WELSH STATUTORY INSTRUMENTS

2004 No. 1010 (W.107)

LOCAL GOVERNMENT, WALES

The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2004

Made - - - -	*31st March 2004*
Coming into force - -	*1st April 2004*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 3(5) to (7), 7(2)(b) and (3)(c), 8(3), 9(3), 10, 11, 15(1)(b), 16(2), 19, 21(1), (2) and (5), 23(2), 24, 123(2) and 124 of, and paragraph 4 of Schedule 1 to, the Local Government Act 2003(**1**) hereby makes the following Regulations:

Name, commencement, application and interpretation

1.—(1) These Regulations are called the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2004 and shall come into force on 1st April 2004.

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

(3) In these Regulations any reference to a Part, section or Schedule is a reference to a Part or section of, or Schedule to, the Local Government Act 2003 unless otherwise stated.

(4) In these Regulations —

"the 2003 Regulations" means the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003(**2**).

Amendments to the 2003 Regulations

2.—(1) The 2003 Regulations are amended as follows.

(2) In paragraph (4) of Regulation 1 after the definition of "the 1997 Regulations" insert:

""charter trustee" means a body constituted in accordance with section 246 of the Local Government Act 1972(**3**);

"CIPFA" means the body —

(a) constituted by Royal Charter on 6th January 1959 and originally named "the Institute of Municipal Treasurers and Accountants";

(**1**) 2003 c. 26.
(**2**) S.I. 2003/3239 (W.319).
(**3**) 1972 c. 70.

(b) whose name was changed to "The Chartered Institute of Public Finance and Accountancy" by Royal Charter on 24th October 1973; and

(c) registered with the Charity Commissioners of England and Wales (number 231060);

"community council" means a community council or a town council in accordance with section 27 of the Local Government Act 1972;".

(3) In Regulation 2 after the word "amended" insert "or reissued".

(4) In Regulation 3:

(a) in paragraph (1) substitute "paragraphs (2) and (3)" for "paragraph (2)"; and

(b) at the end insert:

"(3) Paragraph (1) applies to liabilities that are credit arrangements entered into after 31st March 2004.

(4) Paragraph (1) does not apply where liabilities are credit arrangements in accordance with section 48 of the Local Government and Housing Act 1989(**4**) entered into before 1st April 2004 which are not funded by capital receipts or credit arrangements under section 50(3) of that Act until such arrangements cease or are varied in any way.".

(5) After Regulation 5 insert:

"**Varied Transactions**

5A. For the purposes of Chapter 1 of Part 1 (Capital finance etc), a local authority shall be taken to have entered into a credit arrangement where —

(a) on or after 1st April 2004, it enters into a transaction ("the new transaction") which varies a transaction entered into previously, whether before, on or after 1st April 2004 ("the earlier transaction");

(b) the earlier transaction did not result in the local authority being taken to have entered into a credit arrangement; and

(c) the local authority would, if it had entered into the earlier transaction as varied by the new transaction on —

(i) the date on which the earlier transaction was entered into; or

(ii) if later, 1st April 2004,

be taken to have entered into a credit arrangement, and the date on which it is taken to have entered into the credit arrangement by virtue of this regulation is the date on which it enters into the new transaction".

(6) In Regulation 6 at the end insert:

"(3) Where the financial assistance referred to in paragraphs (1)(a) and (b) is a loan, grant or other financial assistance given by a community council or charter trustees, any sums paid to the local authority as repayment of that loan, grant or other financial assistance shall not be treated as capital receipts.

(4) In paragraphs (1) and (2) "local authority" includes a community council and charter trustees.".

(7) In Regulation 9 at the end insert:

"(6) In paragraphs (1) and (3) "local authority" includes community councils and charter trustees.".

(**4**) 1989 c. 42.

(8) After Regulation 9 insert:

"**Operating and finance leases**

9A.—(1) A sum received by a local authority —

(a) under any arrangement which is treated, in accordance with proper practices, as an operating lease or a finance lease;

(b) which, apart from this Regulation would be a capital receipt; and

(c) which, in accordance with proper practices, is to be credited to a revenue account,

shall not be treated for the purposes of Chapter 1 of Part 1 as a capital receipt.

(2) In paragraph (1) "local authority" includes a community council and charter trustees.".

(9) After paragraph (2)(c) of Regulation 18 insert: "or;

(d) to pay a premium charged in relation to any amount borrowed.

(2A) Paragraphs (1)(a), (2)(a), (b) and (d) apply to community councils and charter trustees.".

(10) In Regulation 19 after the word "amended" insert "or reissued.".

(11) In Regulation 20 —

(a) in paragraph (1) at the end insert:

"(d) subject to paragraph (5) the acquisition of share capital or loan capital in any body corporate;

(e) the repayment of any grant or other financial assistance given to the local authority for the purposes of expenditure which is capital expenditure;

(f) expenditure incurred on works to any land or building in which the local authority does not have an interest, which would be capital expenditure if the local authority had an interest in that land or building.";

(b) at the end insert:

"(4) Where expenditure in accordance with paragraph (1)(b) is a loan, grant or other financial assistance given by a community council or charter trustees to any person, it shall not be treated as capital expenditure by virtue of this regulation.

(5) In paragraph (1)(d) loan capital shall not be treated by a local authority as capital expenditure where:

(a) it is an investment for the purposes of the prudent management of a local authority's financial affairs in accordance with section 12(b); and

(b) the investment is admitted to an official list maintained by a competent authority in an EEA State.

(6) In paragraph (5) —

"competent authority" means an authority which is responsible for maintaining the official list in an EEA State;

"EEA State" has the meaning given by Schedule 3 to the Financial Services and Markets Act 2000(**5**);

"official list" in relation to the United Kingdom has the meaning given by section 103(1) of the Financial Services and Markets Act 2000, and in relation

(**5**) 2000 c. 21.