



Local Government Act 2003

2003 CHAPTER 26

PART 1

CAPITAL FINANCE ETC AND ACCOUNTS

CHAPTER 1

CAPITAL FINANCE ETC

Borrowing

1 Power to borrow

A local authority may borrow money—

- (a) for any purpose relevant to its functions under any enactment, or
- (b) for the purposes of the prudent management of its financial affairs.

Commencement Information

- I1** S. 1 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I2** S. 1 in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(a\)](#) (with [art. 8, Sch.](#))

2 Control of borrowing

- (1) A local authority may not borrow money if doing so would result in a breach of—
- (a) the limit for the time being determined by or for it under section 3, or
 - (b) any limit for the time being applicable to it under section 4 [^{F1}, or]
 - [^{F2}(c) any limit for the time being applicable to it under section 12A.]

Changes to legislation: Local Government Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) The Secretary of State may, in relation to specific borrowing by a particular local authority, by direction disapply subsection (1)(b), so far as relating to any limit for the time being applicable under section 4(1).
- (3) A local authority may not, without the consent of the Treasury, borrow otherwise than in sterling.
- (4) This section applies to borrowing under any power for the time being available to a local authority under any enactment, whenever passed.

Textual Amendments

- F1** Word in s. 2(1) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 78(3)(a), 255(2)(p)** (with s. 247); [S.I. 2024/92](#), reg. 2(a)
- F2** S. 2(1)(c) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 78(3)(b), 255(2)(p)** (with s. 247); [S.I. 2024/92](#), reg. 2(a)

Commencement Information

- I3** S. 2 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), art. 2, **Sch. 1 Pt. I** (with [Sch. 2 para. 3](#))
- I4** S. 2 in force at 1.4.2004 for E. by [S.I. 2003/2938](#), **art. 7(a)** (with [art. 8](#), [Sch.](#))

3 Duty to determine affordable borrowing limit

- (1) A local authority shall determine and keep under review how much money it can afford to borrow.
- (2) In the case of the following authorities, namely—
 - (a) the Greater London Authority, and
 - (b) a functional body,
 the Mayor shall determine and keep under review how much money the authority can afford to borrow.
- (3) Before making any determination under subsection (2), the Mayor shall consult the London Assembly.
- (4) Before making a determination under subsection (2) for a functional body, the Mayor shall consult that body.
- (5) The Secretary of State may by regulations make provision about the performance of the duty under subsection (1) or (2).
- (6) Regulations under subsection (5) may, in particular—
 - (a) make provision about—
 - (i) when a determination under subsection (1) or (2) is to be made,
 - (ii) how such a determination is to be made, and
 - (iii) the period for which such a determination is to be made;
 - (b) make provision about the monitoring of an amount determined under subsection (1) or (2);
 - (c) make provision about factors to which regard may be had in making a determination under subsection (1) or (2) or in monitoring an amount determined under that subsection.

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- (7) Regulations under subsection (5) may include provision requiring a person making a determination under subsection (1) or (2) to have regard to one or more specified codes of practice, whether issued by the Secretary of State or another.
- (8) A local authority's function under subsection (1) shall be discharged only by the authority.
- (9) Section 38(1) of the Greater London Authority Act 1999 (c. 29) (delegation by Mayor) does not apply in relation to functions under subsection (2).
- (10) The power under subsection (7) is not to be read as limited to the specification of an existing document.
- (11) In this section—
 - “functional body” has the same meaning as in the Greater London Authority Act 1999 (c. 29);
 - “local authority” does not include the Greater London Authority or a functional body;
 - “Mayor” means Mayor of London.

Commencement Information

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| I5 | S. 3 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by S.I. 2003/3034, art. 2, Sch. 1 Pt. I (with Sch. 2 para. 3) |
| I6 | S. 3(1)-(4) (8) (9) (11) in force at 1.1.2004 for E. by S.I. 2003/2938, art. 5 (with art. 8, Sch.) |
| I7 | S. 3(5)-(7) (10) in force at 18.11.2003 for E. by S.I. 2003/2938, art. 3(a) (with art. 8, Sch.) |

