
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Community Infrastructure Levy
(Amendment) Regulations 2013

Amendment to Part 7 – application of CIL

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

“Interpretation of Part 7

58A. In this Part—

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

“CIL expenditure” includes—

- (a) the value of any acquired land on which development (within the meaning in TCPA 1990) consistent with a relevant purpose has been commenced or completed, and
- (b) CIL receipts transferred by a charging authority to another person to spend on infrastructure (including money transferred to such a person which it has not yet spent);

“CIL receipts” means—

- (a) for a charging authority—
 - (i) CIL collected by that authority (including the value of any acquired land), but does not include CIL collected on behalf of the charging authority by another public authority but which that authority has not yet paid to the charging authority; and
 - (ii) CIL recovered by that authority in accordance with regulation 59D, but does not include CIL not yet paid to the charging authority by the local council;
- (b) for a local council, CIL passed to it under regulations 59(4), 59A(2) or 59B, but does not include funds not yet paid to the local council by the charging authority in accordance with regulation 59D.

“dwelling” has the meaning given in section 3 of the Local Government Finance Act 1992(1);

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

“index figure” has the same meaning as in regulation 40(7) and (8) (calculation of chargeable amount);

“local council” means—

- (a) in England, a parish council;

- (b) in Wales, a community council; and
“neighbourhood development plan” has the same meaning as in section 38A of the Planning and Compulsory Purchase Act 2004(2).”.
- (2) In regulation 59(5) before “60 and 61” insert “59A, 59E, 59F,”.
- (3) After regulation 59 insert—

“Duty to pass CIL to local councils

59A.—(1) This regulation applies to that part of a chargeable development within the area of a local council.

(2) Subject to paragraph (12) and regulation 59E(5) a charging authority, other than the Mayor, must pass to every local council within its area a proportion of CIL receipts calculated in accordance with this regulation and regulation 59B.

(3) In England, where all or part of a chargeable development is within an area that has a neighbourhood development plan in place the charging authority must pass 25 per cent of the relevant CIL receipts to the parish council for that area.

(4) In England, where all or part of a chargeable development—

- (a) is not in an area that has a neighbourhood development plan in place; and
- (b) was granted permission by a neighbourhood development order made under section 61E or 61Q(3) (community right to build orders) of TCPA 1990,

the charging authority must pass 25 per cent of the relevant CIL receipts to the parish council for that area.

(5) In England, where all or part of a chargeable development—

- (a) is not in an area that has a neighbourhood development plan in place; and
- (b) was not granted planning permission by a neighbourhood development order made under section 61E or 61Q (including a community right to build orders) of TCPA 1990,

then, subject to paragraph (7), the charging authority must pass 15 per cent of the relevant CIL receipts to the parish council for that area.

(6) In Wales, where all or part of a chargeable development is within the area of a community council then, subject to paragraph (7), the charging authority must pass 15 per cent of the relevant CIL receipts to that community council.

(7) The total amount of CIL receipts passed to a local council in accordance with paragraph (5) or (6) shall not exceed an amount equal to £100 per dwelling in the area of the

local council multiplied by I_A in each financial year.

(8) In paragraphs (3) to (6) the relevant CIL receipts are the proportion of CIL received in relation to a development equal to the proportion of the gross internal area of the development that is relevant development in the relevant area of the local council.

(9) In paragraph (8), the relevant area is—

- (a) in relation to paragraph (3), that part of the parish council’s area that has a neighbourhood development plan in place;
- (b) in relation to paragraphs (4)(a) and (5)(a), that part of the parish council’s area that does not have a neighbourhood development plan in place; and

(2) 2004 c. 5. Section 38A was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011 (c. 20).

(3) Sections 61E and 61Q were inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).

- (c) in relation to paragraph (6), the whole of the community council's area.
- (10) In paragraph (8), the relevant development is—
 - (a) in relation to paragraphs (3) or (6), the whole of the development;
 - (b) in relation to paragraph (4)(b) that part of the development for which permission was granted by a neighbourhood development order made under section 61E or 61Q (community right to build orders) of TCPA 1990; and
 - (c) in relation to paragraph (5)(b) that part of the development for which permission was not granted by a neighbourhood development order made under section 61E or 61Q (community right to build orders) of TCPA 1990.
- (11) In this regulation an area has a neighbourhood development plan in place in relation to a development, or part of a development, if—
 - (a) a neighbourhood development plan was made by a local planning authority in accordance with section 38A(4) of the Planning and Compulsory Purchase Act 2004 prior to the time at which planning permission first permits that development; and
 - (b) that neighbourhood development plan is extant in relation to the relevant area on the day when planning permission first permits that development.
- (12) Where a local council notifies the charging authority in writing that it does not want to receive some or all of the CIL receipts that this regulation applies to before that CIL is paid to it, the charging authority must retain those CIL receipts.

Application of regulation 59A to land payments

- 59B.**—(1) Regulation 59A applies to land payments accepted by a charging authority in accordance with regulation 73(1) (payment in kind) as follows.
- (2) For the purposes of regulation 59A(8), the CIL received in relation to a development includes the value of CIL that any land payments were accepted in satisfaction of.
 - (3) Any payments to a local council relating to a land payment must be paid to the local council in money.

