



Localism Act 2011

2011 CHAPTER 20

PART 6

PLANNING

CHAPTER 2

COMMUNITY INFRASTRUCTURE LEVY

114 Community Infrastructure Levy: approval of charging schedules

(1) The Planning Act 2008 is amended as follows.

(2) In section 211 (amount of levy) after subsection (7) insert—

“(7A) A charging authority must use appropriate available evidence to inform the charging authority’s preparation of a charging schedule.

(7B) CIL regulations may make provision about the application of subsection (7A) including, in particular—

- (a) provision as to evidence that is to be taken to be appropriate,
- (b) provision as to evidence that is to be taken to be not appropriate,
- (c) provision as to evidence that is to be taken to be available,
- (d) provision as to evidence that is to be taken to be not available,
- (e) provision as to how evidence is, and as to how evidence is not, to be used,
- (f) provision as to evidence that is, and as to evidence that is not, to be used,
- (g) provision as to evidence that may, and as to evidence that need not, be used, and
- (h) provision as to how the use of evidence is to inform the preparation of a charging schedule.”

Status: This is the original version (as it was originally enacted).

(3) For section 212(4) to (7) (draft must be accompanied by declaration of compliance with requirements, and examiner must consider the requirements and make recommendations with reasons) substitute—

“(4) In this section and sections 212A and 213 “the drafting requirements” means the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)), so far as relevant to the drafting of the schedule.

(7) The examiner must consider whether the drafting requirements have been complied with and—

- (a) make recommendations in accordance with section 212A, and
- (b) give reasons for the recommendations.”

(4) After section 212 insert—

“212A Charging schedule: examiner’s recommendations

(1) This section applies in relation to the examination, under section 212, of a draft charging schedule.

(2) If the examiner considers—

- (a) that there is any respect in which the drafting requirements have not been complied with, and
- (b) that the non-compliance with the drafting requirements cannot be remedied by the making of modifications to the draft,

the examiner must recommend that the draft be rejected.

(3) Subsection (4) applies if the examiner considers—

- (a) that there is any respect in which the drafting requirements have not been complied with, and
- (b) that the non-compliance with the drafting requirements could be remedied by the making of modifications to the draft.

(4) The examiner must—

- (a) specify the respects in which the drafting requirements have not been complied with,
- (b) recommend modifications that the examiner considers sufficient and necessary to remedy that non-compliance, and
- (c) recommend that the draft be approved with—
 - (i) those modifications, or
 - (ii) other modifications sufficient and necessary to remedy that non-compliance.

(5) Subject to subsections (2) to (4), the examiner must recommend that the draft be approved.

(6) If the examiner makes recommendations under subsection (4), the examiner may recommend other modifications with which the draft should be approved in the event that it is approved.

Status: This is the original version (as it was originally enacted).

- (7) If the examiner makes recommendations under subsection (5), the examiner may recommend modifications with which the draft should be approved in the event that it is approved.”
- (5) For section 213(1) (charging authority has to follow examiner’s recommendations when approving charging schedule) substitute—
- “(1) A charging authority may approve a charging schedule only if—
- (a) the examiner makes recommendations under section 212A(4) or (5), and
 - (b) the charging authority has had regard to those recommendations and the examiner’s reasons for them.
- (1A) Accordingly, a charging authority may not approve a charging schedule if, under section 212A(2), the examiner recommends rejection.
- (1B) If the examiner makes recommendations under section 212A(4), the charging authority may approve the charging schedule only if it does so with modifications that are sufficient and necessary to remedy the non-compliance specified under section 212A(4)(a) (although those modifications need not be the ones recommended under section 212A(4)(b)).
- (1C) If a charging authority approves a charging schedule, it may do so with all or none, or some one or more, of the modifications (if any) recommended under section 212A(6) or (7).
- (1D) The modifications with which a charging schedule may be approved include only—
- (a) modifications required by subsection (1B), and
 - (b) modifications allowed by subsection (1C).”
- (6) In section 213 (approval of charging schedules) after subsection (3) insert—
- “(3A) Subsection (3B) applies if—
- (a) the examiner makes recommendations under section 212A(4), and
 - (b) the charging schedule is approved by the charging authority.
- (3B) The charging authority must publish a report setting out how the charging schedule as approved remedies the non-compliance specified under section 212A(4)(a).
- (3C) CIL regulations may make provision about the form or contents of a report under subsection (3B).”
- (7) In section 213 after subsection (4) insert—
- “(5) In this section “examiner” means examiner under section 212.”
- (8) The amendments made by this section do not apply in relation to cases where an examiner submits recommendations to a charging authority before the coming into force of this section, but subject to that the cases in relation to which the amendments apply include a case in which steps in relation to the charging schedule have been taken before then.

Status: This is the original version (as it was originally enacted).

