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STATUTORY INSTRUMENTS

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**1990 No. 432**

**The Local Authorities (Capital Finance) Regulations 1990**

**PART IV**

**CREDIT ARRANGEMENTS**

**Initial and subsequent cost of leases**

7.—(1) Any credit arrangement which is a lease shall be excluded from section 49(2), and in relation to any such credit arrangement, the initial cost and the cost of the arrangement at any time shall be calculated in accordance with paragraphs (2) to (11) below.

(2) The initial cost and cost at any time shall be nil in relation to any lease to which paragraph (3) or paragraph (4) below applies.

(3) This paragraph applies to a lease of land (“the lease”) where the term of the lease does not exceed three years, unless—

- (a) the local authority who become the lessees had, at any time within the period of ten years preceding the date on which they become the lessees, been entitled to the rents and profits of the whole or part of the land in question (an “initial interest”); or
- (b) any other local authority had, at any time within the period referred to in sub-paragraph (a) above, a leasehold interest in the whole or part of the land in question (an “earlier leasehold interest”); and the term of the lease, when added to the length of the period of any initial interests or earlier leasehold interests falling within the period referred to in sub-paragraph (a) above, exceeds three years.

(4) This paragraph applies to a lease of land (“the lease”) where—

- (a) the lease is of a qualifying dwelling;
- (b) the term of the lease does not exceed three years and ends on a date not later than six years after the initial date;
- (c) a local authority become the lessees on the expiry of another leasehold interest in the qualifying dwelling (in this regulation referred to as “the former interest”) or not later than seven days thereafter; and
- (d) the former interest was acquired on or before 23rd November 1989 by the local authority referred to in sub-paragraph (c) above or any other local authority.

(5) In paragraph (4) above—

“qualifying dwelling” means a dwelling-house which was let or occupied at any time during the period beginning on 23rd November 1989 and ending on 22nd February 1990 under a tenancy or a licence to occupy which was not a secure tenancy by virtue of paragraph 4 or paragraph 6 of Schedule 1 to the Housing Act 1985, and for this purpose, “dwelling-house” and “secure tenancy” have the same meaning as in Part IV of that Act (secure tenancies and the rights of secure tenants);

“the initial date” means the earliest date, during a period of ten years ending on the date on which the local authority referred to in paragraph (4)(c) above become the lessees, on which

a leasehold interest (whether or not the former interest) in or the freehold of the qualifying dwelling was owned by a local authority.

- (6) The initial cost in relation to a lease of land (“the lease”) where—
- (a) the lease does not fall within paragraph (3) or paragraph (4) above;
  - (b) the local authority who become the lessees had, at any time preceding the date on which they become the lessees, but on or after 1st April 1990, acquired a leasehold interest in the whole or part of the land in question (an “earlier leasehold interest”); and
  - (c) any earlier leasehold interests were granted by a lease falling within paragraph (3) or paragraph (4) above;

shall be the total of the capital cost of the lease and any consideration given by the authority in respect of any earlier leasehold interests.

(7) The initial cost in relation to a lease of land not falling within paragraphs (3), (4) or (6) above shall be the capital cost of the lease.

(8) The initial cost in relation to a lease of goods shall be the capital cost of the lease.

(9) The cost at any time in relation to a lease falling within paragraphs (6) to (8) above shall be calculated in like manner as the calculation of the capital cost of the lease but on the basis of an estimate made at the time in question and leaving out of account any consideration which has been given by the authority in respect of the lease before that time.

(10) For the purposes of this regulation, no account shall be taken of any consideration given by a local authority in respect of a lease—

- (a) if the lease is not a credit arrangement;
- (b) before the authority become the lessees;
- (c) during the period of three months beginning on the date on which they become the lessees in the case of a credit arrangement which is a lease excluded for the purposes of paragraph 11(2) of Schedule 3 to the Act by virtue of regulation 22; or
- (d) which is wholly in money and which is, or is to be, met out of a grant made under section 3 of the Civil Defence Act 1948<sup>(1)</sup>, section 31 of the Police Act 1964<sup>(2)</sup>, section 51 of the Powers of the Criminal Courts Act 1973<sup>(3)</sup>, section 63(6) of the Rent Act 1977<sup>(4)</sup> or section 59 of the Justices of the Peace Act 1979<sup>(5)</sup>.

(11) In this regulation, “the term of the lease” means the period unexpired at the date the local authority become the lessees.

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(1) 1948 c. 5. Part of subsection (3) of section 3 was repealed by Part I of Schedule 10 to the Police Act 1964 (c. 48) and subsection (4) was repealed by Part XIII of Schedule I to the Statute Law (Repeals) Act 1986 (c. 12).

(2) Part of subsection (1)(a) of section 31 was repealed by Schedule 30 to the Local Government Act 1972 and subsection (1)(c) was inserted by paragraph 1(7) of Schedule 11 to the Local Government Act 1985 (c. 51).

(3) 1973 c. 62.

(4) 1977 c. 42. Section 63(7) was amended by section 121(3) of, and paragraph 5 of Part I of Schedule 14 to, the Housing Act 1988.

(5) 1979 c. 55. Subsection (6) of section 59 was amended by section 12(10) of the Local Government Act 1985 and section 59 was further amended by section 189 of the Local Government and Housing Act 1989.