



# Education Act 2002

## 2002 CHAPTER 32

### PART 3

#### MAINTAINED SCHOOLS

### CHAPTER 2

#### FINANCING OF MAINTAINED SCHOOLS

#### *Determination of budgets*

#### **41 Determination of specified budgets of LEA**

(1) After section 45 of the School Standards and Framework Act 1998 there is inserted—

#### **“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.

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- (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.
- (5) Before the [<sup>F1</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>F2</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.”]

(2) In section 45 of that Act (maintained schools to have budget shares), in subsection (1) for “46” there is substituted “ 45A ”.

(3) Section 46 of that Act (determination of LEA’s local schools budget and individual schools budget) shall cease to have effect.

#### Textual Amendments

- F1** Words in s. 41 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
- F2** Words in s. 41 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)

- C1** S. 41(2) modified (W.) (temp. from 19.12.2002) by [The Education Act 2002 \(Transitional Provisions\) \(Wales\) Regulations 2002 \(S.I. 2002/3184\)](#), [reg. 4](#)

#### Commencement Information

- I1** S. 41 partly in force; s. 41 not in force at Royal Assent, see s. 216; s. 41(1)(3) in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), Sch.)
- I2** S. 41 in force at 4.12.2003 for W. by [S.I. 2003/2961](#), [art. 5](#), [Sch. Pt. II](#)

## 42 Power of Secretary of State to set minimum schools budget

After section 45A of the School Standards and Framework Act 1998 (c. 31) there is inserted—

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#### **“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>F3</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>F4</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>F5</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—
  - (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.

#### **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.

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- (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),
- 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

- F3** Words in s. 42 substituted (18.11.2003 for E.) 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.)
- F4** Words in s. 42 substituted (18.11.2003 for E.) 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.)
- F5** Words in s. 42 substituted (18.11.2003 for E.) 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.)

#### Commencement Information

- I3** S. 42 partly in force; s. 42 not in force at Royal Assent, see s. 216; s. 42 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), Sch.)
- I4** S. 42 in force at 4.12.2003 for W. by [S.I. 2003/2961](#), [art. 5](#), [Sch. Pt. II](#)

### 43 Schools forums

After section 47 of the School Standards and Framework Act 1998 (c. 31) there is inserted—

*“Schools forums*

#### **47A Schools forums**

- (1) Every local education authority shall in accordance with regulations establish for their area before such date as may be prescribed a body, to be known as a schools forum, representing the governing bodies and head teachers of schools maintained by the authority and, if the authority so determine, also representing such bodies as the authority may from time to time in accordance with regulations determine.
- (2) Subsection (1) does not apply in relation to the Common Council of the City of London or the Council of the Isles of Scilly.
- (3) The purpose of a schools forum is to advise the relevant authority on such matters relating to the authority’s schools budget as may be prescribed by regulations under section 45A(3) or by regulations under this subsection.

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- (4) Regulations under section 45A(3) or under subsection (3) may include provision requiring a relevant authority to have regard to advice given by their schools forum, or requiring a relevant authority to consult their schools forum in relation to prescribed matters or before taking prescribed decisions.
- (5) Regulations may make provision as to the constitution, meetings and proceedings of a schools forum.
- (6) Regulations made by virtue of subsection (5) may include provision enabling the Secretary of State in prescribed circumstances to remove from membership of a schools forum any non-schools member.
- (7) Regulations may make provision with respect to expenses of a schools forum.
- (8) Except as provided by regulations, the expenses of a schools forum shall be defrayed by the relevant authority.
- (9) In this section—
  - “non-schools member”, in relation to a schools forum, means a member other than a schools member;
  - “relevant authority”, in relation to a schools forum, means the local education authority by whom the forum is established;
  - “schools member”, in relation to a schools forum, means a member elected to represent governing bodies or head teachers of schools maintained by the relevant authority.”

#### Commencement Information

- 15** S. 43 partly in force; s. 43 not in force at Royal Assent, see s. 216; s. 43 in force for E. at 2.9.2002 by S.I. 2002/2002, art. 4
- 16** S. 43 in force at 1.11.2003 for W. by S.I. 2003/1718, art. 6, Sch. Pt. III

### *Accounts and financial statements*

#### **44 Accounts of maintained schools**

- (1) Regulations may require the governing body of a maintained school—
  - (a) to keep prescribed accounts and prescribed records in relation to the accounts,
  - (b) to prepare prescribed financial statements or reports,
  - (c) to comply with prescribed conditions with respect to audit, and
  - (d) to send copies of the accounts, together with such financial statements or reports as may be prescribed, to the local education authority.
- (2) The regulations may—
  - (a) impose on the governing body requirements relating to—
    - (i) resources held by the governing body, and
    - (ii) other resources whose application is controlled by the governing body, and
  - (b) provide that for the purposes of the regulations any resources which, although not held by the governing body, appear to the local education authority to be available for the purposes of the school or for the purposes of the maintenance

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- of any part of the school premises are to be taken to fall within paragraph (a)  
(ii) unless the governing body satisfy the local education authority that the governing body do not control the application of those resources.
- (3) For the purposes of subsection (2), any powers exercisable by the head teacher are to be taken to be exercisable by the governing body.
- (4) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may require a local education authority to give him or it copies of accounts or other documents received by the authority from a governing body in accordance with regulations under this section.
- (5) The regulations may prescribe the form or manner in which, the period by reference to which, and the time within which, anything required by the regulations must be done.
- (6) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may—
- (a) publish information provided in accordance with regulations under this section in such form and manner as he or it considers appropriate,
  - (b) make arrangements for such information to be published in such form and manner, and by such persons, as he or it may specify for the purposes of this section, and
  - (c) make regulations requiring local education authorities to publish prescribed categories of such information, together with such supplementary information as may be prescribed, in such form and manner as may be prescribed.
- (7) In this section “maintained school” has the same meaning as in Chapter 1.

#### **Commencement Information**

**17** S. 44(1)-(6) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

**18** S. 44(7) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

## **45 Financial statements**

- (1) Section 52 of the School Standards and Framework Act 1998 (c. 31) (financial statements by local education authority) is amended as follows.
- (2) In subsection (2), the word “and” at the end of paragraph (b) is omitted and after paragraph (c) there is inserted “and
- (d) accountable resources held, received or expended in the year by any person in relation to a school maintained by the authority.”
- (3) After subsection (2) there is inserted—
- “(2A) In subsection (2)(d), “accountable resources”, in relation to a maintained school, means any resources which are not provided by the local education authority but in respect of which an obligation is imposed on the governing body of the school by virtue of regulations under section 44 of the Education Act 2002 (accounts of maintained schools).”

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**Commencement Information**

**19** S. 45 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, art. 4

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