

2024 No. 478

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Capital Finance and Accounting)
(England) (Amendment) Regulations 2024**

<i>Made</i>	- - - -	<i>4th April 2024</i>
<i>Laid before Parliament</i>		<i>9th April 2024</i>
<i>Coming into force</i>		
	<i>Regulations 1, 2(4)(a) and (b), and 2(1) insofar as it relates to those provisions</i>	<i>7th May 2024</i>
	<i>Remainder</i>	<i>1st April 2025</i>

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

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2024.

(2) Subject to paragraph (3), these Regulations come into force on 1st April 2025.

(3) This regulation, regulation 2(4)(a) and (b) (and regulation 2(1) insofar as it relates to those provisions) come into force on 7th May 2024.

(4) These Regulations extend to England and Wales.

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

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

(2) In regulation 1 (citation, commencement, application and interpretation)—

(a) in paragraph (3), after “27(1),” insert “(3) to (5),”;

(b) for paragraph (3A), substitute—

“(3A) Regulations 27(1), (3) to (5), 28 and 29 shall not apply to any person or body which is—

(a) 2003 c. 26.

(b) S.I. 2003/3146; relevant amending instruments are S.I. 2004/534, 2004/3055, 2006/521, 2007/573, 2008/414, 2010/454, 2012/265, 2012/711, 2012/1324, 2012/2269, 2013/476, 2013/1751, 2015/341, 2017/536, 2018/1207, 2019/396, 2021/611.

- (a) a local authority for the purposes of section 21(a) by virtue of subsection (6)(b), (d), (e), (g), (h), (k) or (l) of that section, or
- (b) a Mayoral development corporation established under Chapter 2 of Part 8 of the Localism Act 2011(b).”.

(3) For regulation 27 (duty to make revenue provision) substitute—

“Duty to make revenue provision

27.—(1) During the financial year beginning on 1st April 2025 and every subsequent financial year, a local authority—

- (a) subject to paragraphs (3) and (4), must charge to a revenue account a minimum amount (“minimum revenue provision”) for that financial year in respect of all capital expenditure financed by debt and incurred by the local authority in that year or any financial year prior to that year, and
- (b) may charge to a revenue account any amount in addition to the minimum revenue provision, in respect of any capital expenditure financed by debt and incurred by the local authority in that year or any financial year prior to that year.

(2) During the financial year beginning on 1st April 2024 and every subsequent financial year, a parish council or charter trustees may charge to a revenue account any amount in respect of capital expenditure financed by debt and incurred by the parish council or the charter trustees, as the case may be, in that year.

(3) Where a local authority incurs capital expenditure financed by debt during a financial year, the authority may charge the minimum revenue provision in respect of that expenditure to a revenue account for—

- (a) the following financial year, or
- (b) in relation to an asset, if later, the financial year immediately after the financial year in which the asset first becomes available for use.

(4) A local authority may choose not to charge minimum revenue provision to a revenue account in respect of the financing by debt of a loan given by that authority to any person or body, where—

- (a) the loan is treated as capital expenditure in accordance with regulation 25(1)(b),
- (b) the loan is not a commercial loan, and
- (c) the local authority has not recognised, in accordance with proper practices(c), any expected or actual credit loss in respect of that loan.

(5) In this regulation—

“a commercial loan” is a loan given—

- (a) as an investment for financial return, or
- (b) towards expenditure which would, if incurred by the authority, be an investment for financial return;

“an investment for financial return” is an investment which is made primarily to generate financial return.”.

(4) In regulation 28 (determination of minimum revenue provision)—

- (a) the existing text becomes paragraph (1);

(a) In the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, unless the context indicates otherwise, any reference to a Part or section is a reference to a Part or section of the Local Government Act 2003: see regulation 1(4).

(b) Section 23 of the Local Government Act 2003 provides that a functional body, within the meaning of the Greater London Authority Act 1999 (c. 29) (“the 1999 Act”), is a local authority for the purposes of Part 1: see section 23(1). Section 424(1) of the 1999 Act provides that a Mayoral development corporation is a functional body within the meaning of that Act.

