
STATUTORY INSTRUMENTS

1998 No. 1937

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities (Capital Finance)
(Amendment No. 3) Regulations 1998**

Made - - - - *6th August 1998*
Laid before Parliament *10th August 1998*
Coming into force - - *1st September 1998*

The Secretary of State for the Environment, Transport and the Regions, as respects England, in exercise of the powers conferred on him by sections 40(5)(a), 58(9)(a) and 59(3) and (5) of, and paragraph 15(1)(a) of Schedule 3 to, the Local Government and Housing Act 1989⁽¹⁾, and sections 19 and 26 of the Local Government Act 1992⁽²⁾, and of all other powers enabling him in that behalf, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on him by section 59(3) and (5) of the Local Government and Housing Act 1989, and of all other powers enabling him in that behalf, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment No. 3) Regulations 1998, and shall come into force on 1st September 1998.

Amendment of Regulations

2. The Local Authorities (Capital Finance) Regulations 1997⁽³⁾ shall be amended in accordance with regulations 3 to 11 and 12(1) of these Regulations.

Expenditure to be expenditure for capital purposes

3. Insert the following regulation after regulation 8—

(1) 1989 c. 42.
(2) 1992 c. 19.
(3) S.I.1997/319, to which there are amendments not relevant to these Regulations.

“Expenditure by participant authorities on voluntary payments to designated authorities

8A. Expenditure by a local authority on making a payment as a participant authority under regulation 8(1) of the Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995(4) shall be expenditure for capital purposes.”.

Sums to be capital receipts

4. Insert the following regulation after regulation 58—

“Voluntary payments by participant authorities to designated authorities

58A. A sum received by a local authority as a designated authority which is paid to them by another local authority under regulation 8(1) of the Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995 shall be a capital receipt.”.

Reserved part of capital receipts—interpretation

5. In regulation 64, after the definition of “nil per cent. receipt” insert the following definition—
““housing land” means any land, house or other building in respect of which sums fall to be credited or debited in accordance with section 74 (duty to keep Housing Revenue Account);”.

Reserved part of non-housing capital receipts

6. Insert the following regulation after regulation 64—

“Reserved part of non-housing capital receipts

64A.—(1) Subject to paragraph (2), the reserved part shall be nil per cent. in the case of any capital receipt other than a capital receipt which is received in respect of a disposal of housing land.

(2) This regulation does not apply to a capital receipt which is of a description for which the reserved part is specified in any of the following provisions of this Part.”.

Capital receipts of debt-free authorities

7. In regulation 65—
(a) for sub-paragraphs (c) and (d) of paragraph (2) substitute the following—

“and

(c) paragraph (3) applies to the receipt.”; and

- (b) after paragraph (2) add the following paragraph—

“(3) This paragraph applies to a capital receipt where—

(a) apart from this regulation, the capital receipt would have a reserved part greater than nil per cent. by virtue of regulation 66, 66A, 68A or 72;

- (b) the receipt is derived from a disposal made by virtue of Part V of the Housing Act 1985(5) (the right to buy) of a dwelling provided under Part II of that Act (provision of housing accommodation); or
- (c) the receipt is derived from a disposal of any housing land other than a dwelling provided under Part II of that Act.”.

Disposal of share and loan capital

8. In regulation 66—

- (a) in paragraph (2), for sub-paragraph (c) substitute the following sub-paragraphs—
 - “(c) is in a company to which the authority has at any time made a disposal of an asset other than housing land, and was either acquired as consideration for that disposal, or, where that disposal was in consideration for the issue of share capital or loan capital in the company, acquired at any time after that disposal;
 - (cc) is in a company which, at the time of the disposal, is carrying on the business of operating an airport and is not a public airport company, and which, at the time when the authority acquired the capital, was carrying on the business of operating an airport or was in the course of taking over that business from the authority;” and
- (b) omit paragraphs (3) and (4).

Disposal of investments

9. Insert the following regulation after regulation 66—

“Disposal of investments

66A. The reserved part shall be 50 per cent. in the case of a capital receipt, other than a nil per cent. receipt, which is received in respect of a disposal of an investment which is not an investment in share capital or loan capital in a body corporate.”.

Reserved part of voluntary payments received by designated authorities

10. Insert the following regulation after regulation 68—

“Voluntary payments by participant authorities to designated authorities

68A. The reserved part shall be 100 per cent. in the case of a sum which is a capital receipt by virtue of regulation 58A and is not a nil per cent. receipt.”.

Commutation adjustments to minimum revenue provision

11. Add the following paragraph at the end of regulation 138—

“(3) In relation to a local authority which is a designated authority for the purposes of the Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995, A in the formula in paragraph (1) shall be reduced by the amount, if any, by which the component in respect of principal calculated for the financial year concerned in accordance with paragraph 2 of the Schedule to those Regulations is reduced by virtue of paragraph 3 of that Schedule.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Revocations

12.—(1) Regulations 60, 70, 71, 73, 74 and 75 are revoked.

(2) Regulation 9 of the Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995 is revoked.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and
the Regions

4th August 1998

Signed by authority of the Secretary of State for Wales

Peter Hain
Parliamentary Under-Secretary of State, Welsh
Office

6th August 1998

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 59 of the Local Government and Housing Act 1989 requires a local authority to set aside part of a capital receipt (“the reserved part”) as provision to meet credit liabilities. Regulations 5 to 10 amend the Local Authorities (Capital Finance) Regulations 1997 (the “1997 Regulations”) to provide that the reserved part in the case of capital receipts which are not derived from a disposal of housing shall, subject to specified exceptions, be nil per cent. (the “nil per cent. rule”). For this purpose, housing means any land, house or other building in respect of which sums fall to be credited or debited in accordance with section 74 (duty to keep Housing Revenue Account).

The exceptions include—

- (a) capital receipts derived from a disposal of share or loan capital (other than specified descriptions of share or loan capital, including capital in a bus company or an airport company and capital acquired in consideration for a disposal of non-housing assets);
- (b) capital receipts derived from a disposal of investments other than share or loan capital; and
- (c) sums received by a local authority, as a designated authority, under regulation 8(1) of the Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995 (the “1995 Regulations”).

Regulation 12 revokes regulations 60 and 70 of the 1997 Regulations because the capital receipt described in regulation 60 is not among the exceptions to the nil per cent. rule. Regulations 12 also revokes regulations 71, 73, 74 and 75 of the 1997 Regulations which are now spent, and a provision of the 1995 Regulations which is superseded by these Regulations.