

2010 No. 454

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Capital Finance and Accounting)
(Amendment) (England) Regulations 2010**

Made - - - - - *24th February 2010*

Laid before Parliament *2nd March 2010*

Coming into force in accordance with regulation 1.

The Secretary of State, in exercise of the powers conferred by sections 7(3)(c), 9(3), 11(1), 16(2)(a), 21(1) and (2), and 123(1) of the Local Government Act 2003(a), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2010, and come into force—

- (a) for the purposes of the amendments made by regulation 3(2) and (3) on 31st March 2010; and
- (b) for all other purposes on 1st April 2010.

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

Amendment of regulations

2. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(b) are amended as specified in regulations 3 to 9.

Retirement benefits

3.—(1) In regulation 4(2)(c), for the words after “payable pursuant to” to the end of the paragraph, substitute “statutory requirements under an arrangement accounted for as a defined benefit pension plan or as other long-term employee benefits (as defined in accordance with proper practices).”.

(2) In relation to accounts prepared for the financial year beginning on 1st April 2009, paragraph (1) has effect as if for the words “defined benefit pension plan or as other long-term employee benefits” is substituted “defined benefit scheme”.

(3) In regulation 30, for the words “legislation specified” to “sub-paragraph (b), of” substitute “statutory requirements mentioned in”.

(a) 2003 c. 26.

(b) S.I. 2003/3146, amended by S.I. 2004/534, 2004/2306, 2006/521 and 2009/ 321. There are other amendments not relevant to these Regulations.

(c) Amended by S.I. 2004/2306.

Use of capital receipts

4. In regulation 23(a)—

- (a) in paragraph (e), omit the word “administrative”;
- (b) at the end of paragraph (f), omit “or”; and
- (c) after paragraph (g), insert—
 - “(h) to meet the costs of or incidental to a disposal of an interest in land other than housing land, provided these do not exceed 4% of the capital receipt arising from the disposal; or
 - (i) to make all or part of a payment to a person, where the obligation to make that payment arises on the disposal of an asset, as a result of an agreement made at the time of the acquisition of that asset, or in relation to such an agreement.”.

Expenditure to be capital expenditure

5. In regulation 25(3)(b)—

- (a) at the end of sub-paragraph (c), for “,” substitute “; or”; and
- (b) after subparagraph (c) insert—
 - “(d) the acquisition of shares in an investment scheme approved by the Treasury under section 11(1) of the Trustee Investments Act 1961 (local authority investment schemes),”.(c)

Back payment following unequal pay

6. In regulation 30A(d), after paragraph (4) insert—

- “(5) Subject to paragraph (6), this regulation ceases to have effect on 1st April 2013.
- (6) Where paragraph (4) applies to an amount, it continues to apply until the date on which the payment is actually made, whether or not the date is on or after 1st April 2013.”.

Short-term accumulating compensated absences

7. After regulation 30G(e), insert—

“Short-term accumulating compensated absences

30H. Where, in accordance with proper practices, a local authority includes an amount in respect of a liability for short-term accumulating compensated absences in its balance sheet, the authority must not charge to a revenue account an amount in respect of that liability until the date on which the liability ceases or is discharged.”.

Lease classification

8. After regulation 30H, insert—

“Lease classification

30I.—(1) Where, on or after 1st April 2009, a local authority receives money under an arrangement—

-
- (a) Amended by S.I. 2006/521.
 - (b) Inserted by S.I. 2004/534, and amended by S.I. 2007/573.
 - (c) 1961 (c. 62). Section 11(1) has been amended by section 93(1) of and Schedule 18 to the London Government Act 1963 (c. 33) and section 102 of and Schedule 17 to the Local Government Act 1985 (c. 51).
 - (d) Inserted by S.I. 2007/573.
 - (e) Inserted by S.I. 2009/321.

- (a) which is in existence on, and is not treated according to proper practices as a finance lease at, 31st March 2010, and
- (b) all or part of that arrangement will be treated according to proper practices as a finance lease on or after 1st April 2010,

the money received under that arrangement may be accounted for in accordance with proper practices applying to that arrangement on 31st March 2010.

(2) Where, on or after 1st April 2009, a local authority receives money under an arrangement—

- (a) which is in existence on, and is not treated according to proper practices as an operating lease at, 31st March 2010, and
- (b) all or part of that arrangement will be treated according to proper practices as an operating lease on or after 1st April 2010,

the money received under that arrangement may be accounted for in accordance with proper practices applying to that arrangement on 31st March 2010.”.

Proper practices

9. In regulation 31(a), omit the words “A Statement of Recommended Practice: ”(a).

Revocation

10. Regulation 5(1) of the Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2007(b) is revoked.

Signed on the authority of the Secretary of State for Communities and Local Government

24th February 2010

Barbara Follett
Parliamentary Under Secretary of State
Department for Communities and Local Government

(a) The current issue of this code of practice was published in London in 2009. ISBN 978 1 84508 217 8.
(b) S.I. 2007/573.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146).

Regulation 3 changes the definition of retirement benefits so that instead of benefits payable under specified funds or schemes, they are defined as benefits payable under statutory requirements which are accounted for in the ways specified (in accordance with proper practices). The ways specified differ for the financial year 2009/10 and subsequent years.

Regulation 4 permits local authorities to use capital receipts to meet the costs of or incidental to a disposal of an interest in land other than housing land, provided these do not exceed 4% of the capital receipt arising from the disposal; and also to make all or part of a payment to a person to repay money owed on the disposal of an asset, as a result of an agreement made at the time of the acquisition of that asset or in relation to such an agreement.

Regulation 5 provides that the acquisition by local authorities of shares in an investment scheme approved by the Treasury under section 11 of the Trustee Investments Act 1961 is not capital expenditure.

Regulation 6 extends until 2013 the ability of local authorities to defer charging liabilities for back pay due to equal pay claims to a revenue account until the date on which the back payment must actually be paid. Regulation 10 revokes the provision in the Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2007 (S.I. 2007/573) which only permitted the deferral of charging back pay to a revenue account until the back payment was actually paid until 2011.

Regulation 7 concerns the accounting treatment for short-term accumulating absences of employees (such as entitlement to holiday or time off in lieu which has accrued but not yet been taken). Local authorities must not charge an amount in respect of liability for such entitlements to a revenue account until the date on which the liability ceases.

The accounting treatment for leases under proper practices is changing for the financial year 2010/11, which may lead to some existing financial arrangements being classified as operating or finance leases which were not previously so classed, with the result that the arrangements would be subject to different accounting treatment under proper practices. Regulation 8 provides that local authorities may continue to apply the accounting treatment that applies to such financial arrangements on 31st March 2010 for subsequent financial years.

Regulation 9 updates the title of one of the documents identified by the Secretary of State as constituting proper practices, in relation to the accounting practices for the accounts of a local authority.

An impact assessment has not been produced for this instrument as no impact on business or the private or voluntary sectors is foreseen.

© Crown copyright 2010

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00