(c) Proper practices is a term defined in section 21 of the Local Government Act 2003.

(b) after paragraph (1) insert—

“(2) The amount determined under paragraph (1) must include an amount equal to any expected or actual credit loss which—

- (a) relates to a loan given by the local authority to any person or body on or after 7th May 2024, and
- (b) is recognised by the authority during the current financial year in accordance with proper practices.

(3) A local authority may reduce the amount specified in paragraph (2) by deducting—

- (a) any amount of minimum revenue provision the local authority has already charged to a revenue account in respect of the financing of the loan, and
- (b) any amount of receipts, capital or otherwise, used to repay the principal of any amount borrowed to finance that loan^(a).”;

(c) after paragraph (3) insert—

“(4) Subject to paragraph (5), a local authority must not reduce its determination of what would otherwise be a prudent amount by the value of any capital receipts used, or to be used, by the authority in accordance with regulation 23(b) or (d) in the financial year to which the determination relates.

(5) Where paragraph (6) applies, the authority may reduce its determination of what would otherwise be a prudent amount—

- (a) in respect of the financing of a loan, by deducting any amount of the capital receipts—
 - (i) received in respect of that loan during the financial year, and
 - (ii) used to repay the principal of any amount borrowed to finance that loan;
- (b) in respect of the financing of a capital asset to which a lease arrangement relates, by deducting any amount of the capital receipts—
 - (i) received under that arrangement during the financial year, and
 - (ii) used to meet any liability in respect of that arrangement, other than any liability which, in accordance with proper practices, must be charged to a revenue account^(b).

(6) This paragraph applies where—

- (a) a local authority has—
 - (i) incurred expenditure through the giving of a loan which is treated as capital expenditure in accordance with regulation 25(1)(b),
 - (ii) received loan repayments in respect of that loan which are treated as capital receipts in accordance with regulation 7, and
 - (iii) determined that it will charge minimum revenue provision in respect of the financing of that loan, or
- (b) a local authority—
 - (i) has received sums under an arrangement which is treated, in accordance with proper practices, as a finance lease, and
 - (ii) those sums are treated for the purposes of Chapter 1 of Part 1 (capital finance etc) as capital receipts.

(7) The capital receipts specified in paragraph (5)—

- (a) may not be used to reduce the amount specified in paragraph (2);

(a) Capital receipts may be used for this purpose in accordance with regulation 23(b).

(b) Capital receipts may be used for this purpose in accordance with regulation 23(d).

- (b) despite section 9(4) (“capital receipt”)(a), must actually be received by the authority.”.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

4th April 2024

Simon Hoare
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

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) (“the 2003 Regulations”), which make provision about the accounting practices to be followed by local authorities.

Regulation 27 of the 2003 Regulations makes provision about when a local authority must make a charge to a revenue account in respect of the financing by debt of capital expenditure (“minimum revenue provision”). These Regulations amend regulation 27 to expressly provide that the duty to make revenue provision applies to all capital expenditure financed by debt except the financing of specified loans. These Regulations also provide that a local authority may delay the charging of minimum revenue provision in specified circumstances.

Regulation 28 of the 2003 Regulations provides how a local authority must determine the amount of minimum revenue provision. Although the financing of certain loans is generally excluded from the duty to make minimum revenue provision, this will not apply if the local authority has recognised expected or actual credit loss in respect of that loan. Therefore, these Regulations amend regulation 28 to require those losses to be charged to a revenue account unless certain exceptions apply. The amendments made by these Regulations will also expressly provide that a local authority must not reduce its determination of what would otherwise be a prudent amount by the value of capital receipts (with an exception for the financing of certain loans and finance leases).

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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(a) Section 9(1) of the Local Government Act 2003 (the “Act”) defines “capital receipt” for the purposes of Chapter 1 of Part 1 of the Act. Subsection (4) provides that where a sum becomes payable before it is actually received, it shall be treated for the purposes of section 9 as received when it becomes payable.

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