
STATUTORY INSTRUMENTS

1997 No. 319

The Local Authorities (Capital Finance) Regulations 1997

PART VIII

CAPITAL RECEIPTS TO BE TREATED AS REDUCED

Preliminary provisions

Meaning of authority

79. In this Part, “authority”, in relation to a capital receipt or a disposal of an asset, means the local authority by whom the receipt is received or the disposal is made.

Capital value of a lease

80.—(1) In this Part, a reference to the capital value of a lease is a reference to the amount which, at the time a local authority dispose of the lease, the authority estimate will be the aggregate of—

- (a) the value of the consideration which has been or falls to be received by them for the disposal before or during the financial year in which they make the disposal; and
- (b) the value of the consideration which falls to be received by them for the disposal in any subsequent financial year.

(2) For each subsequent financial year referred to in paragraph (1)(b), the value of the consideration falling to be received in that year shall be determined by the formula—

$$\frac{x}{\left\{1 + \frac{r}{100}\right\}^n}$$

where—

“x” is the value of the consideration which the authority estimate will be received by them in respect of the disposal in that financial year;

“r” is the percentage rate of discount prescribed for the financial year in which the authority make the disposal by regulations made by the Secretary of State for the purposes of section 49 (initial and subsequent cost of credit arrangements); and

“n” is the financial year concerned expressed as a year subsequent to the financial year in which the authority made the disposal (so that the first of the subsequent financial years is 1, the next financial year is 2, and so on).

(3) For the purposes of this regulation and the following provisions of this Part, in any case where the consideration in respect of a lease consists, in whole or in part of—

- (a) an undertaking to do or refrain from doing something at a future time (whether specified or not), or
- (b) a right to do or refrain from doing something at a future time,

that consideration shall be regarded as neither given nor received until the undertaking is performed or, as the case may be, the right is exercised.

Adjusting the amount by which a capital receipt shall be reduced

81. Regulations 86 to 104 shall have effect subject to the provisions of regulations 82 and 83.

Capital receipts in relation to a single asset

82.—(1) In this regulation—

“capital receipt” means a capital receipt which, by virtue of any provision of this Part, falls to be treated as reduced for the purposes of section 59 (the reserved part of capital receipts); and “the reduction”, in relation to a capital receipt, means the amount by which, apart from this regulation, the receipt would be treated as reduced in accordance with the provision concerned.

(2) Where a local authority receive more than one capital receipt in respect of their interest in a single asset—

- (a) the total amount by which those receipts shall be treated as reduced shall not exceed the reduction;
- (b) any of those receipts may be treated as reduced by an amount equal to the reduction or any lesser amount; and
- (c) where one of those receipts is treated as reduced by an amount which is less than the reduction, the other receipts, or any of them, shall be treated as reduced by a total amount equal to the balance of the reduction.

Notional capital receipts

83. Where—

- (a) by virtue of any provision of this Part, a capital receipt received in respect of a disposal of an interest in an asset falls to be treated as reduced for the purposes of section 59,
- (b) before the capital receipt is received, the authority receive consideration not in money in respect of the same disposal or a disposal of another interest in the same asset, and
- (c) the notional capital receipt in relation to the consideration not in money is treated as reduced by virtue of regulation 106(1),

there shall be deducted from the amount by which, apart from this regulation, the capital receipt would be treated as reduced the amount by which the notional capital receipt is treated as reduced.

Nature of disposal of interest in land

84. For the purposes of this Part, a disposal of an interest in land meets the condition specified in this regulation if—

- (a) the authority make the disposal by conveying the freehold interest in the land, granting a lease for a term of not less than 125 years, or assigning their entire leasehold interest in the land; and
- (b) where the interest disposed of is a lease, the authority estimate that not less than 90 per cent. of the capital value of the lease has been, or is to be, received by them within one year after the date of the disposal.

