
Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

STATUTORY INSTRUMENTS

2003 No. 3146

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Capital Finance and
Accounting) (England) Regulations 2003**

<i>Made</i>	- - - -	<i>3rd December 2003</i>
<i>Laid before Parliament</i>		<i>10th December 2003</i>
<i>Coming into force</i>		
<i>for the purposes of regulations 1 and 2</i>		<i>1st January 2004</i>
<i>for all other purposes</i>		<i>1st April 2004</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 3, 7(3)(c), 8(3), 9(3), 10, 11, 15(1)(b), 16(2), 21, 23(2) and 123(1) and (2) of, and paragraph 4 of Schedule 1 to, the Local Government Act 2003⁽¹⁾, hereby makes the following Regulations:

PART 1 **E+W**

PRELIMINARY

Citation, commencement, application and interpretation **E+W**

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 and shall come into force for the purposes of regulations 1 and 2 on 1st January 2004 and for all other purposes on 1st April 2004.

(2) These Regulations apply only in relation to local authorities in England⁽²⁾.

(3) Regulations 2 to 6, 8, 9, 10(3) to (6), 12 to 22, 23(d) to (f), 24, 27(1), 28, 29, 32 and 33 shall not apply to parish councils and charter trustees.

(4) In these Regulations, unless the context indicates otherwise, any reference to a Part, section or Schedule is a reference to a Part or section of, or Schedule to, the Local Government Act 2003.

(5) In these Regulations—

(1) 2003 c. 26.

(2) As regards the application of Part 1 of the Local Government Act 2003 to Wales, see section 24 of that Act.

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[^{F1}“the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993;]

[^{F2}“affordable housing” and “provision of affordable housing” have the meaning given in regulation 17;]

[^{F1}“associates” has the same meaning as in section 135 of the 1993 Act (disposals of dwelling-houses by local authorities);]

[^{F3}“available capital allowance” has the meaning given in regulation 15;]

[^{F3}“available Social HomeBuy allowance” has the meaning given in regulation 16A;]

“CIPFA” means the body—

- (a) constituted by Royal Charter on 6th January 1959 and originally named “The Institute of Municipal Treasurers and Accountants”;
- (b) whose name was changed to “The Chartered Institute of Public Finance and Accountancy” by Royal Charter on 24th October 1973; and
- (c) registered with the Charity Commissioners of England and Wales (number 231060);

“debt-free authority” means a local authority which has no money outstanding by way of borrowing other than disregarded borrowing;

“disregarded borrowing” has the same meaning as that term had on 31st March 2004 in regulation 65 of the Local Authorities (Capital Finance) Regulations 1997 (capital receipts of debt-free authorities)(3);

“dwelling” means any building or part of a building which is occupied as a dwelling, or is a hostel providing accommodation for persons who, for the purposes of Part VII of the Housing Act 1996 (homelessness)(4), are homeless, or persons who have a special need for accommodation arising from physical or mental disability, age, infirmity or other special social disability or disadvantage;

[^{F4}“dwelling-house” has the same meaning as in section 135 of the 1993 Act;]

“housing land” means any land, house or other building in relation to which the local authority is, or has been immediately before disposal of it, subject to the duty under section 74 of the Local Government and Housing Act 1989 (duty to keep Housing Revenue Account)(5);

[^{F5}“introductory tenant” has the same meaning as in Chapter 1 of Part V of the Housing Act 1996 (introductory tenancies);]

[^{F5}“long lease” means a lease for a term of years certain exceeding 21 years other than a lease which is terminable before the end of that term by notice given by or to the landlord;]

[^{F6}“money market fund” means a collective investment scheme which—

- (a) in accordance with the Council Directive [85/611/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investments in transferable securities, is an undertaking for collective investment in transferable securities subject to that Directive; and

(3) [S.I. 1997/319](#); regulation 65 was amended by [S.I. 2001/3649](#). There are other amendments to regulation 65 but none is relevant. [S.I. 1997/319](#) will be revoked on 1st April 2004 by virtue of the repeal of Part IV of the Local Government and Housing Act 1989 (c. 42) under which it was made. *See* [S.I. 2003/2938 \(C. 107\)](#).

(4) [1996 c. 52](#); Part VII was amended by sections 117 and 169 of, and paragraph 116 of Schedule 14 and Schedule 16 to, the Immigration and Asylum Act 1999 (c. 33), sections 5 to 12 of, paragraphs 2 and 7 to 21 of Schedule 1 and Schedule 2 to, the Homelessness Act 2002 (c. 7), and paragraphs 89 to 92 of Schedule 3 to the Adoption and Children Act 2002 (c. 38). There are other amendments to Part VII that are not relevant to these Regulations.

(5) [1989 c. 42](#); section 74 was amended by section 222 of, and paragraph 24(2) of Schedule 18 to, the Housing Act 1996.

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(b) is either a unit trust scheme authorised under section 243 of the Financial Services and Markets Act 2000 or a collective investment scheme recognised under section 264 of that Act;]

[^{F6}“multilateral development bank” means an international financial institution having as one of its objects economic development, either generally or in any region of the world;]

“the National Association of Local Councils” means the unincorporated association of that name which was established in 1947(⁶);

“qualifying disposal” means a disposal of an interest in housing land which is a qualifying disposal for the purposes of section 135 or 136 of the [^{F7}1993 Act] (disposals of dwelling-houses by local authorities)(⁷); ^{F8}...

[^{F9}“relevant disposal period” means the period of five years ending with the date of the disposal;]

[^{F9}“secure tenant” has the same meaning as in Part IV of the Housing Act 1985 (secure tenancies and rights of secure tenants);]

[^{F9}“small scale disposal” means a disposal by a local authority of an interest in housing land to any person where—

(a) the Secretary of State has given consent to the disposal under section 32 (power to dispose of land held for the purposes of Part II) or 43 (consent required for certain disposals not within section 32) of the Housing Act 1985;

(b) he has given that consent subject to the conditions that the local authority—

(i) takes reasonable steps to ascertain whether the majority of secure tenants and introductory tenants who would be affected by the disposal are not opposed to it; and

(ii) is satisfied that, at the time of the disposal, the majority of those tenants are not likely to be opposed to the disposal;

and

(c) the aggregate of the following, namely—

(i) the number of dwelling-houses included in the disposal; and

(ii) the number of dwelling-houses which, within the relevant disposal period, have been previously disposed of by the authority to that person, or that person and any associates of his taken together,

is not more than 499,

but for the purposes of this definition, a disposal of any dwelling-house shall be disregarded if at the time of the disposal the local authority’s interest in the dwelling-house is or was subject to a long lease; and]

[^{F10}“Social HomeBuy disposal” has the meaning given in the Schedule;]

“the Society of Local Council Clerks” means the registered trade union of that name (Trade Union reference 1200T) which was established in 1972.

(6) The National Association of Local Councils' current address is 109 Great Russell Street, London WC1B 3LD and their website address is www.nalc.gov.uk.

(7) 1993 c. 28; section 135 was amended by S.I. 1996/2325. There are other amendments to section 135 and amendments to section 136 that are not relevant to these Regulations.

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Words in [reg. 1\(5\)](#) inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **2(a)**
- F2** Words in [reg. 1\(5\)](#) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **2(1)(a)** (with [reg. 1\(3\)](#))
- F3** Words in [reg. 1\(5\)](#) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **2(1)(b)** (with [reg. 1\(3\)](#))
- F4** Words in [reg. 1\(5\)](#) inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **2(b)**
- F5** Words in [reg. 1\(5\)](#) inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **2(c)**
- F6** Words in [reg. 1\(5\)](#) inserted (1.4.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2004 (S.I. 2004/534), regs. 1(1), **2**
- F7** Words in [reg. 1\(5\)](#) substituted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **2(d)(i)**
- F8** Word in [reg. 1\(5\)](#) omitted (16.12.2004) by virtue of The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **2(d)(ii)**
- F9** Words in [reg. 1\(5\)](#) inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **2(e)**
- F10** Words in [reg. 1\(5\)](#) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **2(1)(c)** (with [reg. 1\(3\)](#))

Commencement Information

- I1** Reg. 1 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

PART 2 **E+W**

BORROWING

Code of practice **E+W**

2. In complying with their duties under section 3(1) and (2) (duty to determine affordable borrowing limit), a local authority and the Mayor of London shall have regard to the code of practice entitled the “Prudential Code for Capital Finance in Local Authorities” published by CIPFA, as amended or reissued from time to time⁽⁸⁾.

Commencement Information

- I2** Reg. 2 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

(8) The current issue of this code of practice was published in London in 2003. ISBN 0 85299 989 5.

PART 3 **E+W**

CREDIT ARRANGEMENTS

TRANSACTIONS WHICH ARE NOT CREDIT ARRANGEMENTS

Liabilities that do not arise from capital expenditure **E+W**

3.—(1) The liabilities of a local authority specified in paragraph (2) are liabilities specified for the purposes of section 7(3)(c) (exclusion of certain liabilities from definition of “qualifying liabilities”).

