

2010 No. 685 (W. 67)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Capital
Finance and Accounting) (Wales)
(Amendment) Regulations 2010**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part I of the Local Government Act 2003 (“the 2003 Act”) introduced a legal framework within which local government may undertake capital expenditure and in Wales the Welsh Ministers may regulate that activity.

Under the 2003 Act the Welsh Ministers may by regulation, in particular—

- vary the definitions of credit arrangement and capital receipt
- control the use of capital receipts, and
- specify accounting practices.

The Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 (S.I. 2003/3239 W.319) (“the 2003 Regulations”) made such provision and these Regulations amend the 2003 Regulations.

Regulation 3 changes the definition of retirement benefits so that instead of benefits payable under specified funds or schemes, they are defined as benefits payable under statutory requirements which are accounted for in the ways specified (in accordance with proper practices). The ways specified differ for the financial year 2009-10 and subsequent years.

Regulation 4 permits local authorities to apply a capital receipt received from the disposal of an interest in land other than housing land to defray the costs of disposal, provided the costs do not exceed 4% of the capital receipt arising from the disposal.

Regulation 5 extends until 2013 the ability of local authorities to defer charging liabilities for back pay

due to equal pay claims to revenue account until the date on which the back payment must actually be paid.

Regulation 6 extends to 2011 the special provision for impairment of investments.

Regulation 7 concerns the accounting treatment for short-term accumulating absences of employees (such as entitlement to holiday or time off in lieu which has accrued but not yet been taken). Local authorities must not charge an amount in respect of a liability for such entitlements to a revenue account until the date on which the liability ceases.

The accounting treatment for leases under proper practices is changing for the financial year 2010-11, which may lead to some existing financial arrangements being classified as operating or finance leases which were not previously so classed, with the result that the arrangements would be subject to different accounting treatment under proper practices. Regulation 8 provides that local authorities may continue to apply the accounting treatment that applies to such financial arrangements on 31 March 2010 for subsequent financial years.

Regulation 9 updates the title of one of the documents identified by the Welsh Ministers as constituting proper practices in relation to the accounting practices of a county or county borough council and designates a new document in relation to the accounting practices of community councils and minor joint committees.

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**The Local Authorities (Capital
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(Amendment) Regulations 2010**

Made 4 March 2010

Laid before the National Assembly for Wales
10 March 2010

Coming into force in accordance with
regulation 1(2)

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon them by sections 9(3), 11(1), 21(1) and (2), 24 and 123 of the Local Government Act 2003⁽¹⁾:

Title and commencement

1.—(1) The title of these Regulations is The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2010.

(2) These Regulations come into force for the purposes of regulations 3(2) and (3) and 6 on 31 March 2010 and for the purposes of all other regulations on 1 April 2010.

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

2. The Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003⁽²⁾ are amended in accordance with regulations 3 to 9.

(1) 2003 c. 26. Section 24 was amended by section 238(3) of the Local Government and Public Involvement in Health Act 2007 (c. 28).

(2) S.I. 2003/3239 (W.319) as amended by S.I. 2004/1010 (W.107), 2004/2918 (W.257), 2006/944 (W.93), 2006/2914, 2007/1051 (W.108), 2008/588 (W.59) and 2009/560 (W.52).

Retirement benefits

3.—(1) For regulation 4(2) substitute—

“(2) For the purposes of paragraph (1) and regulation 24 “retirement benefits” means benefits payable pursuant to statutory requirements under an arrangement accounted for as a defined benefit pension plan or as other long-term employee benefits (as defined in accordance with proper practices).”.

(2) In relation to accounts prepared for the financial year beginning on 1 April 2009, paragraph (1) has effect as if for the words “defined benefit pension plan or as other long-term employee benefits” is substituted “defined benefit scheme”.

(3) In regulation 24(1), for the words “legislation specified in sub-paragraphs (a) to (f) of” substitute “statutory requirements mentioned in”.

Use of capital receipts

4.—(1) In regulation 18(2), for the words “paragraphs (3) and (6)” substitute “paragraphs (3), (6) and (7)”.

(2) In regulation 18(6), omit the word “administrative”.

(3) After regulation 18(6) insert—

“(7) Where a local authority receives a capital receipt in respect of a disposal of an interest in land other than housing land, the capital receipt may be applied in defraying the costs of or incidental to the disposal, provided that such costs do not exceed 4% of the capital receipt arising from the disposal.”.

Back payment following unequal pay

5. After regulation 24A(4) insert—

“(5) Subject to paragraph (6), this regulation ceases to have effect on 1 April 2013.

(6) Where paragraph (4) applies to an amount, it continues to apply until the date on which the payment is actually made, whether or not the date is on or after 1 April 2013.”.

