
STATUTORY INSTRUMENTS

1994 No. 431

**The Self-Governing Schools Grant and
Recovery (Scotland) Regulations 1994**

PART II

RECURRENT GRANT

Amount of recurrent grant payable to the board of management of a self-governing school

3.—(1) The amount of recurrent grant payable for any financial year to a board of management in respect of a self-governing school which is not a special school shall consist of the aggregate of—

- (a) the amount of school level expenditure in respect of the school determined by the Secretary of State in accordance with regulations 6 and 7;
- (b) the amount attributable to expenditure for the purpose of making provision for the special educational needs of recorded pupils in attendance at the school, determined by the Secretary of State in accordance with regulation 8; and
- (c) the amount of central expenditure which it is appropriate to allocate to the school, determined by the Secretary of State in accordance with regulation 9.

(2) The amount of recurrent grant payable for any financial year to a board of management in respect of a self-governing school which is a special school shall be the amount determined by the Secretary of State in accordance with regulation 10.

Determination of amount of recurrent grant in respect of a self-governing school which is not a special school

4. Regulations 5 to 9 apply to the determination of the amount of recurrent grant payable for any financial year to the board of management of a self-governing school which is not a special school, regulations 5 to 7 applying insofar as such grant is attributable to expenditure other than for the purpose of making provision for the special educational needs of recorded pupils in attendance at the school.

Determination of an amount of school level expenditure for a grant year

5. The Secretary of State shall determine for each grant year an amount of school level expenditure in respect of the school for that year in accordance with regulations 6 and 7.

Determination of an amount of school level expenditure for the first grant year

6.—(1) For the first grant year, the Secretary of State shall determine in accordance with paragraph (2) an amount which he is satisfied fairly represents the amount of school level expenditure which it would have been appropriate for the education authority to incur in respect of the school in the base year.

(2) In making such determination, the Secretary of State shall have regard to the following matters, insofar as information as to those matters is available to him by 8th April, or such later date as the Secretary of State may determine, in the first grant year:—

- (a) the education authority's estimate of the amount of expenditure incurred by them in the base year in respect of the school attributable to each item of school level expenditure specified in paragraph 1 of Schedule 1, subject to paragraphs 2 and 3 of that Schedule;
- (b) the staffing complement for the school in the base year, the number of staff, their grades and salaries, any unfilled vacancies within such complement and the reasons for each such vacancy arising and being unfilled;
- (c) the education authority's estimate of the amount of expenditure incurred by them in the base year in respect of such school or group of schools under their management as the Secretary of State may specify attributable to each item of school level expenditure specified in paragraph 1 of Schedule 1, identifying separately the amount attributable to each such item in respect of each of those schools and the total amount so attributable in respect of all such schools, and subject to paragraphs 2 and 3 of that Schedule;
- (d) the education authority's estimate of the total amount of expenditure incurred by them in the base year for each item of school level expenditure specified in paragraph 1 of Schedule 1 (subject to paragraphs 2 and 3 of that Schedule) in respect of—
 - (i) the relevant category of school; and
 - (ii) all schools under their management; and
- (e) such other matters as he considers appropriate.

(3) The Secretary of State shall then adjust the amount he determines under paragraph (1) for the first grant year by such amount or amounts as appears or appear to him to be fair and reasonable to take account of the following matters:—

- (a) the extent to which the education authority's expected total amount of school level expenditure in the first grant year in respect of the relevant category of school is greater or less than their expected total amount of such expenditure in the base year in respect of such category, and any circumstances appearing to him to be relevant to such increase or decrease; and
- (b) any change in the circumstances of the school occurring during or since the base year or which it appears to the Secretary of State will be likely to occur before the end of the first grant year,

having regard, in particular, in relation to sub-paragraph (a) to the education authority's estimate of such expected amounts and to information provided by them concerning such estimate, insofar as such estimate and information are available to him by 8th April, or such later date as the Secretary of State may determine, in the first grant year.

(4) The amount determined under paragraph (1), as adjusted in accordance with paragraph (3), shall be the amount of school level expenditure determined in respect of the school for the first grant year.