Meaning of regeneration project

85. For the purposes of this Part, “regeneration project” means any project for the carrying out of works or activities on any land where—

- (a) the land, or a building on the land, is vacant or unused or under-used or ineffectively used or contaminated or derelict; and
- (b) the works or activities are carried out in order to secure that the land or the building will be brought into effective use.

Disposals of land in aid of regeneration

Capital receipts derived from disposals made to assist regeneration

86.—(1) In this regulation—

“relevant land” means any land which—

- (a) before 1st April 1994, was situated within a ward which is named in the List of Wards in Areas of Need in England published in February 1997 by the Department of the Environment⁽¹⁾, or within a ward which is not named in that publication, but has a boundary adjoining the boundary of a ward which is named in that publication; or
- (b) before 1st February 1997, was situated within a ward which is named in the List of Wards in Areas of Need in Wales published in February 1997 by the Welsh Office⁽²⁾; and

“relevant disposal” means a disposal which falls within any of the descriptions of disposal specified for the purposes of this regulation in regulations 87 to 92.

(2) Capital receipts of a description specified in paragraph (3) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with regulation 93.

(3) For the purposes of paragraph (2), capital receipts derived from a relevant disposal are specified where—

- (a) the authority decided to make the disposal not more than five years before the date of the disposal or, if earlier, the date on which the capital receipts are received; and
- (b) at the time of that decision, the authority also decided to contribute towards the costs of undertaking a regeneration project on any relevant land situated within their area.

Disposal of unoccupied dwellings

87.—(1) In this regulation—

- (a) “dwelling” has the extended meaning which it has in regulation 22(1); and
- (b) “relevant consent” means a consent to a disposal of land given by the Secretary of State to local authorities generally under section 32 or 43 of the Housing Act 1985⁽³⁾.

(2) For the purposes of regulation 86, a disposal of an interest in land shall be a relevant disposal if the disposal meets the condition specified in regulation 84, and—

- (a) there is situated on the land a dwelling which is unoccupied at the time of the disposal, and has normally been let, or available for letting, for the purposes of Part II of the Housing Act 1985 (provision of housing accommodation);

(1) Copies of the publication can be obtained from Floor 5/F2—Eland House, Bressenden Place, London SW1E 5DU.

(2) Copies of the publication can be obtained from Planning Division, Welsh Office, Cathays Park, Cardiff CF1 3NQ.

(3) 1985 c. 68.

- (b) the disposal is not made under Part V of the Housing Act 1985 (the right to buy), or, with a relevant consent, to a person who, when he acquires that interest, occupies, or intends to occupy, the dwelling as his only or principal home; and
- (c) the disposal is not a qualifying disposal for the purposes of section 135 or 136 of the Leasehold Reform, Housing and Urban Regeneration Act 1993⁽⁴⁾.

Disposal of industrial estates

88.—(1) For the purposes of regulation 86, a disposal of an interest in land shall be a relevant disposal if the disposal meets the condition specified in regulation 84, and—

- (a) there is situated on the land a building which has been built or adapted for use as separate units for industrial purposes;
 - (b) immediately before the disposal, each unit is in use for industrial purposes by a person who makes payments to the authority in respect of a leasehold or lesser interest acquired by him in the unit, or is available for such use by any person who acquires such an interest from the authority; and
 - (c) immediately before the disposal, the authority determine that the floor area of the relevant occupied units is not less than 65 per cent. of the total floor area of all units disposed of.
- (2) For the purposes of paragraph (1)—
- (a) industrial purposes include the purpose of storing goods or equipment; and
 - (b) in relation to a building which has been built or adapted for use as separate units for industrial purposes—
 - (i) the floor area of any unit shall be the gross internal area of the unit determined by the authority in accordance with the fourth edition of the Code of Measuring Practice published in October 1993 by Surveyors Holdings Limited under ISBN 0 85406 610 1⁽⁵⁾; and
 - (ii) “relevant occupied unit” means a unit which is in use for industrial purposes by virtue of a leasehold interest which was not granted in consideration of the payment of a premium.

