
STATUTORY INSTRUMENTS

1997 No. 996

The Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1997

PART 3

MAINTENANCE GRANT—COMMON FUNDING FORMULA

Application and interpretation of Part 3

39.—(1) This Part applies for the purpose of determining the amount of maintenance grant payable in respect of—

- (a) a secondary school in respect of which these Regulations apply situated in the area of a secondary relevant authority which became a grant-maintained school on or before 1st April in the financial year in question;
- (b) a school in respect of which these Regulations apply which is deemed to be a primary school by virtue of the Education (Middle Schools) Regulations 1980(1) but which, in the financial year in question, had, prior to a change in its character, been a secondary school whose maintenance grant was determined under this Part;
- (c) a primary school in respect of which these Regulations apply situated in the area of a primary relevant authority which became a grant-maintained school on or before 1st April in the financial year in question;
- (d) a school in respect of which these Regulations apply which is deemed to be a secondary school by virtue of the Education (Middle Schools) Regulations 1980 but which, in the financial year in question, had, prior to a change in its character, been a primary school whose maintenance grant was determined under this Part; or
- (e) a secondary school situated in the area of a secondary relevant authority or a primary school situated in the area of a primary relevant authority, to which these Regulations apply, which became a grant-maintained school after 1st April in the financial year in question in connection with the discontinuance of another grant-maintained school whose maintenance grant was determined under this Part .

(2) In this Part—

“CFF floor” in relation to a grant-maintained school, a new grant-maintained school or a primary or secondary school or new primary or secondary school maintained by a local education authority means the amount determined for that school under regulation 48;

“CFF share” means—

- (a) in relation to a grant-maintained secondary school, a new grant-maintained secondary school or a secondary school or a new secondary school maintained by a local education authority the share determined for that school under regulation 42(1), and in relation to a grant-maintained primary school, a new grant-maintained primary school or a primary

school or a new primary school maintained by a local education authority the share determined for that school under regulation 42(2), or,

- (b) where regulation 42(4) applies, the amount of that share as redetermined in accordance with regulation 42(4)(b), or the aggregate of that redetermined share and the amount added to it in accordance with regulation 42(4)(c), as the case may be;

“existing CFF area” means the area of a secondary relevant authority falling within part (a) of the definition of “secondary relevant authority” in this regulation;

“new CFF area” means the area of a secondary relevant authority falling within part (b) of the definition of “secondary relevant authority” in this regulation;

“new grant-maintained school” means a grant-maintained school established in the financial year in question pursuant to proposals under section 211 or 212 of the 1996 Act except such a school which is established—

- (a) where section 213(3) of the 1996 Act applies (proposals by promoters to establish a new school in place of an existing independent school which it is proposed to discontinue on or before the date of implementation of the proposals in respect of the new school); or
- (b) in connection with the discontinuance of another grant-maintained school pursuant to proposals published under section 267 or 268 of the 1996 Act;

“new schools” means new grant-maintained schools and new primary and secondary schools maintained by a local education authority;

“primary CFF area” means the area of a primary relevant authority;

“primary relevant authority” means any of the following local education authorities—

- Essex County Council
- Gloucestershire County Council
- The London Borough of Hillingdon;

“relevant authority” means, in the case of a primary school, a primary relevant authority and, in the case of a secondary school, a secondary relevant authority;

“secondary relevant authority” means any of the following local education authorities—

- (a) The London Borough of Barnet
- The London Borough of Brent
- The London Borough of Bromley
- Calderdale Metropolitan Borough Council
- Cambridgeshire County Council
- The London Borough of Croydon
- Cumbria County Council
- Derby City Council
- Derbyshire County Council
- The London Borough of Ealing
- The London Borough of Enfield
- Essex County Council
- Gloucestershire County Council
- Hertfordshire County Council
- The London Borough of Hillingdon
- Kent County Council

The Royal Borough of Kingston upon Thames

The London Borough of Lambeth

Lincolnshire County Council

Surrey County Council

The London Borough of Sutton

Swindon Borough Council (2)

Walsall Metropolitan Borough Council

The London Borough of Wandsworth

Wiltshire County Council

(b) Bournemouth Borough Council

Luton Borough Council

Milton Keynes Council

Poole Borough Council

Rutland County Council (District Council)

Trafford Metropolitan Borough Council;

“primary schools total” in relation to any primary relevant authority means the amount determined by the Secretary of State under regulation 40(1)(b);

“secondary schools total” in relation to any secondary relevant authority means the amount determined by the Secretary of State under regulation 40(1)(a).

