

---

STATUTORY INSTRUMENTS

---

**1994 No. 2111**

**The Education (Grant-maintained Special Schools) (Finance) Regulations 1994**

**PART 1**

**GENERAL**

**Citation, commencement and application**

**1.—**(1) These Regulations may be cited as the Education (Grant-maintained Special Schools) (Finance) Regulations 1994 and shall come into force on 1st September 1994.

(2) These Regulations apply in relation to the financial year beginning on 1st April 1994.

**Interpretation**

**2.—**(1) In these Regulations—

“the 1988 Act” means the Education Reform Act(1);

“the 1993 Act” means the Education Act 1993;

“financial year in question” means the financial year beginning in 1994;

“local education authority” in relation to any school means the local education authority by which the school was maintained immediately before it became a grant-maintained special school;

“preceding financial year” means the financial year beginning in 1993; and

“school” means a grant-maintained special school situated in England not being a school established in pursuance of proposals made by the funding authority under section 183 of the 1993 Act.

(2) The expressions listed in the left-hand column below are respectively defined by or (as the case may be) are to be interpreted in accordance with the provisions listed in the right-hand column in relation to those expressions—

---

aggregated budget	section 33(4)(b) of the 1988 Act
capital grants	section 83(1) of the 1993 Act
delegated budget	section 33(6)(b) of the 1988 Act
financial year	section 305(1) of the 1993 Act
general schools budget	section 33(4)(a) of the 1988 Act
maintenance grant	section 81(1) of the 1993 Act

---

(1) 1988 c. 40.

relevant date	regulation 11(7)
relevant expenditure	regulation 9(3)
relevant percentage	regulation 5(2)
scheme	section 51(2)(a) of the 1988 Act(2)
school's budget share	section 51(2)(b) of the 1988 Act
special purpose grants	section 82(1) of the 1993 Act.

---

(3) In these Regulations—

- (a) references to a change in the characteristics of a school include, in particular, references to any change in the number of registered pupils thereat; and
- (b) references to a school becoming a grant-maintained special school are references to a school becoming such a school under Part 2 of the Education (Grant-maintained Special Schools) Regulations 1994.

(4) For the purposes of these Regulations a school becomes a grant-maintained special school on the date of implementation of the proposals in respect of the school under Chapter II or IX of Part II of the 1993 Act.

(5) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered, and
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

## PART 2

### MAINTENANCE GRANT

#### **Determination of amount of maintenance grant**

**3.—**(1) Subject to regulation 8, the amount of maintenance grant payable in respect of a school for the financial year in question shall be the sum of the amounts determined in respect of the school and the year in accordance with regulations 4, 5, 6(1) and (where applicable) 7.

(2) Where in the opinion of the funding authority precise calculation for the purpose of determining any of the amounts referred to in paragraph (1)—

- (a) would be impracticable;
- (b) would not significantly affect the amount; or
- (c) would be disproportionately costly having regard to the complexity of the calculation and the likely effect on the amount,

paragraph (1) shall have effect as if it required the funding authority to determine as the amount of maintenance grant payable for the financial year in question such amount as appears to them to be fair and reasonable having regard in particular to the local education authority's scheme.

**4.** The funding authority shall determine an amount which appears to them to be equal to that amount of the school's budget share for the financial year in question in respect of which, immediately before the school became a grant-maintained special school, sums had neither been

---

(2) Section 51(2)(a) is amended by section 274(4) of the Education Act 1993.

deducted by the local education authority in accordance with their scheme nor made available pursuant to section 36(2) and (3) of the 1988 Act<sup>(3)</sup>, or, if made available, had not been spent by the governing body of the school in exercise of their powers under section 36(5) of that Act.

5.—(1) The funding authority shall determine the amount which is equal to the relevant percentage of the amount determined by the application of the following formula—

$$\frac{A \times J}{B}$$

where

A is the number of days in the financial year falling on or after the date on which the school becomes a grant-maintained special school;

B is 365; and

J is the amount of the school's budget share for the financial year in question.

(2) In these Regulations the relevant percentage is the percentage determined in accordance with Schedule 1.

6.—(1) The funding authority shall determine the amount which is the sum of the amounts determined in accordance with paragraphs (4) to (7).

(2) The funding authority shall determine an amount in respect of the provision of school meals calculated by the application of the following formula—

$$\frac{(M \times F)}{(P)} + \frac{(S \times G)}{(B)},$$

where

M is the number of registered pupils in receipt of free school meals at the school;

F is the total of the local education authority's planned expenditure for the financial year in question in providing meals to pupils in receipt of free school meals at relevant schools;

P is the number of registered pupils in receipt of free school meals at relevant schools;

S is the number of registered pupils at the school who bought meals at the school on a date in the preceding financial year determined by the funding authority;

G is the total of the local education authority's planned expenditure for the financial year in question on school meals, other than free school meals, at relevant schools and excluding expenditure to be met from any charges for such meals; and

B is the number of registered pupils at relevant schools who bought meals at those schools on a date in the preceding financial year determined by the funding authority.

