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 STATUTORY INSTRUMENTS
 

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1987 No. 2186

## LOCAL GOVERNMENT, ENGLAND AND WALES

 The Local Government (Prescribed Expenditure)  
 (Consolidation and Amendment) Regulations 1987

<i>Made</i> - - - -	<i>17th December 1987</i>
<i>Laid before Parliament</i>	<i>23rd December 1987</i>
<i>Coming into force</i>	<i>13th January 1988</i>

The Secretary of State for the Environment and the Secretary of State for Transport(a), as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by sections 72(3), 75(5), 80A(7) and 84 of, and paragraphs 2 and 4 of Schedule 12 to, the Local Government, Planning and Land Act 1980(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

## PART I

**Citation and commencement**

1. These Regulations may be cited as the Local Government (Prescribed Expenditure) (Consolidation and Amendment) Regulations 1987 and shall come into force on 13th January 1988.

**Interpretation**

2. In these Regulations –

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

“highway authority” has the meaning ascribed to it by section 1(2) and (3) of the Highways Act 1980(c);

“housing association” has the meaning ascribed to it by section 5(1) of the Housing Act 1985(d);

“shared ownership lease” has the meaning ascribed to it by section 622 of the Housing Act 1985; and

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

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(a) The functions of the Minister of Transport under section 84(5) of the Local Government, Planning and Land Act 1980 (c.65) 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) 1980 c.65; section 80A was inserted by, and section 84 amended by section 1 of the Local Government Act 1987 (c.44). (c) 1980 c.66. (d) 1985 c.68. (e) 1985 c.6.

## PART II

### Prescribed Proportions of Net Capital Receipts

3.—(1) For England, the prescribed proportion of an authority's net capital receipts for the purposes of section 72(3)(d) of the Act shall, in the case of sums received on the disposal of assets of a class mentioned in column 1 of Schedule 1 hereto or the repayment of a grant or advance of a class so mentioned, be the relevant proportion mentioned in column 2 of that Schedule.

(2) For Wales, the prescribed proportion of an authority's net capital receipts for the purposes of section 72(3)(d) of the Act shall, in the case of sums received on the disposal of assets of a class mentioned in paragraphs 2, 4 or 5 of column 1 of Schedule 1, or the repayment of a grant or advance of a class mentioned in paragraphs 6, 7, 8 or 9 of that column, be the relevant proportion mentioned in column 3 of that Schedule.

### Classes of assets to be treated as if they were not mentioned in section 75(2)

4.—(1) The following classes of assets shall be treated as if they were not mentioned in section 75(2) of the Act —

- (a) land held for the purposes of or in connection with the Central Criminal Court, the police, probation and after-care or magistrates' court services;
- (b) leasehold interests in dwelling-houses held for the purposes of Part II of the Housing Act 1985;
- (c) leasehold interests in land held for any other purpose, except to the extent of —
  - (i) any amount which an authority was taken to have paid under section 80 of the Act on the acquisition of that interest or any superior interest in the land, and
  - (ii) the amount of any prescribed expenditure incurred by an authority on the construction, preparation, conversion, improvement, renewal or replacement of buildings or structures on the land; and
- (d) vehicles or vessels, movable or immovable plant, machinery or apparatus held for the purposes of, or provided in connection with, the Central Criminal Court, the police, probation and after-care or magistrates' court services.

(2) In this Regulation a leasehold interest means one which —

- (a) has an unexpired term not exceeding twenty years which is not capable of being renewed or extended so that the unexpired term and any renewal or extension of the interest together exceed twenty years;
- (b) if it is granted to commence on the expiry of another interest, does not, together with any interest in the same land previously disposed of by an authority, exceed twenty years;

and in the case of a dwelling-house held for the purposes of Part II of the Housing Act 1985 includes a periodic tenancy.

### Sums to be treated as capital receipts

5. Sums received by an authority which are mentioned in Schedule 2 to these Regulations shall be capital receipts for the purposes of Part VIII of the Act.

### Expenditure not to be prescribed expenditure

6.—(1) The amount prescribed for the purposes of paragraph 2 of Schedule 12 to the Act is £6,000.

(2) For England, expenditure incurred in circumstances, or for a purpose, mentioned in Part I of Schedule 3 to these Regulations shall not be prescribed expenditure.

