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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Proposed amendments to the Local Authorities
(Capital Finance and Accounting) (Wales)
Regulations 2003

Date of issue: 20 October 2017

Action required: Responses by 12 January 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview This is a consultation on technical amendments to the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003.

How to respond Responses can be emailed or sent direct to:

Local Government Finance Policy
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
e-mail: LGFPmail@gov.wales

Further information and related documents **Large print, Braille and alternative language versions of this document are available on request.**

Contact details For further information, or queries regarding this consultation, please email

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Data protection How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Background

The Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 (the “2003 Regulations”), made under Part 1 of the Local Government Act 2003 (“the 2003 Act”), provide the regulatory regime for local government capital finance and accounting practices to be followed by local authorities in Wales. The 2003 Regulations contain detailed provisions for the capital finance and accounting controls, including the rules on the use of capital receipts and what is to be treated as capital expenditure. They also modify the application of some financial accounting standards to prevent adverse impacts on authorities’ revenue resources.

This consultation outlines the Welsh Government’s proposed amendments to the 2003 Regulations which would bring about changes to the local government capital finance and accounting regime in Wales. The proposed amendments will relax the current constraints around loan capital transactions, specific share capital transactions and bonds placing local authorities in Wales on an equivalent footing to counterparts in England.

The purpose of the consultation is to seek views on the proposed changes to capital finance and accounting practices. Accompanying the consultation are the draft Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2018 (“the draft Regulations”) which will amend the 2003 Regulations as from the 31 March 2018.

The consultation is open for a 12-week period from 20 October to 12 January 2018.

What changes are proposed?

Securitisation Transactions

“Securitisation” as used in this context means the disposal of an interest in an entitlement to future revenues. For example, a landlord receiving rents from properties might transfer the entitlement to that income to a bank for (e.g.) 20 years, in exchange for an immediate lump-sum payment. From a technical accounting viewpoint, securitisation appears to be the *sale* of an asset (the future revenue stream) and the lump-sum received is the sale proceeds, not borrowed money. But the strategy achieves the same result as borrowing and might be seen as an alternative to it.

Whether any such securitisation transaction would be lawful is a matter for individual authorities to consider, taking account of the precise nature of the contract and of their statutory powers.

The Welsh Government proposes to introduce a new regulation to ensure that, if it is used lawfully by local authorities in Wales, securitisation will be on an equal footing with borrowing and other forms of credit.

The draft Regulations, accompanying this consultation, inserts a new regulation 2A into the 2003 Regulations. Regulation 2A provides that a securitisation transaction must be treated as a credit arrangement for the purposes of the 2003 Act. Regulation 5 of the 2003 Regulations is also amended to provide that entry into a credit arrangement, in the case of a securitisation transaction, must be treated as the borrowing of an amount equal to the value of the consideration received by the authority as a result of that securitisation transaction.

The draft Regulations also insert a new regulation 8A into the 2003 Regulations to ensure that the value of any consideration received as a result of a securitisation transaction by a local authority must be treated as a capital receipt.

Expenditure to be capital expenditure

The Welsh Government proposes to relax the constraint in relation to all loan capital transactions which means that authorities will not incur capital expenditure if they lend to individual companies by means of corporate bonds (or any other similar instrument or arrangement). The relaxation is, of course, not meant as a Welsh Government recommendation on investment practice. Investment decisions remain entirely matters for individual authorities, which need to have regard, both to the Welsh Government investments guidance and to CIPFA's Treasury Management Code.

Since bond acquisitions will no longer be capital expenditure, the draft Regulations amend regulation 6 of the 2003 Regulations to ensure that the disposal of or redemption of a bond on maturity will not generate capital receipts. However this will not apply to any sums received by a local authority (on maturity or disposal) if the bond was acquired before 1 April 2018 and the expenditure on acquisition was treated as capital expenditure.

The purchase of share capital will continue to be capital expenditure but the Welsh Government proposes to amend regulation 20 of the 2003 Regulations to provide exemptions for shares in collective investment schemes. This will limit the risks associated with investments of share capital by being spread across a number of companies. This will ensure local authorities in Wales are placed on an equal footing with their English counterparts and have clarity that they are permitted to invest in money market funds, Real Estate Investment Trusts and local authority investment schemes approved by treasury without incurring capital expenditure.

