

2019 No. 396

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Capital Finance and Accounting)
(England) (Amendment) Regulations 2019**

Made - - - - - *28th February 2019*

Laid before Parliament *1st March 2019*

Coming into force in accordance with regulation 1

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

Citation and commencement

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2019.

(2) These Regulations come into force on the date on which regulation 5 of the Local Government (Miscellaneous Amendments) (EU Exit) Regulations 2018(b) comes into force.

Amendment of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

2. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(c) are amended as follows.

Interpretation

3. In regulation 1(5)—

(a) after the definition of “dwelling-house”, insert—

““EEA UCITS” has the same meaning as in section 237 of the Financial Services and Markets Act 2000(d);

(b) after the definition of “quarter”, insert—

““relevant commencement date” means the time at which regulation 5 of the Local Government (Miscellaneous Amendments) (EU Exit) Regulations 2018(e) comes into force;

(a) 2003 c.26.

(b) S.I. 2018/1386.

(c) S.I. 2003/3146. Relevant amending instruments are S.I. 2004/534, S.I. 2007/573, S.I. 2010/454, S.I.2012/265, S.I. 2015/341, S.I. 2018/1207 and S.I. 2018/1386.

(d) 2000 c.8.

(e) S.I. 2018/1386.

“relevant period” means the period beginning with the relevant commencement date and ending immediately before the time at which the three year anniversary of the relevant commencement date falls;”;

- (c) after the definition of “relevant quarter”, insert—
- ““relevant UCITS” means—
- (a) a UK UCITS; or
 - (b) during the relevant period, an EEA UCITS which was recognised under section 264 of the Financial Services and Markets Act 2000 immediately prior to the relevant commencement date; or
 - (c) during the relevant period, a sub-fund of an EEA UCITS which—
 - (i) is a recognised scheme for the purposes of Part 17 of the Financial Services and Markets Act 2000 by virtue of regulation 62(1) of the Collective Investment Schemes (Amendment etc.)(EU Exit) Regulations 2019^(a), and
 - (ii) meets the conditions in regulation 63(3) of the Collective Investment Schemes (Amendment etc.)(EU Exit) Regulations 2019;”;
- (d) after the definition of “specified amount”, insert—
- ““sub-fund” means a sub-fund of a UCITS within the meaning of section 237(4) of the Financial Services and Markets Act 2000;”
- (e) after the definition of “sub-liability”, omit “and”;
- (f) after the definition of “the 2011-2012 buy back reduction”, insert—
- ““UCITS” has the same meaning as in section 236A of the Financial Services and Markets Act 2000; and
- “UK UCITS” has the same meaning as in section 237 of the Financial Services and Markets Act 2000.”

Expenditure to be capital expenditure

4. In regulation 25(3)—
- (a) in sub-paragraph (a), after “money market fund” insert “which is a UCITS”;
 - (b) in sub-paragraph (c), for “Part 4 of the Finance Act 2006” substitute “Part 12 of the Corporation Tax Act 2010”;
 - (c) after sub-paragraph (c), omit “or”;
 - (d) after sub-paragraph (d), insert—
 - “or
 - (e) an investment in a relevant UCITS.”.

Fair value gains and losses of pooled investment funds

5. In regulation 30K(1), in the definition of “pooled investment fund”—
- (a) in sub-paragraph (a), after “money market fund” insert “which is a UCITS”;
 - (b) after sub-paragraph (b), omit “or”;
 - (c) after sub-paragraph (c) insert—
 - “; or
 - (d) a relevant UCITS”.

(a) S.I. 2019/325.

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

Rishi Sunak

Parliamentary Under Secretary of State

28th February 2019

Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (the “2003 Regulations”) make provision for capital finance and accounts under Part 1 of the Local Government Act 2003 (“the 2003 Act”). Regulation 25 of the 2003 Regulations provides for expenditure which is, and which is not, to be treated as capital expenditure for the purposes of Chapter 1 of Part 1 of the 2003 Act. Since 2004, regulation 25 has excluded local authority investments in money market funds from treatment as capital expenditure in local authority accounts. Regulation 30K of the 2003 Regulation provides for specific accounting treatment for fair value gains and losses of local authority investments in pooled investment funds, including money market funds.

Regulation 5 of the Local Government (Miscellaneous Amendments) (EU Exit) Regulations 2018 (“the 2018 EU Exit Regulations”) changed the definition of “money market funds” within the 2003 Regulations with effect from exit day as defined in the European Union (Withdrawal) Act 2018.

These Regulations amend the 2003 Regulations further. These Regulations are to come into force on the same date at which regulation 5 of the 2018 EU Exit Regulations comes into force.

Regulation 3 amends regulation 1 of the 2003 Regulations to introduce new definitions of “EEA UCITS”, “relevant commencement date”, “relevant period”, “relevant UCITS”, “sub-fund”, “UCITS”, and “UK UCITS” for the purposes of the 2003 Regulations.

Regulation 4 amends regulation 25 of the 2003 Regulations to provide that local authority investments in certain collective investment schemes (“UCITS”) shall not be treated as capital expenditure within local authority accounts. A reference to Part 4 of the Finance Act 2006 in relation to Real Estate Investment Trusts is also updated.

Regulation 5 amends regulation 30K of the 2003 Regulations to include “relevant UCITS” within the categories of investments which constitute “pooled investment funds” for the purposes of regulation 30K, and to ensure that only those money market funds which are UCITS constitute “pooled investment funds”. Regulation 30K requires that, in certain circumstances outlined within that regulation, any fluctuation in the fair value of a local authority’s investment in a pooled investment fund must not be charged to that local authority’s revenue account, but should be recorded in a separate account established and usable solely for that purpose.

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

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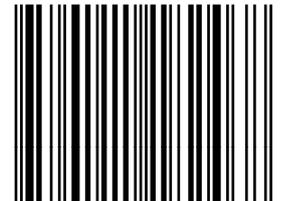
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