

2013 No. 476

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Capital Finance and Accounting)
(England) (Amendment) Regulations 2013**

Made - - - - *5th March 2013*

Laid before Parliament *8th March 2013*

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 11, 21(1) and 123 of the Local Government Act 2003(a):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2013.

(2) Subject to paragraph (3), these Regulations shall come into force on 31st March 2013.

(3) Regulations 3, 4, 6, 7 and the Schedule shall come into force on 1st April 2013.

(4) In these Regulations “the 2003 Regulations” means the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(b).

Amendment of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

2. The 2003 Regulations are amended as follows.

Pooling of receipts from the disposal of housing land

3.—(1) In regulation 14—

(a) for paragraph (1) substitute—

“(1) This regulation applies to the following capital receipts arising from the disposal of housing land prior to 1st April 2012—

(a) amounts received by the local authority as mortgagee of any housing land;

(b) amounts received on or after 1st April 2006, in relation to the disposal of the authority’s rights and obligations as mortgagee of any dwelling; and

(c) amounts received pursuant to the enforcement of a covenant contained in a conveyance of a freehold or grant of a leasehold in compliance with section 155 of the Housing Act 1985(a) (repayment of the right to buy discount).”;

(a) 2003 c. 26.

(b) S.I. 2003/3146 as amended by S.I. 2006/521, S.I. 2007/573, S.I. 2009/2272, S.I. 2010/454, S.I. 2012/265, S.I. 2012/711, S.I. 2012/1324 and S.I. 2012/2269. There are other amending instruments but none is relevant to these Regulations.

(b) for paragraph (2), substitute—

“(2) Where this regulation applies, the specified amount is an amount equal to 75% of the capital receipt in relation to the disposal of housing land.”; and

(c) omit paragraph (3).

(2) Omit regulations 15 to 19.

Schedule – Calculation of the sub-liability

4.—(1) Subject to paragraph (2), for the Schedule to the 2003 Regulations substitute the Schedule set out in the Schedule to these Regulations.

(2) The Table referred to in paragraph 2 of the Schedule to the 2003 Regulations is not substituted.

Use of capital receipts

5.—(1) In regulation 23(b)—

(a) at the end of paragraph (h), omit “or”; and

(b) at the end of paragraph (i), for “.” insert—

“; or

(j) where receipts are received on or after 1st April 2012, to make a back payment (within the meaning of regulation 30A(2)) in respect of unequal pay where the liability arises in the circumstances specified in regulation 30A(3).”.

Back payment following unequal pay

6. In regulation 30A(c), in paragraphs (5) and (6), for “1st April 2013” substitute “1st April 2018”.

Saving provision

7. Notwithstanding the revocation of regulations 14 to 19 of, and the Schedule to, the 2003 Regulations by these Regulations, regulations 14 to 19 and the Schedule continue to have effect for the purpose of calculating the poolable amount for the quarter 1st January 2013 to 31st March 2013.

Signed by authority of the Secretary of State for Communities and Local Government

Brandon Lewis

Parliamentary under Secretary of State

Department for Communities and Local Government

5th March 2013

(a) 1985 c. 68.

(b) Regulation 23 has been amended by S.I. 2006/521, S.I. 2010/454, S.I. 2012/711 and S.I. 2012/2269.

(c) Regulation 30A was inserted by S.I. 2007/573. It has been amended by S.I. 2010/454.

“SCHEDULE

Regulation 1(5)

Calculation of the sub-liability

1.—(1) This Schedule applies to capital receipts derived from dwellings disposed of by the local authority on or after 1st April 2012—

- (a) under Part V of the Housing Act 1985;
- (b) to a secure tenant for an amount that is less than the market value of the dwelling; or
- (c) by a grant of a shared ownership lease to a tenant of the local authority where—
 - (i) a premium (which is a portion of the market value of the disposed dwelling) was paid and that portion exceeded 50% of the market value of the disposed dwelling; or
 - (ii) within 2 years of the grant of the shared ownership lease, a premium is paid to acquire a further portion of the disposed dwelling so that the total portion of the market value of the disposed dwelling owned by the tenant is more than 50%.

(2) This Schedule does not apply to capital receipts derived from the disposal of dwellings that are the subject of an agreement made under section 80B of the Local Government and Housing Act 1989.

2. In this Schedule—

“available buy back allowance” is an amount calculated in accordance with paragraph 3(2);

“assumed debt” means the amount of debt assumed to be associated with a local authority in a quarter as set out in column A of the table in this Schedule (“the Table”);

“attributable debt” means the amount of debt associated with a dwelling subject to the duty under section 74 of the Local Government and Housing Act 1989 (duty to keep a housing revenue account) set out in “the table of debt associated with HRA properties” dated 31st March 2013 which is published on the website of GOV.UK^(a) and deposited at the Department’s principal office^(b);

“buy back allowance” is an amount calculated in accordance with paragraph 3;

“local authority share cap” means the amount attributable to an authority set out in Column B of the Table;

“London authorities” means—

- (i) a London borough council; and
- (ii) the Common Council of the City of London;

“previous quarter” means the quarter before the relevant quarter except where the relevant quarter is quarter 1;

“quarter 1” means the period from 1st April 2012 to 30th June 2012;

“sub-liability” means the amount payable by the local authority to the Secretary of State under regulation 12; and

“transaction cost” means in relation to—

(a) The document can be found on the GOV.UK website at the following address: www.gov.uk.