Disposal of docks and harbours etc.

89. For the purposes of regulation 86, a disposal of an interest in land shall be a relevant disposal if the disposal meets the condition specified in regulation 84, and the land is used for the purposes of a dock, quay, harbour, wharf, basin or pier, or for the purposes of an office or warehouse in connection with the operation of a port, marina or inland waterway.

Disposal of leisure facilities

90. For the purposes of regulation 86, a disposal of an interest in land shall be a relevant disposal if the disposal meets the condition specified in regulation 84, and the land is used for the purposes of a leisure centre or other indoor recreation, or a swimming pool, or a park, playing field (other than a school playing field) or other outdoor recreation.

⁽⁴⁾ 1993 c. 28.

⁽⁵⁾ Copies of the publication can be obtained from the offices of the Royal Institution of Chartered Surveyors at 12 Great George Street, London SW1P 3AD.

Disposal of shops and offices etc.

91. For the purposes of regulation 86, a disposal of an interest in land shall be a relevant disposal if the disposal meets the condition specified in regulation 84, and—

- (a) there are shops or offices situated on the land; and
- (b) immediately before the disposal, each shop and office is in use by a person other than the authority, or is available for use by any person other than the authority.

Disposal of land for development

92. For the purposes of regulation 86, a disposal of a relevant interest in land shall be a relevant disposal if the disposal meets the condition specified in regulation 84, and—

- (a) on 26th November 1996, the land had the benefit of a planning permission granted on or after 26th November 1994 for use as shops or offices or for any of the purposes mentioned in regulations 89 and 90;
- (b) the planning permission granted for the benefit of the land is for an unlimited period or a period of not less than five years;
- (c) there has not been situated on the land, at any time within a period of five years ending on the date of the disposal, any building built or adapted for use as separate units for industrial purposes; and
- (d) if, on the date of the disposal, the land is in use for any purpose other than use as shops or offices or a purpose mentioned in regulation 89 or 90, that use is authorised by a planning permission granted for a period of not more than five years.

Amount of reduction of receipts derived from relevant disposals

93.—(1) In this regulation—

- (a) “qualifying receipts” means capital receipts of a description specified in regulation 86(2); and
- (b) in relation to any qualifying receipts—
 - (i) “the relevant decision” means the decision to make the relevant disposal from which the receipts are derived; and
 - (ii) “the project” means the regeneration project in relation to which, at the same time as making the relevant decision, the authority made a decision such as is mentioned in regulation 86(3)(b).

(2) Subject to paragraph (4), in relation to any qualifying receipts, the amount of the reduction for the purposes of regulation 86(2) is the total value, determined by the authority, of the contribution which the authority have made, or have decided to make, towards the costs of undertaking the project by—

- (a) making a gift of land;
- (b) paying a contribution, grant or subsidy under any power conferred on the authority under any enactment; or
- (c) giving consideration for any benefit which the authority have received, or will receive, by virtue of the undertaking of the project.

(3) For the purposes of paragraph (2), the authority make a gift of land where they transfer an interest in land and either—

- (a) no consideration falls to be given for the transfer; or

- (b) the value of the consideration which falls to be given for the transfer is less than the price which the interest transferred would realise at the date of the valuation if sold by the authority on the open market.
- (4) In relation to any qualifying receipts, the amount of the reduction for the purposes of regulation 86(2) shall be nil if the aggregate of—
- (a) the amount which, apart from this paragraph, would be the amount of the reduction under paragraph (2),
 - (b) the value, estimated by the authority, of any contribution which any other local authority have made, or have decided to make, towards the costs of undertaking the project,
 - (c) the value, estimated by the authority, of any contribution which a regulated company (within the meaning given to that expression in article 1(4) of the Local Authorities (Companies) Order 1995⁽⁶⁾) have made, or have decided to make, towards the costs of undertaking the project, and
 - (d) the amount of any contribution, grant or subsidy which a Minister of the Crown, or a body to which such a Minister may pay sums out of moneys provided by Parliament, or a Community institution have agreed to pay towards the costs of the project,
- is equal to or exceeds 50 per cent. of the authority's estimate of the total costs of the project.

