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STATUTORY INSTRUMENTS

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**1993 No. 520**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Authorities (Capital Finance)  
(Amendment) Regulations 1993**

<i>Made</i>	- - - -	<i>9th March 1993</i>
<i>Laid before Parliament</i>		<i>11th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</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 40(5), 58(9), 59(3) and (5), 64(2) and (5) and 190(1) of, and paragraph 15(1)(a) of Schedule 3 to, the Local Government and Housing Act 1989(1), 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) Regulations 1993 and shall come into force on 1st April 1993.
2. The Local Authorities (Capital Finance) Regulations 1990(2) shall be amended as follows—
  - (a) in regulation 2 (expenditure to be expenditure for capital purposes), by the addition after paragraph (7) of the following paragraph—

“(8) Expenditure incurred by a local authority in the payment of interest included in the amount of an instalment of a disposal cost, in accordance with regulation 3 of the Housing (Change of Landlord) (Payment of Disposal Cost by Instalments) Regulations 1990, shall be expenditure for capital purposes.”(3);
  - (b) in regulation 12 (sums to be capital receipts), by the addition after paragraph (b) of the following paragraph—

“(c) any sum paid to the authority, in pursuance of a requirement of the Secretary of State under subsection (3) of section 101 of the Education Reform Act 1988, by the governing body of a grant-maintained school in respect of the proceeds of disposal of premises; and, in this paragraph and in regulation 14(5), references to the proceeds of disposal shall be construed in accordance with that section.”(4);

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(1) 1989 c. 42.  
(2) S.I.1990/432; amended by S.I. 1990/1273, 1991/500 and 1992/502, 738, 1618, 2819 and 3257. S.I. 1992/738 was revoked by S.I. 1992/1618, but the latter continues in force the substantive amendments made by the former.  
(3) The Housing (Change of Landlord) (Payment of Disposal Cost by Instalments) Regulations 1990 (S.I. 1990/1019), amended by S.I. 1990/2219, 1991/1899 and 2685 and 1992/542, 2011 and 3176.  
(4) The Education Reform Act 1988 (c. 40).

- (c) in regulation 14 (reserved part of capital receipts)—
- (i) in paragraphs (1) and (2), by the substitution of “paragraphs (3) to (5)” for “paragraph (3)”;
  - (ii) in paragraph (4), by the insertion after “3” of “3A”;
  - (iii) by the addition after that paragraph of the following paragraph—
    - “(5) Where—
      - (a) after the end of the relevant period, a local authority receive a sum (“the relevant sum”) which is a capital receipt by virtue of regulation 12(c); and
      - (b) before the time they receive it, the Secretary of State has notified them of the amount of the proceeds of disposal in respect of which the relevant sum is paid; and
      - (c) treating the disposal of the premises in question as a disposal by the authority and the proceeds of disposal as a capital receipt in respect of that disposal, the amount which would be the reserved part of that capital receipt would be less than the reserved part of the relevant sum by virtue of paragraph 5A of Schedule 1 to these Regulations;
 the reserved part of the relevant sum shall be that lesser amount.”;
- (d) in regulation 26 (minimum revenue provision for financial years beginning on or after 1st April 1991)—
- (i) by the insertion, at the beginning of paragraph (1), of the words “Subject to paragraphs (5) to (9) below,” and
  - (ii) by the addition, after paragraph (4), of the following paragraphs—
    - “(5) This paragraph applies to a local authority—
      - (a) any of whose debt is reduced or extinguished by virtue of such a payment as is referred to in section 157(1)(b) or 157(7)(a) which was paid by the Secretary of State to the Public Works Loans Commissioners in the financial year beginning on 1st April 1992; or
      - (b) to whom the Secretary of State made a commuted payment, within the meaning of section 157, in that year.
    - (6) In relation to any local authority to which paragraph (5) above applies, the amount in respect of principal for the purposes of paragraph 15(1)(a) of Schedule 3 to the Act shall, for the financial year beginning on 1st April 1992, be the amount determined in accordance with the following formula, provided that the amount so determined shall not be less than nil—
 
$$(P - M) - A$$
 where—
      - P is the amount which would have been the amount in respect of principal for the year if that amount had been determined under paragraph (1) above;
      - M is the amount of the authority’s minimum revenue provision savings determined in accordance with paragraph 2 of Schedule 6 to these Regulations; and
      - A is the amount of the authority’s commutation adjustment determined in accordance with Part III of that Schedule.
    - (7) Subject to paragraph (8) below, in relation to any local authority to which paragraph (5) above applies, the amount in respect of principal for the purposes of paragraph 15(1)(a) of Schedule 3 to the Act shall, for a financial year beginning on

or after 1st April 1993, be the amount determined in accordance with the following formula, provided that the amount so determined shall not be less than nil—

$$P - A$$

where—

P and A have the same meaning as in paragraph (6) above.

