
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace with modifications the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1996 (“the 1996 Regulations”) which are revoked. The Regulations apply, in relation to the 1997–98 financial year, to grant-maintained schools and grant-maintained special schools situated in England but not to completely new grant-maintained schools. Such schools (i.e. those which are not former maintained schools or which are not established in place of existing independent schools) are subject to the Education (New Grant-maintained Schools) (Finance) Regulations 1997 (S.I. 1997/956). The main changes to the provision made by the revoked Regulations are set out below.

Part 2 of the Regulations provides for the determination and redetermination of the amount of maintenance grant to be paid to the governing bodies of schools in respect of which the Regulations apply whose maintenance grant is not determined under Part 3. This is on a similar basis to that provided for under Part 2 of the 1996 Regulations, save that—

(1) The percentages specified in the table in Schedule 1 are revised.

(2) Where a school is situated in the area of more than one local education authority, the Secretary of State can determine, after consultation, which is to be the local education authority in relation to that school (*definition of “local education authority” in regulation 2(1)*).

(3) Where the local education authority which formerly maintained a grant-maintained special school is subject to local government reorganisation (and may, for example, no longer exist) then the Secretary of State can, after consultation, determine that another authority shall be the local education authority in relation to that school. Provision is made where the scheme of that local education authority contains no provision for taking into account the needs of special schools (*regulation 6(6)*).

(4) The provisions relating to cash protection for certain schools are expanded (*regulation 10*).

(5) The funding authority may reduce the amount of maintenance grant payable in respect of a school to take into account excessive balances carried forward from previous years (*regulation 27*).

(6) The funding authority may reduce the amount of maintenance grant payable in respect of a school to take into account excessive severance payments to members of staff paid on or after 1st January 1997 (*regulation 28*).

(7) The funding authority may redetermine the amount of maintenance grant to take into account local education authority capital expenditure charged to their revenue account (*regulation 33*).

(8) There is no longer any provision equivalent to regulation 31 in the 1996 Regulations making allowances for the late supply of budget statements resulting from local government reorganisation.

Part 3 of the Regulations, following Part 3 of the 1996 Regulations, makes provision with respect to the determination and redetermination of the amount of maintenance grant payable in respect of a secondary school, or in certain circumstances a primary school which was formerly a secondary school, situated in the area of any of the listed “secondary relevant authorities”, which became a grant-maintained school on or before 1st April 1997. Part 3 of the Regulations also makes new provision in respect of a primary school, or in certain circumstances a secondary school which was formerly a primary school, situated in the area of Essex County Council, Gloucestershire County Council and the London Borough of Hillingdon (“primary relevant authorities”), which became a grant-maintained school on or before 1st April 1997. Part 3 does not apply to special schools. The basis of determination is similar to that under Part 3 of the 1996 Regulations save that—

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(1) Even though the Regulations do not apply to completely new grant-maintained schools (i.e. schools which are not former maintained schools or which are not established in place of existing independent schools) such schools and completely new schools maintained by the local education authority are taken into account for the purposes of certain calculations e.g. the determination of a school's CFF share under regulation 42.

(2) Part 3 applies in relation to grant-maintained schools which are established in place of existing independent schools with certain modifications (*regulation 39(4) and Schedule 4*).

(3) There is provision for an error contingency within the primary schools total (the amount determined by the Secretary of State to be the appropriate amount of expenditure of a recurrent nature to be incurred on grant-maintained (including new grant-maintained) primary schools situated in the area of a primary relevant authority and primary schools and new primary schools maintained by that authority) for the purpose of redetermining CFF shares on grounds of mistake (*regulations 42(2) and 53 and Schedule 7*).

(4) The funding authority can deduct from a school's CFF share an amount to take into account excessive balances carried over by the school from the previous financial year (*regulation 46*).

(5) The funding authority can deduct from a school's CFF share an amount to take into account excessive severance payments to members of staff paid on or after 1st January 1997 (*regulation 47*).

(6) The funding authority can redetermine the amount of maintenance grant where their determination was made in ignorance of, or was based on a mistake as to, some material fact, or was not in accordance with the Regulations (*regulation 50(6)*). Maintenance grant may only be revised downwards in certain specified circumstances (*regulation 50 (12)*).

Part 4 of the Regulations provides for the payment of capital and special purpose grants on a similar basis to that provided for under Part 4 of the 1996 Regulations. In respect of special purpose grants additional items are added. These are expenditure in connection with contracts for the provision of both property and services, the payment of employers' pension fund contributions and the provision at the school of nursery education. Special purpose grant may also be paid in respect of expenses incurred by the governing bodies of primary schools with fewer than 180 registered pupils (rather than 150 as under the 1996 Regulations) for or in connection with staff absences and the procurement of professional advice.

Consequent on section 257 of the 1996 Act, Part 5 of the Regulations, as did Part 5 of the 1996 Regulations, prescribes the total amount of maintenance grant in respect of schools to which the Regulations apply which may be recovered by the Secretary of State from the local education authority named in a determination under that section.

Part 6 amends regulation 23(2) of the Education (Grant-maintained Special Schools) Regulations 1994 which modifies the application of those sections in the Education Act 1996 which deal with the funding of grant-maintained schools in relation to grant-maintained special schools. The amendment is consequential on the revised definition of "local education authority" in regulation 2(1) whereby the relevant local education authority in relation to a grant-maintained special school may be neither the local education authority in whose area the school is situated nor the authority which formerly maintained it.