Capital receipts in respect of which repayments fall to be made to a public body

Improvement of land out of moneys provided by Parliament

94.—(1) Capital receipts of a description specified in paragraph (2) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (3).

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

- (a) have incurred expenditure on the reclamation, enhancement or laying out of the land; and
- (b) have met that expenditure wholly or partly out of moneys provided by Parliament on terms which require, or enable a Minister of the Crown to require, the payment of any sum to such a Minister on or by reference to the disposal.

(3) For the purposes of paragraph (1), in relation to any capital receipts of a description specified in paragraph (2), the amount of the reduction is the sum which appears to the authority to be payable to a Minister of the Crown in respect of those receipts.

Improvement of land out of moneys provided by the Urban Regeneration Agency or the Welsh Development Agency

95.—(1) In this regulation, “the Agency” means—

- (a) the Urban Regeneration Agency established by section 158 of the Leasehold Reform, Housing and Urban Development Act 1993⁽⁷⁾ (“the 1993 Act”); or
- (b) the Welsh Development Agency established by section 1 of the Welsh Development Agency Act 1975⁽⁸⁾ (“the 1975 Act”).

(2) Capital receipts of a description specified in paragraph (3) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (4).

⁽⁶⁾ S.I. 1995/849. There are amendments which are not relevant to this regulation.

⁽⁷⁾ 1993 c. 28.

⁽⁸⁾ 1975 c. 70.

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

- (a) have, in respect of the land, incurred expenditure to which paragraph (4) applies; and
- (b) have met that expenditure wholly or partly out of moneys provided by the Agency on terms which require, or enable the Agency to require, the repayment or the recovery of any sum on or by reference to the disposal.

(4) This paragraph applies to expenditure which—

- (a) is incurred by a local authority in England, and is qualifying expenditure (within the meaning given to that expression in section 164(2) of the 1993 Act); or
- (b) is incurred by a local authority in Wales, and is relevant expenditure (within the meaning given to that expression in section 16(4) of the 1975 Act⁽⁹⁾).

(5) For the purposes of paragraph (2), in relation to any capital receipts of a description specified in paragraph (3), the amount of the reduction is the sum which appears to the authority to be payable to the Agency in respect of those receipts.

Other disposals of interests in land

Disposal of recently acquired interests in land

96.—(1) Capital receipts of a description specified in paragraph (2) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (3).

(2) For the purposes of paragraph (1), capital receipts derived from a disposal of an interest in land, other than capital receipts of a description specified in regulation 97(3), are specified where the disposal—

- (a) meets the condition specified in regulation 84; and
- (b) takes place not later than five years after the date on which the authority acquired the freehold interest or a leasehold interest in the land.

(3) For the purposes of paragraph (1), the amount of the reduction is the aggregate of—

- (a) the initial cost of any credit arrangement entered into by the authority for the purpose only of acquiring the interest disposed of;
- (b) the value of any consideration falling to be given for the acquisition of that interest, other than consideration under a credit arrangement; and
- (c) the administrative costs of acquiring that interest and making the disposal.

Land in England—disposal of certain dwellings

97.—(1) For the purposes of this regulation—

“dwelling” has the extended meaning which it has in regulation 22(1);

“relevant consent” means a consent to a disposal of land given by the Secretary of State to local authorities generally under section 32 or 43 of the Housing Act 1985, section 22 of the Housing and Building Control Act 1984⁽¹⁰⁾ or section 104 of the Housing Act 1957⁽¹¹⁾;

“relevant date”, in relation to a dwelling, means the date three years before the date on which a local authority make a disposal such as is mentioned in paragraph (3), or the first such disposal (if they make more than one in relation to the dwelling);

⁽⁹⁾ Section 16 was substituted by the [Derelict Land Act \(c. 42\)](#).

