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STATUTORY INSTRUMENTS

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**1994 No. 610**

**EDUCATION, ENGLAND AND WALES**

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

<i>Made</i>	- - - -	<i>14th March 1994</i>
<i>Laid before Parliament</i>		<i>14th March 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

In exercise of the powers conferred on the Secretary of State by sections 81(2), 82(2), 83(2), 88, 89, 90, 94 and 301(6) of the Education Act 1993<sup>(1)</sup> the Secretary of State for Wales hereby makes the following Regulations:

**PART 1**  
**GENERAL**

**Citation and commencement**

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

**Interpretation**

2.—(1) In these Regulations, except where the context otherwise requires—

“the 1988 Act” means the Education Reform Act 1988<sup>(2)</sup>;

“the 1993 Act” means the Education Act 1993;

“the 1990 Regulations” means the Education (Grant-maintained Schools) (Finance) Regulations 1990<sup>(3)</sup>; and

“school” means a grant-maintained school situated in Wales the governing body of which was incorporated under Chapter II or IX of Part II of the 1993 Act and which was a school maintained by a local education authority before becoming a grant-maintained school.

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

(2) 1988 c. 40.

(3) S.I.1990/549, amended by S.I.1990/2279 and S.I.1991/353. Those Regulations are repealed (with savings) by these Regulations.

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*Status: This is the original version (as it was originally made).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

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(2) The following table shows provisions defining or otherwise explaining expressions used in these Regulations (other than provisions defining or explaining an expression used only in the same regulation or Schedule), references in the second column thereof to regulations being references to regulations of these Regulation—

saggregated budget	section 33(4)(b) of the 1988 Act
allocation formula	section 38(2) of the 1988 Act
capital grants	section 89 of the 1993 Act
change in the characteristics of the school	regulation 5(10)
date of implementation of the proposals	sections 37(2) of the 1993 Act
delegated budget	section 33(6)(b) of the 1988 Act
financial year	section 305(1) of the 1993 Act
financial year in question	regulation 4(3)
general schools budget	section 33(4)(a) of the 1988 Act(4)
maintenance grant	section 87(1) of the 1993 Act
preceding financial year	regulation 6(5)
relevant date	regulation 15(7)
relevant expenditure	regulation 13(3)
relevant percentage	regulation 8(2)
scheme	section 51(2)(a) of the 1988 Act(5)
school's budget share	section 51(2)(b) of the 1988 Act
special purpose grants	section 88 of the 1993 Act.

(3) Any reference in these Regulations to the relevant authority in relation to any school and financial year is a reference to the local education authority in whose area the school is situated, except in regulation 23 where it is a reference to the local education authority named in a determination under section 93 of the 1993 Act applying that section in respect of that school (or that school and other schools) and financial year.

(4) In these Regulations references to a school becoming grant-maintained are references to a school acquiring grant-maintained status under Chapter II or IX of Part II of the 1993 Act.

(5) For the purposes of these Regulations, a school becomes a grant-maintained school on the date of implementation of the proposals in respect of the school under Chapter II or IX (as the case may be) of Part II of the 1993 Act.

(6) 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.

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(4) Section 33(4)(a) is amended by section 12(5) of the Further and Higher Education Act 1992 (c. 13).

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

### **Revocation and transitional provisions**

3.—(1) The 1990 Regulations are hereby revoked.

(2) Notwithstanding the provisions of these Regulations the 1990 Regulations shall continue to apply for the purposes—

- (a) of determining, apportioning and redetermining the amount of maintenance grant payable by the Secretary of State in respect of a school for the relevant period, and
- (b) of determining (and revising) the total amount which the Secretary of State may recover from the relevant authority in respect of the relevant period.

(3) The reference in paragraph (2) above to the relevant period is, in relation to England, a reference to the financial year ending on 31st March 1991 and is, in relation to Wales, a reference to the period commencing on 1st April 1990 and ending on 31st March 1994.

(4) Paragraph (1) is without prejudice to the continued operation after 31st March 1994 of any requirements imposed by the Secretary of State on a governing body to whom payments in respect of maintenance grant, capital grant and special purpose grant have been made under the 1990 Regulations.

## **PART 2**

### **MAINTENANCE GRANT**

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

4.—(1) Subject to paragraphs (2) and (4) and regulation 12, the amount of maintenance grant payable in respect of a school for the financial year in question shall be the sum of the following amounts—

- (a) an amount determined in accordance with (as the case may be) regulation 5, 6 or 7;
- (b) an amount determined in accordance with regulation 8 and (where applicable) regulation 9;
- (c) an amount determined in accordance with regulation 10(1); and
- (d) (where applicable) an amount determined in accordance with regulation 11(3).

(2) Where in the opinion of the Secretary of State 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 Secretary of State to determine as the amount of maintenance grant payable for the financial year in question such amount as appears to him to be fair and reasonable having regard in particular to the relevant authority's scheme.

(3) In these Regulations references to the financial year in question are references to the financial year in respect of which the determination of maintenance grant is made.