(8) In relation to a local authority which is a London borough council or the Common Council of the City of London, P in the formula in paragraph (7) above shall, in respect of the financial year beginning on 1st April 1993 only, be reduced by an amount equal to the product of the authority's deemed debt and 0.035.

(9) The reference in paragraph (8) above to an authority's deemed debt is a reference to the amount equal to the authority's deemed borrowing less the aggregate of—

- (a) any amounts charged to any revenue accounts of the authority on or before 31st March 1993 in respect of the repayment of principal which would not have been so charged if the authority had had no deemed borrowing; and
- (b) the total of any other sums which, in respect of financial years ending before 1st April 1993, were applied to repay any advances made from a loans fund of the authority in connection with their deemed borrowing or have been or will be set aside to meet credit liabilities which the authority would not have incurred if they had had no deemed borrowing;

and, for this purpose, "deemed borrowing" means the amount which an authority was deemed, in accordance with article 3 of the Local Government Reorganisation (Repayment of Loans) (Greater London) Order 1986, to have borrowed from the London Residuary Body."<sup>(5)</sup>;

- (e) in regulation 26B (specified purposes and bodies), by the addition, after paragraph (2), of the following paragraph—

"(3) In relation to any local authority to which regulation 26(5) applies, the meeting of any expenditure which, in accordance with section 41, is to be charged to a revenue account of the authority is a specified purpose for the purposes of section 64(2).";

- (f) in regulation 26C (specified conditions), by the addition, after paragraph (4), of the following paragraphs—

"(5) A local authority to which regulation 26(5) applies shall, in applying any amount as mentioned in section 64(2) for the purpose specified in regulation 26B(3), comply with the condition specified in paragraph (6) below.

(6) The total of amounts applied in a financial year as mentioned in paragraph (5) above shall not exceed the amount of the authority's commutation adjustment determined in respect of that year in accordance with Part III of Schedule 6 to these Regulations.";

- (g) in Part I of Schedule 1 (reserved part of capital receipts)—

- (i) in paragraph 3, by the substitution, in column (1), of "for the purposes of" for "in connection with";
- (ii) by the addition after that paragraph, in column (1), of "3A. Capital receipts derived from disposals of a local authority's interest as mortgagee of land or from assignments of debts owed to a local authority, where the mortgage in question was granted, or the debt in question was incurred, in connection with such an advance as is mentioned in paragraph 3 above." and, in column (2), of "100%";

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<sup>(5)</sup> The London Government Reorganisation (Repayment of Loans) (Greater London) Order 1986 (S.I. 1986/439).

- (iii) in paragraphs 4 and 5, by the insertion, in column (1) after “regulation 12” of the words “(a) or (b)”;
- (iv) by the addition after paragraph 5, in column (1), of “5A. Sums which are capital receipts by virtue of regulation 12(c).” and, in column (2), of “100%”;
- (h) by the insertion after Schedule 5 of the following Schedule—

“SCHEDULE 6

Regulation 26

MINIMUM REVENUE PROVISION SAVINGS  
AND COMMUTATION ADJUSTMENTS

PART I

INTERPRETATION

1. In this Schedule—

“housing amount” means the housing amount determined in accordance with Part II of Schedule 5 to these Regulations;

“relevant commuted payment” means any commuted payment, within the meaning of section 157, made to the Public Works Loan Commissioners or a local authority in the financial year beginning on 1st April 1992;

“relevant debt” means any debt of a local authority which has been reduced or extinguished as mentioned in regulation 26(5)(a); and

“relevant periodic payment” means any annual or other periodic payment such as is mentioned in section 157(1) which, but for the making of a relevant commuted payment, would have fallen due in any financial year.

