
STATUTORY INSTRUMENTS

1994 No. 1256

EDUCATION, ENGLAND AND WALES

**The Education (Information as to Provision
of Education) (England) Regulations 1994**

<i>Made</i>	- - - -	<i>9th May 1994</i>
<i>Laid before Parliament</i>		<i>10th May 1994</i>
<i>Coming into force</i>	- -	<i>31st May 1994</i>

In exercise of the powers conferred on the Secretary of State by sections 21 and 301(6) of the Education Act 1993(1), the Secretary of State for Education hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Information as to Provision of Education) (England) Regulations 1994 and shall come into force on 31st May 1994.

(2) These Regulations extend to England only.

(3) Regulations 3, 4, 5 and 6(5) apply where, in respect of the area of a local education authority, (referred to in these Regulations as “the area”), an order under section 12(1)(a) or (b) of the Education Act 1993 has been made, which relates either to primary or secondary education or to both and the remainder of Regulation 6 applies, in respect of the area of a local education authority, whether or not such an order has been made.

Interpretation

2.—(1) In these Regulations—

“capacity” means capacity calculated in accordance with the Schedule to these Regulations;

“Funding Authority” means the Funding Agency for Schools;

“relevant areas of the school premises” means those areas to which a pupil would ordinarily have access other than washroom facilities;

“registered pupil” does not include a pupil in a nursery class;

“relevant education” means the kind (that is primary or secondary) or kinds of education to which an order under section 12(1)(a) or (b) of the Education Act 1993 relates;

(1) 1993 c. 35. For the meaning of “prescribed” and “regulations” see section 305(1) of the Education Act 1993.

“school year” means a period of twelve months beginning on 1st September unless the school has a term beginning in August, in which case it means a period of 12 months beginning on 1st August;

“surplus places” means the number of places, if any, by which the number equal to the capacity for the school (as calculated in accordance with Regulation 7 and the Schedule to these Regulations) exceeds the total number of registered pupils at the school;

“teaching accommodation” means accommodation provided for teaching purposes; and

“washroom facilities” means a room containing a water closet and washbasin which are suitable for use by a pupil in a wheelchair.

(2) References in these Regulations to the discontinuance of a school maintained by a local education authority, are references to that authority ceasing to maintain the school and references to the discontinuance of a grant-maintained school, are references to the school being discontinued in accordance with the provisions of Chapter VIII of Part II of the Education Act 1993.

Information to be provided by the Funding Authority to a local education authority

3.—(1) The following information shall be provided by the Funding Authority to the local education authority before 4th June 1994 and after 1st April and before 1st May in each year thereafter in respect of the area of that local education authority—

- (a) the number of registered pupils on the third Thursday in January in the year in which the information is to be provided in each grant-maintained school in the area providing relevant education as such a school on that date and the total number of such pupils in relation to all such primary schools and in relation to all such secondary schools;
- (b) where the information is to be provided in 1994, the capacity of each such school in accordance with the most recent determination of the capacity of the school and the total capacity, in accordance with such determinations, of all such primary schools and of all such secondary schools;
- (c) where the information is to be provided in subsequent years, the capacity of each such school on the third Thursday in January in that year and the total capacity, on that date, of all such primary schools and of all such secondary schools.

(2) The following information shall be provided by the Funding Authority to the local education authority after 1st April 1995 and before 1st May 1995 and in every second year thereafter, in respect of each grant-maintained school in the area providing relevant education as such a school on the third Thursday in January in the year in which it is to be provided—

- (a) whether on that date a pupil in a wheelchair can gain access to all relevant areas of the school premises;
- (b) where the teaching accommodation on that date is not wholly accessible to such a pupil, the percentage of that accommodation which is so accessible; and
- (c) whether on that date washroom facilities are accessible to such a pupil.

(3) For the purposes of preparing the information to be provided pursuant to paragraphs (1) and (2) above, no account shall be taken of any grant-maintained school which has been discontinued before 1st April in the year in which the information is provided.

