

*Draft Regulations laid before the Scottish Parliament under section 165(5) of the Local Government etc. (Scotland) Act 1994 for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2024 No.**

**LOCAL GOVERNMENT**

**The Local Authority (Capital Finance and Accounting) (Scotland) Amendment Regulations 2024**

*Made* - - - - 2024  
*Coming into force* - - 1st April 2024

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 165 of the Local Government etc. (Scotland) Act 1994(1)(“the 1994 Act”) and all other powers enabling them to do so.

In accordance with section 165(5) of the 1994 Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Local Authority (Capital Finance and Accounting) (Scotland) Amendment Regulations 2024 and come into force on 1 April 2024.

**Amendment of the Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016**

2.—(1) The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016(2) are amended in accordance with paragraph (2).

(2) In regulation 14 (duty to make a statutory repayment of loans fund advances)(3)—

(a) in paragraph (3)(b), omit “, to the extent that the Scottish Ministers have determined the period and amount of repayment”,

(b) after paragraph (3) insert—

“(4) Subject to paragraph (5), a variation under paragraph (2) must—

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(1) 1994 c. 39. Section 165 was amended by schedule 24 of the Environment Act 1995 (c. 25) and section 122(3) of the Transport (Scotland) Act 2019 (asp 17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The requirement to obtain Treasury consent was removed by section 55 of that Act.  
(2) S.S.I. 2016/123.  
(3) A new regulation 14 was substituted by S.S.I. 2021/119. Substituted regulation 14 came into force on 1 April 2023, having been amended by S.S.I. 2022/122.

- (a) not result in the repayment period exceeding the useful life of the asset in relation to which the loans fund advance was made,
  - (b) not result in the repayment period exceeding 50 years beginning with the date on which the loans fund advance was made, if the loans fund advance does not relate to an asset for which a useful asset life can reasonably be determined,
  - (c) only be calculated on the balance of the loans fund advance as it applies on the first day of the financial year in which the variation is made, and
  - (d) never give rise to a nil or negative repayment.
- (5) A variation may result in a repayment period exceeding the useful life of an asset, or in the repayment period exceeding 50 years, with the consent of the Scottish Ministers.
- (6) For the purposes of paragraphs (4) and (5), the useful life of an asset is to be determined in accordance with proper accounting practices.”.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

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

These Regulations make amendments to regulation 14 of the Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 (“the 2016 Regulations”) to alter the scope for local authorities to vary repayment to their loans fund of loans fund advances made prior to 1 April 2023. Under regulation 13(3) of the 2016 Regulations loans fund advances must be repaid in accordance with proper accounting practices, but that does not apply to loans fund advances made prior to 1 April 2023.

Regulation 2(2)(a) amends regulation 14(3)(b) of the 2016 Regulations so that the ability to vary loans fund repayments is excluded in any situation where the consent of the Scottish Ministers to the borrowing was required, regardless of whether the Scottish Ministers have determined the amount and period of repayment.

Regulation 2(2)(b) inserts new paragraphs (4), (5) and (6) into regulation 14 of the 2016 Regulations to impose additional conditions on variations to the period over which loans fund advances are to be repaid or to the amount of the statutory repayments to be made to the loans fund in a given financial year.

New paragraphs (4)(a) and (b) of regulation 14 of the 2016 Regulations provide that a variation to the repayment period must not cause the period to be extended beyond the duration of the useful life of an asset, or 50 years from when the loans fund advance was made where asset life cannot reasonably be attributed to the loans fund advance. This is qualified by new paragraph (5), which enables a local authority to extend the repayment period beyond the useful life of the asset, or the end of the period of 50 years, where the Scottish Ministers consent to this. New paragraph (6) sets out how the useful life of an asset is to be determined.

New paragraph (4)(c) of regulation 14 of the 2016 Regulations provides that a variation to the amount of repayment must be based on the balance of the loans fund advance at the start of the financial year in which the variation is made. In other words, any variation may only be applied to the remaining loans fund repayments from the financial year in which the variation takes place and may not be applied retrospectively to vary loans fund payments already made. New paragraph (4)(d) provides that a variation can never give rise to a nil or negative repayment value.