

2001 No. 723

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Capital Finance, Approved Investments and Contracts—Amendment) (England) Regulations 2001

Made - - - - - *5th March 2001*
Laid before Parliament *9th March 2001*
Coming into force - - *1st April 2001*

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by sections 48(5), 49(3) and 66(1)(a) of and paragraphs 10 and 15(1) of Schedule 3 to the Local Government and Housing Act 1989(a) and sections 3(2)(e) and (f) and 3(3) of the Local Government (Contracts) Act 1997(b) hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations, which extend to England only(c), may be cited as the Local Authorities (Capital Finance, Approved Investments and Contracts—Amendment) (England) Regulations 2001.

(2) These Regulations shall come into force on 1st April 2001.

The Local Authorities (Capital Finance) Regulations 1997

2. The Local Authorities (Capital Finance) Regulations 1997(d) shall be amended in accordance with regulations 3 to 8 below.

Other leases excluded from section 48

3. In regulation 24(2) after sub-paragraph (g)(e) insert:

“; or (h) any scheme under paragraph 33 of Schedule 14 to the Access to Justice Act 1999(f); or

(i) regulations under paragraph 35 of Schedule 14 to the Access to Justice Act 1999, to the extent that where accommodation is provided to the Greater London Magistrates’ Courts Authority under regulations under that paragraph, it is leased to that authority.”.

(a) 1989 c. 42.

(b) 1997 c. 65.

(c) The functions of the Secretary of State under sections 48(5), 49(3) and 66(1)(a) of and paragraphs 10 and 15(1) of Schedule 3 to the Local Government and Housing Act 1989 and under sections 3(2)(e) and (f) and 3(3) of the Local Government (Contracts) Act 1997 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2; see the entries in Schedule 1 for the Local Government and Housing Act 1989 and the Local Government Contracts Act 1997.

(d) S.I. 1997/319.

(e) Sub-paragraph (g) of regulation 24 was inserted by the Local Authorities (Capital Finance, Approved Investments and Contracts) (Amendment) Regulations 2000 (S.I. 2000/1033).

(f) 1999 c. 22.

Excluded private finance transactions

4. In regulation 40(1)(a) for the words “for the financial year in which the credit arrangement comes into being” substitute “for any financial year during the term of the credit arrangement”.

Credit ceiling increased by amount of debt transferred from another authority

5. After regulation 118A(b) insert the following regulation:

“**118B.** Where an authority transfer some or all of their debt to another authority (“the transferee”), the credit ceiling of the transferee shall be increased by the amount of debt so transferred.”.

Credit ceiling reduced by amount of debt transferred to another authority

6. After regulation 119A(c) insert the following regulation:

“**119B.** Where an authority (“the transferor”) transfer some or all of their debt to another authority, the credit ceiling of the transferor shall be reduced by the amount of debt so transferred.”.

Determining the non-housing reduction

7. In regulation 148(1)(d) in sub-paragraph (a) for “regulation 119A” substitute “regulations 119A and 119B”.

Determining the non-housing increase

8. In regulation 149(1):

(a) at the end of sub-paragraph (c) omit the word “and”;

(b) after sub-paragraph (d)(e) add:

“; and

(e) under regulation 118B.”.

The Local Authorities (Capital Finance) (Approved Investments) Regulations 1990

9.—(1) The Local Authorities (Capital Finance) (Approved Investments) Regulations 1990(f) shall be amended as follows.

(2) In regulation 1(2), in the definition of “relevant lender”(g), for “28 to 35” substitute “28 to 36”.

(3) At the end of Part II of the Schedule(h), add—

“**36.** The Greater London Magistrates’ Courts Authority.”.

The Local Authorities (Contracts) Regulations 1997

10.—(1) The Local Authorities (Contracts) Regulations 1997(i) shall be amended as follows.

(2) In regulation 5(1), at the end of sub-paragraph (g) omit “and” and after sub-paragraph (h)(j) insert—

“; and (i) the Greater London Magistrates’ Courts Authority.”.

(a) Regulation 40 was substituted by the Local Authorities (Capital Finance) (Amendment) (England) Regulations 1999 (S.I. 1999/3423).

