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## 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. These Regulations amend the Community Infrastructure Levy Regulations 2010(1) which implement the detail of the Community Infrastructure Levy.

The Community Infrastructure Levy Regulations 2010 and these Regulations apply in relation to England and Wales only.

These Regulations make provision in relation to Mayoral Development Corporations, as introduced by Chapter 2 of Part 8 of the Localism Act 2011. Regulation 6(1) inserts regulation 11A into the Community Infrastructure Levy Regulations 2010, which allows preparatory work to be done by the Mayor of London to prepare a charging schedule in anticipation of such a Corporation becoming the charging authority for an area in Greater London.

Regulation 9(1) inserts regulations 63A and 63B into the Community Infrastructure Levy Regulations 2010, which make transitional provision for when a Mayoral Development Corporation becomes, or ceases to be, a charging authority. Where a charging authority has granted planning permission for a development, they will be entitled to receive the Levy funds in relation to that development, even if a new authority becomes the charging authority for that area. Regulation 63B also makes provision for when the Mayor of London makes a transfer scheme under section 216 of the Localism Act 2011 in relation to a Mayoral Development Corporation.

Regulation 4 makes it clear that development granted permission by a community right to build order, a type of neighbourhood development order, could be liable to the Community Infrastructure Levy. Regulation 8(3) inserts new regulations 59A to 59F. New regulation 59A places a duty on charging authorities to pass some Levy funds to local councils where some or all of a chargeable development takes place in an area for which there is a parish or community council. Regulation 59A(8) sets out the proportion of the Community Infrastructure Levy raised in relation to a development that regulation 59A applies to. Regulation 59A applies to the proportion of Community Infrastructure Levy raised equal to the proportion of the gross internal area of the development in the area of the relevant local council.

In England, where there is a neighbourhood development plan in place, or permission was granted by a neighbourhood development order (including by a community right to build order), the charging authority must pass 25% of Community Infrastructure Levy funds to the parish councils in whose area the chargeable development takes place. Where there is no neighbourhood development plan this amount is 15%, subject to a cap of £100 per household in the parish council area per year. In Wales, the charging authority must pass 15% of the Levy funds to the community councils in whose area the chargeable development takes place. This is again subject to the cap of £100 per household per year. Parish or community councils have the discretion to decide that some or all of these funds should remain with the charging authority. Regulation 59A(8) provides for where development crosses local council boundaries, so that the funds are split proportionally between the local councils. Regulation 59A(9) and (10) makes similar provision for when some of a development is granted permission by a neighbourhood development order, or is in an area for which there is a neighbourhood plan, and some is not.

Regulation 59B sets out how the duty in regulation 59A applies where the charging authority accepts a land payment. On receipt of the funds, parish and community councils have wider spending powers

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(1) [S.I. 2010/948](#) as amended by [S.I. 2011/987](#) and [2012/2975](#).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

than charging authorities, under new regulation 59C. Regulation 59D sets out a default provision for when payments are to be made to local council in the absence of an agreement with the charging authority.

Under new regulation 59E the charging authority is able to recover funds from the local council in certain circumstances. That is if the local council have misapplied the Community Infrastructure Levy by not using it to support the development of their area or by using it for another purpose. When Levy receipts are recovered from a local council, the charging authority must use those funds to support development in the area of that local council.

New regulation 59F makes provision for where the duty in regulation 59A does not apply, namely where a chargeable development (or part of a development) takes place in an area for which there is not a parish or community council. In that case, the charging authority has wider spending powers in relation to those parts of its area for which there is not a parish or community council. Those powers are the same as those given to parish or community councils, and apply to those funds that would have been passed on had the development taken place in an area for which there is a parish or community council.

Regulation 11 ensures that the neighbourhood funding element of the Community Infrastructure Levy will not impact on the relationship between the Levy and agreements reached under section 106 of the Town and Country Planning Act 1990.

Regulation 8(4) and (5) inserts new reporting provisions into the Community Infrastructure Levy Regulations 2010 for both the charging authority and the recipient local council. Both charging authorities and local councils will have to make clear the level of neighbourhood funds received, spent and retained from the most recent year, and the level retained from previous years.

Regulation 10 makes provision to amend the operation of surcharges so that they are not treated as Community Infrastructure Levy for the purposes of the requirement to pass funds to parish or community councils. Regulation 12 provides for the neighbourhood funding provisions in regulation 8(3) to (5) not to apply to development granted planning permission before these Regulations come into force. These regulations also make a number of technical and consequential amendments in relation to Mayoral Development Corporations and neighbourhood funding.

The Department is not required to produce an impact assessment in relation to the community infrastructure levy, as it is a financial instrument.