(3) In this Part—

references to age bands are references to the age bands for primary and secondary schools, as the case may be, described in paragraph 3A to H of Schedule 5;

references to grant-maintained schools, except in the definition of a new grant-maintained school, do not include new grant-maintained schools;

references to grant-maintained primary schools, except in paragraph (1), include schools referred to in paragraph (1)(e);

references to grant-maintained secondary schools, except in paragraph (1), include schools referred to in paragraph (1)(b);

references to new primary schools or new secondary schools maintained by an authority are references to primary or secondary schools maintained by a local education authority which were established in the financial year in question except to such schools which are established in connection with the discontinuance of another school maintained by that authority pursuant to proposals published under section 167 or 173 of the 1996 Act; and references to primary and secondary schools maintained by a local education authority (except in this paragraph) do not include new primary or new secondary schools maintained by a local education authority;

references to primary schools do not include nursery schools.

(4) This Part shall apply in relation to a grant-maintained school established in place of an existing independent school which was discontinued on or before the date of the establishment of that grant-maintained school, with the modifications set out in Schedule 4.

(2) Swindon Borough Council is known as Thamesdown Borough Council until 1st April 1997.

Secondary schools total and primary schools total

40.—(1) For the purposes of section 244(2) of the 1996 Act the Secretary of State shall determine for each relevant authority and in respect of the financial year in question the amount which appears to her, after consultation with the authority, to be the appropriate amount of expenditure of a recurrent nature to be incurred on—

- (a) in the case of a secondary relevant authority, grant-maintained and new grant-maintained secondary schools situated in the area of that authority and secondary schools and new secondary schools maintained by that authority;
- (b) in the case of a primary relevant authority, grant-maintained and new grant-maintained primary schools situated in the area of that authority and primary schools and new primary schools maintained by that authority.

(2) For the purposes of paragraph (1) expenditure is “of a recurrent nature” if it is not of a class or description specified in Schedule 8.

(3) The Secretary of State shall notify the funding authority and the relevant authority of the primary schools total and the secondary schools total determined by her in respect of that relevant authority.

Determination of amount of maintenance grant

41.—(1) The amount of maintenance grant payable for the financial year in question in respect of a school whose maintenance grant falls to be determined under this Part shall be the aggregate of the amount of the school’s CFF share for that year and any amounts to be added to, or deducted from, that amount determined by the funding authority in respect of the school and that year in accordance with regulations 43(1)(c) and 44 to 47.

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

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

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

Determination of a school’s CFF share

42.—(1) The funding authority shall determine for each grant-maintained and new grant-maintained secondary school situated in the area of a secondary relevant authority and each secondary school and new secondary school maintained by that authority the amount of the school’s share of the secondary schools total for that authority and year obtained by dividing that total between those schools in accordance with Schedule 5.

- (a) (2) (a) The funding authority shall determine for each primary relevant authority an amount referred to in this Part as the “adjusted primary schools total”.
- (b) This is the amount which remains after deducting from the primary schools total for the authority for that year 0.2 per cent of that total (“the error contingency”) for the purpose of making provision within that total for redetermining the amounts of the CFF shares of grant-maintained and new grant-maintained primary schools situated in the area of the authority and primary schools and new primary schools maintained by the authority on the

grounds referred to in regulation 53(1) (redetermination of a primary school's CFF share on grounds of mistake).

(3) The funding authority shall determine for each grant-maintained and new grant-maintained primary school situated in the area of a primary relevant authority and each primary school and new primary school maintained by that authority the amount of the school's share of the adjusted primary schools total for that authority and year obtained by dividing that total between those schools in accordance with Schedule 5.

