
STATUTORY INSTRUMENTS

1997 No. 319

The Local Authorities (Capital Finance) Regulations 1997

PART IV

CREDIT ARRANGEMENTS

Preliminary Provisions

Interpretation

13.—(1) In this Part—

“the authority”—

- (a) in relation to a lease, means the local authority who become the lessees under the lease;
- (b) in relation to a contract, credit arrangement or transaction, means the local authority who enter into the contract, the arrangement or the transaction; and
- (c) in relation to the variation of a credit arrangement, means the local authority who agree to the variation;

“housing land” means any land, houses or other property which, if acquired by a local authority, would be land to which section 74(1) (duty to keep Housing Revenue Account) would apply;

“new town corporation” has the same meaning as in section 172 (transfer of new town housing stock);

“non-housing land” means any land other than housing land;

“relevant value”, in relation to the land of which a local authority are to become the lessees, means the value of the lessor’s interest in the land as estimated by the authority before they become the lessees—

- (a) on the assumption that they will become 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 September 1995 by the Royal Institution of Chartered Surveyors under ISBN number 0 85406 699 3(1); and

“term”, in relation to a lease acquired by a local authority, means—

- (a) where the lease is granted to the authority, the period of the lease; and
- (b) where the lease is acquired by the authority otherwise than by a grant, the period of the lease which is unexpired on the date on which the authority become the lessees.

(2) For the purposes of this Part, any reference to a contract is a reference to a single contract or, where two or more contracts taken together constitute a credit arrangement, a reference to those contracts taken together.

Capital cost of leases

14.—(1) In this Part, subject to regulation 15, a reference to the capital cost of a lease is a reference to the amount which, at the time the authority become the lessees, the authority estimate will be the aggregate of—

- (a) the value of the consideration given, or failing to be given, by them in respect of the lease before or during the financial year in which they become the lessees; and
- (b) the value of the consideration falling to be given by them in respect of the lease in any subsequent financial year.

(2) For each subsequent financial year referred to in paragraph (1)(b), the value of the consideration falling to be given in that year shall be determined by the formula—

$$\frac{x}{\left\{1 + \frac{r}{100}\right\}^n}$$

where—

“x” is the value of the consideration which the authority estimate will fall to be given by them in respect of the lease in that financial year;

“r” is the percentage rate of discount prescribed for the financial year in which the authority became the lessees by regulations made by the Secretary of State for the purposes of section 49 (initial and subsequent cost of credit arrangements); and

“n” is the financial year concerned expressed as a year subsequent to the financial year in which the authority became the lessees (so that the first of the subsequent financial years is 1, the next financial year is 2, and so on).

(3) For the purposes of this regulation and the following provisions of this Part, in any case where the consideration in respect of a lease consists, in whole or in part of—

- (a) an undertaking to do or refrain from doing something at a future time (whether specified or not), or
- (b) a right to do or refrain from doing something at a future time,

that consideration shall not be regarded as having been given until the undertaking is performed or, as the case may be, the right is exercised.

Consideration to be disregarded

15.—(1) In determining—

- (a) the capital cost of a lease for the purposes of regulation 35 or 36,
- (b) the adjusted cost of a lease, or
- (c) the consideration given in respect of an earlier leasehold interest in land for the purposes of regulation 35 or 49,

a local authority shall disregard any consideration given or falling to be given in respect of the lease or, as the case may be, the earlier leasehold interest (“the lease”) if it is consideration to which paragraph (2), (3) or (4) applies.

(2) This paragraph applies to any consideration given by the authority before they become the lessees under the lease.

(3) This paragraph applies to any consideration where—

- (a) the lease is excluded for the purposes of paragraph 11(2) of Schedule 3 to the Act by virtue of regulation 122 or 123; and

- (b) the consideration falls to be given by the authority during the period of three months beginning on the date on which the authority become the lessees under the lease.
- (4) This paragraph applies to any consideration in money paid out of a grant made under—
 - (a) section 3 of the Civil Defence Act 1948(2);
 - (b) sections 46, 47 and 48 of the Police Act 1996(3) (police grant and grants for capital expenditure and expenditure on safeguarding national security);
 - (c) section 20 of the Probation Service Act 1993(4);
 - (d) section 63(6) of the Rent Act 1977(5) (schemes for appointment of rent officers); or
 - (e) section 59 of the Justices of the Peace Act 1979(6).

Meaning of private finance transaction

16.—(1) In this regulation, “relevant asset” means any non-housing land or any other asset (including works) which is not land.

- (2) For the purposes of this Part, a transaction is a private finance transaction if—
 - (a) the consideration received by the authority under the transaction includes the provision—
 - (i) of a relevant asset for use for, or in connection with, the exercise of a function of the authority (“the relevant purpose”); and
 - (ii) of services in relation to the use of the asset for the relevant purpose;
 - (b) the authority do not give to any person any undertaking or guarantee in respect of any obligations or liabilities of the person with whom they enter into the transaction (whether incurred under the transaction or otherwise);
 - (c) the consideration given by the authority under the transaction includes the payment of fees by instalments at annual or more frequent intervals;
 - (d) the fees are determined in accordance with provisions relating to—
 - (i) standards attained in the performance of the services; or
 - (ii) the extent, rate or intensity of use of the asset for the relevant purpose;
 - (e) the first instalment of fees falls to be paid after the authority have begun to use the asset for the relevant purpose; and
 - (f) the terms agreed for the transaction do not provide for any variation in the amount of fees payable, other than variation under the provisions mentioned in sub-paragraph (d), and any provision agreed for increasing the fees by reference to—
 - (i) increases in heating costs attributable to increases in the price of gas, electricity or fuel; or
 - (ii) the figure in Table 2.1 of Economic Trends(7) published by the Office for National Statistics as the most recent percentage change, quarter on corresponding quarter of previous year, of the implied gross domestic product deflator at market prices.

(2) [1948 c. 5](#). Part of subsection (3) of section 3 of the Act was repealed by Part I of Schedule 10 to the Police Act [1964 \(c. 48\)](#) and subsection (4) was repealed by Part XIII of Schedule I to the Statute Law (Repeals) Act [1986 \(c. 12\)](#).

(3) [1996 c. 16](#).

(4) [1993 c. 47](#).

(5) [1977 c. 42](#).

(6) [1979 c. 55](#). Subsection (6) of section 59 was amended by section 12(10) of the Local Government Act [1985 \(c. 51\)](#) and further amended by section 189 of the Local Government and Housing Act 1989. Subsection (1) was amended by, and subsection (8) was substituted by, paragraph 19 of Schedule 8 to the Police and Magistrates' Courts Act [1994 \(c. 29\)](#).

(7) Available from the Office for National Statistics or from The Stationery Office.

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