Information to be provided by a local education authority to the Funding Authority

4.—(1) The following information shall be provided by the local education authority to the Funding Authority before 4th June 1994 and after 1st April and before 1st May in each year thereafter in respect of the area of that local education authority—

- (a) the number of registered pupils on the third Thursday in January in the year in which the information is provided in each county school and each voluntary school in the area providing relevant education as such a school of either such kind on that date and the total number of such pupils in relation to all such primary schools and in relation to all such secondary schools;
 - (b) a forecast of the number of registered pupils firstly, for whom primary education is to be provided and secondly, for whom secondary education is to be provided, in county, voluntary and grant-maintained schools in the area providing relevant education as such schools on 1st January in each school year over—
 - (i) a four year period in the case of such pupils for whom primary education is to be so provided, and
 - (ii) a seven year period in the case of such pupils for whom secondary education is to be so provided,such period commencing at the start of the school year which begins in the year in which the information is provided to the Funding Authority;
 - (c) a statement, which is to accompany the forecast referred to at sub-paragraph (b) above, explaining the basis upon which the forecast is made and identifying any areas within the area where the rate of growth, or decline, as the case may be, in the number of such pupils is expected to be significantly different from the general rate of growth, or, as the case may be, decline, in the area as a whole; and
 - (d) where the information is to be provided in 1994, the capacity of each county school and each voluntary school in the area providing relevant education as such a school of either such kind in accordance with the most recent determination of the capacity of the school and the total capacity, in accordance with such determinations, of all such primary schools and of all such secondary schools; or
 - (e) where the information is to be provided in subsequent years, the capacity of each such school on the third Thursday in January in that year and the total capacity, at that date, of all such primary schools and of all such secondary schools.
- (2) The following information shall be provided by the local education authority to the Funding Authority after 1st April 1995 and before 1st May 1995 and in every second year thereafter in respect of each county school and each voluntary school in the area providing relevant education as a school of either such kind on the third Thursday in January in the year in which the information is provided—
- (a) whether on that date a pupil in a wheelchair can gain access to all relevant areas of the school premises;
 - (b) where the teaching accommodation on that date is not wholly accessible to such a pupil, the percentage of that accommodation which is so accessible; and
 - (c) whether on that date washroom facilities are accessible to such a pupil.
- (3) For the purposes of preparing the information to be provided pursuant to paragraphs (1)(a), (d) and (e) and (2) above, no account shall be taken of any school of either such kind which has been discontinued before 1st April in the year in which the information is provided.

Information to be provided by the Funding Authority to the Secretary of State

5.—(1) The information referred to in paragraph (2) below and the commentary referred to in paragraph (3) below shall be provided to the Secretary of State after 3rd June and before 1st July 1994 and after 1st May and before 1st June in each year thereafter by the Funding Authority in relation to each grant-maintained school in the area providing relevant education, in the areas to which these Regulations apply, as such a school on 1st April in the year in which the information is provided.

