STATUTORY INSTRUMENTS

2008 No. 414

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2008

Made - - - -	*18th February 2008*
Laid before Parliament	*26th February 2008*
Coming into force - -	*31st March 2008*

The Secretary of State, in exercise of the powers conferred by sections 9(3), 21(1) and 123(1) of the Local Government Act 2003(**a**), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2008 and shall come into force on 31st March 2008.

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

Amendments

2. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(**b**) are amended as specified in regulations 3 to 6.

Capital Receipts

3. After regulation 7 insert—

"**Loan capital**

7A.—(1) Subject to paragraph (2), for the purposes of Chapter 1 of Part 1, a sum received by a local authority on or after 1st April 2008 in respect of the redemption on maturity of a bond held by it which, apart from this regulation, would not be a capital receipt, shall be treated as a capital receipt.

(2) Paragraph (1) applies only if at the time of redemption expenditure on the acquisition of the bond would be treated as capital expenditure.".

Revenue provision

4.—(1) For regulation 28(**c**) substitute—

(**a**) 2003 c.26.
(**b**) S.I. 2003/3146, amended by S.I. 2007/573; there are other amending instruments but none is relevant.
(**c**) Regulation 28 was substituted by regulation 3(1) of S.I. 2007/573.

"Determination of minimum revenue provision

28. A local authority shall determine for the current financial year an amount of minimum revenue provision which it considers to be prudent.";

(2) For regulation 29 substitute—

"Past deficiencies in minimum revenue provision

29.—(1) Where in any financial year beginning before 1st April 2007, the amount of minimum revenue provision charged by a local authority to a revenue account is less than the amount required for that year (whether by reason of an error in the calculation of that amount or otherwise)—

(a) if the local authority has not made a charge to a revenue account on or after 1st April 2004 to correct the insufficient provision, the amount so charged shall be treated as correct and shall not be reconsidered in any circumstances; or

(b) if the local authority has made a charge to a revenue account on or after 1st April 2004 to correct the insufficient provision, the local authority may, in a financial year beginning before 1st April 2010, record in a revenue account a credit no greater in value than the amount of that charge.

(2) Any local authority which treats any amount as correct under paragraph (1)(a) shall include a note to that effect in its statement of accounts for a financial year ending no later than 31st March 2010.

(3) Any local authority which records a credit in a revenue account under paragraph (1)(b) shall include a note to that effect in its statement of accounts for the year in which the credit is recorded.

(4) In this regulation, "minimum revenue provision"—

(a) in relation to financial years beginning before 1st April 2004, has the same meaning as was given in relation to those years in section 63(1) of the Local Government and Housing Act 1989 prior to its repeal; and

(b) in relation to subsequent financial years, has the meaning given in regulation 27.".

Early repayment of loans – premiums and discounts after 31st March 2007

5. In regulation 30C(**a**)—

(a) for paragraph (1)(b) substitute—

"(b) as a consequence of such early repayment—

(i) the authority is required to pay a premium to the lender of the loan or is required, in accordance with proper practices, to account for an amount in respect of a premium as if it were required to pay such a premium; or

(ii) the lender of the loan gives the authority a discount on the loan or the authority is required, in accordance with proper practices, to account for an amount in respect of a discount as if the lender had given the authority such a discount; and";

(b) in paragraph (6) for the words after "consecutively);" substitute—

""initial year" means the financial year in which the loan is repaid; and

"replacement loan" means any loan of money to the local authority some or all of which the authority treats, for accounting purposes, as a replacement for some or all of the loan referred to in sub-paragraph (a) of paragraph (1).".

(**a**) Regulation 30C was inserted by regulation 6 of S.I. 2007/573.

Loans and guarantees

6. After regulation 30D(**a**) insert—

"**Interest on stepped interest rate loans taken out by local authorities**

30E.—(1) This regulation applies where on any day before 9th November 2007 a local authority had taken out a stepped interest rate loan.

(2) The local authority shall charge to a revenue account for each financial year beginning with the financial year ending on 31st March 2008 and ending with the last financial year in which the loan agreement subsists—

(a) the amount of the interest, if any, which it is due to pay in that financial year in accordance with the loan agreement; or

(b) an amount calculated in accordance with the accounting practices identified in regulation 31.

(3) In this regulation, "stepped interest rate loan" means a loan taken out by a local authority at an interest rate which increases in one or more increments during the period for which the loan agreement subsists.

Financial guarantees given by local authorities

30F.—(1) This regulation applies where on any day before 9th November 2007 a local authority had given a financial guarantee on behalf of another person.

(2) The amount the local authority charges to a revenue account with respect to the guarantee for each financial year beginning with the financial year ending on 31st March 2008 and ending with the last financial year in which the risk guaranteed subsists shall be calculated either—

(a) in accordance with proper practices for the financial year beginning on 1st April 2006; or

(b) in accordance with the accounting practices identified in regulation 31.".

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

John Healey
Minister of State
Department for Communities and Local Government

18th February 2008

(**a**) Regulation 30D was inserted by regulation 6 of S.I. 2007/573.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 ("the 2003 Regulations") and apply in relation to local authorities in England only.

Regulation 3 adds an additional class of income – sums received on the maturity of loan capital in the form of bonds – which is to be treated by local authorities as a capital receipt under Part 4 of the 2003 Regulations.

Regulation 4 substitutes new provisions for those in the 2003 Regulations which deal with the calculation of minimum revenue provision – the amount that a local authority charges to a revenue account in respect of the financing of capital expenditure. New regulation 28 replaces the requirement that local authorities undertake detailed calculations with a new duty to make prudent provision. New regulation 29 deals with deficiencies in minimum revenue provision in previous years.

Regulation 5 amends certain provisions of regulation 30C of the 2003 Regulations, which is concerned with premiums and discounts on loans taken out by local authorities that are repaid early, so that they mirror equivalent provisions in regulation 30B.

Regulation 6 inserts new regulations 30E and 30F into Part 7 of the 2003 Regulations. The new regulations give local authorities some flexibility in the way they account for stepped rate interest loans entered into before 9th November 2007 and financial guarantees they gave before that date.

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

£3.00

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E2012 2/2008 182012T 19585