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## STATUTORY INSTRUMENTS

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**1996 No. 910**

# LOCAL GOVERNMENT, ENGLAND AND WALES

WALES

FINANCE

## The Local Government Reorganisation (Wales) (Capital Finance and Miscellaneous Provisions) Order 1996

<i>Made</i>	- - - -	<i>26th March 1996</i>
<i>Laid before Parliament</i>		<i>27th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State for Wales, in exercise of the powers conferred on him by section 54(1) and (2)(e) of the Local Government (Wales) Act 1994<sup>(1)</sup>, section 64(8) of the Environment Act 1995<sup>(2)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Order:

## PART I

### GENERAL

#### Citation and commencement

1. This Order may be cited as the Local Government Reorganisation (Wales) (Capital Finance and Miscellaneous Provisions) Order 1996, and shall come into force on 1st April 1996.

#### Interpretation

2. In this Order, except where the context otherwise requires—  
“the 1989 Act” means the Local Government and Housing Act 1989<sup>(3)</sup>;

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(1) 1994 c. 19.  
(2) 1995 c. 25.  
(3) 1989 c. 42.

“the 1994 Act” means the Local Government (Wales) Act 1994;

“the 1990 Regulations” means the Local Authorities (Capital Finance) Regulations 1990<sup>(4)</sup>;

“the Property Order” means the Local Government Reorganisation (Wales) (Property etc.) Order 1996<sup>(5)</sup>;

“designated authority”, in relation to an old authority, means the new authority designated with respect to that old authority under paragraph 12 of Schedule 17 to the 1994 Act<sup>(6)</sup>;

“divided old authority” means an old authority which has two or more successor authorities;

“fire authority” means a fire authority constituted by a combination scheme made under section 6 of the Fire Services Act 1947<sup>(7)</sup> in consequence of the provisions of the 1994 Act;

“National Park authority” means a National Park authority in Wales established under Part III of the Environment Act 1995;

“new authority” means a county or county borough council established under the 1994 Act;

“old authority” means a county or district council which will cease to exist as a result of the 1994 Act;

“participant authority”, in relation to a divided old authority, means any successor authority other than the designated authority, except that in article 7 it does not include a fire authority;

“relevant functions” means the functions of an old authority which by virtue of any relevant statutory provision have, on or before 1st April 1996, become functions of a successor authority;

“relevant statutory provision” means any provision made by or under—

- (a) the Fire Services Act 1947,
- (b) the Local Government (Wales) Act 1994, or
- (c) Part III of the Environment Act 1995;

“successor authority”, in relation to an old authority, means a new authority, a fire authority, or a National Park authority, by which relevant functions of the old authority are exercisable; and

“undivided old authority” means an old authority which has only one successor authority.

## PART II

### CAPITAL FINANCE

#### Agreements under section 56 of the 1994 Act

**3.—**(1) For the purposes of Part IV of the 1989 Act, any expenditure described in paragraph (2) below which, apart from this article, would not be expenditure for capital purposes shall be treated as such expenditure.

(2) The expenditure described in this paragraph is expenditure by a relevant authority on the making of payments under a section 56 agreement in respect of relevant property transferred or retained under that agreement.

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(4) S.I. 1990/432; relevant amendments are made by S.I. 1993/3054, 1995/798 and 850, and 1996/568.

(5) S.I. 1996/532.

(6) A council has been designated in relation to each old authority; see the Local Authorities (Closure of Accounts) (Wales) Order 1995 (S.I. 1995/1043).

(7) 1947 c. 41; the application of section 6 is modified by section 23 of the 1994 Act in relation to combination schemes for new authorities made before 1 April 1996.

(3) For the purposes of Part IV of the 1989 Act, where a relevant authority receives a payment under a section 56 agreement, the whole of the sum received shall (if apart from this paragraph it would not be a capital receipt) be treated as a capital receipt.

(4) Section 59(2) of the 1989 Act and regulations made under section 59(3) of that Act shall not apply to determine the reserved part of any relevant capital receipt; and for the purposes of Part IV of the 1989 Act, the reserved part of any relevant capital receipt shall be nil per cent.