- (2) The information to be provided is—
- (a) the number of registered pupils on the third Thursday in January in the year in which the information is provided in each such grant-maintained school and the total number of such pupils in relation to all such primary schools and in relation to all such secondary schools;
 - (b) the number of such grant-maintained schools on that January date in the year in which the information is provided, in which there are surplus places and the number of such places in each such school and the total number of surplus places in relation to all such primary schools and in relation to all such secondary schools; and
 - (c) where the information is to be provided in 1994, the capacity of each such grant-maintained school in accordance with the most recent determination of the capacity of the school and the total capacity, in accordance with such determinations, of all such primary schools and of all such secondary schools; or
 - (d) where the information is to be provided in subsequent years, the capacity of each such school on the third Thursday in January in that year and the total capacity, at that date, of all such primary schools and of all such secondary schools.
- (3) The commentary to be provided is on the expected future level of surplus places at such grant-maintained schools taken together, taking account of—
- (a) the number of any surplus places indicated by virtue of paragraph 2(b) above;
 - (b) the forecast of the number of registered pupils indicated by virtue of regulation 4(1)(b) above;
 - (c) any proposals in respect of schools in the area published pursuant to:
 - (i) section 12(1) or 13(1) of the Education Act 1980⁽²⁾ (proposals for the establishment, discontinuance, alteration or transfer of schools by local education authorities or for the establishment, alteration or transfer of voluntary schools),
 - (ii) section 48(3)(a) or 49(1)(a) of the Education Act 1993⁽³⁾ (proposals for the establishment of grant-maintained schools),
 - (iii) section 96(1)(a) or 97(2) of the Education Act 1993 (proposals for the alteration or transfer of grant-maintained schools),
 - (iv) section 104(4) or 105(2) of the Education Act 1993 (proposals for the discontinuance of grant-maintained schools),
 - (v) section 234(1) of the Education Act 1993 (proposals for the establishment, alteration or discontinuance of schools by Secretary of State following making of directions to the local education authority, the Funding Authority or the governing body of a voluntary school to make such proposals),
 - (vi) section 272(2) of the Education Act 1993 (proposals for the alteration of schools proposed for grant-maintained status),
 which have been approved, where approval is required, but not implemented, or, as the case may be, adopted, but not implemented;
 - (d) the means, if any, by which the expected future level of surplus places is to be reduced together with any matters that the Funding Authority considers prevent the removal of all or any part of that level of surplus places;
 - (e) changes that have occurred in the provision of relevant education in the area after 1st April in the year in which the information is provided, such as the establishment or discontinuance of any grant-maintained school; and

(2) 1980 c. 20; section 12(1) and 13(1) are amended by, respectively, sections 229(1) and 230(1) of the Education Act 1993.

(3) 1993 c. 35.

- (f) any other related matter as the Funding Authority thinks fit.
- (4) The following information shall be provided to the Secretary of State after 1st May 1995 and before 1st June 1995 and in every second year thereafter by the Funding Authority in relation to each grant-maintained school in the area providing relevant education, in the areas to which these Regulations apply, as such a school on 1st April in the year in which the information is provided—
 - (a) whether on the third Thursday in January in the year in which the information is to be provided a pupil in a wheelchair can gain access to all relevant areas of the school premises;
 - (b) where the teaching accommodation on that date is not wholly accessible to such a pupil, the percentage of that accommodation which is so accessible; and
 - (c) whether on that date washroom facilities are accessible to such a pupil.
- (5) The Funding Authority shall provide a copy of the commentary referred to in paragraph (3) above, to the local education authority in respect of the area to which the information relates, at the same time as the information referred to in paragraph (2) above is provided to the Secretary of State.

Information to be provided by a local education authority to the Secretary of State

6.—(1) The information referred to in paragraph (2) below and the commentary referred to in paragraph (3) below shall be provided by a local education authority to the Secretary of State after 3 June and before 1st July 1994 and after 1st May and before 1st June in each year thereafter in respect of the area of the local education authority providing the information.

- (2) The information to be provided is—
 - (a) the number of registered pupils on the third Thursday in January in the year in which the information is provided in each county school and each voluntary school in the area, existing as a school of either such kind on 1st April in the year in which the information is provided and the total number of such pupils in relation to all such primary schools and in relation to all such secondary schools;
 - (b) the number of such schools, on that January date in the year in which the information is provided, in which there are surplus places and the number of such places in each such school and the total number of surplus places in relation to all such primary schools and in relation to all such secondary schools;
 - (c) a forecast of the number of registered pupils firstly, for whom primary education is provided and secondly, for whom secondary education is provided, in county, voluntary and grant-maintained schools, on 1st January in each school year over—
 - (i) a four year period in the case of such pupils for whom primary education is so provided, and
 - (ii) a seven year period in the case of such pupils for whom secondary education is so provided,such period commencing at the start of the school year which begins in the year in which the information is provided to the Secretary of State;
 - (d) a statement, which is to accompany the forecast referred to at sub-paragraph (c) above, explaining the basis upon which the forecast is made and identifying any areas within the area where the rate of growth, or decline, as the case may be, in the number of such pupils is expected to be significantly different from the general rate of growth, or, as the case may be, decline, in the area as a whole; and
 - (e) where the information is to be provided in 1994, the capacity of each county school and each voluntary school in the area, existing as a school of either such kind on 1st April 1994, in accordance with the most recent determination of the capacity of the school and

the total capacity, in accordance with such determinations, of all such primary schools and of all such secondary schools; or

