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STATUTORY INSTRUMENTS

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**2003 No. 43**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Authorities (Capital Finance)  
(Amendment) (England) Regulations 2003**

<i>Made</i>	- - - -	<i>13th January 2003</i>
<i>Laid before Parliament</i>		<i>15th January 2003</i>
<i>Coming into force</i>	- -	<i>5th February 2003</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 59(4) and (5) and 190(1) of the Local Government and Housing Act 1989<sup>(1)</sup> hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) (England) Regulations 2003 and shall come into force on 5th February 2003.

(2) These Regulations apply only in relation to local authorities in England.

**Amendment of the Local Authorities (Capital Finance) Regulations 1997**

2.—(1) The Local Authorities (Capital Finance) Regulations 1997<sup>(2)</sup> are amended as follows.

(2) In regulation 81 (adjusting the amount by which a capital receipt shall be reduced) for “to 104” substitute “to 104B”.

(3) After regulation 104A insert the following—

**“Disposal of land to assist in the provision of affordable housing**

**104B.**—(1) For the purposes of this regulation—

“dwelling” has the extended meaning which it has in regulation 22(1);

“housing land” has the same meaning as in regulation 64;

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(1) 1989 c. 42. The relevant powers of the Secretary of State have been devolved, in relation to Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the reference to the Local Government and Housing Act 1989 in Schedule 1.

(2) S.I. 1997/319, Regulation 104A was inserted by S.I. 1999/501; there are other amendments not relevant to these Regulations.

“provision of affordable housing” means the provision of dwellings to meet the housing needs, as identified by the authority, of persons on low incomes, whether provided by the authority or a social landlord registered under section 1 of the Housing Act 1996<sup>(3)</sup>; and “relevant consent” means a consent to a disposal of land given by the Secretary of State to local authorities generally under section 32 or 43 of the Housing Act 1985<sup>(4)</sup>.

(2) Capital receipts of a description specified in paragraph (3) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (4).

(3) For the purposes of paragraph (2), capital receipts derived from a disposal of an interest in housing land are specified if the disposal meets the condition specified in regulation 84 and—

- (a) the authority are a local authority in England;
- (b) the disposal is not made under Part V of the Housing Act 1985 (the right to buy), or, with a relevant consent, to a person who, when he acquires that interest, occupies or intends to occupy, the dwelling as his only or principal home;
- (c) the disposal is not one to which Schedule 3A to the Housing Act 1985 applies (consultation before disposal to private “Sector” landlord); and
- (d) the disposal is not a qualifying disposal for the purposes of section 135 or 136 of the Leasehold Reform, Housing and Urban Development Act 1993<sup>(5)</sup> (large scale disposals of dwellings).

(4) For the purposes of paragraph (2), and subject to paragraph (6), the amount of the reduction is the total value, determined by the authority, of the contribution which the authority have made, or have decided to make, towards the costs of the provision of affordable housing by—

- (a) constructing or enhancing dwellings, or providing dwellings by the conversion of a building or part of a building;
- (b) making a gift of land;
- (c) paying a contribution, grant or subsidy under any power conferred on the authority under any enactment; or
- (d) giving consideration for any benefit which the authority have received, or will receive, by virtue of the provision of affordable housing.

(5) For the purposes of paragraph (4), the authority make a gift of land where they transfer an interest in land and either—

- (a) no consideration falls to be given for the transfer; or
- (b) the value of the consideration which falls to be given for the transfer is less than the price which the interest transferred would realise at the date of the valuation if sold by the authority on the open market.

(6) Where a receipt has previously been treated as reduced under this regulation by an amount determined in accordance with paragraph (4) and referable to a particular item of

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(3) 1996 c. 52.

(4) 1985 c. 68. Sections 32 and 43 were amended by the Housing Act 1988 (c. 50), section 140(1) and Schedule 17(38) and (39); the Housing Act 1996 section 227 and Schedule 19. Section 43 was also amended by the Housing Act 1988 (c. 50) section 132(1), (2) and (8), by the Local Government and Housing Act 1989 section 194(2) and Schedule 12, and by S.I. 1997/74. Schedule 3A was inserted by the Housing and Planning Act 1986 (c. 63) section 6(2), (3) and Schedule 1 and amended by S.I. 1997/74.

(5) 1993 c. 23. Section 135 was amended by the Housing Act 1996, section 123 and Schedule 13 and by S.I. 1996/2325 and 1997/74.

expenditure or particular programme of future expenditure, no further reduction of a receipt shall be made by reference to that amount.”.

Signed by authority of the First Secretary of State

13th January 2003

*Jeff Rooker*  
Minister of State  
Office of the Deputy Prime Minister

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

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## **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. The Local Authorities (Capital Finance) Regulations 1997 (“the 1997 Regulations”) provide for different descriptions of capital receipts to be treated as reduced for the purposes of determining the reserved part. Regulation 2 amends the 1997 Regulations by inserting provision for a further reduction which a local authority in England may make in capital receipts derived from a disposal of housing land. The reduction is determined by reference to the total value of the contribution which the authority makes towards the costs of the provision of affordable housing.