(5) Section 61 of the 1989 Act (capital receipts not wholly in money) and any regulations or directions made under that section shall not apply where a relevant authority receives relevant consideration under a section 56 agreement.

(6) In this article—

“relevant authority” means a county council, a county borough council, a National Park authority or a fire authority;

“relevant capital receipt” means a sum received under a section 56 agreement by a relevant authority, which—

(a) is a capital receipt within the meaning of section 58 of the 1989 Act; or

(b) by virtue of paragraph (3) above, is to be treated as such a receipt;

“relevant consideration” means any consideration in relation to which (apart from paragraph (5) above) section 61 of the 1989 Act would apply;

“section 56 agreement” means an agreement made under section 56 of the 1994 Act between two or more relevant authorities; and

“relevant property” means land, buildings or other structures, except roads.

### **Usable capital receipts**

**4.—**(1) In relation to an undivided old authority, section 60 of the 1989 Act shall have effect as if on 1st April 1996 there were added to the usable receipts of its successor authority an amount equal to the usable receipts of the old authority at the end of 31st March 1996.

(2) In relation to a divided old authority, section 60 of the 1989 Act shall have effect as if on 1st April 1996 there were added to the usable receipts of its designated authority an amount equal to the usable receipts of the old authority at the end of 31st March 1996.

(3) Where by virtue of paragraph (2) above a usable receipt of an old authority is added to the usable receipts of its designated authority, the designated authority shall not apply the usable receipt in either of the ways referred to in section 60(2) of the 1989 Act except for the purpose of meeting expenditure for capital purposes incurred by the old authority.

(4) In this article, a usable receipt means the usable part of a capital receipt (within the meaning of Part IV of the 1989 Act) which has not been applied as mentioned in section 60(2) of the 1989 Act.

### **Provision for credit liabilities**

**5.—**(1) In this article, “PCL” means the amount for the time being set aside by a local authority (whether voluntarily or pursuant to a requirement under Part IV of the 1989 Act) as provision to meet credit liabilities.

(2) On 1st April 1996 there shall be added to the PCL of a designated authority in relation to an old authority an amount equal to the PCL of the old authority at the end of 31st March 1996.

(3) Paragraph 12 of Schedule 3 to the 1989 Act (reduction of credit ceiling on set aside) shall not apply in relation to any amount added to the PCL of a designated authority in accordance with paragraph (2) above.

### **Aggregate credit limits**

6. In the case of a successor authority, section 62 of the 1989 Act (aggregate credit limit) shall have effect at any time in the financial year beginning on 1st April 1996 as if “relevant arrears” for the purposes of subsection (3)(b)(ii) included amounts in respect of income which—

- (a) were not received by the old authority before 1st April 1996;
- (b) are payable on or after 1st April 1996 to the successor authority; and
- (c) would, as income, have fallen to be credited to a revenue account of that old authority for the financial year beginning two years before 1st April 1996;

and as if the reference in subsection (5) to expenditure defrayed by the authority for capital purposes included expenditure defrayed for such purposes by the old authority.

### **Credit ceiling of new authority**

7.—(1) Part III of Schedule 3 to the 1989 Act shall apply to determine the credit ceiling of a new authority and a National Park authority subject to the provisions of this article.

(2) For the purposes of Part IV of the 1989 Act, the credit ceiling on 1st April 1996 of a new authority shall be the aggregate of—

- (a) the amount which would, apart from this paragraph, have been its credit ceiling on that date;
- (b) the credit ceilings at the end of 31st March 1996 of its undivided old authorities (if any); and
- (c) the total of its credit ceiling shares (if any) for its divided old authorities, calculated, as the case may be, in accordance with paragraph (3) or (4) below.

(3) In relation to a divided old authority, the credit ceiling share for the designated authority is the amount calculated in accordance with the following formula—

$$C - T$$

where—

C is the credit ceiling of the divided old authority at the end of 31st March 1996; and;

T is the total of the credit ceiling shares of the participant authorities calculated in accordance with paragraph (4) below.

