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STATUTORY INSTRUMENTS

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**1994 No. 650**

**EDUCATION, ENGLAND AND WALES**

**The Education (Payment for Special Educational Needs Supplies) Regulations 1994**

<i>Made</i>	- - - -	<i>9th March 1994</i>
<i>Laid before Parliament</i>		<i>10th March 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

In exercise of the powers conferred by sections 162(2) and 301(6) of the Education Act 1993<sup>(1)</sup> the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Education (Payment for Special Educational Needs Supplies) Regulations 1994 and shall come into force on 1st April 1994.

**Prescribed terms as to payment**

2.—(1) Where—

- (a) a local education authority supply under section 162(1) of the Education Act 1993 (“the Act”) goods or services to the governing body of—
  - (i) a grant-maintained or grant-maintained special school, or
  - (ii) a county, voluntary or maintained special school in the area of another local education authority; and
- (b) in the case of a grant-maintained or grant-maintained special school, the maintenance grant for the school for the financial year in which the supply is made includes an amount for meeting the cost of those goods or services;

the terms on which the authority supply those goods or services may include such terms as to payment as can reasonably be expected to secure that the full cost (but not more than the full cost) of the provision is recovered by the authority.

(2) For the purposes of paragraph (1) above the maintenance grant for a school shall be taken to include such an amount as is referred to in paragraph (1)(b) above where—

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(1) 1993 c. 35; for the meaning of “prescribed” and “regulations”, see section 305(1).

- (a) that grant (or part of it) for the financial year in question is determined by reference to a local education authority's scheme and an amount for meeting the cost of supplies under section 162(1) of the Act—
- (i) is included in accordance with the scheme in the budget shares for that year of the schools covered by the scheme; or
  - (ii) is included in accordance with note (15)(b) in Schedule 1 to the Education (School Financial Statements) (Prescribed Particulars etc.) Regulations 1994<sup>(2)</sup> (or, in the case of the financial year beginning in 1993, note (15)(b) in Schedule 1 to the Education (School Financial Statements) (Prescribed Particulars etc.) Regulations 1993<sup>(3)</sup>) in Part I of the authority's budget statement for the financial year immediately preceding the financial year in question; or
- (b) that grant is determined otherwise than by reference to a local education authority's scheme and the goods or services are supplied to assist the governing body in discharging their duties under section 161(1)(a) of the Act in respect of pupils for whom no statement is maintained under section 7 of the Education Act 1981<sup>(4)</sup> and whose educational needs are not being assessed under section 5 of that Act.
- (3) For the purposes of this regulation—
- “budget shares” in relation to schools means the schools' budget shares within the meaning of section 33(2)(a) of the Education Reform Act 1988<sup>(5)</sup>;
  - “budget statement” means the statement referred to in section 42(3) of that Act;
  - “maintenance grant” has the meaning given to that expression by section 81(1) of the Act; and
  - “scheme” means a scheme made under section 33 of the Education Reform Act 1988.

6th March 1994

*John Patten*  
Secretary of State for Education

9th March 1994

*John Redwood*  
Secretary of State for Wales

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(2) S.I.1994/323.

(3) S.I. 1993/113.

(4) 1981 c. 60.

(5) 1988 c. 40. Section 33 was amended by the Further and Higher Education Act 1992 (c. 13), section 12(5).

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## EXPLANATORY NOTE

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

Section 162(1) of the Education Act 1993 empowers local education authorities to supply goods and services to the governing bodies of grant-maintained and grant-maintained special schools and to the governing bodies of county, voluntary and maintained special schools in the areas of other authorities for the purposes of assisting those governing bodies in the performance of their duty under section 161(1)(a) of the Act to use their best endeavours to secure that appropriate special educational provision is made for pupils with special educational needs. Section 162(2) of the Act empowers local education authorities, in circumstances prescribed by regulations, to impose such terms as to payment for such supplies as are prescribed in regulations.

These Regulations, which are made under section 162(2), prescribe these circumstances and terms. Local education authorities are able to charge the full cost (but no more) of the supply and may do so where they supply the governing body of a county, voluntary or maintained special school in the area of another local education authority or the governing body of a grant-maintained or grant-maintained special school whose maintenance grant includes an amount for meeting the costs of such supplies (*regulation 2(1)*).

An amount for this purpose is to be taken to be included in the maintenance grant of such a school where—

- (a) the grant is determined by reference to a local education authority's scheme of local management made under section 33 of the Education Reform Act 1988 and either such an amount is included in individual school budget shares or is retained by the local education authority and is for services other than those provided by educational psychologists or for pupils with statements of special educational needs or whose educational needs are being assessed by a local education authority; or
- (b) the grant is determined otherwise than by reference to a local education authority's scheme and the supplies are to support pupils who do not have statements of special educational needs under section 7 of the Education Act 1981 and whose educational needs are not being assessed under section 5 of that Act (*regulation 2(2)*).