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STATUTORY INSTRUMENTS

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**2012 No. 711**

**The Local Authorities (Capital Finance and Accounting)  
(England) (Amendment) (No. 2) Regulations 2012**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No. 2) Regulations 2012.

(2) Regulations 1 to 3 shall come into force on 31st March 2012 and the remaining regulations (including the Schedule) shall come into force on 1st April 2012.

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

**Amendment of Regulations**

2. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003<sup>(1)</sup> (“the 2003 Regulations”) are amended as specified in regulations 4 to 9.

**Calculation of the notifiable allowance and the 2011-2012 buy back reduction**

3.—(1) On 31st March 2012, local authorities must calculate—

- (a) the notifiable allowance which shall be the total of—
  - (i) the available capital allowance under regulation 15 of the 2003 Regulations; and
  - (ii) the available Social HomeBuy allowance under regulation 16A of the 2003 Regulations; and
- (b) the 2011-2012 buy back reduction which shall be the sum of the reductions calculated under regulation 19 of the 2003 Regulations during the period 1st April 2011 to 31st March 2012.

(2) Local authorities must notify the Secretary of State of the notifiable allowance and the 2011-2012 buy back reduction on or before 31st July 2012 or such later date as notified by the Secretary of State.

**Citation, commencement, application and interpretation (of the 2003 Regulations)**

4. In regulation 1(5)—

- (a) omit the definitions of “available Social HomeBuy allowance” and “Social HomeBuy disposal”;
- (b) after the definition of “the National Association of Local Councils” insert—

““notifiable allowance” means the amount notified by the local authority to the Secretary of State in compliance with regulation 3 of the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No.2) Regulations 2012<sup>(2)</sup>;

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(1) [S.I. 2003/3146](#) as amended by [S.I. 2006/521](#), [S.I. 2007/573](#), [S.I. 2009/2272](#) and [S.I. 2012/265](#). There are other amending instruments but none is relevant to these Regulations.

(2) [S.I. 2012/711](#)

“poolable amount” means the sum of the specified amounts calculated from capital receipts received by the local authority in the quarter and the sub-liability calculated for the quarter;”;

(c) after the definition of “qualifying disposal” insert—

““quarter” means one of the following periods—

1st April to 30th June

1st July to 30th September

1st October to 31st December

1st January to 31st March;”;

(d) after the definition of “relevant disposal period” insert—

““relevant quarter” means the quarter in respect of which payment under regulation 12 must be made on the next due date;”;

(e) after the definition of “secure tenant” insert—

““shared ownership lease” means a lease of a dwelling granted on payment of a premium calculated by reference to a percentage of the market value of the dwelling;”;

(f) after the definition of “the Society of Local Council Clerks” insert—

““specified amount” means the amount calculated in accordance with regulation 14;

“sub-liability” means the amount calculated in accordance with in paragraph 9 of the Schedule; and

“the 2011-2012 buy back reduction” means the amount calculated in compliance with regulation 3 of the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No 2) Regulations 2012.”.

### **Social HomeBuy receipts**

5. Omit regulation 9A.

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

6. In regulation 10—

(a) in paragraphs (1) and (5), omit the words “Subject to paragraph (7)”; and

(b) omit paragraph (7).

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

7. Omit regulations 12 to 21 and insert—

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

**12.—**(1) The local authority must use capital receipts to pay the poolable amount in respect of each quarter to the Secretary of State on or before the following dates (“the due date”)—

(a) (i) 30th April;

(ii) 31st July;

(iii) 31st October; or

- (iv) 31st January,
- whichever of those days is the earliest day following the last day of the quarter; or
- (b) if later, such date as is notified to the local authority by the Secretary of State.
- (2) Where the poolable amount paid to the Secretary of State has been incorrectly calculated by the local authority, the local authority must—
- (a) pay any outstanding amount to the Secretary of State (including any interest payable under regulation 13); or
  - (b) offset any amount paid in excess of the poolable amount against any further poolable amount payable to the Secretary of State under this regulation.

