
STATUTORY INSTRUMENTS

2004 No. 533

The Local Authorities (Capital Finance) (Consequential, Transitional and Saving Provisions) Order 2004

Capital finance: parish and community councils and charter trustees

7.—(1) Article 13 of the Charter Trustees Order 1974 (borrowing)(1) shall be revoked.

(2) Regulation 14 of the Charter Trustees Regulations 1996 (borrowing)(2) shall be revoked.

(3) Paragraph 1 of Schedule 1 to the Local Government and Housing Act 1989 (Commencement No. 5 and Transitional Provisions) Order 1990 (savings relating to Part IV of the 1989 Act)(3) shall be revoked.

(4) In section 2(3) of the Public Works Loans Act 1965 (new form of local loan and automatic charge for securing it)(4) and in section 2(2) of the Public Works Loans Act 1967 (amendments as to local loans and automatic charges under section 2 of the Act of 1965)(5), before “the Local Government Act 2003”, in each case where those words appear, there shall be inserted “, or paragraph 2 of Schedule 1 to,”.

(5) Any approval given to charter trustees, a parish council or a community council by the Secretary of State under paragraph 1 of Schedule 13 to the 1972 Act (borrowing by local authorities)(6), which is extant immediately before 1st April 2004, shall be treated, on and after that date, as if it were an approval given to those charter trustees or that council, as the case may be, by the appropriate person under paragraph 2(2) of Schedule 1 to the 2003 Act (borrowing).

(6) Subject to section 127(4) of the 1972 Act (disposal of land held by parishes and communities), any capital money received by a parish council or a community council before 1st April 2004 on a disposal of land under Part VII of the 1972 Act (miscellaneous powers of local authorities), which, before that date, has not been applied in accordance with section 153(1) of the 1972 Act (application of capital money on disposal of land)(7), shall be treated, on and after that date, as if it were a capital receipt for the purposes of Chapter 1 of Part 1 of the 2003 Act (capital finance etc).

(7) A sum received by a parish council or a community council which, apart from this paragraph, would be treated as a capital receipt by virtue of paragraph (6), shall not be treated for the purposes of Chapter 1 of Part 1 of the 2003 Act as a capital receipt if the aggregate of all sums received or

(1) S.I.1974/176.

(2) S.I. 1996/263; there are amendments to these Regulations that are not relevant to this Order.

(3) S.I. 1990/431; amended by S.I. 1990/762. The savings were in respect of repeals, specified in Schedule 12 to the 1989 Act, in section 6 of the Public Works Loans Act 1964 (c. 9), sections 101, 123, 153 and 172 of, and Schedule 13 to, the 1972 Act, Schedule 7 to the Local Government Act 1974 (c. 7), section 28 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), section 5 of the Local Government Finance Act 1982 (c. 32), section 75 of the Local Government Act 1985 (c. 51) and section 177(4) of the Education Reform Act 1988 (c. 40). There were also savings in respect of amendments, in Schedule 11 to the 1989 Act, to section 2 of the Public Works Loans Act 1965 (c. 63) and section 2 of the Public Works Loans Act 1967 (c. 61).

(4) Section 2(3) was amended by section 194 of, and paragraph 6 of Schedule 11 to, the 1989 Act and by paragraph 2(a) of Schedule 7 to the 2003 Act. There are other amendments to section 2 that are not relevant to this Order.

(5) Section 2(2) was amended by section 194 of, and paragraph 7 of Schedule 11 to, the 1989 Act and by paragraph 3 of Schedule 7 to the 2003 Act.

(6) Paragraph 1 of Schedule 13 was amended by section 190(1) of, and paragraph 43 of Schedule 25 to, the Water Act 1989 (c. 15) and section 102(2) of, and Schedule 17 to, the Local Government Act 1985 (c. 51).

(7) Section 153 was amended by section 132(4) of the Housing Act 1988 (c. 50), section 84 of, and paragraph 17 of Schedule 14 to, the Local Government Act 1985, and section 237 of, and Part I of Schedule 13 to, the Education Reform Act 1988 (c. 40).

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to be received by the council in respect of the disposal of the land, for which the sum is paid, does not exceed £10,000.

(8) Subject to paragraph (9), section 13(1) and (2) of the 2003 Act (security for money borrowed etc) shall not apply to any mortgage or charge of any property which was effected by charter trustees, a parish council or a community council before 1st April 2004.

(9) Paragraph (8) shall not apply in relation to any further money borrowed, or otherwise owed, by the council or trustees, as the case may be, by virtue of an extension of the mortgage or charge on or after 1st April 2004.