

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (CAPITAL FINANCE AND ACCOUNTING)
(ENGLAND) (AMENDMENT) (No.3) REGULATIONS 2012

2012 No. 1324

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 To amend the Schedule to the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (“the 2003 Regulations”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 These Regulations correct an error in the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No.2) Regulations 2012 (S.I. 2012/711) which amended the 2003 Regulations. These Regulations have therefore been issued free of charge to all known recipients of S.I. 2012/711.

4. **Legislative Context**

- 4.1 These Regulations amend the 2003 Regulations by:
 - amend the definition of “affordable housing” and “provision of affordable housing” in regulation 1(5) of the 2003 Regulations; and
 - replacing the names of the authorities and Column A (assumed debt for each quarter in a year) set out in the Schedule to the 2003 Regulations with the names of the authorities and Column A set out in the Schedule to these Regulations.

5. **Territorial Extent and Application**

- 5.1 This instrument applies only to England.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

7.1 These regulations seek to support two Government policies, which both took effect in April 2012:

- self-financing for council housing (whereby local authorities, in exchange for retaining their rental income, took over debt from central Government) and
- the increasing of the caps on Right to Buy discounts to encourage more people into home ownership with the commitment that the additional receipts be used to fund one-for-one replacement stock.

7.2 The regulations govern the treatment of receipts arising from the disposal of housing land: i.e. any land, house or other building in relation to which the local authority is, or has been, subject to the duty under section 74 of the Local Government and Housing Act 1989 (duty to keep a Housing Revenue Account). They determine the level of such receipts that each financial quarter must be surrendered to the Secretary of State.

7.3 In order to protect the viability of the self-financing settlement, it was necessary to ensure that a sufficient receipt was left with the authority to pay down debt supported from rental income on that property.

7.4 However under the self-financing settlement the level of debt taken on by local authorities had already been reduced to take account of predicted Right to Buy sales (assumed debt). The regulations therefore permit each local authority each financial quarter to retain from its Right to Buy receipts a sum equivalent to the attributable debt on each property sold less the assumed debt.

7.5 The level of assumed debt for each local authority is listed in a table attached to the regulations. The forecast rise in Right to Buy sales is reflected in a rising level of assumed debt for each year.

7.6 The errors we wish to correct are the definition of affordable housing in regulation 1(5) of the 2003 Regulations, which should refer to regulation 18 and in the Schedule to the 2003 Regulations, the assumed debt for 2013/14 was mistakenly entered in the column for 2012/13. This would have meant that each local authority would have been able to retain a smaller receipt to cover debt than they were properly due.

8. Consultation outcome

8.1 These were typographical errors: it was not necessary to consult

9. Guidance

9.1 We intend issuing guidance on the application of the regulations as a whole before the end of the first quarter in which these regulations take effect (i.e. before July 2012).

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 An Impact Assessment has not been prepared for this instrument. An Impact Assessment was prepared for S.I. 2012/711.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The regulations will be monitored and the regulations up-dated where necessary to keep abreast of developing Government policy.

13. Contact

Ross Buchanan at the Department for Communities and Local Government
Tel: 0303 444 3725 or email: ross.buchanan@communities.gsi.gov.uk can answer any queries regarding the instrument.