

Draft Regulations laid before the House of Commons under section 222(2)(b) of the Planning Act 2008, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2015 No.

**COMMUNITY INFRASTRUCTURE
LEVY, ENGLAND AND WALES**

The Community Infrastructure Levy
(Amendment) Regulations 2015

Made - - - - - ***
Coming into force in accordance with regulation 1

A draft of these Regulations has been laid before the House of Commons in accordance with section 222(2)(b) of the Planning Act 2008⁽¹⁾ and approved by a resolution of that House.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 205(1), 218(2) and (4)(a), 220(3), and 222(1) of the Planning Act 2008, and with the consent of the Treasury, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Community Infrastructure Levy (Amendment) Regulations 2015 and shall come into force on 1st April 2015.

Amendments to the Community Infrastructure Levy Regulations 2010

2. The Community Infrastructure Levy Regulations 2010⁽²⁾ are amended in accordance with the following regulations.

Amendment to Part 1 – introductory

3. In regulation 2(1) in the definition of “clawback period”, after “annex,” insert—
- “(aa) in relation to social housing relief, where condition 5 of regulation 49 is satisfied, the period of seven years beginning with the date on which the qualifying dwelling is first let,”

(1) 2008 c. 29.
(2) S.I. 2010/948 as amended by S.I. 2011/987, 2012/2975, 2013/982 and 2014/385.

Amendment to Part 6 – exemptions and reliefs

- 4.—(1) In regulation 49 (social housing relief)—
- (a) in paragraph (2) for “four” substitute “five”;
 - (b) after paragraph (7) insert—
 - “(7A) Condition 5 is that—
 - (a) the dwelling is let by a person who is not a local housing authority, a private registered provider of social housing or a registered social landlord (within the meaning of Part 1 of the Housing Act 1996) on one of the following—
 - (i) an assured tenancy (including an assured shorthold tenancy);
 - (ii) an assured agricultural occupancy;
 - (iii) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) of Schedule 1 to the Housing Act 1988(3); and
 - (b) the following criteria are both met—
 - (i) the dwelling is let to a person whose needs are not adequately served by the commercial housing market; and
 - (ii) the rent is no more than 80 per cent of market rent (including service charges); and
 - (c) a planning obligation under section 106 TCPA 1990 designed to ensure compliance with both criteria at sub-paragraph (b) has been entered into in respect of the planning permission which permits the chargeable development.”
 - (c) in paragraph (11) for the definition of “national rent regime” substitute—
 - ““national rent regime” means the rent policy set out in the Social Rent Guidance within the Rent Standard Guidance as published by the Regulator of Social Housing in January 2015.”
- (2) In regulation 53 (withdrawal of social housing relief) after paragraph (4) insert—
- “(4A) Where—
 - (a) the relevant person is liable to pay the withdrawn amount; and
 - (b) the dwelling in respect of which the relevant person is benefitting from social housing relief was (immediately before it ceased to be a qualifying dwelling) a qualifying dwelling which satisfied condition 5 of regulation 49,
 for the purposes of regulation 87 (late payment interest), payment of the withdrawn amount is to be treated as being due on commencement of the chargeable development.”

Signed by authority of the Secretary of State for Communities and Local Government

Name
Minister of State
Department for Communities and Local
Government

Date

(3) 1988 c.50. Paragraph 12(1)(h) of Schedule 1 was amended, in relation to Wales, by, and a new paragraph 12(3) inserted by, section 137(2) of the Housing (Wales) Act 2014 (anaw. 7).

We consent

Date

Name
Name
Two of the Lords Commissioners of Her
Majesty's Treasury

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 (“the Levy”). The Community Infrastructure Levy Regulations 2010 (“the 2010 Regulations”) implement the detail of the Levy. These Regulations amend the 2010 Regulations. The 2010 Regulations and these Regulations apply in relation to England and Wales only.

Regulation 49 of the 2010 Regulations (as substituted by the Community Infrastructure Levy (Amendment) Regulations 2014(4)) provides for relief from liability to the Levy where a dwelling satisfies at least one of four conditions. Regulation 4(1)(a) and (b) of these Regulations inserts a new condition (condition 5) for dwellings that are let by landlords who are not a local housing authority, private registered provider of social housing (in England) or registered social landlord (in Wales). To satisfy the new condition the dwelling must be let at no more than 80% of market rent (including service charges) to tenants whose needs are not adequately served by the commercial housing market. A planning obligation designed to ensure that these criteria are met must be entered into.

Regulation 4(1)(c) of these Regulations substitutes the definition of “national rent regime” in regulation 49(11) of the 2010 Regulations to refer to updated Rent Standard Guidance published by the Regulator of Social Housing in January 2015. This can be accessed at <https://www.gov.uk/government/consultations/changes-to-the-regulatory-framework>. Copies can be requested from the Homes and Communities Agency, Fry Building, 2 Marsham Street, London SW1P 4DF.

Regulation 53 of the 2010 Regulations provides for liability to repay an amount of Levy where social housing relief is withdrawn before the end of the “clawback period”. Regulation 3 of these Regulations amends regulation 2 of the 2010 Regulations to define the “clawback period” where social housing relief is granted on the basis of the new condition 5 of regulation 49. Regulation 4(2) of these Regulations provides for payment of an amount of the Levy for which a person is liable where social housing relief granted on the basis of condition 5 is withdrawn to be treated as being due on commencement of the chargeable development. This would trigger liability for late payment interest under regulation 87 of the 2010 Regulations from that date.

An impact assessment was prepared for the 2010 Regulations and laid in Parliament on 10 February 2010. No formal impact assessment was produced for these Regulations and one is not required as it is a financial instrument.