(4) Where the Secretary of State determines an amount under regulation 11(5) in respect of a school for the financial year in question, that amount shall be deducted from the sum of the amounts referred to in paragraph (1) in determining the amount of maintenance grant payable in respect of the school for the financial year in question under this regulation.

### **Determination of an amount in respect of a comparable maintained school's budget share**

5.—(1) Subject to regulation 6, this regulation applies in the case of any school which becomes a grant-maintained school on or before 1st April in the financial year in question.

(2) The Secretary of State shall determine an amount which he is satisfied is or approximates to an amount which the relevant authority could have determined, by the application (subject to the following provisions of this regulation) of the allocation formula in their scheme in relation to a comparable maintained school covered by the scheme, as such a school's budget share for the financial year in question.

(3) Where—

- (a) at any time before the beginning of the financial year in question the allocation formula included provision for taking into account a particular characteristic of a school which will affect the needs of the school as distinct from those of other schools which do not share that characteristic; and
- (b) the scheme has been varied or replaced at any time before the relevant date in relation to the school as initially determined (whether that is the date specified in regulation 15(2) or such other date as may be determined in accordance with that regulation), and for the financial year in question—
  - (i) no such provision is included in the allocation formula; or
  - (ii) the proportion of a comparable maintained school's budget share derived from the application of that provision would be less than it would have been had the scheme not been varied or replaced;

the allocation formula shall be deemed, for the purposes of determining the amount under paragraph (2), to include such provision as it had effect immediately before the scheme was so varied or replaced:

Provided that the Secretary of State shall add to, or subtract from, any sum derived from the application of the said provision such amount as appears to him to be fair and reasonable having regard to any increase or decrease in the actual or planned level of spending of the relevant authority in respect of schools maintained by them occurring during or since the preceding financial year.

(4) Where—

- (a) by the application of the allocation formula a part of a school's budget share is determined by reference to—
  - (i) an amount of expenditure attributable to each registered pupil of each relevant age or falling within each relevant age group;
  - (ii) an amount or amounts (as the case may be) of expenditure attributable to any unit of measurement adopted for any factor included in the allocation formula; or
  - (iii) the amount or amounts (as the case may be) of expenditure attributable to any other such factor; and
- (b) the proportion that any such amount is of a comparable maintained school's budget share is less in the financial year in question than it would have been in a previous financial year,

the amount or amounts of expenditure so attributable shall be deemed by the Secretary of State, in applying the allocation formula for the purpose of determining the amount under paragraph (2), to be the amount or amounts determined in accordance with paragraph (5).

(5) For the purposes of paragraph (4), the Secretary of State shall determine as the amount or amounts of expenditure so attributable for the purposes of the allocation formula the amount or amounts so attributable in such previous financial year as the Secretary of State shall decide, adjusted

by such amount or amounts as appears or appear to him to be fair and reasonable having regard, in particular, to—

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

(6) Subject to paragraphs (7), (8) and (9), references in this Part to a maintained school are references to a school maintained by the relevant authority, and references to a comparable maintained school are references to a maintained county school, any characteristics of which relevant for the purposes of any formula of a kind referred to in paragraph (2) are identical to any such characteristics of the grant-maintained school and are references (in particular) to a school—

- (a) the number of registered pupils in each age group at which is identical to the number of such pupils in each age group at the grant-maintained school; and
- (b) any other factors affecting the needs of which (including, in particular, the number of registered pupils at the school who have special educational needs and the nature of the special educational provision required to be made for them) are identical to any other factors affecting the needs of the grant-maintained school.

(7) Where the allocation formula includes provision for taking into account the amount of any non-domestic rate payable in respect of a school, the Secretary of State shall, in applying the allocation formula for the purpose of determining the amount under paragraph (2), apply that provision as if the amount of the non-domestic rate payable was—

- (a) in the case of a school which was a charity before becoming a grant-maintained school, that payable in respect of a comparable maintained school which is a charity; and
- (b) in the case of a school which was not a charity before becoming a grant-maintained school, that payable in respect of a comparable maintained school which is not a charity.

(8) For the purposes of this regulation, it is to be assumed that there is a comparable maintained school covered by the relevant authority's scheme whether or not there is in fact such a school; and, for the purposes of paragraph (7), it is to be further assumed that a comparable maintained school is capable of being a charity.

(9) In this regulation—

“charity” means an institution established for charitable purposes only;

“factor” means, in relation to the allocation formula, any circumstance, fact or matter affecting the needs of individual schools and subject to variation from school to school which is to be taken into account in accordance with the allocation formula; and

“relevant” in relation to “age” and “age group” means an age group separately treated in the allocation formula for the purposes of determining that part of each school's budget share which is to be determined by reference to numbers of registered pupils.

(10) References in these Regulations to any change in the characteristics of the school include, in particular, references to any change in the number of registered pupils thereat.

6.—(1) In any case where the school becomes a grant-maintained school on or before 1st April in the financial year in question, the Secretary of State may if he thinks fit, instead of determining an amount under regulation 5(2), determine an amount in accordance with paragraph (4).