4 Imposition of borrowing limits

- (1) The Secretary of State may for national economic reasons by regulations set limits in relation to the borrowing of money by local authorities.
- (2) The Secretary of State may by direction set limits in relation to the borrowing of money by a particular local authority for the purpose of ensuring that the authority does not borrow more than it can afford.
- (3) Different limits may be set under subsection (1) or (2) in relation to different kinds of borrowing.
- (4) A local authority subject to a limit set under subsection (1) may transfer any headroom it has in relation to the limit to another local authority subject to a corresponding limit.
- (5) The Secretary of State may by regulations make provision about the exercise of the right under subsection (4) and may, in particular, make provision about—
 - (a) the circumstances in which a local authority is to be regarded as having headroom for the purposes of that subsection, and
 - (b) the amount of headroom which it has for those purposes.
- (6) Where an amount is transferred under subsection (4), this Chapter shall have effect—
 - (a) in relation to the transferor, as if the limit in relation to which the headroom exists were reduced by that amount, and
 - (b) in relation to the transferee, as if the corresponding limit to which it is subject were increased by that amount.

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Commencement Information

- I8** S. 4 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I9** S. 4(1)-(3) (5) in force at 18.11.2003 for E. by [S.I. 2003/2938, art. 3\(a\)](#) (with [art. 8, Sch.](#))
- I10** S. 4(4)(6) in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(b\)](#) (with [art. 8, Sch.](#))

5 Temporary borrowing

- (1) Subject to subsection (2), any limit for the time being determined by or for a local authority under section 3, or applicable to it under section 4 [^{F3} or 12A], shall be treated for the purposes of this Chapter as increased by the amount of any payment which—
- is due to the authority in the period to which the limit relates, but
 - has not yet been received by it.
- (2) In the case of a limit determined under section 3, or set under section 4(2) [^{F4} or 12A], subsection (1) shall not apply to any payment whose delayed receipt was taken into account in arriving at the limit.

Textual Amendments

- F3** Words in s. 5(1) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\), ss. 78\(4\)\(a\), 255\(2\)\(p\)](#) (with s. 247); [S.I. 2024/92, reg. 2\(a\)](#)
- F4** Words in s. 5(2) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\), ss. 78\(4\)\(b\), 255\(2\)\(p\)](#) (with s. 247); [S.I. 2024/92, reg. 2\(a\)](#)

Commencement Information

- I11** S. 5 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I12** S. 5 in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(a\)](#) (with [art. 8, Sch.](#))

6 Protection of lenders

A person lending money to a local authority shall not be bound to enquire whether the authority has power to borrow the money and shall not be prejudiced by the absence of any such power.

Commencement Information

- I13** S. 6 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I14** S. 6 in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(a\)](#) (with [art. 8, Sch.](#))

Credit arrangements

7 “Credit arrangements”

- (1) For the purposes of this Chapter, a local authority shall be taken to have entered into a credit arrangement where—

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- (a) it enters into a transaction which gives rise to a liability on its part, and
 - (b) the liability is a qualifying liability.
- (2) A transaction entered into by a local authority is to be taken for the purposes of subsection (1) as giving rise to a liability on the part of the authority if—
- (a) it falls in accordance with proper practices to be treated for the purposes of the authority's accounts as giving rise to such a liability, or
 - (b) it falls in accordance with regulations made by the Secretary of State to be treated as falling within paragraph (a).
- (3) The reference in subsection (1)(b) to a qualifying liability is to any liability other than—
- (a) a liability to repay money,
 - (b) a liability in respect of which the date for performance is less than 12 months after the date on which the transaction giving rise to the liability is entered into, and
 - (c) a liability of a description specified for the purposes of this provision by regulations made by the Secretary of State.

Modifications etc. (not altering text)

- C1** S. 7 applied (with modifications) (8.5.2017) by [The Greater Manchester Combined Authority \(Transfer of Police and Crime Commissioner Functions to the Mayor\) Order 2017 \(S.I. 2017/470\)](#), art. 1(2), **Sch. 1 para. 13(2)(a)**
- C2** S. 7 modified (20.12.2023) by [The York and North Yorkshire Combined Authority Order 2023 \(S.I. 2023/1432\)](#), arts. 1(2), 33(2), **Sch. 5 para. 13(2)**