(b) Regulation 118A was inserted by the Local Authorities (Capital Finance) (Amendment) (England) Regulations 2000 (S.I. 2000/1773).

(c) Regulation 119A was inserted by S.I. 2000/1773.

(d) Regulation 148(1) was amended by S.I. 2000/1773.

(e) Sub-paragraph (d) of regulation 149(1) was inserted by S.I. 2000/1773.

(f) S.I. 1990/426.

(g) The definition of relevant lender was inserted by S.I. 1991/501 and amended by S.I. 2000/1033.

(h) Part II of the Schedule has been amended by S.I. 1991/501, S.I. 1992/1353, S.I. 1995/1041, S.I. 1995/850, S.I. 1996/568 and S.I. 2000/1033.

(i) S.I. 1997/2862, amended by S.I. 2000/1033.

(j) Sub-paragraph (g) and (h) were inserted by S.I. 2000/1033.

(3) In regulation 6(1)—

- (a) after “Schedule 10 to the Greater London Authority Act” insert “1999 or, in the case of the Greater London Magistrates’ Courts Authority, section 59A(2) of the Justices of the Peace Act 1997(a); and
- (b) in sub-paragraph (b), after “Schedule 10 to the Greater London Authority Act” insert “1999 or, in the case of the Greater London Magistrates’ Courts Authority, section 59A(2) of the Justices of the Peace Act 1997.”.

Signed by authority of the Secretary of State for
the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment,
Transport and the Regions

5th March 2001

(a) 1997 c. 25. Section 59A was inserted by section 83(2) of the Access to Justice Act 1999.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Local Authorities (Capital Finance) Regulations 1997, and make a number of consequential amendments to the capital finance system resulting from the implementation of the Access to Justice Act 1999 which establishes the Greater London Magistrates' Courts Authority ("GLMCA").

GLMCA amendments

Regulation 3 further amends the Local Authorities (Capital Finance) Regulations 1997 by excluding from being a credit arrangement under section 48 of the Local Government and Housing Act 1989 any lease where the GLMCA became lessee by virtue of a scheme under paragraph 33 of, or regulations under paragraph 35 of, Schedule 14 to the Access to Justice Act 1999.

Regulation 9 further amends the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990, by specifying the GLMCA as a person or body advances to whom, or loan instruments issued by whom, are approved investments for the purposes of Part IV of the Local Government and Housing Act 1989.

Regulation 10 further amends the Local Authorities (Contracts) Regulations 1997 to bring the GLMCA within their ambit. Regulation 5 of the Local Authorities (Contracts) Regulations 1997 is amended to require the GLMCA to provide to its auditor a copy of every certificate issued by it under those Regulations. Regulation 6(1) of those Regulations is amended so that where the GLMCA relies on section 59A(2) of the Justices of the Peace Act 1997 (a power to do anything calculated to facilitate, or which is conducive or incidental to the exercise of its function to provide courthouses, accommodation, goods and services for the performance of its functions) as giving it power to enter into a contract, it must specify the statutory provision conferring the main relevant functions in the certificate.

Other amendments

Regulation 4 further amends regulation 40 of the Local Authorities (Capital Finance) Regulations 1997 which defines private finance transactions whose initial cost is nil. As amended, regulation 40 of those Regulations will provide that a private finance transaction shall have a nil initial cost if the authority determine that no item, other than one specified in regulation 40(2), is required to be recognised as an asset in any balance sheet the authority are required to prepare for any financial year during the term of the contract with respect to property provided, made available, constructed, enhanced, replaced or installed under the transaction.

Regulations 5 and 6 amend the Local Authorities (Capital Finance) Regulations 1997 so that the transferor authority's credit ceiling is reduced, and the transferee authority's credit ceiling is increased when debt is transferred from one authority to another. Regulations 7 and 8 amend regulations 148 and 149 of the Local Authorities (Capital Finance) Regulations 1997 so that the reduction and increase in the transferor and transferee's credit ceilings are taken into account when calculating the Minimum Revenue Provision the authority is required to make (i.e. the minimum amount it must set aside from revenue as provision to meet credit liabilities).

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