Determination of an amount of school level expenditure for each subsequent grant year

7.—(1) For each grant year after the first grant year, the Secretary of State shall adjust the amount of school level expenditure determined in respect of the school for the preceding grant year by such amount or amounts as appears or appear to him to be fair and reasonable to take account of the following matters:—

- (a) the extent to which the education authority's expected total amount of school level expenditure in the relevant grant year in respect of the relevant category of school is greater or less than their expected total amount of such expenditure in the preceding grant year in

respect of such category, and any circumstances appearing to him to be relevant to such increase or decrease; and

- (b) any change in the circumstances of the school occurring during or since the preceding grant year or which it appears to the Secretary of State will be likely to occur before the end of the relevant grant year,

having regard, in particular, in relation to sub-paragraph (a) to the education authority's estimate of such expected amounts and to information provided by them concerning such estimate, insofar as such estimate and information are available to him by 8th April, or such later date as the Secretary of State may determine, in the relevant grant year.

(2) The adjusted amount arrived at under paragraph (1) shall be the amount of school level expenditure determined in respect of the school for the relevant grant year.

Determination of an amount attributable to provision for the special educational needs of recorded pupils for a grant year

8.—(1) The Secretary of State shall determine, in accordance with this regulation, for each grant year, an amount which is attributable to expenditure for the purpose of making provision in that year for the special educational needs of recorded pupils in attendance at the school.

(2) Paragraphs (3) to (5) are subject to the provisions of section 27(8) and (9) of the Act (variation of agreement or of amount of recurrent grant payable).

(3) Where, for a grant year, the Secretary of State has accepted all aspects of an agreement between the education authority and the board of management of the school intimated to him under section 27(2) of the Act, the amount determined by him in accordance with paragraph (1) for that year shall be the amount specified in that agreement as the estimated cost of provision to be made in the grant year for the special educational needs of recorded pupils in attendance at the school.

(4) Where, for a grant year, intimation to the Secretary of State under section 27(2) of the Act is of a failure to reach such agreement, the amount determined by the Secretary of State in accordance with paragraph (1) for that year shall be the amount determined by him under section 27(3) thereof as the estimated cost of such provision.

(5) Where, for a grant year, the Secretary of State does not accept any aspect of an agreement intimated to him under section 27(2) of the Act, the amount determined by him in accordance with paragraph (1) for that year shall be the aggregate of—

- (a) the amount specified in that agreement as the estimated cost of such provision, to the extent that the Secretary of State has accepted such estimate and has not made a determination under section 27(3) of the Act as to such cost; and
- (b) where the Secretary of State has made a determination under section 27(3) of the Act as to the estimated cost of such provision, the amount so determined by him.

Allocation to school of amount of central expenditure

9.—(1) For any grant year, the Secretary of State shall determine an amount which he considers it appropriate to allocate to the school of the central expenditure described in Schedule 2 which it would be appropriate for the education authority to incur in the grant year.

(2) In making the determination referred to in paragraph (1), the Secretary of State shall have regard to the education authority's estimate of their expected amount of such expenditure, insofar as such estimate is available to him by 8th April, or such later date as the Secretary of State may determine, in the grant year, and to all other relevant factors.

Determination of an amount of recurrent grant in respect of a self-governing school which is a special school

10.—(1) This regulation applies to the determination of the amount of recurrent grant payable for any grant year to the board of management of a self-governing school which is a special school.

(2) Paragraphs (3) to (5) are subject to the provisions of section 27(8) and (9) of the Act (variation of agreement or of amount of recurrent grant payable).

(3) Where, for a grant year, the Secretary of State has accepted all aspects of an agreement between the education authority and the board of management of the school intimated to him under section 27(2) of the Act, the amount of recurrent grant determined by him for that year in respect of the school shall be the amount specified in that agreement as the estimated cost of the educational and other provision to be made in that year for the pupils in attendance at the school and the estimated expenditure incurred or to be incurred for the purposes of the board's other functions under section 7(1) of the Act.

