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STATUTORY INSTRUMENTS

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**1996 No. 633**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

WALES

FINANCE

**The Local Government Reorganisation  
(Wales) (Capital Finance) Order 1996**

<i>Made</i>	- - - -	<i>8th March 1996</i>
<i>Laid before Parliament</i>		<i>11th March 1996</i>
<i>Coming into force</i>		
<i>Articles 1, 2 and 3</i>		<i>13th March 1996</i>
<i>Remainder</i>		<i>1st April 1996</i>

The Secretary of State for Wales, in exercise of the powers conferred on him by section 54(1) and (2) of the Local Government (Wales) Act 1994<sup>(1)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Local Government Reorganisation (Wales) (Capital Finance) Order 1996.

(2) This article and articles 2 and 3 of this Order shall come into force on 13th March 1996, and all other articles in this Order shall come into force on 1st April 1996.

(3) In this Order, except where the context otherwise requires—

“the 1989 Act” means the Local Government and Housing Act 1989<sup>(2)</sup>;

“the 1994 Act” means the Local Government (Wales) Act 1994;

“the 1990 Regulations” means the Local Authorities (Capital Finance) Regulations 1990<sup>(3)</sup>;

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(1) 1994 c. 19.

(2) 1989 c. 42.

(3) S.I. 1990/432 amended by S.I. 1990/1273, 1991/500, 1992/502, 738, 1618, 2819 and 3257, 1993/520, 1995/850 and 1526.

“designated authority”, in relation to an old authority, means the new authority designated with respect to that old authority under paragraph 12 of Schedule 17 to the 1994 Act<sup>(4)</sup>;

“divided old authority” means an old authority which has two or more successor authorities;

“new authority” means a county or county borough council established under the 1994 Act;

“old authority” means a county or district council which will cease to exist as a result of the 1994 Act;

“successor authority”, in relation to an old authority, has the meaning given by section 53(2) of the 1994 Act;

“undivided old authority” means an old authority which has only one successor authority; and

“usable receipts” means the usable part of capital receipts (within the meaning of Part IV of the 1989 Act) which have not been applied as mentioned in section 60(2) of the 1989 Act.

### **Application of Part IV of the 1989 Act**

2. In section 39(1) of the 1989 Act (authorities to which Part IV of that Act applies), for the paragraph (ia) inserted by regulation 9 of the Local Government Changes for England (Finance) Regulations 1994<sup>(5)</sup>, there shall be substituted the following paragraph—

“(ib) a fire authority constituted by a combination scheme made under section 6 of the Fire Services Act 1947 in consequence of an order made under Part II of the Local Government Act 1992 or in consequence of the provisions of the Local Government (Wales) Act 1994;”<sup>(6)</sup>.

### **Borrowing limits**

3.—(1) In this article, “the limits” means the borrowing limits referred to in section 45(1) of the 1989 Act.

(2) Section 45(2) of the 1989 Act shall have effect in relation to an old authority and a new authority as if it—

- (a) excluded the old authority from the requirement to determine the limits for the financial year beginning on 1st April 1996;
- (b) required the new authority to determine the limits for the financial year beginning on 1st April 1996 either on or before that date or as soon as reasonably practicable after that date.

### **Register of loan instruments**

4. The register maintained by an old authority in accordance with section 46 of the 1989 Act shall be treated after 1st April 1996 as having been maintained by the designated authority as part of the designated authority’s register maintained under that section.

### **Effect of certain capital grants on credit approvals**

5.—(1) This article applies where by virtue of the provisions of section 53 of the 1994 Act or an order made under section 54 of that Act—

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(4) A council has been designated in relation to each old authority; see the Local Authorities (Closure of Accounts) (Wales) Order 1995 (S.I. 1995/1043).

(5) S.I. 1994/2825.

(6) 1994 c. 19. Section 23 of the 1994 Act modifies the application of section 6 of the Fire Services Act 1947 in relation to combination schemes for new authorities made before 1st April 1996.

- (a) the receipt by an old authority of a specified capital grant within the meaning of section 57(1) of the 1989 Act has effect as if it had been received by a successor authority; and
- (b) the successor authority is required under section 57(2) of that Act to deduct an amount equal to or less than the grant from a credit approval.

(2) Section 57(4)(c) of the 1989 Act shall have effect as if the reference to credit approvals which are received later than the grant included credit approvals received by the successor authority later than the time the grant was received by the old authority.

### **Credit approvals: designated authorities**

6.—(1) For the purpose of carrying out its functions under paragraph 12 of Schedule 17 to the 1994 Act in relation to an old authority, the Secretary of State may, on or before 30th September 1996, issue to the designated authority in the form of a notice in writing a supplementary credit approval in respect of that old authority for the financial year commencing on 1st April 1995.

(2) A supplementary credit approval issued under paragraph (1) above may be used by the designated authority to defray an amount of the old authority's expenditure which is not charged to a revenue account of that old authority.

