
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

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(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.