(4) In relation to a divided old authority, the credit ceiling share for a participant authority is an amount equivalent to the amount by which the credit ceiling of the divided old authority would have been reduced if at the end of 31st March 1996 it had set aside an amount as provision sufficient to meet the transferred credit liabilities transferred from it to the participant authority by the Property Order.

(5) For the purposes of paragraph (4) above, a transferred credit liability is—

- (a) any liability of the participant authority in respect of money borrowed by the divided old authority, other than a liability in respect of interest; or
- (b) any liability of the participant authority in respect of a credit arrangement entered into by the divided old authority, other than one excluded by regulations under paragraph 11 of Schedule 3 to the 1989 Act.

(6) Any reference in this article to the credit ceiling of an old authority is a reference to its credit ceiling determined in accordance with the provisions of Part III of Schedule 3 to the 1989 Act.

### Adjusted credit ceiling of new authority

8.—(1) Subject to the provisions of this article, Part IV of Schedule 3 to the 1989 Act shall apply to determine the adjusted credit ceiling of a new authority.

(2) For the purposes of Part IV of the 1989 Act, the adjusted credit ceiling on 31st March 1996 of a new authority shall be the aggregate of—

- (a) the amount which would, apart from this paragraph, have been its adjusted credit ceiling on that date;
- (b) the adjusted credit ceilings at the end of 31st March 1996 of its undivided old authorities (if any);
- (c) the total of its housing component shares (if any) calculated under paragraph (3) below; and
- (d) the total of its non-housing component shares (if any) calculated under paragraphs (4), (6), (7), (8) and (9) below so far as those paragraphs apply to it.

(3) A housing component share for a new authority shall be calculated in relation to each of its divided old authorities by applying the formula—

$$\frac{U}{T_u} \times H$$

where—

H is the divided old authority's housing component;

T<sub>u</sub> is the number prescribed as the total of the divided old authority's housing units;

U is the number of the divided old authority's housing units prescribed in relation to the new authority.

(4) Subject to paragraph (5) below, a non-housing component share for a new authority shall be calculated in relation to each of its divided old authorities by applying the formula—

$$\frac{N}{T_p} \times P$$

where—

N is the divided old authority's non-housing component;

T<sub>p</sub> is the number prescribed as the total of the divided old authority's population;

P is the number of the divided old authority's population prescribed in relation to that part of the divided old authority's area which falls within the area of the new authority.

(5) Paragraph (4) above shall apply to the calculation of a non-housing component share for a new authority except where the share is calculated in relation to the County Council of Dyfed or South Glamorgan.

(6) Subject to paragraph (8) below, a non-housing component share for a new authority shall be calculated in relation to South Glamorgan County Council by applying the formula—

$$\frac{P}{T_p} \times (N - S)$$

where—

N, P and T<sub>p</sub> have the meanings assigned to them respectively in paragraph (4) above;

S is the element of South Glamorgan County Council's non-housing component in respect of loan 13142 from the European Investment Bank.

(7) Subject to paragraph (9) below, a non-housing component share for a new authority shall be calculated in relation to Dyfed County Council by applying the formula—

$$\frac{P}{T_p} \times (N - Sc)$$

where—

N, P and  $T_p$  have the meanings assigned to them respectively in paragraph (4) above;

Sc is the element of Dyfed County Council's non-housing component in respect of debt relating to the Cleddau Bridge.

(8) The non-housing component share for Cardiff County Council in relation to South Glamorgan County Council shall be calculated by applying the formula—

$$S + \left( \frac{P}{T_p} \times (N - Sc) \right)$$

where—

N, P and  $T_p$  have the meanings assigned to them respectively in paragraph (4) above, and S has the meaning assigned to it in paragraph (6) above.

(9) The non-housing component share for Pembrokeshire County Council in relation to Dyfed County Council shall be calculated by applying the formula—

$$Sc + \left( \frac{P}{T_p} \times (N - Sc) \right)$$

where—

N, P and  $T_p$  have the meanings assigned to them respectively in paragraph (4) above, and Sc has the meaning assigned to it in paragraph (7) above.

