



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART II

#### NEW FRAMEWORK FOR MAINTAINED SCHOOLS

#### CHAPTER IV

##### FINANCING OF MAINTAINED SCHOOLS

##### *Budgetary framework*

#### 45 **Maintained schools to have budget shares.** **E**

- (1) For the purposes of the financing of maintained schools by local education authorities, every such school shall have, for each financial year, a budget share which is allocated to it by the authority which maintains it.

[<sup>F1</sup>(1A) In this Chapter “maintained school” means—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.]

- (2) Sections [<sup>F2</sup>45A] and 47 have effect for determining the amount of a school’s budget share for a financial year.

(3) In this Chapter—

- (a) references to schools maintained by a local education authority do not include [<sup>F3</sup>pupil referral units];

*Status: Point in time view as at 27/11/2003.*

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- (b) references, in a context referring to a local education authority, to a maintained school or to a school maintained by such an authority shall be read as including a new school—
  - (i) which on implementation of proposals under [<sup>F4</sup>any enactment] will be a community, foundation or voluntary school or a community or foundation special school maintained by the authority, and
  - (ii) which has a temporary governing body; and
- (c) references to the governing body of a maintained school or of a school maintained by a local education authority shall accordingly be read as including the temporary governing body of a new school falling within paragraph (b).

(4) In this Chapter “new school” (without more) has the meaning given by section 72(3).

#### **Extent Information**

- E1** This version of this provision extends to England only; a separate version has been created for Wales only

#### **Textual Amendments**

- F1** S. 45(1A) inserted (1.9.2003 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 99\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, [art. 4](#) (with art. 6, Sch. para. 5); S.I. 2005/2910, art. 4, [Sch.](#) (with transitional provisions in [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2005 \(S.I. 2005/2913\)](#)), [reg. 8](#)
- F2** Word in s. 45 substituted (E.) (1.10.2002) by [The Education Act 2002 \(Modification of Provisions\) \(England\) Regulations 2002 \(S.I. 2002/2316\)](#), [reg. 2](#)
- F3** Words in s. 45(3)(a) substituted (1.9.2003 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 99\(3\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, [art. 4](#) (with art. 6, Sch. para. 5); S.I. 2005/2910, art. 4, [Sch.](#)
- F4** Words in s. 45(3)(b)(i) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 99\(3\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1; S.I. 2003/124, [art. 4](#)

#### **Modifications etc. (not altering text)**

- C2** S. 45(3)(4) modified (20.11.1998) by [S.I. 1998/2670](#), [reg. 3\(4\)](#)

## **45 Maintained schools to have budget shares. W**

- (1) For the purposes of the financing of maintained schools by local education authorities, every such school shall have, for each financial year, a budget share which is allocated to it by the authority which maintains it.
- (2) Sections 46 and 47 have effect for determining the amount of a school’s budget share for a financial year.
- (3) In this Chapter—
  - (a) references to schools maintained by a local education authority do not include schools which are not maintained schools as defined by section 20(7);
  - (b) references, in a context referring to a local education authority, to a maintained school or to a school maintained by such an authority shall be read as including a new school—

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- (i) which on implementation of proposals under [<sup>F13</sup>any enactment] will be a community, foundation or voluntary school or a community or foundation special school maintained by the authority, and
  - (ii) which has a temporary governing body; and
  - (c) references to the governing body of a maintained school or of a school maintained by a local education authority shall accordingly be read as including the temporary governing body of a new school falling within paragraph (b).
- (4) In this Chapter “new school” (without more) has the meaning given by section 72(3).

#### Extent Information

- E2** This version of this provision extends to Wales only; a separate version has been created for England only.

#### Textual Amendments

- F13** Words in s. 45(3)(b)(i) substituted (19.12.2002 for W. and 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 99\(3\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1; S.I. 2003/124, [art. 4](#)

#### Modifications etc. (not altering text)

- C2** S. 45(3)(4) modified (20.11.1998) by [S.I. 1998/2670](#), [reg. 3\(4\)](#)

### [<sup>F5</sup>45A Determination of specified budgets of LEA

- (1) For the purposes of this Part, a local education authority’s “LEA budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection.
- (2) For the purposes of this Part, a local education authority’s “schools budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection (which may include expenditure incurred otherwise than in respect of schools).
- (3) For the purposes of this Part, a local education authority’s “individual schools budget” for a financial year is the amount remaining after deducting from the authority’s schools budget for that year such planned expenditure by the authority in respect of that year as they may determine should be so deducted in accordance with regulations.
- (4) Regulations under subsection (3) may—
  - (a) prescribe classes or descriptions of expenditure which are authorised or required to be deducted from an authority’s schools budget;
  - (b) provide, in relation to any prescribed class or description of expenditure specified in the regulations, that such expenditure may only be deducted subject to either or both of the following, namely—
    - (i) such limit or limits (however framed) as may be specified by or determined in accordance with the regulations, and
    - (ii) such other conditions as may be so specified or determined.