(2) Subject to paragraph (3), the Secretary of State shall consult the relevant authority and the governing body of the school before deciding whether, pursuant to paragraph (1), to determine an amount in accordance with paragraph (4).

(3) Paragraph (2) shall not apply in any case where it appears to the Secretary of State that, in relation to the financial year in question, a comparable maintained school's budget share, determined by the application of the allocation formula in the relevant authority's scheme, would have been determined wholly or mainly by reference to expenditure (whether actual, estimated, notional or otherwise characterised) for the purposes of that school in a previous financial year.

(4) Where the Secretary of State decides to determine an amount in accordance with this paragraph he shall determine an amount by—

- (a) taking the amount which—
  - (i) in the case of a school which becomes a grant-maintained school in or before the financial year ending on 31st March 1994, was determined in respect of the school under (as the case may be) regulation 4(2) or (3) or 5(2) of the 1990 Regulations for that year; or
  - (ii) in the case of a school which becomes a grant-maintained school after the financial year ending on 31st March 1994, is determined in respect of the school under (as the case may be) this paragraph or regulation 5, 7 or 13(2) for the financial year in which the date of implementation of the proposals in respect of the school falls; and
- (b) adjusting that amount by such amount as appears to him to be fair and reasonable having regard, in particular, to—
  - (i) any increase or decrease in the actual or planned level of spending of the relevant authority in respect of the schools maintained by them occurring since the financial year in respect of which the amount referred to in sub-paragraph (a) above was determined; and
  - (ii) any significant change in the characteristics of the school occurring as aforesaid or which it appears to him is likely to occur before the end of the financial year in question.

(5) In these Regulations references to the preceding financial year are references to the financial year immediately preceding the financial year in question.

7.—(1) This regulation applies in the case of any school which becomes a grant-maintained school after 1st April in the financial year in question.

(2) In any case to which this regulation applies the Secretary of State shall determine an amount in accordance with paragraph (3).

(3) The Secretary of State shall determine an amount which appears to him 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 grant-maintained, sums had neither been deducted by the local education authority in accordance with their scheme nor made available pursuant to section 36(2) and (3)(6) of the 1988 Act, 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 the 1988 Act.

#### **Determination of an amount as a percentage addition**

8.—(1) Subject to regulation 9, the Secretary of State shall determine an amount which is equal to the relevant percentage of the amount determined in respect of the school in accordance with, as the case may be, regulation 5, 6 or 7.

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

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(6) 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 1993 Act.

9.—(1) This regulation applies in the case of a school which becomes a grant-maintained school after 1st April in the financial year in question.

(2) Where this regulation applies, regulation 8 shall have effect as if it required the Secretary of State to determine the relevant percentage of the amount determined in accordance with the following formula—

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

where

J is the amount determined in accordance with, as the case may be, regulation 5, 6 or 7, and  
A and B represent the matters respectively denoted by those letters in regulation 16(2)

### **Determination of an amount in respect of school meals, contingencies, nursery education and expenditure due to ethnic minority population**

10.—(1) Subject to paragraph (2), the Secretary of State shall determine the amount which is the sum of the amounts determined in accordance with paragraphs (3) to (7).

(2) In any case where the Secretary of State determines an amount under regulation 6, paragraph (1) shall have effect as if it required him to determine an amount equal to the amount referred to in paragraph (3).

(3) The Secretary of State 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 relevant 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 Secretary of State;  
G is the total of the relevant 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 Secretary of State.

(4) In paragraph (3)—

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

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

“relevant schools” means all primary or all secondary schools maintained or formerly maintained by the relevant authority required to be covered by a statement for the year under

section 42 of the 1988 Act<sup>(7)</sup>, according as to whether the school is a primary school or a secondary school.

(5) The Secretary of State shall determine the amount which it appears to him, were the school maintained by the relevant 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 Secretary of State shall determine an amount in respect of such provision which he is satisfied is fair and reasonable having regard in particular to the extent to which, in his opinion, the cost of such provision ought to be met from the amount determined in accordance with (as the case may be) regulation 5 or 7.

(7) The Secretary of State shall determine the amount (if any) which it appears to him, were the school maintained by the relevant 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<sup>(8)</sup> 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.

### **Determination of an amount representing sums unspent or overspent in respect of a previous financial year's budget share before a school becomes grant-maintained**

**11.**—(1) This paragraph applies where—

- (a) the determination of maintenance grant in respect of a school is for the financial year in which the school became a grant-maintained school; and
- (b) in a previous financial year the school (before becoming grant-maintained) had a delegated budget under a scheme made by the relevant authority.

(2) In any case to which paragraph (1) applies, the amounts to be added together for the purpose of determining the amount of maintenance grant payable in respect of the school under regulation 4 shall include an amount determined in accordance with paragraph (3).

(3) The Secretary of State shall determine an amount which it appears to him 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) and (3) of the 1988 Act, or, if made available, had not been spent by the governing body in exercise of their powers under section 36(5) of that Act.

(4) This paragraph applies in the case of a school which becomes a grant-maintained school on 1st April in the financial year in question if, immediately before becoming grant-maintained, the school had a delegated budget under a scheme made by the relevant authority.

