates), after “London borough council” insert “or MDC”.
9. In regulation 14(4), after “London borough council” insert “or MDC”.
10. In regulation 22(4) (joint examinations), after “London borough” insert “or MDC”.

Amendment to Part 6 – exemptions and relief

11. In regulation 55(4) (discretionary relief for exceptional circumstances), after “London borough council” insert “or MDC”.

12. In regulation 57(2) (exceptional circumstances: procedure), after “London borough council” insert “or MDC”.

(a) The Homes and Communities Agency was established by section 1 of the Housing and Regeneration Act 2008 (c. 17).
(b) 1980 c. 65.

13. For regulation 58 (exceptional circumstances: procedure in London), substitute—

“Exceptional Circumstances: procedure in London

58.—(1) Regulation 57 applies to a claim for relief for exceptional circumstances in respect of a chargeable development situated in the area of a London borough council or MDC (“the local charging authority”).

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

(3) As soon as practicable after receiving a claim for relief, the local charging authority must refer the claim to the Mayor if the Mayor has made relief for exceptional circumstances available in the Mayor’s area, and the local charging authority either—

- (a) has not made relief for exceptional circumstances available in its area, or
- (b) considers that, despite the amount of relief that it proposes to grant in respect of the chargeable development, to require payment of any remaining CIL charged by it or any CIL charged by the Mayor (or both) would still have an unacceptable impact on the economic viability of the chargeable development.

(4) A local charging authority refers a claim to the Mayor by—

- (a) sending to the Mayor a copy of the claim form and the particulars mentioned in regulation 57(4)(d); and
- (b) where the local charging authority proposes to grant relief, informing the Mayor in writing of the amount of that relief.

(5) If a claim is referred to the Mayor in accordance with paragraph (3) the Mayor must, as soon as practicable after receiving the referral—

- (a) decide whether to grant relief on the amount of CIL chargeable by the Mayor in respect of the chargeable development; and
- (b) notify the local charging authority in writing of the Mayor’s decision and the amount of relief (if any) granted.

(6) As soon as practicable after receiving the Mayor’s decision, the local charging authority must notify the claimant in writing of the decision on the claim and the amount of any relief granted (including, where relevant, any separate decisions and amounts in respect of relief granted by the local charging authority and the Mayor).

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

- (a) the Mayor;
- (b) the collecting authority (if it is not the local charging authority);
- (c) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority).

(8) Notification of a disqualifying event must be submitted to the local charging authority, and the local charging authority must send a copy of that notification to—

- (a) the collecting authority (if it is not the local charging authority); and
- (b) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority.”

Amendment to Part 7 – Application of CIL

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

“Interpretation of Part 7

58A. In this Part—

“acquired land” and “relevant purpose” have the same meanings as in regulation 73 (payment in kind);

“development” has the same meaning as in TCPA 1990;

“CIL expenditure” includes—

- (a) the value of any acquired land on which development consistent with a relevant purpose has been commenced or completed, and
- (b) CIL receipts transferred by a charging authority to another person to spend on infrastructure (including money transferred to such a person which it has not yet spent); and

“CIL receipts” means—

- (a) for a charging authority, 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;
- (b) for a local council, CIL receipts passed to it under regulations 59(4) or 59A(1).

“dwelling” has the meaning given in section 3 of the Local Government Finance Act.(a).

“I_A” means the index figure for the year in which CIL is passed to the local council.

“local council” means—

- (a) in England, a parish council;
- (b) in Wales, a community council.”

15. In regulation 59(5), for “60 and 61” substitute “59A, 60 and 61”.

16. After regulation 59, insert—

“Payment of CIL to local councils

59A.—(1) Subject to paragraph X, a charging authority other than the Mayor must pass to every local council within its area **x per cent** of the CIL receipts described in paragraphs (2) and (3).

(2) If all of a chargeable development is within the area of the local council, the CIL receipts for that chargeable development.

(3) If part of the chargeable development is within the area of the local council, a proportion of the CIL receipts equal to the proportion of the area of the chargeable development which is within the area of that local council.

(4) The total amount of CIL receipts passed by a charging authority to a local council within its area, including CIL receipts passed under paragraph (1), shall not exceed an amount equal to £x per dwelling multiplied by I_A.

(5) CIL receipts passed to a local council must be used to provide infrastructure to support the development of the local council’s area.

Payment periods

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

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

(a) 1992 c. 14.

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

(4) The charging authority must pay **x per cent** of the CIL it receives from 1st April to 30th September in any financial year to the local council by 28 October in that year.

(5) The charging authority must pay **x per cent** of the CIL it receives from 1st October to 31st March in any financial year to the local council by 28 April in the following financial year.”