(4) Where, for a grant year, intimation to the Secretary of State under section 27(2) of the Act is of a failure to reach such agreement, the amount of recurrent grant determined by the Secretary of State in respect of the school for that year shall be the amount determined by him under section 27(3) thereof as such estimated cost and such estimated expenditure.

(5) Where, for a grant year, the Secretary of State does not accept any aspect of an agreement intimated to him under section 27(2) of the Act, the amount of recurrent grant determined by him in respect of the school for that year shall be the aggregate of—

- (a) the amount specified in that agreement as such estimated cost and such estimated expenditure, to the extent that the Secretary of State has accepted such estimate and has not made a determination under section 27(3) as to such cost and such expenditure; and
- (b) where the Secretary of State has made a determination under section 27(3) of the Act as to such estimated cost and such estimated expenditure, the total amount so determined by him.

Sufficient information not available to the Secretary of State

11. Where there is not available to the Secretary of State on the date specified in regulation 6(2) or (3), 7(1) or 9(2) sufficient information as will, in his opinion, allow him to determine an amount he is required to determine under that regulation, he may determine that amount on such basis as appears to him to be fair and reasonable, having regard to the information available to him on that date.

Apportionment of recurrent grant for part year

12.—(1) This regulation applies in the case of a school which becomes self-governing after 1 April in the first grant year.

(2) The amount of recurrent grant payable in respect of such a school for that part of the first grant year falling on and after the incorporation date shall be the proportion of the amount of recurrent grant which would be payable in respect of that school for the first grant year if it became self-governing on 1 April in that year which the number of days in that year falling on or after the incorporation date bears to the total number of days in that year, such proportion being adjusted by the Secretary of State by such amount or amounts as appears or appear to him to be fair and reasonable to take account of a higher or lower level of costs in respect of any item of expenditure specified in paragraph 1 of Schedule 1 at a particular period or periods in that year, and such other matters as he considers appropriate.

(3) In making the adjustment referred to in paragraph (2), the Secretary of State shall have regard to any relevant representations made to him by the education authority before the expiry of the period

ending one month before the incorporation date, or such later date as the Secretary of State may determine.

Revisal of determination of amount of recurrent grant

13.—(1) Without prejudice to paragraph (3), this paragraph applies where—

- (a) after determining the amount of recurrent grant payable in respect of a school for any grant year in accordance with these Regulations, it appears to the Secretary of State that, by reason of—
 - (i) any change in the circumstances of the school;
 - (ii) any change in the circumstances of the school which was taken into account for the purposes of regulation 6(3) or 7(1), but which has not occurred before the end of the grant year; or
 - (iii) any change in the level of spending by the education authority in respect of education, the amount so payable should be revised; or
- (b) the Secretary of State is satisfied that his determination of the amount of recurrent grant payable in respect of a school for any grant year 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 Secretary of State may redetermine the amount of recurrent grant payable in respect of the school for that grant year in accordance with these Regulations and, if the amount so redetermined is different from the amount previously determined, revise his determination by increasing or reducing it accordingly.

(3) Where it appears to the Secretary of State that, by reason of any extraordinary circumstances, the amount of recurrent grant determined in respect of a school for any grant year is insufficient to enable its board of management adequately to carry out their functions with respect to the management of the school, he may redetermine the amount of such grant for that year in accordance with paragraph (4), and revise his determination accordingly.

(4) Where the Secretary of State decides to redetermine the amount of recurrent grant by virtue of paragraph (3), he shall redetermine that amount by adding to it such amount as appears to him to be necessary for the purpose of enabling the board of management adequately to carry out their functions with respect to the management of the school.

(5) Where the Secretary of State revises his determination of the amount of recurrent grant payable in respect of a school for any grant year, he shall give notice thereof to the board of management of the school and to the education authority.

(6) A determination which has been revised in accordance with this regulation may be further revised in accordance therewith, and may be so further revised notwithstanding that the Secretary of State is satisfied that the revised determination was not made in accordance with these Regulations.

