



# Planning Act 2008

## 2008 CHAPTER 29

### PART 11

#### COMMUNITY INFRASTRUCTURE LEVY

#### 205 The levy

- (1) The Secretary of State may with the consent of the Treasury make regulations providing for the imposition of a charge to be known as Community Infrastructure Levy (CIL).
- (2) In making the regulations the Secretary of State shall aim to ensure that the overall purpose of CIL is to ensure that costs incurred in<sup>F1</sup> supporting] the development of an area can be funded (wholly or partly) by owners or developers of land<sup>F2</sup> in a way that does not make development of the area economically unviable ].
- (3) The Table describes the provisions of this Part.

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<i>Section</i>	<i>Topic</i>
Section 206	The charge
Section 207	Joint committees
Sections 208 and 209	Liability
Section 210	Charities
Section 211	Amount
Sections 212 to 214	Charging schedule
Section 215	Appeals
[ <sup>F3</sup> Sections 216 to 216B]	Application
Section 217	Collection
Section 218	Enforcement

*Status: Point in time view as at 15/01/2012.*

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Section 219	Compensation
Section 220	Procedure
Section 221	Secretary of State
Section 222	CIL regulations and orders: general
Section 223	Relationship with other powers
Section 224	Amendments
Section 225	Repeals

(4) In those sections regulations under this section are referred to as “CIL regulations”.

#### Textual Amendments

- F1** Words in s. 205(2) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(2)(a)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F2** Words in s. 205(2) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(2)(b)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F3** Words in s. 205(3) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(3)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)

## 206 The charge

- (1) A charging authority may charge CIL in respect of development of land in its area.
- (2) A local planning authority is the charging authority for its area.
- (3) But—
- (a) the Mayor of London is a charging authority for Greater London (in addition to the local planning authorities),
  - (b) the Broads Authority is the only charging authority for the Broads (within the meaning given by section 2(3) of the Norfolk and Suffolk Broads Act 1988 (c. 4)), and
  - (c) the Council of the Isles of Scilly is the only charging authority for the Isles of Scilly.
- (4) CIL regulations may provide for any of the following to be the charging authority for an area, or in the case of Greater London one of the charging authorities, in place of the charging authority under subsection (2), (3)(b) or (c)—
- (a) a county council,
  - (b) a county borough council,
  - (c) a district council,
  - (d) a metropolitan district council, and
  - (e) a London borough council (within the meaning of TCPA 1990).
- (5) In this section, “local planning authority” has the meaning given by—
- (a) section 37 of PCPA 2004 in relation to England, [<sup>F4</sup>except that a Mayoral development corporation is a local planning authority for the purposes of this section only if it is the local planning authority for all purposes of Part 2 of

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PCPA 2004 in respect of the whole of its area and all kinds of development,  
and

(b) section 78 of PCPA 2004 in relation to Wales.

[<sup>F5</sup>(6) CIL regulations may make transitional provision in connection with, or in anticipation of, a Mayoral development corporation—

- (a) becoming a charging authority as a result of the operation of subsection (2), or
- (b) ceasing to be a charging authority as a result of the operation of that subsection.]

#### Textual Amendments

- F4** Words in s. 206(5)(a) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), [Sch. 22 para. 61\(2\)](#)
- F5** S. 206(6) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), [Sch. 22 para. 61\(3\)](#)

#### Commencement Information

- I1** S. 206 in force at 6.4.2009 for specified purposes by [S.I. 2009/400](#), [art. 3\(k\)](#)
- I2** S. 206 in force at 6.4.2010 for E.W. in so far as not already in force by [S.I. 2010/566](#), [art. 3\(c\)](#)

## 207 Joint committees

- (1) This section applies if a joint committee that includes a charging authority is established under section 29 of PCPA 2004.
- (2) CIL regulations may provide that the joint committee is to exercise specified functions, in respect of the area specified in the agreement under section 29(1) of PCPA 2004, on behalf of the charging authority.
- (3) The regulations may make provision corresponding to provisions relating to joint committees in Part 6 of the Local Government Act 1972 (c. 70) in respect of the discharge of the specified functions.