(2) The liabilities specified for the purposes of paragraph (1) are liabilities that do not arise from a transaction which results in the local authority being required, in accordance with proper practices, to recognise a fixed asset in any balance sheet.

Commencement Information

I3 Reg. 3 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Retirement benefits **E+W**

4.—(1) Liabilities for retirement benefits appropriated to a pension reserve in accordance with proper practices are liabilities specified for the purposes of section 7(3)(c).

(2) For the purposes of paragraph (1) and regulation 30, “retirement benefits” means benefits payable pursuant to—

- (a) section 31 of the London County Council (General Powers) Act 1921 (compensation to persons in Council’s service on abolition of office)(**9**);
- (b) the “principal civil service pension scheme” within the meaning of section 2(10) of the Superannuation Act 1972 (further provisions relating to superannuation schemes under section 1)(**10**) and for the time being in force;
- (c) the Police Pensions Regulations 1987(**11**);
- (d) the Firemen’s Pension Scheme Order 1992(**12**);
- (e) the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997(**13**);
- (f) the Local Government Pension Scheme Regulations 1997(**14**);
- (g) the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000(**15**); and
- (h) any other regulations made under section 24 of the Superannuation Act 1972 (compensation for loss of office etc.)(**16**).

(9) 1921 c. 1; section 31 was amended by S.I. 1974/520, S.I. 1977/1341 and section 40 of the Greater London Council (General Powers) Act 1968 (c. xxxix).

(10) 1972 c. 11.

(11) S.I. 1987/257, to which there are amendments not relevant to these Regulations.

(12) S.I. 1992/129, to which there are amendments not relevant to these Regulations.

(13) S.I. 1997/311, to which there are amendments not relevant to these Regulations.

(14) S.I. 1997/1612, to which there are amendments not relevant to these Regulations.

(15) S.I. 2000/1410, to which there are amendments not relevant to these Regulations.

(16) Section 24 was amended by section 13(1) of, and paragraph 10 of Schedule 2 to, the Police Pensions Act 1976 (c. 35).

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Commencement Information

- I4** Reg. 4 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

SUPPLEMENTARY PROVISION

Varied transactions **E+W**

5. For the purposes of Chapter 1 of Part 1 (capital finance etc.), a local authority shall be taken to have entered into a credit arrangement where—

- (a) on or after 1st April 2004, it enters into a transaction (“the new transaction”) which varies a transaction entered into previously, whether before, on or after 1st April 2004 (“the earlier transaction”);
- (b) the earlier transaction did not result in the local authority being taken to have entered into a credit arrangement; and
- (c) the local authority would, if it had entered into the earlier transaction as varied by the new transaction on—

(i) the date on which the earlier transaction was entered into; or

(ii) if later, 1st April 2004,

be taken to have entered into a credit arrangement,

and the date on which it is taken to have entered into the credit arrangement by virtue of this regulation is the date on which it enters into the new transaction.

Commencement Information

- I5** Reg. 5 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

COST OF CREDIT ARRANGEMENTS

Calculation of cost of credit arrangements **E+W**

6. For the purposes of section 8(2) (entry into a credit arrangement or variation to be treated as the borrowing of an amount equal to the cost of the arrangement or variation), the cost of a credit arrangement or variation of a credit arrangement shall be the amount of the liability in respect of that arrangement or variation which is shown, in accordance with proper practices, in the authority’s accounts.

Commencement Information

- I6** Reg. 6 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

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PART 4 **E+W**

CAPITAL RECEIPTS

SUMS TO BE TREATED AS CAPITAL RECEIPTS

Repayment of loan etc. to a local authority **E+W**

7.—(1) For the purposes of Chapter 1 of Part 1 (capital finance etc), the sums referred to in paragraph (2), paid on or after 1st April 2004, shall be treated as capital receipts.

(2) Subject to paragraph (3), the sums referred to for the purposes of paragraph (1) are sums paid to a local authority as repayment of any loan, grant or other financial assistance given by the local authority for such a purpose that, if the giving of that financial assistance had been expenditure incurred at the time of the repayment, it would have constituted capital expenditure⁽¹⁷⁾.

(3) Where the financial assistance referred to in paragraph (2) is a loan given by a parish council or charter trustees, any sums paid to the local authority as repayment of that loan shall not be treated as capital receipts.

Commencement Information

17 Reg. 7 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Disposal of mortgage portfolio **E+W**

8. For the purposes of Chapter 1 of Part 1, a sum received by a local authority on or after 1st April 2004 in respect of the disposal of the authority's rights and obligations as mortgagee of any housing land which, apart from this regulation, would not be a capital receipt, shall be treated as a capital receipt.

Commencement Information

18 Reg. 8 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Payment made to redeem landlord's share **E+W**

9. For the purposes of Chapter 1 of Part 1, where an interim or final payment is made to a local authority, on or after 1st April 2004, in accordance with Schedule 6A to the Housing Act 1985 (redemption of landlord's share)⁽¹⁸⁾, the sum received by the authority shall be treated as a capital receipt if, apart from this regulation, it would not be a capital receipt.

Commencement Information

19 Reg. 9 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

⁽¹⁷⁾ See section 16 ("capital expenditure") and regulations 25 and 26.

⁽¹⁸⁾ 1985 c. 68; Schedule 6A was inserted by section 117(2) of, and Schedule 16 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28). There are amendments to Schedule 6A that are not relevant to these Regulations.

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F11} Social HomeBuy receipts **E+W**

9A. For the purposes of Chapter 1 of Part 1, a premium received by a local authority on or after 1st April 2006 in respect of a Social HomeBuy disposal which, apart from this regulation, would not be a capital receipt, shall be treated as a capital receipt.]

Textual Amendments

F11 Reg. 9A inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **3** (with reg. 1(3))

SUMS NOT TO BE TREATED AS CAPITAL RECEIPTS

Capital receipts not exceeding £10,000 **E+W**

10.—(1) [^{F12}Subject to paragraph (7),] a sum received by a local authority which, apart from this regulation, would be a capital receipt by virtue of section 9(1) shall not be treated for the purposes of Chapter 1 of Part 1 as a capital receipt if the aggregate of all sums received or to be received by the authority in respect of the disposal of an interest in a capital asset, for which the sum is paid, does not exceed £10,000.

(2) A sum received by a local authority which, apart from this regulation, would be treated as a capital receipt by virtue of regulation 7, shall not be treated for the purposes of Chapter 1 of Part 1 as a capital receipt if the aggregate of all sums received or to be received by the authority as repayment of a loan, grant or other financial assistance, for which the sum is paid, does not exceed £10,000.

(3) A sum received by a local authority which, apart from this regulation, would be treated as a capital receipt by virtue of regulation 8, shall not be treated for the purposes of Chapter 1 of Part 1 as a capital receipt if the aggregate of all sums received or to be received by the authority in respect of the disposal of the authority's rights and obligations, for which the sum is paid, does not exceed £10,000.

(4) A sum received by a local authority which, apart from this regulation, would be treated as a capital receipt by virtue of regulation 9, shall not be treated for the purposes of Chapter 1 of Part 1 as a capital receipt if the aggregate of all sums received or to be received by the authority in respect of redemption of the landlord's share, for which the sum is paid, does not exceed £10,000.

(5) [^{F13}Subject to paragraph (7),] a notional capital receipt(**19**) which, apart from this regulation, would be treated as a capital receipt received by a local authority by virtue of regulation 22(5), shall not be treated for the purposes of Chapter 1 of Part 1 as a capital receipt if the aggregate of all sums received or to be received by the authority in respect of the disposal of the interest in housing land, for which the notional capital receipt is determined, does not exceed £10,000.

(6) In paragraphs (1) and (5), "all sums received or to be received by the authority" include the amount of all notional capital receipts determined in respect of the disposal.

[^{F14}(7) Paragraphs (1) and (5) do not apply in relation to a premium received by a local authority, on or after 1st April 2006, in respect of a Social HomeBuy disposal.]

Textual Amendments

F12 Words in reg. 10(1) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **4(a)** (with reg. 1(3))

(19) See regulation 22 for meaning of "notional capital receipt".

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- F13** Words in reg. 10(5) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **4(a)** (with reg. 1(3))
- F14** Reg. 10(7) added (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **4(b)** (with reg. 1(3))

Commencement Information

- I10** Reg. 10 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Operating and finance leases **E+W**

11. A sum received by a local authority—

- (a) under any arrangement which is treated, in accordance with proper practices, as an operating lease or a finance lease;
- (b) which, apart from this regulation, would be a capital receipt; and
- (c) which, in accordance with proper practices, is to be credited to a revenue account,

shall not be treated for the purposes of Chapter 1 of Part 1 as a capital receipt.

Commencement Information

- I11** Reg. 11 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

POOLING OF RECEIPTS

Pooling of receipts from disposals of housing land **E+W**

12.—(1) This regulation applies to capital receipts which—

- (a) a local authority derives from the disposal of an interest in housing land other than a disposal which is a qualifying disposal [^{F15}or a small scale disposal]; and
- (b) on or after 1st April 2004, have been received by the local authority.

(2) Subject to paragraph (3), where this regulation applies, the local authority shall use capital receipts to pay the amount specified in paragraph (4) (“the specified amount”) to the Secretary of State on or before—

- (a) the last day of the calendar month immediately following—
 - (i) 31st March;
 - (ii) 30th June;
 - (iii) 30th September; or
 - (iv) 31st December,

whichever of those is the earliest date following the day on which the authority receives the capital receipt; or

- (b) if later, such date as is notified to the local authority by the Secretary of State.

(3) Where it is not reasonably practicable for the local authority to calculate the specified amount by the date on or before which it is payable under paragraph (2) (“the due date”)—

- (a) the amount to be paid by the due date shall be instead the local authority’s best estimate of the specified amount (“the estimated amount”);

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- (b) the local authority shall notify the Secretary of State in writing, at the time of payment, that it is paying the estimated amount rather than the specified amount;
- (c) the local authority shall—
 - (i) provide the Secretary of State with a statement of the specified amount, the estimated amount, and the amount which is equal to the specified amount less the estimated amount already paid (“the balance”); and
 - (ii) if the balance is positive, pay that amount to the Secretary of State, by no later than [^{F16}the balance payment date]; and
- [^{F17}(d) if the balance is negative—
 - (i) subject to paragraph (vi), the local authority may offset the amount it paid in excess of the specified amount, together with the amount of any interest it paid to the Secretary of State in respect of that excess, (“the excess amount”) against any further specified amount, estimated amount or amount of interest payable to the Secretary of State by the local authority under this regulation or regulation 13;
 - (ii) where the local authority offsets the excess amount in accordance with paragraph (i), it shall notify the Secretary of State of this, and the amount of the offset, at the time it pays the further specified amount, estimated amount or interest as the case may be;
 - (iii) where the local authority does not have, or will not have within the relevant 6 month period, any further specified amount, estimated amount or interest against which it can offset the excess amount, it may notify the Secretary of State in writing that it is unable to offset the excess amount;
 - (iv) subject to paragraph (v), where the local authority does not have, or will not have within the relevant 3 month period, any further specified amount, estimated amount or interest against which it can offset the excess amount, and the local authority would, if it could not offset the excess amount within the relevant 3 month period, suffer severe financial problems, it may notify the Secretary of State in writing of the problems and request the Secretary of State to repay the excess amount to it;
 - (v) where the local authority notifies the Secretary of State under paragraph (iv), it shall do so within the period of 14 days immediately following the balance payment date or within such longer period as is agreed by the Secretary of State;
 - (vi) subject to paragraph (ix), where the local authority notifies the Secretary of State under paragraph (iii) or (iv), it may not offset the excess amount against any further specified amount, estimated amount or interest;
 - (vii) as soon as reasonably practicable after the Secretary of State receives written notification from the local authority under paragraph (iii) or, if later, the statement under sub-paragraph (c), he shall repay the excess amount to the local authority;
 - (viii) where the Secretary of State receives written notification from the local authority under paragraph (iv) within the period required by paragraph (v) and is satisfied that the local authority would suffer severe financial problems if he does not repay the excess amount to it, he shall repay the excess amount to the local authority as soon as reasonably practicable after he is so satisfied (whether or not he does so during or after the relevant 3 month period);
 - (ix) where the Secretary of State receives written notification from the local authority under paragraph (iv) within the period required by paragraph (v) and is not satisfied that the local authority would suffer severe financial problems if he does not repay the excess amount to it, he shall notify the local authority, as soon as reasonably practicable, that he is not so satisfied and paragraph (vi) shall not apply.]

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) Subject to reductions made under regulations 14 to 21, the specified amount is an amount equal to—

- (a) 75 per cent of the capital receipt in relation to the disposal of a dwelling; and
- [^{F18}(aa) to the extent not included in sub-paragraph (a), 75 per cent of the capital receipt, received by a local authority on or after 1st April 2006, in relation to the disposal of the authority's rights and obligations as mortgagee of any dwelling;
- (ab) to the extent not included in sub-paragraph (a) or (aa), 75 per cent of the capital receipt, received by a local authority on or after 1st April 2006, in relation to a Social HomeBuy disposal; and]
- (b) 50 per cent of the capital receipt in relation to the disposal of any other interest in housing land.

(5) The total amount of any reductions made to the capital receipt for a disposal under regulations 14 to 21, shall not exceed the amount of that capital receipt.

[^{F19}(6) In this regulation—

“balance payment date” means the last day of the calendar month immediately following—

- (a) 31st March;
- (b) 30th June;
- (c) 30th September; or
- (d) 31st December,

whichever of those is the earliest date following the due date;

“the relevant 6 month period” means the period beginning on the balance payment date and ending on the last day of the calendar month that is six months after the balance payment date; and

“the relevant 3 month period” means the period beginning on the balance payment date and ending on the last day of the calendar month that is three months after the balance payment date.]

Textual Amendments

- F15** Words in reg. 12(1)(a) inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **3**
- F16** Words in reg. 12(3)(c) substituted (1.4.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2004 (S.I. 2004/534), regs. 1(1), **3(a)**
- F17** Reg. 12(3)(d) substituted (1.4.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2004 (S.I. 2004/534), regs. 1(1), **3(b)**
- F18** Reg. 12(4)(aa)(ab) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **5** (with reg. 1(3))
- F19** Reg. 12(6) added (1.4.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2004 (S.I. 2004/534), regs. 1(1), **3(c)**

Commencement Information

- I12** Reg. 12 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see **reg. 1(1)**

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F20}Interest on late payments **E+W**

13.—(1) The local authority shall use capital receipts, which it has derived from the disposal of housing land, to pay interest to the Secretary of State in accordance with the following provisions of this regulation.

(2) Where the local authority—

(a) does not calculate the estimated amount; and

(b) does not pay part or all of the specified amount to the Secretary of State by the due date, the local authority shall pay interest to the Secretary of State on the unpaid amount of the specified amount.

(3) Where the local authority—

(a) does calculate the estimated amount; and

(b) does not pay part or all of the estimated amount to the Secretary of State by the due date, the local authority shall pay interest to the Secretary of State on the unpaid amount of the estimated amount.

(4) Where the local authority does not pay part or all of the amount of the balance, if any, to the Secretary of State by the balance payment date, the local authority shall pay interest to the Secretary of State on the unpaid amount of the balance.

(5) The interest shall be calculated on any unpaid amount at a rate of one per cent. above base rate on a day to day basis compounded with three-monthly rests.

(6) Where interest is payable by virtue of paragraph (2) or (3), the interest on the unpaid amount shall be calculated for the period starting on the day after the due date and ending on the date of payment of the unpaid amount.

(7) Where interest is payable by virtue of paragraph (4), the interest on the unpaid amount shall be calculated for the period starting on the day after the balance payment date and ending on the date of payment of the unpaid amount.

(8) The local authority shall pay to the Secretary of State any interest, payable in respect of any unpaid amount, on the date on which it pays the unpaid amount to him.

(9) In this regulation—

“the balance”, “the balance payment date”, “the due date”, “the estimated amount” and “the specified amount” have the same meaning as those terms have in regulation 12;

“base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in descending sequence of seven, is fourth in the sequence; and

“reference banks” means the seven largest persons for the time being who—

(a) have permission under Part IV of the Financial Services and Markets Act 2000 (permission to carry on regulated activities) to accept deposits;

(b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and

(c) quote a base rate in sterling,

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985 (“subsidiary”, “holding company” and “wholly owned subsidiary”)), as shown in the audited end-of-year accounts last published before that time.]

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F20 Reg. 13 substituted (1.4.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2004 (S.I. 2004/534), regs. 1(1), 4

Capital receipt treated as reduced **E+W**

14.—(1) Subject to regulation 12(5) and [^{F21}paragraphs (2) to (2C)], for the purposes of calculating the specified amount, the capital receipt in relation to the disposal of the interest in housing land shall be treated as reduced by—

- (a) so much of the capital receipt as is applied by the local authority in meeting the administrative costs of and incidental to the disposal;
- (b) the costs of expenditure incurred by the local authority in improving the housing land within the period of three years ending on the date of the disposal; and
- (c) an amount, by which the authority determines that it shall be reduced, which may be an amount up to the value of its available capital allowance at the time the specified amount is calculated [^{F22}; and
- (d) an amount, by which the authority determines that it shall be reduced, which may be an amount up to the value of its available Social HomeBuy allowance at the time the specified amount is calculated.]

(2) Paragraph (1)(c) shall not apply to capital receipts which a local authority derives from the disposal of a dwelling where the disposal is made—

- (a) under Part V of the Housing Act 1985 (right to buy)(**20**); or
- (b) with a relevant consent, to a person who, when he acquires that dwelling, occupies or intends to occupy the dwelling as his only or principal home.

