
STATUTORY INSTRUMENTS

1990 No. 432

The Local Authorities (Capital Finance) Regulations 1990

PART VI

CAPITAL RECEIPTS

Capital receipts to be treated as reduced: replacement of assets

18.—(1) Capital receipts of a description specified in paragraph (2) below shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraphs (4) to (10) below.

(2) For the purposes of paragraph (1) above, capital receipts derived from a disposal by a local authority of an interest in land are specified where—

- (a) the interest is of a description mentioned in sub-paragraph (a), (b) or (d), as the case may be, of regulation 16(2) but, for the purposes of this regulation, the references in sub-paragraph (d) to the dwelling are to be construed as references to the land;
- (b) either—
 - (i) the land, immediately before its disposal, is used for a purpose mentioned in Part I of Schedule 2 to these Regulations, or is of a description mentioned in column 1 of Part II of that Schedule; or
 - (ii) if the disposal is made pursuant to a compulsory purchase order, the land has been held for the purposes of Part II of the Housing Act 1985 (provision of housing) for a period of two years or more ending at the time of the disposal or the time of entry by the acquiring authority, whichever is the earlier; and
- (c) paragraph (3) below applies.

(3) This paragraph applies where on or after 1st January 1989 the authority decided, at any time during the period of three years ending at the time of the disposal or, if it is earlier, the time at which the capital receipts are received,—

- (a) to dispose of the interest in the land;
- (b) either to acquire another interest in land (referred to in this regulation as “the new land”) or to carry out works to a building (referred to in this regulation as “the new building”), or both; and
- (c) either—
 - (i) in the case of land used for a purpose mentioned in Part I of Schedule 2 to the Regulations, to use the new land or the new building for the same purpose as the land disposed of by the authority; or
 - (ii) in the case of land which is of a description mentioned in column 1 of Part II of Schedule 2 to the Regulations, to use the new land or the new building for the corresponding purpose or one of the corresponding purposes mentioned in column 2 of Part II of that Schedule in respect of land of that description; or

(iii) in the case of land of a description mentioned in paragraph 2(b)(ii) above, to use the new land or the new building for the purposes of Part II of the Housing Act 1985.

(4) For the purposes of paragraph (1) above, the amount of the reduction, is subject to paragraph (9) below, the aggregate of—

- (a) where the local authority acquire an interest in the new land, the cost of the new land; and
- (b) where—

- (i) the local authority carry out works to the new building or the whole or part of the consideration received by the authority for the disposal is the carrying out of works to the new building, and

- (ii) there was a building on the land disposed of by the authority at the time of the disposal,

the cost of the new building.

(5) For the purposes of paragraph (4) above, the cost of the new land or the new building is, subject to paragraphs (7) to (9) below, the aggregate of—

- (a) if the authority, in accordance with their decision referred to in paragraph (3) above, have entered into a credit arrangement for the purposes only of the acquisition of an interest in the new land or the carrying out of works to the new building, the initial cost of the credit arrangement; and

- (b) the amount of any consideration given or which falls to be given or costs incurred by the authority, in accordance with their decision referred to in paragraph (3) above, in respect of the acquisition of an interest in the new land or the carrying out of works to the new building, other than any consideration taken into account by virtue of sub-paragraph (a) above.

(6) In paragraph (5)(b) above, the amount of any consideration which falls to be given by the authority in any financial year beginning after the time of the disposal shall be determined by the formula in regulation 5(2) as if—

- (a) the references to consideration were references to consideration which falls to be given by the authority; and

- (b) the references to the lease and the financial year in which the authority became the lessees were references to the acquisition of an interest in the new land or the carrying out of works to the new building and to the financial year in which the disposal of the interest in the land, or if there is more than one disposal falling within paragraph (2) above relating to the land, the first such disposal, took place.

(7) If there is a building on the new land, there shall be excluded from the cost of the new land such part of the cost as is referable to the building unless there was a building on the land disposed of by the authority at the time of the disposal.

(8) If the cost of the new building and such part of the cost of the new land as is referable to an existing building is or will exceed the reasonable cost of an equivalent replacement of a building or buildings (“the former building”) on the land disposed of by the authority at the time of the disposal, the cost of the new land or the new building shall be the aggregate of the amounts described in paragraph (5) above, but calculated on the basis of an estimate of the consideration or costs which would have been given or incurred by the authority if the cost of the new building and such part of the cost of the new land as is referable to an existing building had been equal to the reasonable cost of an equivalent replacement of the former building.

(9) Paragraphs (4)(b)(ii), (7) and (8) above shall not apply in the case of capital receipts derived from the disposal of an interest in land where the land is used immediately before its disposal for the purpose mentioned in paragraph 9 of Part I of Schedule 2 to these Regulations.

(10) Paragraphs (5) and (6) of regulation 15 shall apply in relation to the amount of any reduction determined in accordance with this regulation as they apply in relation to the amount of any reduction determined in accordance with regulation 15.

(11) For the purposes of this regulation,–

- (a) any reference to the carrying out of works to a building includes the construction of the building; and
- (b) land or a building is not used for the same or a corresponding purpose unless it is used for the benefit of the inhabitants of all or part of the same area as the land disposed of by the local authority.

(12) In this regulation, the “time of the disposal” means the time at which the disposal of the interest in the land, or if there is more than one disposal falling within paragraph (2) above relating to the land, the first such disposal, takes place.