(3) The provisions of sections 54(2) to (5), 55, 56(1) and (3) to (5), and 57 of the 1989 Act shall, insofar as they are consistent with paragraphs (1) and (2) above, apply to a supplementary credit approval issued under paragraph (1) above as if it were a supplementary credit approval issued under section 54 of the 1989 Act.

(4) For all purposes other than those related to the carrying out by a designated authority of its functions under paragraph 12 of Schedule 17 to the 1994 Act, a supplementary credit approval issued under paragraph (1) above shall be deemed to be issued to the old authority in respect of which it is issued, and not to its designated authority.

### **Capital receipts to be treated as reduced**

7.—(1) Where a new authority receives from the Residuary Body for Wales a relevant capital receipt and at any time during the relevant period the new authority has made a decision to which paragraph (4) refers, then—

- (a) section 59(2) of the 1989 Act shall not apply to determine the reserved part of that relevant capital receipt;
- (b) regulations made under section 59 of the 1989 Act shall not apply to determine the reserved part of that relevant capital receipt; and
- (c) for the purposes of Part IV of the 1989 Act the reserved part of that relevant capital receipt shall be nil.

(2) In this article, "relevant capital receipt" is any sum which, by virtue of paragraph 13 of Schedule 13 to the 1994 Act, is treated as a capital receipt for the purposes of section 58 of the 1989 Act, and which—

- (a) when received by the Residuary Body for Wales would, apart from that paragraph, be treated as a capital receipt for the purposes of section 58 of the 1989 Act if received by a local authority;
- (b) would be so treated because—
  - (i) the sum was received by the Residuary Body for Wales in respect of the disposal of an interest in an asset, and

- (ii) at the time of the disposal, expenditure by a local authority on the acquisition of the asset would be expenditure for capital purposes within the meaning of section 40 of the 1989 Act; and
  - (c) was received by the Residuary Body for Wales in respect of the disposal of an interest in land which, immediately before 1st April 1996, was used for the purpose of local authority offices.
- (3) In this article, “relevant period”, in relation to a relevant capital receipt, is the period commencing on 1st April 1996 and ending on the day before the relevant capital receipt is received by the new authority.
- (4) This paragraph refers to a decision of the new authority—
- (a) either to acquire an interest in land (“the new land”) or to carry out works to a building (“the new building”), or both; and
  - (b) to use the new land or the new building, or both (as the case may be) for the purpose of local authority offices.

### **Capital Finance Regulations**

**8.** In regulation 6(8)(aa) of the 1990 Regulations, after “1985” there shall be inserted “or the Residuary Body for Wales”(7).

Signed by authority of the Secretary of State for Wales

*Gwilym Jones*  
Parliamentary Under Secretary of State, Welsh  
Office

8th March 1996

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(7) Regulation 6(8)(aa) of the 1990 Regulations was inserted by S.I. 1991/500. The Residuary Body for Wales (or Corff Gweddilliol Cymru) was established under section 39 of the Local Government (Wales) Act 1994 (c. 19) on 1st February 1995 pursuant to the Residuary Body for Wales (Appointed Day) Order 1995 (S.I. 1995/103 (C.5)).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

On 1st April 1996 by virtue of the Local Government (Wales) Act 1994 the county and county borough councils created as a result of the 1994 Act will take over responsibility for the discharge of functions relating to local government in Wales from the county and district councils created as a result of the Local Government Act 1972. The new councils came into existence following their election on 4th May 1995 and, until the abolition of the existing councils on 1st April 1996, are preparing to take on their full functions. This Order makes supplementary and transitional provision in respect of capital finance controls.

Article 2 amends section 39 of the Local Government and Housing Act 1989 (“the 1989 Act”) to include Welsh combined fire authorities in the list of authorities subject to the revenue accounts and capital finance controls of Part IV of the 1989 Act.

Article 3 ensures that the new authorities will have sufficient time to determine their borrowing limits under section 45 of the 1989 Act, and relieves authorities to be abolished (“old authorities”) from that duty.

Article 4 provides that the register of loan instruments maintained under section 46 of the 1989 Act by an old authority, is to be treated as having been maintained as part of the register of the authority designated to close its accounts.

Article 5 enables later credit approvals issued to a successor authority to be taken into account in applying the provisions of section 57 of the 1989 Act (reduction of credit approvals on receipt of certain grants) to grants received by the old authority.

Article 6 empowers the Secretary of State to issue supplementary credit approvals to a designated authority for the purpose of its function of closing the old authority’s accounts.

Article 7 exempts certain payments by the Residuary Body for Wales to a new authority, from the provisions of the 1989 Act requiring proportions to be set aside for debt redemption.

Article 8 amends the Local Authorities (Capital Finance) Regulations 1990 to exclude from section 48 of the 1989 Act (credit arrangements) contracts for the transfer of land to an authority from the Residuary Body for Wales.