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STATUTORY INSTRUMENTS

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**2006 No. 521**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006**

<i>Made</i>	- - - -	<i>1st March 2006</i>
<i>Laid before Parliament</i>		<i>8th March 2006</i>
<i>Coming into force</i>		
<i>for the purposes of</i>		
<i>regulations 1 and 15</i>		<i>31st March 2006</i>
<i>for all other purposes</i>		<i>1st April 2006</i>

The Secretary of State, in exercise of the powers conferred by sections 9(3), 11, 21(1) and 123(1) and (2) of the Local Government Act 2003<sup>(1)</sup>, makes the following Regulations:

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2006 and shall come into force for the purposes of this regulation and regulation 15 on 31st March 2006 and for all other purposes on 1st April 2006.

(2) These Regulations apply only in relation to local authorities in England<sup>(2)</sup>.

(3) These Regulations do not apply to parish councils and charter trustees<sup>(3)</sup>.

(4) In these Regulations, “the Principal Regulations” means the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003<sup>(4)</sup>.

**Interpretation**

2.—(1) In regulation 1 of the Principal Regulations (interpretation), in paragraph (5)—

(a) after the definition of “the 1993 Act”, there shall be inserted—

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(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.

(3) As regards the application of Part 1 of the Local Government Act 2003 to parish councils and charter trustees, *see* sections 19, 21(6) and 22(6) of that Act. *See* also regulation 1(3) of the Principal Regulations which provides for certain regulations not to apply to parish councils and charter trustees.

(4) S.I.2003/3146, as amended by S.I. 2004/534 and 2004/3055.

““affordable housing” and “provision of affordable housing” have the meaning given in regulation 17;”;

(b) after the definition of “associates”, there shall be inserted—

““available capital allowance” has the meaning given in regulation 15;

“available Social HomeBuy allowance” has the meaning given in regulation 16A;”;

and

(c) after the definition of “small scale disposal”, there shall be inserted—

““Social HomeBuy disposal” has the meaning given in the Schedule;”.

(2) At the end of the Principal Regulations, there shall be added the Schedule which is set out in the Schedule to these Regulations.

### **Social HomeBuy receipts**

3. After regulation 9 of the Principal Regulations (payment made to redeem landlord’s share), there shall be inserted—

#### **“Social HomeBuy receipts**

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.”.

### **Capital receipts not exceeding £10,000**

4. In regulation 10 of the Principal Regulations (capital receipts not exceeding £10,000)—

(a) at the beginning of paragraphs (1) and (5) there shall be inserted, in each case, “Subject to paragraph (7),”; and

(b) after paragraph (6), there shall be added—

“(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.”.

### **Pooling of receipts from disposals of housing land**

5. In paragraph (4) of regulation 12 of the Principal Regulations (pooling of receipts from disposals of housing land), after sub-paragraph (a), there shall be inserted—

“(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”.

### **Capital receipt treated as reduced**

6. In regulation 14 of the Principal Regulations (capital receipt treated as reduced)—

(a) in paragraph (1), for “paragraph (2)” there shall be substituted “paragraphs (2) to (2C)”;

(b) at the end of paragraph (1), there shall be inserted—

“; 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.”; and
- (c) after paragraph (2), there shall be inserted—
  - “(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)(5); 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.”.

### **Total capital allowance**

- 7. In regulation 16 of the Principal Regulations (total capital allowance)—
  - (a) at the beginning of paragraph (1), there shall be inserted “Subject to paragraphs (3) and (4),”; and
  - (b) at the end, there shall be added—
    - “(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.”.

### **Social HomeBuy allowance**

- 8. After regulation 16 of the Principal Regulations (total capital allowance), there shall be inserted—

#### **“Available Social HomeBuy allowance**

**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.

### **Total Social HomeBuy allowance**

**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)<sup>(6)</sup> 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;”.

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<sup>(6)</sup> 1988 c. 50. Section 129 was amended by S.I. 2003/986 and section 194 of, and Schedule 12 to, the Local Government and Housing Act 1989 (c. 42).