(4) Where the amount of the CFF share of a school is less than the CFF floor for that school the funding authority shall—

- (a) calculate the amount per pupil (within the meaning of paragraph 16A to F of Schedule 5) which would be required, if—
 - (i) in the case of a secondary school, the amount of the CFF share of each grant-maintained or new grant-maintained secondary school situated in the area of the relevant authority concerned and each secondary school or new secondary school maintained by them, or
 - (ii) in the case of a primary school, the amount of the CFF share of each grant-maintained or new grant-maintained primary school situated in the area of the relevant authority concerned and each primary school and new primary school maintained by them,

were to be redetermined in accordance with that Schedule (but substituting for the amount per pupil referred to in that paragraph in relation to the authority the recalculated amount per pupil), to produce within the adjusted primary schools total or the secondary schools total, as the case may be, for the authority for the financial year in question the amount (referred to below as the “supplementary amount”) required to permit the amount of the CFF share of each school which is less than the amount of its CFF floor or which would be less than that amount if the amount of the CFF share of each school were to be redetermined as aforesaid, to equal the amount of the school's CFF floor, by adding a share of the supplementary amount to the amount of the school's CFF share;

- (b) redetermine the amount of the CFF share of each grant-maintained or new grant-maintained primary or secondary school situated in the area of the relevant authority concerned and each primary or secondary school or new primary or new secondary school maintained by them, as the case may be, in accordance with Schedule 5 but substituting for the amount per pupil referred to in paragraph 16A to F of that Schedule the amount calculated in accordance with sub-paragraph (a) above; and
- (c) add to the amount of the CFF share (as so redetermined) of each school which is less than the amount of its CFF floor the amount by which the latter amount exceeds the former amount.

Link to budgets

43.—(1) Except in relation to Rutland County Council (District Council), where the amount of the primary or secondary schools budget for any relevant authority for the financial year in question (defined in paragraph (2)) exceeds the primary or secondary schools total, as the case may be, for that authority and year, the funding authority shall—

- (a) determine the amount (referred to in sub-paragraph (b) below as “the increased amount”) by which that budget exceeds that total;
- (b) determine to two decimal places the percentage which the increased amount is of the primary or secondary schools total, as the case may be, for the authority;

- (c) add to the amount of the CFF share for each grant-maintained primary or secondary school, as the case may be, situated in the area of the authority the amount obtained by multiplying the amount of that share by that percentage; and
 - (d) add to the amount of the error contingency determined under regulation 42(2) the amount obtained by multiplying that amount by that percentage.
- (2) For the purposes of paragraph (1) the amount of an authority’s primary or secondary schools budget for the financial year in question is the sum for that financial year of the amounts specified in sub-paragraphs (a) to (f) below less the amount specified in sub-paragraph (g) below—
- (a) the aggregate of the amounts which the funding authority determine would be the amounts of maintenance grant in respect of all grant-maintained primary or secondary schools, as the case may be, except those referred to in regulation 39(4) (grant-maintained schools established in place of existing independent schools), situated in the area of the authority if those amounts were determined in accordance with Part 2 and regulations 10 (cash protection) and 33 (capital expenditure from the revenue account) did not apply in the case of any schools and any increase in the number of registered pupils resulting from a significant change in the character of the school falling to be implemented wholly or partly in the financial year in question was ignored;
 - (b) the aggregate of the budget shares of all primary or all secondary schools, as the case may be, maintained by the authority;
 - (c) the aggregate of the amounts which equal the relevant percentage of the budget shares referred to in sub-paragraph (b) above;
 - (d) the aggregate of the amounts which it appears to the funding authority would be the amounts determined under regulation 11 (school meals) in respect of all primary or secondary schools, as the case may be, maintained by the authority if those schools had been grant-maintained schools to which that regulation applies;
 - (e) the aggregate of the CFF shares of all new grant-maintained primary schools or secondary schools, as the case may be, in the area of the authority;
 - (f) the aggregate of the CFF shares of all new primary or secondary schools, as the case may be, maintained by the authority; and
 - (g) where under the relevant authority’s scheme amounts for—
 - (i) pupils with statements of special educational needs,
 - (ii) in the case of Cumbria County Council only, identified pupils with special educational needs who do not have statements and in respect of whom funding is allocated other than on the basis referred to in paragraph 5(7) of Schedule 5, and
 - (iii) places in schools, other than special schools, for pupils with special educational needs,
 are included in the authority’s aggregated budget for that financial year, the aggregate of such amounts for all primary or all secondary schools, as the case may be, in the area of the relevant authority.