Information as to provision for special educational needs of recorded pupils at a school which is not a special school

14.—(1) For the purposes of their duty under section 27(2) of the Act (duty to attempt to reach agreement as to certain matters in respect of recorded pupils attending the school), the education authority and the board of management of a self-governing school which is not a special school shall provide each other with information as to the matters described in paragraphs (2) to (4).

(2) For each grant year, the education authority shall provide the board of management with information as to the provision which the authority consider necessary to make adequate and efficient provision for the special educational needs of all recorded children and recorded young persons

belonging to the authority's area including, in particular, information as to the following matters, namely:—

- (a) the total number of such children and young persons;
- (b) a general description of the special educational needs of such children and young persons; and
- (c) the total resources which the education authority consider are necessary to make adequate and efficient provision for such needs of all such children and young persons.

(3) For each grant year, the education authority shall also provide the board of management with information as to—

- (a) the number of recorded children and young persons of whom they are aware (including such children and young persons belonging to the area of another education authority) and in whose Record of Needs the school is, or is proposed to be, the school nominated as that which that child or young person should attend; and
- (b) the special educational needs of each such child or young person,

together with a description of—

- (i) the resources which the education authority consider the board of management would need to supply directly from the school's own resources to provide for the special educational needs of each such child or young person;
- (ii) the resources which the education authority are under a duty, or have a power and are willing, to supply towards making such provision, and whether such supply would be with or without charge, and, if the former, what charge is proposed; and
- (iii) the resources which the education authority consider the board of management would need to obtain from third parties towards making such provision.

(4) For each grant year, the board of management shall provide the education authority with information as to the following matters:—

- (a) the range of provision the school has for pupils with special educational needs;
- (b) the number of recorded children and young persons for whom, and the special educational needs for which, the board consider they are able to provide (whether any such child or young person would attend the school by virtue of nomination of it in his Record of Needs or by virtue of direct application for admission);
- (c) the resources which the board consider would be necessary to make adequate and efficient provision for the special educational needs of such children and young persons, described under the following categories:—
 - (i) those which the board would intend to supply directly from the school's own resources;
 - (ii) those which the board would intend to request the education authority to supply and whether with or without payment; and
 - (iii) those which the board would intend to seek from third parties, with payment; and
- (d) the extent to which the board expect places at the school may be filled by recorded children and young persons not belonging to the area of the education authority and the extent and the nature of resources which they expect may be required in respect of such children and young persons.

Information as to provision for pupils at and other matters in respect of a special school

15.—(1) For the purposes of their duty under section 27(2) of the Act (duty to attempt to reach agreement as to certain matters), the education authority and the board of management of a self-

governing school which is a special school shall provide each other with information as to the matters described in paragraphs (2) to (4).

(2) For each grant year, the education authority shall provide the board of management with information as to the number of children and young persons (including those belonging to the area of another education authority) and the categories of special educational needs for which they would wish provision to be made at the school, together with information as to the following matters, namely:—

- (a) the total resources which the education authority consider are necessary to make adequate and efficient provision for the special educational needs of such children and young persons;
- (b) the resources which the education authority consider the board would need to supply directly from the school's own resources to provide for the special educational needs of each such child or young person;
- (c) the resources which the education authority are under a duty, or have a power and are willing, to supply towards making the provision mentioned in sub-paragraph (b), and whether such supply would be with or without charge, and, if the former, what charge is proposed; and
- (d) the resources which the education authority consider the board would need to obtain from third parties towards making such provision.

(3) The education authority shall also provide the board of management with information as to the following matters, namely:—

