
STATUTORY INSTRUMENTS

1996 No. 568

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Capital Finance and Approved Investments) (Amendment) Regulations 1996

<i>Made</i>	- - - -	<i>5th March 1996</i>
<i>Laid before Parliament</i>		<i>8th March 1996</i>
<i>Coming into force</i>	- -	<i>30th March 1996</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 48(5), 49(3), 58(9)(b), 59(3), (4) and (5), 61(4), 64(2), 66(1)(a), 190(1) and 191(1) of, and paragraphs 10 and 15(1)(a) of Schedule 3 to, the Local Government and Housing Act 1989⁽¹⁾, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Commencement and citation

1. These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) Regulations 1996 and shall come into force on 30th March 1996.

Amendment of Regulations

2. The Local Authorities (Capital Finance) Regulations 1990⁽²⁾ shall be amended in accordance with the provisions of regulations 3 to 15 of these Regulations.

Leases and contracts which are not credit arrangements

3. In regulation 6—

(a) at the end of paragraph (1) insert the following—

“or

(g) the local authority become the lessees by virtue of—

⁽¹⁾ 1989 c. 42.

⁽²⁾ S.I.1990/432; amended by S.I. 1992/738, S.I. 1993/2014, S.I. 1995/850 and S.I. 1995/1982. There are other amendments not relevant to these Regulations.

- (i) the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995(3);
 - (ii) article 9 of the Police and Magistrates' Courts Act 1994 (Commencement No. 5 and Transitional Provisions) Order 1994(4); or
 - (iii) a combination scheme under the Fire Services Act 1947(5).”; and
- (b) in paragraph (5)(b), for paragraph (i) substitute the following paragraph—
- “(i) to dispose of the freehold or grant a long lease of the dwelling to a person other than a public body or a company which is a regulated company within the meaning of the Local Authorities (Companies) Order 1995(6), or”.

Initial and subsequent cost of credit arrangements

4. In regulation 7—
- (a) in paragraph (1), for “paragraphs (2) to (11) below” substitute “this regulation or regulation 7A below”;
 - (b) in paragraph (2), for “paragraph (3), (4), (5A), (5C), (5D), (5F), (5G) or (5H) below” substitute “paragraph (3), (4), (5A), (5C), (5D), (5F), (5G), (5H), (5J), or (5K) below”;
 - (c) for paragraph (5D) substitute the following paragraph—

“(5D) This paragraph applies to a lease (“the current lease”) of relevant land, other than a lease falling within paragraph (4), (5A) or (5C) above, the term of which, or the residue of the term of which, exceeds three years and does not exceed ten years where—

 - (a) the local authority who become the lessees (“the authority”) or any other local authority have not, at any time after 31st March 1989, had a leasehold interest in the whole or part of the land under a lease of which the initial cost was nil by virtue of paragraph (2) above (“an excluded lease”);
 - (b) if, at any time after 31st March 1989, the authority had a freehold interest in the land, or a leasehold interest in the land under a lease other than an excluded lease, the authority have disposed of that interest and the current lease is either—
 - (i) a lease of the whole or part of a new building constructed on the land since the date of that disposal; or
 - (ii) a lease of part of a building on the land occupied before the disposal for the purposes of, or in connection with, the exercise of any of the authority’s functions, where the capital cost of the lease does not exceed 49 per cent. of the amount which would be the capital cost of a lease on identical terms of the whole building;
 - (c) the current lease does not confer on the lessee an option to purchase the lessor’s interest in the land; and
 - (d) the capital cost of the current lease does not exceed 70 per cent. of the relevant value.”;
 - (d) after paragraph (5I) insert the following paragraphs—

“(5J) This paragraph applies to a lease of land (“the lease”) where—

 - (a) the local authority who become the lessees (“the authority”) are a new fire authority;

(3) S.I. 1995/402.

(4) S.I. 1994/3262 (C.83); amended by S.I. 1995/246 (C.8).

(5) 1947 c. 41.

(6) S.I. 1995/849.

