EXPLANATORY MEMORANDUM TO

THE COMMUNITY INFRASTRUCTURE LEVY (AMENDMENT) REGULATIONS 2015

2015 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

These draft Regulations extend the existing social housing relief from the Community Infrastructure Levy to cover a wider range of dwellings that are rented below market rate. They also update a reference to Rent Standard Guidance published by the Regulator of Social Housing.

3. Matters of special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Context

4.1 The Community Infrastructure Levy Regulations 2010 ("the 2010 Regulations"), as amended, provide for a charge to be levied on development under Part 11 of the Planning Act 2008.

4.2 Regulation 49 of the 2010 Regulations provides for relief from the levy for social housing. This includes dwellings let by local housing authorities, private registered providers of social housing in England and registered social landlords in Wales at no more than 80 per cent of market rent.

5. Territorial Extent and Application

This instrument applies to England and Wales.

6. European Convention on Human Rights

Brandon Lewis, Minister of State (Housing and Planning) for the Department for Communities and Local Government, has made the following statement regarding Human Rights:

In my view the provisions of the Community Infrastructure Levy (Amendment) Regulations 2015 are compatible with the Convention rights.

7. Policy background

7.1 Part 11 of the Planning Act 2008 provides for regulations to allow the imposition of the Community Infrastructure Levy. The purpose of the levy is to ensure that the costs of providing infrastructure to support the development of an area can be funded (wholly or partly) by levying a charge on the owners or developers of land when development takes place. The 2010 Regulations came into force on 6 April 2010 and enabled local planning authorities (and the Mayor of London) to raise a levy on new development in their area. The 2010 Regulations contain a series of reliefs and exemptions from the levy for some forms of development.

7.2 The Community Infrastructure Levy (Amendment) Regulations 2014 ("the 2014 Regulations") introduced a range of technical amendments to improve the administration of the levy, which were subject to public consultation between 15 April 2013 and 28 May 2013 ("the 2013 consultation"). The 2014 Regulations ensured that mandatory relief from the levy was applicable to dwellings let at no more than 80% of market rent by a private registered provider of social housing in England or a registered social landlord in Wales. The 2014 Regulations also gave charging authorities discretion to apply social housing relief to discounted market sale properties in their areas. One of the criteria that a private registered provider must meet to qualify for social housing relief is that the rent is subject to the national rent regime, which is defined by reference to Rent Standard Guidance published by the Regulator of Social Housing.

7.3 Respondents to the 2013 consultation suggested that housing relief should be extended to include charitable bodies providing affordable housing that are not local housing authorities or registered providers. The Government's response confirmed that extension of relief would be considered further. Having carefully considered the case for doing so, these Regulations extend mandatory social housing relief to persons who are not local housing authorities, private registered providers of social housing in England or registered social landlords in Wales, that let dwellings at no more than 80% of market rent to households whose needs are not adequately met by the commercial housing market. A planning obligation designed to ensure compliance with these conditions must be entered into. Where social housing relief granted under this provision is withdrawn before the end of the seven year "clawback" period (which runs from the date on which the dwelling is first let), a person who has benefitted from the relief may be liable to repay the withdrawn amount with interest calculated from the day on which the chargeable development commenced.

7.4 These Regulations are intended to boost the affordable housing sector by encouraging a more mixed economy of voluntary and private sector providers to meet different local needs, and help support the Government's affordable housing goals. They will also update the definition of "national rent regime" to refer to updated Rent Standard Guidance published by the Regulator of Social Housing in January 2015.

8. Consultation outcome

8.1 As noted above, a public consultation on a range of technical amendments to the levy was undertaken in April and May 2013. A total of 289 responses were received from a range of local planning authorities, private developers, planning specialists and others. A summary of the consultation responses can be found at: www.gov.uk/government/consultations/community-infrastructure-levy-further-reforms.

8.2 The Government response explained that the Government would further consider the issue of affordable housing relief. Following that careful consideration, this amendment seeks to address that unresolved part of the consultation.

9. Guidance

Revised Community Infrastructure Levy guidance will be published when the Regulations come into force. The Rent Standard Guidance published by the Regulator of Social Housing in January 2015 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.

10. Impact

10.1 The impact on business, charities or voluntary bodies is limited to those who develop land or own land that is developed. The Regulations will benefit those bodies that develop affordable properties to be rented at 20% below the market rate to those whose needs are not adequately met by the commercial housing market.

10.2 We anticipate that the impact on the public sector will be limited. Any reductions in levy revenues are likely to be very small. Local Authority Housing Statistics indicate that during the three-year period from 2011-12 to 2013-14, less than 2% of affordable homes delivered in England were provided by non-registered providers. The Government considers that the potential boost to affordable housing delivery justifies a marginal reduction in levy revenues.

10.3 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.

11. Regulating small business

These Regulations apply to small businesses as set out in paragraph 10.1.

12. Monitoring & review

The Community Infrastructure Levy will be reviewed later in 2015.

13. Contact

The Community Infrastructure Levy team at the Department for Communities and Local Government can answer any queries regarding this instrument.
Email: cil@communities.gsi.gov.uk