Sums to be added to the CFF share

44.—(1) Where, in the case of any school whose maintenance grant for the financial year in question falls to be determined under this Part, it appears to the funding authority that regulation 10 (cash protection) would have applied if that grant had fallen to be determined under Part 2, they shall determine the amount which would have been determined in accordance with regulation 10 in respect of the school (referred to in paragraph (2) below as “the protected amount”).

(2) In any case to which paragraph (1) applies the funding authority shall add to the amount of the school's CFF share the amount by which the protected amount exceeds the difference between the amount of that share and the CFF floor.

(3) Where, in the case of any school whose maintenance grant for the financial year in question falls to be determined under this Part, it appears to the funding authority that an amount would have been determined under regulation 9 (Section 11 funding) if that grant had fallen to be determined under Part 2, they shall determine that amount and add it to the amount of the school's CFF share.

(4) Where, in the case of any school whose maintenance grant for the financial year in question falls to be determined under this Part, it appears to the funding authority that the amount determined under regulation 6, if that grant had fallen to be determined under Part 2, would have included an amount representing a comparable maintained school's share of funding treated by the authority under their scheme as funding for—

- (a) pupils with statements of special educational needs allocated in accordance with the allocation formula under the authority's scheme;
- (b) in the case of Cumbria County Council only, identified pupils with special educational needs who do not have statements and in respect of whom funding is allocated other than on the basis referred to in paragraph 5(7) of Schedule 5; or
- (c) places in schools, other than special schools, for pupils with special educational needs,

they shall determine that latter amount and add it to the amount of the school's CFF share.

(5) The funding authority shall add to the amount of the CFF share of any school whose maintenance grant for the financial year in question falls to be determined under this Part and which became a grant-maintained school on 1st April in the financial year in question, an amount which appears to them to be equal or approximate 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 maintaining local education authority in accordance with their scheme nor made available pursuant to section 116(2) or (3) of the 1996 Act, or, if made available, had not been spent by the governing body in exercise of their powers under section 116(5) of that Act.

Sums to be deducted from the CFF share : deficits incurred in respect of budget share in previous financial years

45.—(1) The funding authority shall deduct from the amount of the CFF share of any school whose maintenance grant for the financial year in question falls to be determined under this Part and which became a grant-maintained school between 1st April 1995 and 1st April 1997 inclusive an amount determined in accordance with paragraph (2).

(2) The funding authority, having consulted the former maintaining local education authority and the governing body of the school, shall determine such amount, if any, as appears to them to be fair and reasonable, in respect of any deficit incurred by the school in respect of its budget share in any previous financial year, having regard, in particular, to the following matters—

- (i) the existence and the terms of any agreement in writing between the then governing body of the school and the maintaining local education authority regarding the repayment of such deficit,
- (ii) the existence in the maintaining local education authority's scheme of provision permitting schools to anticipate their budget shares for the following year in order to finance planned items of expenditure,
- (iii) evidence that the maintaining local education authority took steps to reduce schools' budget shares where deficits have occurred and did not allow schools to carry over deficits from one year to the other with no planned reduction,

- (iv) the practice of the local education authority, in respect of schools which they maintain, regarding the writing off of deficits incurred by such schools in respect of their budget shares in previous financial years, and
- (v) the amount, if any, previously determined by the funding authority in accordance with regulation 15(3), 16(3) or 30(10) of the 1995 Regulations and regulation 25(3), 26(3) or 42(6) of the 1996 Regulations.

Sums to be deducted from the CFF share: excessive surpluses

46.—(1) The funding authority shall, in respect of a school whose maintenance grant for the financial year in question falls to be determined under this Part, determine the amount which appears to them to be equal or approximate to that amount of the school’s maintenance grant, and any special purpose grant paid in respect of costs incurred by the school in respect of Value Added Tax, for any financial year prior to the financial year in question which has not been spent by the governing body (“the unspent amount”).

(2) Paragraph (3) applies where the unspent amount is greater than the sum of—

- (a) 20 per cent of the amount of maintenance grant that would, ignoring the effects of this regulation, be payable in respect of the school for the financial year in question; and
- (b) the amount of special purpose grant which the funding authority estimate they would, ignoring the effects of this regulation, pay to the governing body in the financial year in question in respect of costs incurred by the school in respect of Value Added Tax.

