
STATUTORY INSTRUMENTS

1997 No. 319

The Local Authorities (Capital Finance) Regulations 1997

PART VIII

CAPITAL RECEIPTS TO BE TREATED AS REDUCED

Preliminary provisions

Meaning of authority

79. In this Part, “authority”, in relation to a capital receipt or a disposal of an asset, means the local authority by whom the receipt is received or the disposal is made.

Capital value of a lease

80.—(1) In this Part, a reference to the capital value of a lease is a reference to the amount which, at the time a local authority dispose of the lease, the authority estimate will be the aggregate of—

- (a) the value of the consideration which has been or falls to be received by them for the disposal before or during the financial year in which they make the disposal; and
- (b) the value of the consideration which falls to be received by them for the disposal in any subsequent financial year.

(2) For each subsequent financial year referred to in paragraph (1)(b), the value of the consideration falling to be received in that year shall be determined by the formula—

$$\frac{x}{\left\{1 + \frac{r}{100}\right\}^n}$$

where—

“x” is the value of the consideration which the authority estimate will be received by them in respect of the disposal in that financial year;

“r” is the percentage rate of discount prescribed for the financial year in which the authority make the disposal by regulations made by the Secretary of State for the purposes of section 49 (initial and subsequent cost of credit arrangements); and

“n” is the financial year concerned expressed as a year subsequent to the financial year in which the authority made the disposal (so that the first of the subsequent financial years is 1, the next financial year is 2, and so on).

(3) For the purposes of this regulation and the following provisions of this Part, in any case where the consideration in respect of a lease consists, in whole or in part of—

- (a) an undertaking to do or refrain from doing something at a future time (whether specified or not), or
- (b) a right to do or refrain from doing something at a future time,

that consideration shall be regarded as neither given nor received until the undertaking is performed or, as the case may be, the right is exercised.

Adjusting the amount by which a capital receipt shall be reduced

81. Regulations 86 to 104 shall have effect subject to the provisions of regulations 82 and 83.

Capital receipts in relation to a single asset

82.—(1) In this regulation—

“capital receipt” means a capital receipt which, by virtue of any provision of this Part, falls to be treated as reduced for the purposes of section 59 (the reserved part of capital receipts); and “the reduction”, in relation to a capital receipt, means the amount by which, apart from this regulation, the receipt would be treated as reduced in accordance with the provision concerned.

(2) Where a local authority receive more than one capital receipt in respect of their interest in a single asset—

- (a) the total amount by which those receipts shall be treated as reduced shall not exceed the reduction;
- (b) any of those receipts may be treated as reduced by an amount equal to the reduction or any lesser amount; and
- (c) where one of those receipts is treated as reduced by an amount which is less than the reduction, the other receipts, or any of them, shall be treated as reduced by a total amount equal to the balance of the reduction.

Notional capital receipts

83. Where—

- (a) by virtue of any provision of this Part, a capital receipt received in respect of a disposal of an interest in an asset falls to be treated as reduced for the purposes of section 59,
- (b) before the capital receipt is received, the authority receive consideration not in money in respect of the same disposal or a disposal of another interest in the same asset, and
- (c) the notional capital receipt in relation to the consideration not in money is treated as reduced by virtue of regulation 106(1),

there shall be deducted from the amount by which, apart from this regulation, the capital receipt would be treated as reduced the amount by which the notional capital receipt is treated as reduced.

Nature of disposal of interest in land

84. For the purposes of this Part, a disposal of an interest in land meets the condition specified in this regulation if—

- (a) the authority make the disposal by conveying the freehold interest in the land, granting a lease for a term of not less than 125 years, or assigning their entire leasehold interest in the land; and
- (b) where the interest disposed of is a lease, the authority estimate that not less than 90 per cent. of the capital value of the lease has been, or is to be, received by them within one year after the date of the disposal.

Meaning of regeneration project

85. For the purposes of this Part, “regeneration project” means any project for the carrying out of works or activities on any land where—

- (a) the land, or a building on the land, is vacant or unused or under-used or ineffectively used or contaminated or derelict; and
- (b) the works or activities are carried out in order to secure that the land or the building will be brought into effective use.