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STATUTORY INSTRUMENTS

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**1993 No. 3054**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Authorities (Capital Finance)  
(Amendment) (No. 3) Regulations 1993**

*Made - - - - 7th December 1993*  
*Laid before Parliament 10th December 1993*  
*Coming into force - - 1st January 1994*

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 48(5), 59(3) to (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:

1. These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) (No. 3) Regulations 1993 and shall come into force on 1st January 1994.
2. The Local Authorities (Capital Finance) Regulations 1990<sup>(2)</sup> shall be amended in accordance with the provisions of these Regulations.

**Leases and contracts which are not credit arrangements**

3. In regulation 6—
  - (a) in paragraph (1)—
    - (i) the following shall be substituted for sub-paragraph (d)—

“(d) it is a lease of land assigned to the local authority by a new town corporation;”;

and
    - (ii) the following sub-paragraph shall be added after sub-paragraph (e)—

“or

(f) the local authority become the lessees by virtue of an order under Part IV of the Local Government Act 1972, regulations under section 67 of that Act or an agreement or award under section 68 of that Act.”<sup>(3)</sup>;
  - (b) in paragraph (4), the following paragraph shall be substituted for paragraph (a)—

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(1) 1989 c. 42.

(2) S.I.1990/432; amended by S.I. 1991/500, 1992/1618 and 2819 and 1993/520. There are other amendments which are not relevant to these Regulations.

(3) 1972 c. 70.

- “(a) it is a contract between a local authority and a new town corporation which is entered into by the corporation by virtue of section 36 of the New Towns Act 1981 or in accordance with regulations made under section 172(1);”(4);
- (c) in paragraph (7), the following shall be substituted for sub-paragraph (b)–
- “(b) at the time they become the lessees or enter into the contract, the local authority estimate that the value of all the consideration which has been or falls to be given by them in respect of–
- (i) the lease or contract; or
- (ii) that lease or contract and any other lease or contract which they have entered into with the same person, or any associate of his, in the same financial year, does not exceed £10,000.”; and
- (d) in paragraph (8)–
- (i) in sub-paragraph (a), the word “has” shall be substituted for the words “and “housing stock” have”; and
- (ii) after sub-paragraph (b), the following shall be added–
- “(c) two persons are associates of each other if–
- (i) one of them is a subsidiary (within the meaning of the Companies Act 1985) of the other; or
- (ii) they are both subsidiaries (within that meaning) of some other person.”(5).

### **Sums to be capital receipts**

4. In regulation 12, the following paragraph shall be added after paragraph (c)–
- “and
- (d) in so far as they would not be capital receipts by virtue of section 58(1)(a), any sums received by the authority in respect of an interim or final payment made in accordance with Schedule 6A to the Housing Act 1985 (redemption of landlord’s share).”(6).

### **Capital receipts to be treated as reduced: disposal of certain dwellings**

5. In regulation 16–
- (a) in paragraph (2)–
- (i) the words “, other than a disposal to which paragraph (2A) below applies,” shall be inserted after the words “an interest in a dwelling”; and
- (ii) the words from “provided that” to the end shall be deleted;
- (b) the following paragraphs shall be inserted after paragraph (2)–
- “(2A) Subject to paragraph (2B) below, this paragraph applies to the disposal of a dwelling which has at any time been occupied under a secure tenancy or of which the authority have at any time granted a lease, other than a shared ownership lease.
- (2B) Paragraph (2A) above does not apply to the disposal of a dwelling where–

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(4) 1981 c. 64.

(5) 1985 c. 6.

(6) Schedule 6A was inserted in the Housing Act 1985 (c. 68) by Schedule 16 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).

- (a) the dwelling is a house (within the meaning of section 44(3) of the Housing Act 1985) which was acquired by the authority following a relevant previous disposal of the dwelling made more than five years before the disposal mentioned in paragraph (2) above; and
- (b) a lease of the dwelling had been granted, or the dwelling had been occupied under a secure tenancy, at any time before the relevant previous disposal.”; and
- (c) in paragraph (6), the following definition shall be inserted after the definition of “relevant date”–

““relevant previous disposal” means a disposal which was made by the authority in pursuance of Part V of the Housing Act 1985 or Chapter I of Part I of the Housing Act 1980 or, with a relevant consent, to a person who, at the time of the disposal, occupied, or intended to occupy, the dwelling in question as his only or principal home and, for these purposes, “relevant consent” means a consent given by the Secretary of State to local authorities generally under section 32 or 43 of the Housing Act 1985, section 22 of the Housing and Building Control Act 1984 or section 104 of the Housing Act 1957;”(7).

#### **Capital receipts to be treated as reduced: further provision**

6. After regulation 19A (disposal of former residuary body assets) the following regulations shall be added–

#### **“Capital receipts to be treated as reduced: disposal of land in respect of which additional compensation payable**

**19B.**—(1) Capital receipts which are received by a local authority and are of a description specified in paragraph (2) below shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraphs (3) and (4) below.

