

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 02 July 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) View outstanding changes

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of the Local Government and Housing Act 1989 (including the Local Authorities (Capital Finance) Regulations 1997) are repealed or revoked, as the case may be, on or before 1st April 2004 by virtue of the 2003 Act, with savings and transitional provisions (*see* the Local Government Act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.

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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.

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Changes and effects yet to be applied to :

- reg. 1(3) words inserted by [S.I. 2024/478 reg. 2\(2\)\(a\)](#)
- reg. 27 substituted by [S.I. 2024/478 reg. 2\(3\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 1(3A) substituted by [S.I. 2024/478 reg. 2\(2\)\(b\)](#)
- reg. 28(4)-(7) inserted by [S.I. 2024/478 reg. 2\(4\)\(c\)](#)