⁽¹⁰⁾ [1984 c. 29](#). Section 22 was repealed by the Housing (Consequential Provisions) Act 1985 (c. 71).

⁽¹¹⁾ [1957 c. 56](#). That Act was repealed by the Housing (Consequential Provisions) Act 1985.

“relevant lease” means—

- (a) a secure tenancy within the meaning which that expression has in Part IV of the Housing Act 1985 (secure tenancies and rights of secure tenants);
- (b) an introductory tenancy within the meaning which that expression has in Chapter 1 of Part V of the Housing Act 1996⁽¹²⁾; or
- (c) any other lease, other than a shared ownership lease; and

“shared ownership lease” has the same meaning as in regulation 22(1).

(2) Capital receipts of a description specified in paragraph (3) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (5).

(3) For the purposes of paragraph (2), capital receipts derived from a disposal of an interest in a dwelling are specified where—

- (a) the authority are a local authority in England;
- (b) the disposal meets the condition specified in regulation 84, or the authority make the disposal by granting a shared ownership lease; and
- (c) paragraph (4) applies to the dwelling.

(4) This paragraph applies to a dwelling if—

- (a) the dwelling has not at any time been occupied under a relevant lease granted by the authority; or
- (b) the dwelling has been so occupied, and—
 - (i) since the last date on which it was so occupied, the authority have disposed of an interest in it under Part V of the Housing Act 1985 (the right to buy), or Chapter 1 of Part I of the Housing Act 1980 (the right to buy)⁽¹³⁾ or, with a relevant consent, to a person who, when he acquired that interest, occupied, or intended to occupy, it as his only or principal home;
 - (ii) that disposal was made more than five years before the disposal from which the capital receipts are derived;
 - (iii) at any time within that period the authority acquired a further interest in the dwelling; and
 - (iv) the dwelling is a house (within the meaning which that expression has in section 44 of the Housing Act 1985).

(5) For the purposes of paragraph (2), the amount of the reduction is the aggregate of the following amounts—

- (a) where the dwelling in relation to which a local authority make a disposal such as is mentioned in paragraph (3) (“the dwelling”) was acquired by the authority, the cost of the acquisition of the authority’s interest in the dwelling;
- (b) where the dwelling was constructed by or for the authority, the cost of the construction;
- (c) where the land on which the dwelling was constructed was acquired by the authority on or after the relevant date, the cost of the acquisition of the authority’s interest in the land;
- (d) where the dwelling was provided by the conversion of a building or part of a building (“the building”) by or for the authority, the cost of the conversion and, if the building was acquired by the authority on or after the relevant date, the cost of the acquisition of the authority’s interest in the building;

⁽¹²⁾ 1996 c. 52.

⁽¹³⁾ 1980 c. 51 Part I was repealed by the Housing (Consequential Provisions) Act 1985.

- (e) where, after the acquisition, construction or provision of the dwelling, the authority carried out works which amounted to the enhancement of the dwelling, the cost of the enhancement; and
 - (f) the administrative costs of making the disposal.
- (6) For the purposes of paragraph (5), the cost of—
- (a) the acquisition of an interest in the dwelling or in any land or any building,
 - (b) the construction or the enhancement of the dwelling, or
 - (c) the conversion of a building or part of a building,

is the aggregate of the initial cost of any credit arrangement entered into exclusively for the purpose of the acquisition, construction, enhancement or, as the case may be, conversion, and the value of any consideration falling to be given for the purpose concerned other than consideration under a credit arrangement.