(3) Where this paragraph applies, the funding authority shall deduct from the amount of the CFF share of the school such amount, if any, as the funding authority, having consulted the governing body of the school, may determine being no greater than the difference between the unspent amount and the sum of the amounts referred to in paragraph (2)(a) and (b).

Sums to be deducted from the CFF share: excessive severance payments

47.—(1) This regulation applies in a case where the funding authority are, after consultation with the governing body of a school whose maintenance grant for the financial year in question falls to be determined under this Part, of the opinion that the governing body have, on or after 1st January 1997, made a payment in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school which is, having regard to all the circumstances of the case, excessive.

(2) Where this regulation applies, the funding authority shall deduct from the amount of the CFF share of the school such part of the payment referred to in paragraph (1) as the funding authority regard as excessive.

CFF floor

48.—(1) In the case of a grant-maintained secondary school or a secondary school maintained by a local education authority situated in an existing CFF area its CFF floor shall, subject to the following provisions of this regulation, be the amount determined by the Secretary of State on or before 1st April 1997, for the purposes of section 244(2) of the 1996 Act, as the school’s CFF floor for the financial year in question and if no amount is so determined it shall be the amount determined as the school’s CFF floor under regulation 43 (but ignoring the effect of paragraph (11)) of the 1996 Regulations.

(2) In the case of a grant-maintained primary school or a primary school maintained by a local education authority situated in a primary CFF area or a grant-maintained secondary school or a secondary school maintained by a local education authority situated in a new CFF area its CFF floor

shall be the amount determined by the funding authority in accordance with the following provisions of this regulation.

(3) In the case of a primary school situated in a primary CFF area or a secondary school situated in a new CFF area, which was a grant-maintained school throughout the preceding financial year, the funding authority shall determine the amount of the maintenance grant determined (or, subject to paragraph (4), if that amount was redetermined in the preceding financial year, the amount as most recently so redetermined) under the 1996 Regulations for the school for that year—

- (i) reduced by such amount as appears to the funding authority to be required, where regulation 10(2) or (4) of the 1996 Regulations (cash protection) applied for the purpose of determining (or redetermining) that grant, to reflect the amount which would have been determined under regulation 8(1) of those Regulations (determination of Central AMG) for that purpose if regulation 10(2) or (4) of those Regulations had not so applied,
- (ii) reduced by an amount which appears to the funding authority to be equivalent to any amounts for pupils with statements of special educational needs or for places in schools, other than special schools, for pupils who have special educational needs included in the relevant authority's aggregated budget under their scheme as it applied in that year, and
- (iii) reduced by an amount which appears to the funding authority to be equivalent to any amounts determined under regulation 9 of the 1996 Regulations (Section 11 funding).

(4) To the extent that the amount of maintenance grant referred to in paragraph (3) was redetermined as mentioned in that paragraph by reason of any increase or decrease in the number of registered pupils at the school, no account shall be taken of that redetermination for the purposes of that paragraph.

(5) In the case of a primary school situated in a primary CFF area or a secondary school situated in a new CFF area, which was not a grant-maintained school at any time during the preceding financial year, the amount is the aggregate of the following amounts—

- (a) the amount of the school's budget share for the preceding financial year as initially determined (or, subject to paragraph (6), if that share was revised in the preceding financial year, as most recently so revised)—
 - (i) increased by the amount which it appears to the funding authority would have been the amount required to be determined for the school and that year under regulation 8(1) of the 1996 Regulations (determination of Central AMG) if the school had been a grant-maintained school and the relevant percentage for the purposes of that regulation (instead of the percentage determined in accordance with Schedule 1 to those Regulations) had been the percentage determined in accordance with Schedule 1 to these Regulations,
 - (ii) reduced by an amount equivalent to any amounts for pupils with statements of special educational needs or for places in schools, other than special schools, for pupils who have special educational needs included in the relevant authority's aggregated budget under their scheme as it applied in that year; and
- (b) the amount which it appears to the funding authority would have been the amount required to be determined for the school and that financial year under regulations 9 (expenditure due to ethnic minority population), 11 (school meals), 22 (contingencies) and 23 (nursery education) of the 1996 Regulations (disregarding any amount which would have been required to be determined under regulation 22 (contingencies) of those Regulations in respect of changes in the number of registered pupils at the school), if the school had been a grant-maintained school throughout that year,

apportioned, where proposals under section 167 or 173 of the 1996 Act to cease to maintain or discontinue the school fall to be implemented on a date in the financial year in question, in accordance with the formula

$$\frac{R \times Q}{365}$$

where—

R is the aggregate amount determined in accordance with sub-paragraphs (a) and (b) above; and