## 208 Liability

- (1) Where liability to CIL would arise in respect of proposed development (in accordance with provision made by a charging authority under and by virtue of section 206 and CIL regulations) a person may assume liability to pay the levy.
- (2) An assumption of liability—
  - (a) may be made before development commences, and
  - (b) must be made in accordance with any provision of CIL regulations about the procedure for assuming liability.
- (3) A person who assumes liability for CIL before the commencement of development becomes liable when development is commenced in reliance on planning permission.
- (4) CIL regulations must make provision for an owner or developer of land to be liable for CIL where development is commenced in reliance on planning permission if—
  - (a) nobody has assumed liability in accordance with the regulations, or
  - (b) other specified circumstances arise (such as the insolvency or withdrawal of a person who has assumed liability).

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- (5) CIL regulations may make provision about—
- (a) joint liability (with or without several liability);
  - (b) liability of partnerships;
  - (c) assumption of partial liability (and subsection (4)(a) applies where liability has not been wholly assumed);
  - (d) apportionment of liability (which may—
    - (i) include provision for referral to a specified person or body for determination, and
    - (ii) include provision for appeals);
  - (e) withdrawal of assumption of liability;
  - (f) cancellation of assumption of liability by a charging authority (in which case subsection (4)(a) applies);
  - (g) transfer of liability (whether before or after development commences and whether or not liability has been assumed).
- (6) The amount of any liability for CIL is to be calculated by reference to the time when planning permission first permits the development as a result of which the levy becomes payable.
- (7) CIL regulations may make provision for liability for CIL to arise where development which requires planning permission is commenced without it (and subsection (6) is subject to this subsection).
- (8) CIL regulations may provide for liability to CIL to arise in respect of a development where—
- (a) the development was exempt from CIL, or subject to a reduced rate of CIL charge, and
  - (b) the description or purpose of the development changes.

**Modifications etc. (not altering text)**

**C1** S. 208 excluded (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014 \(S.I. 2014/2384\)](#), art. 1, **Sch. 19 Pt. 1 para. 7**

**209 Liability: interpretation of key terms**

- (1) In section 208 “development” means—
- (a) anything done by way of or for the purpose of the creation of a new building, or
  - (b) anything done to or in respect of an existing building.
- (2) CIL regulations may provide for—
- (a) works or changes in use of a specified kind not to be treated as development;
  - (b) the creation of, or anything done to or in respect of, a structure of a specified kind to be treated as development.
- (3) CIL regulations must include provision for determining when development is treated as commencing.
- (4) Regulations under subsection (3) may, in particular, provide for development to be treated as commencing when some specified activity or event is undertaken or occurs, where the activity or event—

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- (a) is not development within the meaning of subsection (1), but
  - (b) has a specified kind of connection with a development within the meaning of that subsection.
- (5) CIL regulations must define planning permission (which may include planning permission within the meaning of TCPA 1990 and any other kind of permission or consent (however called, and whether general or specific)).
- (6) CIL regulations must include provision for determining the time at which planning permission is treated as first permitting development; and the regulations may, in particular, make provision—
- (a) about outline planning permission;
  - (b) for permission to be treated as having been given at a particular time in the case of general consents.
- (7) For the purposes of section 208—
- (a) “owner” of land means a person who owns an interest in the land, and
  - (b) “developer” means a person who is wholly or partly responsible for carrying out a development.
- (8) CIL regulations may make provision for a person to be or not to be treated as an owner or developer of land in specified circumstances.

## **210 Charities**

- (1) CIL regulations must provide for an exemption from liability to pay CIL in respect of a development where—
- (a) the person who would otherwise be liable to pay CIL in respect of the development is a relevant charity in England and Wales, and
  - (b) the building or structure in respect of which CIL liability would otherwise arise is to be used wholly or mainly for a charitable purpose of the charity within the meaning of section 2 of the Charities Act 2006 (c. 50).
- (2) CIL regulations may—
- (a) provide for an exemption from liability to pay CIL where the person who would otherwise be liable to pay CIL in respect of the development is an institution established for a charitable purpose;
  - (b) require charging authorities to make arrangements for an exemption from, or reduction in, liability to pay CIL where the person who would otherwise be liable to pay CIL in respect of the development is an institution established for a charitable purpose.
- (3) Regulations under subsection (1) or (2) may provide that an exemption or reduction does not apply if specified conditions are satisfied.
- (4) For the purposes of subsection (1), a relevant charity in England and Wales is an institution which—
- (a) is registered in the register of charities kept by the Charity Commission under section 3 of the Charities Act 1993 (c. 10), or
  - (b) is a charity within the meaning of section 1(1) of the Charities Act 2006 but is not required to be registered in the register kept under section 3 of the Charities Act 1993.

