
EXPLANATORY NOTE

(This note is not part of these Regulations)

Part 11 of the Planning Act 2008 (c. 29) (“the Act”) provides for the imposition of a charge to be known as Community Infrastructure Levy (CIL). It specifies who may charge CIL (known as “charging authorities”) and includes outline provision on other aspects of the charge including how liability to pay CIL is incurred, how CIL is charged and collected and the application of CIL to infrastructure and enforcement. These Regulations implement the detail of CIL using powers provided in Part 11 of the Act.

Part 2 of these Regulations defines a number of key terms required by the Act and which are referred to in the Regulations. In particular regulation 5 defines planning permission for the purposes of Part 11 of the Act, regulation 6 modifies the definition of development in section 209(1) of the Act and regulation 7 defines when development is to be treated as commencing for the purposes of CIL.

A charging authority proposing to charge CIL must issue a charging schedule setting the rates and other criteria by reference to which the amount of CIL chargeable in its area is to be determined. Part 3 of these Regulations includes provision relating to the content of charging schedules and their preparation, examination by an independent person and publication. Regulation 14 sets out matters to which a charging authority must and may have regard when setting the rates in its charging schedule.

Part 3 sets out how liability to pay CIL is incurred. Regulation 31 sets out the procedure where a person wishes to assume liability to pay CIL in accordance with section 208(1) of the Act. Where nobody has assumed liability and development has commenced, liability is in most cases apportioned between the owners of the land on which the development will be situated (regulations 33 and 34). Regulation 40 specifies how the amount of CIL payable in respect of a chargeable development (“the chargeable amount”) must be calculated.

Part 6 sets out exemptions and relief from liability to pay CIL. Regulation 42 provides that liability does not arise where the gross internal area of new buildings and enlargements to existing buildings would be less than 100 square metres. Regulations 43 to 48 provide for an exemption and relief from liability for charitable institutions. Regulation 49 to 54 provide for an exemption where a development is to include social housing. These provisions also provide for the withdrawal of relief where development ceases to be eligible for relief (regulations 48 and 53). Regulations 55 to 58 allow a charging authority to grant other relief in exceptional circumstances.

Part 7 sets out how CIL should be spent. Subject to regulations 60 and 61, regulation 59 provides that a charging authority must apply CIL to funding infrastructure to support the development of its area. Infrastructure is defined in section 216(2) of the Act as amended by regulation 63. Regulations 60 and 61 set out the circumstances in which CIL may be applied to administrative expenses, reimburse expenditure already incurred on infrastructure and repay loans. Regulation 62 sets out the reporting requirements with respect to CIL.

Part 8 contains a number of provisions relating to the administration of CIL. In particular regulation 65 requires the collecting authority to issue a liability notice in respect of each chargeable development stating the chargeable amount payable. The collecting authority must also serve a demand notice on each person liable to pay CIL in respect of a chargeable development stating the amounts payable by the person and the dates on which those payments are due. Regulations 70 to 76 contain provision on payment of CIL. In particular regulation 73 allows payment to be made by way of an acquisition of land with the agreement of the charging authority.

Part 9 contains provisions on the enforcement of CIL. Chapter 1 provides for the imposition of surcharges and interest for late payment. Chapter 2 provides for the imposition of a CIL stop notice to stop development until payment of an amount due is forthcoming. Chapter 3 provides for the recovery of CIL which has not been paid. The collecting authority may apply to a magistrates' court for a liability order, levy distress, apply for a charging order and ultimately apply for a warrant committing a debtor to prison. Chapter 4 contains a number of other enforcement provisions including a power to enter land and a power to prosecute offences.

Part 10 provides for appeals in a number of circumstances. A person may request a review of the calculation of a chargeable amount and, if aggrieved at the decision on review, appeal that decision (regulations 113 and 114). Appeals are also available in respect of apportionment of liability (regulation 115) and a grant of charitable relief (regulation 116). A person may also appeal against the imposition of a surcharge (regulation 117), a determination by the collecting authority of when development is deemed to have commenced (regulation 118) and the imposition of a CIL stop (regulation 119).

Part 11 sets out a number of limitations on the use of planning obligations under section 106 of the Town and Country Planning Act 1990 (c. 8) in respect of CIL liable development.

Part 12 includes provision on collection and enforcement in relation to the Crown, provision on service of documents and transitional provision.

An impact assessment has been prepared in relation to these Regulations. This assessment has been placed in the Library of the House of Commons and copies may be obtained from the Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU.