
STATUTORY INSTRUMENTS

1993 No. 609

EDUCATION, ENGLAND AND WALES

**The Further Education (Attribution of
Surpluses and Deficits) Regulations 1993**

<i>Made</i>	- - - -	<i>10th March 1993</i>
<i>Laid before Parliament</i>		<i>11th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</i>

In exercise of the powers conferred upon the Secretary of State by sections 37, 61(1)(1), and 89(4) of the Further and Higher Education Act 1992(2) the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

1. These Regulations may be cited as the Further Education (Attribution of Surpluses and Deficits) Regulations 1993 and shall come into force on 1st April 1993.

2. In these Regulations—

- (a) “the 1988 Act” means the Education Reform Act 1988(3);
- (b) “recoupment payments” means payments made under section 51 of the Education (No. 2) Act 1986(4);
- (c) “the scheme” means the scheme under section 33 or 139 of the 1988 Act applicable to the institution; and
- (d) a reference to a section is a reference to a section of the Further and Higher Education Act 1992.

3.—(1) In calculating “net budget share” for the purposes of section 37(4)—

- (a) there shall be deducted from the institution’s budget share the whole of any amount included in respect of earned income (other than recoupment payments); and
- (b) subject to paragraph (2) below, there shall be added to the institution’s budget share the whole of any surplus.

(1) See the definition of “regulations”.

(2) 1992 c. 13.

(3) 1988 c. 40.

(4) 1986 c. 61; section 51 is amended by paragraph 24 of Schedule 8 to the Further and Higher Education Act 1992 with effect from 1st April 1993, but subject to the savings in Schedule 3 to the Further and Higher Education Act 1992 (Commencement No. 1 and Transitional Provisions) Order 1992 (S.I.1992/831) and the Appendix to that Schedule.

(2) In calculating the amount of any surplus to be added in accordance with sub-paragraph (b) above any debt due to the assisting authority in respect of a financial year preceding the relevant financial year, payment of which has not been received by the assisting authority by 1st April 1993, shall be ignored.

4. In calculating “net expenditure” for the purposes of section 37(4) there shall be deducted an amount equal to all earned income (other than recoupment payments) received by the institution before 1st April 1993 in respect of the relevant financial year.

5.—(1) For the purposes of the definition of “expenditure” in section 37(7) the aggregate of the following expenditure for the purposes of the institution is hereby prescribed—

- (a) subject to paragraph (2) below, all expenditure incurred in the relevant financial year by the former governing body under section 36(5) or 142(6) of the 1988 Act (“relevant expenditure”); and
- (b) where the scheme specifies that all or part of a deficit incurred by the former governing body in a previous financial year shall or may be carried forward in calculating the institution’s budget share for the relevant financial year, all expenditure which would be incurred by the former governing body if the deficit or, as the case may be, the part carried forward, were a liability of the former governing body satisfied in the relevant financial year; and
- (c) where the former governing body maintains an account at a bank or other financial institution for the purpose of meeting relevant expenditure, all expenditure incurred in the relevant financial year by the assisting authority in making payments into the account in respect of relevant expenditure, less the difference between the total amount of relevant expenditure met from the account and the total amount of earned income paid into the account; and if the calculation required by this sub-paragraph produces a negative amount it shall reduce the expenditure hereby prescribed.

(2) Expenditure does not fall within sub-paragraph (1)(a) above if at the end of the relevant financial year payment in respect of it (whether or not due) has not been made.

6.—(1) Unless otherwise agreed between the assisting authority and the new governing body, a sum payable under section 37(2) or (3) shall be paid by equal monthly instalments, the first of which shall be paid on the relevant date, in accordance with the following table—

Amount payable as a proportion of the net budget share	Period for repayment
Up to 1% (inclusive)	10 months
More than 1%	14 months.

(2) In paragraph (1) above “the relevant date” means 31st January 1994 or, if sooner, the last day of the month following the month in which section 18(1) of the Local Government Finance Act 1982(5) (auditor’s reports) is complied with in respect of the assisting authority’s accounts for the relevant financial year.

7.—(1) Beginning on 1st April 1993 interest at the relevant rate shall be payable on any unpaid amount for the time being due or to become due under regulation 6 above.

(2) Interest shall accrue from day to day compounded with six-monthly rests and shall be paid at the same time as payments are made under regulation 6 above.

(3) In this regulation “the relevant rate” means the London Inter-Bank Bid Rate (LIBID) for three month deposit less one eighth of one percentage point.

10th March 1993

Tim Boswell
Parliamentary Under-Secretary of State for
Education

10th March 1993

David Hunt
Secretary of State for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain matters for the purposes of section 37 of the Further and Higher Education Act 1992 (attributions of surpluses and deficits). They are—

- (a) the amount to be deducted from an institution's budget share in respect of earned income;
- (b) the amount to be added in respect of any surplus carried forward;
- (c) the amount of earned income to be deducted in calculating "net expenditure";
- (d) the expenditure to be taken into account;
- (e) the instalments by which payments are to be made; and
- (f) interest payable.