### **Interest on late payments**

**13.**—(1) The local authority must use capital receipts, which it derived from the disposal of housing land, to pay interest to the Secretary of State in accordance with the following provisions of this regulation.

(2) Where the local authority does not pay part or all of the poolable amount to the Secretary of State by the due date, the local authority shall pay interest to the Secretary of State on the unpaid part amount of the poolable amount.

(3) The interest shall be calculated on any unpaid amount at a rate of 1% above base rate on a day to day basis compounded with three-monthly rests.

(4) Where interest is payable by virtue of paragraph (2), the interest on the unpaid amount shall be calculated for the period starting on the day after the due date and ending on the date of the payment of the unpaid amount.

(5) The local authority must pay to the Secretary of State any interest, payable in respect of any unpaid amount, on the date on which it pays the unpaid amount.

(6) In this regulation—

“base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such rate, the rate which, when the base rate quoted by each bank is ranked in descending sequence of seven, is fourth in the sequence; and

“reference banks” means the seven largest persons for the time being who—

- (i) have permission under Part IV of the Financial Services and Markets Act 2000 (permission to carry on regulated activities) to accept deposits;
- (ii) are incorporated in the United Kingdom and carry on there a regulated activity of accepting deposits; and
- (iii) quote a base rate in sterling,

and for the purpose of this definition the size of any person at any time is to be determined by reference to the gross assets denominated in sterling by that person, together with any subsidiary (as defined in section 1159 of the Companies Act 2006(3)), as shown in the audited end-of-year accounts last published before that time.

### **Specified amount**

**14.**—(1) This regulation applies to capital receipts which—

- (a) a local authority derives from the disposal of an interest in housing land other than a disposal which is—
    - (i) a qualifying disposal;
    - (ii) a small scale disposal;
    - (iii) land that is the subject of an agreement made under section 80B of the Local Government and Housing Act 1989<sup>(4)</sup>; or
    - (iv) a disposal to which the Schedule applies; and
  - (b) were received by the local authority on or after 1st April 2004.
- (2) Where this regulation applies and subject to any reductions made under regulations 15 to 17, the specified amount is an amount equal to—
- (a) 75% of the capital receipt in relation to the disposal of a dwelling;
  - (b) to the extent not included in sub-paragraph (a), 75% 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; and
  - (c) 50% of the capital receipt in relation to the disposal of any other interest in housing land.
- (3) For the purpose of calculating the specified amount, the total amount of any reductions made to the capital receipt for a disposal under regulations 15 to 19 shall not exceed the amount of that capital receipt.

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

**15.**—(1) Subject to regulation 14(3) and paragraph (2), for the purposes of calculating the specified amount the capital receipt, in relation to a disposal of an interest in housing land shall be treated as reduced by—

- (a) so much of the capital receipt as is applied by the local authority in meeting the administrative costs of and incidental to the disposal;
  - (b) the costs of expenditure incurred by the local authority in improving the housing land within the period of three years ending on the date of the disposal; and
  - (c) an amount, by which the authority determines that it shall be reduced, which may be any amount up to the value of the local authority's available capital allowance at the time the specified amount is calculated.
- (2) Paragraph (1)(c) shall not apply to capital receipts which a local authority derives from the disposal of a dwelling made prior to 1 April 2012—
- (a) under Part V of the Housing Act 1985 (right to buy); or
  - (b) in accordance 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.
- (3) Paragraph (1)(c) shall not apply to capital receipts received by a local authority on or after 1st April 2006, which the local authority receives from the disposal of the authority's rights and obligations as mortgagee of a dwelling, where that dwelling ("the disposed dwelling") was disposed of by the authority—
- (a) under Part V of the Housing Act 1985 (right to buy); or

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(4) 1989 c.42. Section 80B was inserted by section 313 of the Housing and Regeneration Act 2008 (c.17).