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- (5) In subsection (2), a charitable purpose is a purpose falling within section 2(2) of the Charities Act 2006; but CIL regulations may provide for an institution of a specified kind to be, or not to be, treated as an institution established for a charitable purpose.

## 211 Amount

- (1) A charging authority which proposes to charge CIL must issue a document (a “charging schedule”) setting rates, or other criteria, by reference to which the amount of CIL chargeable in respect of development in its area is to be determined.
- (2) A charging authority, in setting rates or other criteria, must have regard, to the extent and in the manner specified by CIL regulations, to—
- (a) actual and expected costs of infrastructure (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);
  - (b) matters specified by CIL regulations relating to the economic viability of development (which may include, in particular, actual or potential economic effects of planning permission or of the imposition of CIL);
  - (c) other actual and expected sources of funding for infrastructure.
- (3) CIL regulations may make other provision about setting rates or other criteria.
- (4) The regulations may, in particular, permit or require charging authorities in setting rates or other criteria—
- (a) to have regard, to the extent and in the manner specified by the regulations, to actual or expected administrative expenses in connection with CIL;
  - [<sup>F6</sup>(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;]
  - (b) to have regard, to the extent and in the manner specified by the regulations, to values used or documents produced for other statutory purposes;
  - (c) to integrate the process, to the extent and in the manner specified by the regulations, with processes undertaken for other statutory purposes;
  - (d) to produce charging schedules having effect in relation to specified periods (subject to revision).
- (5) The regulations may permit or require charging schedules to adopt specified methods of calculation.
- (6) In particular, the regulations may—
- (a) permit or require charging schedules to operate by reference to descriptions or purposes of development;
  - (b) permit or require charging schedules to operate by reference to any measurement of the amount or nature of development (whether by reference to measurements of floor space, to numbers or intended uses of buildings, to numbers or intended uses of units within buildings, to allocation of space within buildings or units, to values or expected values or in any other way);

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- (c) permit or require charging schedules to operate by reference to the nature or existing use of the place where development is undertaken;
  - (d) permit or require charging schedules to operate by reference to an index used for determining a rate of inflation;
  - (e) permit or require charging schedules to operate by reference to values used or documents produced for other statutory purposes;
  - (f) provide, or permit or require provision, for differential rates, which may include provision for supplementary charges, a nil rate, increased rates or reductions.
- (7) A charging authority may consult, or take other steps, in connection with the preparation of a charging schedule (subject to CIL regulations).
- [<sup>F7</sup>(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.]
- (8) The regulations may require a charging authority to provide in specified circumstances an estimate of the amount of CIL chargeable in respect of development of land.
- (9) A charging authority may revise a charging schedule.
- (10) This section and sections 212, 213 and 214(1) and (2) apply to the revision of a charging schedule as they apply to the preparation of a charging schedule.

#### Textual Amendments

- F6** S. 211(4)(aa)(ab) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(4)**, 240(2) (with s. 144); [S.I. 2012/57](#), **art. 4(1)(g)** (with arts. 679-11)
- F7** S. 211(7A)(7B) inserted (16.11.2011) by [Localism Act 2011 \(c. 20\)](#), **ss. 114(2)**, 240(6) (with ss. 114(8), 144)

#### Commencement Information

- I3** S. 211 partly in force; s. 211(1)-(6)(8) in force at Royal Assent see s. 241
- I4** S. 211(7) in force at 6.4.2009 by [S.I. 2009/400](#), **art. 3(I)**

## 212 Charging schedule: examination

- (1) Before approving a charging schedule a charging authority must appoint a person (“the examiner”) to examine a draft.

