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STATUTORY INSTRUMENTS

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**1996 No. 2825**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

The Local Government Changes For England  
(Property Transfer and Transitional Payments)  
(Amendment) (No. 2) Regulations 1996

*Made* - - - - *11th November 1996*  
*Laid before Parliament* *14th November 1996*  
*Coming into force* - - *5th December 1996*

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 19 and 26 of the Local Government Act 1992(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Local Government Changes for England (Property Transfer and Transitional Payments) (Amendment) (No. 2) Regulations 1996 and shall come into force on 5th December 1996.

**Amendment of Regulations**

2.—(1) The Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995(2) shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 19 (disputes)(3), in paragraphs (1) and (2), for “a section 17 order”, in both places where the expression occurs, substitute “any other relevant instrument”.

(3) In regulation 21 (designated authorities: recovery of expenditure and distribution of surpluses), in paragraph (1), for the words from “an authority” to “authority” substitute “where, pursuant to a provision of a relevant instrument, an authority is the designated authority in relation to any such provision, that authority”.

(4) In paragraph 1 of the Schedule (transitional payments)—

(a) in sub-paragraph (1), after the definition of “relevant capital receipts” insert—

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(1) 1992 c. 19.

(2) S.I. 1995/402; amended by S.I. 1995/1748 and 2796 and 1996/312.

(3) Regulation 2(13) of S.I. 1995/2796 made relevant amendments to regulation 19.

““relevant PCL” means any amount set aside by the relevant authority (whether voluntarily or pursuant to a requirement under Part IV of the 1989 Act) as provision to meet credit liabilities and not applied as mentioned in section 64 of that Act (use of amounts set aside to meet credit liabilities);” and

(b) in sub-paragraph (2), delete “and” at the end of paragraph (e) and after paragraph (f) add—  
“and

(g) any reference to the credit ceiling of a local authority on any day is a reference to that authority’s credit ceiling on that day as determined under Part III of Schedule 3 to the 1989 Act (credit ceiling).”

(5) In paragraph 4 of the Schedule for “The second” substitute “Subject to paragraph 4A below, the second”.

(6) After that paragraph insert—

“**4A.** Where the condition in paragraph 4B below is fulfilled, the second calculation shall be—

$$(I + J + K + KK) - (L + M)$$

where,

I, J, K, L and M have the same meaning as in paragraph 4 above and KK is an amount in respect of relevant PCL determined in accordance with paragraph 5A below.

**4B.** The condition mentioned in paragraph 4A above is that the relevant authority, on the day immediately before the reorganisation date, had a credit ceiling which is a negative amount and no money outstanding by way of borrowing other than—

- (a) short-term borrowing (within the meaning of section 45(6) of the 1989 Act); or
- (b) borrowing undertaken before 24th August 1995 (other than by the issue of stock on or after 15th December 1993) from a person who is not one of the following—
  - (i) the Public Works Loan Board;
  - (ii) the Bank of England;
  - (iii) the European Investment Bank;
  - (iv) a body mentioned in any of paragraphs 1 to 17, 28 or 29 of Part II of the Schedule to the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990;
  - (v) an authorised institution within the meaning of the Banking Act 1987; or
  - (vi) a building society within the meaning of the Building Societies Act 1986.”(4)

(7) After paragraph 5 of the Schedule insert—

“**5A.**—(1) Subject to paragraph (2) below, the amount of KK shall be determined in such manner as the designated authority and the participant authority may agree or, in default of such agreement, in accordance with the formula—

$$\frac{(KB - KC) \times d}{D}$$

where—

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(4) The Local Authorities (Capital Finance)(Approved Investments) Regulations 1990 (S.I. 1990/426) are amended by S.I. 1991/501, 1992/1353, 1995/850 and 1982 and 1996/568. The Banking Act 1987 (c. 22) and the Building Societies Act 1986 (c. 53).

KB is an amount equal to the lesser of—

- (a) the total of the item in the final accounts which relates to relevant PCL; or
- (b) the amount by which the relevant authority’s credit ceiling on the day immediately before the reorganisation date is less than nil;

KC is the aggregate of amounts determined in accordance with paragraph 5B below in respect of any credit arrangements entered into by the relevant authority at any time before the reorganisation date and in respect of which rights and liabilities exist on that date (“existing credit arrangements”); and

D and d have the same meaning as in paragraph 2 above.