Impairment of certain investments

6.—(1) Regulation 24G is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (b) omit “or”;

(b) after sub-paragraph (b) insert—

“(ba) an impairment loss is recognised in a revenue account of the local authority

for the financial year beginning on 1 April 2010;” and

- (c) at the end of sub-paragraph (c) omit “,” and insert—

“; or

- (d) the value of an impairment loss recognised in a revenue account of the local authority for the financial year beginning on 1 April 2009 is increased in a revenue account of the authority for the financial year beginning on 1 April 2010.”

- (3) After paragraph (2) insert—

“(2A) A local authority which credits an amount to a revenue account for the financial year beginning on 1 April 2009 under paragraph (1) may debit an amount of up to the value of that credit to a revenue account for the financial year beginning on 1 April 2010.”

- (4) In paragraph (3)—

- (a) in sub-paragraph (a), after “2008” insert “or 1 April 2009”;
- (b) in sub-paragraph (b)(i), after “2009” insert “or 1 April 2010”; and
- (c) in sub-paragraph (b), after “2009” (where it occurs secondly) insert “or, as the case may be, 1 April 2010”.

- (5) After paragraph (5) insert—

“(5A) Subject to paragraph (6), where—

- (a) under paragraph (1) a local authority credits an amount to a revenue account for the year beginning on 1 April 2008, 1 April 2009 or 1 April 2010; and
- (b) in accordance with proper practices, the authority credits or has credited any amount to a revenue account before 1 April 2011 in respect of interest on the relevant investment not received on or before the date of the event giving rise to the impairment loss,

to the extent it has not debited an amount under paragraphs (4) or (5) in respect of the interest, the local authority must debit to a revenue account for the financial year beginning on 1 April 2010 an amount equal to the total of the amounts mentioned in sub-paragraph (b).”

- (6) In paragraph (6), for “(5)” substitute “(5A)”.

- (7) In paragraph (7), after “(2)” insert “or (2A)”.

- (8) In paragraph (8)—

- (a) for “2010” substitute “2011”; and
- (b) for “(5)” substitute “(5A)”.

(9) At the end of sub-paragraph (9)(a) insert “and”.

Short-term accumulating compensated absences

7. After regulation 24G, insert—

“Short-term accumulating compensated absences

24H. Where, in accordance with proper practices, a local authority includes an amount in respect of a liability for short-term accumulating compensated absences in its balance sheet, the authority must not charge to a revenue account an amount in respect of that liability until the date on which the liability ceases or is discharged.”.

Lease classification

8. After regulation 24H insert—

“Lease classification

24I. Where, on or after 1 April 2009, a local authority receives money under an arrangement—

- (a) which is in existence on, and is not treated according to proper practices as a finance lease at, 31 March 2010, and
- (b) all or part of that arrangement will be treated according to proper practices as a finance lease on or after 1 April 2010,

the money received under that arrangement may be accounted for in accordance with proper practices applying to that arrangement on 31 March 2010.

24J. Where, on or after 1 April 2009, a local authority receives money under an arrangement—

- (a) which is in existence on, and is not treated according to proper practices as an operating lease at, 31 March 2010, and
- (b) all or part of that arrangement will be treated according to proper practices as an operating lease on or after 1 April 2010,

the money received under that arrangement may be accounted for in accordance with proper practices applying to that arrangement on 31 March 2010.”.

Proper practices

9. For regulation 25 substitute—

25.—(1) For the purposes of section 21(2) (accounting practices)—

- (a) in relation to local authorities other than community councils and minor joint committees, the accounting practices contained in the following codes of practice are proper practices—
 - (i) “Code of Practice on Local Authority Accounting in the United Kingdom”(1) as may be amended or reissued from time to time (whether under the same title or not) issued jointly by the Chartered Institute of Public Finance and Accountancy and the Local Authority (Scotland) Accounts Advisory Committee; and
 - (ii) “Best Value Accounting Code of Practice” as may be amended or reissued from time to time (whether under the same title or not) issued by the Chartered Institute of Public Finance and Accountancy;
- (b) in relation to community councils and minor joint committees, the accounting practices contained in the “Governance and accountability for Local Councils: A Practitioners Guide 2008 (Wales)” as may be amended or reissued from time to time (whether under the same title or not) issued jointly by One Voice Wales and the Society for Local Council Clerks are proper practices.

(2) In this regulation “minor joint committee” means a joint committee of two or more local authorities in Wales whose gross income or expenditure (whichever is the higher) for the year is, and each of the two immediately preceding years was, less than £1,000,000.”.

Revocation

10. Regulation 3(1) of the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2007(2) is revoked.

(1) ISBN 978 1 84508 217 8 for the Code issued for 2010/2011.
(2) S.I. 2007/1051 (W.108).

Carl Sargeant

Minister for Social Justice and Local Government, one
of the Welsh Ministers

4 March 2010