(b) This document is available for inspection at the following address: The Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU.

- (i) London authorities, £2850;
- (ii) local authorities that are not London authorities, £1300.

3.—(1) The buy back allowance for the relevant quarter means 50% of the relevant costs of buying back a relevant interest in the relevant quarter where—

- (a) “relevant costs” means the expenditure incurred by the authority in the relevant quarter including administrative and incidental costs; and
- (b) “relevant interest” means a freehold or leasehold interest in a dwelling—
 - (i) that has previously been disposed of by the authority, another authority, a new town corporation, a housing action trust or an urban development corporation;
 - (ii) that was not acquired pursuant to a compulsory purchase order; and
 - (iii) was not acquired from a body of persons corporate or unincorporate.

(2) The available buy back allowance in respect of a relevant quarter is calculated as follows—

(available buy back allowance for the previous quarter + buy back allowance for the relevant quarter) – available buy back allowance deducted in the previous quarter when calculating the sub-liability.

4. In this Schedule—

A means the total receipts received from the disposal of dwellings in the relevant quarter;

A* means the value of A in the previous quarter;

B means the total of the attributable debt associated with the dwellings disposed of from 1st April 2012 to the last day of the relevant quarter;

C means the total of the assumed debt for each quarter from quarter 1 to the relevant quarter;

D means the local authority share cap for the relevant quarter;

E means the total transaction cost calculated in accordance with paragraph 5;

E* means the total transaction cost for the previous quarter;

F has the meaning set out in paragraph 11;

F* means the value of F for the previous quarter;

F** means the total of the value of F for each quarter from quarter 1 to the previous quarter;

F*** has the meaning set out in paragraph 6;

G has the meaning set out in paragraph 8;

G* means the value for G in the previous quarter;

H means the transaction cost;

I means the number of disposals of dwellings during the relevant quarter;

J means deductible buy back allowance for the relevant quarter and is calculated in accordance with paragraph 12;

J* means the value of J for the previous quarter;

K means the sub-liability for the relevant quarter and is calculated in accordance with paragraph 13;

K* means the value of K for the previous quarter;

L is calculated in accordance with paragraph 10;

L* means the value of L for the previous quarter;

L** has the meaning set out in paragraph 9; and

M has the meaning set out in paragraph 7.

5. E (the total transaction cost) means—

$$H \times I .$$

6. F*** means—

$$B - C - F^{**}$$

except where $B - C$ is less than zero, F*** means—

$$0 - F^{**} .$$

7. M means $A^* - E^* - F^* - J^* - K^*$

8. G means—

(a) in the period of quarter 1—

$$D;$$

(b) in quarters other than quarter 1—

$$(D + G^*) - M .$$

9. L** means—

(a) 2.398347729 in the financial year 2012 to 2013;

(b) 2.360771759 in the financial year 2013 to 2014; and

(c) 2.311525846 in the financial year 2014 to 2015.

10. L means—

(a) in the financial year 2012 to 2013—

$$L^{**};$$

(b) in any financial year other than 2012 to 2013—

$$[(G^* - M) \times L^* + (D \times L^{**})] \div G .$$

11. F means—

$$F^{***}$$

except where $(E - A) \div L$ is greater than F***, F means—

$$(E - A) \div L .$$

12. J means an amount of the available buy back allowance that does not exceed—

$$[A - E - F - (\{L + 1\} \times G)] \times 0.065$$

except where $[A - E - F - (\{L + 1\} \times G)]$ is less than zero, J means zero.

13. K means—

$$A - E - F - G - J$$

except where $A - E - F - [(L + 1) \times G]$ is less than zero, K means—

$$[A - E - F] \times [L \div (L + 1)]."$$

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations amend the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (“the 2003 Regulations”).

Regulation 4 inserts a schedule which provides for the calculation of the sub-liability, which forms part of the poolable amount.

Regulation 5 permits local authorities to use capital receipts received on or after 1st April 2012 to make back payments of equal pay costs.

Regulation 6 extends until and including 31st March 2018 the ability of local authorities to defer charging liabilities for back payments following unequal pay to a revenue account until the date on which a back payment must actually be paid. Where this provision applies to a back payment, it will continue to apply until the date on which the payment is actually made, whether or not the date is on or after 1st April 2018, by virtue of existing regulation 30A(6).

Paragraph 1 of the Schedule describes the dwellings to which the Schedule applies. Paragraph 2 defines the terms used in the Schedule. Paragraphs 3 to 13 set out the calculation of the sub-liability.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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