Commencement Information

- I15** S. 7 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), art. 2, **Sch. 1 Pt. I** (with [Sch. 2 para. 3](#))
- I16** S. 7(1)(2)(a)(3)(a)(3)(b) in force at 1.4.2004 for E. by [S.I. 2003/2938](#), **art. 7(b)** (with [art. 8](#), [Sch.](#))
- I17** S. 7(2)(b)(3)(c) in force at 18.11.2003 for E. by [S.I. 2003/2938](#), **art. 3(a)** (with [art. 8](#), [Sch.](#))

8 Control of credit arrangements

- (1) A local authority may not enter into, or vary, a credit arrangement if doing so would result in a breach of—
- (a) the limit for the time being determined by or for it under section 3, or
 - (b) any limit for the time being applicable to it under section 4 ^[F5], or
 - ^[F6](c) any limit for the time being applicable to it under section 12A.]
- (2) In applying those limits for the purposes of subsection (1)—
- (a) entry into a credit arrangement shall be treated as the borrowing of an amount of money equal to the cost of the arrangement, and
 - (b) variation of a credit arrangement shall be treated as the borrowing of an amount of money equal to the cost of the variation.
- (3) The Secretary of State may by regulations make provision about the calculation for the purposes of subsection (2) of the cost of a credit arrangement or a variation and may, in particular, make provision about the treatment of options.

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Textual Amendments

- F5** Word in s. 8(1) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 78\(5\)\(a\)](#), [255\(2\)\(p\)](#) (with [s. 247](#)); [S.I. 2024/92](#), [reg. 2\(a\)](#)
- F6** S. 8(1)(c) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 78\(5\)\(b\)](#), [255\(2\)\(p\)](#) (with [s. 247](#)); [S.I. 2024/92](#), [reg. 2\(a\)](#)

Commencement Information

- I18** S. 8 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I19** S. 8(1)(2) in force at 1.4.2004 for E. by [S.I. 2003/2938](#), [art. 7\(b\)](#) (with [art. 8](#), [Sch.](#))
- I20** S. 8(3) in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))

Capital receipts

9 “Capital receipt”

- (1) Subject to subsection (3), references in this Chapter to a capital receipt, in relation to a local authority, are to a sum received by the authority in respect of the disposal by it of an interest in a capital asset.
- (2) An asset is a capital asset for the purposes of subsection (1) if, at the time of the disposal, expenditure on the acquisition of the asset would be capital expenditure.
- (3) The Secretary of State may by regulations—
 - (a) make provision for the whole of a sum received by a local authority in respect of the disposal by it of an interest in a capital asset, or such part of such a sum as may be determined under the regulations, to be treated as not being a capital receipt for the purposes of this Chapter;
 - (b) make provision for the whole of a sum received by a local authority otherwise than in respect of the disposal by it of an interest in a capital asset, or such part of such a sum as may be determined under the regulations, to be treated as being a capital receipt for the purposes of this Chapter.
- (4) Where a sum becomes payable to a local authority before it is actually received by the authority, it shall be treated for the purposes of this section as received by the authority when it becomes payable to it.

Commencement Information

- I21** S. 9 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I22** S. 9(1)(2)(4) in force at 1.4.2004 for E. by [S.I. 2003/2938](#), [art. 7\(b\)](#) (with [art. 8](#), [Sch.](#))
- I23** S. 9(3) in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))

10 Non-money receipts

- (1) The Secretary of State may by regulations apply section 9 to cases where—

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- (a) a local authority makes a disposal of the kind mentioned in subsection (1) of that section and the consideration for the disposal does not consist wholly of money payable to the authority, or
 - (b) a local authority receives otherwise than in the form of money anything which, if received in that form, would be a capital receipt under that section.
- (2) Regulations under subsection (1) may, in particular—
- (a) make provision for a local authority to be treated as receiving a sum of such an amount as may be determined under the regulations;
 - (b) make provision about when the deemed receipt is to be treated as taking place.