Disposal of recently improved land

98.—(1) In this regulation—

- (a) a reference to the enhancement of land does not include a reference to the reclamation or laying out of the land or the construction, preparation or replacement of roads, buildings or other structures; and
- (b) “relevant period”, in relation to any land, means the financial year in which a local authority make a disposal such as is mentioned in paragraph (3) (or the first such disposal, if they they make more than one in relation to the land), and the two financial years immediately preceding that year.

(2) Capital receipts of a description specified in paragraph (3) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (4).

(3) For the purposes of paragraph (2), capital receipts derived from a disposal of an interest in land, other than capital receipts of a description specified in regulation 97(3), are specified where—

- (a) the authority have, at any time during the relevant period, incurred expenditure on the enhancement of the land; and
- (b) the disposal meets the condition specified in regulation 84, or the authority make the disposal by granting a shared ownership lease (within the meaning given to that expression in regulation 22 (1)).

(4) For the purposes of paragraph (2), the amount of the reduction is the aggregate of—

- (a) the initial cost of any credit arrangement entered into by the authority during the relevant period for the purpose only of the enhancement of the land; and
- (b) the amount of any expenditure incurred by the authority for that purpose during the relevant period, other than expenditure under a credit arrangement.

Disposal and replacement of land or buildings

99.—(1) In this regulation—

“new land” means land in which a local authority acquire an interest, or on which they carry out works, in accordance with a decision such as is mentioned in paragraph (4)(b);

“new works” means works carried out in accordance with such a decision, and includes works executed by any person in consideration of the disposal made by the authority in accordance with that decision;

“qualifying purpose”, in relation to the use of land, means a purpose specified in any of the categories of Schedule 1 to these Regulations, and “category” means one of those categories; and

“works” includes construction works and other works which are for the enhancement of any land or a building on any land.

(2) For the purposes of this regulation—

(a) a disposal made pursuant to a compulsory purchase order shall be treated as if made by virtue of a decision of the authority made at the same time as the decision mentioned in paragraph (4)(b); and

(b) land held for housing purposes is land held for the purposes of Part II of the Housing Act 1985 (provision of housing accommodation)(**14**), but not for any qualifying purpose.

(3) Capital receipts of a description specified in paragraph (4) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (6).

(4) For the purposes of paragraph (3), capital receipts derived from a disposal of an interest in land (“the land”) are specified where paragraph (5) applies to the disposal and—

(a) the authority decided to dispose of the land not more than five years before the date of the disposal or, if earlier, the date on which the capital receipts are received;

(b) at the time of that decision, the authority also decided to acquire a new interest in the land after the disposal, or an interest in any other land, or to carry out works on any land;

(c) if the new interest is a lease of part of the land, the initial cost of the lease is less than 50 per cent. of the amount which would be the initial cost of a lease on identical terms of the whole of the land; and

(d) the disposal meets the condition specified in regulation 84.

(5) This paragraph applies to a disposal of an interest in land if—

(a) at the time of the decision to make the disposal, the land was in use for a qualifying purpose and the authority decided to use the new land for the same qualifying purpose, or a different purpose within the same category as that which includes the same qualifying purpose;

(b) the disposal is made pursuant to a compulsory purchase order, and the land has been held for housing purposes for a period of at least two years ending on the date of the disposal (or, if earlier, the date on which the authority give up possession of the land pursuant to the order), and the authority have decided to use the new land for housing purposes; or

(c) there is situated on the land, at the time of the disposal, a defective dwelling within the meaning given to that expression in Part XVI of the Housing Act 1985 (assistance for owners of defective housing), and the authority have decided that the new land shall be held for housing purposes.

(6) For the purposes of paragraph (3), the amount of the reduction is, subject to paragraph (7), the aggregate of—

(a) the initial cost of any credit arrangement entered into by the authority for the purpose only of acquiring the new land or carrying out the new works;

(b) the value of any consideration falling to be given for such a purpose under any contract other than a credit arrangement; and

(c) any other costs incurred by the authority in connection with the acquisition of the new land or the carrying out of the new works.

