*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

# 2020 No.

# COMMUNITY INFRASTRUCTURE LEVY, ENGLAND

## The Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020

| | |
|---|---|
| *Made - - - -* | *** |
| *Coming into force - -* | *** |

The Secretary of State, in exercise of the powers conferred by sections 205(1), 217(1), 218(1) to (4), 220(1) to (3), and 222(1) of the Planning Act 2008(**a**), with the consent of the Treasury, makes the following Regulations.

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 and approved by resolution of that House.

### Citation, commencement and application

**1.**—(1) These Regulations may be cited as the Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020 and come into force on the day after the day on which these Regulations are made.

(2) These Regulations apply in relation to England only.

### Amendments to the Community Infrastructure Levy Regulations 2010

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

**3.** After regulation 72, insert—

**"Payment: deferral**

**72A.**—(1) If a person (P)—

(a) has an annual turnover not exceeding £45,000,000,

(b) has been served with a demand notice by a collecting authority under regulation 69,

(**a**) 2008 c.29. Most of the functions of the Secretary of State under Part II of the Planning Act 2008, in relation to Wales, were transferred to Welsh Ministers by article 44 of S.I. 2018/644. There are amendments to sections 205 and 218 which are not relevant to this instrument.

(**b**) S.I. 2010/948; as amended by S.I. 2011/987, S.I. 2013/982, S.I. 2014/385, and S.I. 2019/1103. There are other amending instruments, but none is relevant here.

(c) is required to pay an amount of CIL in respect of a chargeable amount (whether by instalment or otherwise) during the material period, and

(d) is experiencing financial difficulties for reasons connected to the effects of coronavirus resulting in difficulty paying that amount,

P may make a request in writing to the collecting authority to defer payment of that CIL amount ("a deferral request").

(2) A deferral request must be submitted to the collecting authority—

(a) no more than 14 days before, or

(b) on or as soon as practicable after,

the day payment of the CIL amount is due.

(3) The collecting authority must—

(a) consider a deferral request as soon as practicable after it is received, and

(b) subject to paragraph (6), grant or refuse to grant in writing that request as soon as practicable, and in any event before the end of the period of 40 days beginning with the day the authority receives such a request.

(4) The collecting authority may grant a deferral request—

(a) if the authority considers it is appropriate in the circumstances, and

(b) in that case, for no more than six months beginning with the day the authority receives the request in writing.

(5) As soon as practicable after the collecting authority grants a deferral request, that authority must serve a revised demand notice under regulation 69(3) on P, and that notice must state—

(a) the CIL amount payable by P (including any surcharges imposed in respect of, or interest applied to, the amount), and

(b) the day on which payment of the CIL amount is due taking account of any deferral which the collecting authority has granted.

(6) In relation to CIL charged by the Mayor, the collecting authority may only grant a deferral request for that CIL amount under paragraph (3)(b) if the Mayor is of the view that it is appropriate for any CIL payment charged by the Mayor to be deferred under this regulation.

(7) If a collecting authority grants a deferral request under paragraph (3)(b) for a CIL amount, that amount must be paid by P in accordance with the revised demand notice that is required to be served under paragraph (5).

(8) If a collecting authority refuses to grant a deferral request under paragraph (3)(b) for a CIL amount, that amount must be paid by P in accordance with—

(a) the demand notice which was served under regulation 69 and applied to that amount before the deferral request was made, or

(b) a revised demand notice which is not served pursuant to paragraph (5), and which applies to that CIL amount at any time after the deferral request was made.

(9) In this regulation—

(a) the "material period" means the period beginning with the day these Regulations come into force and ending at midnight on 31st July 2021,

(b) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and

(c) the reference in paragraph (1)(d) to "financial difficulties" includes such difficulties which would be likely to have an unacceptable impact on the economic viability of P.

**Deferral: payment of surcharge and interest**

**72B.**—(1) During the period when a collecting authority is considering a deferral request under regulation 72A(3), made by a person (P) mentioned in paragraph (1) of that regulation—

(a) a surcharge may not be imposed on P under regulation 85 (surcharge for late payment) by that collecting authority, and

(b) P is not required to pay interest on that amount under regulation 87 (late payment interest) and such interest does not accrue on that amount.

(2) If a collecting authority has refused to grant a deferral request under regulation 72A(3)(b) in respect of a CIL amount—

(a) a surcharge for late payment of that amount may not be imposed on the person (P) who made that request, and

(b) P is not required to pay late payment interest on that amount and such interest does not accrue on that amount,

for 7 days beginning with the day on which the deferral request is refused.