(5) Where paragraph (4) applies, and the Secretary of State is satisfied that the school's budget share for the preceding financial year was less than the aggregate of the sums which, in respect of that financial year was less than the aggregate of the sums which, in respect of that financial year, were either—

- (a) sums deducted by the relevant authority in respect of the school's budget share in accordance with their scheme; or
- (b) sums spent by the governing body of the school (before becoming grant-maintained) in the exercise, or purported exercise, of their powers under section 36(5) of the 1988 Act.

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(7) Section 42(4)(f) to and (5)(b) is repealed by section 307(3) of, and Schedule 21 to, the 1993 Act. Subsections (6)(aa) and (8) are, respectively, inserted and substituted by section 275 of that Act.

(8) 1966 c. 42 as substituted by section 1(1) of the Local Government (Amendment) Act 1993 (c. 27). Section 11 was extended by section 211 of the 1988 Act to which there is an amendment not relevant to these Regulations.



he may determine as an amount to be deducted from the amount determined in respect of the school under regulation 4(1), such amount as he is satisfied it is fair and reasonable should be so deducted having regard to the amount which the relevant authority could have deducted in such a case in determining the school's budget share for the financial year in question had the school not become a grant-maintained school.

#### **Determination of amount of maintenance grant otherwise than under regulation 4**

**12.**—(1) Notwithstanding the provisions of regulation 4, the Secretary of State may, in the case of a school which becomes a grant-maintained school in the financial year in question, determine the amount of maintenance grant payable to the governing body of the school for the financial year in question in accordance with the following provisions of this regulation,

(2) Subject to regulation 14(2), in any case to which this regulation applies, the amount of maintenance grant payable in respect of the school for the financial year in question shall be the sum of the amounts determined in accordance with regulations 13(1) and (where applicable) 14(1).

(3) The Secretary of State shall consult the relevant 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.

**13.**—(1) The Secretary of State 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 Secretary of State shall determine an amount which he is satisfied is equal to the amount of relevant expenditure incurred by the relevant authority in respect of the school in the preceding financial year.

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

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

(5) The Secretary of State shall determine an amount in respect of the relevant 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 10(3); and for the purposes of this paragraph the expressions used in regulation 10(3) shall have the meanings assigned to them by regulation 10(4).

(6) The sum of the amounts determined in accordance with paragraphs (2),

(4) and (5) may be adjusted by such amount as the Secretary of State is 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 relevant authority in respect of the schools maintained by them occurring during or since the preceding financial year, and

(b) any significant change in the characteristics of the school occurring as aforesaid or which it appears to the Secretary of State will be likely to occur before the end of the financial year in question.

**14.—(1)** The Secretary of State shall determine an amount equal to the amount (if any) which would have been determined in respect of the school in accordance with regulation 11(3) if the amount of maintenance grant for the school were to be determined under regulation 4.

(2) The Secretary of State may determine an amount equal to the amount (if any) which he could have determined in accordance with regulation 11(5) if the maintenance grant payable in respect of the school had been determined under regulation 4 and, where he does so, paragraph (2) of regulation 12 shall have effect as though it provided for that amount to be deducted from the sum of the amounts referred to in that paragraph in determining the amount of maintenance grant payable in respect of the school under regulation 12 for the financial year in question.

### **Relevant date**

**15.—(1)** Subject to paragraphs (2) and (3) and regulation 18, any amount required to be determined by the Secretary of State under this Part shall be determined on the information available to him on the relevant date.

(2) In paragraph (1), the relevant date means 31st March in the preceding financial year or, for the purposes of determining the amount of maintenance grant payable in respect of any school for any financial year, such other date as the Secretary of State may determine.

(3) The Secretary of State may, in any case where he considers it appropriate to do so, redetermine the relevant date.

(4) Where—

(a) the Secretary of State determines in accordance with paragraph (2) that, in respect of any school for any financial year, the relevant date should be a date other than 31st March in the preceding financial year, or

(b) he redetermines the relevant date in accordance with paragraph (3), he shall notify the governing body of the school and the relevant authority in writing of that fact.

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

(6) The Secretary of State shall not take into account any information made available to him after the relevant date (but before the date of his determination) for the purposes of determining the amount of maintenance grant payable in respect of any 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.

### **Apportionment of maintenance grant**

**16.—(1)** This regulation applies in the case of any school which becomes a grant-maintained school after 1st April in the financial year in question.

