
STATUTORY INSTRUMENTS

1993 No. 3073

EDUCATION, ENGLAND AND WALES

**The Education (Grant-maintained
Schools) (Loans) Regulations 1993**

<i>Made</i>	- - - -	<i>7th December 1993</i>
<i>Laid before Parliament</i>		<i>10th December 1993</i>
<i>Coming into force—</i>		
<i>except regulation 2</i>		<i>1st January 1994</i>
<i>regulation 2</i>		<i>1st April 1994</i>

In exercise of the powers conferred on the Secretary of State by sections 92 and 301(6) of the Education Act 1993⁽¹⁾ the Secretary of State for Education, as regards England, and the Secretary of State for Wales, as regards Wales, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education (Grant-maintained Schools) (Loans) Regulations 1993 and shall come into force,—

- (a) except regulation 2, on 1st January 1994; and
- (b) as to regulation 2, on 1st April 1994.

(2) In these Regulations,—

“the Act” means the Education Act 1993;

“agreement” means an agreement for a loan;

“the appropriate authority” has the meaning assigned to it in section 92(4) of the Act;

“loan” means a loan by the appropriate authority to the governing body of a school under section 92 of the Act; and

“school” means a grant-maintained school.

Loans to new grant-maintained schools for capital expenditure

2.—(1) Where—

(1) 1993 c. 35.

- (a) proposals under section 49 of the Act for establishing a grant-maintained school have been approved under section 51 of the Act;
- (b) a grant is made under section 53(2) of the Act in respect of the provision of a site or buildings (or both) for the school; and
- (c) in the opinion of the appropriate authority, having regard to all the circumstances of the case and, in particular, the educational and financial viability of the school, part of the expenditure incurred or to be incurred by the governing body in respect of which that grant was made ought properly to be met by borrowing,

the appropriate authority may make a loan to the governing body not exceeding 15 per cent of the expenditure in respect of the provision of the site and buildings in question.

(2) A loan under paragraph (1) above shall be made on terms—

- (a) that it be repaid by periodical instalments specified in the agreement within a period so specified not exceeding thirty years; and
- (b) that repayment be guaranteed by the promoters, or by such other person as the appropriate authority may approve and in such manner as the appropriate authority may require,

and in this paragraph “promoters” means any persons referred to in section 49(1) of the Act proposing to establish a grant-maintained school.

Other loans to grant-maintained schools

3.—(1) The appropriate authority may make a loan to the governing body of a school in respect of any expenditure (other than expenditure to which regulation 2 above applies) which—

- (a) is incurred or to be incurred by them for the purposes of the school; and
- (b) in the opinion of the appropriate authority, having regard to all the circumstances of the case and, in particular, the educational and financial viability of the school, ought properly to be met by borrowing.

(2) Subject to paragraph (3) below, the maximum amount of any loan which may be made under paragraph (1) above shall be—

- (a) 50 per cent—
 - (i) of the maintenance grant in respect of the school as initially determined under section 81(2) of the Act for the year in which the loan is made or, before that section comes into force, under section 79(2) of the Education Reform Act 1988(2) (“the 1988 Act”), or
 - (ii) where at the time the loan is made no amount of maintenance grant has been so determined, of the estimated amount of maintenance grant in respect of the school notified by the appropriate authority to the governing body or, if more than one such amount has been so notified, the amount most recently so notified; or
- (b) in the case of a school in respect of which the incorporation date is after 1st April in the year in which the loan is made, 50 per cent of the maintenance grant in respect of the school which it appears to the appropriate authority would have been so determined for that year if the incorporation date had been the said 1st April.

(3) The maximum amount of a loan which may be made under paragraph (1) above as determined under paragraph (2) above shall be reduced by the amount of any loan not repaid at the date the first mentioned loan is made under any earlier agreement under paragraph (1) above in relation to the school.

(2) 1988 c. 40. Section 79 was amended by section 13(2) of the Further and Higher Education Act 1992 (c. 13).

(4) A loan under paragraph (1) above shall be made on terms that it be repaid by periodical instalments specified in the agreement within a period so specified not exceeding five years.

(5) In this regulation “the incorporation date” has the meaning assigned to it in section 37(5) or 54(a) of the Act, as the case may require, or, before those sections come into force, in section 104(3) of the 1988 Act.