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- (5) Before the [<sup>F6</sup>schools budget deadline] in any financial year, a local education authority shall—
- (a) determine the proposed amount of their schools budget for the following financial year, and
  - (b) give notice of their determination to the Secretary of State and to the governing body of every school maintained by the authority.]

- [<sup>F7</sup>(6) For the purposes of this section and section 45B “the schools budget deadline” is—
- (a) the end of December in the case of an authority in England, and
  - (b) the end of January in the case of an authority in Wales.]

#### Textual Amendments

- F5** S. 45A inserted (1.10.2002 for E., 4.12.2003 for W.) by [Education Act 2002 \(c. 32\), ss. 41\(1\)](#), 216(4) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 3](#) (with [art. 4, Sch. para. 1](#)); [S.I. 2003/2961, art. 5, Sch. Pt. II](#)
- F6** Words in s. 45A(5) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 66\(3\)](#); [S.I. 2003/2938, art. 3\(a\)](#) (with [art. 8, Sch.](#)); [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)
- F7** S. 45A(6) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 66\(4\)](#); [S.I. 2003/2938, art. 3\(a\)](#) (with [art. 8, Sch.](#)); [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)

#### Modifications etc. (not altering text)

- C3** S. 45A savings for effects of [2002 c. 32, s. 41\(1\) \(W.\) \(19.11.2003\)](#) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\), regs. 1\(1\), 3](#)

### [<sup>F8</sup>45B Power of Secretary of State to set minimum schools budget for LEA

- (1) If it appears to the Secretary of State that, in all the circumstances, the amount proposed in a notice under section 45A(5) as a local education authority’s schools budget for a financial year is inadequate, the Secretary of State may, within the period of fourteen days beginning with the [<sup>F9</sup>schools budget deadline in the financial year preceding that financial year], give the authority a notice under subsection (4) or (5).
- (2) If at the [<sup>F10</sup>schools budget deadline] in any financial year a local education authority have failed to give the Secretary of State a notice under section 45A(5) in relation to their schools budget for the following financial year, the Secretary of State may, at any time after [<sup>F11</sup>that deadline], give the authority a notice under subsection (4) or (5).
- (3) In this section and section 45C “the year under consideration” means the financial year to which the notice under section 45A(5) relates or, in a case falling within subsection (2), the financial year in relation to which such a notice ought to have been given.
- (4) A notice under this subsection is a notice determining the minimum amount of the authority’s schools budget for the year under consideration.
- (5) A notice under this subsection is a notice which—

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- (a) specifies the amount which the Secretary of State would have determined as the minimum amount of the authority's schools budget for the year under consideration if he had acted under subsection (4), and
  - (b) states the Secretary of State's intention to determine the minimum amount of the authority's schools budget for the following financial year.
- (6) A notice under subsection (4) or (5) must include a statement of the Secretary of State's reasons for giving the notice.
- (7) The Secretary of State may act under different subsections in relation to different authorities.

#### Textual Amendments

- F8** Ss. 45B, 45C inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c.32\)](#), **ss. 42**, 216 (with **ss. 210(8)**, 214(4)); [S.I. 2002/2439](#), **art. 3** (with [Sch.](#))
- F9** Words in s. 45B(1) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), **Sch. 7 para. 66(5)**; [S.I. 2003/2938](#), **art. 3(a)** (with **art. 8**, [Sch.](#)); [S.I. 2003/3034](#), **art. 2**, [Sch. 1 Pt. I](#)
- F10** Words in s. 45B(2) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), **Sch. 7 para. 66(6)(a)**; [S.I. 2003/2938](#), **art. 3(a)** (with **art. 8**, [Sch.](#)); [S.I. 2003/3034](#), **art. 2**, [Sch. 1 Pt. I](#)
- F11** Words in s. 45B(2) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), **Sch. 7 para. 66(6)(b)**; [S.I. 2003/2938](#), **art. 3(a)** (with **art. 8**, [Sch.](#)); [S.I. 2003/3034](#), **art. 2**, [Sch. 1 Pt. I](#)