- (b) the old fire authority occupied the land demised by the lease on the day before the relevant date, and the authority become the lessees within a period of 12 months after the relevant date;
 - (c) immediately before the date on which the authority become the lessees, another local authority have a freehold or leasehold interest in the land demised by the lease;
 - (d) the term of the lease, or the residue of the term of the lease, does not exceed ten years;
 - (e) the lease does not confer on the lessee an option to purchase the lessor's interest in the land demised by the lease; and
 - (f) where the term of the lease, or the residue of the term of the lease, exceeds three years, the capital cost of the lease does not exceed 70 per cent. of the relevant value.
- (5K) This paragraph applies to a lease of land ("the lease") where—
- (a) the local authority who become the lessees ("the authority") are an old fire authority;
 - (b) the authority occupied the land demised by the lease on the day before the relevant date in connection with the provision of fire services, and become the lessees of the new fire authority concerned within a period of 12 months after the relevant date;
 - (c) immediately before the date on which the authority become the lessees, the authority have a freehold or a leasehold interest in the land demised by the lease which is transferred to the new fire authority concerned under the provisions of the combination scheme which constituted the new fire authority;
 - (d) the term of the lease, or the residue of the term of the lease, does not exceed ten years;
 - (e) the lease does not confer on the lessee an option to purchase the lessor's interest in the land demised by the lease; and
 - (f) where the term of the lease, or the residue of the term of the lease, exceeds three years, the capital cost of the lease does not exceed 70 per cent. of the relevant value.

(5L) In paragraphs (5J) and (5K) above—

"new fire authority" means a fire authority constituted by a combination scheme under the Fire Services Act 1947⁽⁷⁾ made in consequence of an order under Part II of the Local Government Act 1992⁽⁸⁾ containing provision for giving effect to a structural change (with the meaning of that Part), or in consequence of the provisions of the Local Government (Wales) Act 1994⁽⁹⁾;

"old fire authority", in relation to a new fire authority, means a county council which is superseded as a fire authority by the new fire authority;

"relevant date" means the date on which the combination scheme which constitutes a new fire authority is brought into full operation; and

"relevant value" means the value of the lessor's interest in the land demised by the lease in question as estimated by the authority before they become the lessees—

⁽⁷⁾ 1947 c. 41.

⁽⁸⁾ 1992 c. 19.

⁽⁹⁾ 1994 c. 19.

- (a) on the assumption that they will become the lessees under the lease, and
 - (b) according to the statement of practice on the valuation of property contained in the Appraisal and Valuation Manual published in October 1995 by the Royal Institution of Chartered Surveyors under ISBN number 0 85406 699 3.”;
 - (e) in paragraph (6), in sub-paragraphs (a) and (c), for “paragraph (3), (4), (5A), (5C), (5D), (5F), (5G) or (5H) above” substitute “paragraph (3), (4), (5A), (5C), (5D), (5F), (5G), (5H), (5J), or (5K) above”;
 - (f) in paragraph (7), for “paragraphs (3), (4), (5A), (5C), (5D), (5F), (5G), (5H) or (6) above” substitute “paragraphs (3), (4), (5A), (5C), (5D), (5F), (5G), (5H), (5J), (5K) or (6) above or regulation 7A below”; and
 - (g) in paragraph (10A), after the words “within paragraph (6) or (7) above” insert “or regulation 7A below”.
5. After regulation 7 insert the following regulations—

“7A.—(1) In this regulation—

“the authority” means the local authority who become the lessees under a relevant lease;

“old building” means a building which the authority cease to use in accordance with a decision such as is mentioned in paragraph (3)(a) below;

“qualifying purpose”, in relation to the use of land, means a purpose specified in any of the categories 1 to 6 and 8 and 9 of Schedule 2 to these Regulations, and “category” means one of those categories;

“relevant covenant” means a covenant such as is mentioned in paragraph (3)(d) below;

“relevant land” means land, other than land which, if acquired by a local authority, would be a house, dwelling or other property to which section 74(1) would apply; and

“relevant lease” means a lease to which paragraph (3) below applies, other than a lease falling within paragraph (3), (5D) or (5F) of regulation 7.

(2) For the purposes of section 49(3), the initial cost and the cost at any time in relation to a relevant lease shall be calculated in accordance with paragraphs (5) and (6) below.

(3) This paragraph applies to a lease of a building on relevant land (“the new building”) where—

- (a) the authority, at any time during the period of five years ending at the time when they become the lessees, decided to cease to use for a qualifying purpose a building situated on relevant land in which they had a freehold interest or a leasehold interest for a period of not less than 99 years;
- (b) at the same time as making that decision, the authority decided to use the new building for a corresponding purpose;
- (c) for the purpose of adapting the new building to meet the requirements of the authority with respect to that corresponding purpose, the lessor has carried out works consisting of the construction, enhancement or replacement of the building concerned;
- (d) the lease contains a covenant by the lessor to provide services in or in connection with the new building which consist of, or include, maintaining and repairing the system for heating the building and providing for the supply of the gas, electricity and fuel required for such heating; and