(2) Where in respect of any such school the amount of maintenance grant is determined in accordance with regulation 4, the amount of maintenance grant payable in respect of the school for the financial year in question shall be apportioned in accordance with the following formula—

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

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 school;

B is 365 or, where the financial year in question ends during a leap year, 366;

C is the amount determined in accordance with regulation 10(3); and

D is the sum of the amounts determined in accordance with regulations 7, 8, 9, 10(5) and (6), (7) and 11(3);

F bears the value ascribed to it in the Table below according to the date on which the proposals in respect of the school were implemented  
date of implementation of the proposals F = 1.0 1st April-31st July  
date of implementation of the proposals F = 1.015 1st August-31st December  
date of implementation of the proposals F = 1.02 1st January-31st March

(3) Where in respect of any such school the amount of maintenance grant is determined in accordance with regulation 12, the amount of maintenance grant payable in respect of the school for the financial year in question shall be apportioned in accordance with the following formula—

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

where

C is the amount determined in respect of the school in accordance with regulation 13(1);

G is the amount determined in respect of the school in accordance with regulation 14(1); and

A, B, and F represent the matters respectively denoted by those letters in paragraph (2).

## Adjustments

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

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

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

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

(iii) any other change affecting the needs of the school, the amount so payable should be revised; or

(b) the Secretary of State is satisfied that his determination of the amount of maintenance grant payable in respect of any school for any financial 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 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 his determination accordingly.

(3) Where it appears to the Secretary of State that, by reason of any extraordinary circumstances, the amount of maintenance grant determined in respect of a school for any financial year is insufficient to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, he may redetermine the amount of maintenance grant payable in respect of the school 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 maintenance 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 governing body adequately to carry out their functions with respect to the conduct of the school.

(5) Where in accordance with this regulation the Secretary of State revises the amount of maintenance grant payable in respect of any school for any financial year he shall give notice thereof to the governing body of the school and to the relevant authority.

(6) 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 Secretary of State is 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**

**18.**—(1) In its application for the purposes of any redetermination under regulation 17 of the amount of maintenance grant payable in respect of a school for any financial year, regulation 15 shall have effect subject to the following provisions of this regulation.

(2) Where the redetermination of maintenance grant under regulation 17(2) is made on one or more of the grounds specified in paragraph (1)(a) of that regulation the Secretary of State may take into account for the purposes of the redetermination any information received by him after the relevant date which relates to any of the reasons for making the redetermination.

(3) Where the redetermination of maintenance grant under regulation 17(2) is made on the grounds, specified in paragraph (1)(b) of that regulation, that the Secretary of State is satisfied that his determination was made in ignorance of, or was based on a mistake as to, some material fact, he may take into account any information received by him 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 Secretary of State for the purposes of redetermining grant under regulation 17(2), he may take that information into account for the purposes of making any further redetermination under that regulation.

(5) Regulation 15 shall not apply where a redetermination is made by the Secretary of State in accordance with regulation 17(3) and (4).

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

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

(2) The Secretary of State may determine, for the purposes of the application of section 90(1) and (2) of the 1993 Act to such governing bodies, any requirement referred to in paragraphs 2 to 4 of Schedule 3.

## **PART 3**

### **CAPITAL AND SPECIAL PURPOSE GRANTS**

#### **Capital grants**

**20.** The Secretary of State 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.

### **Special purpose grants**

**21.**—(1) The Secretary of State 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 Secretary of State 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 special purpose grants**

**22.**—(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 Secretary of State on governing bodies to whom payments of 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 Secretary of State.

(3) The Secretary of State may determine for the purposes of the application of section 90(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 with a view to the Secretary of State satisfying himself 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 he 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 him in accordance with this regulation subject to which the payments were made is not complied with.

## **PART 4**

### **RECOVERY OF AMOUNTS IN RESPECT OF MAINTENANCE GRANT FROM RELEVANT AUTHORITY**

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

**23.**—(1) Subject to paragraph (2) below, the total amount which the Secretary of State may recover from the relevant authority in respect of any school in relation to a financial year beginning on or after 1st April 1994 by virtue of section 93 of the 1993 Act 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).

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(2) The amount which would otherwise fall to be determined in accordance with paragraph (1) above as the total amount recoverable from a relevant authority by virtue of section 93 of the 1993 Act in respect of any school for any financial year may be reduced by an amount not exceeding the amount outstanding in respect of any excess amount recovered from the authority under that section in respect of the school in relation to any previous financial year.

## SCHEDULE 1

Regulations 8, 9 and 13(4)

### DETERMINATION OF THE RELEVANT PERCENTAGE

1. In these Regulations the relevant percentage is the percentage which the amount determined in accordance with paragraph 2 is of the amount determined in accordance with paragraph 3.

2. The Secretary of State shall determine an amount which is equal to that part of the relevant authority's planned financial provision for their relevant schools included in their general schools' budget for the financial year in question which, in his opinion, would remain after deducting—

- (a) the authority's planned financial provision for all their relevant schools included in their aggregated budget;
- (b) their planned expenditure in respect of all their relevant schools on those descriptions of expenditure listed in paragraph 2 of Schedule 2;
- (c) their planned expenditure on the provision of school meals at all their relevant schools;
- (d) the amount (if any) appropriated by the authority for meeting expenditure on contingencies in respect of all their relevant schools; and
- (e) the amount (if any) allocated in respect of all their relevant schools in support of expenditure of the kind referred to in section 11 of the Local Government Act 1966 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.

Provided that in determining the amounts under sub-paragraphs (b) to (e) the Secretary of State shall exclude any such expenditure, or, in the case of sub-paragraphs (d) and (e), any amount appropriated or allocated by the authority for meeting expenditure referred to in those sub-paragraphs, falling within their aggregated budget.