115 Use of Community Infrastructure Levy

- (1) The Planning Act 2008 is amended as follows.
- (2) In section 205(2) (requirement to aim to ensure that overall purpose of the levy is to ensure that costs of providing infrastructure to support development of an area can be funded by owners or developers of land)—
 - (a) for “providing infrastructure to support” substitute “supporting”, and
 - (b) after “land” insert “in a way that does not make development of the area economically unviable”.
- (3) In the Table in section 205(3) (which describes the provisions of the Part) for “Section 216” substitute “Sections 216 to 216B”.
- (4) In section 211(4) (particular provision that may be included in regulations about setting rates, or other criteria, by reference to which the amount of levy chargeable is to be determined) after paragraph (a) insert—
 - “(aa) to have regard, to the extent and in the manner specified by the regulations, to actual and expected costs of anything other than infrastructure that is concerned with addressing demands that development places on an area (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);
 - (ab) to have regard, to the extent and in the manner specified by the regulations, to other actual and expected sources of funding for anything other than infrastructure that is concerned with addressing demands that development places on an area;”.
- (5) In section 216 (application of levy)—
 - (a) in subsection (1) (levy to be used to fund infrastructure, or pay compensation under section 219)—
 - (i) for “section” substitute “sections 216A(1), 216B(2) and”, and
 - (ii) for “funding infrastructure” substitute “supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure”,
 - (b) in subsection (2) (meaning of “infrastructure” in subsection (1)) for “subsection (1)” substitute “this section (except subsection (3)) and sections 216A(2) and 216B(2)”,
 - (c) in subsection (4)(a) (power to specify facilities that are to be, or not to be, funded) for “that are to be, or not to” substitute “whose provision, improvement or replacement may or is to be, or may not”,
 - (d) in subsection (4) (matters that may be specified by regulations) after paragraph (a) insert—
 - “(aa) maintenance activities and operational activities (including operational activities of a promotional kind) in connection with infrastructure that may or are to be, or may not be, funded by CIL,
 - (ab) things within section 216A(2)(b) that may or are to be, or may not be, funded by CIL passed to a person in discharge of a duty under section 216A(1),
 - (ac) things within section 216B(2)(b) that may or are to be, or may not be, funded by CIL to which provision under section 216B(2) relates,”.

Status: This is the original version (as it was originally enacted).

- (e) in subsection (4)(b) (power to specify criteria for determining areas in relation to which infrastructure may be funded) for “in relation to which infrastructure may be funded” substitute “that may benefit from funding”,
 - (f) in subsection (5)(a) (power to require authorities to list projects that are to be, or may be, funded) for “projects that are” substitute “what is”,
 - (g) in subsection (5)(c) (power to make provision about funding projects not on list) for “projects” substitute “anything”,
 - (h) in subsection (6)(b) (regulations about funding may permit levy to be reserved for expenditure on future projects) for “on future projects” substitute “in the future”,
 - (i) in subsection (6)(c) (regulations may permit funding of administrative expenses in connection with infrastructure) after “infrastructure” insert “or anything within section 216A(2)(b) or 216B(2)(b)”, and
 - (j) in subsection (6)(e) (regulations may make provision for the use of funding where the projects to be funded no longer require funding)—
 - (i) for “the projects” substitute “anything”, and
 - (ii) for “require” substitute “requires”.
- (6) After section 216 insert—

“216A Duty to pass receipts to other persons

- (1) CIL regulations may require that CIL received in respect of development of land in an area is to be passed by the charging authority that charged the CIL to a person other than that authority.
- (2) CIL regulations must contain provision to secure that money passed to a person in discharge of a duty under subsection (1) is used to support the development of the area to which the duty relates, or of 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 demands that development places on an area.
- (3) A duty under subsection (1) may relate to—
 - (a) the whole of a charging authority’s area or the whole of the combined area of two or more charging authorities, or
 - (b) part only of such an area or combined area.
- (4) CIL regulations may make provision about the persons to whom CIL may or must, or may not, be passed in discharge of a duty under subsection (1).
- (5) A duty under subsection (1) may relate—
 - (a) to all CIL (if any) received in respect of the area to which the duty relates, or
 - (b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations.
- (6) CIL regulations may make provision in connection with the timing of payments in discharge of a duty under subsection (1).

Status: This is the original version (as it was originally enacted).

- (7) CIL regulations may, in relation to CIL passed to a person in discharge of a duty under subsection (1), make provision about—
- (a) accounting for the CIL,
 - (b) monitoring its use,
 - (c) reporting on its use,
 - (d) responsibilities of charging authorities for things done by the person in connection with the CIL,
 - (e) recovery of the CIL, and any income or profits accruing in respect of it or from its application, in cases where—
 - (i) anything to be funded by it has not been provided, or
 - (ii) it has been misapplied,
 including recovery of sums or other assets representing it or any such income or profits, and
 - (f) use of anything recovered in cases where—
 - (i) anything to be funded by the CIL has not been provided, or
 - (ii) the CIL has been misapplied.
- (8) This section does not limit section 216(7)(f).

216B Use of CIL in an area to which section 216A(1) duty does not relate

- (1) Subsection (2) applies where—
- (a) there is an area to which a particular duty under section 216A(1) relates, and
 - (b) there is also an area to which that duty does not relate (“the uncovered area”).
- (2) CIL regulations may provide that the charging authority that charges CIL received in respect of development of land in the uncovered area may apply the CIL, or cause it to be applied, to—
- (a) support development by funding the provision, improvement, replacement, operation or maintenance of infrastructure, or
 - (b) support development of the uncovered area, or of any part of that area, by funding anything else that is concerned with addressing demands that development places on an area.
- (3) Provision under subsection (2) may relate to the whole, or part only, of the uncovered area.
- (4) Provision under subsection (2) may relate—
- (a) to all CIL (if any) received in respect of the area to which the provision relates, or
 - (b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations.”