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- (2) The charging authority must appoint someone who, in the opinion of the authority—
  - (a) is independent of the charging authority, and
  - (b) has appropriate qualifications and experience.
- (3) The charging authority may, with the agreement of the examiner, appoint persons to assist the examiner.
- [<sup>F8</sup>(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.]
  - (8) The charging authority must publish the recommendations and reasons.
  - (9) CIL regulations must require a charging authority to allow anyone who makes representations about a draft charging schedule to be heard by the examiner; and the regulations may make provision about timing and procedure.
  - (10) CIL regulations may make provision for examiners to reconsider their decisions with a view to correcting errors (before or after the approval of a charging schedule).
  - (11) The charging authority may withdraw a draft.

**Textual Amendments**

**F8** S. 212(4)(7) substituted for s. 212(4)-(7) (16.11.2011) by [Localism Act 2011 \(c. 20\)](#), **ss. 114(3), 240(6)** (with [ss. 114\(8\), 144](#))

**[<sup>F9</sup>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—



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- (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.
- (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.]

#### Textual Amendments

**F9** S. 212A inserted (16.11.2011) by [Localism Act 2011 \(c. 20\)](#), **ss. 114(4), 240(6)** (with **ss. 114(8), 144**)

### 213 Charging schedule: approval

- [<sup>F10</sup>(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).]

(2) A charging authority (other than the Mayor of London) must approve a charging schedule—

    - (a) at a meeting of the authority, and
    - (b) by a majority of votes of members present.

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(3) The Mayor of London must approve a charging schedule personally.

[<sup>F11</sup>(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).]

(4) CIL regulations may make provision for the correction of errors in a charging schedule after approval.

[<sup>F12</sup>(5) In this section “ examiner ” means examiner under section 212. ]

#### Textual Amendments

- F10** S. 213(1)-(1D) substituted for s. 213(1) (16.11.2011) by [Localism Act 2011 \(c. 20\)](#), **ss. 114(5)**, 240(6) (with **ss. 114(8)**, 144)
- F11** S. 213(3A)-(3C) inserted (16.11.2011) by [Localism Act 2011 \(c. 20\)](#), **ss. 114(6)**, 240(6) (with **ss. 114(8)**, 144)
- F12** S. 213(5) inserted (16.11.2011) by [Localism Act 2011 \(c. 20\)](#), **ss. 114(7)**, 240(6) (with **ss. 114(8)**, 144)

## 214 Charging schedule: effect

- (1) A charging schedule approved under section 213 may not take effect before it is published by the charging authority.
- (2) CIL regulations may make provision about publication of a charging schedule after approval.
- (3) A charging authority may determine that a charging schedule is to cease to have effect.
- (4) CIL regulations may provide that a charging authority may only make a determination under subsection (3) in circumstances specified by the regulations.
- (5) A charging authority (other than the Mayor of London) must make a determination under subsection (3)—
  - (a) at a meeting of the authority, and
  - (b) by a majority of votes of members present.
- (6) The Mayor of London must make a determination under subsection (3) personally.

## 215 Appeals

- (1) CIL regulations must provide for a right of appeal on a question of fact in relation to the application of methods for calculating CIL to a person appointed by the Commissioners for Her Majesty's Revenue and Customs.
- (2) The regulations must require that the person appointed under subsection (1) is—
  - (a) a valuation officer appointed under section 61 of the Local Government Finance Act 1988 (c. 41), or

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- (b) a district valuer within the meaning of section 622 of the Housing Act 1985 (c. 68).
- (3) Regulations under this section or section 208(5)(d)(ii) may, in particular, make provision about—
  - (a) the period within which the right of appeal may be exercised,
  - (b) the procedure on an appeal, and
  - (c) the payment of fees, and award of costs, in relation to an appeal.
- (4) In any proceedings for judicial review of a decision on an appeal, the defendant shall be the Commissioners for Her Majesty's Revenue and Customs and not the person appointed under subsection (1).