3. The Secretary of State shall determine an amount which appears to him to be equal to that part of the relevant authority's aggregated budget as is available for allocation to all relevant schools for the financial year in question.

4. References in this Schedule to relevant schools are references to primary schools or secondary schools maintained (or formerly maintained) by the relevant authority, according as to whether the school is a primary school or a secondary school.

5. Regulation 15 applies in relation to amounts required to be determined under this Schedule as it applies to amounts required to be determined under Part 2 of these Regulations, references in that regulation to determining the amount of maintenance grant payable in respect of a school (however expressed) being read as references to determining any amount required to be determined under this Schedule.

## SCHEDULE 2

Regulation 13(3)

### RELEVANT EXPENDITURE

1. Subject to paragraph 2, the following heads or items of expenditure are to be included for the purposes of determining in accordance with regulation 13(2) the amount of relevant expenditure incurred by the relevant authority in the preceding financial year:

- (a) salaries of, and other costs attributable to, staff employed to work wholly or partly at the school other than staff employed in the provision of school meals;
- (b) expenditure on books, stationery and other educational equipment for use at the school;

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- (c) expenditure on telephones and postage for the purposes of the school;
- (d) examination fees incurred in relation to registered pupils at the school;
- (e) expenditure relating to the school premises, including in particular—
  - (i) heating and lighting;
  - (ii) caretaking and cleaning;
  - (iii) rent, non-domestic rates, water rates and charges for the supply of water or the provision of sewerage services;
  - (iv) insurance; and
  - (v) repairs and maintenance; and
- (f) any other expenditure treated by the authority as forming part of the direct costs of the school.

2. The heads or items of expenditure referred to in paragraph 1 are not to be included for the purposes of determining the amount of relevant expenditure to the extent that they fall within any of the following descriptions of expenditure, namely—

- (a) expenditure treated by the relevant authority as expenditure of a capital nature;
- (b) expenditure in respect of the repayment of the principal of, the payment of interest on and the discharge of any financial obligation in connection with, any loan raised to meet expenditure of a capital nature;
- (c) expenditure which is offset by income received as central government grant in support of specific expenditure;
- (d) expenditure required to meet the liabilities of the relevant authority in respect of compensation for premature retirement of—
  - (i) persons formerly employed by them to work at a school maintained by them; or
  - (ii) persons formerly employed by the governing body of a school maintained by them, where the decision to credit a person with a period of service for the purposes of payment of compensation for premature retirement was made before 1st April in the preceding financial year; and
- (e) expenditure on the following items and on any necessary administrative costs associated therewith—
  - (i) transport of pupils between home and school;
  - (ii) the provision of clothing for pupils;
  - (iii) the granting of scholarships, exhibitions, bursaries or other allowances to pupils over compulsory school age, to enable pupils to take advantage of educational facilities without hardship to themselves or their parents;
  - (iv) education welfare officers and educational psychologists where the expenditure is incurred in connection with the performance of a duty or the exercise of a power by the relevant authority which is to be performed or exercised by them both in relation to pupils at schools maintained by them and in relation to pupils at grant-maintained schools; and
  - (v) additional support provided to schools specifically for pupils with statements of special educational needs in accordance with those statements.



- (f) expenditure in respect of the provision of education under section 298 of the 1993 Act or, before that section comes into force, section 56 of the Education Act 1994<sup>(9)</sup>.
- (g) expenditure offset by income received from Her Majesty's Chief Inspector of schools in Wales.
- (h) expenditure of the kind referred to in section 11 of the Local Government Act 1966 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.

### SCHEDULE 3

Regulations 19 and 22

#### REQUIREMENTS WHICH MAY BE ATTACHED TO PAYMENT OF MAINTENANCE GRANTS AND SPECIAL PURPOSE GRANTS

1. A requirement that the governing body shall secure, so far as their powers extend, that the school is conducted in accordance with any requirements imposed by or under any enactment including, in particular, any imposed by or under the 1988 Act or the 1993 Act or the instrument or articles of government for the school.

2. Requirements with respect to the maintenance of proper accounts including, in particular, requirements as to—

- (a) the appointment by the governing body of a person who will be responsible to them for the administration of their financial affairs;
- (b) the accounting systems and methods to be adopted by the governing body and the form of their accounts and supporting records;
- (c) internal financial controls including, in particular, requirements as to the procedures to be adopted with respect to the receipt and disbursement of money by the governing body; and
- (d) the publication of the governing body's accounts.

3. Requirements as to audit and inspection of the governing body's accounts, including, in particular, requirements as to—

- (a) the procedure to be adopted in appointing and replacing auditors;
- (b) any qualifications the auditors are to possess;
- (c) the duration of auditors' appointments;
- (d) the frequency of audits;
- (e) the functions which are to be performed by the auditors in respect of the school;
- (f) the inspection of accounts and supporting records on request by any person authorised by the Secretary of State; and
- (g) examinations by persons authorised by the Secretary of State or the Comptroller and Auditor General into the economy, efficiency and effectiveness with which the governing body of the school have used their resources in discharging their functions.