Application of CIL by local councils

- 59C.** A local council must use CIL receipts passed to it in accordance with regulation 59A or 59B to support the development of the local council's area, or any part of that area, by funding—
- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - (b) anything else that is concerned with addressing the demands that development places on an area.

Payment periods

- 59D.**—(1) This regulation applies where a charging authority is required to make a payment to a local council under regulation 59A or 59B.
- (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.
 - (3) In all other cases, the charging authority must pay the local council in accordance with the following paragraphs.

(4) The charging authority must make payment in respect of the CIL it receives from 1st April to 30th September in any financial year to the local council by 28th October of that financial year.

(5) The charging authority must make payment in respect of the CIL it receives from 1st October to 31st March in any financial year to the local council by 28th April of the following financial year.

Recovery of CIL passed in accordance with regulation 59A or 59B

59E.—(1) This regulation applies to CIL receipts received by a local council in accordance with regulation 59A or 59B that the local council—

- (a) has not applied to support the development of its area within 5 years of receipt; or
- (b) has applied otherwise than in accordance with regulation 59C.

(2) The charging authority may serve a notice on the local council requiring it to repay some or all of the CIL receipts that this regulation applies to.

(3) A notice under paragraph (2) will be valid if it contains the following information—

- (a) the amount of CIL receipts to be repaid;
- (b) the reasons for requiring those receipts to be repaid; and
- (c) the date by which repayment is to be made which must be no earlier than 28 days from the day the notice is served.

(4) On receipt of a valid notice the local council must send to the charging authority any CIL receipts it has not spent up to the value set out under sub-paragraph (3)(a) within the time set out under sub-paragraph (3)(c).

(5) If the local council is unable to repay the full amount set out under sub-paragraph (3) (a) out of unspent CIL receipts, the charging authority must recover the rest of that amount out of future CIL receipts that it would otherwise have to pass to the local council in accordance with regulation 59A or 59B.

(6) If the charging authority recovers CIL receipts in accordance with paragraph (5) it must serve a notice on the local council when those receipts would otherwise be passed to the local council stating—

- (a) the amount of CIL receipts recovered; and
- (b) the amount of CIL receipts still to be recovered by the charging authority from the local council.

(7) A charging authority may withdraw a notice served under paragraph (2) at any time and if it does so any unspent CIL receipts recovered under paragraph (4) or (5) in accordance with the withdrawn notice must be returned to the local council.

(8) A charging authority and a local council may at any time vary the terms of a notice served under paragraph (2) by agreement.

(9) Part 9 (enforcement) does not apply in relation to this regulation.

(10) CIL receipts recovered under this regulation must be used by the charging authority to support the development of the area of the local council they are recovered from by funding—

- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
- (b) anything else that is concerned with addressing the demands that development places on an area.

Use of CIL in an area to which regulations 59A and 59B do not apply

59F.—(1) This regulation applies where all or part of a chargeable development is in an area in relation to which regulations 59A and 59B do not apply.

(2) This regulation applies to those CIL receipts that would have been passed to a local council under regulations 59A and 59B had that part of the chargeable development been within the area of a local council.

(3) The charging authority may use the CIL to which this regulation applies, or cause it to be used, to support the development of the relevant area by funding—

- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
- (b) anything else that is concerned with addressing the demands that development places on an area.

(4) In paragraph (3), “relevant area” means that part of the charging authority’s area that is not with the area of a local council.”

(4) In regulation 62 (reporting)—

- (a) in paragraph (3)(a) after “development” insert “(within the meaning in TCPA 1990)”;
- (b) in paragraph (4)(c) after “during the reported year” insert “(other than in relation to CIL to which regulation 59E or 59F applied)”;

(c) after paragraph (4)(c) omit “and” and insert—

“(ca) the amount of CIL passed to—

- (i) any local council under regulation 59A or 59B; and
- (ii) any person under regulation 59(4);

(cb) 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 to which the CIL receipts to which regulations 59E and 59F applied have been applied; and
- (iii) the amount of expenditure on each item;

(cc) summary details of any notices served in accordance with regulation 59E, including—

- (i) the total value of CIL receipts requested from each local council; and
- (ii) any funds not yet recovered from each local council at the end of the reported year.”;

(d) in paragraph (4)(d) for the words from “CIL receipts” to the end substitute—

“—

- (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; and
- (iv) CIL receipts from previous years to which regulation 59E or 59F applied retained at the end of the reported year ”; and

(e) omit paragraph (7).

(5) 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 to which CIL has been applied; and
 - (ii) the amount of CIL expenditure on each item; and
- (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; and
 - (ii) CIL receipts from previous years retained at the end of the reported year.

(3) The local council must—

- (a) publish the report—
 - (i) on its website;
 - (ii) on the website of the charging authority for the area if the local council does not have a website; or
 - (iii) within its area as it considers appropriate if neither the local 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.”