## 216 Application

- (1) Subject to <sup>F13</sup>sections 216A(1), 216B(2) and] 219(5), CIL regulations must require the authority that charges CIL to apply it, or cause it to be applied, to <sup>F14</sup>supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure].
- (2) In <sup>F15</sup>this section (except subsection (3)) and sections 216A(2) and 216B(2)] “infrastructure” includes—
  - (a) roads and other transport facilities,
  - (b) flood defences,
  - (c) schools and other educational facilities,
  - (d) medical facilities,
  - (e) sporting and recreational facilities,<sup>F16</sup>and]
  - (f) open spaces<sup>F17</sup> .]
  - <sup>F18</sup>(g) .....
- (3) The regulations may amend subsection (2) so as to—
  - (a) add, remove or vary an entry in the list of matters included within the meaning of “infrastructure”;
  - (b) list matters excluded from the meaning of “infrastructure”.
- (4) The regulations may specify—
  - (a) works, installations and other facilities <sup>F19</sup>whose provision, improvement or replacement may or is to be, or may not] be, funded by CIL,
  - <sup>F20</sup>(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,]
  - (b) criteria for determining the areas <sup>F21</sup>that may benefit from funding ] by CIL in respect of land, and
  - (c) what is to be, or not to be, treated as funding.
- (5) The regulations may—

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- (a) require charging authorities to prepare and publish a list of [<sup>F22</sup>what is ] to be, or may be, wholly or partly funded by CIL;
  - (b) include provision about the procedure to be followed in preparing a list (which may include provision for consultation, for the appointment of an independent person or a combination);
  - (c) include provision about the circumstances in which a charging authority may and may not apply CIL to [<sup>F23</sup>anything ] not included on the list.
- (6) In making provision about funding the regulations may, in particular—
- (a) permit CIL to be used to reimburse expenditure already incurred;
  - (b) permit CIL to be reserved for expenditure that may be incurred [<sup>F24</sup>in the future];
  - (c) permit CIL to be applied (either generally or subject to limits set by or determined in accordance with the regulations) to administrative expenses in connection with infrastructure [<sup>F25</sup>or anything within section 216A(2)(b) or 216B(2)(b) ] or in connection with CIL;
  - (d) include provision for the giving of loans, guarantees or indemnities;
  - (e) make provision about the application of CIL where [<sup>F26</sup>anything ] to which it was to be applied no longer [<sup>F27</sup>requires ] funding.
- (7) The regulations may—
- (a) require a charging authority to account separately, and in accordance with the regulations, for CIL received or due;
  - (b) require a charging authority to monitor the use made and to be made of CIL in its area;
  - (c) require a charging authority to report on actual or expected charging, collection and application of CIL;
  - (d) permit a charging authority to cause money to be applied in respect of things done outside its area;
  - (e) permit a charging authority or other body to spend money;
  - (f) permit a charging authority to pass money to another body (and in paragraphs (a) to (e) a reference to a charging authority includes a reference to a body to which a charging authority passes money in reliance on this paragraph).

#### Textual Amendments

- F13** Words in s. 216(1) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(a)(i)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)
- F14** Words in s. 216(1) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(a)(ii)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)
- F15** Words in s. 216(2) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(b)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)
- F16** Word in s. 216(2)(e) inserted (6.4.2010) by [The Community Infrastructure Levy Regulations 2010 \(S.I. 2010/948\)](#), regs. 1, **63(2)**
- F17** Word in s. 216(2)(f) substituted (6.4.2010) by [The Community Infrastructure Levy Regulations 2010 \(S.I. 2010/948\)](#), regs. 1, **63(3)**
- F18** S. 216(2)(g) omitted (6.4.2010) by virtue of [The Community Infrastructure Levy Regulations 2010 \(S.I. 2010/948\)](#), regs. 1, **63(4)**
- F19** Words in s. 216(4)(a) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(c)**, 240(2) (with s. 144); S.I. 2012/57, art. 4(1)(g) (with arts. 679-11)

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- F20** S. 216(4)(aa)-(ac) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(d)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F21** Words in s. 216(4)(b) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(e)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F22** Words in s. 216(5)(a) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(f)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F23** Word in s. 216(5)(c) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(g)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F24** Words in s. 216(6)(b) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(h)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F25** Words in s. 216(6)(c) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(i)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F26** Word in s. 216(6)(e) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(j)(i)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)
- F27** Word in s. 216(6)(e) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(5)(j)(ii)**, 240(2) (with s. 144); [S.I. 2012/57](#), art. 4(1)(g) (with arts. 679-11)

## **[<sup>F28</sup>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).
- (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,

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- (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).

