STATUTORY INSTRUMENTS

1990 No. 1019

HOUSING, ENGLAND AND WALES

The Housing (Change of Landlord) (Payment of Disposal Cost by Instalments) Regulations 1990

Made - - - -	*3rd May 1990*
Laid before Parliament	*10th May 1990*
Coming into force	*31st May 1990*

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 99(8), 104(2A), 111(a), 112 and 114(1)(a) of the Housing Act 1988(b), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing (Change of Landlord) (Payment of Disposal Cost by Instalments) Regulations 1990 and shall come into force on 31st May 1990.

(2) in these Regulations—

"the Act" means the Housing Act 1988;

"the 1989 Regulations" means the Housing (Change of Landlord) (Prescribed Forms) Regulations 1989(c);

"capital expenditure on housing" means—

(a) in a case where the relevant financial year starts on or after 1st April 1990, the amount which is certified by an auditor appointed by the Audit Commission for Local Authorities in England and Wales as the expenditure of the landlord incurred during the relevant financial year for capital purposes (within the meaning of section 40 of the Local Government and Housing Act 1989) in the exercise of housing functions under the Housing Act 1985(d), the Housing Associations Act 1985(e), the Act and the 1989 Act;

(b) in any other case, the amount which is certified by such auditor as the expenditure (being expenditure included in the capital accounts of the landlord) incurred by the landlord during the relevant financial year in the exercise of functions under the Housing Act 1985, the Housing Associations Act 1985 and the Act;

"financial year" means a period of twelve months begining on 1st April;

"relevant financial year" means the financial year which, at the date of the service of the notice referred to in section 99(7), is the most recent financial year for which the audit of the landlord's accounts has been concluded;

"relevant payment" means any payment (other than that of interest) in respect of any disposal cost under Part IV of the Act which, at the date of the notice referred to in section 99(7), the landlord has an obligation to make during any financial year after the financial year in which that notice was served or given.

(3) References in these regulations to sections by number are references to sections bearing those numbers in the Act.

(a) See the definition of "prescribed".
(b) 1988 c. 50; relevant amendments were made to section 99, and subsection (2A) was inserted in section 104, by section 174 of the Local Government and Housing Act 1989 (c.42).
(c) S.I. 1989/374, amended by S.I. 1990/1059.
(d) 1985 c.68.
(e) 1985 c.69.

Information relating to payment of disposal cost by instalments

2.—(1) The information prescribed for the purposes of section 99(8) is—

(a) the date of the last day in the relevant financial year;

(b) the capital expenditure on housing for the relevant financial year;

(c) the total of any relevant payments, the dates of completion of acquisitions giving rise to them, the amount of each payment and the date on which each payment is due.

(2) The said information shall be furnished to the applicant in the form of either Parts H to J of the form of notice set out in Schedule 4 to the 1989 Regulations or Parts B, C and D of the form of notice set out in Schedule 8 to those Regulations.

(3) The said information shall be certified—

(a) by the landlord's chief finance officer or a person acting on his behalf, by the signing of the certificate in Part K of the form of notice set out in Schedule 4 to the 1989 Regulations or of the certificate in Part E of the form of notice set out in Schedule 8 to those Regulations, and

(b) by an auditor appointed by the Audit Commission for Local Authorities in England and Wales, by the signing of the certificate set out in Part L of the form of notice set out in the said Schedule 4 or of the certificate in Part F of the form set out in the said Schedule 8.

Payment by instalments

3.—(1) The cases prescribed for the purposes of section 104(2A) are those where the amount of the disposal cost in relation to the acquisition is not less than 7½ per cent. of the capital expenditure on housing of the landlord.

(2) In any case to which section 104(2A) applies, the disposal cost may be paid by instalments of such amounts, at such times and over such period as is prescribed in accordance with the following Table—

TABLE

Total of disposal cost and any relevant payments, expressed as percentage of capital expenditure on housing	*Prescribed amount of each instalment*	*Prescribed period over which and time when instalments are payable*
Not less than 7½ per cent. but less than 15 per cent.	50 per cent. of disposal cost, together with interest in accordance with paragraph (3) below	Two years, payable 12 and 24 months after completion of acquisition
Not less than 15 per cent. but less than 25 per cent.	33⅓ per cent. of disposal cost, together with interest in accordance with paragraph (3) below	Three years, payable 12, 24 and 36 months after completion of acquisition
Not less than 25 per cent. but less than 35 per cent.	25 per cent. of disposal cost, together with interest in accordance with paragraph (3) below	Four years, payable 12, 24, 36 and 48 months after completion of acquisition
Not less than 35 per cent.	20 per cent. of disposal cost, together with interest in accordance with paragraph (3) below	Five years, payable 12, 24, 36, 48 and 60 months after completion of acquisition

(3) The interest included in the amount of an instalment shall be calculated at the rate of 15·4 per cent. on the amount outstanding on completion of the acquisition or, as the case may be, immediately after payment of the previous instalment for the period from the date of completion or the payment of that instalment (as the case may be) to the date of payment of the present instalment.

Chris Patten
3rd May 1990 — Secretary of State for the Environment

Peter Walker
3rd May 1990 — Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for matters relating to the payment of disposal cost by instalments. Where, in the exercise of the right to acquire the fee simple estate in buildings and other property from a public sector landlord conferred by Part IV of the Housing Act 1985 (change of landlord: secure tenants), it is determined that the property to which the acquisition relates would not realise any price, section 99(3) of that Act provides that there is a disposal cost attributable to that property. Sections 99(7) and 104(2A), which were inserted by section 174 of the Local Government and Housing Act 1989, provide for such a disposal cost to be paid by instalments in prescribed cases and for prescribed information to be furnished by the landlord to the applicant.

Regulation 1(2) contains definitions. Regulation 2 prescribes the information to be furnished to the applicant and the form in which it is to be furnished, and provides that the information is to be certified, in the manner prescribed, by or on behalf of the landlord's chief finance officer and by an auditor appointed by the Audit Commission for Local Authorities in England and Wales. The forms to which regulation 2 refers are contained in the Housing (Change of Landlord) (Prescribed Forms) Regulations 1989 (S.I. 1989/374), to which amendments are made by the Housing (Change of Landlord) (Prescribed Forms) (Amendment) Regulations 1990 (S.I. 1990/1059).

Regulation 3 prescribes the cases in which a disposal cost may be paid by instalments, the amount of each instalment and the times at which and period over which the instalments are payable. The regulation provides that the amount of each instalment shall include interest at 15·4 per cent. on the outstanding amount.

95p net

ISBN 0 11 004019 8

Printed in the United Kingdom by HMSO

850/WO1003 C35 5/90 3197384 19542