- (f) where the information is to be provided in subsequent years, the capacity on the third Thursday in January in that year of each such school existing as a school of either such kind on 1st April in that year and the total capacity, on that date, of all such primary schools and of all such secondary schools.
- (3) The commentary to be provided is to be on the expected future level of surplus places at county schools and voluntary schools in the area taken together, taking account of—
- (a) the number of any surplus places indicated by virtue of paragraph (2)(b) above;
- (b) the forecast of the number of registered pupils indicated by virtue of paragraph (2)(c) above;
- (c) any proposals in respect of schools in the area published pursuant to:
- (i) section 12(1) or 13(1) of the Education Act 1980(4) (proposals for the establishment, discontinuance, alteration or transfer of schools by local education authorities or for the establishment, alteration or transfer of voluntary schools),
- (ii) section 48(3)(a) or 49(1)(a) of the Education Act 1993 (proposals for the establishment of grant-maintained schools),
- (iii) section 96(1)(a) or 97(2) of the Education Act 1993 (proposals for the alteration or transfer of grant-maintained schools),
- (iv) section 104(4) or 105(2) of the Education Act 1993 (proposals for the discontinuance of grant-maintained schools),
- (v) section 234(1) of the Education Act 1993 (proposals for the establishment, alteration or a discontinuance of schools by Secretary of State following making of directions to the local education authority, the Funding Authority or the governing body of a voluntary school to make such proposals),
- (vi) section 272(2) of the Education Act 1993 (proposals for the alteration of schools proposed for grant-maintained status), which have been approved, where approval is required, but not implemented, or as the case may be, adopted, but not implemented;
- (d) the means, if any, by which the expected future level of surplus places is to be reduced together with any matters that the local education authority considers prevent the removal of all or any part of that level of surplus places;
- (e) changes that have occurred in the provision of education in the area after 1st April in the year in which the information is provided, such as the establishment or discontinuance of any county or voluntary school; and
- (f) any other related matter as the local education authority thinks fit.
- (4) The following information shall be provided by the local education authority to the Secretary of State after 1st May 1995 and before 1st June 1995 and in every second year thereafter in respect of each county school and each voluntary school in the area existing as a school of either such kind on 1st April in the year in which the information is provided—
- (a) whether on the third Thursday in January in the year in which the information is to be provided a pupil in a wheelchair can gain access to all relevant areas of the school premises;
- (b) where the teaching accommodation on that date is not wholly accessible to such a pupil, the percentage of that accommodation which is so accessible; and

(4) 1980 c. 20; sections 12(1) and 13(1) are amended by, respectively, sections 229(1) and 230(1) of the Education Act 1993.

(c) whether on that date washroom facilities are accessible to such a pupil.

(5) The local education authority shall provide a copy of the commentary referred to in paragraph (3) above to the Funding Authority at the same time as the information referred to at paragraph (2) above is provided to the Secretary of State.

Determination of capacity of a school

7. The Schedule to the Regulations shall apply for the purposes of determining the capacity of any school.

SCHEDULE

Regulation 7

PART I

FORMULA FOR DETERMINING CAPACITY OF PRIMARY SCHOOLS

1. The capacity of a primary school is to be determined in accordance with the following formula—

$$X + Y - Z$$

where—

X is the sum of the numbers (rounded down to the nearest whole number in the case of each number) obtained by dividing the total floor area of each classroom in the school whose floor area is less than 54 square metres by 1.8;

Y is the number of complete floor areas of 54 square metres in those classrooms in the school whose floor area is 54 square metres or more, multiplied by 30;

Z is the number of pupils in the school in respect of whom notices have been served by a local education authority that they propose to make an assessment of their special educational needs in accordance with section 5 of the Education Act 1981 (“pupils subject to assessment”) or for whom statements of special educational needs are maintained by such authority in accordance with section 7 of that Act (“pupils with statements”), multiplied by 2.

