
WELSH STATUTORY INSTRUMENTS

2018 No. 325 (W. 61)

LOCAL GOVERNMENT, WALES

The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2018

<i>Made</i>	- - - -	<i>6 March 2018</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>9 March 2018</i>
<i>Coming into force</i>	- -	<i>31 March 2018</i>

The Welsh Ministers, in exercise of the powers conferred by sections 7(2)(b), 8(3), 9(3), 11, 16(2), 21(1) and (2), 24 and 123(1) and (2) of the Local Government Act 2003⁽¹⁾, make the following Regulations.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2018 and they come into force on 31 March 2018.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations “the 2003 Regulations” (“*Rheoliadau 2003*”) means the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003⁽²⁾.

Amendment to the 2003 Regulations

2. The 2003 Regulations are amended in accordance with regulations 3 to 11.

Interpretation

3. In regulation 1 (interpretation), in paragraph (4)—

(a) in the definition of “associates”, for “section 135” substitute “section 136”;

(b) omit the definition of “CIPFA”;

(1) 2003 c. 26. Section 24 was amended by section 238(3) of the Local Government and Public Involvement in Health Act 2007 (c. 28). Powers under Part 1 of the Local Government Act 2003 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales, by virtue of section 24 of the Local Government Act 2003 as amended. The powers were previously vested in the National Assembly for Wales by section 24 of the Local Government Act 2003. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(2) S.I. 2003/3239 (W. 319) as amended by S.I. 2004/1010 (W. 107), 2006/944 (W. 93), 2006/2914, 2007/1051 (W. 108), 2008/588 (W. 59), 2009/560 (W. 52), 2010/685 (W. 67), 2014/481 (W. 58) and 2016/102 (W. 50).

- (c) in the definition of “dwelling-house”, for “section 135” substitute “section 136”;
- (d) after the definition of “long lease”, insert—
 - ““money market fund” means a collective investment scheme which—
 - (a) in accordance with [Directive 2009/65/EC\(3\)](#) of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities, is an undertaking for collective investment in transferable securities subject to that Directive; and
 - (b) is authorised or recognised under Part XVII of the Financial Services and Markets Act 2000(4);”;
- (e) in the definition of “qualifying disposal”, omit “135 or”;
- (f) after the definition of “secure tenant”—
 - (i) omit “and”;
 - (ii) insert—
 - ““securitisation transaction” means a disposal for consideration by a local authority of all or part of its interest in specified revenues, where disposal includes both sale and assignment; and”.

Credit arrangements

4.—(1) Before regulation 3 (liabilities that do not arise from capital expenditure) and the sub-part heading “Transactions which are not credit arrangements”, insert—

“TRANSACTIONS WHICH ARE CREDIT ARRANGEMENTS

Securitisation transactions

2A. A securitisation transaction must be treated as a transaction falling within section 7(2)(a).”

(2) For regulation 5 (calculation of cost of credit arrangements), substitute—

“Calculation of cost of credit arrangements

5. For the purposes of section 8(2) (entry into a credit arrangement or variation to be treated as the borrowing of an amount equal to the cost of the arrangement or variation), the cost of a credit arrangement or variation of a credit arrangement is—

- (a) in the case of a securitisation transaction, an amount equal to the value of the consideration received by the authority as a result of that transaction; or
- (b) in all other cases, the amount of the liability in respect of that arrangement or variation which is shown, in accordance with proper practices, in the authority’s accounts.”

Fixed assets

5. In regulation 3(2), for the words “fixed asset”, substitute “non-current asset which is not a financial asset”.

(3) OJ No L 302, 17.11.2009, p. 32, amended by 2010/78/EU (OJ No L 331, 15.12.2010, p. 120), 2011/61/EU (OJ No L 174, 1.7.2011, p. 1), 2013/14/EU (OJ No L 145, 31.5.2013, p. 1-3), and 2014/91/EU (OJ No L 257, 28.8.2014, p. 186-213).

(4) 2000 c. 8.

Bonds

6.—(1) For regulation 6 (repayment of loan etc. to a local authority), substitute—

“Repayment of loan etc. to a local authority

6.—(1) For the purpose of Chapter 1 of Part 1 and subject to paragraph (3) of this regulation, the sums to which paragraph (2) refers must be treated as capital receipts.

(2) Sums received by a local authority as repayment of the principal of an advance, a grant or any other financial assistance given by that local authority for such a purpose that, if the giving of that financial assistance had been expenditure incurred by the local authority at the time of the repayment, it would have constituted capital expenditure.

(3) For the purpose of Chapter 1 of Part 1 and subject to regulation 6A below, the sums to which paragraphs (4) to (6) refer must not be treated as capital receipts.

(4) Sums received by a local authority in connection with the repayment of the principal of an advance, a grant or any other financial assistance—

- (a) to an officer of the authority pursuant to the terms and conditions of that officer’s employment; or
- (b) in connection with the appointment of a person as an officer of the authority, to that person.

(5) Sums received by a local authority in respect of the redemption on maturity of a bond or the disposal of a bond.

(6) Sums received by a community council or charter trustees as repayment of the principal of an advance, a grant or any other financial assistance given by that community council or charter trustees.

(7) In paragraphs (4) and (5), “local authority” includes a community council and charter trustees.”

(2) After regulation 6, insert—

“Bonds

6A.—(1) For the purpose of Chapter 1 of Part 1, the sums to which paragraph (2) refers must be treated as capital receipts.