- (e) subject to paragraph (4)(b) below, the authority are not required under the lease, by way of service charge or otherwise, to meet any expenditure incurred by the lessor in fulfilling a relevant covenant.
- (4) For the purposes of paragraph (3) above—
- (a) a building is for use for a corresponding purpose if it is for use for the same qualifying purpose as that for which the authority have ceased to use the old building, or a different purpose within the same category as that which includes the same qualifying purpose; and
- (b) a relevant lease shall not be treated as requiring the authority to meet any expenditure incurred by the lessor in fulfilling a relevant covenant by reason only that—
- (i) such expenditure is taken into account in determining the amount of any premium paid on the grant or assignment of the lease or any rent reserved by the lease; or
- (ii) the authority are required under the lease to meet such part of the cost of fuel for heating as may from time to time be attributable to increases in the price of fuel.
- (5) The initial cost of a relevant lease shall be the capital cost of the lease minus the amount which would be the capital cost of the lease if—
- (a) no consideration was required to be given in respect of the lease before or during the financial year in which the authority become the lessees; and
- (b) for each subsequent financial year of the lease, for the purposes of the formula in regulation 5(2) above, “x” was an amount equal to the product of the formula— where—

$$E \left(1 + \frac{i}{100} \right)^n$$

“E” means the average annual expenditure incurred by the authority during the period of 5 years ending on the date on which they become the lessees, or, if earlier, the date on which they cease to use the old building, on such of the services provided in or in connection with the old building as would have been provided by a lessor of that building in fulfilling a covenant which was equivalent to the relevant covenant under the lease;

“i” means the figure in Table 2.1 of Economic Trends published by the Central Statistical Office as the most recent percentage change, quarter on corresponding quarter of previous year of the implied gross domestic product deflator at factor cost; and

“n” has the same meaning as in regulation 5(2) above.

- (6) The cost at any time of a relevant lease shall be the amount which would be the cost of the lease at that time if the lease fell within regulation 7(7) minus an amount equal to the product of the formula—

$$\frac{D \times Y}{T}$$

where—

“D” means the amount deducted from the capital cost of the lease in accordance with paragraph (5) above;

“T” means the number of years comprising the term of the lease; and

“Y” means the number of years comprising the unexpired term of the lease at the time in question.

Initial and subsequent cost of other credit arrangements

7B.—(1) In this regulation—

“the authority” means the local authority who enter into a relevant arrangement; and
“relevant arrangement” means a credit arrangement to which paragraph (3) or (4) below applies.

(2) A relevant arrangement shall be excluded from section 49(2), and in relation to such an arrangement, the initial cost and the cost at any time shall be calculated in accordance with paragraphs (4) and (5) below.

(3) This paragraph applies to a credit arrangement where—

- (a) the arrangement is for the carrying out of works consisting of the improvement of the system for heating or lighting a building in which the authority have a freehold or leasehold interest, or the installation of a new system for such heating or lighting; and
- (b) the person with whom the arrangement is made is required under the arrangement, or under a separate contract entered into no later than the date of the arrangement, to maintain and repair the system for heating, or, as the case may be, lighting the building concerned.

(4) This paragraph applies to a credit arrangement where—

- (a) the arrangement is for the carrying out of works consisting of the installation of new lamps, lamp posts and other materials and apparatus which supply the means of lighting the streets, markets and public buildings in the area of the authority; and
- (b) the person with whom the arrangement is made is required under the arrangement, or under a separate contract entered into no later than the date of the arrangement, to maintain and repair in whole or part the lighting system provided by the authority in the exercise of their powers under section 161 of the Public Health Act 1875(10).

(5) The initial cost of a relevant arrangement shall be the amount which, apart from this regulation, would be the initial cost of the arrangement minus the amount which would be the initial cost if—

- (a) no consideration was required to be given in respect of the arrangement in the financial year in which the arrangement comes into being; and
- (b) for each subsequent financial year of the arrangement, for the purposes of the formula in section 49(2), “x” is an amount equal to the product of the formula—

$$A \left(1 + \frac{i}{100} \right)^n$$

where—

“A” means the average annual expenditure incurred by the authority during the period of 5 years ending on the date on which they enter into the arrangement, on operating, maintaining and repairing the heating system or lighting system which is improved or replaced by the works carried out under the arrangement;

“i” means the figure in Table 2.1 of Economic Trends published by the Central Statistical Office as the most recent percentage change, quarter on corresponding quarter of previous year of the implied gross domestic product deflator at factor cost; and

“n” has the same meaning as in section 49(2).

(5) The cost at any time of a relevant arrangement shall be the amount which, apart from this regulation, would be the cost of the arrangement at that time minus an amount equal to the product of the formula—

$$\frac{I \times U}{P}$$

where—

“I” means the amount which would be the initial cost of the arrangement calculated on the assumptions mentioned in paragraph (4) above—

“P” means the number of years comprising the period over which the consideration on the part of the authority under the arrangement falls to be given (“the period of the arrangement”); and

“U” means the number of years which, at the time in question, comprises the unexpired part of the period of the arrangement.”.

