



# Education Act 1993

## 1993 CHAPTER 35

### PART II

#### GRANT-MAINTAINED SCHOOLS

### CHAPTER VI

#### FUNDING OF GRANT-MAINTAINED SCHOOLS

#### *Grants: general*

#### **81 Maintenance grants**

- (1) Subject to the provisions of this Part of this Act, the funding authority shall make annual grants (to be known as maintenance grants) to the governing body of each grant-maintained school, each such grant being made in respect of expenditure for the purposes of the school incurred or to be incurred by the governing body in the financial year to which the grant relates.
- (2) The amount of the maintenance grant payable in respect of a school for a financial year shall be such as may be determined (and from time to time revised) in accordance with regulations (referred to in this Chapter as “grant regulations”); and grant regulations may provide for determinations (and revisions) to be made by reference to amounts determined or redetermined for the purposes of this section by the Secretary of State.
- (3) Subject to—
  - (a) any provision made by virtue of section 69(6) of this Act,
  - (b) any requirements imposed by the funding authority under section 84(1) of this Act, and
  - (c) any requirements as to the application of maintenance grant contained in the articles of government of the school,

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the governing body of a grant-maintained school shall apply any payments made to them in respect of maintenance grant solely for the purposes of the school.

- (4) In this Chapter “the purposes of the school” do not include purposes wholly referable to the provision of—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or
  - (b) full-time education suitable to the requirements of persons who have attained the age of nineteen years.

## **82 Special purpose grants**

- (1) Grant regulations may provide for the payment by the funding authority to the governing bodies of grant-maintained schools of grants (to be known as special purpose grants) in respect of expenditure, of any class or description specified in the regulations, incurred or to be incurred by the governing bodies—
  - (a) for or in connection with educational purposes of any class or description so specified,
  - (b) in making any provision (whether of educational services or facilities or otherwise) of any class or description so specified which appears to the funding authority to be required for meeting any special needs of the population of the area served by the schools in question, or
  - (c) in respect of expenses of any class or description so specified, being expenses which it appears to the funding authority the governing bodies of such schools cannot reasonably be expected to meet from maintenance grant.
- (2) Grant regulations may provide for special purpose grants to be payable—
  - (a) on a regular basis in respect of expenditure of a recurrent kind, or
  - (b) by reference to expenditure incurred or to be incurred on particular occasions or during any particular period.

## **83 Capital grants**

- (1) Grant regulations may provide for the payment by the funding authority to the governing bodies of grant-maintained schools of grants (to be known as capital grants) in respect of expenditure of a capital nature, of any class or description specified in the regulations, incurred or to be incurred by the governing bodies.
- (2) The descriptions of expenditure which are to be regarded for the purposes of capital grant as expenditure of a capital nature shall be such as may be determined by or in accordance with the regulations.
- (3) Where the governing body of a grant-maintained school include sponsor governors, the funding authority shall, if directed to do so by the Secretary of State, pay capital grant of such amount as may be specified in the directions in respect of such expenditure falling within subsection (1) above as is incurred, or to be incurred, by the governing body for such purposes as may be specified in the directions.
- (4) Before giving a direction under subsection (3) above, the Secretary of State shall consult the funding authority.
- (5) A direction under subsection (3) above may not be given after the end of the period of twelve months beginning—

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- (a) in the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status which include sponsor governors on the incorporation date, with that date,
- (b) in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which include sponsor governors on the date of implementation of the proposals, with that date, and
- (c) in any other case, with the date when the instrument of government naming a person as the sponsor of the school came into effect.

#### **84 Imposition of requirements on governing body in receipt of grant**

- (1) A governing body to whom any payments in respect of maintenance grant, capital grant or special purpose grant are made shall comply with such requirements of a kind mentioned in subsection (2) below as the funding authority may from time to time impose.
- (2) The kinds of requirements which may be imposed under subsection (1) above are—
  - (a) requirements specified in grant regulations as requirements which may be imposed by the funding authority on governing bodies to whom such payments are made, and
  - (b) requirements determined in accordance with grant regulations by the funding authority.
- (3) Requirements imposed under subsection (1) above—
  - (a) may be imposed on or at any time after the making of any payment by reference to which they are imposed, and
  - (b) subject to subsection (4) below, may at any time be varied by the funding authority.
- (4) The power of the funding authority to vary such a requirement—
  - (a) does not apply to a requirement of the kind mentioned in subsection (2)(a) above, or a requirement required to be imposed by the regulations (by virtue of subsection (9) below) or by directions under section 9 of this Act, unless the Secretary of State has consented to the variation, and
  - (b) is subject, in the case of a requirement of the kind mentioned in subsection (2)(b) above, to the provisions of the regulations relating to the determination of the requirements that may be imposed in the case of payments in respect of the grant in question.
- (5) Requirements imposed under subsection (1) above may at any time be waived or removed by the funding authority with the consent of the Secretary of State.
- (6) The requirements—
  - (a) which may be specified in or authorised by grant regulations as requirements which may be imposed on governing bodies to whom payments are made in respect of special purpose grant, or
  - (b) which may be imposed by the funding authority on a governing body to whom payments in respect of capital grant are made,may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the funding authority of the whole or any part of the following amount.
- (7) That amount is—

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- (a) the amount of the payments made in respect of the grant, or
  - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.
- (8) No such requirement as is referred to in subsection (6) above may be imposed where any payment is made in respect of capital grant if—
- (a) the grant is made in respect of the provision, alteration or repair of premises for a school, and
  - (b) any freehold interest in the premises in respect of which the grant is made is, or is to be, held on trust for the purposes of the school.
- (9) Grant regulations may require the funding authority to impose any such requirements as may be imposed under the preceding provisions of this section.

## **85 Grants: further provisions**

- (1) The times at which, and the manner in which, payments are made in respect of—
- (a) maintenance grant for a grant-maintained school in respect of any financial year,
  - (b) special purpose grant, and
  - (c) capital grant,
- shall be such as may be determined from time to time by the funding authority.
- (2) Payments in respect of maintenance grant for a school in respect of any financial year may be made, before any amount has been determined in accordance with grant regulations as the amount of such grant payable for that year in respect of the school, by reference to an estimate of the amount which will be so payable made by the funding authority.
- (3) Where in respect of any financial year an over-payment of maintenance grant is made to the governing body of a school, a sum equal to the amount of that over-payment shall be recoverable from the governing body by the funding authority.
- (4) Where a sum is payable by the governing body of a school to the funding authority—
- (a) in respect of an over-payment of maintenance grant in respect of a financial year, or
  - (b) by way of repayment of special purpose grant or capital grant (whether by virtue of a requirement such as is mentioned in section 84(6) of this Act or otherwise),
- the funding authority may (without prejudice to any other mode of recovery) recover the whole or any part of that sum by deducting it from any grant payable by them to the governing body.
- (5) In this section, references to an over-payment of maintenance grant in respect of a financial year are to any amount by which the aggregate amount of any payments in respect of maintenance grant made to the governing body of the school in question in respect of the year exceeds the amount finally determined in accordance with grant regulations as the amount of maintenance grant payable for that year in respect of the school.

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- (6) The funding authority shall exercise any power conferred on them by sections 53 and 81 to 84 of this Act, paragraph 6 of Schedule 4 to this Act or this section in such manner (if any) as may be specified in or determined in accordance with grant regulations.

*Grants: Wales (until establishment of the SFCW)*

## **86 Application of sections 87 to 91**

Before the Schools Funding Council for Wales begin to exercise their functions, sections 87 to 91 of this Act shall have effect in relation to grant-maintained schools in Wales in place of sections 81(1) and (3), 82(1), 83(1), 84 and 85 of this Act.

## **87 Maintenance grants**

- (1) Subject to the provisions of this Part of this Act, the Secretary of State shall make annual grants (to be known as maintenance grants) to the governing body of each grant-maintained school, each such grant being made in respect of expenditure for the purposes of the school incurred or to be incurred by the governing body in the financial year to which the grant relates.

- (2) Subject to—

- (a) any provision made by virtue of section 69(6) of this Act,
- (b) any requirements imposed by the Secretary of State under section 90(1) or (3) of this Act, and
- (c) any requirements as to the application of maintenance grant contained in the articles of government of the school,

the governing body of a grant-maintained school shall apply any payments made to them in respect of maintenance grant solely for the purposes of the school.

## **88 Special purpose grants**

Grant regulations may provide for the payment by the Secretary of State to the governing bodies of grant-maintained schools of grants (to be known as special purpose grants) in respect of expenditure incurred or to be incurred by them of any class or description specified in the regulations—

- (a) for or in connection with educational purposes of any class or description so specified,
- (b) in making any provision (whether of educational services or facilities or otherwise) of any class or description so specified which appears to the Secretary of State to be required for meeting any special needs of the population of the area served by the school, or
- (c) in respect of expenses of any class or description so specified, being expenses which it appears to the Secretary of State the governing bodies of such schools cannot reasonably be expected to meet from maintenance grant.