(10) For the purposes of this article—

- (a) the number prescribed as the total of a divided old authority's housing units is the number so prescribed in column (2) of Schedule 1 to this Order;
- (b) the number of a divided old authority's housing units prescribed in relation to a new authority is the number so prescribed in column (4) of Schedule 1 to this Order;
- (c) the number prescribed as the total of a divided old authority's population is the number so prescribed in column (2) of Schedule 2 to this Order; and
- (d) the number of a divided old authority's population prescribed in relation to that part of the divided old authority's area which falls within the area of a new authority is the number so prescribed in column (4) of Schedule 2 to this Order.

(11) In this article—

“housing component”, in relation to an old authority, means the housing component of that authority's adjusted credit ceiling at the end of 31st March 1996, calculated in accordance with paragraph 3 of Schedule 5 to the 1990 Regulations; and

“non-housing component”, in relation to an old authority, means the non-housing component of that authority's adjusted credit ceiling at the end of 31st March 1996, calculated in accordance with paragraph 5 of Schedule 5 to the 1990 Regulations.

### **Minimum revenue provision of new authority**

9.—(1) Regulation 26 of, and Schedules 5 and 6 to, the 1990 Regulations shall apply to a new authority as if references in that regulation to “the current financial year” were references to a financial year beginning on or after 1st April 1997.

(2) For the financial year beginning on 1st April 1996, the amount in relation to a new authority in respect of principal for the purposes of paragraph 15(1)(a) of Schedule 3 to the 1989 Act shall be the aggregate of 2 per cent of its housing amount and 4 per cent of its non-housing amount.

(3) In paragraph (2) above, a new authority's housing amount is the aggregate of—

- (a) the total of the housing components of its undivided old authorities (if any), and
- (b) the total of its housing component shares, (if any) calculated under article 8(3) of this Order.

(4) In paragraph (2) above, a new authority's non-housing amount is its adjusted credit ceiling determined in accordance with article 8 of this Order, less its housing amount calculated in accordance with paragraph (3) above.

(5) In paragraph (3) above, the housing component of an old authority has the same meaning as in article 8 of this Order.

### **Amendments to Local Authorities (Capital Finance) Regulations 1990**

**10.**—(1) Sub-paragraph (g) of paragraph (1) of regulation 6 of the 1990 Regulations (leases and contracts which are not credit arrangements) shall be amended by the deletion of “or” at the end of paragraph (ii), and the addition at the end of paragraph (iii) of—

“; or

(iv) the Local Government Reorganisation (Wales) (Property etc.) Order 1996.”

(2) Paragraph (1) of regulation 27 of the 1990 Regulations (interpretation of Part IV of the 1989 Act) shall be amended by the addition after sub-paragraph (g) of the following sub-paragraph—

“(h) the Local Government Reorganisation (Wales) (Property etc.) Order 1996.”

### **Amendment of Local Authorities (Borrowing) Regulations 1990**

**11.** Regulation 7 of the Local Authorities (Borrowing) Regulations 1990<sup>(8)</sup> (loan instruments transferable by delivery) shall apply to the new authorities as if “charging authority” included a new authority, and “county councils” included new authorities.

## **PART III**

### **HOUSING REVENUE ACCOUNT**

#### **Housing Revenue Account: opening balances**

**12.**—(1) For the year beginning on 1st April 1996 paragraphs (2) to (5) of this article shall have effect in relation to a new authority in place of the provisions of section 75 of, and Schedule 4 to, the 1989 Act, insofar only as that section and that Schedule relate to Item 10 in Part I (credit balance from previous year), and Item 9 in Part II (debit balance from previous year), of that Schedule.

(2) For the year beginning on 1st April 1996 a new authority shall carry to the credit of its Housing Revenue Account—

- (a) all credit balances (if any) shown at the end of 31st March 1996 in the Housing Revenue accounts of its undivided old authorities; and
- (b) all its HRA shares (if any), calculated under paragraph (4) below, which are a positive amount.