- (a) for the first grant year—
 - (i) their estimate of the amount of expenditure incurred by them in the base year in respect of the school attributable to each item of school level expenditure specified in paragraph 1 of Schedule 1, subject to paragraphs 2 and 3 of that Schedule;
 - (ii) the staffing complement for the school in the base year, the number of staff, their grades and salaries, any unfilled vacancies within such complement and the reason for each such vacancy arising and being unfilled;
 - (iii) their estimate of the amount of expenditure incurred by them in the base year in respect of all special schools under their management, attributable to each item of school level expenditure specified in paragraph 1 of Schedule 1, identifying separately the amount attributable to each such item in respect of each such school and the total amount so attributable in respect of all such schools, and subject to paragraphs 2 and 3 of that Schedule; and
 - (iv) the extent to which their expected total amount of school level expenditure in the first grant year in respect of the relevant category of school is greater or less than their expected total amount of such expenditure in the base year in respect of such category and any circumstances appearing to them to be relevant to such increase or decrease;
- (b) for each subsequent grant year, the extent to which their expected total amount of school level expenditure in the relevant grant year in respect of the relevant category of school is greater or less than their expected total amount of such expenditure in the preceding grant year in respect of such category and any circumstances appearing to them to be relevant to such increase or decrease; and
- (c) for each grant year, including the first grant year, their estimate of the amount of expenditure they expect to incur in the relevant grant year in connection with their functions in relation to school education, describing in particular—
 - (i) all expenditure they expect to incur specifically for the purposes of those functions;

- (ii) such part of the expenditure the local authority which are the education authority expect to incur for the purpose of various functions including school education as is reasonably attributable to school education; and
 - (iii) such part of the expenditure the local authority which are the education authority expect to incur on central administration (including finance, personnel and other central departments) as is reasonably attributable to school education,
- but excluding from the expenditure to be described in terms of heads (i) to (iii) of this sub-paragraph any expenditure which constitutes school level expenditure or which falls within any of the descriptions of expenditure set out in paragraph 2 of Schedule 2.
- (4) For each grant year, the board of management shall provide the education authority with information as to the following matters:—
- (a) the range of provision the school has for pupils with special educational needs;
 - (b) the number of pupils for whom, and the special educational needs for which, the board consider they are able to provide;
 - (c) the resources which the board consider would be necessary to make adequate and efficient provision for the special educational needs of such pupils, described under the following categories:—
 - (i) those which the board would intend to supply directly from the school's own resources;
 - (ii) those which the board would intend to request the education authority to supply and whether with or without payment; and
 - (iii) those which the board would intend to seek from third parties, with payment;
 - (d) the extent to which the board expect places at the school may be filled by recorded children and young persons belonging to the area of another education authority and the extent and the nature of the resources which they expect may be required in respect of such children and young persons; and
 - (e) any change in the circumstances of the school occurring during or since the preceding grant year (or, in respect of agreement to be reached for the first grant year, the base year) or which is likely to occur before the end of the relevant grant year.

Matters common to information as to both types of school

16.—(1) For the purposes of section 27(6) of the Act (variation of agreement reached under section 27(2) thereof), the education authority and the board of management of a self-governing school shall provide each other with any new or additional information as to the matters in respect of which they are required to exchange or provide information in accordance with regulation 14 or 15, as the case may be, for the purposes of their duty under section 27(2) of the Act, which have caused the authority, the board or the Secretary of State to consider that the agreement reached under that section should be varied.

(2) For the purposes of the Secretary of State considering any agreement intimated to him under section 27(2) or (7) of the Act, or for the purposes of himself making a determination under section 27(3) or a variation under section 27(9) thereof, the education authority and the board of management of a self-governing school shall provide to him information as to the following matters:—

- (a) in the case of an agreement intimated under section 27(2), or the Secretary of State himself making a determination under section 27(3), information which adequately describes the matters specified in regulation 14(2) to (4), where the school is not a special school, and regulation 15(2) to (4), where the school is a special school; and

- (b) in the case of an agreement intimated under section 27(7), or the Secretary of State himself making a variation under section 27(9), information which adequately describes the matters specified in paragraph (1).
- (3) The information which the education authority and the board of management of a self-governing school are required to provide to each other or to the Secretary of State in respect of any grant year in accordance with regulation 14 or 15 or paragraph (2)(a) of this regulation shall be provided by 8th April in the relevant grant year.
- (4) The board of management of a self-governing school shall intimate to the Secretary of State by 8th May in each grant year the agreement reached by them with the education authority in accordance with section 27(2) of the Act in respect of that grant year, or if no such agreement has been reached by that date, the failure to reach such agreement.