Q is the number of days in that year which precede the date on which the authority are to cease to maintain the school.

(6) To the extent that the amount of the school's budget share referred to above in paragraph (5)(a) was revised as therein mentioned by reason of any increase or decrease in the number of registered pupils at the school, no account shall be taken of that revision for the purposes of that sub-paragraph.

(7) In the case of a primary school situated in a primary CFF area or a secondary school situated in a new CFF area, which became a grant-maintained school after 1st April in the preceding financial year, the aggregate of the amount referred to in paragraph (3), leaving out of account its apportionment under regulation 18 of the 1996 Regulations, and of the amount referred to in paragraph (5), adjusted in each case pro rata according to the date in that financial year on which the school became a grant-maintained school.

(8) In the case of a school which, in the opinion of the funding authority, admits significantly more pupils in the financial year in question than it would normally because another school was discontinued, or the local education authority ceased to maintain it, in the preceding financial year, its CFF floor shall be such amount as the funding authority may determine, after consultation with the local education authority, having regard to the CFF floors that would have been determined in respect of both schools had one not been discontinued or the local education authority had not ceased to maintain it and making such adjustments as they consider fair and reasonable.

(9) Where a school is to be discontinued, or the local education authority are to cease to maintain it, in the financial year in question then the funding authority shall reduce the amount of its CFF floor, after consultation with the local education authority, by such amount as they consider fair and reasonable.

(a) (10) (a) Except in relation to the London Borough of Hillingdon, as a primary relevant authority, where it appears to the funding authority that in the preceding financial year the maintenance grant or budget share of a primary school situated in a primary CFF area or a secondary school situated in a new CFF area, was determined on the basis of an incorrect estimate of the numbers of registered pupils at the school for any part of that year, then the funding authority shall add to the amount determined in accordance with the foregoing provisions of this regulation in respect of that school an amount calculated in accordance with sub-paragraph (b) below.

(b) The amount is an amount arrived at by—

- (i) taking the number which appears to the funding authority to be the number of registered pupils at the school in each age band on the date to which the estimate relates less the estimated number of pupils in each age band on that date multiplied by 7/12;
- (ii) multiplying the amount for each age band under (i) above by the amount set out in, whichever is appropriate of, column (1), (2), (3) or (4) for that age band and in respect of that relevant authority in table 1 or 2 in Schedule 6, according as to whether the school is a primary or a secondary school; and
- (iii) multiplying the sum of the amounts derived from (ii) above by the unit cost for age band 3 as shown in column (5) in table 1 in Schedule 6, in the case of a secondary school, or by the unit cost for age band 2P as shown in column (5) in table 2 in Schedule 6, in the case of a primary school.

(11) The funding authority shall add to the amount determined in respect of each school under the preceding provisions of this regulation an amount calculated by—

- (a) multiplying the number of registered pupils, except any pupils referred to in sub-paragraph (b) below, in each age band on 16th January 1997, less the number of registered pupils which it appears to the funding authority were in each age band on 18th January 1996, by the amount set out in, whichever is appropriate of, column (1), (2), (3) or (4) in table 1 or 2 in Schedule 6 for that age band in respect of that relevant authority, according as to whether the school is a primary or secondary school; and
- (b)
 - (i) multiplying the number of registered pupils, at a school situated in the area of Essex County Council, who were admitted to the school in the summer term in the preceding financial year, on or before a date determined by the funding authority, and who will attain the age of 5 years at or before the end of that term, less the number of such pupils who were so admitted in the summer term in the financial year before the preceding financial year, on or before a date determined by the funding authority, by
 - (ii) the amount set out in column (2) in table 2 in Schedule 6 for that age band in respect of that relevant authority; and
- (c) multiplying the aggregate of the amounts derived from sub-paragraphs (a) and (b) above by the unit cost for age band 3 as shown in column (5) in table 1 in Schedule 6, in the case of a secondary school, or by the unit cost for age band 2P as shown in column (5) in table 2 in Schedule 6, in the case of a primary school.