#### Textual Amendments

**F28** S. 216A - S. 216B inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(6), 240(2)** (with [s. 144](#)); [S.I. 2012/57](#), [art. 4\(1\)\(g\)](#) (with [arts. 679-11](#))

#### **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.]

#### Textual Amendments

**F28** S. 216A - S. 216B inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 115(6), 240(2)** (with [s. 144](#)); [S.I. 2012/57](#), [art. 4\(1\)\(g\)](#) (with [arts. 679-11](#))

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## **217 Collection**

- (1) CIL regulations must include provision about the collection of CIL.
- (2) The regulations may make provision for payment—
  - (a) on account;
  - (b) by instalments.
- (3) The regulations may make provision about repayment (with or without interest) in cases of overpayment.
- (4) The regulations may make provision about payment in forms other than money (such as making land available, carrying out works or providing services).
- (5) The regulations may permit or require a charging authority or other public authority to collect CIL charged by another authority; and section 216(7)(a) and (c) apply to a collecting authority in respect of collection as to a charging authority.
- (6) Regulations under this section may replicate or apply (with or without modifications) any enactment relating to the collection of a tax.
- (7) Regulations under this section may make provision about the source of payments in respect of Crown interests.

## **218 Enforcement**

- (1) CIL regulations must include provision about enforcement of CIL.
- (2) The regulations must make provision about the consequences of late payment and failure to pay.
- (3) The regulations may make provision about the consequences of failure to assume liability, to give a notice or to comply with another procedure under CIL regulations in connection with CIL.
- (4) The regulations may, in particular, include provision—
  - (a) for the payment of interest;
  - (b) for the imposition of a penalty or surcharge;
  - (c) for the suspension or cancellation of a decision relating to planning permission;
  - (d) enabling an authority to prohibit development pending assumption of liability for CIL or pending payment of CIL;
  - (e) conferring a power of entry onto land;
  - (f) requiring the provision of information;
  - (g) creating a criminal offence (including, in particular, offences relating to evasion or attempted evasion or to the provision of false or misleading information or failure to provide information, and offences relating to the prevention or investigation of other offences created by the regulations);
  - (h) conferring power to prosecute an offence;
  - (i) for enforcement of sums owed (whether by action on a debt, by distraint against goods or in any other way);
  - (j) conferring jurisdiction on a court to grant injunctive or other relief to enforce a provision of the regulations (including a provision included in reliance on this section);

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- (k) for enforcement in the case of death or insolvency of a person liable for CIL.
- (5) CIL regulations may include provision (whether or not in the context of late payment or failure to pay) about registration or notification of actual or potential liability to CIL; and the regulations may include provision—
  - (a) for the creation of local land charges;
  - (b) for the registration of local land charges;
  - (c) for enforcement of local land charges (including, in particular, for enforcement—
    - (i) against successive owners, and
    - (ii) by way of sale or other disposal with consent of a court);
  - (d) for making entries in statutory registers;
  - (e) for the cancellation of charges and entries.
- (6) Regulations under this section may—
  - (a) replicate or apply (with or without modifications) any enactment relating to the enforcement of a tax;
  - (b) provide for appeals.
- (7) Regulations under this section may provide that any interest, penalty or surcharge payable by virtue of the regulations is to be treated for the purposes of sections 216 to 220 as if it were CIL.
- (8) The regulations providing for a surcharge or penalty must ensure that no surcharge or penalty in respect of an amount of CIL exceeds the higher of—
  - (a) 30% of that amount, and
  - (b) £20,000.
- (9) But the regulations may provide for more than one surcharge or penalty to be imposed in relation to a CIL charge.
- (10) The regulations may not authorise entry to a private dwelling without a warrant issued by a justice of the peace.
- (11) Regulations under this section creating a criminal offence may not provide for—
  - (a) a maximum fine exceeding £20,000 on summary conviction,
  - (b) a maximum term of imprisonment exceeding 6 months on summary conviction, or
  - (c) a maximum term of imprisonment exceeding 2 years on conviction on indictment.
- (12) The Secretary of State may by order amend subsection (11) to reflect commencement of section 283 of the Criminal Justice Act 2003 (c. 44).
- (13) In this Part a reference to administrative expenses in connection with CIL includes a reference to enforcement expenses.