(2) For the purposes of paragraph (1) above, capital receipts are specified where–

- (a) they derive from the disposal of an interest in land which had previously been compulsorily acquired or sold as described in paragraph (a) of subsection (1) of section 23 of the Land Compensation Act 1961;
- (b) a planning decision has been made as mentioned in that paragraph or a planning permission has been granted or is deemed to have been granted as mentioned in column 1 of the table in subsection (1) of section 25 of that Act; and
- (c) a claim for compensation (“relevant compensation”) under section 23 of that Act in respect of that planning decision, or under that section as applied by subsection (1) of section 25 of that Act in relation to that planning permission, has been duly made before the date on which the capital receipt is received.

(3) For the purposes of paragraph (1) above, the amount of the reduction is the amount of relevant compensation paid by the authority or, where no such compensation has yet been paid, the amount which appears to the authority to be payable by them.

(4) Paragraphs (5) and (6) of regulation 15 shall apply in relation to the amount of any reduction determined in accordance with this regulation as they apply in relation to the amount of any reduction determined in accordance with regulation 15.

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(7) The Housing and Building Control Act 1984 (c. 29); the Housing Act 1980 (c. 51) and the Housing Act 1957 (c. 56).

**Capital receipts to be treated as reduced: disposal of land whose value is increased by expenditure incurred by authority**

**19C.**—(1) Capital receipts of a description specified in paragraph (2) below shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraphs (3) and (4) below.

(2) For the purposes of paragraph (1) above, capital receipts derived from a disposal by a local authority of an interest in land are specified where—

- (a) before making the disposal, the authority incurred expenditure on—
  - (i) obtaining planning permission for the carrying out of development of the land; or
  - (ii) preparing the land for, or otherwise facilitating, the carrying out of any such development; or
  - (iii) acquiring an interest, easement, servitude or right in or over the land or adjoining land for the purpose of facilitating the disposal of the interest; and
- (b) the total of the capital receipts derived from the disposal is greater, by an amount which is not less than the amount of the expenditure, than it would have been if the authority had not incurred the expenditure.

(3) For the purposes of paragraph (1) above, the amount of the reduction is the aggregate of—

- (a) the amount of any costs incurred by the authority in connection with the disposal; and
- (b) the amount of the expenditure incurred by the authority on any of the matters mentioned in paragraph (2)(a)(i) to (iii) above other than so much of any such expenditure in respect of which a payment by way of contribution, grant or subsidy has been made by—
  - (i) a Minister of the Crown;
  - (ii) a body to whom such a Minister may pay sums out of moneys provided by Parliament; or
  - (iii) a Community institution.

(4) Paragraphs (5) and (6) of regulation 15 shall apply in relation to the amount of any reduction determined in accordance with this regulation as they apply to the amount of any reduction determined under regulation 15.”(8).

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

7. In regulation 20, in paragraphs (7) and (8), “19A, 19B or 19C” shall be substituted for “or 19A”.

**Reserved part of capital receipts: England and Wales**

8. In Part I of Schedule 1—

- (a) in paragraph 1, the following sub-paragraph shall be inserted after sub-paragraph (a)—
  - “(aa) was acquired by the local authority in a public airport company (within the meaning of Part II of the Airports Act 1986) on or after that date—

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(8) The Land Compensation Act 1961 (c. 33); Part IV was revived by Schedule 14 to the Planning and Compensation Act 1991 (c. 34).

- (i) by way of consideration for the transfer to the company of any property or rights of the authority; or
  - (ii) in advance of such a transfer by virtue of a scheme under section 15 of that Act; or”**(9)**; and
- (b) after paragraph 5A there shall be added, in column (1), “5B. Sums which are capital receipts by virtue of regulation 12(d).” and, in column (2), “75%”.

Signed by authority of the Secretary of State for the Environment

7th December 1993

*David Curry*  
Minister of State,  
Department of the Environment

6th December 1993

*John Redwood*  
Secretary of State for Wales

**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.

Regulation 3 amends regulation 6 of those Regulations to exclude further categories of leases and contracts from being credit arrangements.

The amendment made by regulation 4 provides that certain sums received in respect of a disposal of a local authority on rent to mortgage terms shall be capital receipts and the amendment made by regulation 8(b) specifies the reserved part applicable to such receipts.

Regulations 5 and 6 make provision for further reductions which an authority may make in their capital receipts before setting aside the reserved part as provision for credit liabilities and regulation 7 makes consequential amendments to regulation 20 of the 1990 Regulations.

Regulation 8(a) amends paragraph 1 of Part I of Schedule 1 to the 1990 Regulations in respect of the reserved part of capital receipts derived from the disposal of certain public airport company shares after 15th February 1989.