(12) The funding authority shall multiply the amount determined in respect of each primary or secondary school, as the case may be, in accordance with the preceding provisions of this regulation by a figure which is the aggregate of the amounts determined in respect of all primary or secondary schools, as the case may be, to which this regulation applies in the area of the relevant authority in accordance with paragraphs (1) to (9) divided by the sum of the amounts so determined in accordance with paragraphs (1) to (11).

(13) If the aggregate of the amounts determined in respect of each primary or secondary school in the area of a relevant authority by the funding authority in accordance with paragraph (12) is greater than—

- (a) the adjusted primary schools total or the secondary schools total, as the case may be, for that authority; or
- (b) in the case of the London Borough of Brent, the secondary schools total less the total contingency amount referred to in paragraph 16D(2) of Schedule 5 (“the adjusted secondary schools total”),

then the funding authority shall multiply the amount so determined in respect of each school by a figure which is the adjusted primary schools total, the secondary schools total or the adjusted secondary schools total for that authority, as the case may be, divided by the aggregate of the amounts determined in respect of each school in the area of that authority in accordance with paragraph (12).

(14) In the case of a primary school situated in a primary CFF area or a secondary school situated in a new CFF area, the funding authority shall adjust the amount determined in accordance with the foregoing provisions of this regulation by such amount, if any, as appears to them to be fair and reasonable, having consulted the relevant authority, to take into account any transfer of an amount of funding in respect of a pupil pursuant to section 494 of the 1996 Act.

(15) The CFF floor for a new school shall be zero.

Relevant date

49.—(1) Subject to regulation 55, any amount required to be determined by the funding authority under this Part or Schedule 4 (special provision for former independent schools) shall be determined on the information available to them on the relevant date.

(2) In paragraph (1), the relevant date is such date as the funding authority may determine and different dates may be determined for different cases or classes of case.

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

(4) Where—

(a) the funding authority determine the relevant date in respect of any school for the financial year in question in accordance with paragraph (2); or

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

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

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

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

Adjustments

50.—(1) Without prejudice to paragraph (13) but subject to paragraphs (10) to (12) and regulation 54, where, after the funding authority have determined the amount of maintenance grant payable in respect of any school for the financial year in question, any of paragraphs (2) to (6) apply, the funding authority may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with paragraphs (7) to (9).

(2) This paragraph applies where it appears to the funding authority that the number of registered pupils at a school exceeds the number of pupils used for the purposes of determining the amount of its maintenance grant for the financial year in question, and that the relevant authority's scheme makes provision in relation to such increases in pupil numbers at a school.

(3) This paragraph applies where proposals published under section 259 or 260 of the 1996 Act to make a significant change in the character of the school fall to be implemented wholly or partly in the financial year in question.

(4) This paragraph applies where it appears to the funding authority that the amount of the relevant authority's primary or secondary schools budget, as the case may be, for the financial year in question has changed from that initially determined under regulation 43(2).

(5) This paragraph applies where after determining the amount of maintenance grant payable in respect of any school for the financial year in question in accordance with this Part it appears to the funding authority that, by reason of—

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

(b) any change in the level of spending by the local education authority which affects any of the matters referred to in regulation 44,

- (c) any other change affecting the needs of the school, or
- (d) the level of spending by the local education authority on any matter included in accordance with regulation 4(a) of the Education (School Financial Statements) (Prescribed Particulars etc.) Regulations 1995(3) in Part 1 of the authority's statement prepared under section 122(4) of the 1996 Act for the financial year beginning in 1996 exceeding the planned level of spending on that matter included in accordance with Schedule 1 to those Regulations in Part 1 of the authority's statement prepared under section 122(2) of that Act for that year,

the amount so payable should be revised.

(6) Subject to regulation 53 (use of contingency amount to correct mistakes in the CFF share for a primary school), this paragraph applies where the funding authority are satisfied that their determination of the amount of maintenance grant payable in respect of any school for the financial year in question was made in ignorance of, or was based on a mistake as to, some material fact, or was not in accordance with these Regulations.