(3) For Wales, expenditure incurred in circumstances, or for a purpose, mentioned in Parts I and II of Schedule 3 to these Regulations shall not be prescribed expenditure.

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**PART III****Interpretation****7. In this Part –**

“dwelling-house” shall be construed in accordance with section 112 of the Housing Act 1985(a) 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 order made, or having effect as if made, under the New Towns Act 1981(b), 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.

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

8.—(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**

9. Where works to which section 80A(1) does not apply by virtue of regulation 8 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.

**Revocation**

10. The instruments listed in Schedule 4 are hereby revoked.

17th December 1987

*Nicholas Ridley*  
Secretary of State for the Environment

16th December 1987

*Paul Channon*  
Secretary of State for Transport

15th December 1987

*Peter Walker*  
Secretary of State for Wales

## Regulation 3

## SCHEDULE 1

## PRESCRIBED PROPORTIONS OF NET CAPITAL RECEIPTS

Column 1	Column 2	Column 3
1. Land held for the purposes of the Housing Act 1985 not being land comprising a dwelling house.	30%	—
2. Land comprising a dwelling-house held for the purposes of Part II of the Housing Act 1985 and normally let or available for letting, not being land mentioned in paragraph 3.	20%	15%
3. Land comprising a dwelling-house held for the purposes of Part II of the Housing Act 1985 and normally let or available for letting which—		
(a) is disposed of on a shared ownership lease, or		
(b) requires significant repair or improvement, or both, and is disposed of on condition that the purchaser executes significant repair or improvement or both with a specified period.	30%	—
4. Land (including buildings and structures on land) held other than for the purposes of the Housing Act 1985.	30%	50%
5. A vehicle or vessel and any movable or immovable plant, machinery or apparatus.	30%	50%
6. A grant or advance, not being one made under the Housing Act 1985 or mentioned in paragraph 7.	30%	50%
7. An advance made by virtue of regulations under sections 450A and 450B of the Housing Act 1985(a) to enable a person to meet a service charge.	20%	15%
8. An advance made to enable a person—		
(a) to acquire otherwise than from an authority an interest in a dwelling-house, or		
(b) to improve a dwelling house.	20%	15%
9. A grant or advance made to a housing association.	1%	1%

## Regulation 5

## SCHEDULE 2

## SUMS TO BE TREATED AS CAPITAL RECEIPTS

1. Payments made in accordance with an agreement made under section 52 of the Town and Country Planning Act 1971(b), section 37 of the Town and Country Planning Act 1962(c), or otherwise, for the purpose of restricting or regulating the use of land.

2. Payments made under Part XI of the Highways Act 1980.

3. Payments made in accordance with an agreement made under section 278 of the Highways Act 1980.

4. Damages or compensation paid pursuant to an order or judgment of a court or an agreement for the compromise of any legal proceedings or by way of settlement of any claim in respect of damage to or loss or destruction of buildings or structures, vehicles, vessels, movable or immovable plant, machinery or apparatus.

5. The proceeds of any lottery promoted by a local authority under the Lotteries and Amusements Act 1976(d) after the deduction of the expenses of promoting it and the sums required for prizes.

6. Payments by way of gift or bequest.

(a) Sections 450A and 450B are inserted by section 5 of the Housing and Planning Act 1986 (c.63), which is not yet in force. (b) 1971 c.78. (c) 1962 c.38. (d) 1976 c.32.

7. Payments to a highway authority by the Secretary of State under any agency arrangement whereby the authority discharges any functions of the Secretary of State as a highway authority for the purposes of section 1(1) of the Highways Act 1980, to the extent that the payment is used to finance a payment in respect of prescribed expenditure.

8. Payments by an undertaker to a highway authority, as respectively defined for the purposes of the Public Utilities Street Works Act 1950(a), under any provision of that Act.

9. Payments made by a displacing authority to a rehousing authority, as respectively defined in section 42 of the Land Compensation Act 1973(b), in accordance with that section of that Act.

10. Payments by a special, district, regional or former area health authority to the extent that they are used to finance a payment in respect of prescribed expenditure.

