
STATUTORY INSTRUMENTS

1992 No. 738

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities (Capital Finance)
(Amendment) Regulations 1992**

<i>Made</i>	- - - -	<i>13th March 1992</i>
<i>Laid before Parliament</i>		<i>13th March 1992</i>
<i>Coming into force</i>	- -	<i>3rd April 1992</i>

The Secretary of State for the Environment in exercise of the powers conferred on him by sections 64(2) and (5), 190(1) and 191(1) of the Local Government and Housing Act 1989⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1. These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) Regulations 1992 and shall come into force on 3rd April 1992.
2. The Local Authorities (Capital Finance) Regulations 1990⁽²⁾ shall be further amended by the insertion after regulation 26 of the following Part—

“PART VIII A

Use of amounts set aside to meet credit liabilities

Interpretation

26A. —In this Part—

“excluded expenditure” means expenditure for capital purposes incurred in the making of a grant or loan, or the giving of financial assistance, of a kind described in paragraph 3(a) and (b) of Schedule 1 to these Regulations;

“health authority” has the meaning given by section 128(1) of the National Health Service Act 1977⁽³⁾;

(1) 1989 c. 42.
(2) S.I.1990/432; amended by S.I. 1991/500. There are other amendments which are not relevant to these Regulations.
(3) 1977 c. 49; the definition of “health authority” in section 128(1) was substituted by the Health and Social Security Act 1984 (c. 48), Schedule 3, paragraph 11.

“relevant amount” means any amount set aside by a relevant authority on or before 31st March 1992 (whether voluntarily or pursuant to a requirement under Part IV of the Act) as provision to meet credit liabilities;

“relevant authority” means a local authority in England who have no money outstanding by way of borrowing other than short-term borrowing (within the meaning of section 45(6)) or borrowing which was undertaken under section 5 of the City of London (Various Powers) Act 1924⁽⁴⁾ and whose credit ceiling, as determined under Part III of Schedule 3 to the Act, is, on the date which is the relevant date for any financial year, a negative amount;

“relevant date” shall be construed in accordance with section 64(4).

Specified purposes and bodies

26B.—(1) The purposes for which a relevant amount may be applied by a relevant authority under section 64(2)(a) are—

- (a) in relation to a relevant amount set aside in respect of a capital receipt falling within paragraph 2 of Schedule 1 to these Regulations, to meet expenditure incurred for capital purposes in respect of the matters referred to in that paragraph;
- (b) in relation to any other relevant amount, to meet expenditure incurred for capital purposes other than excluded expenditure.

(2) The bodies to whom a relevant amount may be transferred by a relevant authority under section 64(2)(b) are—

- (a) in the case of a relevant authority which is one of the councils specified in section 39(1)(a) to (e), a health authority acting in the area of that council;
- (b) in the case of a relevant authority which is a county council, a district council or the Council of the Isles of Scilly and whose area is in a police area combined by an amalgamation scheme under Part I of the Police Act 1964⁽⁵⁾, the combined police authority constituted by that scheme;
- (c) in the case of a relevant authority which is a metropolitan district council or a district council in the county of Northumberland not falling within subparagraph (b) above, the police authority for the police area comprising the area of that council;
- (d) in the case of a relevant authority which is a non-metropolitan district council, the county council for the district;
- (e) in the case of a relevant authority which is a metropolitan district council, the fire and civil defence authority established by Part IV of the Local Government Act 1985⁽⁶⁾ in relation to which such a council is a constituent council; and
- (f) in the case of a relevant authority which is a London borough council or the Common Council of the City of London, the London Fire and Civil Defence Authority established by that Part.

Specified conditions

26C.—(1) Where a relevant amount has been set aside in respect of a capital receipt derived from a disposal under section 32 of the Housing Act 1985⁽⁷⁾ and the Secretary

(4) 1924 c.xxxvii. Section 5 was repealed by section 40(1) of the [City of London \(Various Powers\) Act 1960](#) (c.xxxvi).

(5) 1964 c. 48; relevant amendments were made by the [Local Government Act 1972](#) (c. 70), Schedule 30.

(6) 1985 c. 51.

(7) 1985 c. 68; sections 34(4B) and 43(4B) were inserted by the [Housing Act 1988](#) (c. 50), section 132, and repealed by the [Local Government and Housing Act 1989](#), Schedule 12, Part II.

of State has given, with respect to that capital receipt, directions under section 34(4B) or 43(4B) of that Act or a direction under section 59(6), a relevant authority shall, in applying or transferring that relevant amount under section 64(2), comply with the condition specified in paragraph (2) below.

(2) The total amount applied or transferred in any financial year in respect of any such relevant amount as is mentioned in paragraph (1) above shall not exceed the lesser of the sums determined by the formulae

$$P \times B; \text{or } (R \times B) - Q$$

where

P is £70;

B is the relevant population for the financial year in question calculated by the Secretary of State in relation to the relevant authority's area in accordance with Schedule 12A to the Local Government Finance Act 1988⁽⁸⁾;

R is, in the financial year in which the capital receipt was received, £70, or, in any subsequent financial year, that sum increased by £50 for each such subsequent financial year;

Q is the aggregate of amounts applied or transferred in respect of any such relevant amount as is mentioned in paragraph (1) above before the beginning of the financial year in question.

(3) In transferring a relevant amount under section 64(2)(b) in any financial year to a body mentioned in regulation 26B(2) above, and with respect to any such relevant amount, a relevant authority shall comply with the conditions specified in paragraph (4) below.

(4) The conditions mentioned in paragraph (3) above are that—

(a) the relevant authority may only transfer the relevant amount to meet expenditure for capital purposes incurred or to be incurred by the body in question which—

(i) is not excluded expenditure; and

(ii) has been or is to be incurred in the financial year in question or in the preceding or following financial year in connection with an exercise of that body's functions which is of substantial benefit to the relevant authority's area or any part of it; and

(iii) in relation to a relevant amount mentioned in regulation 26B(1)(a) above, is in respect of the matters mentioned in that sub-paragraph;

(b) the relevant amount transferred may not, in any particular case, exceed—

(i) where, at the time of the transfer, the expenditure mentioned in paragraph (a) above is to be incurred, one-half of the body's estimate of that expenditure;

(ii) where, at that time, the expenditure so mentioned has been incurred, one-half of that expenditure (but disregarding any expenditure in respect of which a relevant amount has been transferred in pursuance of an estimate under the preceding sub-paragraph).”.

13th March 1992

Michael Heseltine
Secretary of State for the Environment

⁽⁸⁾ 1988 c. 41; Schedule 12A was added by the Local Government and Housing Act 1989, Schedule 5, paragraph 74.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 2 inserts a new Part VIIIA dealing with the use under section 64 of the Local Government and Housing Act 1989 (“the Act”) of amounts set aside on or before 31st March 1992 as provision to meet credit liabilities by a local authority in England who have a negative credit ceiling (as determined under Part III of Schedule 3 to the Act) and who have no outstanding borrowing (except short-term borrowing or borrowing under a repealed enactment applying only to the City of London). A new regulation 26B specifies the purposes for which such amounts may be applied and the bodies to which they may be transferred. A new regulation 26C specifies the conditions with which an authority applying or transferring such an amount must comply.