Commencement Information

I24 S. 10 in force at 18.11.2003 for E. by S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

I25 S. 10 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by S.I. 2003/3034, art. 2, Sch. 1 Pt. I (with Sch. 2 para. 3)

11 Use of capital receipts

- (1) The Secretary of State may by regulations make provision about the use of capital receipts by a local authority.
- (2) Regulations under subsection (1) may, in particular—
- (a) make provision requiring an amount equal to the whole or any part of a capital receipt to be used only to meet—
 - (i) capital expenditure, or
 - (ii) debts or other liabilities;
 - (b) make provision requiring an amount equal to the whole or any part of a capital receipt to be paid to the Secretary of State.
- (3) The power under subsection (1), so far as relating to provision of the kind mentioned in subsection (2)(b), shall only apply to receipts which a local authority derives from the disposal of an interest in housing land.
- (4) The reference in subsection (3) to housing land is to any land, house or other building in relation to which the local authority is, or has been, subject to the duty under section 74 of the Local Government and Housing Act 1989 (c. 42) (duty to keep Housing Revenue Account).
- (5) Regulations under subsection (1) may include provision authorising the Secretary of State to set off any amount which an authority [^{F7}in Wales] is liable to pay to him under this section against any amount which he is liable to pay to it.
- [^{F8}(5A) Where the Secretary of State is liable to repay an amount that has been overpaid by a local housing authority in England under this section, the Secretary of State may set off against the amount of the repayment any amount that the authority is liable to pay the Secretary of State under—
- (a) this section, or
 - (b) section 69 of the Housing and Planning Act 2016 (payments in respect of vacant higher value housing).]

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[^{F9}(6) The Secretary of State and a local authority in England may enter into an agreement with the effect that a requirement imposed under subsection (2)(b) does not apply to, or is modified in its application to, capital receipts of the authority that are specified or described in the agreement.]

Textual Amendments

- F7** Words in s. 11(5) inserted (12.5.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 78(2)**, 216(1)(b)
F8 S. 11(5A) inserted (12.5.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 78(3)**, 216(1)(b)
F9 S. 11(6) inserted (15.11.2011) by [Localism Act 2011 \(c. 20\)](#), **ss. 174**, 240(5)(n)

Commencement Information

- I26** S. 11 in force at 18.11.2003 for E. by [S.I. 2003/2938](#), **art. 3(a)** (with [art. 8](#), [Sch.](#))
I27 S. 11 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), **art. 2**, **Sch. 1 Pt. I** (with [Sch. 2 para. 3](#))

Investment

12 Power to invest

A local authority may invest—

- (a) for any purpose relevant to its functions under any enactment, or
- (b) for the purposes of the prudent management of its financial affairs.

[^{F10}This is subject to a direction under section 12A (risk-mitigation directions).]

Textual Amendments

- F10** Words in s. 12 inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 78(6)**, 255(2)(p) (with [s. 247](#)); [S.I. 2024/92](#), [reg. 2\(a\)](#)

Commencement Information

- I28** S. 12 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), **art. 2**, **Sch. 1 Pt. I** (with [Sch. 2 para. 3](#))
I29 S. 12 in force at 1.4.2004 for E. by [S.I. 2003/2938](#), **art. 7(a)** (with [art. 8](#), [Sch.](#))

[^{F11}Risk management: England

Textual Amendments

- F11** **Ss. 12A-12D** and cross-heading inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 78(2)**, 255(2)(p) (with [s. 247](#)); [S.I. 2024/92](#), [reg. 2\(a\)](#)

12A Risk-mitigation directions

- (1) The Secretary of State may give one or more risk-mitigation directions to a local authority in England, for the purpose of reducing or mitigating the financial risk to the authority, if—