Sums not to be capital receipts

6. In regulation 13, in paragraph (3)(a), for “by virtue of regulation 4(2) above” substitute “by virtue of regulation 4A(1) above”.

Reserved part of capital receipts

7. In regulation 14—

- (a) in paragraphs (1) and (2), for “Subject to paragraphs (3) to (16) below” substitute “Subject to paragraphs (3) to (22) below”;
- (b) in paragraph (6)(a), for “31st March 1996” substitute “31st March 1997”; and
- (c) after paragraph (16) insert the following paragraphs—

“(17) For the purpose of section 59(3), the reserved part of a capital receipt shall be 25 per cent. in the case of a receipt derived from the disposal by a local authority of any freehold or leasehold interest in land where—

- (a) the receipt is received during the period beginning on 1st April 1996 and ending on 31st March 1998;
- (b) on 1st April 1993, the land was in use by the authority in whole or in part for the purposes of a school or an institution providing further education or education for adults;
- (c) if, at the time of the disposal, the land has ceased to be used for such purposes, it has not, since ceasing to be so used, been in use under a planning permission granted for any other use for a period of more than five years; and
- (d) the land is not land to which section 74(1) applied immediately before the disposal.

(18) In paragraph (17) above, “further education” has the same meaning as in the Further and Higher Education Act 1992(11).

(19) For the purposes of section 59(3), the reserved part of a capital receipt shall be 10 per cent in the case of a receipt derived from the disposal by a local authority of a freehold or leasehold interest in land where—

- (a) the receipt is received during the period beginning on 1st April 1996 and ending on 31st March 1998;
- (b) on 17th October 1994 the land was held by the authority, as a smallholdings authority, as part of their smallholdings estate, or constituted a relevant agricultural holding;
- (c) if, at the time of the disposal, the land has ceased to be held as part of the authority's smallholdings estate, or, as the case may be, has ceased to constitute a relevant agricultural holding, it has not, at any time since 17th October 1994, been in use other than as an agricultural holding under a planning permission granted for a period of more than five years;
- (d) the land is not land to which section 74(1) applied immediately before the disposal; and
- (e) if, at the time of the authority's decision to dispose of their interest in the land, the land was subject to a contract for an agricultural tenancy, the authority has offered to dispose of their interest to the tenant under the contract at the price which they would reasonably expect to receive if their interest were sold on the open market subject to that contract.

(20) In paragraph (19) above—

the expressions “agricultural holding” and “contract for an agricultural tenancy” shall be construed in accordance with section 1 of the Agricultural Holdings Act 1986⁽¹²⁾;

“relevant agricultural holding” means an agricultural holding in relation to which the landlord is not a smallholdings authority; and

“smallholdings estate” and “smallholdings authority” have the same meaning as in Part III of the Agriculture Act 1970⁽¹³⁾.

8. In Part I of Schedule 1—

(a) in paragraph 1, after sub-paragraph (e) insert the following sub-paragraph—

“(f) is in a company which was formed by, or with the participation of, the authority, and, at the time when the authority dispose of the share capital or loan capital in it, is engaged principally either—

(i) in the activities of providing, constructing, improving, repairing and maintaining land and any other assets in use for the purposes of a school which is a maintained school within the meaning of section 305 of the Education Act 1993⁽¹⁴⁾; or

(ii) in the provision on the authority's behalf of the services which the authority is under a duty to provide under sections 8 to 10 of the Employment and Training Act 1973⁽¹⁵⁾.”;

(b) in paragraph 2, after “Capital receipts” insert “Capital receipts, other than any receipts falling within paragraph 6 below.”; and

(c) in paragraph 6(c), for “paragraph 2, 3 or 5 above” substitute “paragraph 3 or 5 above”.

(12) 1986 c. 5.
 (13) 1970 c. 40.
 (14) 1993 c. 35.
 (15) 1973 c. 50.

Capital receipts to be treated as reduced: disposal of recently acquired interest

9. In regulation 15, for paragraph (2)(a) substitute the following—

“the disposal takes place not later than five years after the date on which the local authority disposing of the interest acquired an interest in the land;”.

Capital receipts to be treated as reduced: replacement of assets

10. For regulation 18 substitute the following—

“18.—(1) In this regulation—

“the authority”, in relation to a disposal of a relevant interest in land, means the local authority who make the disposal;

“the new land” means the land in which the authority acquire an interest, or on which they carry out works, in accordance with a decision such as is mentioned in paragraph (4)(b) below;

“the new works” means the works carried out in accordance with such a decision, and includes works carried out by way of consideration for a disposal to which paragraph (4) below applies;

“qualifying purpose”, in relation to the use of land, means a purpose specified in any of the categories of Schedule 2 to these Regulations, and “category” means one of those categories; and

“relevant interest”, in relation to land held by a local authority, means the freehold interest, a leasehold interest for a term of which not less than 125 years are unexpired or, in the case of any other interest, the authority’s entire interest in the land; and

“works” includes construction works and other works which are for the enhancement of any land or a building on any land.