#### 45C Effect of notice under section 45B(4)

- (1) The local education authority may, within the period of fourteen days beginning with the date of a notice under section 45B(4), give the Secretary of State notice of their objection to his determination, giving reasons for their objection.
- (2) Where the local education authority have given notice of their objection under subsection (1), the notice under section 45B(4) shall cease to have effect, but the Secretary of State may by order prescribe the minimum amount of the authority's schools budget for the year under consideration.
- (3) The amount prescribed under subsection (2) must not be greater than the amount specified in the notice under section 45B(4).
- (4) An order under subsection (2) may relate to two or more authorities.
- (5) No order under subsection (2) may be made in relation to one or more authorities in England unless a draft of the order has been laid before and approved by a resolution of the House of Commons.
- (6) Where—
  - (a) a notice under section 45B(4) has been given to a local education authority and no notice of objection has been given during the period specified in subsection (1), or
  - (b) an order has been made under subsection (2),

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the local education authority shall determine a schools budget for the year under consideration which is not less than the amount specified in relation to the authority in the notice or order.]

#### Textual Amendments

**F8** Ss. 45B, 45C inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c.32\)](#), **ss. 42, 216** (with **ss. 210(8), 214(4)**); [S.I. 2002/2439](#), **art. 3** (with [Sch.](#))

### 46 Determination of LEA’s local schools budget and individual schools budget.

[<sup>F12</sup>(1) For the purposes of this Part a local education authority’s “local schools budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection (which may include expenditure incurred otherwise than in respect of schools).

(2) For the purposes of this Part a local education authority’s “individual schools budget” for a financial year is the amount remaining after deducting from the authority’s local schools budget for that year such planned expenditure by the authority in respect of the year as they may determine should be so deducted in accordance with regulations.

(3) Regulations under subsection (2) may—

- (a) prescribe classes or descriptions of expenditure which are authorised or required to be deducted from an authority’s local schools budget; and
- (b) provide, in relation to any prescribed class or description of expenditure specified in the regulations, that such expenditure may only be so deducted subject to either or both of the following, namely—
  - (i) such limit or limits (however framed) as may be specified by the regulations; and
  - (ii) such other conditions as may be so specified.]

#### Textual Amendments

**F12** S. 46 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), **ss. 41(3), 215(2), 216, Sch. 22 Pt. 3** (with **ss. 210(8), 214(4)**); [S.I. 2002/2439](#), **art. 3** (with [Sch.](#))

#### Modifications etc. (not altering text)

**C4** S. 46 savings for effects of 2002 c. 32, ss. 41(3), 215, Sch. 21 para. 100(1)(2), 113, 125, Sch. 22 Pt. 3 (W.) (19.11.2003) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\)](#), **regs. 1(1), 5**

### 47 Determination of school’s budget share.

(1) For the purposes of this Part a maintained school’s budget share for a financial year is such amount as the local education authority may determine, in accordance with regulations, to allocate to the school out of the authority’s individual schools budget for that year.

(2) Regulations under this section may, in particular, make provision—

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- (a) as to the time when schools' budget shares are to be initially determined by local education authorities;
  - (b) specifying—
    - (i) factors or criteria which such authorities are to take into account, or
    - (ii) requirements as to other matters with which such authorities are to comply,in determining such shares, whether generally or in such cases as are specified in the regulations;
  - (c) requiring adjustments to be made to such shares by such authorities in respect of—
    - (i) pupils permanently excluded from schools maintained by them, or
    - (ii) pupils admitted to schools maintained by them who have been permanently excluded from other maintained schools;
  - (d) as to the treatment of new schools, including provision authorising the determination of nil amounts as the budget shares of such schools;
  - (e) authorising or requiring such authorities to take account of matters arising during the course of a financial year—
    - (i) by redetermining budget shares for that year, or
    - (ii) by making adjustments to such shares for the following year,in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;
  - (f) requiring consultation to be carried out by such authorities in relation to the factors or criteria which are to be taken into account in determining such shares and as to the time and manner of such consultation;
  - (g) enabling the Secretary of State, where it appears to him to be expedient to do so, to authorise such authorities to determine (or redetermine) budget shares, to such extent as he may specify, in accordance with arrangements approved by him (in place of those provided for by the regulations).
- (3) Regulations made in pursuance of subsection (2)(c) may provide for the adjustments to be made on such basis as may be prescribed, which may involve the deduction from one school's budget share of an amount which is greater or less than that allocated to another school's budget share in respect of the excluded pupil.

**Status:**

Point in time view as at 27/11/2003.

**Changes to legislation:**

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