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<sup>(8)</sup> S.I. 1990/767, relevant amendments are made by S.I. 1990/1091 and 1991/551.

(3) For the year beginning on 1st April 1996 a new authority shall carry to the debit of its Housing Revenue Account—

- (a) all debit balances (if any) shown at the end of 31 March 1996 in the Housing Revenue Accounts of its undivided old authorities; and
- (b) all of its HRA shares (if any), calculated under paragraph (4) below, which are a negative amount.

(4) The HRA share for a new authority shall be calculated in relation to each of its divided old authorities (if any) by applying the formula—

$$\frac{U}{T_u} \times B$$

where

U and Tu have the meanings given by paragraph (3) of article 8 of this Order, and B has the meaning given by paragraph (5) below.

(5) In paragraph (4) above—

- (a) where the balance shown in the divided old authority's Housing Revenue Account at the end of 31 March 1996 is a credit balance, B is the amount of that balance expressed as a positive amount;
- (b) where the balance shown in the divided old authority's Housing Revenue Account at the end of 31 March 1996 is a debit balance, B is the amount of that balance expressed as a negative amount;
- (c) where the balance shown in the divided old authority's Housing Revenue Account at the end of 31 March 1996 is nil, B is nil.

## PART IV

### RATING

#### **Rates and Precepts (Final Adjustments) Order 1991**

**13.** The Rates and Precepts (Final Adjustments) Order 1991<sup>(9)</sup>, except paragraphs (2) to (4) of article 3 and article 4 of that Order, shall apply to a designated authority as it would have applied to its old authority if the old authority had not been abolished.

#### **Non-Domestic Rating: local rating list of an old authority**

**14.—**(1) The local non-domestic rating list, or the relevant part of such a list, compiled on 1 April 1990 and maintained in accordance with Part III of the Local Government Finance Act 1988<sup>(10)</sup> for an old authority shall on and after 1 April 1996 be a local non-domestic rating list, or part of such a list, of the successor rating authority as if it had been compiled on 1 April 1990 and maintained for the successor rating authority.

(2) For the purposes of paragraph (1), the relevant part of a list compiled for an old authority is that part which shows hereditaments situated in the area of the successor rating authority.

(3) In this article, “the successor rating authority” has the same meaning as “the successor authority” in section 53(2) of the 1994 Act.

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<sup>(9)</sup> S.I. 1991/185.

<sup>(10)</sup> 1988 c. 41.



Signed by authority of the Secretary of State for Wales

26th March 1996

Gwilym Jones  
Parliamentary Under Secretary of State, Welsh  
Office

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## SCHEDULE 1

Article 8

## HOUSING UNITS

Divided old authority (district council)	Prescribed total of divided old authority's housing units	New authority (county or county borough council)	Number of divided old authority's housing units prescribed in relation to new authority
(1)	(2)	(3)	(4)
Colwyn	2,323	Aberconwy and Colwyn	2,272
		Denbighshire	51
Glyndŵr	2,600	Denbighshire	1,917
		Wrexham	603
		Powys	80
Lliw Valley	4,578	Swansea	2,645
		Neath and Port Talbot	1,933
Blaenau Gwent	9,300	Blaenau Gwent	9,097
		Monmouthshire	203
Ogwr	8,411	Bridgend	8,374
		The Vale of Glamorgan	37
Taff-Ely	5,833	Rhondda, Cynon, Taff	5,672
		Cardiff	161

## SCHEDULE 2

Article 8

## POPULATION

Divided old authority (county council)	Prescribed total of divided old authority's population	New authority (county or county borough council)	Prescribed number of divided old authority's population in area of new authority
(1)	(2)	(3)	(4)
Clwyd	417,374	Aberconwy and Colwyn	55,721
		Denbighshire	91,296
		Flintshire	145,265
		Wrexham	123,483