4. Such further requirements relating to the conduct of the school's financial affairs as the Secretary of State thinks fit.

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<sup>(9)</sup> 1944 c. 31. Section 56 was amended by section 11(1) of, and Part 1 of Schedule 1 to, the Education (Miscellaneous Provisions) Act 1946 (c. 40) and by section 93 of, and paragraph 6 of Schedule 8 to, the Further and Higher Education Act 1992.

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## SCHEDULE 4

Regulation 20

## EXPENDITURE OF A CAPITAL NATURE

1. Expenditure of a capital nature is expenditure on, or in connection with,—
  - (a) the acquisition, reclamation, improvement or laying out of any land;
  - (b) the acquisition, construction, enlargement, improvement, repair or demolition of any building, wall, fence or other structure, or any playground or other hard-standing;
  - (c) the laying out of playing fields and other facilities for social activities and physical recreation; or
  - (d) the provision of any furniture, plant, machinery, apparatus, vehicles, vessels and equipment;

used or intended to be used for the purposes of a school.
2. In paragraph 1 above “building” includes any fixtures and fittings affixed to a building.

## SCHEDULE 5

Regulation 21(1)

## EXPENDITURE IN RESPECT OF WHICH SPECIAL PURPOSE GRANTS MAY BE PAID

1. In this Schedule—
 

“eligible training” means—

  - (a) the training or further training as teachers of persons other than qualified teachers who are employed by the governing body of a school; and
  - (b) the further training of any qualified teacher who is employed by the governing body of a school; and

“trainee” means a person undergoing eligible training in respect of whom special purpose grant is being paid under these Regulations.
2. The expenditure in respect of which special purpose grants may be paid is—
  - (a) expenditure for or in connection with any of the purposes relevant to schools for which education support grants are for the time being payable by virtue of regulations made under section 1 of the Education (Grants and Awards) Act 1984<sup>(10)</sup>;
  - (b) expenditure for or in connection with the training of any teacher or other member of the staff of a school including, in particular, expenditure on—
    - (i) tuition fees, examination fees and residential and other charges payable in respect of eligible training;
    - (ii) travelling, subsistence and other incidental expenses of a trainee;
    - (iii) that part of the remuneration of persons whose employment is necessary to free the trainees for training which relates to the period during which their employment is so necessary; and
    - (iv) the cost of providing (including the provision of premises), planning, co-ordinating, monitoring and evaluating eligible training:

<sup>(10)</sup> 1984 c. 11. Section 1 is amended by section 278 of the 1993 Act. The Regulations in force on the date of those Regulations are the Education Support Grant Regulations 1992 (S.I. 1992/3275).

Provided that where such costs are incurred for such purposes and for other purposes special purpose grant shall be payable only in respect of such proportion of those costs as is attributable to the provision, planning, co-ordinating, monitoring or evaluation of eligible training;

- (c) expenditure in respect of expenses which it appears to the Secretary of State the governing bodies of schools cannot reasonably be expected to meet from maintenance grant being expenses incurred or to be incurred for or in connection with—
  - (i) any structural survey which the Secretary of State has required to be carried out in respect of any building used for the purposes of the school;
  - (ii) the dismissal (whether by reason of redundancy or otherwise) or for the purpose of securing the resignation of any person who is or was a member of the staff of the school, and the premature retirement of such a person;
  - (iii) any costs incurred by the school in respect of Value Added Tax;
  - (iv) insurance of the school premises;
  - (v) meeting any urgent need of the school which in the opinion of the Secretary of State was occasioned by circumstances outside the control of the governing body; and
  - (vi) the acquisition by the school of grant-maintained status, and the transfer to the governing body of the responsibility for the conduct of the school, where those expenses are incurred within 12 months of the date of implementation of the proposals in respect of the school; and
- (d) expenditure of a class or description relevant to schools and for or in connection with the purpose for which grants are for the time being payable by virtue of regulations made under section 210 of the 1988 Act<sup>(11)</sup>.

14th March 1994

*John Redwood*  
Secretary of State for Wales

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The provisions of sections 81(2), 82(2), 83(2), 88, 89, 90 and 94 of the Education Act 1993 largely re-enact for Wales (prior to the establishment of the Schools Funding Council for Wales) provisions formerly contained in sections 79 to 82 of the Education Reform Act 1988 (which are repealed by these Regulations), under which earlier regulations have been made. There are a few changes. Sums in respect of maintenance grant are, under sections 93 and 94 of the 1993 Act, now recoverable from a local education authority determined by the Secretary of State (“the relevant authority”); not, as formerly, from the local education authority by whom the school was maintained before it became grant-maintained. Other minor changes are reflected in the wording of the present Regulations. The principal relevant new provisions in the 1993 Act are the provisions for establishing new grant-maintained schools, grant-maintained special schools and groups of grant-maintained schools under

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<sup>(11)</sup> See the Education (Grants) (Travellers and Displaced Persons) Regulations 1993 (S.I.1993/569).

