
STATUTORY INSTRUMENTS

1995 No. 1526

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities (Capital Finance)
(Amendment) Regulations 1995**

<i>Made</i>	- - - -	<i>14th June 1995</i>
<i>Laid before Parliament</i>		<i>19th June 1995</i>
<i>Coming into force</i>	- -	<i>10th July 1995</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 59(4) and (5) and 61(4) of the Local Government and Housing Act 1989⁽¹⁾, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) Regulations 1995 and shall come into force on 10th July 1995.

Amendment of Regulations

2. After regulation 19C of the Local Authorities (Capital Finance) Regulations 1990⁽²⁾ insert the following regulation—

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

19D.—(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 paragraph (3) below.

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

- (a) the disposal is to a former tenant who occupies a flat demised by a relevant lease as his only or principal home;

(1) 1989 c. 42.

(2) S.I.1990/432. Regulation 19C was added by S.I. 1993/3054. There are other amendments which are not relevant to these Regulations.

- (b) the disposal is—
 - (i) of the freehold; or
 - (ii) the grant of a lease to which regulation 15(3) applies and which at the time of the disposal is for a term of which 99 years or more are unexpired; or
 - (iii) the assignment of the authority's leasehold interest in the dwelling;
 - (c) the consideration for the disposal includes the assignment or surrender of the relevant lease by the former tenant to the authority;
 - (d) upon such assignment or surrender there is attributed, as part of the consideration for the acquisition of the dwelling by the former tenant, an amount equal to the price paid on the grant of the relevant lease;
 - (e) within the period of 12 months immediately preceding the date of the disposal not less than three lending institutions have indicated in writing that they would not be prepared to offer to any person an advance—
 - (i) secured by a mortgage of the relevant lease for a term of 25 years, and
 - (ii) of an amount equal to 75 per cent. of the value of the relevant lease determined in accordance with paragraph (4) below at a date not more than three months before the date on which the indication is given,on grounds other than grounds relating to the personal or financial status of that person, or the terms of the relevant lease, or the condition of the flat or the building in which the flat is situated; and
 - (f) the relevant lease was granted by the authority not less than three years before the date of the disposal.
- (3) For the purposes of paragraph (1) above, the amount of the reduction is the aggregate of—
- (a) an amount equal to the price paid on the grant of the relevant lease; and
 - (b) the amount of any costs incurred by the authority in connection with the disposal and the surrender or assignment.
- (4) For the purposes of paragraph (2)(e) above, the value of the relevant lease shall be determined by an approved surveyor on the basis that it is the price which the relevant lease would realise at the date of the valuation if sold on the open market by a willing vendor on the following assumptions—
- (a) that the vendor was selling with vacant possession;
 - (b) that the purchaser was purchasing the relevant lease for the purposes of owner occupation; and
 - (c) that where any criteria applied by lending institutions for the purpose of assessing mortgage applications relate to the number of storeys in the building in which a dwelling is situated or the number of dwellings in the building which are occupied by owners, those criteria are not applicable to the flat demised by the relevant lease or any other flat in the same building.
- (5) Paragraph (6) of regulation 15 shall apply in relation to the amount of any reduction determined in accordance with this regulation as it applies in relation to the amount of any reduction determined in accordance with regulation 15.
- (6) In this regulation—
- “the 1985 Act” means the Housing Act 1985(3);

“approved surveyor” means—

- (a) a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers, or
- (b) a person who satisfies such other requirement or requirements as may be prescribed by regulations made under section 13(7) of the Leasehold Reform, Housing and Urban Development Act 1993⁽⁴⁾,

who is reasonably believed by the former tenant to have ability in, and experience of, the valuation of dwellings of the particular kind, and in the particular area, in question;

“flat” has the same meaning as in section 183 of the 1985 Act;

“former tenant” means the person to whom the relevant lease was granted, or a person who has succeeded to the lessee’s interest by virtue of a disposal of a description falling within paragraph (a), (b) or (c) of subsection (1) of section 160 of the 1985 Act;

“lending institution” means an institution which is an approved lending institution for the purposes of section 156 of the 1985 Act; and

“relevant lease” means a lease of a flat granted by the authority pursuant to Part V of the 1985 Act, or with a consent given by the Secretary of State to local authorities generally under section 32 or 43 of that Act with the benefit of a discount of 44 per cent. or more of the market value of the lease as determined for the purposes of that disposal.”.

- 3. In regulation 20, in paragraphs (7) and (8), for “19B or 19C” substitute “19B, 19C or 19D”.

Signed by authority of the Secretary of State for the Environment

12th June 1995

David Curry
Minister of State,
Department of the Environment

Signed by authority of the Secretary of State for Wales

14th June 1995

Gwilym Jones
Parliamentary Under-Secretary of State, Welsh
Office

(4) 1993 c. 28. Regulations have been made under section 13(7) of the Leasehold Reform, Housing and Urban Development Act 1993; see the Collective Enfranchisement and Tenants' Audit (Qualified Surveyors) Regulations 1994 (S.I. 1994/1263).

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 makes provision for a further reduction which a local authority may make in their capital receipts before setting aside the reserved part as provision for credit liabilities. The capital receipt derived from a disposal of a dwelling is to be reduced where (among other conditions)—

- (a) the consideration for the disposal includes the assignment or surrender of the lease of a flat granted under Part V of the Housing Act 1985 (the right to buy) or under section 32 or 43 of that Act with the benefit of a discount of 44 per cent. or more of the value of the lease; and
- (b) there is attributed, as part of the consideration for the acquisition of the dwelling by the former tenant, an amount equal to the price paid on the grant of the lease which is assigned or surrendered.

Regulation 3 makes consequential amendments to regulation 20 of the 1990 Regulations.