Interest on loans

4.—(1) An agreement shall require the periodical payment of interest in respect of the loan.

(2) Subject to paragraph (3) below, the agreement shall provide that the rate of such interest shall be the rate determined by the Treasury under section 5 of the National Loans Act 1968(3) to apply to a loan from the National Loans Fund made on the same day for a comparable period and on comparable terms.

(3) In the case of a loan under regulation 3(1) above, the agreement shall provide that if it appears to the appropriate authority, having regard to all the circumstances of the case and, in particular, the educational and financial viability of the school, expedient to do so, the authority may give a notice to the governing body that the interest payable under the agreement on and after a date specified in the notice shall be at a rate so specified, being the rate which would be payable under the agreement by virtue of paragraph (2) above if the loan were to be made at the date of the notice.

Accelerated repayment

5.—(1) An agreement shall require that the loan together with accrued interest shall become immediately repayable—

- (a) in the case of a school which is discontinued, on the discontinuance date as defined in section 107(2) of the Act; or
- (b) in the case of withdrawal of grant to the school, on the date specified in a notice under subsection (3) or (5)(b) of section 109 of the Act as the date on which the funding authority’s duty to maintain the school is to cease(4).

(2) Where a loan has been made for the purpose of enabling a governing body to meet expenditure to be incurred by it, the agreement shall provide that, if the expenditure or any part of it is not incurred,—

- (a) the appropriate authority may give notice in writing to the governing body requiring repayment of the loan or of the proportionate part of it; and
- (b) the governing body shall in accordance with the notice repay the loan or such proportionate part together with interest.

Agreements for loans

6.—(1) A loan shall be made in accordance with an agreement which shall be in writing and duly executed under the seal of the governing body of the school.

(2) An agreement shall contain terms relating to such of the following matters as may be specified in the agreement—

- (a) the time at which, the conditions for which and the manner in which payment of the loan is to be made;

(3) 1968 c. 13. Section 5 was substituted by section 153 of the Finance Act 1982 (c. 39) and was amended by section 44 of the Finance Act 1983 (c. 28).

(4) Sections 107 and 109 of the Act are not yet in force.

- (b) the payment of additional interest in the event of any periodical instalment in repayment of the loan not being paid, or of any periodical payment of interest not being made, as required by the agreement;
- (c) the early repayment of the loan on notice given by the governing body to the appropriate authority;
- (d) the keeping by the governing body of records and accounts relating to the loan;
- (e) the furnishing to the appropriate authority of information, documents, returns and accounts;
- (f) the audit of accounts,

and, without prejudice to the provisions of these Regulations, the agreement shall contain such other terms as the appropriate authority consider to be necessary or expedient in the circumstances.

3rd December 1993

John Patten
Secretary of State for Education

7th December 1993

John Redwood
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the classes or descriptions of expenditure in respect of which the appropriate authority may make loans to the governing bodies of grant-maintained schools under section 92 of the Education Act 1993 and the purposes for which, the terms upon which, and the manner in which such loans may be made.

Under section 92(4) of the Act, the appropriate authority is, in England, the Funding Agency for Schools and, in Wales, the Schools Funding Council for Wales. However, before the Agency or the Council begin to exercise their functions the appropriate authority in each case is the Secretary of State.

Loans to grant-maintained schools may be for the provision of sites or buildings or for other purposes—

Regulation 2 provides that loans in respect of the provision of a site or buildings for a grant-maintained school established by promoters under section 49 of the Act must not exceed 15% of the expenditure in respect of the provision of the site and buildings for the school. The agreement for the loan must provide for repayment by instalments over not more than thirty years and for repayment to be guaranteed.

Regulation 3 provides that loans for other purposes must not exceed 50% of the annual maintenance grant in respect of the school for the year in which the loan is made after allowing for any similar outstanding loans. The agreement for the loan must provide for repayment over not more than 5 years.

Regulation 4 requires that an agreement for a loan must provide for interest to be payable at a rate determined by reference to the rates applicable to loans out of the National Loans Fund.

Regulation 5 requires that the agreement must provide that a loan is to be repayable on discontinuance of the school as a grant-maintained school or on withdrawal of its annual maintenance grant. The agreement must also provide that, if the expenditure for which it is made is not incurred, the appropriate authority may require repayment.

Regulation 6 contains additional provisions relating to agreements.