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STATUTORY INSTRUMENTS

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**1996 No. 2121**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Authorities (Capital Finance)  
(Amendment No. 2) Regulations 1996**

<i>Made</i>	- - - -	<i>13th August 1996</i>
<i>Laid before Parliament</i>		<i>14th August 1996</i>
<i>Coming into force</i>	- -	<i>4th September 1996</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 49(3), 59(3), (4) and (5), 61(4) and 190(1) of the Local Government and Housing Act 1989<sup>(1)</sup>, and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Commencement and citation**

1. These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment No. 2) Regulations 1996 and shall come into force on 4th September 1996.

**Amendment of Regulations**

2. The Local Authorities (Capital Finance) Regulations 1990<sup>(2)</sup> shall be amended in accordance with the provisions of these Regulations.

**Initial and subsequent cost of credit arrangements**

3. In regulation 7 —

- (a) in paragraph (5C)(b), for “1st October 1997” substitute “1st April 1999”;
- (b) in paragraph (5D), omit the words “exceeds three years and”; and
- (c) in paragraph (5D)(b), after “the authority had a freehold interest in the land, or” insert the word “acquired”.

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<sup>(1)</sup> 1989 c. 42.

<sup>(2)</sup> S.I. 1990/432; amended by S.I. 1991/500, S.I. 1995/850, S.I. 1995/1526 and S.I. 1996/568. There are other amendments not relevant to these Regulations.

### Reserved part of capital receipts

4. In regulation 14, in paragraph (19), for sub-paragraph (e) substitute the following sub-paragraph —

- “(e) if, at the time of the authority’s decision to dispose of their interest in the land, the land was subject to a contract for an agricultural tenancy, the authority have offered to dispose of their interest to the tenant under the tenancy at a price not exceeding an amount determined in accordance with the formula —

$$\frac{3 \times (P1 - P2)}{4} + P2$$

where —

“P1” means the price which the authority would reasonably expect to be agreed for a sale of the interest on the open market subject to a surrender of the tenancy; and

“P2” means the price which the authority would reasonably expect to be agreed for a sale of the interest on the open market subject to the tenancy.”.

### Capital receipts to be treated as reduced: replacement of assets

5. In regulation 18 —

- (a) in paragraph (3), after sub-paragraph (a) insert the following sub-paragraph —
- “(aa) the land is a defective dwelling within the meaning of Part XVI of the Housing Act 1985(3) (assistance for owners of defective housing); or”;
- (b) in paragraph (3)(b), for “immediately before the disposal” substitute “at the time of the authority’s decision to make the disposal”, and at the end of that paragraph omit the word “or”;
- (c) omit paragraph (3)(c); and
- (d) in paragraph (4), for sub-paragraphs (b) and (c) substitute the following sub-paragraph —
- “(b) at the same time as making that decision, the authority decided to acquire a new interest in the land after the disposal, or an interest in any other land, or to carry out works on any land, and either —
- (i) if the land is of a description mentioned in paragraph (3)(a) or (aa) above, to use the new land for the purposes of Part II of the Housing Act 1985; or
- (ii) if the land is of a description mentioned in paragraph (3)(b) above, to use the new land for the same qualifying purpose, or a different purpose within the same category as that which includes the same qualifying purpose.”.

### Capital receipts to be treated as reduced: disposals of dwellings to certain purchasers

6. In regulation 19D —

- (a) in paragraph (2), for sub-paragraph (e) substitute the following sub-paragraph —
- “(e) the authority is satisfied that any person wishing to buy the relevant lease would be unlikely, for reasons which do not relate to the personal or financial status of that person, or the terms of that lease, or the condition of the flat or the building in which the flat is situated, to obtain from a lending institution an advance —

- (i) secured by a mortgage of the relevant lease for a term of twenty-five years, and
  - (ii) of an amount equal to 75 per cent. of the value of that lease determined, not more than three months before the date of the disposal, in accordance with paragraph (4) below; and”;
- (b) in paragraph (6), with respect to the meaning of “approved surveyor”, for “is reasonably believed by the former tenant to have” substitute “has”.

**Capital receipts not wholly in money paid to the authority**

7. In regulation 20, in paragraph (3A) —
- (a) in sub-paragraph (a), for “paragraphs 1 to 10 or 15 to 18 of Part I of Schedule 2 to these Regulations” substitute “any of the categories 2 to 10 of Schedule 2 to these Regulations, or for the purposes of the fire service”, and for paragraph (ii) substitute the following paragraph —
    - “(ii) is a defective dwelling within the meaning of Part XVI of the Housing Act 1985 (assistance for owners of defective housing); or”;
  - (b) in sub-paragraph (b), for “paragraphs 1 to 10 or 15 to 18 of Part I or column (2) of Part II of Schedule 2 to these Regulations” substitute “any of the categories 2 to 10 of Schedule 2 to these Regulations, or for the purposes of the fire service, or for the purposes of Part II of the Housing Act 1985”.

Signed by authority of the Secretary of State for the Environment

Department of the Environment  
9th August 1996

*Ferrers*  
Minister of State,

Signed by authority of the Secretary of State for Wales

Welsh Office  
13th August 1996

*Gwilym Jones*  
Parliamentary Under-Secretary of State,

*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)*

These Regulations further amend the Local Authorities (Capital Finance) Regulations 1990 (“the principal Regulations”).

Regulation 3 amends regulation 7 of the principal Regulations to make further provision for the initial cost of leases of dwellings let or occupied as accommodation for the homeless or temporary accommodation, and leases of land, other than dwellings, for a term, or the residue of a term, of not more than 10 years.

Regulation 4 amends regulation 14(19) of the principal Regulations which makes provision for determining the reserved part of a capital receipt derived from a disposal of land used for agricultural purposes. In the case of land which is subject to an agricultural tenancy, the amendment makes different provision about the price at which the land must be offered to the tenant under the tenancy before the disposal.

Regulation 5 amends regulation 18 of the principal Regulations to provide that capital receipts are to be treated as reduced for the purposes of section 59 of the Local Government and Housing Act 1989 where —

- (a) they are derived from a disposal of a defective dwelling, and at the time of the authority’s decision to make the disposal the authority also decided to use new land for housing purposes; and
- (b) land was in use for a qualifying purpose (as defined in regulation 18, which was substituted by S.I.1996/568) at the time of the authority’s decision to dispose of it, rather than immediately before the disposal.

Regulation 6 amends regulation 19D of the principal Regulations which makes provision for treating a capital receipt as reduced where (among other conditions) a dwelling is exchanged for a flat acquired from the authority at an earlier date by the person acquiring the dwelling. It is no longer a condition that three lending institutions indicate that they would not be prepared to offer an advance secured by a mortgage of the lease of the flat. The authority must instead be satisfied that a person wishing to buy that lease would be unlikely to secure such an advance.

Regulation 7 amends regulation 20(3A) of the principal Regulations which provides that the reserved part of a notional capital receipt shall be nil in the case of an exchange of land by two local authorities. The amendment provides for the case where the land disposed of by one authority to another is a defective dwelling.