[^{F23}(2A) Paragraph (1)(c) shall not apply to capital receipts, received by a local authority on or after 1st April 2006, which the local authority derives from the disposal of the authority's rights and obligations as mortgagee of any dwelling, where that dwelling was disposed of by the authority—

- (a) under Part V of the Housing Act 1985 (right to buy); or
- (b) with a relevant consent, to a person who, when he acquires that dwelling, occupies or intends to occupy the dwelling as his only or principal home.

(2B) Paragraphs (1)(a) to (1)(c) shall not apply to capital receipts, received by a local authority on or after 1st April 2006, which the local authority derives from a Social HomeBuy disposal.

(2C) Paragraph (1)(d) shall only apply to capital receipts, received by a local authority on or after 1st April 2006, which the local authority derives from a Social HomeBuy disposal.]

(3) For the purposes of paragraph (2)(b), “relevant consent” means a consent to a disposal of land given by the Secretary of State to local authorities generally under section 32 or 43 of the Housing Act 1985 (disposal of land held for housing purposes)(**21**).

(20) 1985 c. 68.

(21) Sections 32 and 43 were amended by paragraphs 38 and 39 of Schedule 17 to the Housing Act 1988 (c. 50), section 227 of, and Part IX of Schedule 19 to, the Housing Act 1996 (c. 52) and S.I. 1997/74. Section 43 was also amended by section 132 of the Housing Act 1988 (c. 50), section 194(2) of, and Schedule 12 to, the Local Government and Housing Act 1989 (c. 42) and section 78 of, and paragraph 24(1) of Schedule 10 to, the Environment Act 1995 (c. 25).

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F21** Words in [reg. 14\(1\)](#) substituted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), **6(a)** (with [reg. 1\(3\)](#))
- F22** [Reg. 14\(1\)\(d\)](#) and word inserted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), **6(b)** (with [reg. 1\(3\)](#))
- F23** [Reg. 14\(2A\)-\(2C\)](#) inserted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), **6(c)** (with [reg. 1\(3\)](#))

Commencement Information

- I13** [Reg. 14](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Available capital allowance **E+W**

15. For the purposes of regulation 14(1)(c), the value of a local authority's available capital allowance at a particular time is the value of its total capital allowance at that time, as determined by the authority in accordance with regulation 16, less the total value of any amounts by which capital receipts have been treated as reduced by virtue of regulation 14(1)(c) prior to that time.

Commencement Information

- I14** [Reg. 15](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Total capital allowance **E+W**

16.—(1) [^{F24}Subject to paragraphs (3) and (4),] for the purposes of regulation 15, a local authority's total capital allowance is the total value of—

- (a) the amount of any reduction determined by the authority before 1st April 2004 under regulation 104B(4) of the Local Authorities (Capital Finance) Regulations 1997 (disposal of land to assist in the provision of affordable housing)(**22**) where—
- (i) no capital receipts were treated as reduced by that amount, for the purposes of section 59 of the Local Government and Housing Act 1989 (the reserved part of capital receipts)(**23**), before 1st April 2004; and
- (ii) capital receipts could be treated as reduced by that amount under regulation 104B, for the purposes of that section, but for the repeal of that section on 1st April 2004(**24**).
- (b) to the extent not included in sub-paragraph (a), the costs of expenditure incurred by the authority, for the purpose of facilitating the disposal of an interest in land, on—
- (i) obtaining planning permission for the development of the land, or taking any other steps required to facilitate such development;
- (ii) preparing the land for development;
- (iii) acquiring an interest, easement, servitude or right in or over the land or adjoining land; or

(22) [S.I. 1997/319](#); regulation 104B was inserted by [S.I. 2003/43](#).

(23) 1989 c. 42.

(24) *See* [S.I. 2003/2938 \(C. 107\)](#).

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (iv) obtaining the release of a restrictive covenant affecting the land,
where capital receipts derived from the disposal are capital receipts to which regulation 12 applies;
- (c) to the extent not included in sub-paragraph (a) or (b), the amount of the contributions which the authority has made, or has decided to make but has not yet made, on or after 1st April 2004, towards the costs of the projects specified in regulations 17 and 18 by —
- (i) constructing or improving dwellings, or providing dwellings by the conversion of a building or a part of a building;
 - (ii) making a gift of land;
 - (iii) paying a contribution, grant or subsidy under any power conferred on the authority under any enactment; or
 - (iv) giving consideration for any benefit that the authority has received, or will receive, by virtue of the project.
- (2) For the purposes of paragraph (1)(c)(ii), the authority makes a gift of land where it transfers an interest in land and either —
- (a) no consideration falls to be given for the transfer; or
 - (b) the value of the consideration that falls to be given for the transfer is less than the price that the interest transferred would realise at the date of the valuation if sold by the authority on the open market.
- [^{F25}(3) In the case of contributions which the authority has decided to make but has not yet made towards the costs of the project specified in regulation 17, sub-paragraph (c) of paragraph (1) shall only apply where the authority has decided that it will not use receipts derived from Social HomeBuy disposals to make those contributions.
- (4) A local authority's total capital allowance at a particular time shall not include the value of any amount which is included in the local authority's total Social HomeBuy allowance, as determined by the authority at that time in accordance with regulation 16B.]

Textual Amendments

- F24** Words in [reg. 16\(1\)](#) inserted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), [7\(a\)](#) (with [reg. 1\(3\)](#))
- F25** [Reg. 16\(3\)\(4\)](#) added (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), [7\(b\)](#) (with [reg. 1\(3\)](#))

Commencement Information

- I15** [Reg. 16](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

[^{F26}Available Social HomeBuy allowance **E+W**

16A. For the purposes of regulation 14(1)(d), the value of a local authority's available Social HomeBuy allowance at a particular time is the value of its total Social HomeBuy allowance at that time, as determined by the authority in accordance with regulation 16B, less the total value of any amounts by which capital receipts have been treated as reduced by virtue of regulation 14(1)(d) prior to that time.]

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F26 Regs. 16A, 16B inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), 8 (with reg. 1(3))

[^{F26}Total Social HomeBuy allowance **E+W**

16B.—(1) Subject to paragraph (2), for the purposes of regulation 16A, a local authority's total Social HomeBuy allowance is the total value of—

- (a) the amount of contributions which the authority has made, or has decided to make but has not yet made, on or after 1st April 2006, towards the costs of the project specified in regulation 17 by—
 - (i) acquiring dwellings or other land to be used for affordable housing;
 - (ii) preparing land for development for affordable housing;
 - (iii) constructing, improving or repairing dwellings to be used for affordable housing;
 - (iv) providing dwellings, to be used for affordable housing, by the conversion of a building or a part of a building;
 - (v) paying a contribution, grant or subsidy under any power conferred on the authority under any enactment; or
 - (vi) giving consideration for any benefit that the authority has received, or will receive, by virtue of the provision of affordable housing; and
 - (b) to the extent to which it is not included in sub-paragraph (a), the amount of the expenditure which the authority has incurred, or has decided to incur but has not yet incurred, on or after 1st April 2006, by—
 - (i) making a grant under section 129 of the Housing Act 1988 (schemes for payments to assist local housing authority tenants to obtain other accommodation) where the purpose of the grant is to assist a tenant or licensee of the authority to move out of a dwelling which is to be used for affordable housing once the tenant or licensee has moved out of it;
 - (ii) meeting the administrative costs of or incidental to a Social HomeBuy disposal;
 - (iii) to the extent to which it is not included in paragraph (ii), meeting the administrative costs of or incidental to the running of a scheme by the local authority to make Social HomeBuy disposals, regardless of whether the local authority makes particular disposals; or
 - (iv) where a Social HomeBuy disposal is made by the authority to a purchaser and that purchaser is required to pay rent to the authority in relation to any interest that the authority still has in the dwelling disposed of, meeting the administrative costs of or incidental to the collection of that rent.
- (2) Sub-paragraphs (a) and (b) of paragraph (1) only apply where—
- (a) in the case of contributions made or expenditure incurred, the local authority used capital receipts derived from Social HomeBuy disposals to make those contributions or incur that expenditure; or
 - (b) in the case of contributions or expenditure which the local authority has decided to make or incur but has not yet made or incurred, it has decided to use capital receipts derived from Social HomeBuy disposals to make those contributions or incur that expenditure;]

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F26** Regs. 16A, 16B inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **8** (with reg. 1(3))

Provision of affordable housing **E+W**

17.—(1) [^{F27}In these Regulations] “provision of affordable housing” means the provision of dwellings to meet the housing needs, as identified by the local authority, of persons on low incomes, whether provided by the authority or a social landlord registered under section 1 of the Housing Act 1996 (the register of social landlords)(**25**)[^{F28}, and “affordable housing” shall be construed accordingly].

(2) For the purposes of [^{F29}regulations 16(1)(c) and 16B(1)(a)], the provision of affordable housing is a specified project.

Textual Amendments

- F27** Words in reg. 17(1) substituted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **9(a)** (with reg. 1(3))
- F28** Words in reg. 17(1) added (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **9(b)** (with reg. 1(3))
- F29** Words in reg. 17(2) substituted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **9(c)** (with reg. 1(3))

Commencement Information

- I16** Reg. 17 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see **reg. 1(1)**

Regeneration projects **E+W**

18.—(1) In this regulation —

“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, unused, under-used, ineffectively used, 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.