(2) Sums received by a local authority in respect of the redemption on maturity of a bond or the disposal of a bond where—

- (a) the acquisition of the bond was prior to 1 April 2018; and
- (b) expenditure on the acquisition was treated as capital expenditure.

(3) In paragraph (2) “local authority” includes a community council and charter trustees.”

Capital receipts

7. After regulation 8 (payment made to redeem landlord’s share), insert—

“Securitisation transaction receipts

8A. For the purposes of Chapter 1 of Part 1, any sum received as consideration by a local authority as the result of a securitisation transaction which, apart from this regulation, would not be a capital receipt, must be treated as a capital receipt.”

Use of capital receipts

8. In regulation 18 (use of capital receipts)—
- (a) in paragraph (2), for “paragraphs (3), (6) and (7)”, substitute “paragraphs (3) and (6)”;
 - (b) after paragraph (2)(e)—
 - (i) omit “.”;
 - (ii) insert—
 - “; or
 - (f) to meet the costs of or incidental to a disposal of an interest in land other than housing land, provided these do not exceed 4% of the capital receipt arising from the disposal.”;
 - (c) omit paragraph (7).

Expenditure to be capital expenditure

9. In regulation 20 (expenditure to be capital expenditure)—
- (a) in paragraph (1)(d), omit “or loan capital”;
 - (b) after paragraph (1)(g)—
 - (i) omit “.”;
 - (ii) insert—
 - “; and
 - (h) expenditure incurred on the acquisition, production or construction of assets for use by, or disposal to, a person other than the local authority which would be capital expenditure if those assets were acquired, produced or constructed for use by the local authority.”;
 - (c) for paragraph (5), substitute—
 - “(5) The expenditure referred to in paragraph (1)(d) may not be treated as being capital expenditure by virtue of this regulation if it is—
 - (a) an investment in a money market fund;
 - (b) an investment in the shares of a company to which Part 12 of the Corporation Tax Act 2010⁽⁵⁾ (real estate investment trusts) applies; or
 - (c) the acquisition of shares in an investment scheme approved by the Treasury under section 11(1) of the Trustee Investments Act 1961⁽⁶⁾ (local authority investment schemes).”;
 - (d) omit paragraph (6);
 - (e) in paragraph (7), for “paragraphs (1)(a), (d), (e) and (f)” substitute “paragraphs (1)(a), (d), (e), (f) and (2)”.

Back payment following unequal pay

10. In regulation 24A (back payment following unequal pay)—
- (a) in paragraph (5)—
 - (i) omit “Subject to paragraph (6),”;

⁽⁵⁾ 2010 c. 4.
⁽⁶⁾ 1961 c. 62.

- (ii) for “1 April 2018” substitute “1 April 2020”;
- (b) omit paragraph (6).

Proper practices

11. In regulation 25 (proper practices)—

- (a) for paragraph (1)(a), substitute—

“(a) in relation to local authorities other than community councils and minor joint committees, the accounting practices contained in the “Code of Practice on Local Authority Accounting in the United Kingdom”(7) as may be amended or reissued from time to time (whether under the same title or not) issued jointly by the Chartered Institute of Public Finance and Accountancy and the Local Authority (Scotland) Accounts Advisory Committee are proper practices; and”;

- (b) in paragraph (2), for “£1,000,000” substitute “£2,500,000”.

6 March 2018

Alun Davies
Cabinet Secretary for Local Government and
Public Services, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 (S.I. 2003/3239 (W. 319)) (“the 2003 Regulations”).

Regulation 3 amends regulation 1 of the 2003 Regulations and introduces new definitions of “securitisation transaction” and “money market fund”.

Regulation 4(1) provides that a securitisation transaction must be treated as a credit arrangement for the purposes of section 7 of the Local Government Act 2003 (c. 26).

Regulation 4(2) substitutes regulation 5 of the 2003 Regulations so as to provide for the calculation of the cost of a securitisation transaction.

Regulation 5 replaces the term “fixed asset” with the current terminology in local government accounting practice.

Regulation 6 amends the 2003 Regulations to make clear that sums received by the local authority in respect of the redemption of a bond on its maturity, or disposal of a bond, must not be treated as a capital receipt, unless the bond was acquired before 1 April 2018 and the expenditure on acquisition was treated as capital expenditure.

Regulation 7 inserts a new regulation 8A which provides that the value of any consideration received as a result of a securitisation transaction by a local authority must be treated as a capital receipt.

Regulation 8 removes the requirement that only capital receipts received in respect of a disposal of an interest in land other than housing land may be used to meet the costs of, or incidental to, the disposal, provided such costs do not exceed 4% of the capital receipt arising from the disposal.

Regulation 9 removes the requirement for expenditure by local authorities on the acquisition of loan capital to be treated as capital expenditure. It also provides that expenditure incurred on the acquisition, production or construction of assets for use by, or disposal to, a person other than the local authority, must be treated as capital expenditure, if it would have been capital expenditure had the assets been acquired, produced or constructed for use by the local authority. Regulation 20 of the 2003 Regulations is also amended to exclude expenditure on the acquisition of certain types of share capital from being treated as capital expenditure.

Regulation 10 extends until 1 April 2020 the ability of local authorities to defer charging liabilities for back pay due to equal pay claims to revenue account until the date on which the local authority must pay that back-payment. This is provided that the back-payment is actually made before 1 April 2020.

Regulation 11 removes the reference to one of the documents identified as constituting proper practices for the purposes of section 21 of the Local Government Act 2003.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.