(3) In paragraph (2)—

“number of registered pupils” means the number of pupils on a school's register on a date determined by the funding authority;

“planned expenditure” means the initial amount appropriated by the local education authority for meeting expenditure at all relevant schools excluding any such expenditure falling within their aggregated budget; and

---

(3) Section 36 is amended by section 12(6) of the Further and Higher Education Act 1992 (c. 13) and section 307 of, and paragraph 125 of Schedule 19 to, the Education Act 1993.

“relevant schools” means all special schools maintained or formerly maintained by the authority required to be covered by a statement for the year under section 42 of the 1988 Act(4).

(4) The funding authority shall determine the amount calculated by the application of the following formula—

$$\frac{A \times C \times F}{B},$$

where

C is the amount determined in accordance with regulation 6(2);

F is 1.015, where the date of implementation of the proposals falls before 1st January 1995, and 1.02, where that date falls after 31st December 1994; and

A and B represent the matters respectively denoted by those letters in regulation 5(1).

(5) The funding authority shall determine the amount which it appears to them, were the school maintained by the local education authority, could have been allocated for the purposes of the school in accordance with the authority’s scheme in respect of contingencies.

(6) Where the school provides education for junior pupils who have not attained the age of five years, the funding authority shall determine the amount (if any) in respect of such provision which they are satisfied is fair and reasonable having regard in particular to the extent to which, in their opinion, the cost of such provision ought to be met from the amount determined in accordance with regulation 4.

(7) The funding authority shall determine the amount (if any) which it appears to them, were the school maintained by the local education authority, could have been allocated for the purposes of the school in accordance with the authority’s scheme in support of expenditure of the kind referred to in section 11 of the Local Government Act 1966(5), in respect of posts approved by the Secretary of State for the purpose of making grants in respect of such expenditure, not being expenditure expected to be offset by income received as central government grants.

7. Where in a financial year preceding the financial year in question the school had a delegated budget under the local education authority’s scheme, the funding authority shall determine the amount (if any) which it appears to them is equal to that amount of the school’s budget share for any financial year prior to the financial year in question in respect of which sums had neither been deducted by the local education authority in accordance with their scheme nor made available pursuant to section 36(2) or (3) of the 1988 Act, or if made available, were not spent by the governing body in exercise of their powers under section 36(5) of that Act.

### **Determination of amount of maintenance grant otherwise than under regulation 3**

8.—(1) Notwithstanding the provisions of regulation 3, the funding authority may determine as the amount of maintenance grant payable in respect of a school for the financial year in question the sum of the amounts determined in accordance with regulations 9(7) and 10.

(2) The funding authority shall consult the local education authority and the governing body of the school before determining the amount of maintenance grant payable in respect of the school for the financial year in question in accordance with this regulation.

---

(4) Section 42 is amended by sections 275(1) and 307(3) of, and Schedule 21 to, the Education Act 1993. Special schools maintained by local education authorities are required to be covered by statements under section 42 in respect of the financial year beginning in 1994 and subsequent financial years by virtue of regulation 2 of the Education (Application of Financing Schemes to Special Schools) Regulations 1993, S.I. 1993/3104.

(5) 1966 c. 42 as substituted by section 1(1) of the Local Government (Amendment) Act 1993 (c. 27). Section 11 is extended by section 211 of the Education Reform Act 1988 (to which there are amendments not relevant to these Regulations) which is applied to grant-maintained special schools by regulation 42(1) of, and the Schedule to, the Education (Grant-maintained Special Schools) Regulations 1994.

9.—(1) The funding authority shall determine an amount which is the sum of the amounts determined in accordance with paragraphs (2), (4) and (5), subject to any adjustment made in accordance with paragraph (6).

(2) The funding authority shall determine an amount which they are satisfied is equal to the amount of relevant expenditure incurred by the local education authority in respect of the school in the preceding financial year.

(3) Schedule 2 shall have effect for the purpose of determining the amount of relevant expenditure incurred by the authority in that year.

(4) The funding authority shall determine an amount which is equal to the relevant percentage of the amount determined in accordance with paragraph (2).

(5) The funding authority shall determine an amount in respect of the local education authority's planned expenditure on the provision of school meals calculated by the application of the following formula—

$$\frac{(M \times F)}{(P)} + \frac{(S \times G)}{(B)} ,$$

where

M, F, P, S, G and B represent the matters respectively denoted by those letters in regulation 6(2); and for the purposes of this paragraph the expressions used in regulation 6(2) shall have the meanings assigned to them by regulation 6(3).