(2) For the purposes of regulation 16(1)(c), the undertaking of a regeneration project on land situated within the area of the local authority is a specified project.

Commencement Information

- I17** Reg. 18 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see **reg. 1(1)**

(25) 1996 c. 52; section 1 was amended by section 140 of, and paragraphs 82(1)(a) and 83 of Schedule 16 and Part VI of Schedule 18 to, the Government of Wales Act 1998 (c. 38).

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Capital receipts reduced by costs of buying back “right to buy” dwellings **E+W**

19.—(1) Subject to [^{F30}paragraph (1A) and] regulation 12(5), for the purposes of calculating the amount specified in regulation 12(4)(a), a capital receipt derived from a disposal by a local authority of an interest in a dwelling, which meets the conditions specified in paragraph (2), shall be treated as reduced by an amount determined in accordance with paragraph (3).

[^{F31}(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.]

(2) For the purposes of paragraph (1), the disposal meets the conditions specified in this paragraph if—

- (a) prior to the disposal, an interest in the dwelling was disposed of by the local authority under Part V of the Housing Act 1985 (right to buy)(**26**) (“the initial sale”);
- (b) within the period of five years beginning on the date of the initial sale, the local authority reacquired that interest in the dwelling (“the repurchase”);
- (c) the disposal is made by the authority within the period of three years beginning on the date of the repurchase;
- (d) the authority makes the initial sale and the disposal by, in each case—
 - (i) conveying the freehold interest in the dwelling;
 - (ii) granting a lease of the dwelling for a term of not less than 125 years;
 - (iii) assigning its entire leasehold interest in the dwelling; or
 - (iv) granting a shared ownership lease; and
- (e) where the interest disposed of is a lease other than a shared ownership lease, the authority estimates that not less than 90 per cent. of the capital value of the lease has been, or is to be, received by it within one year of the date of the disposal.

(3) The amount of the reduction for the purposes of paragraph (1) is—

$X - Y$

where—

X is the amount of expenditure incurred by the authority on the repurchase; and

Y is the amount of the administrative costs of and incidental to the repurchase.

(4) In this regulation, “shared ownership lease” means a lease of a dwelling granted on payment to the local authority of a premium which is calculated by reference to a percentage of the value of the dwelling or of the cost of providing it, and is not less than 25 per cent. of that value or cost.

Textual Amendments

F30 Words in [reg. 19\(1\)](#) inserted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), **10(a)** (with [reg. 1\(3\)](#))

F31 [Reg. 19\(1A\)](#) inserted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), **10(b)** (with [reg. 1\(3\)](#))

Commencement Information

I18 [Reg. 19](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Capital receipts reduced by costs of buying back dwellings in the preceding year E+W

20.—(1) Subject to [^{F32}paragraph (1A) and] regulation 12(5), for the purposes of calculating the amount specified in regulation 12(4)(a), a capital receipt derived from a disposal by a local authority of an interest in a dwelling, which meets the conditions specified in paragraph (2), shall be treated as reduced by an amount determined in accordance with paragraph (3).

[^{F33}(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.]

(2) For the purposes of paragraph (1), a disposal meets the conditions specified in this paragraph if—

- (a) the authority makes the disposal by—
 - (i) conveying the freehold interest in the dwelling;
 - (ii) granting a lease of the dwelling for a term of not less than 125 years;
 - (iii) assigning its entire leasehold interest in the dwelling; or
 - (iv) granting a shared ownership lease; and
- (b) where the interest disposed of is a lease other than a shared ownership lease, the authority estimates 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 of the date of the disposal.

(3) The amount of the reduction for the purposes of paragraph (1) is—

$A - B$

where—

A is 47 per cent. of the amount, if any, by which the total net expenditure exceeds the sum of £50,000; and

B is the total amount, if any, by which capital receipts of the authority have already been reduced in the current year under this regulation.

(4) In this regulation—

“current year”, in relation to any capital receipts for a disposal, means—

- (a) in the case of notional capital receipts, the financial year in which the disposal is made; and
- (b) in any other case, the financial year in which the capital receipts are received;

“new town corporation”, “housing action trust” and “urban development corporation” have the same meaning as in section 4 of the Housing Act 1985 (other descriptions of authority)⁽²⁷⁾;

“preceding year”, in relation to any capital receipts, means the financial year immediately preceding the current year;

“shared ownership lease” has the same meaning as in regulation 19; and

“total net expenditure” is—

$C - D$

where—

- (i) C is the total amount of expenditure incurred by the local authority in the preceding year on acquiring relevant interests in land (including the administrative costs of and incidental to any such acquisitions); and

⁽²⁷⁾ Section 4 was amended by section 62(7) of the Housing Act 1988 (c. 50). There are other amendments to section 4 that are not relevant to these Regulations.

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) D is the total amount of reductions made by the authority under regulation 19 in the preceding year by virtue of expenditure on repurchases incurred in that year and administrative costs of and incidental to repurchases incurred in that year.
- (5) In this regulation, an interest in land is a relevant interest if—
 - (a) it is the freehold interest or a leasehold interest in a dwelling and is not acquired pursuant to a compulsory purchase order;
 - (b) the freehold interest or a leasehold interest in the dwelling has previously been disposed of by the authority, another local authority, a new town corporation, a housing action trust or an urban development corporation; and
 - (c) the person from whom it is acquired is not a body of persons corporate or unincorporate.

Textual Amendments

- F32** Words in [reg. 20\(1\)](#) inserted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), **11(a)** (with [reg. 1\(3\)](#))
- F33** [Reg. 20\(1A\)](#) inserted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), regs. 1(1), **11(b)** (with [reg. 1\(3\)](#))

Commencement Information

- I19** [Reg. 20](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

^{F34}Capital receipts reduced by consideration for former new town assets **E+W**

20A.—(1) Subject to ^{F35}paragraph (1A) and] regulation 12(5), for the purposes of calculating the amount specified in regulation 12(4), a capital receipt derived from a disposal by a local authority of an interest in housing land, which meets the conditions specified in paragraph (2), shall be treated as reduced by an amount determined in accordance with paragraph (3).

[
^{F36}(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.]

(2) For the purposes of paragraph (1), the disposal meets the conditions specified in this paragraph if—

- (a) the local authority acquired the interest from a new town corporation;
- (b) the new town corporation disposed of the interest pursuant to section 36 of the New Towns Act 1981 (functions of Commission) or regulations made under section 172(1) of the Local Government and Housing Act 1989 (transfer of new town housing stock); and
- (c) the whole or part of the consideration to be given by the local authority for the acquisition of the interest from the new town corporation is required to be given on the disposal of the interest by the local authority.

(3) For the purposes of paragraph (1), the amount of the reduction is an amount equal to the value of the consideration that the local authority is required to give, as described in paragraph (2)(c), on making the disposal from which the capital receipt is derived.

(4) In this regulation, “new town corporation” means the Commission for the New Towns or a development corporation, within the meaning of the New Towns Act 1981.]

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F34** Reg. 20A inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), 4
- F35** Words in reg. 20A(1) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **12(a)** (with reg. 1(3))
- F36** Reg. 20A(1A) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **12(b)** (with reg. 1(3))

Transitional reductions for debt-free authorities **E+W**

21.—(1) [^{F37}Subject to paragraph (1A),] where a local authority was a debt-free authority on 31st March 2004, for the purposes of calculating the specified amount, the capital receipt may be treated as reduced in accordance with paragraph (2).

[^{F38}(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.]

(2) Subject to regulation 12(5) and paragraph (3), after the local authority has made any reductions to the amount of the capital receipt under [^{F39}regulations 14 to 20A], the resulting amount of the capital receipt may be treated as further reduced—

- (a) in relation to any capital receipt received in the financial year beginning on 1st April 2004, by up to 75%;
 - (b) in relation to any capital receipt received in the financial year beginning on 1st April 2005, by up to 50%; and
 - (c) in relation to any capital receipt received in the financial year beginning on 1st April 2006, by up to 25%.
- (3) The total amount of—
- (a) any reduction to a capital receipt calculated under paragraph (2), in relation to a financial year in which the capital receipt was received; and
 - (b) any reductions previously made under paragraph (2) in relation to that financial year,

shall not exceed the total amount of housing expenditure which the local authority, at the time when the reduction referred to in sub-paragraph (a) is calculated, has incurred in that financial year or has decided in that financial year to incur but has not yet incurred.

(4) In this regulation—

“housing expenditure” means expenditure incurred or to be incurred by the local authority when discharging functions in its capacity as local housing authority; and

“local housing authority” has the same meaning as in section 1 of the Housing Act 1985 (local housing authorities)(**28**).

Textual Amendments

- F37** Words in reg. 21(1) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **13(a)** (with reg. 1(3))
- F38** Reg. 21(1A) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **13(b)** (with reg. 1(3))

(28) 1985 c. 68; there are amendments to section 1 which are not relevant to these Regulations.