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- (a) a trigger event has occurred in relation to the local authority, and
 - (b) the Secretary of State is satisfied that the direction is, or (as the case may be) directions are, appropriate and proportionate to the level of that financial risk.
- (2) A “trigger event” occurs if (and when)—
- (a) a risk threshold is breached by the local authority (see section 12B);
 - (b) a report is made by the chief finance officer of the local authority under section 114(3) of the Local Government Finance Act 1988 (report to effect that authority’s expenditure is likely to exceed available resources); or
 - (c) the Secretary of State—
 - (i) gives a direction under section 16(2)(b) (request for expenditure to be, or not be, treated as capital) in respect of the local authority, or
 - (ii) makes a grant to the local authority under an enactment,for the purpose of preventing circumstances arising that would require such a report to be made.
- (3) The following are “risk-mitigation directions”—
- (a) a direction that sets limits in relation to the borrowing of money by the local authority;
 - (b) a direction that requires the local authority to take action specified in the direction.
- (4) A direction under subsection (3)(a)—
- (a) may set different limits in relation to different kinds of borrowing;
 - (b) must specify the period for which any limit has effect.
- (5) A direction under subsection (3)(b)—
- (a) may (amongst other things) require the local authority to take action to divest itself of a specified asset;
 - (b) must specify the time by which any specified action must be taken.
- (6) In deciding whether or not to exercise a power to give a direction under this section, the Secretary of State must have regard to—
- (a) the likely impact of the direction on the provision of services to the public by or on behalf of the local authority;
 - (b) the duty imposed on the local authority by section 3(1) of the Local Government Act 1999 (best value duty).
- (7) In deciding whether or not to exercise a power to give a direction under this section, the Secretary of State may, in particular, take account of the likely impact of that decision on the implementation of any central government policy, project or programme.
- (8) The Secretary of State may not give a risk-mitigation direction unless the Secretary of State—
- (a) has given the local authority notice of the proposed direction, and of the right of the local authority to make written representations to the Secretary of State about it within the period specified in the notice, and
 - (b) has considered any representations made by the local authority to the Secretary of State within that period.
- (9) In this section, “financial risk”, in relation to a local authority, means the risk that the expenditure of the local authority (including expenditure it proposes to incur) in the

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current or any future financial year is likely to exceed, or further exceed, the resources (including sums borrowed) available to it to meet that expenditure.

- (10) This section is subject to section 12C (restriction of power to give risk-mitigation directions).

12B Risk thresholds

- (1) For the purposes of section 12A(2)(a), a risk threshold is breached by a local authority in England if (and when) a capital risk metric for the local authority breaches the specified threshold for that metric.
- (2) Each of the following is a “capital risk metric”—
- (a) the total of a local authority’s debt (including credit arrangements) as compared to the financial resources at the disposal of the authority;
 - (b) the proportion of the total of a local authority’s capital assets which is investments made, or held, wholly or mainly in order to generate financial return;
 - (c) the proportion of the total of a local authority’s debt (including credit arrangements) in relation to which the counter-party is not central government or a local authority;
 - (d) the amount of minimum revenue provision charged by a local authority to a revenue account for a financial year;
 - (e) any other metric specified by regulations made by the Secretary of State.
- (3) The Secretary of State may, by regulations, make further provision—
- (a) specifying whether the specified threshold for a particular metric is breached by a failure to reach that threshold or by that threshold being exceeded;
 - (b) about how the metrics specified in, or under, subsection (2) are to be calculated for the purpose of determining whether the specified threshold for that metric has been breached.
- (4) Before making regulations under subsection (2)(e), the Secretary of State must consult all local authorities in England.
- (5) In this section—
- “capital asset” has the meaning given by section 9;
 - “minimum revenue provision” has the meaning given by regulation 27 of the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 (S.I. 2003/3146);
 - “specified” means specified, or determined in a manner specified, in regulations made by the Secretary of State.
- (6) Regulations may require a specified threshold to be determined having regard to guidance issued under section 21(1A) (accounting practices).

12C Restriction of power to give risk-mitigation directions

- (1) If, after the power to give risk-mitigation directions becomes exercisable under [section 12A\(1\)](#) in relation to a local authority—
- (a) at least 12 months have elapsed since the Secretary of State last became aware of a trigger event having occurred in relation to the authority,

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- (b) any risk-mitigation direction given to the authority has been complied with or revoked, and
 - (c) the Secretary of State is satisfied no further risk-mitigation direction is likely to be required in the foreseeable future for the purpose of reducing or mitigating the financial risk to the authority,
- the Secretary of State must give the local authority a notice to that effect (“a cessation notice”).
- (2) Where a cessation notice is given, the power conferred by section 12A(1) is no longer exercisable, in relation to that authority, by reason of any trigger event of which the Secretary of State was aware at the time that notice was given.
 - (3) In this section “risk-mitigation direction”, “trigger event” and “financial risk” have the same meaning as in section 12A.

12D Duty to cooperate with independent expert

- (1) This section applies where—
 - (a) a trigger event has occurred in relation to a local authority in England,
 - (b) section 12C (2) does not apply to prevent the power conferred by section 12A(1) being exercisable, in relation to that authority, by reason of that event, and
 - (c) the Secretary of State has appointed an independent expert to review the level of the financial risk to the local authority.
- (2) The local authority must, so far as reasonably practicable, co-operate with the independent expert in any way that the independent expert considers necessary or expedient for the purposes of the conduct of the review.
- (3) In this section—
 - “financial risk” has the same meaning as in [section 12A](#);
 - “independent expert” means a person—
 - (a) who is independent of the local authority and the Secretary of State, and
 - (b) who has relevant experience or knowledge which is relevant to the matter in question;
 - “trigger event” has the same meaning as in [section 12A](#).]