(2) Capital receipts of a description specified in paragraph (3) below shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraphs (7) to (9) below.

(3) For the purposes of paragraph (2) above, capital receipts derived from a disposal by a local authority of a relevant interest in land are specified where paragraph (4) below applies to the disposal and—

(a) the disposal is made pursuant to a compulsory purchase order, and the land has been held for the purposes of Part II of the Housing Act 1985(16) (provision of housing), but not for any qualifying purpose, for a period of at least two years ending on the date of the disposal or, if earlier, the date on which the acquiring authority take possession of the land;

(b) immediately before the disposal, the land is in use for a qualifying purpose; or

(c) the land ceased to be used for a qualifying purpose not more than 12 months before the date of the disposal and has not, since the date on which it ceased to be so used, been used under a planning permission granted for any other use for a period of more than five years.

(4) Subject to paragraph (5) below, this paragraph applies to a disposal of a relevant interest in land where—

- (a) the decision of the authority to dispose of their interest in the land was made at any time during the period of five years ending on the date of the disposal or, if earlier, the date on which the capital receipts are received;
- (b) at the same time as making that decision, the authority decided to acquire a new interest in the land after the disposal, or an interest in any other land, or to carry out works on any land; and
- (c) either—
 - (i) if the land is of a description mentioned in paragraph (3)(a) above, to use the new land for the purposes of Part II of the Housing Act 1985; or
 - (ii) if the land is of a description mentioned in paragraph (3)(b) or (c) above, to use the new land for the same qualifying purpose, or a different purpose within the same category as that which includes the same qualifying purpose.

(5) For the purposes of paragraph (4) above, a disposal made pursuant to a compulsory purchase order shall be treated as if made by virtue of a decision of the authority made at the same time as the decision referred to in sub-paragraph (b) of that paragraph.

(6) Paragraph (4) above shall not apply to a disposal of an interest in land where the authority acquire a leasehold interest (“the lease”) in part of the same land after the disposal, and the initial cost of the lease exceeds 49 per cent. of the amount which would be the initial cost of lease on identical terms of the whole of the land.

(7) For the purposes of paragraph (2) above, the amount of the reduction is, subject to paragraph (8) below, the aggregate of—

- (a) in respect of any credit arrangement entered into for the purpose only of acquiring the new land or carrying out the new works, the initial cost of the credit arrangement;
- (b) in respect of any other contract entered into for such a purpose, the amount of the consideration falling to be given by the authority under the contract; and
- (c) any other costs incurred by the authority in connection with the acquisition of the new land or carrying out the new works.

(8) For the purposes of paragraph (7)(b) above, the amount of the consideration falling to be given by the authority in respect of a contract shall be the amount which, if the contract were a lease, would be the capital cost of the contract determined in accordance with regulation 5(1) and (2).

(9) Paragraphs (5) and (6) of regulation 15 shall apply in relation to the amount of any reduction determined in accordance with this regulation as they apply in relation to the amount of any reduction determined in accordance with regulation 15.”.

11. For Schedule 2 substitute the following—

“SCHEDULE 2

Regulations 7A and 18

USE OF LAND FOR A SPECIFIED PURPOSE

Use of land for a purpose within any of the following categories; provided that use as a dwelling for occupation by a person employed for any purpose falling within a category other than category 10 is deemed to be included within the category concerned—

1. the fire service or police service, the magistrates' courts services, the probation service, the functions conferred on the authority under section 2 of the Civil Defence Act 1948(17);

2. a hostel for the homeless, or the social services functions of a local authority within the meaning of the Local Authority Social Services Act 1970(18);
3. a school, or an institution providing further education, or training, or education for adults;
4. an archive, a library, a museum or an art gallery;
5. a community hall, a conference centre, a theatre, a concert hall, a leisure centre or other indoor recreation, a swimming pool, or a pier;
6. a bus station, a vehicle depot, a garage, or a public park for cars, caravans, lorries or other vehicles;
7. an allotment, a smallholding, a cemetery, a playing field (other than a school playing field), a golf course, or a park or other public open space;
8. an industrial unit, a dog compound, a market, a public convenience, or the disposal of waste, or (except so far as falling within any other category) a workshop, a kitchen, a warehouse, or the storage of goods or equipment;
9. a town hall, or local authority offices (other than offices which fall within any other category); or
10. a house or other dwelling provided by a local authority for a person in their employment who is entitled to occupy it as a term of his employment (other than a dwelling falling within any of the preceding categories).”.