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F39 Words in [reg. 21\(2\)](#) substituted (1.4.2006) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2006 \(S.I. 2006/521\)](#), [regs. 1\(1\), 13\(c\)](#) (with [reg. 1\(3\)](#))

Commencement Information

I20 [Reg. 21](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Non-money receipts **E+W**

22.—(1) Subject to paragraphs (2) to (4), where on or after 1st April 2004 a local authority makes a disposal, other than a qualifying disposal [^{F40}or a small scale disposal], of an interest in housing land—

- (a) which is a disposal of the kind mentioned in section 9(1) (capital receipt) and the consideration for the disposal does not consist wholly of money payable to the authority; or
- (b) in respect of which the authority receives otherwise than in the form of money any consideration which, if received in that form, would be a capital receipt under section 9,

the authority shall determine the amount (the “notional capital receipt”) which would have been the capital receipt if the consideration for the disposal had been wholly in money payable to the authority.

(2) Where money is payable to the authority in respect of the disposal, the notional capital receipt shall be determined by deducting the amount of that money from the amount which would have been the capital receipt if the consideration for the disposal had been wholly in money payable to the authority.

(3) Where the consideration for the disposal, or part of the consideration, consists of —

- (a) the grant of a right to the local authority to nominate a person either to occupy any dwelling or to acquire the freehold of, or a leasehold interest in, any dwelling; or
- (b) an undertaking given to the local authority to allow only a person of a particular description to occupy any dwelling or acquire the freehold of, or a leasehold interest in, any dwelling,

the amount of the notional capital receipt in respect of that consideration or that part of the consideration, as the case may be, shall be treated as nil.

(4) For the purposes of determining the notional capital receipt for a disposal, the consideration for the disposal shall be deemed to be received by the authority at the time that the authority makes the disposal.

(5) For the purposes of Chapter 1 of Part 1, a notional capital receipt shall be treated as a capital receipt and the amount specified in regulation 12(4) shall be calculated accordingly.

Textual Amendments

F40 Words in [reg. 22\(1\)](#) inserted (16.12.2004) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) \(No. 2\) Regulations 2004 \(S.I. 2004/3055\)](#), [regs. 1\(1\), 5](#)

Commencement Information

I21 [Reg. 22](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

MISCELLANEOUS

Use of capital receipts **E+W**

23. Capital receipts may only be used for one or more of the following purposes—

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) to meet capital expenditure;
 - (b) to repay the principal of any amount borrowed;
 - (c) to pay a premium charged in relation to any amount borrowed;
 - (d) to meet any liability in respect of credit arrangements, other than any liability which, in accordance with proper practices, must be charged to a revenue account;
 - (e) to meet the administrative costs of or incidental to a disposal of an interest in housing land; or
 - (f) to make a payment to the Secretary of State under regulation 12 or 13 [^{F41}; or]
- [^{F42}(g) where the capital receipts are derived from a Social HomeBuy disposal—
- (i) to make contributions towards the costs of the provision of affordable housing by any of the ways specified in paragraphs (i) to (vi) of regulation 16B(1)(a); or
 - (ii) to incur expenditure by any of the ways specified in paragraphs (i) to (iv) of regulation 16B(1)(b).]

Textual Amendments

- F41** Word in reg. 23(f) inserted (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **14(a)** (with reg. 1(3))
- F42** Reg. 23(g) added (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), regs. 1(1), **14(b)** (with reg. 1(3))

Commencement Information

- I22** Reg. 23 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

PART 5 **E+W**

SUPPLEMENTARY

Guidance **E+W**

24. In carrying out its functions under Chapter 1 of Part 1, a local authority shall have regard to the code of practice contained in the document entitled “Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes” published by CIPFA, as amended or reissued from time to time(**29**).

Commencement Information

- I23** Reg. 24 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Expenditure to be capital expenditure **E+W**

25.—(1) For the purposes of Chapter 1 of Part 1 the following expenditure of a local authority, incurred on or after 1st April 2004, shall be treated as being capital expenditure insofar as it is not capital expenditure by virtue of section 16(1) —

(29) The current issue of this document was published in London in 2001. ISBN 0 85299 943 7.

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) expenditure incurred on the acquisition or preparation of a computer program, including expenditure on the acquisition of a right to use the program, if the authority acquire or prepare the program for use for a period of at least one year for any purpose relevant to its functions;
 - (b) subject to paragraph (2), the giving of a loan, grant or other financial assistance to any person, whether for use by that person or by a third party, towards expenditure which would, if incurred by the authority, be capital expenditure;
 - (c) the repayment of any grant or other financial assistance given to the local authority for the purposes of expenditure which is capital expenditure;
 - (d) [^{F43}subject to paragraph (3),] the acquisition of share capital or loan capital in any body corporate; ^{F44} ...
 - (e) expenditure incurred on works to any land or building in which the local authority does not have an interest, which would be capital expenditure if the local authority had an interest in that land or building [^{F45}; and
 - (f) the payment of any levy by a local authority under section 136 of the Leasehold Reform Housing and Urban Development Act 1993 (levy on disposals)].
- (2) Where the expenditure referred to in paragraph (1)(b) is a loan given by a parish council or charter trustees to any person, it shall not be treated as being capital expenditure by virtue of this regulation.

[^{F46}(3) Where the expenditure referred to in paragraph (1)(d) is—

- (a) an investment in a money market fund; or
- (b) the acquisition of loan capital in—
 - (i) a multilateral development bank; or
 - (ii) a financial institution that is guaranteed by the United Kingdom Government,

It shall not be treated as being capital expenditure by virtue of this regulation.]

Textual Amendments

- F43** Words in [reg. 25\(1\)\(d\)](#) inserted (1.4.2004) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2004 \(S.I. 2004/534\)](#), regs. 1(1), **5(1)(a)(i)**
- F44** Word in [reg. 25\(1\)\(d\)](#) omitted (1.4.2004) by virtue of [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2004 \(S.I. 2004/534\)](#), regs. 1(1), **5(1)(a)(ii)**
- F45** [Reg. 25\(1\)\(f\)](#) and word added (1.4.2004) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2004 \(S.I. 2004/534\)](#), regs. 1(1), **5(1)(b)**
- F46** [Reg. 25\(3\)](#) added (1.4.2004) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2004 \(S.I. 2004/534\)](#), regs. 1(1), **5(1)(c)**

Commencement Information

- I24** [Reg. 25](#) in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Expenditure not to be capital expenditure **E+W**

26. Expenditure incurred by a local authority on the giving of loans, grants or other financial assistance—

- (a) to an officer of the authority pursuant to the terms and conditions of his employment; or
- (b) in connection with the appointment of a person as an officer of the authority, to that person,

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

in so far as, apart from this regulation, it would be capital expenditure, shall be treated for the purposes of Chapter 1 of Part 1 as not being capital expenditure.

Commencement Information

I25 Reg. 26 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

PART 6 E+W

REVENUE PROVISION

Duty to make revenue provision E+W

27.—(1) During the financial year beginning on 1st April 2004 and every subsequent financial year, a local authority—

- (a) shall charge to a revenue account a minimum amount (“minimum revenue provision”) for that financial year; and
- (b) may charge to a revenue account any amount in addition to the minimum revenue provision,

in respect of the financing of capital expenditure incurred by the local authority in that year or in any financial year prior to that year.

(2) During the financial year beginning on 1st April 2004 and every subsequent financial year, a parish council or charter trustees may charge to a revenue account any amount in respect of the financing of capital expenditure incurred by the parish council or the charter trustees, as the case may be, in that year.

Commencement Information

I26 Reg. 27 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

[^{F47} Calculation of minimum revenue provision E+W

28.—(1) Subject to paragraphs (3) and (9) and to regulation 29, where a local authority’s preceding CFR, taking into account any reductions made in accordance with paragraphs (4) and (8), is an amount greater than nil, the minimum revenue provision calculated by the authority for the current financial year shall be four per cent of that amount.

(2) Where a local authority’s preceding CFR, taking into account any reductions made in accordance with paragraphs (4) and (8), is nil or a negative amount, its minimum revenue provision for the current financial year shall be nil.

(3) Where the amount calculated by the local authority as its minimum revenue provision for the current financial year, taking into account any reductions made in accordance with paragraph (9) and regulation 29, is nil or a negative amount, the minimum revenue provision for the current financial year shall be nil.

