
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to regulation 14 of the Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 (“the 2016 Regulations”) to alter the scope for local authorities to vary repayment to their loans fund of loans fund advances made prior to 1 April 2023. Under regulation 13(3) of the 2016 Regulations loans fund advances must be repaid in accordance with proper accounting practices, but that does not apply to loans fund advances made prior to 1 April 2023.

Regulation 2(2)(a) amends regulation 14(3)(b) of the 2016 Regulations so that the ability to vary loans fund repayments is excluded in any situation where the consent of the Scottish Ministers to the borrowing was required, regardless of whether the Scottish Ministers have determined the amount and period of repayment.

Regulation 2(2)(b) inserts new paragraphs (4), (5) and (6) into regulation 14 of the 2016 Regulations to impose additional conditions on variations to the period over which loans fund advances are to be repaid or to the amount of the statutory repayments to be made to the loans fund in a given financial year.

New paragraphs (4)(a) and (b) of regulation 14 of the 2016 Regulations provide that a variation to the repayment period must not cause the period to be extended beyond the duration of the useful life of an asset, or 50 years from when the loans fund advance was made where asset life cannot reasonably be attributed to the loans fund advance. This is qualified by new paragraph (5), which enables a local authority to extend the repayment period beyond the useful life of the asset, or the end of the period of 50 years, where the Scottish Ministers consent to this. New paragraph (6) sets out how the useful life of an asset is to be determined.

New paragraph (4)(c) of regulation 14 of the 2016 Regulations provides that a variation to the amount of repayment must be based on the balance of the loans fund advance at the start of the financial year in which the variation is made. In other words, any variation may only be applied to the remaining loans fund repayments from the financial year in which the variation takes place and may not be applied retrospectively to vary loans fund payments already made. New paragraph (4)(d) provides that a variation can never give rise to a nil or negative repayment value.