### **Provision of affordable housing**

- 9.** In regulation 17 of the Principal Regulations (provision of affordable housing)—
- (a) at the beginning of paragraph (1), for “In this regulation” there shall be substituted “In these Regulations”;
  - (b) at the end of paragraph (1), there shall be added “, and “affordable housing” shall be construed accordingly“; and
  - (c) in paragraph (2), for “regulation 16(1)(c)” there shall be substituted “regulations 16(1)(c) and 16B(1)(a)”.

### **Capital receipts reduced by costs of buying back “right to buy” dwellings**

- 10.** In regulation 19 of the Principal Regulations (capital receipts reduced by costs of buying back “right to buy” dwellings)—
- (a) in paragraph (1), after “Subject to”, there shall be inserted “paragraph (1A) and”; and
  - (b) after paragraph (1), there shall be inserted—
    - “(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.”.

### **Capital receipts reduced by costs of buying back dwellings in preceding year**

- 11.** In regulation 20 of the Principal Regulations (capital receipts reduced by costs of buying back dwellings in preceding year)—
- (a) in paragraph (1), after “Subject to”, there shall be inserted “paragraph (1A) and”; and
  - (b) after paragraph (1), there shall be inserted—
    - “(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.”.

### **Capital receipts reduced by consideration for former new town assets**

- 12.** In regulation 20A of the Principal Regulations (capital receipts reduced by consideration for former new town assets)(7)—
- (a) in paragraph (1), after “Subject to”, there shall be inserted “paragraph (1A) and”; and
  - (b) after paragraph (1), there shall be inserted—
    - “(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.”.

### **Transitional reductions for debt-free authorities**

- 13.** In regulation 21 of the Principal Regulations (transitional reductions for debt-free authorities)
- (a) at the beginning of paragraph (1), there shall be inserted “Subject to paragraph (1A),”;
  - (b) after paragraph (1), there shall be inserted—
    - “(1A) This regulation does not apply to a capital receipt derived from a Social HomeBuy disposal.”; and
  - (c) in paragraph (2), for “regulations 14 to 20”, there shall be substituted “regulations 14 to 20A”.

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(7) Regulation 20A was inserted by S.I. [2004/3055](#).

### Use of capital receipts

14. In regulation 23 of the Principal Regulations (use of capital receipts)—
- (a) at the end of sub-paragraph (f), there shall be inserted “; or”; and
  - (b) at the end, there shall be added—
    - “(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).”.

### Calculation of minimum revenue provision

15. In regulation 28 of the Principal Regulations (calculation of minimum revenue provision)—
- (a) in paragraph (1), for the definition of HC, there shall be substituted—

“HC is to be calculated in accordance with the formula  $HD - HE$ .”; and
  - (b) after paragraph (1A)(8), there shall be inserted—

“(1B) For the purposes of the definition of HC in paragraph (1)—

    - (a) HD is—
      - (i) in the case of a housing authority, the opening HRA capital financing requirement for the current financial year; and
      - (ii) in the case of any other local authority, nil; and
    - (b) HE is—
      - (i) in the case of a housing authority whose opening HRA capital financing requirement for the financial year beginning on 1st April 2004 was a negative amount, that amount; and
      - (ii) in the case of any other local authority, nil.”.

Signed by authority of the First Secretary of State

1st March 2006

*Phil Woolas*  
Minister of State  
Office of the Deputy Prime Minister

SCHEDULE

Regulation 2(2)

Social HomeBuy disposal

“SCHEDULE

Regulation 1(5)

Social HomeBuy disposal

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.”

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (“the Principal Regulations”) and apply only in relation to local authorities in England. They do not apply to parish councils or charter trustees.

Regulation 2 makes some minor amendments to the interpretation provisions in regulation 1(5) of the Principal Regulations and inserts a Schedule at the end of the Principal Regulations, set out in the Schedule to these Regulations, which defines a “Social HomeBuy disposal”. This is a disposal of a dwelling, by a local authority to a secure tenant, where the purchaser pays an initial premium for the grant of a long lease. The long lease includes provisions regarding the making by the local authority of one or more subsequent disposals of interests in the dwelling for further premiums. Any such subsequent disposal is also a Social HomeBuy disposal. The premiums are calculated by reference to a percentage (at least 25 per cent for the initial premium and at least 10 per cent for any further premium) of the value of the dwelling or the cost of providing it.

Regulation 3 inserts a new regulation 9A in the Principal Regulations. This provides that a premium received by a local authority in respect of a Social HomeBuy disposal, which apart from this regulation is not a capital receipt, is to be treated as a capital receipt.

Regulation 4 amends regulation 10 of the Principal Regulations. Regulation 10 provides that certain receipts which do not exceed £10,000 are not to be treated as capital receipts. This is amended so that the provisions do not apply to premiums received from Social HomeBuy disposals.

Regulations 5 to 13 amend provisions in the Principal Regulations which deal with pooling of capital receipts (that is, the payment to the Secretary of State of capital receipts derived by an authority from the disposal of certain interests in housing land.)

Regulation 5 amends regulation 12(4) of the Principal Regulations to provide that, subject to permitted reductions, 75 per cent of the capital receipt, in relation to a disposal of an authority’s rights and obligations as mortgagee of a dwelling and in relation to a Social HomeBuy disposal, is to be pooled.

Regulation 6 amends the provisions in regulation 14 of the Principal Regulations about treating capital receipts as reduced for the purposes of pooling (so that less money has to be pooled). An authority cannot use its available capital allowance to treat a capital receipt as reduced where that capital receipt is derived from the disposal of the authority’s rights and obligations as mortgagee of certain dwellings. Where the capital receipt is derived from a Social HomeBuy disposal, an authority may only use its available Social HomeBuy allowance to treat a capital receipt as reduced.

Regulation 7 amends regulation 16 of the Principal Regulations so that the value of any amount that is included in an authority’s total Social HomeBuy allowance is excluded from the authority’s total capital allowance.

An authority’s available Social HomeBuy allowance is defined in regulation 16A of the Principal Regulations, which is inserted by regulation 8. Regulation 8 also inserts regulation 16B of the Principal Regulations which defines an authority’s total Social HomeBuy allowance. This is defined by reference to the value of the amounts of various contributions and expenditure which an authority has made or incurred, or has decided to make or incur, using capital receipts derived from Social HomeBuy disposals. These amounts include the amount of certain contributions towards the costs of the provision of affordable housing. They also include the amount of expenditure on administrative costs of Social HomeBuy disposals, of running a scheme to make Social HomeBuy disposals



(whether or not disposals are made) and of collecting any rent from a purchaser of a Social HomeBuy dwelling (where the authority retains an interest in that dwelling).

Regulation 9 makes some consequential amendments to regulation 17 of the Principal Regulations concerning affordable housing.

Regulations 10 to 13 amend regulations 19, 20, 20A and 21 of the Principal Regulations, which make various provisions for treating capital receipts as reduced for the purposes of pooling, so that they do not apply to capital receipts derived from a Social HomeBuy disposal. There is also an amendment to regulation 21 so that any transitional reductions for debt-free authorities are calculated after the authority has made any reductions to the amount of a capital receipt under regulation 20A (capital receipts reduced by consideration for former new town assets) as well as after any reductions made under regulations 14 to 20.

Regulation 14 amends regulation 23 of the Principal Regulations so that capital receipts derived from a Social HomeBuy disposal may be used to make contributions or incur expenditure that counts towards an authority's Social HomeBuy allowance, where regulation 23 would not otherwise enable those capital receipts to be used for such contributions or expenditure.

Regulation 15 amends the calculation of minimum revenue provision in regulation 28 of the Principal Regulations. The formula is changed in relation to a housing authority whose opening HRA capital financing requirement for the financial year beginning on 1st April 2004 was a negative amount. 1st April 2004 was the date on which new capital finance provisions under Part 1 of the Local Government Act 2003 came into force.

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, and any costs to the public sector are negligible.