(4) The local authority shall treat its preceding CFR as reduced, for the purposes of calculating the amount of its minimum revenue provision for the current financial year, by—

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) where the amount of its housing CFR on 31st March 2004 is greater than nil, that amount; and
 - (b) where the amount of its housing CFR on 31st March of the preceding financial year is greater than the amount of its housing CFR on 31st March 2004, the amount of the difference.
- (5) Where the local authority—
- (a) incurred capital expenditure (“the relevant expenditure”) on an asset (“the relevant asset”), which was not capital expenditure on housing assets;
 - (b) incurred the relevant expenditure in a financial year beginning on or after 1st April 2006 but before the current financial year; and
 - (c) financed the relevant expenditure by borrowing or credit arrangements,
- and either paragraph (6) or paragraph (7) applies, then paragraph (8) shall apply.
- (6) This paragraph applies where the local authority charged to a revenue account, for the preceding financial year, an amount in respect of the financing of the relevant expenditure which—
- (a) was in addition to the minimum revenue provision for the preceding financial year; and
 - (b) was equal to the amount which the authority was required by proper practices to charge to its income and expenditure account in the preceding financial year in respect of amortisation, depreciation and impairment of the relevant asset.
- (7) This paragraph applies where the local authority—
- (a) did not charge to a revenue account, for the preceding financial year, an amount in respect of the financing of the relevant expenditure in addition to the minimum revenue provision for the preceding financial year; and
 - (b) was not required by proper practices to charge an amount to its income and expenditure account in the preceding financial year in respect of amortisation, depreciation or impairment of the relevant asset.
- (8) Where this paragraph applies, the local authority may treat its preceding CFR as reduced, for the purposes of calculating the amount of its minimum revenue provision for the current financial year, by the amount by which its capital financing requirement increased in the preceding financial year by virtue of the relevant expenditure on the relevant asset.
- (9) Where four per cent of the local authority’s non-housing CFR on 31st March 2004 is greater than the amount specified in paragraph (10), the authority may reduce the minimum revenue provision for the current financial year by the amount of the difference.
- (10) The amount specified for the purposes of paragraph (9) is the amount of the minimum revenue provision that the local authority would have been required to make for the financial year beginning on 1st April 2004 in accordance with Part IV of, and Schedule 3 to, the Local Government and Housing Act 1989 if that Part and that Schedule had not been repealed by the Local Government Act 2003.
- (11) In this regulation—
- “capital financing requirement” has the same meaning as in the “Prudential Code for Capital Finance in Local Authorities” published by CIPFA;
 - “current financial year” means any financial year for which the local authority is determining the amount of its minimum revenue provision;
 - “housing assets” means any land, houses or other property to which subsection (1) of section 74 of the Local Government and Housing Act 1989 (duty to keep Housing Revenue Account) for the time being applies;

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“housing CFR” means that part, if any, of the capital financing requirement which is in respect of borrowing or credit arrangements used to finance capital expenditure on housing assets;

“non-housing CFR” means that part of the capital financing requirement which is not housing CFR;

“preceding CFR” means capital financing requirement at the end of the preceding financial year; and

“preceding financial year” means the financial year immediately preceding the current financial year.]

Textual Amendments

F47 Reg. 28 substituted (30.3.2007) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2007 \(S.I. 2007/573\)](#), regs. 1(1), **3(1)** (with regs. 1(3), 3(3))

Commencement Information

I27 Reg. 28 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Commutation adjustment **E+W**

29.—(1) Subject to paragraph (2), where a commuted payment was made to or for the benefit of a local authority in the financial year beginning on 1st April 1992, the local authority may reduce the amount of its minimum revenue provision for the current financial year, calculated in accordance with regulation 28, by an amount calculated in accordance with the following formula—

$$G - (I - M)$$

where—

G is the total amount of contributions, grants and subsidies which would have been payable to the local authority by the Secretary of State for the current financial year but for commutation;

I is the total of—

- (a) the amount by which interest, payable by the local authority in the current financial year on loans, is reduced; and
- (b) the amount by which interest, payable to the local authority in the current financial year on deposits and investments, is increased,

by virtue of commutation; and

M is the amount of minimum revenue provision for the current financial year which would have been calculated by the local authority in accordance with regulation 28 but for commutation, less the amount of minimum revenue provision for the current financial year actually calculated in accordance with regulation 28.

(2) Where the amount calculated in accordance with the formula in paragraph (1) is a negative amount, that amount shall be treated as nil.

(3) For the purposes of paragraph (1)—

“commutation” means the making of a commuted payment to, or for the benefit of, a local authority in the financial year beginning on 1st April 1992;

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“commuted payment” has the same meaning as that term had on 31st March 2004 in section 157 of the Local Government and Housing Act 1989 (commutation of, and interest on, periodic payments of grants etc.)(30); and

“current financial year” has the same meaning as in regulation 28(4).

Commencement Information

I28 Reg. 29 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

PART 7 **E+W**

ACCOUNTS

Retirement benefits **E+W**

30. For a financial year beginning on or after 1st April 2004, a local authority shall charge to a revenue account an amount equal to the retirement benefits payments and contributions to pension funds which are payable for that financial year in accordance with the legislation specified in sub-paragraphs (a) and (c) to (h), and the scheme specified in sub-paragraph (b), of regulation 4(2).

Commencement Information

I29 Reg. 30 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

^{F48}Back payment following unequal pay **E+W**

30A.—(1) For the purposes of this regulation—

- (a) a reference to an employee of a local authority includes a reference to a former employee, an officer or a former officer of the authority;
- (b) a reference to the contract under which an employee was or is employed includes a reference to the terms of appointment under which an officer held or holds office; and
- (c) an employee of a local authority received unequal pay when the amount of pay he received from the authority for work done by him during a particular period is less than the appropriate amount of pay for that work done during that period.

(2) In this regulation—

“appropriate amount of pay”, in relation to an employee of a local authority, means the amount of pay to which the employee is entitled in accordance with any equality clause deemed to be included, by virtue of section 1(1) of the Equal Pay Act 1970, in the contract under which he was or is employed;

“back payment” means a payment of arrears of remuneration made by a local authority, for work—

- (a) done by an employee of the authority;

(30) Section 157 was amended by paragraph 43 of Schedule 4 to the Police and Magistrates' Courts Act 1994 (c. 29) and by section 103 of, and paragraph 1(2)(zd) of Schedule 7 to, the Police Act 1997 (c. 16); there are other amendments to section 157 that are not relevant to these Regulations.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in respect of which the employee received unequal pay; and
- (c) done before the employee first receives any increase in pay as a result of receiving that unequal pay,

which is paid to the employee, or part of which is paid to the employee (“the net payment”) and part of which is paid to another person on behalf of the employee (“relevant deductions”), because the employee received unequal pay for that work; and

“social security costs” means any contributions by a local authority to any state social security or pension scheme, fund or arrangement.

(3) Where a local authority—

- (a) is required by an employment tribunal or a court to make a back payment;
- (b) (i) considers that it is probable that an employment tribunal or a court will require it to make a back payment; and
 - (ii) is able to make a reasonable estimate of the amount of such back payment;
- (c) has reached an agreement or otherwise determined to make a back payment; or
- (d) (i) considers that it is probable that it will reach an agreement or otherwise determine to make a back payment; and
 - (ii) is able to make a reasonable estimate of the amount of such back payment;

paragraph (4) shall apply.

(4) Where this paragraph applies, the authority need not charge to a revenue account an amount in respect of—

- (a) the back payment; or
- (b) social security costs or other costs incurred by the authority in relation to that back payment,

until the date on which the authority must pay that back payment, or the net payment, to the employee (as required by the tribunal or court or in accordance with the agreement or determination, as the case may be).]

Textual Amendments

F48 Reg. 30A inserted (30.3.2007) by [The Local Authorities \(Capital Finance and Accounting\) \(Amendment\) \(England\) Regulations 2007 \(S.I. 2007/573\)](#), regs. 1(1), **5(2)**

Proper practices **E+W**

31. For the purposes of section 21(2) (accounting practices) the accounting practices contained in the following codes of practice and guide are proper practices—

- (a) “A Statement of Recommended Practice: Code of Practice on Local Authority Accounting in the United Kingdom” published by CIPFA, as amended or reissued from time to time(**31**);
- (b) “Best Value Accounting Code of Practice” published by CIPFA, as amended or reissued from time to time(**32**); and
- (c) in relation to parish councils only, “Governance and Accountability in Local Councils in England and Wales: A Practitioners' Guide 2003 Edition” published jointly by the National

(31) The current issue of this code of practice was published in London in 2003. ISBN 0 85299 981 X.

(32) The current issue of this code of practice was published in London in 2003. ISBN 0 85299 975 5.

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Association of Local Councils and the Society of Local Council Clerks, as amended or reissued from time to time(33).

Commencement Information

I30 Reg. 31 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

PART 8 **E+W**

MISCELLANEOUS PROVISIONS

Local authorities for the purposes of Part 1 of the Local Government Act 2003 – levying bodies **E+W**

32. The following levying bodies, within the meaning of section 74 of the Local Government Finance Act 1988 (levies)(34), are specified for the purposes of section 23(1)(o) (local authorities for the purposes of Part 1)—

- (a) the Broads Authority(35);
- (b) the Lee Valley Regional Park Authority(36);
- (c) a National Park authority(37);
- (d) the London Pensions Fund Authority(38); and
- (e) the South Yorkshire Pensions Authority(39).