## **89 Capital grants**

Grant regulations may provide for the payment by the Secretary of State to the governing bodies of grant-maintained schools of grants (to be known as capital grants)

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in respect of expenditure of a capital nature, of any class or description specified in the regulations, incurred or to be incurred by the governing bodies.

**90 Imposition of requirements on governing body in receipt of grant**

- (1) A governing body to whom any payments in respect of maintenance grant or special purpose grants are made shall comply with such requirements of a kind mentioned in subsection (2) below as the Secretary of State may from time to time impose.
- (2) The kinds of requirements which may be imposed under subsection (1) above are—
  - (a) requirements specified in grant regulations as requirements which may be imposed by the Secretary of State on governing bodies to whom such payments are made, and
  - (b) requirements determined in accordance with grant regulations by the Secretary of State.
- (3) A governing body to whom any payments in respect of capital grant are made shall comply with such requirements determined by the Secretary of State as he may from time to time impose.
- (4) Requirements imposed under subsection (1) or (3) above—
  - (a) may be imposed on or at any time after the making of any payment by reference to which they are imposed, and
  - (b) may at any time be waived or removed or, subject to subsection (5) below, varied by the Secretary of State.
- (5) The power of the Secretary of State to vary such a requirement—
  - (a) does not apply to a requirement of the kind mentioned in subsection (2)(a) above, and
  - (b) is subject, in the case of a requirement of the kind mentioned in subsection (2)(b) above, to the provisions of the regulations relating to the determination of the requirements that may be imposed in the case of payments in respect of the grants in question.
- (6) The requirements—
  - (a) which may be specified in or authorised by grant regulations as requirements which may be imposed on governing bodies to whom payments are made in respect of special purpose grant, or
  - (b) which may be imposed by the Secretary of State on a governing body to whom payments in respect of capital grant are made,
 may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the Secretary of State of the whole or any part of the following amount.
- (7) That amount is—
  - (a) the amount of the payments made in respect of the grant, or
  - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
 whichever is the greater.
- (8) No such requirement as is referred to in subsection (6) above may be imposed where any payment is made in respect of capital grant if—

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- (a) the grant is made in respect of the provision, alteration or repair of premises for a school, and
- (b) any freehold interest in the premises in respect of which the grant is made is, or is to be, held on trust for the purposes of the school.

## **91 Grants: further provisions**

- (1) The times at which, and the manner in which, payments are made in respect of—
  - (a) maintenance grant for a grant-maintained school in respect of any financial year,
  - (b) special purpose grants, and
  - (c) capital grants,shall be such as may be determined from time to time by the Secretary of State.
- (2) Payments in respect of maintenance grant for a school in respect of any financial year may be made, before any amount has been determined in accordance with grant regulations as the amount of such grant payable for that year in respect of the school, by reference to an estimate of the amount which will be so payable made by the Secretary of State.
- (3) Where in respect of any financial year an over-payment of maintenance grant is made to the governing body of a school, a sum equal to the amount of that over-payment shall be recoverable from the governing body by the Secretary of State.
- (4) Where a sum is payable by the governing body of a school to the Secretary of State—
  - (a) in respect of an over-payment of maintenance grant in respect of a financial year, or
  - (b) by way of repayment of special purpose grant or capital grant (whether by virtue of a requirement such as is mentioned in section 90(6) of this Act or otherwise),the Secretary of State may (without prejudice to any other mode of recovery) recover the whole or any part of that sum by deducting it from any grant payable by him to the governing body.
- (5) In this section, references to an over-payment of maintenance grant in respect of a financial year are to any amount by which the aggregate amount of any payments in respect of maintenance grant made to the governing body of the school in question in respect of the year exceeds the amount finally determined in accordance with grant regulations as the amount of maintenance grant payable for that year in respect of the school.

## *Loans*

## **92 Loans to governing bodies**

- (1) The appropriate authority may make loans to the governing bodies of grant-maintained schools in respect of expenditure of any class or description specified in regulations (referred to in this section as “loan regulations”) incurred or to be incurred by the governing bodies for or in connection with such purposes as may be so specified.
- (2) Any loan under this section shall be made on such terms as loan regulations may require, being terms specified in or determined in accordance with the regulations.

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- (3) Where any sum is payable by the governing body of a grant-maintained school to the appropriate authority in respect of the principal of, or interest on, any loan under this section, the appropriate authority may (without prejudice to any other mode of recovery) recover the whole or any part of that sum by deducting it from any grant payable by them to the governing body.
- (4) In this section, the “appropriate authority”—
- (a) in relation to England before the Funding Agency for Schools begin to exercise their functions, and
  - (b) in relation to Wales before the Schools Funding Council for Wales begin to exercise their functions,
- means the Secretary of State and, in any other case, means the funding authority.
- (5) The funding authority shall exercise any power conferred on them by this section in such manner (if any) as may be specified in or determined in accordance with loan regulations.