The 2003 Regulations permits a local authority to incur expenditure on works to any land or building, which they do not have an interest in, to be capital expenditure. The changing landscape of local government reform and increased scope for sub-regional working through city deals has highlighted the potential need for this to be extended to include assets other than land and buildings. The draft Regulations insert a new regulation 20(1) (h) into the 2003 Regulations to provide that expenditure incurred on the acquisition, production or construction of assets for use by, or disposal to, a person other the local authority, must be treated as capital expenditure, if it would have been capital expenditure had the assets been acquired, produced or constructed for use by the local authority.

Use of capital receipts

The 2003 Regulations allow local authorities the use of up to 4% of a non-housing capital receipt to finance disposal costs. This can only be applied if the disposal costs and capital receipts occur in the same financial year. The Welsh Government therefore proposes an amendment to regulation 18 of the 2003 Regulations to avoid any potential practical implications should the disposal costs and capital receipts not occur in the same financial year.

Back pay following unequal pay

Accounting practice requires provision to be made for probable future liabilities to be made in the financial year when the liability is first identified, rather than in the year when the actual payment falls due. In the case of equal pay and in order to protect authorities, Regulation 24A was introduced into the 2003 Regulations in 2010. It offered authorities a breathing space, allowing them not to charge back-payments to their revenues until the payments were due. Originally set to expire in 2011, the regulation has been extended twice to 1 April 2013 and again to 1 April 2018.

The Welsh Government proposes to extend this beyond 1 April 2018 to continue to have effect until 1 April 2020, offering authorities another two years' protection. The effect is no charge would need to be made to revenue for a back-payment liability identified during the period until the payment is actually due to be made.

Proper practices

A review to improve the presentation of local authority financial statements has resulted in changes to the CIPFA Code of Practice on Local Authority Accounting (the Code). This will mean that when preparing their statutory accounts local authorities are no longer required to allocate and apportion overheads to services as set out in the Service Reporting Code of Practice (SeRCOP). The Welsh Government proposes removing the reference as specifying 'proper practice' in relation to the preparation of the accounts.

In the Accounts and Audit (Wales) Regulations 2014, joint committees with a gross income or gross expenditure (whichever is higher) of no more than £2,500,000, are defined as 'smaller relevant bodies' and are subject to specific rules regarding their accounts and audit. The Welsh Government proposes to amend regulation 25 of the 2003 Regulations to provide synergy with the Account and Audit (Wales) Regulations 2014 in its definition of a minor joint committee for the application of proper practices by increasing the threshold of £1,000,000 to £2,500,000.

Minor & technical changes

The Welsh Government proposes updating and removing outdated terminology for current local government accounting practices. For example the draft regulations replaces the term fixed asset with non current asset which is not a financial asset.

Future Developments - IFRS 16

Under IFRS 16 from January 2019 there will be a single lessee accounting model, requiring the recognition of assets and liabilities for all leases, unless the lease term is 12 months or less or the underlying asset has a low value.

HM Treasury has undertaken initial work on the assessment of the impact of IFRS 16 on estimates and budgets. The paper that was discussed at the June 2016 Government's Financial Reporting Advisory Board (FRAB) meeting is available by means of the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/542846/FRA_B_127_04_IFRS_16.pdf

CIPFA/LASAAC has also set up a sub group to assess the impact of the adoption on local authorities. This will look at both the technical accounting aspects of applying the standard and the practical issues that local authorities will face.

Consultation Questions

The Welsh Government is seeking views on the draft Regulations and their practical application. In particular:

- 1. Do you agree with the proposed amendments to the 2003 Regulations?**
- 2. Do you have any further comments in relation to the draft Regulations?**
- 3. Have you considered the extent to which the implementation of IFRS16 will impact on local authorities in Wales?**

Next Steps

Following the close of the consultation, all responses will be analysed and any necessary amendments made to the draft Regulations. A summary of consultation responses will also be published on the Welsh Government website. It is intended that the draft Regulations will be laid before the National Assembly for Wales so that they can come into effect on or before 31 March 2018.