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STATUTORY INSTRUMENTS

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**1995 No. 798**

**The Local Government Changes for  
England (Capital Finance) Regulations 1995**

**PART II**

**APPLICATION OF PART IV OF THE 1989 ACT:  
GENERAL AND MISCELLANEOUS PROVISIONS**

**Application of Part IV of the 1989 Act: general**

**3.—**(1) This regulation applies—

- (a) subject to any provision to the contrary made in these Regulations; and
- (b) only so far as necessary for the application of Part IV of the 1989 Act as modified by these Regulations to a local authority in whom any relevant matters are vested.

(2) For the purposes of the application of Part IV of the 1989 Act and the 1990 Regulations, anything done by or in relation to an abolished authority or a relinquishing authority with respect to any relevant matters shall be treated on and after the reorganisation date as if done by or in relation to the local authority in which those matters are vested on, or at any time after, that date.

(3) The time when, by virtue of paragraph (2) above, any thing is treated as having been done by or in relation to a local authority in which any relevant matters are vested is the time when the thing in question was done by or in relation to the abolished authority or, as the case may be, the relinquishing authority.

(4) In this regulation and regulation 4, “relevant matters” means any functions, property, rights and liabilities of the abolished authority or relinquishing authority which, at any time, are vested in another local authority by virtue of—

- (a) the order in relation to the abolished authority or relinquishing authority which is made under section 17 of the Local Government Act 1992(1) (“the 1992 Act”);
- (b) a provision of the Transfer of Property Regulations;
- (c) any agreement or determination made pursuant to those Regulations;
- (d) a provision of the 1994 Regulations;
- (e) an agreement or an award of the arbitrator made under section 20 of the 1992 Act; or
- (f) a disposal by the Residuary Body under Part III of the Local Government Residuary Body (England) Order 1995(2).

**Joint and several liability for relevant matters**

**4.—**(1) In this regulation, “authority” includes the Residuary Body.

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(1) 1992 c. 19.  
(2) S.I. 1995/401.

(2) Where any relevant matters which are rights or liabilities are vested on, or at any time after, the reorganisation date in two or more local authorities, or in a local authority and the Residuary Body, jointly and severally, anything to which regulation 3(2) above applies shall be treated as if done by or in relation to each such authority in proportion to the share enjoyed by the authority in question in the rights or the liabilities which are so vested.

(3) For the purposes of paragraph (2) above, the share enjoyed by a local authority in any rights or liabilities to which that paragraph applies shall be the percentage share agreed by the authorities in whom those rights are vested, or, in default of agreement, as shall be determined by a person agreed on by those authorities or, if they are unable to agree on the appointment of such a person, by a person appointed by the Secretary of State.

(4) Section 31 of the Arbitration Act 1950<sup>(3)</sup> shall have effect for the purposes of a determination by any person appointed under paragraph (3) above as if such a determination were an arbitration under any other Act within the meaning of that section.

(5) This regulation is without prejudice to any other provision in these Regulations or any other enactment relating to the vesting of any rights or liabilities in two or more local authorities jointly and severally.

### **Borrowing limits**

5.—(1) In this regulation, “the limits” means the borrowing limits referred to in section 45(1) of the 1989 Act.

(2) Section 45 of the 1989 Act shall have effect in relation to a shadow authority as if subsection (2) of that section required the limits for the financial year immediately preceding the reorganisation date to be determined as soon as reasonably practicable after the date on which the shadow authority comes into existence.

(3) Section 45(2) of the 1989 Act shall have effect in relation to an abolished authority and the designated authority as if it—

- (a) excluded the abolished authority from the requirement to determine the limits for the financial year beginning on the reorganisation date; and
- (b) required the designated authority to determine the limits for the financial year beginning on the reorganisation date as soon as reasonably practicable after the reorganisation date.

### **Register of loan instruments**

6. The register maintained by an abolished authority in accordance with section 46 of the 1989 Act shall be treated after the reorganisation date as having been maintained by the designated authority as part of the designated authority’s register maintained under that section.

### **Effect of certain capital grants on credit approvals**

7.—(1) This regulation applies where by virtue of regulation 3(1) above a local authority are—

- (a) treated as having received a specified capital grant within the meaning of section 57(1) of the 1989 Act; and
- (b) required under section 57(2) of that Act to deduct an amount equal to or less than the grant from a credit approval.

(2) Section 57(4)(c) of the 1989 Act shall have effect as if the reference to credit approvals which are received later than the grant included credit approvals received by the local authority in question later than the time the grant was received by the abolished authority or the relinquishing authority.

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(3) 1950 c. 27; section 31 was amended by section 8(2) of the Arbitration Act 1975 (c. 3).

### **Aggregate credit limits**

8. In the case of a successor authority or an acquiring authority, section 62 of the 1989 Act shall have effect at any time in the financial year beginning on the reorganisation date as if “relevant arrears” for the purposes of subsection (3)(b)(ii) included amounts in respect of income which—

- (a) were not received by the abolished authority or the relinquishing authority before the reorganisation date;
- (b) are payable after the reorganisation date to the successor authority or acquiring authority in question; and
- (c) if the order under section 17 of the Local Government Act 1992 in relation to the abolished authority or the relinquishing authority had not been made, would, as income, have fallen to be credited to a revenue account of that authority for the financial year beginning two years before the beginning of the current financial year;

and as if the reference in subsection (5) to expenditure defrayed by the authority for capital purposes included expenditure defrayed for such purposes by the abolished authority or the relinquishing authority.

### **Interpretation of Part IV of the 1989 Act**

9. Section 66(6) of the 1989 Act shall apply in relation to the liabilities of an abolished authority in respect of a loan to or borrowing (or money borrowed) by that authority which have become the liabilities of a designated authority as if in paragraph (1) of regulation 27 of the 1990 Regulations the following sub-paragraph were added after sub-paragraph (e)—

- “(f) the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995(4).”.