2. For the purposes of this Part of this Schedule “classroom” excludes—

- (a) any hall or library;
- (b) any room or other area used wholly or mainly for the education of pupils subject to assessment and pupils with statements;
- (c) any room or other area so constructed, adapted or equipped as to be unsuitable for general teaching purposes;
- (d) where the school makes provision for nursery education, any room or other area used wholly or mainly for that purpose;
- (e) any room or other area constructed, adapted or equipped for the storage of apparatus, equipment or materials used in teaching;

and any part of an area which is required for the movement of pupils through that area, and which is used wholly or mainly for that purpose, is not to be taken into account in calculating the floor area of a classroom.

PART II

FORMULA FOR DETERMINING CAPACITY OF SECONDARY SCHOOLS

3. The capacity of a secondary school is to be determined in accordance with the following formula—

$$(A \times B \times C) - D$$

rounded down to the nearest whole number, where—

A the sum of the number obtained by adding together each workplace number, as determined in accordance with paragraphs 4 and 5 below, which applies in relation to an area of any of the following kinds of teaching space that exist at the school in question—

- (i) general teaching space,

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- (ii) light practical teaching space,
- (iii) heavy practical and large teaching space, and
- (iv) sports and physical education teaching space;

B is the result of the application of the following formula—

$$\frac{b1 + b2 + b3}{N}$$

where—

b1 is the number of registered sixth form pupils at the school up to and including 150 such pupils, divided by 2;

b2 is the number of such sixth form pupils above 150, multiplied by 0.73;

b3 is the number of registered pupils, excluding any sixth form pupils, at the school, multiplied by the age factor, as determined in accordance with paragraph 6 below, which applies in relation to the school; and

N is the total number of registered pupils at the school;

C is the result of the application of the following formula—

$$\left(\frac{(A \times B) - 1200}{11,000} \right) + 1$$

where—

A and B have the same definitions as set out respectively in relation to those letters above in this Part of the Schedule; and

D is the number of registered pupils in the school in respect of whom notices have been served by a local education authority that they propose to make an assessment of their special educational needs in accordance with section 5 of the Education Act 1981 or for whom statements of special educational needs are maintained by such authority in accordance with section 7 of that Act, multiplied by 3.

4. For the purposes of paragraph 3 above and subject to paragraph 5 below, the workplace number which applies in relation to an area of teaching space is that specified in the second column of the table below, opposite the reference in the first column of the table to the area of teaching space at the school which shall be determined by calculating the floor area, in square metres, of that space, rounded down to the nearest whole number.

Teaching Space (in square metres of floor area)	Workplace Number
<i>General Teaching Space</i>	
9 or less	0
10—14	0 or, in the case of such teaching space for the purposes of sixth form pupils, 5, if the Funding Authority, or, as the case may be, the local education authority so elect.
15—19	10
20—29	15
30—39	20
40—45	25

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Teaching Space (in square metres of floor area)	Workplace Number
46 or over	30 or such larger number, being a multiple of 5, as the Funding Authority, or, as the case may be, the local education authority may elect.
<i>Heavy Practical and Large Teaching Space</i>	
19 or less	0
20—39	5
40—79	10
80—119	20
120 or over	30 or such larger number, being a multiple of 5, as the Funding Authority, or, as the case may be, the local education authority may elect.
<i>Light Practical Teaching Space</i>	
19 or less	0
20—39	5
40—59	10
60—79	20
80 or over	30 or such larger number, being a multiple of 5, as the Funding Authority, or, as the case may be, the local education authority may elect.
<i>Sports and Physical Education Teaching Space</i>	
39 or less	0
40—79	5
80—159	10
160—239	20
240 or over	30 multiplied by the number of complete floor areas of 240 square metres contained in the teaching space.