(3) If—

(a) late payment interest has accrued on an amount of CIL which is the subject of a deferral request made by P under regulation 72A(1), and

(b) that interest accrued on a day falling within the period beginning with 21st March 2020 and ending with the day before the collecting authority receives that deferral request,

P may request that the collecting authority credits the interest accrued against the CIL amount due under the revised demand notice that is required under regulation 72A(5) ("an interest request").

(4) A collecting authority may grant an interest request if it considers that is appropriate in the circumstances.

(5) In relation to interest which has accrued on CIL charged by the Mayor, the collecting authority may only grant an interest request under paragraph (4), if the Mayor is of the view that it is appropriate for—

(a) any CIL payment charged by the Mayor to be deferred under regulation 72A, and

(b) any late payment interest which has accrued on CIL charged by the Mayor to be the subject of an interest request.

(6) If a collecting authority refuses to grant an interest request, the interest which is the subject of that request must be paid by P in accordance with regulations 87 and 88.

**Deferral: information**

**72C.**—(1) A collecting authority may request, in writing, that the person (P) mentioned in regulation 72A(1) and 72B(2) supply it with such relevant information as may be specified by that authority for the purpose of—

(a) carrying out the authority's functions under those regulations, and

(b) assisting the authority to decide any request made by P under those regulations.

(2) P must provide any information that is requested under paragraph (1), in so far as that information is in P's possession or control, within 14 days beginning with the day on which the request in paragraph (1) is made.

(3) A collecting authority may refuse to grant a request made by P under regulation 72A(1) or 72B(2) if P fails to provide that authority with information that is requested under paragraph (1) within the time specified in paragraph (2).".

We consent

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

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

*Name*
Minister of State
Date Ministry of Housing, Communities and Local Government

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 11 of the Planning Act 2008 (c.29) provides for the imposition of a charge known as the Community Infrastructure Levy ("the Levy"). The Community Infrastructure Levy Regulations 2010 ("the CIL Regulations") (S.I. 2010/948) implement the detail of the Levy. These Regulations amend the CIL Regulations. The CIL Regulations and these Regulations apply in relation to England only.

This instrument inserts new regulations 72A, 72B and 72C into the CIL Regulations, which make provision to enable a person with an annual turnover not exceeding £45 million, who is required to make a CIL payment during the "material period", (see new regulation 72A(10)), to make a request to a collecting authority ("CA") to (i) defer that CIL payment if they are experiencing financial difficulties for reasons connected to the effects of coronavirus ("a deferral request"); and (ii) to credit interest accrued on late CIL payments ("an interest request").

In addition, these provisions allow for interest and surcharges to be disapplied whilst a CA is considering a deferral request.

New regulation 72A(1) provides that a deferral request may be made to a CA by a person (P) described in that paragraph. Such requests must be made no more than 14 days before, or on or as soon as practicable after, the day payment of the CIL amount is due. Regulation 72A(3) and (4) provide that a deferral request must be decided by a CA as soon as practicable and in any event within 40 days of receipt of the request; and if the request is granted, because the CA considers that is appropriate, the CIL payment may be deferred for no more than 6 months beginning with the date on which the request is received. New regulation 72A(5) requires the CA to serve a revised demand notice if a request to defer is granted and in that case the CIL amount must be paid in accordance with that revised demand notice. In relation to CIL charged by the Mayor, a deferral request may only be granted if the Mayor is of the view that that it is appropriate for any Mayoral CIL payment to be deferred. If a CA refuses to grant a deferral request, the CIL must be paid in accordance with i) the demand notice which was served before that deferral request was made or ii) any other revised demand notice that may be served under paragraph 69, after the request is made.

New regulation 72B(1) provides that no surcharge under regulation 85, or late payment interest under regulation 87, applies in respect of a CIL amount whilst a CA is considering a deferral request. Interest accrued during the period from 21st March 2020 until the time when the CA starts to consider a deferral request, may be credited if the CA considers that is appropriate and a request is made under new regulation 72B(2). In relation to CIL charged by the Mayor, an interest request may only be granted if the Mayor is of the view that that it is appropriate for any Mayoral CIL payment to be deferred and for any late payment interest which has accrued on Mayoral CIL to be the subject of an interest request.

New regulation 72C(1) requires a person who makes a deferral request or an interest request to provide the CA with any relevant information that the CA may require for the purposes of carrying out the authority's functions under new regulations 72A and 72B, and for assisting the CA in that regard. A CA may refuse to grant a deferral request or an interest request if the authority is not provided with information that it requires in order to decide such a request.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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