Capital receipts not wholly in money paid to the authority

12. In regulation 20—

- (a) in paragraph (2), for “subject to paragraphs (3), (3A), (4), (6) and (6A) below” substitute “subject to paragraphs (3), (3A), (3B), (3C), (3D), (4), (6) and (6A) below”;
- (b) after paragraph (3A) insert the following paragraphs—

“(3B) In the case of non-monetary consideration which is received by a local authority in respect of the disposal of any interest in land, and consists of the grant of a lease of land falling within regulation 7A above (“the lease”), the reserved part of the notional capital receipt shall be nil.

(3C) In the case of non-monetary consideration which is received by a local authority in respect of a disposal of an interest in land, and consists of—

- (a) the carrying out of works which, if carried out by the authority, would amount to the enhancement of the land, and
- (b) the grant to the authority of a right, after the completion of the works, to use the land for any purpose in the exercise of any function conferred on the authority,

the reserved part of the notional capital receipt shall be nil.

(3D) In the case of non-monetary consideration which is received by a local authority in respect of a relevant disposal of land, and consists of the carrying out of works for the enhancement of the land, the reserved part of the notional capital receipt shall be nil.

(3E) In paragraph (3D) above, “relevant disposal of land” means a disposal of an interest in land which confers on the person who carries out the works mentioned in that paragraph a right, after the completion of the works, to use the land.”.

Minimum revenue provision

13. In regulation 26, at the end of paragraph (13) add “minus four per cent. of the total amount, if any, by which the credit ceiling of the police authority is reduced on 24th August 1995 in accordance with paragraph 10C of Schedule 3 to the Act(19)”.

Specified purposes and bodies

14. In regulation 26B, at the end of paragraph (2) add the following sub-paragraphs—

- “(g) in the case of a relevant authority which is a county council or non-metropolitan district council, a combined fire authority constituted by a combination scheme under the Fire Services Act 1947(20) (“a combined fire authority”) in relation to which the relevant authority is a constituent council;
- (h) in the case of a relevant authority which is a combined fire authority, a constituent council of the relevant authority;
- (i) in the case of a relevant authority which is a London borough council or the Common Council of the City of London or a metropolitan district council, an authority established by order under section 10(1) of the Local Government Act 1985(21) (“a waste disposal authority”) in relation to which the relevant authority is a constituent council; and
- (j) in the case of a relevant authority which is a waste disposal authority, a constituent council of the relevant authority.”.

Modification of credit ceiling

15. In Part II of Schedule 3 to these Regulations, after paragraph 5 add the following paragraphs—

“6.—(1) In this paragraph, “new fire authority” means a fire authority constituted by a combination scheme under the Fire Services Act 1947(22) made in consequence of an order under Part II of the Local Government Act 1992(23) containing provision for giving effect to a structural change (within the meaning given to that expression in that Part).

(2) In relation to a new fire authority and the county council which is superseded as a fire authority by the new fire authority, in addition to the modification made in paragraph 3 above, Schedule 3 to the Act is modified by the insertion of the following paragraphs—

“10E.—(1) In this paragraph—

“combination scheme” means a combination scheme under the Fire Services Act 1947 made in consequence of an order under Part II of the Local Government Act 1992 containing provision for giving effect to a structural change (within the meaning given to that expression in that Part);

“the council”, in relation to a new fire authority, means the county council which is superseded as a fire authority by the new fire authority;

(19) Paragraph 10C of Schedule 3 to the Act is inserted by paragraph 5 of Schedule 3 to the Local Authorities (Capital Finance) Regulations 1990 (S.I. 1990/432; amended by S.I. 1995/850 and S.I. 1995/1982).

(20) 1947 c. 41.

(21) 1985 c. 51.

(22) 1947 c. 41.

(23) 1992 c. 19.

“excluded fire arrangement” means any credit arrangement which, by virtue of regulation 22, is excluded for the purposes of paragraph 11(2) of Schedule 3 to the Act, and was entered into or for the purpose of acquiring relevant property or entering into a relevant contract;

“fire arrangement” means any credit arrangement, other than an excluded fire arrangement, which was entered into or for the purpose of acquiring relevant property or entering into a relevant contract;

“first year”, in relation to a new fire authority and the council in relation to that authority, means the financial year in which that authority is constituted;

“new fire authority” means a fire authority constituted by a combination scheme;

“relevant contract” means a contract which is for the provision of services or the delivery of goods in connection with the provision of fire services, and is transferred to a new fire authority under the provisions of a combination scheme; and

“relevant property” means property which is acquired in connection with the provision of fire services, and is transferred to a new fire authority under the provisions of a combination scheme.

