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STATUTORY INSTRUMENTS

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**1999 No. 3423**

**LOCAL GOVERNMENT, ENGLAND**

**Local Authorities (Capital Finance)  
(Amendment) (England) Regulations 1999**

<i>Made</i>	- - - -	<i>21st December 1999</i>
		<i>22nd December</i>
<i>Laid before Parliament</i>		<i>1999</i>
<i>Coming into force</i>	- -	<i>1st April 2000</i>

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by section 49(3) of the Local Government and Housing Act 1989(1), hereby makes the following Regulations:—

**Citation, commencement and extent**

1. These Regulations, which extend to England only(2), may be cited as the Local Authorities (Capital Finance) (Amendment) (England) Regulations 1999, and shall come into force on 1st April 2000.

**Amendment of Regulations**

2. For regulation 40 of the Local Authorities (Capital Finance) Regulations 1997(3) substitute the following regulation—

**“Excluded private finance transactions**

**40.**—(1) 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, if the authority determine that in accordance with proper practices no item, other than an item specified in paragraph (2), is required to be recognised as an asset in any balance sheet they are required to prepare in accordance with such practices for the financial year in which the credit arrangement comes into being with respect to property which is either:

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(1) 1989 c. 42.  
(2) The relevant powers of the Secretary of State have been devolved, in relation to Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672; see the reference to the Local Government and Housing Act 1989 in Schedule 1).  
(3) S.I. 1997/319; amended by S.I. 1997/848; S.I. 1998/371; and S.I. 1999/1852. There are other amendments not relevant to these Regulations.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (a) provided or made available under the transaction; or
  - (b) constructed, enhanced, replaced or installed under the transaction.
- (2) The following items are specified for the purposes of paragraph (1):
- (a) any item relating to a contribution by the authority of an asset to any person with whom they enter into the private finance transaction in return for a reduction in the consideration payable by the authority to that person under the transaction; or
  - (b) any item relating to an asset to be provided or made available under the private finance transaction by any person which is transferred into the ownership of the authority, whether or not upon payment of any consideration by the authority, at the end of the contract term relating to the transaction.”

### **Revocation**

3. Regulation 4 of the Local Authorities (Capital Finance) (Amendment) Regulations 1997(4) is revoked.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*Hilary Armstrong*  
Minister of State  
Department of the Environment, Transport and  
the Regions

21st December 1999

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(4) S.I. 1997/848.

## **EXPLANATORY NOTE**

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

These Regulations further amend the Local Authorities (Capital Finance) Regulations 1997 by substituting a new regulation 40 for the existing text.

The new regulation 40 introduces an accountancy based test for determining whether a credit arrangement which is a private finance transaction has a nil initial cost. The new test exempts schemes if there is sufficient risk transfer to keep the scheme off the authority's balance sheet. The regulation also exempts schemes in two specified circumstances where an asset has been recognised in the authority's balance sheet.