- (2) The amount of KK determined in a manner agreed between the designated authority and the participant authority shall not exceed such amount as is determined in accordance with the formula—

$$KB - KC$$

where

KB and KC have the same meanings as in paragraph (1) above.

- 5B.** For the purposes of item KC, the amount in respect of each existing credit arrangement shall be determined in accordance with the formula—

$$(kd + ke + kf + kg) - kh$$

where—

kd is the amount which is the aggregate of—

- (i) any amount of the usable part of capital receipts which the relevant authority applied in relation to the existing credit arrangement as mentioned in paragraph (b) of subsection (3) of section 50 of the 1989 Act (credit cover for credit arrangements); and
- (ii) any amount set aside from a revenue account by that authority in relation to that credit arrangement as mentioned in paragraph (c) of that subsection;

ke is the aggregate of amounts determined in respect of notional interest on the existing credit arrangement for the purposes of paragraph 15(1)(b) of Schedule 3 to the 1989 Act for each financial year (“relevant year”) beginning with the financial year immediately following the financial year in which the existing credit arrangement concerned was entered into and ending with the final year;

kf is the total of principal amounts for each relevant year; and, for these purposes, a principal amount for a relevant year is so much of the amount in respect of principal referred to in paragraph 15(1)(a) of Schedule 3 to the 1989 Act for that year as the designated authority and the participant authority agree is attributable to the existing credit arrangement or, in default of such agreement, as the designated authority determines to be so attributable;

kg is the amount which is the aggregate of—

- (i) the amount by which the total amounts shown in the accounts of the relevant authority for each relevant year as amounts set aside from a revenue account as provision to meet credit liabilities in relation to the existing credit arrangement (otherwise than in accordance with a determination under paragraph (c) of subsection (3) of section 50 of the 1989 Act) exceeds the amount which is the principal amount for that year for the purposes of item kf above; and
- (ii) the total of amounts shown in such accounts as the usable part of capital receipts applied as provision to meet credit liabilities in relation to the existing credit

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**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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arrangement (otherwise than as mentioned in paragraph (b) of that subsection);  
and

kh is the aggregate of amounts shown in the accounts of the relevant authority for each relevant year as amounts applied under section 64(1)(b) of the 1989 Act in respect of the existing credit arrangement..”

(8) In paragraph 6A of the Schedule(5), in the definition of HC—

- (a) in sub-paragraphs (i)(a) and (ii)(a), for “by the formula (HA+HJ-HL-HM) above” substitute “for HA”; and
- (b) in sub-paragraphs (i)(b) and (ii)(b), for “the formula (HA+HJ-HL-HM) above” substitute “an amount for HA”.

Signed by authority of the Secretary of State for the Environment

Department of the Environment  
11th November 1996

*David Curry*  
Minister of State,

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(5) Paragraph 6A was added by [S.I. 1996/312](#).

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## EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations amend the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995 (“the Property Regulations”) which make provision of general application for the transfer of the property, rights and liabilities of local authorities which are subject to structural or boundary changes under the Local Government Act 1992 (“the 1992 Act”).

Regulation 19 is amended so that its provisions relating to arbitration may apply where property, rights or liabilities are vested by any statutory instrument made under the 1992 Act, or in connection with that Act or such an instrument, under any other Act (“relevant instrument”).

Regulation 21 is amended so that its provisions apply not only to an authority specified as the designated authority in an order under section 17 of the 1992 Act but also to an authority so specified in any other relevant instrument.

Amendments are made in the Schedule to the Property Regulations which sets out the calculations to be made for the purposes of determining the amounts of transitional payments which are payable under Part III of those Regulations. An alternative to the second calculation is provided where, on the day immediately before the reorganisation date, an abolished authority in relation to which there are two or more successor authorities, or the relinquishing authority in relation to a transferred area, had a credit ceiling (determined under Part III of Schedule 3 to the Local Government and Housing Act 1989) which is a negative amount and no money outstanding by way of borrowing other than borrowing of specified descriptions.