(7) For the purposes of paragraph (6)(b), the value of the consideration falling to be given under a contract shall be the amount which, if the contract were a lease, would be the capital cost of the contract determined in accordance with regulation 14.

Disposal of former new town assets

100.—(1) In this regulation, “dwelling” and “new town corporation” have the same meaning as in section 172 (transfer of new town housing stock).

(2) Capital receipts of a description specified in paragraph (3) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (4).

(3) For the purposes of paragraph (2), capital receipts derived from a disposal of an interest in a dwelling are specified where—

- (a) the authority acquired the interest from a new town corporation;
- (b) the new town corporation disposed of the interest pursuant to section 36 of the New Towns Act 1981 (functions of Commission)(**15**) or regulations made under section 172(1)(**16**); and
- (c) the whole or part of the consideration falling to be given by the authority for the acquisition of the interest is required to be given on the disposal of the interest.

(4) For the purposes of paragraph (2), the amount of the reduction is an amount equal to the value of the consideration which falls to be given by the authority, as mentioned in paragraph (3)(c), on making the disposal from which the capital receipts are derived.

Disposal of former residuary body assets

101.—(1) Capital receipts of a description specified in paragraph (2) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (3).

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

- (a) the authority acquired the interest from a residuary body established by section 57 of the Local Government Act 1985(**17**); and
- (b) the whole or part of the consideration falling to be given by the authority for the acquisition of that interest is required to be given when the authority dispose of the interest.

(3) For the purposes of paragraph (1), the amount of the reduction is an amount equal to the value of the consideration which falls to be given by the authority, as mentioned in paragraph (2)(b), on making the disposal from which the capital receipts are derived.

Disposal of land—compensation for planning decision

102.—(1) Capital receipts of a description specified in paragraph (2) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (3).

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

- (a) the interest was compulsorily acquired or sold as described in section 23(1)(a) of the Land Compensation Act 1961 (compensation where planning decision made after acquisition)(**18**);

(15) 1981 c. 64.

(16) See S.I. 1990/1700, S.I. 1990/2366 and S.I. 1991/1281.

(17) 1985 c. 51.

(18) 1961 c. 33.

- (b) a planning decision (as mentioned in that section) has been made in relation to the land, or a planning permission (as mentioned in column 1 of the table in section 25(1) of that Act) has been granted, or is deemed to have been granted in relation to the land; and
- (c) by virtue of that planning decision or planning permission, a claim for compensation under section 23 of that Act, or under that section as applied by section 25(1) of that Act, has been duly made before the date on which any such capital receipt is received.

(3) For the purposes of paragraph (1), the amount of the reduction is the amount of compensation assessed in relation to the claim mentioned in paragraph (2)(c) or, where, at the time the capital receipt is received, that amount has not yet been assessed, the authority's estimate of the amount likely to be assessed in relation to the claim.

Disposal of land—development of land by authority

103.—(1) Capital receipts of a description specified in paragraph (2) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (3).

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

- (a) before making the disposal, the authority incurred expenditure on—
 - (i) obtaining planning permission for the development of the land, or taking any other steps required to facilitate such development;
 - (ii) preparing the land for development;
 - (iii) acquiring an interest, easement, servitude or right in or over the land or adjoining land for the purpose of facilitating the disposal of the interest; or
 - (iv) obtaining the release of a restrictive covenant affecting the land;
- (b) the total amount of capital receipts derived from the disposal exceeds the total amount of capital receipts that would have been derived from the disposal if the authority had not incurred that expenditure; and
- (c) the amount of that excess is not less than the amount of the expenditure.

(3) For the purposes of paragraph (1), the amount of the reduction is the aggregate of—

- (a) the amount of the expenditure incurred by the authority on any of the matters mentioned in paragraph (2) (a), other than so much of the expenditure in respect of which a contribution, grant or subsidy has been paid by a Minister of the Crown, or a body to which such a Minister may pay sums out of moneys provided by Parliament, or a Community institution; and
- (b) the administrative costs of making the disposal from which the capital receipts are derived.

