

**2023 No.**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Authorities (Capital Finance and Accounting)  
(England) (Amendment) (No. 2) Regulations 2023**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* 1st April 2024

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 21(1) and 123(1) of the Local Government Act 2003(a).

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No. 2) Regulations 2023.

(2) These Regulations come into force on 1st April 2024.

(3) These Regulations extend to England and Wales.

**Amendment of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003**

2.—(1) The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(b) are amended as follows.

(2) In regulation 1 (citation, commencement, application and interpretation)—

(a) in paragraph (3) after “27(1)” insert “(3) to (5)”;

(b) for paragraph (3A) substitute—

“(3A) Regulations 27(1), (3) to (5), 28 and 29 shall not apply to any person or body which is—

(a) a local authority for the purposes of section 21(c) by virtue of subsection (6)(b), (d), (e), (g), (h), (k) or (l) of that section, or

(b) a Mayoral development corporation established under Chapter 2 of Part 8 of the Localism Act 2011(d).”.

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(a) 2003 c. 26.

(b) S.I. 2003/3146; relevant amending instruments are S.I. 2004/534, 2004/3055, 2006/521, 2007/573, 2008/414, 2010/454, 2012/265, 2012/711, 2012/1324, 2012/2269, 2013/476, 2013/1751, 2015/341, 2017/536, 2018/1207, 2018/1386, 2019/396, and 2021/611.

(c) In the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, unless the context indicates otherwise, any reference to a Part or section is a reference to a Part or section of the Local Government Act 2003 (c. 26): see regulation 1(4).

(d) 2011 c. 20. Section 23(1)(e) of the Local Government Act 2003 (c. 26) provides that a functional body, within the meaning of the Greater London Authority Act 1999 (c. 29) (“the 1999 Act”), is a local authority for the purposes of Part 1. Section

(3) For regulation 27 (duty to make revenue provision) substitute—

**“Duty to make revenue provision**

**27.**—(1) During the financial year beginning on 1st April 2024 and every subsequent financial year, a local authority—

- (a) must charge to a revenue account a minimum amount (“minimum revenue provision”) for that financial year in respect of all capital expenditure financed by debt and incurred by the local authority in that year or any financial year prior to that year (but see paragraphs (3) and (4)), and
- (b) may charge to a revenue account any amount in addition to the minimum revenue provision in respect of any capital expenditure financed by debt and incurred by the local authority in that year or any financial year prior to that year.

(2) During the financial year beginning on 1st April 2024 and every subsequent financial year, a parish council or charter trustees may charge to a revenue account any amount in respect of capital expenditure financed by debt and incurred by the parish council or the charter trustees, as the case may be, in that year.

(3) Where a local authority incurs capital expenditure financed by debt during a financial year, the authority may charge the minimum revenue provision in respect of that expenditure to a revenue account—

- (a) for the following financial year, or
- (b) where that expenditure relates to an asset, for the financial year immediately after the financial year in which the asset first becomes available for use (if later).

(4) A local authority may choose not to charge minimum revenue provision to a revenue account in respect of the financing by debt of a loan given by that authority to any person or body where—

- (a) the loan is treated as capital expenditure in accordance with regulation 25(1)(b),
- (b) the loan is not a commercial loan, and
- (c) the local authority has not recognised, in accordance with proper practices<sup>(a)</sup>, any expected or actual credit loss in respect of that loan during the financial year.

(5) In this regulation—

“a commercial loan” is a loan given—

- (a) as an investment for financial return, or
- (b) towards expenditure which would, if incurred by the authority, be an investment for financial return;

“an investment for financial return” is an investment which is made primarily to generate financial return.”.

(4) In regulation 28 (determination of minimum revenue provision)—

- (a) the existing text becomes paragraph (1);
- (b) after paragraph (1) insert—

“(2) The amount determined under paragraph (1) must include an amount equal to any expected or actual credit loss which—

- (a) relates to a loan given by the local authority to any person or body, and
- (b) is recognised by the authority during the current financial year in accordance with proper practices.

(3) A local authority may reduce the amount specified in paragraph (2) by deducting—

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424(1)(aa) of the 1999 Act (as inserted by section 222 of, and paragraphs 44 and 52 of Schedule 22 to, the Localism Act 2011) provides that a Mayoral development corporation is a functional body within the meaning of that Act.

(a) For the definition of “proper practices” see section 21(2) of the Local Government Act 2003 (c. 26).

- (a) any amount of minimum revenue provision the local authority has already charged to a revenue account in respect of the financing of the loan, and
- (b) any amount of receipts, capital or otherwise, used to repay the principal of any amount borrowed to finance that loan<sup>(a)</sup>.

(4) Subject to paragraph (5), a local authority must not reduce its determination of what would otherwise be a prudent amount by the value of any capital receipts used, or to be used, by the authority in accordance with regulation 23(b) or (d) in the financial year to which the determination relates.

(5) Where paragraph (6) applies, the authority may reduce its determination of what would otherwise be a prudent amount—

- (a) in respect of the financing of a loan, by deducting any amount of the capital receipts which are—
  - (i) received in respect of that loan during the financial year, and
  - (ii) used to repay the principal of any amount borrowed to finance that loan;
- (b) in respect of the financing of a capital asset to which a lease arrangement relates, by deducting any amount of the capital receipts which are—
  - (i) received under that arrangement during the financial year, and
  - (ii) used to meet any liability in respect of that arrangement, other than any liability which, in accordance with proper practices, must be charged to a revenue account<sup>(b)</sup>.

(6) This paragraph applies where—

- (a) a local authority has—
  - (i) incurred expenditure through the giving of a loan which is treated as capital expenditure in accordance with regulation 25(1)(b),
  - (ii) received loan repayments in respect of that loan which are treated as capital receipts in accordance with regulation 7, and
  - (iii) determined that it will charge minimum revenue provision in respect of the financing of that loan, or
- (b) a local authority has received sums under an arrangement which is treated, in accordance with proper practices, as a finance lease, and those sums are treated for the purposes of Chapter 1 of Part 1 (capital finance etc) as capital receipts.”.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Name*  
Parliamentary Under Secretary of State

Date Department for Levelling Up, Housing and Communities

### **EXPLANATORY NOTE**

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

These Regulations amend the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146) (“the 2003 Regulations”), which make provision about the accounting practices to be followed by local authorities.

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(a) Capital receipts may be used for this purpose in accordance with regulation 23(b).  
 (b) Capital receipts may be used for this purpose in accordance with regulation 23(d).

Regulation 27 of the 2003 Regulations makes provision about when a local authority must make a charge to a revenue account in respect of the financing by debt of capital expenditure (“minimum revenue provision”). These Regulations amend regulation 27 to expressly provide that the duty to make revenue provision applies to all capital expenditure financed by debt except the financing of specified loans. These Regulations also provide that a local authority may delay the charging of minimum revenue provision in specified circumstances.

Regulation 28 of the 2003 Regulations provides for how a local authority must determine the amount of minimum revenue provision. Although the financing of certain loans is generally excluded from the duty to make minimum revenue provision, this will not apply if the local authority has recognised an expected or actual credit loss in respect of that loan. Therefore, these Regulations amend regulation 28 to require those losses to be charged to a revenue account unless certain exceptions apply. The amendments made by these Regulations will also expressly provide that a local authority must not reduce its determination of what would otherwise be a prudent amount by the value of capital receipts (with an exception for the financing of certain loans and finance leases).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.