*Recovery from local funds*

**93 Recovery from local funds of sums in respect of maintenance grant**

- (1) Where the Secretary of State so determines, this section applies to a local education authority in respect of any financial year for which the determination is made; and the determination may apply this section in respect of all grant-maintained schools in the area of the authority or in respect of such grant-maintained schools in that area as may be ascertained by or in accordance with the determination.
- (2) The Secretary of State shall in respect of each financial year for which he makes a determination under subsection (1) above in respect of a local education authority, give notice in writing to the authority of the terms of the determination.
- (3) The Secretary of State may recover from a local education authority to which this section applies in respect of any financial year sums in respect of the maintenance grant payable for that year to the governing bodies of any grant-maintained schools in respect of which the determination applies.
- (4) Subject to subsection (5) below, sums recoverable by virtue of this section in respect of a school for any financial year—
- (a) shall be of such amounts, and
  - (b) shall fall due on such date or dates,
- as may be determined by the Secretary of State.
- (5) The amount of any sum so recoverable shall be determined by reference to any amount—
- (a) which has previously been determined under section 94 of this Act as the total amount recoverable in respect of the school and financial year in question, or
  - (b) (where no amount has previously been determined as mentioned in paragraph (a) above) which is estimated by the Secretary of State as the amount which will initially be determined under section 94 of this Act as the total amount recoverable in respect of the school and financial year in question,



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and which the Secretary of State considers it appropriate to adopt for the time being as a basis for determining the amounts of sums so recoverable.

- (6) The Secretary of State may recover sums due to him under this section in either or both of the following ways—
- (a) by requiring the local education authority to pay the whole or any part of any such sum at such time or times as he thinks fit, and
  - (b) by deducting, at such time or times as he thinks fit, the whole or any part of any such sum from any grant payable by him to the authority under any enactment (whenever passed) or from any amount payable by him to the authority under Part III of Schedule 8 to the Local Government Finance Act 1988 (redistributed non-domestic rates).
- (7) Any sums received by the Secretary of State by virtue of this section shall be paid into the Consolidated Fund.

#### **94 Determination of total amount recoverable under section 93**

- (1) The total amount recoverable by virtue of section 93 of this Act in respect of a school for any financial year shall be such as may be determined (and from time to time revised) in accordance with regulations made by the Secretary of State (referred to in this section as “recoupment regulations”).
- (2) Subject to any provision made by such regulations by virtue of subsection (3) below, recoupment regulations shall provide for the total amount so recoverable to be determined by reference to any amount determined under grant regulations as the amount of the maintenance grant payable in respect of the school and the financial year in question (as from time to time revised).
- (3) Recoupment regulations may provide for reducing any amount which would otherwise fall to be determined under the regulations as the total amount recoverable from any local education authority by virtue of section 93 of this Act for a financial year by reference to any excess amounts recovered under that section in respect of any previous financial year.
- (4) For the purposes of subsection (3) above, an excess amount is recovered under section 93 of this Act in respect of a financial year if the aggregate amount of the sums recovered under that section for that year from the local education authority—
- (a) in respect of any school in respect of which sums are recoverable from the authority under that section, or
  - (b) where there is more than one such school, in respect of both or all of those schools,
- exceeds the total amount recoverable in accordance with recoupment regulations in respect of that school or (as the case may be) in respect of both or all of those schools for that year.

#### **95 Provisions consequential on section 93**

- (1) For the purposes of sections 51 and 52 of the Education (No. 2) Act 1986 (recoupment for provision for education of pupils belonging to, or having connection with, area of another authority), the provision for education made in any financial year in respect of a registered pupil at a grant-maintained school which is not made by the local

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education authority shall, if sums are recoverable under section 93 of this Act in respect of the school and that year from the authority, be taken to have been made by them.

- (2) The reference in subsection (1) above to provision for education includes a reference to provision of any benefits or services for which provision is made by or under this Act or any other enactment relating to education.
- (3) The governing body of a grant-maintained school shall, if sums are recoverable under section 93 of this Act in respect of the school from a local education authority, provide the authority with such information relating to the registered pupils at the school as the authority may require for the purpose of claiming any amount in respect of such a pupil from another authority by virtue of regulations under section 51 or 52 of the Education (No. 2) Act 1986.