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a single governing body. However, the present Regulations do not extend to new grant-maintained schools or grant-maintained special schools.

These Regulations, which apply only to grant-maintained schools situated in Wales, replace the provisions of the Education (Grant-maintained Schools) (Finance) Regulations 1990. The main changes introduced by these Regulations are to the methods of calculating the amount of maintenance grant payable to the governing bodies of grant-maintained schools. Maintenance grant is paid to meet expenditure on the normal running costs of the school; capital grant to meet capital expenditure; and special purpose grant, to meet expenditure incurred for particular educational purposes or expenditure which the governing body could not reasonably be expected to meet out of maintenance grant. Other changes are in regulations 8 and 9 and Schedule 1 (percentage addition); regulation 11 (adjustments in respect of sums underspent or overspent by a school before becoming grant-maintained) regulation 15 (relevant date); regulation 17 (adjustments to maintenance grant); and regulation 18 (information to be used in redetermining maintenance grant). The details of these and other changes are set out below.

Part 2 of the Regulations makes provision with respect to the determination of the amount of maintenance grant to be paid to the governing body of a school for any financial year. Under regulation 4, maintenance grant comprises 3 or 4 elements:

(1) an amount representing the school's budget share (regulations 5 and 7) or, alternatively, an amount calculated in accordance with regulation 6;

(2) an amount which is equal to a percentage of the amount referred to in paragraph (1) above (regulations 8 and 9) ("percentage addition");

(3) an amount in respect of the provision of school meals, and, where appropriate, amounts in respect of the provision of education to junior pupils who have not attained the age of five years, amounts in respect of contingencies and amounts in respect of expenditure of the kind referred to in section 11 of the Local Government Act 1966 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 (regulation 10); and

(4) where applicable, an amount in respect of the school's budget share for any financial year in which it was maintained by a local education authority and had a delegated budget in respect of which sums were not made available, deducted by the authority or spent by the governing body in exercise of their powers under section 36(5) of the Education Reform Act 1988 (regulation 11(3)).

Where, however, a school has spent more than its budget share before becoming grant-maintained, an amount in respect of the deficit may be deducted from the total of paragraphs (1) to (3) above in determining the amount of the school's maintenance grant (regulation 11(5)).

Regulation 6 applies to schools which become grant-maintained schools on a date preceding the commencement of the financial year in respect of which maintenance grant is to be determined. In such a case the Secretary of State may, instead of determining an amount under regulation 5, calculate an amount by taking the amount determined in respect of the school in the financial year in which the school became a grant-maintained school, and adjusting it by such amount as appears to him to be fair and reasonable. The regulation requires the Secretary of State to consult the relevant authority and the governing body of the school before adopting this method of calculating maintenance grant. Consultation is not required where it appears to the Secretary of State that a comparable maintained school's budget share under regulation 5 would have been determined wholly or mainly by reference to expenditure for the purposes of that school in a previous financial year.

Regulation 8 requires the Secretary of State to determine as the percentage addition the "relevant percentage" of the amount determined in respect of the school under (as the case may be) regulation 5, 6 or 7 or, where the school becomes grant-maintained after 1 April, the "relevant percentage" of that amount apportioned according to the number of days remaining in the financial year in question see regulation 9. The "relevant percentage" is the percentage for the school determined in accordance with Schedule 1.

Under regulation 12, the Secretary of State may determine as the maintenance grant for a school which becomes a grant-maintained school in the financial year in respect of which the determination is made, an amount which is the sum of the amounts determined in accordance with regulations 13(1) and 14(1), less an amount determined in accordance with regulation 14(2) (where applicable), rather than an amount determined in accordance with regulation 4. Before doing so, however, he is required to consult the relevant authority and the governing body of the school.

Regulation 15 provides that any amount required to be determined by the Secretary of State under Part 2 of the Regulations is to be determined by him on the information available to him on the relevant date. Under regulation 15 the relevant date is either the 31st March immediately preceding the financial year in respect of which the determination of maintenance grant is made, or such other date as may be determined by the Secretary of State in the case in question.

Regulation 17 provides for the adjustment of maintenance grant in the light of subsequent changes or to correct errors. It also provides for the adjustment of maintenance grant where it appears to the Secretary of State that, by reason of any extraordinary circumstances, the amount of maintenance grant is insufficient to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school.

Regulation 18 makes provision with respect to the information to be taken into account by the Secretary of State on making a redetermination of the amount of maintenance grant.

Regulation 19 and Schedule 3 specify requirements which may be attached to payment of maintenance grant.

Regulations 20 to 22 and Schedules 3, 4 and 5 make provision for the payment of capital grants and special purpose grants, and the requirements which may be attached to payment of the latter.

Regulation 23 provides for the recovery from the relevant authority of amounts corresponding to the amount of maintenance grant payable in respect of a school.

By virtue of section 221 of the 1993 Act, these Regulations apply to schools conducted by education associations other than special schools (references to the governing body being read as references to the education association (see section 219(7) of the 1993 Act).