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PROSPECTIVE

SCHEDULE 1

(introduced by section 54)

INFRASTRUCTURE-LEVY REGULATIONS

*General*

- 1 In this schedule, “infrastructure-levy regulations” means regulations under section 54.
- 2 This schedule (apart from paragraphs 15(2) and 16) is without prejudice to the generality of the regulation-making power conferred by section 54.
- 3 Infrastructure-levy regulations may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- 4 Any provision which infrastructure-levy regulations may make may be made by the regulations modifying another enactment.

*Who is liable for what*

- 5 Infrastructure-levy regulations may set out—
  - (a) the kinds of development in respect of which infrastructure levy is payable,
  - (b) who is liable to pay infrastructure levy in respect of a development,
  - (c) when liability to pay infrastructure levy in respect of a development arises, and
  - (d) the amount to be paid by way of infrastructure levy in respect of a development (“the payable amount”) either by—
    - (i) stating the amount, or
    - (ii) setting out how it is to be calculated.

*Relief where relevant planning obligation*

- 6 Infrastructure-levy regulations may make provision to grant relief from liability to pay infrastructure levy in respect of a development where—
  - (a) a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997 has been entered into in respect of the development, and
  - (b) the planning authority in respect of the development considers that to require payment of infrastructure levy in respect of the development would constitute a duplication in any form of contribution by the person who is liable to pay infrastructure levy.

*Local exemptions and discounts*

- 7 Infrastructure-levy regulations may—
  - (a) confer on local authorities the power to waive or reduce infrastructure levy in respect of development in their areas, and

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- (b) set conditions on the exercise of any power so conferred.

### *Collection and enforcement*

- 8 Infrastructure-levy regulations may—
- (a) make provision about the collection of—
    - (i) payable amounts, and
    - (ii) penalties imposed by virtue of paragraph 9,
  - (b) enable local authorities to confer—
    - (i) powers of entry (except in relation to a dwelling-house) for the purpose of investigating liability for infrastructure levy, and
    - (ii) powers to seize things found in the course of investigating liability for infrastructure levy,
  - (c) make it an offence to evade, or reduce liability to pay, infrastructure levy (or attempt to do so) by—
    - (i) withholding information,
    - (ii) providing information that is false or misleading,
    - (iii) otherwise obstructing the investigation of someone's infrastructure-levy liability, or
    - (iv) causing another person to do any of those things.

### *Financial penalty for late payment*

- 9 (1) Infrastructure-levy regulations may allow, or require, local authorities to charge a financial penalty if the payable amount is not paid within a period specified in the regulations.
- (2) The regulations may, in particular, provide for the charging of—
- (a) a penalty of a specified amount (or amounts),
  - (b) a penalty that is calculated periodically as a proportion of the payable amount, or
  - (c) both kinds of penalty.

### *Stopping development*

- 10 (1) Infrastructure-levy regulations may—
- (a) empower a local authority to direct that the carrying out of development stop until there has been payment in full of—
    - (i) the payable amount, and
    - (ii) any financial penalty imposed in connection with the development by virtue of paragraph 9, and
  - (b) prescribe the consequences of not stopping development when directed to do so.
- (2) The regulations may, in particular, make it an offence not to stop development when directed to do so.

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### *Remission and repayment*

- 11 Infrastructure-levy regulations may provide for the remission or repayment (with or without interest) of the whole or part of—
- (a) the payable amount, and
  - (b) any financial penalty imposed by virtue of paragraph 9.

### *Appeals*

- 12 Infrastructure-levy regulations may—
- (a) establish a process for appealing against a decision—
    - (i) that infrastructure levy is payable, or
    - (ii) about what the payable amount is,
  - (b) provide that such an appeal is to be made to—
    - (i) the Scottish Ministers, or
    - (ii) a person appointed by them,
  - (c) enable the person to whom such an appeal is made to set rules (or further rules, in addition to those set by the regulations) about the conduct of the appeal,
  - (d) in respect of such appeals—
    - (i) prescribe fees, and
    - (ii) make provision allowing expenses to be awarded.

### *Accounting requirements*

- 13 (1) Infrastructure-levy regulations may make provision about the accounts that local authorities are to keep in connection with—
- (a) the exercise of their functions under infrastructure-levy regulations, and
  - (b) their expenditure of infrastructure-levy income.
- (2) In sub-paragraph (1), “infrastructure-levy income” includes monies collected as financial penalties imposed by virtue of paragraph 9.

### *Expenditure of levy income*

- 14 (1) Infrastructure-levy regulations may make provision about the particular purposes for which local authorities may apply infrastructure-levy income.
- (2) In sub-paragraph (1), “infrastructure-levy income” includes monies collected as financial penalties imposed by virtue of paragraph 9.

### *Use of planning and development powers*

- 15 (1) Infrastructure-levy regulations may make provision about how any of the following powers may or may not be exercised—
- (a) section 75 of the Town and Country Planning (Scotland) Act 1997 (planning obligations),
  - (b) section 53 of the Roads (Scotland) Act 1984 (agreements as to use of land near roads),
  - (c) any other power relating to planning or development.

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(2) But provision of the kind mentioned in sub-paragraph (1) may be made only if the Scottish Ministers consider it necessary or expedient for the purpose of—

- (a) enhancing the effectiveness of infrastructure levy as a means of raising revenue to fund, or contribute towards funding, infrastructure projects, or
- (b) preventing or restricting the use of powers, other than the power to charge infrastructure levy, in circumstances in which the Ministers think using the power to charge infrastructure levy would be more appropriate.

#### *Maximum penalties*

16 (1) The maximum penalty that infrastructure-levy regulations can specify for an offence they create is—

- (a) for a summary-only offence—
  - (i) a fine not exceeding level 5 on the standard scale,
  - (ii) a term of imprisonment not exceeding 12 months, or
  - (iii) both,
- (b) for an either-way offence—
  - (i) a fine, which may not exceed the statutory maximum on summary conviction,
  - (ii) a term of imprisonment not exceeding—
    - (A) 12 months on summary conviction,
    - (B) 2 years on conviction on indictment, or
  - (iii) both.

(2) In sub-paragraph (1)(b), “either-way offence” means an offence that is triable either on indictment or summary complaint.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.S.I. 2019/377, reg. 9 by [S.S.I. 2019/411 reg. 2](#)
- specified provision(s) amendment to earlier commencing S.S.I. 2021/101, regs. 3, 4 by [S.S.I. 2021/291 reg. 2](#)