

1987 No. 1583

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government (Prescribed Expenditure)
(Works) Regulations 1987**

Made - - - - - *7th September 1987*

Laid before Parliament *10th September 1987*

Coming into force *1st October 1987*

The Secretary of State for the Environment and the Secretary of State for Transport, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 80A(7) and 84 of the Local Government, Planning and Land Act 1980(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Local Government (Prescribed Expenditure) (Works) Regulations 1987 and shall come into force on 1st October 1987.

Interpretation

2. In these Regulations—

“the Act” means the Local Government, Planning and Land Act 1980;

“dwelling-house” shall be construed in accordance with section 112 of the Housing Act 1985(b) but shall not include any hostel or lodging-house as defined in sections 622 and 56 of that Act respectively; and references to a dwelling-house shall include references to any outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it;

“housing authority” means a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

“long lease” shall be construed in accordance with section 458 of the Housing Act 1985;

“new town corporation” means a development corporation established by an order made, or having effect as if made, under the New Towns Act 1981(c), or the Commission for the New Towns;

“project” means the aggregate of the works included in a single contract or in two or more contracts where the works are to be carried out on the same or adjacent sites;

“public body” means a housing authority, a county council, a new town corporation, an urban development corporation or the Development Board for Rural Wales;

“shared ownership lease” shall be construed in accordance with section 622 of the Housing Act 1985;

(a) 1980 c. 65; section 80A was inserted by, and section 84 amended by, section 1 of the Local Government Act 1987 (c. 44). The functions of the Minister of Transport under section 84(5) of the Local Government, Planning and Land Act 1980 were transferred to the Secretary of State for Transport by article 2(1)(b) of the Transfer of Functions (Transport) Order 1981 (S.I. 1981/238).

(b) 1985 c. 68.

(c) 1981 c. 64.

“subsidiary” shall be construed in accordance with section 736 of the Companies Act 1985(a).

Cases to which section 80A(1) of the Act does not apply

3. (1) Subject to paragraph (2), section 80A(1) of the Act shall not apply in relation to any works carried out for any authority on or after 1st October 1987 which comprise or form part of a project which is estimated to cost three million pounds or less at the date on which the contract relating to it or, if more than one, the first such contract is made (a “qualifying project”).

(2) Paragraph (1) shall not exclude the application of section 80A(1) to a second or further qualifying project carried out for the same authority unless there is an interval of at least sixty consecutive months between the commencement of works on that project and the last previous qualifying project.

(3) Subject to paragraph (4), section 80A(1) of the Act shall not apply in relation to works for the construction, preparation, conversion, improvement, renewal or replacement of a dwelling-house carried out for a housing authority on or after 23rd July 1986 pursuant to an agreement whereby the authority retains its interest in the land on which the works are carried out if that agreement provides (or that agreement and any other agreement or arrangement made in connection with that agreement or any variation or extension of those agreements or arrangements together provide) for—

- (a) the sale or the grant of a long lease of the dwelling-house by the authority to a person other than—
 - (i) a public body, or
 - (ii) a company which is under the control of a public body; or
- (b) the retention of the dwelling-house by the authority for the sole purpose of enabling the authority to grant a shared ownership lease.

(4) Paragraph (3) shall not apply if the authority does anything that has the effect of releasing it from its obligations to sell or grant a lease of the dwelling-house as mentioned in paragraph 3(a) or (b).

(5) A company shall be treated for the purposes of paragraph (3) as under the control of a public body if at the time of the agreement, arrangement, variation or extension either—

- (a) it is a subsidiary of a single public body; or
- (b) if two or more public bodies who are members of the company were a single body corporate, it would be a subsidiary of that body corporate.

Prescribed expenditure

4. Where works to which section 80A(1) does not apply by virtue of regulation 3 are carried out for an authority, the authority shall be taken for the purposes of Part VIII of the Act (capital expenditure of local authorities etc.) to make payments in respect of expenditure on the works when and as they are actually made.

7th September 1987

Nicholas Ridley
Secretary of State for the Environment

2nd September 1987

Paul Channon
Secretary of State for Transport

Signed by authority of the Secretary of State

28th August 1987

Wyn Roberts
Minister of State, Welsh Office

(a) 1985 c. 6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 72(3) of the Local Government, Planning and Land Act 1980 limits the prescribed expenditure of a local authority and other bodies to which Part VIII of the Act applies. "Prescribed expenditure" is essentially expenditure of a capital nature. Section 80A of the Local Government, Planning and Land Act 1980 (inserted by the Local Government Act 1987) regulates the amount of prescribed expenditure that authorities and other bodies are taken to have incurred when capital works are carried out for them and the time at which it is treated as incurred.

These Regulations provide two exemptions. The first exemption relates to projects which are estimated to cost not more than three million pounds. It is restricted to one project in any period of 60 consecutive months (regulation 3(1)). The second exemption relates to projects carried out for housing authorities which consist of the construction and improvement of dwelling-houses. In order to qualify for this exemption the authority must retain its interest in the land on which the works are carried out and provision must be made in the arrangements relating to the project for the sale or grant of a long lease of the dwelling-house to a person other than a public body or a company which is under the control of a public body, or for the grant by the authority of a shared ownership lease (regulation 3(3)).

The first exemption applies to works which are carried out on or after 1st October 1987. The second exemption applies to works carried out on or after 23rd July 1986 (the relevant date for the purposes of the prescribed expenditure arrangements contained in section 80A of the Act).

Where the exemptions apply, authorities will be treated as incurring prescribed expenditure of amounts equal to the payments which they make in relation to the exempt works at the times when those payments are made (regulation 4).