
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision consequential on Part 1 of the Local Government Act 2003 (capital finance etc and accounts) (“the 2003 Act”) and related provisions in that Act. Part 1 of the 2003 Act replaces the old capital finance system under Part IV of the Local Government and Housing Act 1989 (“the 1989 Act”) that was repealed on 1st April 2004. This Order extends to England and Wales.

Article 3 revokes the Local Government Changes for England (Capital Finance) Regulations 1995, and provisions that amended those Regulations. They made provision of general application, for the purposes or in consequence of orders effecting local government changes in England (under Part II of the Local Government Act 1992), with respect to the application of Part IV of the 1989 Act and regulations made under Part IV.

Article 4 revokes the Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995, and provisions that amended those Regulations. This is subject to savings for the purposes of any outstanding payments to be made by a participant authority to a designated authority under those Regulations. The Regulations, to the extent saved, are amended to take into account the new provisions in and under Part 1 of the 2003 Act.

Article 5 amends the Local Authorities (Contracting Out of Investment Functions) Order 1996 to take into account the new provisions in and under Part 1 of the 2003 Act. In particular, references to approved investments are omitted and there is a requirement for investments to be those that a local authority is permitted to make under section 12 of the 2003 Act.

Articles 6 and 7 amend the Uncertificated Securities Regulations 2001 and the Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003. These Regulations make provision for various financial instruments to be held and transferred by electronic means rather than in paper form. References in these Regulations to the 1989 Act and secondary legislation made under the 1989 Act, in particular those regarding loan instruments which had to be registered under the 1989 Act, are revoked.

In article 7, savings are made in relation to the definition of “approved investments”, so that it continues to include uncertificated units of eligible Treasury bills and uncertificated units of a dematerialised loan instrument, for the purposes of transitional provisions and savings in respect of Part IV of the 1989 Act. There is also a saving so that a reference to a loan instrument includes a reference to uncertificated units of a dematerialised loan instrument. This saving is for the purposes of the meaning of expenditure for capital purposes (which includes expenditure of a local authority that is incidental to the issue of a loan instrument) under section 40 of the 1989 Act. Section 40 still has effect in relation to expenditure incurred before 1st April 2004.

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.