
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(1)) 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Regulation 53 of the 2010 Regulations provides for liability to repay an amount of Levy where social housing relief is withdrawn before the end of the “clawback period”.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an amount of the Levy for which a person is liable where social housing relief granted on the basis of condition 5 is withdrawn to be treated as being due on commencement of the chargeable development.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.