5. In the case of any area of general teaching space used partly for social, dining or careers advice purposes and any area of teaching space used other than by the school during any part of the school day, the area of teaching space shall be treated as if it included any area which falls to be excluded from being teaching space by virtue of paragraph 7 below and the workplace number shall be the workplace number as determined accordingly in accordance with paragraph 4 above multiplied by the proportion of the school day for which the area is available for teaching, rounded down to the nearest whole number.

6. For the purposes of paragraph 3 above, the “age factor” is the number specified in the second column of the table below, opposite the reference in the first column of the table to the age range which most closely reflects the age range of the school excluding its sixth form pupils.

Age Range	Age Factor
9—13	0.80
11—13	0.78
11—15	0.75
12—15	0.74
13—15	0.72
14—15	0.70

7. For the purposes of Part II of this Schedule—

- (a) “general teaching space” means teaching space other than teaching space of the kinds described in (b), (d) and (f) below;
- (b) “heavy practical and large teaching space” includes—
 - (i) teaching space used or available mainly for the purposes of teaching any one or more of the following—
 - workshop crafts, cookery, drama, dance and
 - (ii) includes teaching space in any assembly hall and library;
- (c) “light crafts” includes pottery and print making;
- (d) “light practical teaching space” includes—
 - (i) teaching space used or available mainly for the purposes of teaching any one or more of the following—
 - art, sculpture, light crafts, needlecraft, fabrics and textiles, technical drawing and design, music, business studies, commerce, typing, computer studies and
 - (ii) includes teaching space in any science or language laboratory;
- (e) “projectile room” includes a room used for the purposes of any of the following—
 - archery, gun or rifle shooting, golf, bowls and cricket;
- (f) “sports and physical education teaching space” includes teaching space in any sports hall, gymnasium, projectile room, squash court, indoor swimming pool, or any room used for weight or fitness training or both;
- (g) “teaching space” means any area in the school in question used or available for teaching or study, or both, for all or part of the school day, but excluding the following—
 - (i) any room or other area constructed, adapted or equipped for the storage of apparatus, equipment or materials used in teaching;
 - (ii) any part of any area in the school which is required for the movement of pupils through that area and which is used wholly or mainly for that purpose;
 - (iii) in the case of the area of any gymnasium, sports hall or indoor swimming pool, any area, in terms of square metres of floor area, in excess of a floor area of 240 square metres save that, where the floor area of any gymnasium, sports hall or indoor swimming pool is equal to, or greater than, a multiple of 240 square metres, the area equal to that multiple or, where greater than a multiple, rounded down to the nearest multiple, is to be included as teaching space;
 - (iv) in the case of any area partly used for social, dining or careers advice purposes and any area used other than by the school during any part of the school day, the proportion of that area, in terms of square metres of floor area, equal to the proportion

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of the school day for which the area is not available for teaching, rounded down to the nearest whole number; and

- (h) “workshop crafts” includes craft design and technology, woodwork, metalwork and engineering.

9th May 1994

John Patten
Secretary of State for Education

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations specify information to be supplied by the Funding Agency for Schools to the local education authority, by the local education authority to the Funding Agency for Schools and by the Funding Agency for Schools to the Secretary of State (regulations 3, 4, 5 and 6(5)). The information relates to educational provision in the area of the local education authority. The duty to give this information applies when there is an Order under section 12(1)(a) or (b) of the Education Act 1993 (which concern the transfer of certain responsibilities relating to educational provision to the Funding Agency for Schools). Information will be in respect of primary or secondary education, or both, dependent on the scope of the Order in question.

The Regulations also provide for the information that is to be supplied by local education authorities to the Secretary of State in respect of educational provision in the area of the local education authority, whether or not such an Order has been made (regulation 6(1) to (4)).