(2) Where, in relation to a new fire authority, the fire services amount for the council on 31st March in the first year is a positive amount, the credit ceiling of the new fire authority on that day shall be increased by that amount, and the credit ceiling of the council on that day shall be reduced by the same amount.

(3) Where, in relation to a new fire authority, the fire services amount for the council on 31st March in the first year is a negative amount, the credit ceiling of the new fire authority on that day shall be reduced by that amount, and the credit ceiling of the council on that day shall be increased by the same amount.

(4) For the purposes of this paragraph—

(a) the fire services amount for the council for 31st March in any of the years 1991 to the first year shall be determined—

(i) by adding to the fire services amount for the council for 31st March in the immediately preceding year the amount of the fire services increase for the council for the financial year in question; and

(ii) by subtracting from the resulting amount the amount of the fire services decrease for the council for that financial year; and

(b) the fire services amount for the council for 31st March 1990 shall be nil.

(5) For the purposes of sub-paragraph (4) above, the amount of the fire services increase for the council for any financial year is the total of all increases in the council’s credit ceiling in that year by virtue of the use of credit approvals to any extent as mentioned in section 56(3)(b) in respect of their fire arrangements.

(6) For the purposes of sub-paragraph (4) above, the amount of the fire services decrease for the council for any financial year is the total of the following amounts—

(a) four per cent. of the fire services amount for the council for 31st March in the financial year immediately preceding the financial year in question;

- (b) the reserved part of any capital receipt in respect of any disposal attributable to fire services functions or, where section 61(4) applies in relation to the consideration for such a disposal, the amount which would be the reserved part of the notional capital receipt;
- (c) the amount which is applied or charged by the council (as an amount of credit cover) as mentioned in paragraph (b) or (c) of section 50(3) in relation to any excluded fire arrangements;
- (d) in relation to any fire arrangements and any excluded fire arrangements, the amount set aside by the council from a revenue account or from the usable part of capital receipts as provision to meet credit liabilities being an amount over and above the aggregate of—
 - (i) the amount referred to in sub-paragraph (c) above; and
 - (ii) the amount which, in relation to such arrangements, the council are required so to set aside by virtue of any provision of the Act or these Regulations.””

7.—(1) In this paragraph, “new fire authority” means a fire authority constituted by a combination scheme under the Fire Services Act 1947⁽²⁴⁾ made in consequence of the provisions of the Local Government (Wales) Act 1994⁽²⁵⁾.

(2) In relation to a new fire authority and each county council which is superseded as a fire authority by the new fire authority, in addition to the modification made in paragraph 3 above, Schedule 3 to the Act is modified by the insertion of the following paragraphs—

“**10F.**—(1) In this paragraph, except where the context otherwise requires—

“combination scheme” means a combination scheme under the Fire Services Act 1947 made in consequence of the provisions of the Local Government (Wales) Act 1994;

“council”, in relation to a new fire authority, means any county council which is superseded as a fire authority by the new fire authority; and

“new fire authority” means a fire authority constituted by a combination scheme.

(2) Where, in relation to a new fire authority, the fire services amount for a council on 31st March 1996 is a positive amount, the credit ceiling of the new fire authority on that day shall be increased by that amount, and the credit ceiling of the council on that day shall be reduced by the same amount.

(3) Where, in relation to a new fire authority, the fire services amount for a council on 31st March 1996 is a negative amount, the credit ceiling of the new fire authority on that day shall be reduced by that amount, and the credit ceiling of the council on that day shall be increased by the same amount.

(4) For the purposes of this paragraph, the fire services amount for a council for 31st March 1996 shall be determined in the same manner as the fire services amount for 31st March 1996 for a county council in England which is superseded as a fire authority by a fire authority constituted by a combination scheme within the meaning of paragraph 10E above; and for this purpose—

- (a) references in that paragraph to “the council” shall be construed as references to the council for which the fire services amount is being determined for the purposes of this paragraph;

⁽²⁴⁾ 1947 c. 41.

⁽²⁵⁾ 1994 c. 19.

- (b) “excluded fire arrangement”, “fire arrangement”, “relevant contract” and “relevant property” have the same meanings as in paragraph 10E, except that, in relation to the meaning of “relevant contract” and “relevant property”, the references to a new fire authority and a combination scheme shall be construed in accordance with sub-paragraph (1) above; and
- (c) references to “the first year” shall be construed as references to “1996”.