11. Payments of a capital nature made by any of the following bodies –

- (a) the Manpower Services Commission,
- (b) the Countryside Commission,
- (c) the Sports Council,
- (d) the Sports Council for Wales,
- (e) the Development Commission,
- (f) the Welsh Development Agency,
- (g) the Development Board for Rural Wales,
- (h) the English Tourist Board,
- (i) the Wales Tourist Board,
- (j) the Arts Council of Great Britain,
- (k) the Museums and Galleries Commission,
- (l) the Council for Educational Technology,
- (m) an urban development corporation,
- (n) a water authority,
- (o) a research council,
- (p) an area museum council,
- (q) the Council for Museums in Wales,
- (r) the British Coal Corporation,
- (s) British Rail,
- (t) the Electricity Council,
- (u) an electricity board,
- (v) the British Steel Corporation,
- (w) The Post Office,
- (x) the National Girobank,
- (y) the Civil Aviation Authority,
- (z) the British Waterways Board,
- (aa) the National Bus Company,
- (bb) British Shipbuilders,
- (cc) the Historic Buildings and Monuments Commission for England.

12. Payments of a capital nature made by a subsidiary of a body mentioned in paragraph 11.

### SCHEDULE 3

Regulation 6

#### EXPENDITURE WHICH IS NOT TO BE PRESCRIBED EXPENDITURE

##### PART I

##### ENGLAND AND WALES

1. Expenditure on the Central Criminal Court or for the purposes of the police, probation and after-care or magistrates' court services.

2.—(1) Expenditure on the acquisition of an interest in or right over any vehicle, vessel, plant, machinery or apparatus ("the asset") where –

- (a) the agreement which creates that right or interest or any arrangement entered into in connection with that agreement does not provide or do not together provide for –
  - (i) the property in the asset to transfer to the authority under the agreement or arrangement or any renewal or continuation of the agreement or arrangement; or

(a) 1950 c.39. (b) 1973 c.26.

- (ii) the renewal or continuation of the agreement or arrangement for a further period for a consideration which is materially less than what would be regarded, at the time when the agreement or arrangement is made, as the open market rental for that further period; or
  - (iii) the value of the asset at the date of the expiry or termination of the agreement or arrangement to accrue directly or indirectly to the authority; and
- (b) the amount estimated by the authority at the date of the agreement mentioned in paragraph (a) or, if earlier, the arrangement so mentioned, as the value of the asset at the expiration of that agreement or, if later, that arrangement equals or exceeds ten per cent of the value of the asset at the date of that agreement or arrangement.

(2) For the purpose of estimating the value first mentioned in sub-paragraph (1)(b), the date on which an agreement or arrangement expires shall, if the agreement or arrangement makes provision for the extension of its term, be taken to be the date on which the extended term would come to an end.

3.—(1) Expenditure on the acquisition of a leasehold interest in land except where it is intended at the time of the acquisition that some person shall erect a building on the land for the authority.

(2) In this paragraph a leasehold interest means –

- (a) an interest granted for a term not exceeding twenty years which is not capable of being renewed or extended so that the interest and any renewal or extension together exceed twenty years and, if the interest is granted to commence on the expiry of another, one which, together with any interests previously acquired by the authority, does not exceed twenty years, or
- (b) an interest granted for a term exceeding twenty years, where –
  - (i) that interest is granted to commence on the expiry of another leasehold interest (in this paragraph referred to as “the former interest”);
  - (ii) the former interest was acquired (whether by grant or assignment) before April 1, 1980, and
  - (iii) the former interest was for a term which did not exceed twenty years.

4. Expenditure incurred after April 1, 1981 on the acquisition of land, including buildings or structures on land, where the land was acquired under a contract entered into before April 1, 1980.

5. Expenditure on a project which is the subject of a grant from the Secretary of State under section 272 of the Highways Act 1980 which represents 100 per cent. of the cost of construction, improvement or widening of any highway.

6. Any payment by an authority to a new town development corporation or to the Commission for the New Towns not being a payment for the acquisition by the authority of assets from such a corporation or the Commission.

7. Any payment by an authority to a water authority so far as it is met by a grant to the authority for that purpose from the Land Settlement Association Limited.

8. Expenditure of any description mentioned in paragraph 1 of Schedule 12 to the Act so far as it is met by a payment received under a contract of insurance against the loss, damage or destruction of property of a kind described in that paragraph, or is defrayed from an insurance or contingency fund maintained by an authority against such loss, damage or destruction.

