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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**The Community Infrastructure Levy Regulations 2010**

**PART 7**

**APPLICATION OF CIL**

**Application to infrastructure**

**59.**—(1) A charging authority must apply CIL to funding infrastructure to support the development of its area.

(2) CIL applied by the Mayor to funding infrastructure must be applied to funding roads or other transport facilities, including, in particular, funding for the purposes of, or in connection with, scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008(1).

(3) A charging authority may apply CIL to funding infrastructure outside its area where to do so would support the development of its area.

(4) For the purposes of this regulation, any reference to applying CIL includes a reference to causing it to be applied, and includes passing CIL to another person for that person to apply to funding infrastructure.

(5) This regulation is subject to regulations [60](#) and [61](#).

**Reimbursement of expenditure incurred and repayment of loans**

**60.**—(1) A charging authority may apply CIL to reimburse expenditure already incurred on infrastructure.

(2) Where a charging authority, other than the Mayor, has borrowed money for the purposes of funding infrastructure, it may apply CIL to repay that money, and any interest, if the conditions set out in paragraphs (4) and (5) are both met.

(3) Where the Greater London Authority or a functional body has borrowed money for the purposes of funding infrastructure consisting of roads or other transport facilities, the Mayor may apply CIL to repay that money, and any interest, if the conditions set out in paragraphs (4) and (5) are both met.

(4) Condition 1 is that the charging authority has collected CIL, or CIL has been collected on its behalf, for at least one full financial year before the date on which CIL is to be applied to repay the money.

(5) Condition 2 is that the total amount to be applied in any one financial year does not exceed the relevant percentage of CIL collected by or on behalf of the charging authority in the preceding financial year.

(6) For the purposes of paragraph (5), the relevant percentage is such percentage as the Secretary of State may direct or, in the absence of a direction, zero per cent.

(7) A direction under paragraph (6)—

- (a) must be made in respect of authorities generally;
  - (b) must be in writing;
  - (c) may be substituted or revoked at any time, any substitution or revocation being made by a further direction in writing.
- (8) In this regulation “functional body” means—
- (a) Transport for London; or
  - (b) the London Development Agency.

### **Administrative expenses**

61.—(1) A charging authority may apply CIL to administrative expenses incurred by it in connection with CIL.

(2) A collecting authority which collects CIL on behalf of a charging authority may apply that CIL to administrative expenses incurred by it in connection with that collection.

(3) In relation to a charging authority which collects CIL charged by it—

- (a) in years one to three, the total amount of CIL that may be applied to administrative expenses incurred during those three years, and any expenses incurred before the charging schedule was published, shall not exceed five per cent of CIL collected over the period of years one to three;
- (b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred during that year shall not exceed five per cent of CIL collected in that year.

(4) In relation to a collecting authority which collects CIL on behalf of a charging authority—

- (a) in years one to three the total amount of CIL that may be applied to administrative expenses incurred in connection with that collection during those three years, and any expenses incurred before the charging schedule was published, shall not exceed four per cent of CIL collected on behalf of the charging authority over the period of years one to three;
- (b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred in connection with that collection during that year shall not exceed four per cent of CIL collected on behalf of the charging authority in that year.

(5) In relation to a charging authority which does not collect CIL charged by it—

- (a) in years one to three the total amount of CIL that may be applied to administrative expenses incurred during those three years, and any expenses incurred before the charging schedule was published, shall not exceed the relevant percentage of CIL collected over the period of years one to three;
- (b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred during that year shall not exceed the relevant percentage of CIL collected in that year.

(6) In paragraph (5) the relevant percentage is five per cent less any CIL which is applied by the collecting authority pursuant to paragraph (4).

(7) For the purposes of this regulation reference to CIL collected in a year includes the value of acquired land acquired by virtue of a land payment made in that year.

(8) In this regulation—

- (a) year one begins on the date on which the charging authority’s first charging schedule takes effect<sup>(2)</sup> and ends at the end of the first subsequent full financial year;

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(2) See section 214 of the Planning Act 2008 and regulation 28.

- (b) years two to four are the consecutive financial years that follow; and
- (c) in relation to a collecting authority, the reference to a charging authority in this paragraph is a reference to the charging authority on behalf of whom CIL is collected.

## Reporting

**62.**—(1) A charging authority must prepare a report for any financial year (“the reported year”) in which—

- (a) it collects CIL, or CIL is collected on its behalf; or
- (b) an amount of CIL collected by it or by another person on its behalf (whether in the reported year or any other) has not been spent.

(2) Nothing in paragraph (1) requires an authority to prepare a report about CIL which it collects on behalf of another charging authority.

(3) For the purposes of paragraph (1), CIL collected by a charging authority includes land payments made in respect of CIL charged by that authority, and CIL collected by way of a land payment has not been spent if at the end of the reported year—

- (a) development consistent with a relevant purpose has not commenced on the acquired land; or
- (b) the acquired land (in whole or in part) has been used or disposed of for a purpose other than a relevant purpose; and the amount deemed to be CIL by virtue of regulation 73(9) has not been spent.

(4) The report must include—

- (a) the total CIL receipts for the reported year;
- (b) the total CIL expenditure for the reported year;
- (c) summary details of CIL expenditure during the reported year including—
  - (i) the items of infrastructure to which CIL (including land payments) has been applied,
  - (ii) the amount of CIL expenditure on each item,
  - (iii) the amount of CIL applied to repay money borrowed, including any interest, with details of the infrastructure items which that money was used to provide (wholly or in part),
  - (iv) the amount of CIL applied to administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation; and

(d) the total amount of CIL receipts retained at the end of the reported year.

(5) The charging authority must publish the report on its website no later than 31st December following the end of the reported year.

(6) For the purposes of this regulation—

- (a) the value of acquired land is the value stated in the agreement made with the charging authority in respect of that land in accordance with regulation 73(6)(d);
- (b) the value of a part of acquired land must be determined by applying the formula in regulation 73(10) as if references to N were references to the area of the part of the acquired land whose value is being determined.

(7) In this regulation—

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

“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 the 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 CIL collected by the charging 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.

**Infrastructure: amendment to section 216 of the Planning Act 2008**

- 63.**—(1) Section 216(2) of PA 2008 (application) is amended as follows.
- (2) At the end of paragraph (e) insert “ and”.
  - (3) At the end of paragraph (f) for “, and” substitute “.”.
  - (4) Omit paragraph (g).