Approved investments

16. The Local Authorities (Capital Finance) (Approved Investments) Regulations 1990⁽²⁶⁾ shall be amended by the addition of the following paragraph at the end of Part II of the Schedule—

“**30.** A combined fire authority constituted by a combination scheme under the Fire Services Act 1947 made in consequence of an order under Part II of the Local Government Act 1992 containing provision for giving effect to a structural change (within the meaning given to that expression in that Part), or in consequence of the provisions of the Local Government (Wales) Act 1994⁽²⁷⁾.”.

Signed by authority of the Secretary of State for the Environment

5th March 1996

David Curry
Minister of State,
Department of the Environment

Signed by authority of the Secretary of State for Wales

5th March 1996

Gwilym Jones
Parliamentary Under-Secretary of State, Welsh
Office

⁽²⁶⁾ S.I. 1990/426; amended by S.I. 1991/501, S.I. 1992/1353, S.I. 1995/850 and S.I. 1995/1982.

⁽²⁷⁾ 1994 c. 19.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Local Authorities (Capital Finance) Regulations 1990 (“the principal Regulations”).

Regulation 4 makes further provision in respect of the initial cost of leases of land acquired by a local authority. The main effect of the amendments is that certain leases acquired by the combined fire authorities constituted in consequence of the local government changes in England and Wales and the county councils which they supersede as fire authorities have a nil initial cost.

Regulation 5 inserts two new regulations which provide that if specified conditions are met, the initial cost of certain credit arrangements will be reduced. Regulation 7A of the principal Regulations applies in the case of a lease of a building by a local authority where—

- (a) the authority decided, not earlier than five years preceding the date when they become the lessees, to cease using the same or a different building and to use the building demised by the lease for the same or a corresponding purpose, and
- (b) the lessor has adapted the building demised by the lease to meet the authority’s requirements and has certain responsibilities for the upkeep of the building.

Regulation 7B of the principal Regulations applies in the case of a credit arrangement for—

- (a) the replacement or improvement of the system for heating or lighting a building in which a local authority have a freehold or leasehold interest, or
- (b) the improvement of the whole or part of the street lighting provided for a local authority’s area,

where the person who carries out the works is required under the arrangement or a separate contract to maintain and repair the system which he replaces or improves.

Regulations 7 and 8 amend regulation 14 of, and Part I of Schedule 1 to, the principal Regulations. The main effect of the amendments is that if specified conditions are met, the reserved part of certain capital receipts is reduced, or reduced for a specified period. The capital receipts to which these provisions apply are those derived from the disposal of share capital or loan capital in specified descriptions of company, or of land used as a school, an institution providing further education or education for adults, or an agricultural holding.

Regulation 9 amends the provision made in regulation 15 of the principal Regulations for treating a capital receipt derived from a disposal of recently acquired land as reduced for the purposes of section 59 of the Local Government and Housing Act 1989. The amendment extends to five years the maximum period which may elapse between the date of acquisition and the date of disposal of the land.

Regulation 10 substitutes a new regulation 18 of the principal Regulations. The new regulation makes provision for treating a capital receipt derived from a disposal of land as reduced for the purposes of section 59 of the 1989 Act where the authority decided, not earlier than five years preceding the disposal, to cease using the land and to acquire a new interest in the land after the disposal, or an interest in other land, or to carry out works on any land.

Regulation 11 substitutes a new Schedule 2 to the principal Regulations. For the purposes of regulations 7A and 18 of the principal Regulations, the new Schedule specifies uses of land by reference to different categories of purpose.

Regulation 12 amends regulation 20 of the principal Regulations. The main effect of the amendments is that where—

- (a) in consideration for the disposal by a local authority of an interest in land, a person carries out works on the land, and
- (b) there is granted to the authority by that person, or by the authority to that person, a right to use the land on completion of the works,

the reserved part of the notional capital receipt is nil.

Regulation 13 further amends regulation 26 of the principal Regulations (minimum revenue provision) to take account of the new police authorities established under section 3 of the Police Act 1964 (as substituted by section 2 of the Police and Magistrates' Courts Act 1994).

Regulation 14 amends regulation 26B of the principal Regulations to specify further bodies to which amounts set aside as provision to meet credit liabilities may be transferred. The further bodies are the newly constituted combined fire authorities and their constituent councils, and waste disposal authorities and their constituent councils.

Regulation 15 amends Part II of Schedule 3 to the principal Regulations (credit ceiling on or after 1st April 1990) to take account of the newly constituted combined fire authorities. The amendments modify the credit ceilings of such authorities and the county councils which they supersede as fire authorities.

Regulation 16 further amends the Schedule to the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990, which contain a list of investments approved by the Secretary of State for the purposes of Part IV of the Local Government and Housing Act 1989, to take account of the newly constituted combined fire authorities.