Disposals of dwellings in exchange for certain flats

104.—(1) In this regulation—

“flat” has the same meaning as in section 183 of the Housing Act 1985(19) (“the 1985 Act”);

“former tenant” means a person to whom a qualifying lease was granted, or a person who has succeeded to the lessee's interest under a qualifying lease by virtue of a disposal of a description falling within paragraph (a), (b) or (c) of subsection (1) of section 160 of the 1985 Act (disposals exempt from requirement to repay discount);

“lending institution” means an institution which is an approved lending institution for the purposes of section 156 of the 1985 Act; and

(19) 1985 c. 68.

“qualifying lease” means a lease of a flat granted by a local authority pursuant to Part V of the 1985 Act (the right to buy), or with the consent of the Secretary of State under section 32 or 43 of that Act and the benefit of a discount of not less than 44 per cent.

(2) Capital receipts of a description specified in paragraph (3) shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraph (4).

(3) For the purposes of paragraph (2), capital receipts derived from a disposal of an interest in a dwelling to a former tenant are specified where—

- (a) immediately before the disposal, the former tenant occupied the flat demised by his qualifying lease (“the flat”) as his only or principal home;
- (b) the authority granted the qualifying lease not less than three years before the date of the disposal;
- (c) the authority make the disposal by conveying the freehold interest in the dwelling, granting a lease for a term of not less than 99 years, or assigning their entire leasehold interest in the dwelling;
- (d) if the interest disposed of is a lease, the authority estimate that not less than 90 per cent. of the capital value of the lease has been, or is to be, received by them within one year after the date of the disposal;
- (e) the consideration received by the authority for the disposal includes the assignment or surrender to them of the qualifying lease;
- (f) upon such assignment or surrender there is attributed, as part of the consideration for the disposal, an amount equal to the price paid on the grant of the qualifying lease; and
- (g) the authority is satisfied that any person wishing to buy the qualifying lease would be unlikely, for reasons which do not relate to the personal or financial status of that person, or the terms of that lease, or the condition of the flat or the building in which the flat is situated, to obtain from a lending institution an advance—
 - (i) secured by a mortgage of the qualifying lease for a term of twenty-five years, and
 - (ii) of an amount equal to 75 per cent. of the value of that lease determined not more than three months before the date of the disposal in accordance with paragraph (5).

(4) For the purposes of paragraph (2), the amount of the reduction is the aggregate of—

- (a) an amount equal to the price paid on the grant of the qualifying lease; and
- (b) the amount of any costs incurred by the authority in connection with the disposal and the surrender or assignment of the qualifying lease.

(5) For the purposes of paragraph (3)(g), the value of the qualifying lease shall be determined by an approved surveyor on the basis that it is the price which that lease would realise at the date of the valuation if sold on the open market by a willing vendor on the assumption that—

- (a) the vendor was selling with vacant possession;
- (b) the purchaser was purchasing the lease for the purposes of owner occupation; and
- (c) the criteria applied by lending institutions for the assessment of mortgage applications, so far as they relate to the number of storeys in the building in which a dwelling is situated or the number of dwellings in the building which are occupied by owners, are not applicable to the flat or any other flat in the same building.

(6) A surveyor is approved for the purposes of paragraph (5) if he has ability in, and experience of, the valuation of dwellings of the same kind, and in the same area, as the flat, and is—

- (a) a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers; or

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- (b) a person who satisfies such other requirement or requirements as may be prescribed by regulations made under section 13(7) of the Leasehold Reform, Housing and Urban Development Act 1993⁽²⁰⁾.

⁽²⁰⁾ 1993 c. 28. See the Collective Enfranchisement and Tenants' Audit (Qualified Surveyors) Regulations 1994 (S.I. 1994/1263).