## **219 Compensation**

- (1) CIL regulations may require a charging authority or other public authority to pay compensation in respect of loss or damage suffered as a result of enforcement action.



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- (2) In this section, “enforcement action” means action taken under regulations under section 218, including—
  - (a) the suspension or cancellation of a decision relating to planning permission, and
  - (b) the prohibition of development pending assumption of liability for CIL or pending payment of CIL.
- (3) The regulations shall not require payment of compensation—
  - (a) to a person who has failed to satisfy a liability to pay CIL, or
  - (b) in other circumstances specified by the regulations.
- (4) Regulations under this section may make provision about—
  - (a) the time and manner in which a claim for compensation is to be made, and
  - (b) the sums, or the method of determining the sums, payable by way of compensation.
- (5) CIL regulations may permit or require a charging authority to apply CIL (either generally or subject to limits set by or determined in accordance with the regulations) for expenditure incurred under this section.
- (6) A dispute about compensation may be referred to and determined by the [<sup>F29</sup>Upper Tribunal].
- (7) In relation to the determination of any such question, the provisions of [<sup>F30</sup>section] 4 of the Land Compensation Act 1961 (c. 33) apply subject to any necessary modifications and to the provisions of CIL regulations.

#### Textual Amendments

- F29** Words in s. 219(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 296(a)** (with Sch. 5)
- F30** Word in s. 219(7) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 296(b)** (with Sch. 5)

## 220 Community Infrastructure Levy: procedure

- (1) CIL regulations may include provision about procedures to be followed in connection with CIL.
- (2) In particular, the regulations may make provision about—
  - (a) procedures to be followed by a charging authority proposing to begin charging CIL;
  - (b) procedures to be followed by a charging authority in relation to charging CIL;
  - (c) procedures to be followed by a charging authority proposing to stop charging CIL;
  - (d) consultation;
  - (e) the publication or other treatment of reports;
  - (f) timing and methods of publication;
  - (g) making documents available for inspection;
  - (h) providing copies of documents (with or without charge);
  - (i) the form and content of documents;

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- (j) giving notice;
  - (k) serving notices or other documents;
  - (l) examinations to be held in public in the course of setting or revising rates or other criteria or of preparing lists;
  - (m) the terms and conditions of appointment of independent persons;
  - (n) remuneration and expenses of independent persons (which may be required to be paid by the Secretary of State or by a charging authority);
  - (o) other costs in connection with examinations;
  - (p) reimbursement of expenditure incurred by the Secretary of State (including provision for enforcement);
  - (q) apportionment of costs;
  - (r) combining procedures in connection with CIL with procedures for another purpose of a charging authority (including a purpose of that authority in another capacity);
  - (s) procedures to be followed in connection with actual or potential liability for CIL.
- (3) CIL regulations may make provision about the procedure to be followed in respect of an exemption from CIL or a reduction of CIL; in particular, the regulations may include provision—
- (a) about the procedure for determining whether any conditions are satisfied;
  - (b) requiring a charging authority or other person to notify specified persons of any exemption or reduction;
  - (c) requiring a charging authority or other person to keep a record of any exemption or reduction.
- (4) A provision of this Part conferring express power to make procedural provision in a specified context includes, in particular, power to make provision about the matters specified in subsection (2).
- (5) A power in this Part to make provision about publishing something includes a power to make provision about making it available for inspection.
- (6) Sections 229 to 231 do not apply to this Part (but CIL regulations may make similar provision).

## **221 Secretary of State**

The Secretary of State may give guidance to a charging authority or other public authority (including an examiner appointed under section 212) about any matter connected with CIL; and the authority must have regard to the guidance.