PART II

MINIMUM REVENUE PROVISION SAVINGS

2. A local authority’s minimum revenue provision savings in respect of the financial year beginning on 1st April 1992 shall be the amount determined in accordance with the formula—

$$(L \times 2\%) - H$$

where—

L is the total of the authority’s relevant debts; and

H is 1% of the amount by which the authority’s housing amount for that year is reduced in consequence of the reduction or extinguishment of those debts.

3. A local authority’s minimum revenue provision savings in respect of a financial year (“the year”) beginning on or after 1st April 1993 shall be determined as follows—

- (a) where the authority’s adjusted credit ceiling on the last day of the immediately preceding financial year is a negative amount, in accordance with the formula—

$$\{[ACC + (L - C)] \times 4\% - H$$

provided that the amount so determined shall not be less than nil, or

- (b) where the authority's adjusted credit ceiling on that day is nil or a positive amount, in accordance with the formula—

$$[(L - C) \times 4\%] - H$$

where—

ACC is the adjusted credit ceiling on that day;

L has the same meaning as in paragraph 2 above;

C is the aggregate of—

- (i) the total of the authority's minimum revenue provision savings in respect of all preceding financial years, and
- (ii) the total of the authority's commutation adjustments in respect of those years as determined in accordance with paragraph 4 of this Schedule;

H is 2% of the amount by which the authority's housing amount for the year is reduced in consequence of the reduction or extinguishment of the authority's relevant debts.

## PART III

### COMMUTATION ADJUSTMENTS

4. A local authority's commutation adjustment in respect of a financial year ("the year") shall be determined as follows—

- (a) where the authority's adjusted credit ceiling on the last day of the immediately preceding financial year is a negative amount, in accordance with the formula—

$$G - (M + I + E), \text{ and}$$

- (b) where the authority's adjusted credit ceiling on that day is nil or a positive amount, in accordance with the formula—

$$G - (M + I)$$

where—

G is the aggregate of the following amounts—

- (a) where relevant commuted payments were calculated by the Secretary of State on the basis of calculations of relevant periodic payments which were made by the authority and notified by them to the Secretary of State, the amounts of relevant periodic payments in respect of the year which were so notified; and
- (b) where relevant commuted payments were not so calculated, amounts ("relevant amounts") calculated in relation to those payments by the authority in respect of the year in accordance with Part IV of this Schedule;

M is the amount of the authority's minimum revenue provision savings determined, in respect of the year, in accordance with Part II of this Schedule;

I is an amount of interest savings determined in accordance with paragraph 5 below; and

E is an amount in respect of interest determined in accordance with paragraph 6 below.

5. The amount of I in respect of a financial year shall be determined as follows—
- (a) in respect of the financial year beginning on 1st April 1992, in accordance with the formula—

$$\frac{L}{2} \times \frac{S}{L}; \text{and}$$

;and

- (b) in respect of any financial year beginning on or after 1st April 1993, in accordance with the formula—

$$(L - C) \times \frac{S}{L}$$

where—

L has the same meaning as in paragraph 2 above;

C has the same meaning as in paragraph 3 above;

S is the total amount calculated by multiplying each relevant debt by the rate of interest which was applicable to that debt on the date on which that debt was reduced or extinguished as mentioned in regulation 26(5).

6. The amount of E in respect of a financial year shall be determined as follows—
- (a) in respect of the financial year beginning on 1st April 1992, in accordance with the formula—

$$Y \times \frac{R}{2}; \text{and}$$

; and

- (b) in respect of a financial year beginning on or after 1st April 1993—

$$(Y - U) \times R$$

where—

Y is the amount, if any, set aside by the authority under section 63(2) as provision to meet credit liabilities in respect of a relevant commuted payment;

R is a rate of interest, expressed as a percentage and calculated to three decimal places only, equivalent to one eighth of a percentage point less than the arithmetical mean of the London Inter-Bank Bid rates of interest for three month deposits published, at monthly intervals, in the course of the immediately preceding financial year by Her Majesty's Stationery Office; and

U is the aggregate of amounts applied under section 64(2) by virtue of regulation 26B(3) in preceding financial years.

