

2012 No. 265

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Capital Finance and Accounting)
(England) (Amendment) Regulations 2012**

Made - - - - *2nd February 2012*

Laid before Parliament *8th February 2012*

Coming into force in accordance with regulation 1(1)

The Secretary of State, in exercise of the powers conferred by sections 7(2)(b) and (3)(c), 8(3), 9(3)(b), 16(2)(a) and 21(2)(b) 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 2012.

(2) Regulations 1 to 3(a), 4(2), 7(b) and 8 come into force on 31st March 2012.

(3) Regulations 3(b) and (c), 4(1) and (3), 5, 6 and the remainder of regulation 7 come into force on 1st April 2012.

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

Amendment of Regulations

2. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(b) are amended as specified in regulations 3 to 8.

Definitions

3. In regulation 1 (interpretation)(c), in paragraph (5)—

(a) in the definition of “money market fund”, for paragraph (a), substitute—

“(a) in accordance with Directive 2009/65/EC(d) of the European Parliament and of the Council of 13 July 2009 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in

(a) 2003 c. 26.

(b) S.I. 2003/3146 as amended by S.I. 2004/534, S.I. 2006/521, S.I. 2007/573 and S.I. 2008/414. There are other amending instruments but none is relevant to these Regulations.

(c) The definitions of “multilateral development bank” and “money market fund” were inserted by S.I. 2004/534.

(d) OJ No L 302, 17.11.2009, p32, amended by 2010/78/EU (OJ No L 331, 15.12.2010, p120) and 2011/61/EU (OJ No L 174, 1.7.2011, p1).

transferable securities, is an undertaking for collective investment in transferable securities subject to that Directive; and”;

(b) omit the definition of “multilateral development bank”; and

(c) after the definition of “secure tenant” insert—

““securitisation transaction” means a disposal for consideration by a local authority of all or part of its interest in specified revenues, where disposal includes both sale and assignment;”.

Credit arrangements

4.—(1) Before regulation 3 (liabilities that do not arise from capital expenditure) and the sub part heading “Transactions which are not credit arrangements”, insert—

“TRANSACTIONS WHICH ARE CREDIT ARRANGEMENTS

Securitisation transactions

2A. A securitisation transaction must be treated as a transaction falling within section 7(1)(a).”.

(2) In regulation 3(2), for the words “fixed asset”, substitute “non-current asset which is not a financial asset”.

(3) For regulation 6 (calculation of cost of credit arrangements), substitute—

“6. For the purposes of section 8(2) (entry into a credit arrangement or variation to be treated as the borrowing of an amount equal to the cost of the arrangement or variation), the cost of a credit arrangement or variation of a credit arrangement is—

(a) in the case of a securitisation transaction, an amount equal to the value of the consideration received by the authority as a result of that transaction, or

(b) in all other cases, the amount of the liability in respect of that arrangement or variation which is shown, in accordance with proper practices, in the authority’s accounts.”.

Bonds

5.—(1) In regulation 7 (repayment of loan etc to a local authority)—

(a) in paragraph (2), for “paragraph (3)” substitute “paragraphs (3) and (4)”; and

(b) after paragraph (3), insert—

“(4) A sum paid to a local authority to redeem a bond on its maturity or for the purchase of a bond does not constitute repayment of a loan or other financial assistance.”.

(2) For regulation 7A (loan capital)(a), substitute—

“Bonds

7A.—(1) Subject to paragraph (2), for the purposes of Chapter 1 of Part 1, a sum received by a local authority in respect of—

(a) the redemption on maturity of a bond, or

(b) the disposal of a bond,

must be treated as a capital receipt.

(2) Paragraph (1) applies only if—

(a) the acquisition of the bond was prior to 1st April 2012, and

(a) Regulation 7A was inserted by S.I. 2008/414.

- (b) expenditure on the acquisition was treated as capital expenditure.”.

Capital receipts

6. After regulation 9A (Social HomeBuy receipts)(a), insert—

“Securitisation transaction receipts

9B. For the purposes of Chapter 1 of Part 1, any sum received as consideration by a local authority as the result of a securitisation transaction which, apart from this regulation, would not be a capital receipt, must be treated as a capital receipt.”.

Expenditure to be capital expenditure

7. In regulation 25 (expenditure to be capital expenditure)(b)—

(a) in subsection (1)(d), omit “or loan capital”;

(b) for subsection (1)(ea), substitute—

“(ea) expenditure incurred on the acquisition, production or construction of assets for use by, or disposal to, a person other than the local authority which would be capital expenditure if those assets were acquired, produced or constructed for use by the local authority; and”;

(c) omit subsection (3)(b).

Proper practices

8. For paragraph (b) of regulation 31 (proper practices), substitute—

“(b) “Service Reporting Code of Practice for Local Authorities” published by CIPFA, as amended or reissued from time to time(c);”.

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

Bob Neill

Parliamentary Under Secretary of State

Department for Communities and Local Government

2nd February 2012

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 Principal Regulations”).

Regulation 3 updates the definitions in regulation 1 of the Principal Regulations. A definition of “securitisation transaction”, being a disposal for consideration by a local authority of a specified revenue stream or streams, is inserted.

Regulation 4(1) provides that a securitisation transaction must be treated as a credit arrangement for the purposes of section 7 (“credit arrangements”) of the Local Government Act 2003 (c. 26).

Regulation 4(2) replaces the term “fixed asset” with the current terminology in local government accounting practice.

(a) Regulation 9A was inserted by S.I. 2006/521.

(b) In regulation 25, paragraph (1)(d) was amended and paragraph 3 was inserted by S.I. 2004/534, and paragraph 1(ea) was inserted by S.I. 2007/573.

(c) The first issue of this code of practice was published in London in 2010. ISBN 978 1 84508 246 8. The latest issue, which applies to the financial year 2012-13 was published in London in 2011. ISBN 978 1 84508 294 9.

Regulation 4(3) substitutes regulation 6 of the Principal Regulations so as to provide for the calculation of the cost of a securitisation transaction.

Regulation 5(1) amends regulation 7 of the Principal Regulations to make clear that redemption of a bond on its maturity, or purchase of a bond, does not constitute repayment of a loan or other financial assistance. Regulation 5(2) inserts new regulation 7A into the Principal Regulations. This provides that a sum received by a local authority in respect of the redemption on maturity of a bond, or the disposal of a bond, must be treated as a capital receipt, but only if the bond was acquired before 1 April 2012 and the expenditure on acquisition was treated as capital expenditure.

Regulation 6 provides that the value of any consideration received as a result of a securitisation transaction by a local authority must be treated as a capital receipt.

Regulation 7 removes the requirement for expenditure by local authorities on the acquisition of loan capital to be treated as capital expenditure. It also provides that expenditure incurred on the acquisition, production or construction of assets for use by, or disposal to, a person other than the local authority must be treated as capital expenditure, if it would have been capital expenditure had the assets been acquired, produced or constructed for use by the local authority.

Regulation 8 updates the title of one of the documents identified by the Secretary of State as constituting proper practices, in relation to the accounting practices for the accounts of a local authority.

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

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