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Divided old authority (county council)	Prescribed total of divided old authority's population	New authority (county or county borough council)	Prescribed number of divided old authority's population in area of new authority
(1)	(2)	(3)	(4)
		Powys	1,609
Dyfed	352,876	Cardiganshire	69,708
		Pembrokeshire	114,147
		Carmarthenshire	169,021
Gwent	452,239	Caerphilly	66,762
		Blaenau Gwent	73,305
		Torfaen	90,571
		Monmouthshire	84,195
		Newport	137,406
Gwynedd	240,260	Anglesey	68,378
		Caernarfonshire and Merionethshire	116,934
		Aberconwy and Colwyn	54,948
Mid Glamorgan	544,526	Bridgend	130,913
		The Vale of Glamorgan	4,366
		Rhondda, Cynon, Taff	239,022
		Merthyr Tydfil	59,468
		Caerphilly	104,267
		Cardiff	6,490
Powys	120,171	Powys	120,171
South Glamorgan	414,610	The Vale of Glamorgan	114,572
		Cardiff	300,038
West Glamorgan	370,990	Swansea	230,917
		Neath and Port Talbot	140,073
Colwyn	57,415	Aberconwy and Colwyn	55,721
		Denbighshire	1,694
Glyndŵr	42,287	Denbighshire	34,610
		Wrexham	6,068
		Powys	1,609

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Divided old authority (county council)	Prescribed total of divided old authority's population	New authority (county or county borough council)	Prescribed number of divided old authority's population in area of new authority
(1)	(2)	(3)	(4)
Blaenau Gwent	77,311	Blaenau Gwent	73,305
		Monmouthshire	4,006
Ogwr	135,279	Bridgend	130,913
		The Vale of Glamorgan	4,366
Taff-Ely	102,715	Rhondda, Cynon, Taff	96,255
		Cardiff	6,490
Lliw Valley	64,632	Swansea	42,095
		Neath and Port Talbot	22,537

## EXPLANATORY NOTE

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

The Local Government (Wales) Act 1994 reorganises local government in Wales with effect from 1st April 1996. From that date new principal councils established under the 1994 Act take over the administration of Welsh local government from the old principal councils. This Order makes further provision in relation to financial matters.

Part II of the Order (articles 3 to 11) makes provision for successor authorities in relation to capital finance controls under Part IV of the Local Government and Housing Act 1989. Article 3 modifies the application of Part IV of the 1989 Act in relation to money transferred under some agreements made under section 56 of the 1994 Act (agreements concerning land etc. between public bodies affected by area changes made by the 1994 Act). Articles 4 and 5, respectively, add an old principal council's usable part of capital receipts and its set aside provision, to those of the new principal council designated to close its accounts. Article 6 modifies a new principal council's aggregate credit limit by reference to money due to the old principal council when it ceased to exist. Articles 7, 8 and 9, respectively, modify the credit ceiling, the adjusted credit ceiling and the minimum revenue provision, for a new authority. Articles 10 and 11 make consequential amendments to the [Local Authorities \(Capital Finance\) Regulations 1990 \(1990/432\)](#) and the [Local Authorities \(Borrowing\) Regulations 1990 \(1990/767\)](#).

Part III of the Order (article 12) makes provision for the opening balance for the Housing Revenue Account of a new principal council.

Part IV of the Order (articles 13 and 14) makes further transitional provision relating to rating. Article 13 modifies the application of the [Rates and Precepts \(Final Adjustments\) Order 1991 \(1991/185\)](#). Article 14 makes provision in relation to the transfer of 1990-95 non-domestic rating lists.

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Previous orders making provision in relation to local government finance for the new principal councils are the [Local Government Reorganisation \(Wales\) \(Capital Finance\) Order 1995 \(1995/1041\)](#), the [Local Government Reorganisation \(Wales\) \(Finance\) \(Miscellaneous Amendments and Transitional Provisions\) Order 1995 \(1995/3150\)](#), the [Local Government Reorganisation \(Wales\) \(Finance\) Order 1996 \(1996/88\)](#), the [Local Government Reorganisation \(Wales\) \(Finance\) \(Miscellaneous Amendments and Transitional Provisions\) Order 1996 \(1996/619\)](#) and the [Local Government Reorganisation \(Wales\) \(Capital Finance\) Order 1996 \(1996/633\)](#).