



Local Government and Housing Act 1989

1989 CHAPTER 42

^{FIFTH}PART IV

REVENUE ACCOUNTS AND CAPITAL FINANCE OF LOCAL AUTHORITIES

Credit arrangements

48 Credit arrangements.

- (1) Subject to the following provisions of this section, a local authority shall be taken for the purposes of this Part to have entered into a credit arrangement—
- (a) in any case where they become the lessees of any property (whether land or goods); and
 - (b) in any case (not falling within paragraph (a) above) where, under a single contract or two or more contracts taken together, it is estimated by the authority that the value of the consideration which the authority have still to give at the end of a relevant financial year for or in connection with the provision to the authority of any land, goods or services or any other kind of benefit is greater than the value of the consideration (if any) which the authority were still to receive immediately before the beginning of that financial year; and
 - (c) in any case where the authority enter into a transaction of a description for the time being prescribed for the purposes of this section by regulations made by the Secretary of State;

and, in any such case, the “credit arrangement” is the lease, the single contract or, as the case may be, the two or more contracts taken together.

- (2) The estimate required to be made under paragraph (b) of subsection (1) above shall be made at the time the contract or, as the case may be, the later or last of the contracts constituting the credit arrangement is entered into; and the reference in that paragraph to a relevant financial year is a reference to a financial year which begins after the contract or, as the case may be, the first of the contracts constituting the arrangement was entered into.

Status: Point in time view as at 27/11/2003. This version of this provision has been superseded.

Changes to legislation: Local Government and Housing Act 1989, Section 48 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subject to section 52 below, references in this Part, other than this section, to a credit arrangement do not apply to a credit arrangement which comes into being before 1st April 1990; and for the purpose of this Part a credit arrangement comes into being—
- (a) where subsection (1)(a) above applies, at the time the local authority become the lessees;
 - (b) where subsection (1)(b) above applies, at the time the contract or, as the case may be, the later or latest of the contracts constituting the arrangement is entered into; and
 - (c) where subsection (1)(c) above applies, at the time the authority enter into the transaction concerned or such other time as may be specified in the regulations concerned.
- (4) Where a contract constitutes, or two or more contracts taken together constitute, a credit arrangement, no account shall be taken under this section of any later contract which has the effect of varying the effect of the contract or, as the case may be, of the two or more contracts taken together.
- (5) A contract is not a credit arrangement to the extent that it is a contract under which a local authority borrows money; and a lease or contract which is excluded from this section by regulations made by the Secretary of State is not a credit arrangement.
- (6) It is immaterial for the purposes of this section whether the consideration given or received by a local authority under any contract is given to or received from the person by whom the land, goods, services or other benefit are in fact provided to the authority; and for the purposes of this section, and any of the following provisions of this Part relating to credit arrangements, in any case where the consideration under a contract consists, in whole or in part,—
- (a) of an undertaking to do or to refrain from doing something at a future time (whether specified or not), or
 - (b) of a right to do or to refrain from doing something at such a future time,
- that consideration shall be regarded as neither given nor received until the undertaking is performed or, as the case may be, the right is exercised.
- (7) Where the consideration under a contract consists, in whole or in part, of an option, the estimate required to be made under subsection (1)(b) above shall be made—
- (a) on the assumption that the option will be exercised or, if the option could be exercised in different ways, on the assumption that it will be exercised in each of those ways, and
 - (b) on the assumption that the option will not be exercised,
- and if, on any of those assumptions, the contract would on those estimates constitute, alone or together with one or more other contracts, a credit arrangement, it shall be regarded as doing so regardless of whether the option is or is not in fact exercised; and in this subsection “option” includes any right which is exercisable or not at the discretion of a party to the contract.
- (8) If an existing contract is varied and the variation does not in law itself constitute a contract, it shall be regarded as such for the purposes of this section and, accordingly, subject to subsection (4) above, the existing contract and the variation shall be regarded as two contracts to be taken together.

Status: Point in time view as at 27/11/2003. This version of this provision has been superseded.

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Modifications etc. (not altering text)

- C1** S. 48 excluded by S.I. 1990/432, **reg. 6(1)(4)(7)**
S. 48 excluded (1.2.1995) by S.I. 1995/101, **reg. 2**

Status:

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