
STATUTORY INSTRUMENTS

1998 No. 371

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities (Capital Finance)
(Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>24th February 1998</i>
<i>Laid before Parliament</i>		<i>27th February 1998</i>
<i>Coming into force</i>	- -	<i>20th March 1998</i>

The Secretary of State for the Environment, Transport and the Regions, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 48(1)(c), 59(4) and 190(1) of, and paragraphs 15(1)(a) and 20 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:

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) Regulations 1998 and shall come into force on 20th March 1998.

Amendment of Regulations

2. The Local Authorities (Capital Finance) Regulations 1997(2) shall be amended in accordance with the following provisions of these Regulations.

Credit arrangements – interpretation

3. In regulation 13, in paragraph (1), for the definition of “housing land” substitute the following definition—

““housing land” means any land, house or other building in respect of which sums fall to be credited or debited in accordance with section 74 (duty to keep Housing Revenue Account);”.

Meaning of private finance transaction

4. For regulation 16 substitute the following regulation—

(1) 1989 c. 42.
(2) S.I.1997/319; amended by S.I. 1997/848.

“Meaning of private finance transaction

16.—(1) In this regulation—

“asset” means—

- (a) any tangible asset, including (in particular) any land, house or other building, plant, machinery, vehicle, vessel, apparatus or equipment; or
- (b) any computer software; “relevant asset” means any asset apart from housing land; and

“works” means any works consisting of the construction, enhancement, replacement or installation of an asset, apart from works consisting of the construction of a house or other dwelling on housing 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—
 - (i) the provision or making available of a relevant asset or the carrying out of works for the purposes of, or in connection with, the discharge of a function of the authority; and
 - (ii) the provision of services for the purposes of, or in connection with, the discharge of the same function;
- (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 relevant asset, or, as the case may be, of the asset which is constructed, enhanced, replaced or installed under the transaction;
- (e) the first instalment of fees falls to be paid after the services have started to be provided;
- (f) the terms agreed for the transaction do not provide for an instalment of fees to be determined by reference to any factors other than—
 - (i) a specified sum or specified rate of payment;
 - (ii) a measure of the amount of work carried out under the transaction; and
 - (iii) the matters provided for in the provisions mentioned in sub-paragraph (d); and
- (g) the terms agreed for the transaction do not provide for the specified sum or specified rate of payment to be increased by reference to any factors other than—
 - (i) a rise in costs attributable to a rise in the price of gas, electricity or fuel; and
 - (ii) the figure in Table 2.1 of Economic Trends⁽³⁾ 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.”.

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

Disposal of unoccupied dwellings

5. In regulation 87, in sub-paragraph (c) of paragraph (2), for “Regeneration” substitute “Development”.

Minimum revenue provision – use of certain credit approvals

6.—(1) In regulation 130, for the definition of “relevant credit approval” substitute the following definition—

““relevant credit approval” means any supplementary credit approval other than one which is a credit approval within the meaning given to that expression in regulation 136;”.

(2) In regulation 136, in paragraph (1), for the definition of “credit approval” substitute the following definition—

““credit approval” means any supplementary credit approval which—

- (a) is issued to the authority in respect of expenditure which is treated as expenditure for capital purposes by virtue only of directions under section 40(6) (capital purposes); and
- (b) specifies an amortisation period.”.

(3) In regulation 153, in paragraph (a)(ii), for “supplementary credit approvals falling within section 54(5)” substitute “credit approval within the meaning given to that expression in regulation 136”.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and
the Regions

19th February 1998

Signed by authority of the Secretary of State for Wales

Win Griffiths
Parliamentary Under-Secretary of State, Welsh
Office

24th February 1998

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 amend the Local Authorities (Capital Finance) Regulations 1997 (“the principal Regulations”).

Regulation 3, which amends regulation 13 of the principal Regulations, and regulation 4, which substitutes a new regulation for regulation 16 of the principal Regulations, modify the meaning of private finance transaction. The effect of the modification is to broaden—

- (a) the scope of things that can be provided, made available or carried out under such a transaction; and
- (b) the description of terms that may be agreed for the payment of fees under such a transaction.

Regulation 6, which amends regulations 130, 136 and 153 of the principal Regulations, modifies the minimum revenue provision which a local authority are required to make in respect of supplementary credit approvals issued for expenditure which is for capital purposes by virtue of a direction given by the Secretary of State. The amendments ensure that an authority are required to make minimum revenue provision in consequence of using such an approval where no amortisation period has been specified (the requirement for an amortisation period was removed by section 2 of the Local Government (Supplementary Credit Approvals) Act 1997 (c. 63)).