Miscellaneous

13 Security for money borrowed etc

- (1) Except as provided by subsection (3), a local authority may not mortgage or charge any of its property as security for money which it has borrowed or which it otherwise owes.
- (2) Security given in breach of subsection (1) shall be unenforceable.
- (3) All money borrowed by a local authority (whether before or after the coming into force of this section), together with any interest on the money borrowed, shall be charged indifferently on all the revenues of the authority.
- (4) All securities created by a local authority shall rank equally without any priority.

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- (5) The High Court may appoint a receiver on application by a person entitled to principal or interest due in respect of any borrowing by a local authority if the amount due remains unpaid for a period of two months after demand in writing.
- (6) The High Court may appoint a receiver under subsection (5) on such terms, and confer on him such powers, as it thinks fit.
- (7) The High Court may confer on a receiver appointed under subsection (5) any powers which the local authority has in relation to—
 - (a) collecting, receiving or recovering the revenues of the local authority,
 - (b) issuing levies or precepts, or
 - (c) setting, collecting or recovering council tax.
- (8) No application under subsection (5) may be made unless the sum due in respect of the borrowing concerned amounts to not less than £10,000.
- (9) The Secretary of State may by order substitute a different sum for the one for the time being specified in subsection (8).

Modifications etc. (not altering text)

- C3** S. 13(1)(2) excluded (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, **7(8)**, 7(9)

Commencement Information

- I30** S. 13 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), art. 2, **Sch. 1 Pt. I** (with [Sch. 2 para. 3](#))
- I31** S. 13 in force at 1.4.2004 for E. by [S.I. 2003/2938](#), **art. 7(a)** (with art. 8, [Sch.](#))

14 Information

A local authority shall supply the Secretary of State with such information relating to any of the matters dealt with in this Chapter, and at such time, as he may request.

Commencement Information

- I32** S. 14 in force at 18.11.2003 for E. by [S.I. 2003/2938](#), **art. 3(a)** (with art. 8, [Sch.](#))
- I33** S. 14 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), art. 2, **Sch. 1 Pt. I** (with [Sch. 2 para. 3](#))

Supplementary

15 Guidance

- (1) In carrying out its functions under this Chapter, a local authority shall have regard—
 - (a) to such guidance as the Secretary of State may issue, and
 - (b) to such other guidance as the Secretary of State may by regulations specify for the purposes of this provision.

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- (2) The power under subsection (1)(b) is not to be read as limited to the specification of existing guidance.

Commencement Information

- I34** S. 15 in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))
I35 S. 15 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))

16 “Capital expenditure”

- (1) Subject to subsection (2), references in this Chapter to capital expenditure, in relation to a local authority, are to expenditure of the authority which falls to be capitalised in accordance with proper practices.
- (2) The Secretary of State may—
- (a) by regulations provide that expenditure of local authorities shall be treated for the purposes of this Chapter as being, or as not being, capital expenditure;
 - (b) by direction provide that expenditure of a particular local authority shall be treated for the purposes of this Chapter as being, or as not being, capital expenditure.

Commencement Information

- I36** S. 16 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
I37 S. 16(1) in force at 1.4.2004 for E. by [S.I. 2003/2938](#), [art. 7\(a\)](#) (with [art. 8](#), [Sch.](#))
I38 S. 16(2) in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))

17 External funds

- (1) For the purposes of this Chapter—
- (a) borrowing of money by a local authority for the purposes of an external fund shall be treated as not being borrowing by the authority;
 - (b) the temporary use by a local authority of money forming part of an external fund, if not for a purpose of the fund, shall be treated as borrowing by the authority;
 - (c) entry into a credit arrangement by a local authority for the purposes of an external fund shall be treated as not being entry into a credit arrangement by the authority;
 - (d) a disposal by a local authority of—
 - (i) an interest in an asset which, at the time of the disposal, is an asset of an external fund, or
 - (ii) an investment held for the purposes of such a fund,shall be treated as not being a disposal by the authority;
 - (e) the making of an investment by a local authority for the purposes of an external fund shall be treated as not being the making of an investment by the authority;
 - (f) expenditure incurred by a local authority in respect of payments out of an external fund shall be treated as not being expenditure of the authority.