(6) The sum of the amounts determined in accordance with paragraphs (2), (4) and (5) may be adjusted by such amount as the funding authority are satisfied is fair and reasonable having regard, in particular, to—

- (a) any increase or decrease in the actual or planned level of spending of the local education authority in respect of the schools maintained by them occurring during or since the end of the preceding financial year, and
- (b) any significant change in the characteristics of the school occurring as aforesaid or which it appears to the funding authority will be likely to occur before the end of the financial year in question.

(7) The funding authority shall determine the amount calculated by the application of the following formula—

$$\frac{A \times E \times F}{B} ,$$

where

E is the amount determined in accordance with regulation 9(1);

A and B represent the matters respectively denoted by those letters in regulation 5(1); and

F represents the number denoted by that letter in regulation 6(4).

10. The funding authority shall determine—

- (a) where, if the amount of maintenance grant for the school were to be determined under regulation 3, an amount would be determined in respect of the school in accordance with regulation 7, that amount; and
- (b) where, if the amount of maintenance grant for the school were to be so determined, an amount would be determined in respect of the school in accordance with regulation 6(7), that amount.

## Relevant date

11.—(1) Subject to paragraphs (2)

and (3) and regulation 13, any amount required to be determined by the funding authority under these Regulations shall be determined on the information available to them on the relevant date.

(2) In paragraph (1), the relevant date means 1st September 1994 or, for the purposes of determining the amount of maintenance grant payable in respect of any school for the financial year in question, such other date as the funding authority may determine.

(3) The funding authority may, in any case where they consider it appropriate to do so, redetermine the relevant date.

(4) Where—

(a) the funding authority determine in accordance with paragraph (2) that, in respect of any school for the financial year in question, the relevant date should be a date other than 1st September 1994, or

(b) they redetermine the relevant date in accordance with paragraph (3),

they shall notify the governing body of the school and the local education authority in writing of that fact.

(5) Where there is not available to the funding authority on the relevant date sufficient information as will, in their opinion, allow them to determine any amount referred to in paragraph (1) they may determine the amount of maintenance grant payable in respect of the school on such basis as appears to them to be fair and reasonable having regard to the information available to them on the relevant date.

(6) The funding authority shall not take into account any information made available to them after the relevant date (but before the date of their determination) for the purposes of determining the amount of maintenance grant payable in respect of a school for the financial year in question.

(7) References in these Regulations to the relevant date are references to the date referred to in paragraph (2) unless the relevant date has been redetermined in accordance with paragraph (3) in which case it is a reference to that date as redetermined.

## Adjustments

12.—(1) Without prejudice to paragraph (5), this paragraph applies where—

(a) after determining the amount of maintenance grant payable in respect of any school for the financial year in question in accordance with these Regulations it appears to the funding authority that, by reason of—

(i) any change in the characteristics of the school,

(ii) any change in the level of spending by the local education authority, or

(iii) any other change affecting the needs of the school,

the amount so payable should be revised; or

(b) the funding authority are satisfied that their determination of the amount of maintenance grant payable in respect of any school for the financial year in question was made in ignorance of, or was based on a mistake as to, some material fact, or was not in accordance with these Regulations.

(2) In any case to which paragraph (1) applies, the funding authority may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with these Regulations and, if the amount so redetermined is different from the amount previously determined, revise their determination accordingly.

(3) Subject to paragraph (4), paragraph (2) shall not enable the funding authority to revise their determination of maintenance grant so as to reduce the amount of grant payable in respect of the school concerned for the financial year in question.

(4) The funding authority may revise their determination of maintenance grant so as to reduce the amount payable where—

- (a) that determination was made in ignorance of, or was based on a mistake as to, some material fact; and
- (b) such ignorance or mistake was not attributable to an act or omission of the local education authority.

(5) Where it appears to the funding authority that, by reason of any extraordinary circumstances, the amount of maintenance grant determined in respect of a school for the financial year in question is insufficient to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, they may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with paragraph (6), and revise their determination accordingly.

(6) Where the funding authority decide to redetermine the amount of maintenance grant by virtue of paragraph (5), they shall redetermine that amount by adding to it such amount as appears to them to be necessary for the purpose of enabling the governing body adequately to carry out their functions with respect to the conduct of the school.

(7) Where in accordance with this regulation the funding authority revise the amount of maintenance grant payable in respect of any school for the financial year in question they shall give notice thereof to the governing body of the school and to the local education authority.

(8) A determination which has been revised in accordance with this regulation may be further revised in accordance with this regulation and may be so further revised notwithstanding that the funding authority are satisfied that the revised determination was not made in accordance with these Regulations.