## **222 Regulations and orders: general**

- (1) CIL regulations—
- (a) may make provision that applies generally or only to specified cases, circumstances or areas,
  - (b) may make different provision for different cases, circumstances or areas,
  - (c) may provide, or allow a charging schedule to provide, for exceptions,
  - (d) may confer, or allow a charging schedule to confer, a discretionary power on the Secretary of State, a local authority or another specified person,

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- (e) may apply an enactment, with or without modifications, and
  - (f) may include provision of a kind permitted by section 232(3)(b) (and incidental, supplemental or consequential provision may include provision disapplying, modifying the effect of or amending an enactment).
- (2) CIL regulations—
- (a) shall be made by statutory instrument, and
  - (b) shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.
- (3) An order under section 218(12) or 225(2)—
- (a) shall be made by statutory instrument, and
  - (b) may include provision of a kind permitted by subsection (1)(a), (b) or (f) above, but may not amend an Act of Parliament in reliance on subsection (1)(f).
- (4) An order under section 218(12) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) An order under section 225(2) shall be subject to annulment in pursuance of a resolution of the House of Commons.

## **223 Relationship with other powers**

- (1) CIL regulations may include provision about how the following powers are to be used, or are not to be used—
- (a) section 106 of TCPA 1990 (planning obligations), and
  - (b) section 278 of the Highways Act 1980 (c. 66) (execution of works).
- (2) CIL regulations may include provision about the exercise of any other power relating to planning or development.
- (3) The Secretary of State may give guidance to a charging or other authority about how a power relating to planning or development is to be exercised; and authorities must have regard to the guidance.
- (4) Provision may be made under subsection (1) or (2), and guidance may be given under subsection (3), only if the Secretary of State thinks it necessary or expedient for—
- (a) complementing the main purpose of CIL regulations,
  - (b) enhancing the effectiveness, or increasing the use, of CIL regulations,
  - (c) preventing agreements, undertakings or other transactions from being used to undermine or circumvent CIL regulations,
  - (d) preventing agreements, undertakings or other transactions from being used to achieve a purpose that the Secretary of State thinks would better be achieved through the application of CIL regulations, or
  - (e) preventing or restricting the imposition of burdens, the making of agreements or the giving of undertakings, in addition to CIL.
- (5) CIL regulations may provide that a power to give guidance or directions may not be exercised—
- (a) in relation to matters specified in the regulations,
  - (b) in cases or circumstances specified in the regulations,
  - (c) for a purpose specified in the regulations, or

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(d) to an extent specified in the regulations.

## 224 Community Infrastructure Levy: amendments

(1) In section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities) after subsection (6) insert—

“(6A) Community Infrastructure Levy under Part 11 of the Planning Act 2008 is not a rate for the purposes of subsection (6).”

(2) In section 9 of the Norfolk and Suffolk Broads Act 1988 (c. 4) (the Navigation Committee)—

(a) in subsection (8), after “Subject” insert “ to subsection (8A) and ”;

(b) after subsection (8) insert—

“(8A) Subsection (8) does not apply in relation to functions under Part 11 of the Planning Act 2008 (Community Infrastructure Levy).”

(3) In section 71(3) of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out: functions of local authorities) omit the word “and” at the end of paragraph (g) and after paragraph (h) insert “; and

(i) sections 217 and 218 of the Planning Act 2008 (Community Infrastructure Levy: collection and enforcement).”

(4) In section 38 of the Greater London Authority Act 1999 (c. 29) (delegation), after subsection (2) insert—

“(2A) In relation to functions exercisable by the Mayor under Part 11 of the Planning Act 2008 (Community Infrastructure Levy) subsection (2) has effect with the omission of paragraphs (c) to (f).”

### Commencement Information

**I5** S. 224(1)(4) in force at 6.4.2009 by [S.I. 2009/400](#), [art. 3\(m\)](#)

**I6** S. 224(3) in force at 6.4.2010 by [S.I. 2010/566](#), [art. 2](#)

## 225 Community Infrastructure Levy: repeals

(1) The following provisions of PCPA 2004 shall cease to have effect—

(a) sections 46 to 48 (planning contribution), and

(b) paragraph 5 of Schedule 6 (repeal of sections 106 to 106B of TCPA 1990 (planning obligations)).

(2) The Treasury may by order repeal the Planning-gain Supplement (Preparations) Act 2007 (c. 2).

**Status:**

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**Changes to legislation:**

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