
STATUTORY INSTRUMENTS

1997 No. 319

The Local Authorities (Capital Finance) Regulations 1997

PART IV

CREDIT ARRANGEMENTS

Leases of which the initial cost is nil

Cost of lease at any time

27. Subject to regulation 46, where, by virtue of this Part, the initial cost of a lease is nil, the cost of that lease at any time shall also be nil.

Leases under certain private finance transactions

28. The initial cost of a lease of land shall be nil where the authority become the lessees under the provisions of a private finance transaction, and the initial cost of that transaction falls to be determined under regulation 40.

Lease of land for term not exceeding three years

29. The initial cost of a lease (“the new lease”) of land shall be nil where—

- (a) the term of the new lease does not exceed three years;
- (b) the authority have not, at any time within the period of five years ending on the date on which they become the lessees, had a freehold interest in any part of the land, or an earlier leasehold interest in any part of the land for a term which, added to the term of the new lease, produces a combined term of more than three years; and
- (c) no other local authority have, within the same period, had a leasehold interest in any part of the land for a term which, added to the term of the new lease, produces a combined term of more than three years.

Lease of dwelling-house for use as accommodation for homeless persons

30.—(1) In this regulation, “dwelling-house” has the same meaning as in Part IV of the Housing Act 1985 (secure tenancies and rights of secure tenants)(1).

(2) The initial cost of a lease of a dwelling-house shall be nil where the term of the lease does not exceed ten years and the authority have decided, before they become the lessees under the lease, to use, or continue to use, the dwelling-house to provide accommodation in the exercise of their functions under Part VII of the Housing Act 1996 (homelessness)(2).

(1) 1985 c. 68. See section 112 of the Act.

(2) 1996 c. 52.

Lease of land for non-housing purposes

31.—(1) In this regulation—

“the demised land”, in relation to a new lease, means the land demised by the new lease; and
“new lease” means a lease of non-housing land—

- (a) which is for a term not exceeding ten years;
- (b) which does not confer on the lessee an option to purchase the lessor’s interest in the demised land; and
- (c) of which the capital cost does not exceed 70 per cent. of the relevant value of the demised land.

(2) The initial cost of a new lease shall be nil where—

- (a) the authority have not at any time had a freehold or any leasehold interest in the whole or any part of the demised land; and
- (b) no other local authority have had a leasehold interest in the demised land under a lease of which the initial cost was nil.

(3) The initial cost of a new lease shall be nil where—

- (a) the authority had a leasehold interest in the demised land under an earlier lease acquired before 1st April 1989; and
- (b) the new lease is a lease of the same land granted to the authority upon the expiry date of the earlier lease.

(4) The initial cost of a new lease shall be nil where the authority have disposed of the freehold or a leasehold interest in any land, and—

- (a) the new lease is a lease of the whole or any part of a new building constructed on that land after the date of that disposal; or
- (b) the new lease is a lease of part of a building on that land which was occupied before the disposal for the purposes of, or in connection with, the exercise of any of the authority’s functions, and the capital cost of the new lease is less than 50 per cent. of the amount which would be the capital cost of a lease on identical terms of the whole building.

Consecutive leases of land for total term not exceeding ten years

32. The initial cost of a lease (“the new lease”) of land shall be nil where—

- (a) the authority had an earlier leasehold interest (“the preceding interest”) in the land, and become the lessees upon the expiry of the preceding interest;
- (b) the preceding interest was a lease of which the initial cost was nil by virtue of regulation 29 or regulation 7(3) of the 1990 Regulations⁽³⁾;
- (c) the new lease is for a term which, added to the term of the preceding interest, produces a combined term of not more than ten years; and
- (d) but for the preceding interest, the initial cost of the new lease would be nil by virtue of regulation 31.

Fire authority leases

33.—(1) In this regulation—

(3) See the 1990 Regulations as amended by [S.I. 1995/850](#).

- (a) “new fire authority” means a fire authority constituted by a combination scheme under the Fire Services Act 1947⁽⁴⁾ made in consequence of an order under Part II of the Local Government Act 1992 (local government changes for England)⁽⁵⁾ containing provision for giving effect to a structural change (within the meaning given to that expression in section 14 of that Act), or in consequence of the provisions of the Local Government (Wales) Act 1994⁽⁶⁾; and
- (b) in relation to a new fire authority—
 - (i) “old fire authority” means a county council which is superseded as a fire authority by the new fire authority; and
 - (ii) “relevant date” means the date on which the combination scheme which constitutes the new fire authority is brought into full operation.
- (2) The initial cost of a lease (“the new lease”) of land shall be nil where—
 - (a) the authority are a new fire authority;
 - (b) the old fire authority occupied the land on the day before the relevant date, and the authority become the lessees within a period of 12 months beginning on 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;
 - (d) the term of the new lease does not exceed ten years;
 - (e) the new lease does not confer on the lessee an option to purchase the lessor’s interest in the land; and
 - (f) where the term of the new lease exceeds three years, the capital cost of the new lease does not exceed 70 per cent. of the relevant value.
- (3) The initial cost of a lease (“the new lease”) of land shall be nil where—
 - (a) the authority are the old fire authority in relation to a new fire authority, and become the lessees of the new fire authority within a period of 12 months beginning on the relevant date;
 - (b) immediately before the relevant date, the authority had a freehold or earlier leasehold interest in the land which has been transferred to the new fire authority under the provisions of the combination scheme which constituted the new fire authority;
 - (c) the term of the new lease does not exceed ten years;
 - (d) the new lease does not confer on the lessee an option to purchase the lessor’s interest in the land; and
 - (e) where the term of the new lease exceeds three years, the capital cost of the new lease does not exceed 70 per cent. of the relevant value.

National Park authority leases

34.—(1) In this regulation—

“National Park authority” has the same meaning as in article 2 of the National Park Authorities (England) Order 1996⁽⁷⁾;

(4) 1947 c. 41.

(5) 1992 c. 19.

(6) 1994 c. 19.

(7) S.I. 1996/1243. There are amendments which are not relevant to these Regulations.

“relevant agreement or award” means an agreement under section 76 of the Environment Act 1995 (agreements as to incidental matters)(8) or an award under subsection (3) of that section; and

“relevant council”, in relation to a National Park authority, means the council which, pursuant to paragraph 8 of Schedule 17 to the Local Government Act 1972, appointed the National Park Committee for the Park for which the authority is established.

- (2) The initial cost of a lease of land shall be nil where—
- (a) the authority are a National Park authority;
 - (b) the relevant council occupied the land on 31st March 1997, and the authority become the lessees within a period of 12 months beginning on 1st April 1997 other than by virtue of a relevant agreement or award;
 - (c) immediately before the date on which the authority become the lessees, another local authority have a freehold or leasehold interest in the land;
 - (d) 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; and
 - (f) where the term of the lease exceeds three years, the capital cost of the new lease does not exceed 70 per cent of the relevant value.
- (3) The initial cost of a lease (“the new lease”) of land shall be nil where—
- (a) the authority are the relevant council in relation to a National Park authority, and become the lessees of the National Park authority within a period of 12 months beginning on 1st April 1997;
 - (b) on 31st March 1997 the authority had a freehold or earlier leasehold interest in the land which has vested in the National Park authority by virtue of article 15 of the National Park Authorities (England) Order 1996 or a relevant agreement or award;
 - (c) the term of the new lease does not exceed ten years;
 - (d) the new lease does not confer on the lessee an option to purchase the lessor’s interest in the land; and
 - (e) where the term of the new lease exceeds three years, the capital cost of the new lease does not exceed 70 per cent. of the relevant value.