
STATUTORY INSTRUMENTS

1996 No. 621

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Companies) (Amendment) Order 1996

<i>Made</i>	- - - -	<i>6th 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 section 39(5) to (7) of the Local Government and Housing Act 1989(1), and of all other powers enabling them in that behalf, hereby make the following Order:

Commencement and citation

1. This Order may be cited as the Local Authorities (Companies) (Amendment) Order 1996 and shall come into force on 30th March 1996.

Amendment of Order

2. The Local Authorities (Companies) Order 1995(2) shall be amended in accordance with the provisions of articles 3, 4 and 5 below.

Interpretation

3. In article 12, insert the following at the end of paragraph (2)—

““relevant lender” means the Public Works Loan Board, the Bank of England, the European Investment Bank, a body mentioned in any of paragraphs 1 to 17, or in paragraph 28 or 29, of Part II of the Schedule to the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990(3), an authorised institution within the meaning of the Banking Act 1987(4) or a building society within the meaning of the Building Societies Act 1986(5).”

(1) 1989 c. 42.
(2) S.I. 1995/849.
(3) S.I. 1990/426; amended by S.I. 1991/501, S.I. 1992/1353, S.I. 1995/850 and S.I. 1995/1982.
(4) 1987 c. 22.
(5) 1986 c. 53.

Application of Part IV: requirement for credit cover

4. In article 14, for paragraph (3) substitute the following paragraph—

“(3) This paragraph applies to a local authority whose credit ceiling, as determined under Part III of Schedule 3 to the Act, is nil or a negative amount at the beginning of the current year, and who have no money outstanding by way of borrowing other than—

- (a) short-term borrowing (within the meaning of section 45(6));
- (b) borrowing undertaken under section 5 of the City of London (Various Powers) Act 1924(6); or
- (c) borrowing undertaken before 24th August 1995, other than borrowing by the issue of stock on or after 15th December 1993, from a person who is not a relevant lender.”.

Liabilities of regulated companies

5. In article 16—

- (a) in paragraph (1), insert at the beginning the words “Subject to paragraph (6),”, omit the words “subject to paragraph (7)”, and after sub-paragraph (b) insert the following sub-paragraph—

“(bb) the company’s current assets shall be treated as if they are not reduced by the defraying, after the relevant date, of expenditure which, if the company were a local authority, would be expenditure for capital purposes (“capital expenditure”); provided that the total amount by which they may be treated as not reduced by such expenditure shall not exceed the amount shown in the company’s accounts on the relevant date as—

- (i) being available for capital expenditure, and
- (ii) having been reserved for that purpose out of income which, if received by the authority, would have been revenue of the authority;”;

- (b) for paragraph (5) substitute the following paragraphs—

“(5) In a financial year other than the last year, the relevant authority shall determine the relevant liabilities of a regulated company by reference to—

- (a) amounts shown for assets and liabilities in the company’s balance sheet prepared as at a date in that year, or, if there is more than one such balance sheet, in the last such balance sheet to have been prepared, or, if there is no such balance sheet,
- (b) amounts which they determine to be assets and liabilities of the company on the last day of that year.

(5A) In the last year, the relevant authority shall determine the relevant liabilities of a regulated company by reference to amounts which they determine to be assets and liabilities of the company on the day immediately before the day on which the company ceases to be a member of the same local authority group.

(5B) In paragraphs (5A) and (5B) above, “the last year” means the financial year in which the company concerned ceases to be a regulated company or becomes a regulated company of a different local authority.”;

- (c) in paragraph (6), for the words “the aggregate of the amounts determined” substitute “the amount determined”; and
- (d) for paragraph (7) substitute the following paragraphs—

(6) 1924 c.xxxvii. Section 5 was repealed by section 40(1) of the City of London (Various Powers) Act 1960 (c.xxxvi).

“(7) The relevant authority shall determine the amount by which the total of the company’s liabilities as at the date immediately before the day on which the company became a regulated company exceeded the company’s current assets as at that date (and the total so calculated may, accordingly, be a negative amount); and for this purpose—

- (a) “current assets” shall be construed in accordance with section 262(1) of the 1985 Act, but do not include land in which the company had any interest on that date; and
- (b) the sum of the called-up share capital of the company with respect to shares held on that date by persons who were not, on the following day, members of the same local authority group, and any premium paid to the company for such shares, is to be treated as a liability of the company.”.

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

6th March 1996

Gwilym Jones
Parliamentary Under-Secretary of State, Welsh
Office

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 Order)

The Local Authorities (Companies) Order 1995 provides for the regulation of companies which are subject to the influence or control of local authorities within the meaning of Part V of the Local Government and Housing Act 1989 (“regulated companies”). Part V of that Order (which is amended by this Order) applies the provisions of Part IV of the 1989 Act (revenue accounts and capital finance of local authorities), subject to modifications, to a regulated company and the local authority by whom the company is influenced or controlled (“the relevant authority”).

Article 4 amends article 14 of the principal Order which, in relation to things done by or to a regulated company, requires the relevant authority to have available an amount of credit cover. The amendment is made in consequence of the Local Authorities (Capital Finance and Approved Investments) (Amendment No. 2) Regulations (S.I.1995/1982) under which a local authority with certain outstanding long-term borrowing may, notwithstanding that borrowing, have the benefit of certain regulations relating to an authority’s provision for credit liabilities.

Article 5 amends article 16 of the principal Order which makes provision for determining a regulated company’s liabilities. Article 16(1) is amended to provide that an amount of capital expenditure not exceeding the amount which the company reserved for such expenditure out of income (and was available on the date when the company became regulated) will not result in an increase in the company’s relevant liabilities.

Article 5 also amends the provision for determining in relation to a regulated company the amount to be treated as its relevant liabilities in the last financial year ending before it becomes regulated, and its relevant liabilities in the financial year in which it ceases to be a regulated company of a local authority.