- (b) in accordance 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.

(4) For the purposes of paragraphs (2)(b) and (3)(b), “relevant consent” means a consent to a disposal of land given by the Secretary of State generally under section 32 or 43 of the Housing Act 1985 (disposal of land held for housing purposes).

#### **Available capital allowance**

**16.** For the purpose of regulation 15(1)(c), the value of the local authority’s available capital allowance at a particular time is the value of the total capital allowance at that time, as determined by the authority in accordance with regulation 17, less the total value of any amounts by which capital receipts have been treated as reduced by virtue of regulation 15(1)(c) since 1st April 2012.

#### **Total capital allowance**

**17.—(1)** Subject to paragraph (4), for the purposes of regulation 16, a local authority’s total capital allowance is the total value of—

- (a) the notifiable allowance;
- (b) the amount of the contributions which the authority has made, or has decided to make but has not yet made, on or after 1 April 2012, towards the costs of the projects specified in regulations 18 or 19 by—
  - (i) constructing or improving dwellings, or providing dwellings by the conversion of a building or part of a building;
  - (ii) making a gift of land;
  - (iii) paying a contribution, grant or subsidy under any power conferred on the authority by or under any enactment; or
  - (iv) giving consideration for any benefit that the authority has received, or will receive, by virtue of the project; and
- (c) any amount of capital receipt to which regulation 14 applies used to reduce the housing debt of the local authority.

(2) For the purposes of paragraph (1)(b)(ii), the authority makes a gift of land where it transfers an interest in land and either—

- (a) no consideration falls to be given for the transfer; or
- (b) the value of the consideration that falls to be given for the transfer is less than the price that the interest transferred would realise at the date of the valuation if sold by the authority on the open market.

(3) For the purposes of paragraph (1)(c), the housing debt of a local authority means the housing debt calculated in a determination made under section 171 of the Localism Act 2011(5).

(4) The total capital allowance shall not include any expenditure—

- (a) already included in the calculation of the total capital allowance; or
- (b) by which a capital receipt has been treated as reduced under regulation 15(1)(c).

### **Provision of affordable housing**

**18.**—(1) In these Regulations, “provision of affordable housing” means the provision of dwellings to meet the housing needs, as identified by the local authority, of persons on low incomes, whether provided by the authority or a private registered provider of social housing.

(2) For the purposes of regulation 17(1)(b), the provision of affordable housing is a specified project.

### **Regeneration projects**

**19.**—(1) In these Regulations, “regeneration project” means any project for the carrying out of works or activities on any land where—

(a) the land or a building on the land is vacant, unused, under-used, ineffectively used, contaminated or derelict; and

(b) the works or activities are carried out in order to secure that the land or the building will be brought into effective use.

(2) For the purposes of regulation 17(1)(b), the undertaking of a regeneration project on land situated within the area of the local authority is a specified project.”

### **Use of capital receipts**

**8.** Omit regulation 23(g).

### **Schedule – Social HomeBuy Disposal and Calculation of the sub-liability**

**9.**—(1) Omit the Schedule – Social HomeBuy Disposal.

(2) After regulation 34 insert the Schedule and Table set out in the Schedule to these Regulations.

### **Saving**

**10.** Regulations 12 to 21 of the 2003 Regulations are saved as if the amendments contained in regulations 4 to 10 of these Regulations have not come into force (“the unamended Regulations”) for the purpose of the calculation and payment of—

(a) the specified amount on the due date (as defined by regulation 12(3) of the unamended Regulations) that falls after the commencement of regulations 4 to 10 of these Regulations; and

(b) where the local authority has provided an estimated amount (as defined in regulation 12(3) of the unamended Regulations), any balance by the balance payment date (as defined by regulation 12(3) of the unamended Regulations).

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

*Grant Shapps*  
Minister of State  
Department for Communities and Local  
Government

7th March 2012