

LEGISLATION COMMITTEE – CHECKLIST

Legislation Committee number: LC73

Title: The Local Authorities
(Capital Finance)
(Amendment) (Wales)
Regulations 2000

Associated Documents :

- Report of the Legal Advisor LC73(R)

Legislation Committee consideration (date) 28 March 2000

Urgency procedures (if applicable)

Coming into Force: 1 April 2000

Any further comments:

NATIONAL ASSEMBLY FOR WALES

LEGISLATION COMMITTEE REPORT

The Local Authorities (Capital Finance) (Amendment) (Wales)

Regulations 2000

Background

Under Part IV of the Local Government and Housing Act 1989 local authorities are required to have an amount of credit cover available when they enter into credit arrangements. For this purpose it is necessary to calculate the "cost" of credit arrangements.

Section 49 of the Act sets out the method for the calculation of the cost of credit arrangements but contains provision whereby regulations may exclude certain arrangements from this provision and make other provision for the method of calculation. Exclusion coupled with other provision for the method of calculation is already provided in respect of "private finance transactions".

The present regulations amend that provision by substituting, as a method of calculation, provision for the cost of such transactions to be nil.

Standing Order 11.5

Consideration has been given to the point that section 49(3) does not provide for the complete exclusion of the provisions relating to the costing of credit arrangements. What it provides for is the substitution of a method of calculation different from that set out in the section. It is accepted, however, that the specification of a nil figure for both initial and subsequent cost can be an appropriate use of the enabling power on the basis that this reflects a legitimate means of costing private finance transactions for the purposes of this legislation controlling local authority credit arrangements.

Accordingly, no points have been identified as matters in respect of which the Committee needs to invite the Assembly to pay special attention under Standing Order 11.5.

Comment on the Regulations

There are 2 points which should be mentioned by way of general comment.

In the heading to the Explanatory Note the bracketed wording in both the Welsh and English texts refers to the Instrument as being an Order rather than Regulations. This can be corrected in the printed version.

With different amendments having been made to Regulation 40 of the 1997 Regulations in England, the situation arises where the text of Regulation 40 is different as between Wales and England. It might thus have been helpful if reference to Wales had been included in the text inserted by the present Regulations although, it is noted that the text which has been inserted for England equally does not contain any reference to England.

**J H
TURNBULL**

Legal Adviser

Legislation Committee

Ref: LAD 01-01-097

Date: 23 March 2000

CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY

INSTRUMENTS

2000 Rhif (Cy.)

2000 No. (W.)

LLYWODRAETH LEOL, CYMRU

LOCAL GOVERNMENT, WALES

Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf) (Diwygio) (Cymru) 2000

The Local Authorities (Capital Finance) (Amendment) (Wales) Regulations 2000

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn.)

(This note does not form part of the Order.)

Mae'r Rheoliadau hyn yn cael eu gwneud o dan Ran IV o Ddeddf Llywodraeth Leol a Thai 1989 ("y Ddeddf") ac maent yn diwygio Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf) 1997 ("Rheoliadau 1997"). Mae Rheoliadau 1997 yn ymwneud â'r system cyllid cyfalaf ar gyfer yr awdurdodau lleol sy'n weithredol ers 1 Ebrill 1990.

These Regulations are made under Part IV of the Local Government and Housing Act 1989 ("the Act") and amend The Local Authorities (Capital Finance) Regulations 1997 ("the 1997 Regulations"). The 1997 Regulations are concerned with the capital finance system for local authorities which has been in operation since 1st April 1990.

O dan Ran IV o'r Ddeddf mae'n ofynnol bod gan yr awdurdodau lleol swm o ddarpariaeth gredyd ar gael pan fyddant yn gwneud neu'n amrywio trefniant credyd oni bai bod y trefniant credyd yn cael ei hepgor o'r gofyniad gan reoliadau. Mae'r Rheoliadau hyn yn rhoi Rheoliad 40 newydd yn lle Rheoliadau 40, 41 a 42 o Reoliadau 1997 fel nad oes angen mwyach i awdurdod lleol ddarparu darpariaeth gredyd wrth wneud trefniant credyd sy'n drosglwyddiad cyllid preifat.

Under Part IV of the Act local authorities are required to have an amount of credit cover available when they enter into or vary a credit arrangement unless the credit arrangement is excluded from the requirement by regulations. These Regulations substitute a new Regulation 40 for Regulations 40, 41 and 42 of the 1997 Regulations so that a local authority entering into a credit arrangement which is a private finance transaction no longer needs to provide credit cover.

- <u>OFFERYNNAU STATUDOL</u>		- <u>STATUTORY</u> <u>INSTRUMENTS</u>
2000 Rhif (Cy.)		2000 No. (W.)
<u>LLYWODRAETH LEOL, CYMRU</u>		<u>LOCAL GOVERNMENT, WALES</u>
Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf) (Diwygio) (Cymru) 2000		The Local Authorities (Capital Finance) (Amendment) (Wales) Regulations 2000
<i>Wedi'u gwneud 17 Mawrth 2000</i> <i>Yn dod i rym 1 Ebrill 2000</i>		<i>Made 17th March 2000</i> <i>Coming into force 1st April 2000</i>
Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adran 49(3) o Ddeddf Llywodraeth Leol a Thai 1989(a), ac a freiniwyd bellach yng Nghynulliad Cenedlaethol Cymru i'r graddau y maent yn arferadwy yng Nghymru(b).		The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by section 49(3) of the Local Government and Housing Act 1989(a) which are now vested in the National Assembly for Wales so far as exercisable in Wales (b).
Enwi, cychwyn, cymhwyso a dehongli		Citation, commencement, application and interpretation
1. -(1) Enw'r Rheoliadau hyn yw Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf) (Diwygio) (Cymru) 2000 a deuant i rym ar 1 Ebrill 2000.		1.-(1) These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) (Wales) Regulations 2000 and shall come into force on 1st April 2000.

<p>(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.</p>		<p>(2) These Regulations apply to Wales only.</p>
<p>(3) Yn y Rheoliadau hyn ystyr "Rheoliadau 1997" yw Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf) 1997(c).</p>		<p>(3) In these Regulations "the 1997 Regulations" means The Local Authorities (Capital Finance) Regulations 1997 (c).</p>
<p>Diwygiad</p>		<p>Amendment</p>
<p>2. Yn lle Rheoliadau 40, 41 a 42 o Reoliadau 1997 rhoddir-</p> <p>"40. A credit arrangement which is a private finance transaction shall be excluded from section 49(2) and the initial cost and the cost at any time of the arrangement shall be nil."</p>		<p>2. For Regulations 40, 41 and 42 of the 1997 Regulations there is substituted-</p> <p>"40. A credit arrangement which is a private finance transaction shall be excluded from section 49(2) and the initial cost and the cost at any time of the arrangement shall be nil."</p>
<p>Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(ch).</p>		<p>Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(d).</p>
<p>[] 2000</p>		<p>[] 2000</p>
<p>Llywydd y Cynulliad Cenedlaethol</p>		<p>The Presiding Officer of the National Assembly</p>

(a) 1989 p.42.

(b) Gweler Gorchymyn Cynulliad
Cenedlaethol Cymru (Trosglwyddo
Swyddogaethau) 1999 (O.S. 1999/672).

(c) O.S. 1997/319.

(ch) 1998 p.38.

(a) 1989 c.42.

(b) See the National Assembly for Wales
(Transfer of Functions) Order 1999 (S.I.
1999/672).

(c) S.I. 1997/319.

(d) 1998 c.38.