### **Application of relevant date provisions to a redetermination of the amount of maintenance grant**

**13.**—(1) In its application for the purposes of any redetermination under regulation 12 of the amount of maintenance grant payable in respect of a school for the financial year in question, regulation 11 shall have effect subject to the following provisions of this regulation.

(2) Where the redetermination of maintenance grant under regulation 12(2) is made on one or more of the grounds specified in paragraph (1)(a) of that regulation the funding authority may take into account for the purposes of the redetermination any information received by them after the relevant date which relates to any of the reasons for making the redetermination.

(3) Where the redetermination of maintenance grant under regulation 12(2) is made on the grounds, specified in paragraph (1)(b) of that regulation, that the funding authority are satisfied that their determination was made in ignorance of, or was based on a mistake as to, some material fact, they may take into account any information received by them after the relevant date which relates to that fact.

(4) Where in accordance with paragraphs (2) and (3) any additional information is taken into account by the funding authority for the purposes of redetermining grant under regulation 12(2), they may take that information into account for the purposes of making any further redetermination under that regulation.

(5) Regulation 11 shall not apply where a redetermination is made by the funding authority in accordance with regulation 12(5) and (6).

**Requirements which may be attached to payment of maintenance grant**

14.—(1) The requirement set out in paragraph 1 of Schedule 3 is specified as a requirement which may be imposed by the funding authority on governing bodies to whom payments of maintenance grant are or have been made.

(2) The funding authority may determine, for the purposes of the application of section 84(1) and (2) of the 1993 Act to such governing bodies, any requirements referred to in paragraphs 2 to 4 of Schedule 3.

**PART 3**

**CAPITAL AND SPECIAL PURPOSE GRANTS**

**Capital grants**

15.—(1) Subject to paragraph (2), the funding authority may pay capital grants in respect of expenditure of a capital nature of a class or description specified in Schedule 4 incurred or to be incurred by the governing body of a school.

(2) In the case of a school which is established in a hospital paragraph (1) shall apply only in respect of expenditure of a class or description specified in paragraph 1(d) of Schedule 4.

**Special purpose grants**

16.—(1) The funding authority may pay special purpose grants in respect of expenditure of any class or description specified in Schedule 5 incurred or to be incurred by the governing body of a school—

- (a) for or in connection with the educational purposes so specified; or
- (b) in respect of any expenses so specified being expenses which it appears to the funding authority the governing bodies of schools cannot reasonably be expected to meet from maintenance grant.

(2) Special purpose grants may be paid on a regular basis in respect of expenditure of a recurrent kind or by reference to expenditure incurred or to be incurred on particular occasions or during any particular period.

**Requirements which may be attached to payment of capital or special purpose grants**

17.—(1) The requirements set out in paragraph 1 of Schedule 3 and paragraph (2) below are specified as requirements which may be imposed by the funding authority on governing bodies to whom payments of capital or special purpose grants are or have been made.

(2) The requirements referred to in paragraph (1) are—

- (a) a requirement that any such payment shall be applied for the purpose of defraying expenditure in respect of which it was made and for no other purpose; and
- (b) a requirement that such a payment shall be so applied before a date specified by the funding authority.

(3) The funding authority may determine for the purposes of the application of section 84(1) and (2) of the 1993 Act to such governing bodies as are referred to in paragraph (1)—

- (a) any requirement referred to in paragraphs 2 to 4 of Schedule 3;
- (b) any requirement formulated for the purpose of assisting the funding authority to be satisfied that a requirement imposed in accordance with paragraph (2) is being, or has been,



complied with including, in particular, requirements as to the furnishing by the governing body of audited statements relating to expenditure in respect of which the grant has been paid together with such accounts, receipts, invoices and other information as the funding authority may require in order to verify the same; and

- (c) any requirement as to the repayment, in whole or in part, of payments made to the governing body in respect of such grant if any other requirement imposed by the funding authority in accordance with this regulation subject to which the payments were made is not complied with.

(4) The funding authority may determine for the purposes of the application of that section to governing bodies to whom payments of special purpose grants are or have been made requirements as to the payment to the funding authority, if any conditions specified in the requirements are satisfied, of the whole or any part of the amount referred to in section 84(7) of the 1993 Act.

## PART 4

### RECOVERY OF AMOUNTS IN RESPECT OF MAINTENANCE GRANT FROM LOCAL EDUCATION AUTHORITY

#### **Determination of amount to be recovered**

**18.** The total amount which the Secretary of State may recover by virtue of section 93 of the 1993 Act from a local education authority named in a determination under that section applying that section in respect of any school in relation to the financial year in question is the amount determined in accordance with these Regulations as the amount of the maintenance grant payable in respect of the school and financial year in question (as from time to time revised).