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STATUTORY INSTRUMENTS

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**1997 No. 319**

**The Local Authorities (Capital Finance) Regulations 1997**

**PART X**

**THE CREDIT CEILING**

*Excluded credit arrangements*

**General exclusion for leases of land**

**122.**—(1) In this regulation, in relation to a credit arrangement which is a lease of land (a “lease”)

“the authority” means the local authority who become the lessees under the lease; and

“relevant date” means the date on which the authority become the lessees under the lease.

(2) A lease shall be excluded for the purposes of paragraph 11(2) of Schedule 3 to the Act if, on the relevant date, the authority estimate that in every financial year beginning after that date the value of the consideration falling to be given by them in respect of the lease will be not less than the amount which would fall to be paid by them if—

- (a) where they acquired the lease otherwise than by a grant, the lease had been granted on the relevant date for a period equal to the period of the lease which is unexpired on that date;
- (b) the only consideration falling to be given by them for the grant of the lease consisted of annual payments of rent; and
- (c) each such payment had been determined on the relevant date and on the open market.

(3) For the purposes of this regulation, 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 not be regarded as having been given until the undertaking is performed or, as the case may be, the right is exercised.

**Exclusion for private finance transactions**

**123.**—(1) A credit arrangement to which paragraph (2) applies shall be excluded for the purposes of paragraph 11(2) of Schedule 3 to the Act.

(2) This paragraph applies to a credit arrangement where—

- (a) the arrangement is a private finance transaction for the purposes of Part IV of these Regulations;
- (b) paragraph (3) applies to the local authority who enter into the arrangement; and

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(c) as authority to enter into the arrangement, the authority determine to use a supplementary credit approval which applies only for the purposes of the arrangement.

(3) This paragraph applies to a local authority whose credit ceiling, as determined under Part III of Schedule 3 to the Act, is nil or a negative amount at the beginning of the financial year in which the credit arrangement is entered into, and who have no money outstanding by way of borrowing other than disregarded borrowing within the meaning given to that expression in regulation 65.