9. Expenditure on the improvement of any highway where the improvement does not –

- (a) widen the carriageway of any road by more than 0.25 metre,
- (b) significantly change the alignment of the carriageway of any road,
- (c) substantially improve the standard of the road, or
- (d) involve the provision of new traffic signals (other than by the replacement of existing traffic signals).

10. Expenditure on any grant or advance to the owner of an historic building so far as it is met by a grant or advance from the Secretary of State under section 4 or 6 of the Historic Buildings and Ancient Monuments Act 1953(a) or section 10 or 10B of the Town and Country Planning (Amendment) Act 1972(b).

(a) 1953 c.49. (b) 1972 c.42; section 10B was inserted by paragraph 28 of Schedule 15 to the Local Government, Planning and Land Act 1980.

**11. Expenditure by the Common Council of the City of London defrayed out of –**

- (a) the Bridge House Estates, or
- (b) City's Cash, except expenditure by the Common Council as a local authority, police authority or port health authority.

**12. Expenditure by an authority on the making of a loan to an employee for the purchase by him of a car where it is essential for that employee to have the use of a car for the discharge of his official duties.**

**13. Expenditure by a county or district council on the acquisition of land (including buildings or structures on land) from a new town development corporation or the Commission for the New Towns pursuant to an agreement approved by the Secretary of State as an agreement for the sale of new town community related assets.**

**PART II**

**WALES**

**14. Expenditure of any description mentioned in paragraph 1 of Schedule 12 to the Act so far as it is met by a payment made by the Secretary of State for Wales under section 28B of the National Health Service Act 1977(a) to –**

- (a) a local social services authority in Wales towards expenditure incurred or to be incurred by them in connection with any function which, by virtue of section 2(1) or (2) of the Local Authority Social Services Act 1970(b), is to be performed through their social services committee, other than functions under section 3 of the Disabled Persons (Employment) Act 1958(c);
- (b) a district council in Wales towards expenditure incurred or to be incurred by them in connection with their functions under Part II of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983(d), (meals and recreation for old people);
- (c) an authority in Wales who are a local education authority for the purposes of the Education Acts 1944 to 1986, towards expenditure incurred or to be incurred by them in connection with their functions under those Acts, in so far as they perform those functions for the benefit of disabled persons; and
- (d) an authority in Wales who are a local authority for the purposes of the Housing Act 1985(e), towards expenditure incurred or to be incurred by them in connection with their functions under Part II of that Act (provision of housing accommodation).

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(a) 1977 c.49; section 28B was added by section 1 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41). (b) 1970 c.42. (c) 1958 c.33. (d) 1983 c.41. (e) 1985 c.68.



Regulation 10

## SCHEDULE 4

## INSTRUMENTS REVOKED

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<i>Title of instrument</i>	<i>Reference</i>
The Local Government (Prescribed Expenditure) Regulations 1983	S.I. 1983/296
The Local Government (Prescribed Expenditure) (Wales) Regulations 1983	S.I. 1983/1191
The Local Government (Prescribed Expenditure) (Amendment) Regulations 1984	S.I. 1984/223
The Local Government (Prescribed Expenditure) (Amendment) Regulations 1985	S.I. 1985/257
The Local Government (Prescribed Expenditure) (Amendment) Regulations 1987	S.I. 1987/351
The Local Government (Prescribed Expenditure) (Works) Regulations 1987	S.I. 1987/1583

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**EXPLANATORY NOTE**

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

Parts II and III of these Regulations consolidate, with amendments, the Local Government (Prescribed Expenditure) Regulations 1983 (which were amended in 1984, 1985 and 1987), the Local Government (Prescribed Expenditure) (Wales) Regulations 1983 and the Local Government (Prescribed Expenditure) (Works) Regulations 1987. In addition to minor drafting amendments, amendments have been made to up-date statutory references. There are three changes of substance. Payments by a regional health authority are, to the extent that they are used to finance payments in respect of prescribed expenditure, to be treated as capital receipts. Payments of a capital nature by former nationalised industries which have been privatised in recent years are no longer to be treated as capital receipts. Payments of a capital nature by subsidiaries of the bodies mentioned in paragraph 11 of Schedule 2 are to be treated as capital receipts.