## PART IV

### CALCULATION OF RELEVANT AMOUNTS

7. For the purposes of sub-paragraph (b) of the definition of item G in paragraph 4 of this Schedule, relevant amounts shall be calculated, as soon as reasonably practicable after 1st April 1993—

- (a) in respect of each year in relation to which the relevant commuted payments mentioned in that sub-paragraph were made; and
  - (b) subject to the following provisions of this Part, in the same manner as the relevant periodic payments to which those relevant commuted payments relate.
- 8.** Where a calculation required by virtue of paragraph 7 above is by reference to an annual rate of interest, the rate to be used by the authority in the calculation shall be—
- (a) in respect of a financial year beginning on or after 1st April 1992, the rate which is, in accordance with the following paragraphs, the appropriate rate for the year; and
  - (b) in respect of a financial year beginning before that date—
    - (i) where the authority maintained a loans pool in that year, the rate determined by the authority, for the purposes of their audited accounts in respect of that year, as the annual pool rate for the year; or
    - (ii) where the authority did not maintain a loans pool in that year, the rate, if any, determined by the authority, for those purposes, as their consolidated rate of interest for the year; or
    - (iii) where no annual pool rate or consolidated rate of interest has been so determined for the year, the rate which is, in accordance with the following paragraphs, the appropriate rate for the year.
- 9.** Where, on 1st April 1993, the authority's latest audited accounts ("relevant accounts") are in respect of a financial year beginning on or before 1st April 1988, the appropriate rate is—
- (a) for any financial year beginning on or after 1st April 1992, 11.375 per cent.; and
  - (b) for any financial year beginning before that date, the rate equal to 11.375 per cent. increased by one quarter of a percentage point in respect of that year and each financial year beginning after the end of that year and ending before that date so that—
    - (i) for the financial year beginning on 1st April 1991, the appropriate rate is 11.625 per cent.;
    - (ii) for the financial year beginning on 1st April 1990, the appropriate rate is 11.875 per cent.;
    - (iii) for the financial year beginning on 1st April 1989, the appropriate rate is 12.125 per cent. and so on for any financial year beginning before 1st April 1989.
- 10.** Where, on 1st April 1993, the authority's relevant accounts are in respect of a financial year ("the relevant year") beginning on or after 1st April 1989, the appropriate rate is—
- (a) for the relevant year—
    - (i) the latest annual pool rate or, as the case may be, the latest consolidated rate of interest determined by the authority for the purposes of their audited accounts in respect of a preceding financial year beginning on or after 1st April 1989; or
    - (ii) where the authority did not determine any such rate, the rate which is the appropriate rate for the year in accordance with paragraph 9 above;
  - (b) for any financial year beginning after the end of the relevant year and ending before 1st April 1993, the rate equal to the annual rate of interest by reference to

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which, in accordance with paragraph 8 above, the calculation in respect of the relevant year is made reduced by one quarter of a percentage point in respect of that financial year and each preceding financial year, if any, which began after the end of the relevant year and ended before 1st April 1993;

- (c) for any financial year beginning on or after 1st April 1993, the rate which is, in accordance with sub-paragraph (b) above, the appropriate rate for the financial year beginning on 1st April 1992.”

9th March 1993

*Michael Howard*  
Secretary of State for the Environment

5th March 1993

*David Hunt*  
Secretary of State for Wales



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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 2 of those Regulations is amended to provide that a local authority's expenditure on the payment of interest included in the amount of a disposal cost attributable to a property acquired under Part IV of the Housing Act 1988 (c. 50) shall be expenditure for capital purposes.

Regulation 12 is amended to provide that a sum in respect of the proceeds of disposal of premises which the Secretary of State has required the governing body of a grant-maintained school to pay to the local authority who are the former maintaining authority shall be a capital receipt; and regulation 14 and Schedule 1 are amended to make provision for determining the reserved part of such a capital receipt.

Regulation 14 and Schedule 1 are also amended to provide for the reserved part of capital receipts deriving from the disposal of mortgages or loans involving an advance to a housing association which was made for the purposes of expenditure in respect of which the association received grant.

Regulation 26 is amended, and a new Schedule 6 is inserted, to provide, in respect of financial years beginning on or after 1st April 1992, for the amount in respect of principal which is taken into account in determining an authority's minimum revenue provision for a year. The provision takes account, primarily, of the effects of the commutation of contributions, grants and subsidies which took place on 1st October 1992 under section 157 of the Local Government and Housing Act 1989.