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- (2) In this section, references to an external fund, in relation to a local authority, are to—
- (a) a superannuation fund which the authority is required to keep by virtue of the Superannuation Act 1972 (c. 11), or
 - (b) a trust fund of which the authority is a trustee.

Commencement Information

- I39** S. 17 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I40** S. 17 in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(a\)](#) (with [art. 8, Sch.](#))

18 Local authority companies etc

- (1) The Secretary of State may, for the purposes of this Chapter, by regulations make provision for things done by or to a body mentioned in subsection (2) to be treated, in such cases and to such extent as the regulations may provide, as done by or to a local authority specified in, or determined in accordance with, the regulations.
- (2) Those bodies are—
- (a) a Passenger Transport Executive,
 - (b) a company which, in accordance with Part 5 of the Local Government and Housing Act 1989 (c. 42) (companies in which local authorities have interests), is under the control, or for the time being subject to the influence, of a local authority or a Passenger Transport Executive, and
 - (c) a trust to which the provisions of section 69 of that Act (companies subject to local authority influence) are applicable because of an order under section 72 of that Act (trusts influenced by local authorities).
- (3) A local authority to which regulations under this section apply and any body or bodies falling within subsection (2)(a) or (b) with which the regulations link the authority are referred to in this section as the members of a local authority group.
- (4) Regulations under this section may include—
- (a) provision for the application of any of the provisions of this Chapter to members of a local authority group subject to such modifications as the regulations may specify;
 - (b) provision as to the way in which—
 - (i) dealings between members of a local authority group, or
 - (ii) changes in the capitalisation or capital structure of a company in a local authority group,
 are to be brought into account for the purposes of this Chapter.

Commencement Information

- I41** S. 18 in force at 18.11.2003 for E. by [S.I. 2003/2938, art. 3\(a\)](#) (with [art. 8, Sch.](#))
- I42** S. 18 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))

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19 Application to parish and community councils

- (1) In sections 2(3) and (4), 6, [^{F12}9 to 12, 13], 15, 16, 17(1)(a), (b) and (d) to (f) and (2) and 18, references to a local authority include a parish council, a community council and charter trustees.
- (2) Schedule 1 (which makes provision about capital finance in relation to parish and community councils and charter trustees) has effect.
- (3) The appropriate person may by regulations—
 - (a) apply any of the other provisions of this Chapter to parish or community councils or charter trustees, or parish or community councils or charter trustees of any description, with or without modifications, and
 - (b) make any corresponding disapplication of any of the provisions of Schedule 1.

Textual Amendments

- F12** Words in s. 19(1) substituted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 78\(7\), 255\(2\)\(p\)](#) (with s. 247); [S.I. 2024/92](#), [reg. 2\(a\)](#)

Commencement Information

- I43** S. 19 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I44** S. 19(1)(2) in force at 18.11.2003 for specified purposes for E. by [S.I. 2003/2938](#), [art. 3\(b\)\(c\)](#) (with [art. 8](#), [Sch.](#))
- I45** S. 19(1)(2) in force at 1.4.2004 for E. in so far as not already in force by [S.I. 2003/2938](#), [art. 7\(b\)](#) (with [art. 8](#), [Sch.](#))
- I46** S. 19(3) in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))

20 Directions

- (1) Directions under this Chapter shall be in writing.
- (2) Directions under this Chapter may be expressed to have effect in specified circumstances or subject to specified conditions.
- (3) Any power to give a direction under this Chapter includes power to give a direction varying or revoking a previous direction given in exercise of the power.

Commencement Information

- I47** S. 20 in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))
- I48** S. 20 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(2A) inserted by [2007 c. 28 Sch. 14 para. 5\(2\)\(b\)](#)
- s. 24(1) s. 24 renumbered as s. 24(1) by [2007 c. 28 Sch. 14 para. 5\(3\)](#)
- s. 24(2) inserted by [2007 c. 28 Sch. 14 para. 5\(3\)](#)