17. Delete regulation 61(3), (5) and (6) (administrative expenses).

18. Delete regulation 62(7) (reporting).

19. After regulation 62, insert—

“Reporting by local councils

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

(2) The report must include—

- (a) the total CIL receipts for the reported year;
- (b) the total CIL expenditure for the reported year;
- (c) summary of CIL expenditure during the reported year including—
 - (i) the items of infrastructure to which CIL has been applied;
 - (ii) the amount of CIL expenditure on each item; and
- (d) the total amount of CIL receipts retained at the end of the reported year.

(3) The local council must—

- (a) publish the report on its website; 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.”

Amendment to Part 8 - administration

20. Before regulation 64 (notice of chargeable development), insert—

“Effect of MDC becoming or ceasing to be the planning authority

63A.—(1) This regulation has effect when an MDC becomes or ceases to be the local planning authority for an area.

(2) If a London borough council or MDC has issued a liability notice under regulation 65(1), it shall be entitled to receive the CIL for the development to which that liability notice relates.

(3) Subject to paragraphs 4 and 5, the London borough council or MDC —

- (a) shall remain the collecting authority for the CIL it is entitled to receive; and
- (b) all references in Parts 8 and 9 to “collecting authority” and “charging authority” shall be read as a reference to it.

(4) Where—

- (a) the Mayor has made a transfer scheme under section 192(1) of the Localism Act 2011;

- (b) the property transferred under the transfer scheme includes CIL which the MDC is entitled to receive; and
- (c) the permitted recipient is a London borough council,

the permitted recipient shall act as the collecting authority for the CIL it is entitled to receive, and all references in Parts 8 and 9 to “collecting authority” and “charging authority” shall be read as a reference to it.

(5) Where—

- (a) the Mayor has made a transfer scheme under section 192(1) of the Localism Act 2011;
- (b) the property transferred under the transfer scheme includes CIL which the MDC is entitled to receive; and
- (c) the permitted recipient is not a London borough council,

the permitted recipient may agree with a charging authority (C) that C shall be the collecting authority for the CIL which the permitted recipient is entitled to receive, and all references in Parts 8 and 9 to “collecting authority” and “charging authority” shall be read as a reference to C.

(6) In this regulation, “permitted recipient” has the meaning given in section 192(4) of the Localism Act 2011.”

Amendment to Part 9 Chapter 1 – surcharges and interest

21. For regulation 88(2) (surcharges and interest: general), substitute—

“(2) Interest paid to a collecting authority under this Chapter must be treated for the purposes of Part 7 as if it were CIL.

(3) A surcharge paid to a collecting authority under this Chapter must be treated—

- (a) for the purposes of regulation 59A(1), as if it were not CIL;
- (b) for all other purposes of Part 7 as if it were CIL.”

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

Name
Parliamentary Under Secretary of State
Department for Communities and Local Government

Date

We consent

Name
Name

Date Two of the Lords Commissioners of Her Majesty’s Treasury

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 (“CIL”). The CIL Regulations 2010 (S.I. 2010/948), amended by the CIL (Amendment) Regulations 2011 (S.I. 2011/987) implement the detail of CIL. These Regulations further amend the CIL Regulations, reflecting changes to Part 11 of the Planning Act 2008 made by the Localism Act 2011 (“the 2011 Act”).

The CIL Regulations and these Regulations apply in relation to England and Wales only.

The changes made by these Regulations are:

- Changes to accommodate the fact that a Mayoral Development Corporation (MDC) established by the Secretary of State by order made under section 185(2) of the 2011 Act will be a CIL charging authority if the order includes provision that it is to be a local planning authority for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004 (c. 5) (regulations 3, 5, 6, 8 to 13).
- A power for the Mayor to carry out the functions of a charging authority on behalf of an MDC in anticipation of that MDC being established (regulation 7).
- Provision to ensure that when an MDC becomes or ceases to be a charging authority, the charging authority which issued the liability notice for a chargeable development continues to receive the CIL for that development (regulation 20).
- Neighbourhood Development Orders (including Community Right to Build Orders) are brought within the definition of “planning permission” for CIL purposes (regulation 4).
- An obligation on charging authorities (other than the Mayor) to pass on x per cent of their CIL receipts to the local council in whose area the chargeable development is, either in accordance with a timetable agreed between them, or six-monthly (regulations 14 to 16, and 18). The CIL receipts which are passed on include interest on late payment of CIL, but not surcharges (regulation 21).
- An obligation on local councils which receive CIL to report on its expenditure (regulation 19).
- The removal of the five per cent limit on the application of CIL receipts to administrative expenses (regulation 17).

[Impact assessment]

[NB: provisions in the Localism Act are as per the 20 July 2011 Bill print.]