Commencement Information

I31 Reg. 32 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see [reg. 1\(1\)](#)

Use of amounts set aside under the Local Government and Housing Act 1989 **E+W**

33.—(1) [^{F49}Subject to paragraph (4),] any local authority—

- (a) whose credit ceiling on 31st March 2004, as determined under Part III of Schedule 3 to the Local Government and Housing Act 1989 (provisions supplementing Part IV – credit ceiling)(40), was a negative amount; and
- (b) who was a debt-free authority on that date,

may treat [^{F50}the whole or part of] the amount specified in paragraph (2) as if it were a capital receipt to which regulation 23 applies.

(2) Subject to paragraph (3), the amount specified is the amount which was, on 31st March 2004, the amount set aside by the authority (whether voluntarily or pursuant to a requirement under Part

(33) The current issue of this guide was published in Taunton in 2003.

(34) 1988 c. 41; there are amendments to section 74 which are not relevant to these Regulations.

(35) The Broads Authority was established by section 1 of the Norfolk and Suffolk Broads Act 1988 (c. 4).

(36) The Lee Valley Regional Park Authority was established by the [Lee Valley Regional Park Act 1966](#) (c. xli).

(37) National Park authorities are established under section 63 of the Environment Act 1995 (c. 25).

(38) The London Pensions Fund Authority was established by [S.I. 1989/1815](#).

(39) The South Yorkshire Pensions Authority was established by [S.I. 1987/2110](#).

(40) 1989 c. 42.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

IV of the Local Government and Housing Act 1989 (revenue accounts and capital finance of local authorities)) as provision to meet credit liabilities.

(3) The amount specified in paragraph (2) shall not exceed the amount by which the local authority's credit ceiling on 31st March 2004 was less than nil.

[^{F51}(4) Any decision to treat the whole or part of the amount specified in paragraph (2) as if it were a capital receipt, by virtue of paragraph (1), shall be made by the local authority before 1st October 2005.

(5) Any amount treated as if it were a capital receipt, by virtue of paragraph (1), shall be treated as if it were received during the financial year beginning on 1st April 2004.]

Textual Amendments

- F49** Words in reg. 33(1) inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **7(a)(i)**
- F50** Words in reg. 33(1) inserted (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **7(a)(ii)**
- F51** Reg. 33(4)(5) added (16.12.2004) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) (No. 2) Regulations 2004 (S.I. 2004/3055), regs. 1(1), **7(b)**

Commencement Information

- I32** Reg. 33 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see **reg. 1(1)**

Loans to qualifying local government bodies **E+W**

34. For the purposes of paragraph 4 of Schedule 1 (loans by parish councils and charter trustees) any local authority which is a local authority for the purposes of Part 1 or Schedule 1 is specified as a qualifying local government body.

Commencement Information

- I33** Reg. 34 in force at 1.1.2004 for specified purposes and 1.4.2004 in so far as not already in force, see **reg. 1(1)**

Signed by authority of the First Secretary of State

3rd December 2003

Nick Raynsford
Minister of State,
Office of the Deputy Prime Minister

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F52}SCHEDULE E+W

Regulation 1(5)

Social HomeBuy disposal

Textual Amendments

F52 Sch. added (1.4.2006) by The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 (S.I. 2006/521), reg. 1(1), **Sch.** (with reg. 1(3))

1. A Social HomeBuy disposal is—
 - (a) the grant of a long lease of a dwelling in accordance with paragraphs 2 to 8; or
 - (b) following such a grant, each subsequent disposal in relation to that dwelling that is made in accordance with paragraphs 9 to 11.
2. The local authority—
 - (a) owns the freehold interest in a dwelling (“the freehold”) and grants a lease of the dwelling to a purchaser (“the lease”); or
 - (b) owns a leasehold interest in a dwelling and grants a sublease of the dwelling to a purchaser (“the sublease”).
3. The lease or the sublease, as the case may be, is a long lease (“the long lease”).
4. Immediately before the grant of the long lease, the purchaser is a secure tenant of the local authority.
5. The purchaser pays to the local authority a premium for the grant of the long lease (“the initial premium”), subject to any discount to which the purchaser is entitled.
6. The initial premium is calculated by reference to a percentage (“the initial percentage”) of the value of the dwelling or of the cost of providing it.
7. The initial percentage is at least 25 per cent.
8. The long lease includes provisions regarding the making by the local authority of a subsequent disposal of an interest in the dwelling to the purchaser in return for a further premium.
9. Where there is a subsequent disposal of an interest in the dwelling to the purchaser, the purchaser pays to the local authority the further premium, subject to any discount to which the purchaser is entitled.
10. The further premium is calculated by reference to a percentage (a “further percentage”) of the value of the dwelling or the cost of providing it.
11. Any further percentage is at least 10 per cent.
12. References in this Schedule to a purchaser, in relation to a dwelling, include the successors in title of the purchaser’s interests in that dwelling.]

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provisions for capital finance and accounts under Part 1 of the Local Government Act 2003 (“the 2003 Act”). The capital finance provisions in and under Part IV of the Local Government and Housing Act 1989 (including the Local Authorities (Capital Finance) Regulations 1997) are repealed or revoked, as the case may be, on or before 1st April 2004 by virtue of the 2003 Act, with savings and transitional provisions (*see* the Local Government Act 2003 (Commencement No. 1 and Transitional Provisions and Savings) Order 2003).

These Regulations apply only in relation to local authorities in England. Some of the provisions do not apply in relation to parish councils and charter trustees (**regulation 1**).

Regulation 2 requires a local authority and the Mayor of London to have regard to the “Prudential Code for Capital Finance in Local Authorities” when determining, under section 3 of the 2003 Act, how much money they can afford to borrow.

Regulations 3 and 4 make provision excluding certain liabilities from the definition of “qualifying liabilities”, under section 7 of the 2003 Act, so that certain transactions are not credit arrangements.

Regulation 5 makes provision for varied transactions to be credit arrangements and **regulation 6** sets out how the cost of credit arrangements are to be calculated.

Regulations 7 to 11 provide for certain sums received by a local authority to be treated, or not to be treated, as capital receipts.

Regulation 12 makes provision requiring a specified amount of capital receipts from disposals of housing land, other than qualifying disposals, to be paid to the Secretary of State. This is subject to certain reductions (**regulations 14 to 21**). Interest is payable (out of capital receipts) to the Secretary of State on late payments of the specified amount (**regulation 13**). **Regulation 22** provides for the calculation of notional capital receipts where the consideration for a disposal of housing land does not consist wholly of money.

Regulation 23 provides that capital receipts may only be used for specified purposes.

In carrying out its capital finance functions, a local authority must have regard to the code of practice in “Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes” (**regulation 24**).

Regulations 25 and 26 provide for expenditure which is, and which is not, to be treated as capital expenditure for the purposes of Chapter 1 of Part 1 of the 2003 Act.

Regulation 27 provides that local authorities must charge to a revenue account a minimum amount (“minimum revenue provision”), and may charge to a revenue account an additional amount, in respect of the financing of capital expenditure. The minimum revenue provision is calculated in accordance with **regulations 28 to 29**. Parish councils and charter trustees may charge to a revenue account any amount in respect of the financing of capital expenditure (**regulation 27(2)**).

Regulation 30 requires a local authority to charge to a revenue account for a financial year an amount equal to retirement benefits payments and contributions to pension funds payable for that year.

For the purposes of the definition of “proper practices” in section 21 of the 2003 Act, **regulation 31** identifies certain documents that contain accounting practices.

Regulation 32 specifies certain levying bodies that are to be local authorities for the purposes of Part 1 of the 2003 Act.

Status: Point in time view as at 30/03/2007.

Changes to legislation: The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Under **regulation 33**, a debt-free local authority with a negative credit ceiling on 31st March 2004, may use the amount, which on that date was the amount it set aside as provision to meet credit liabilities under the Local Government and Housing Act 1989, as if it were a capital receipt to which regulation 23 applies. The amount may not exceed the amount by which the authority's credit ceiling was less than nil.

Any local authority which is a local authority for the purposes of Part 1 of, or Schedule 1 to, the 2003 Act is specified by **regulation 34** as a qualifying local government body for the purposes of paragraph 4 of Schedule 1 (loans by parish councils and charter trustees).

The following documents may be obtained either by post from CIPFA, 3 Robert Street, London WC2N 6RL or from their website at www.cipfa.org.uk/shop:

- (a) The "Prudential Code for Capital Finance in Local Authorities";
- (b) The "Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes";
- (c) "A Statement of Recommended Practice: Code of Practice on Local Authority Accounting in the United Kingdom"; and
- (d) "Best Value Accounting Code of Practice".

"Governance and Accountability in Local Councils in England and Wales: A Practitioners' Guide 2003 Edition" may be obtained by post from the Society of Local Council Clerks, 1 The Crescent, Taunton, Somerset TA1 4EA.

The Item 8 Credit and Item 8 Debit (General) Determination 2003-2004 may be obtained by post from ODPM, Local Housing Authority Division, Zone 2/J3, Eland House, Bressenden Place, London SW1E 5DU.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies.

Status:

Point in time view as at 30/03/2007.

Changes to legislation:

The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.