(7) In any case to which paragraph (3) applies, the funding authority may redetermine the amount of maintenance grant payable in respect of the school for the financial year in question by adding to it the amount calculated by the formula—

$$Z \times \frac{A}{365}$$

, where

Z is the amount which equals (b)-(a) where (a) is the amount of the CFF share for the school (or, where that amount has been redetermined for the purposes of redetermining the amount of maintenance grant in accordance with paragraph 6, that amount as so redetermined) less the amount if any, added under regulation 42(4)(c); and (b) is the amount determined in accordance with paragraph (8); and

A is the number of days in the financial year falling on or after the date on which the proposals referred to in paragraph (3) fall to be implemented.

(8) For the purposes of paragraph (7) the funding authority shall—

- (a) redetermine the total number of funding units for the school in accordance with Schedule 5—
 - (i) substituting, in cases where pupils numbers are determined in accordance with paragraph 3B, D E or F of Part III of Schedule 5 (relevant authorities which do not use estimates of pupil numbers), for the number of registered pupils at the school in the particular age band or bands affected by the change in character the number which the funding authority estimate will be the number of registered pupils at the school in that age band or bands on the date on which the proposals fall to be implemented; or
 - (ii) substituting, in cases where pupils numbers are determined in accordance with paragraph 3A, C or G of Part III of Schedule 5 (relevant authorities which use estimates of pupil numbers), for the number which they estimated would be the number of registered pupils at the school in the particular age band or bands affected by the change in character on the date for estimates in the pupil count, the number which they estimate will be the number of such pupils on the date on which the proposals fall to be implemented; and
- (b) multiply the total number of funding units for the school redetermined in accordance with sub-paragraph (a) above by the amount per pupil for the relevant authority in whose area the school is situated determined in relation to that authority in accordance with paragraph 16A to F of Schedule 5 (or, where that amount has been recalculated in accordance

with regulation 42(4)(c), that amount as so recalculated) for the purposes of the initial determination of maintenance grant for the school for the financial year in question.

(9) The funding authority may redetermine the amount of maintenance grant payable in respect of the school for the financial year in question—

- (a) in any case to which paragraph (2) applies, by adding such amount as appears to them would have been payable to the school under the relevant authority's scheme, had the school been covered by the scheme, in relation to such increases;
- (b) in any case to which paragraph (4), (5) or (6) applies, in accordance with the provisions of this Part, and

if the amount so redetermined is different from the amount previously determined, revise their determination in respect of that school and, if appropriate, in respect of any or all grant maintained primary or secondary schools in the area of the relevant authority in question and primary and secondary schools maintained by that authority, as the case may be, accordingly.

(10) Where, after redetermining the amount of maintenance grant payable in respect of a school for the financial year in question under any of paragraphs (7) to (9), the funding authority further so redetermine that amount, they shall reduce that amount (as so redetermined) by such amount (if any) as seems to them to be appropriate, having regard to any redetermination of the amount of maintenance grant payable in respect of the school for the financial year in question previously made by them under any of those paragraphs.

(11) Subject to paragraph (12), the funding authority may not, in accordance with this regulation and regulation 43 (link to budgets) or in accordance with this regulation and regulation 44 (sums to be added to the CFF share), revise their determination of maintenance grant so as to reduce the amount of grant payable in respect of the school concerned for the financial year in question.

(12) The funding authority may revise their determination of maintenance grant in accordance with this regulation and regulation 43 or 44 so as to reduce the amount payable where—

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

(13) Where it appears to the funding authority that, by reason of any extraordinary circumstances, the amount of maintenance grant determined in respect of a school for the financial year in question is insufficient to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, they may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with paragraph (14).

(14) Where the funding authority decide to redetermine the amount of maintenance grant by virtue of paragraph (13), they shall redetermine that amount by adding to it such amount as appears to them to be necessary for the purpose of enabling the governing body adequately to carry out their functions with respect to the conduct of the school.

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

Further revisions

51. A determination which has been revised in accordance with regulation 50, 51 or 53 may be further revised in accordance with those regulations and may be so further revised notwithstanding that the funding authority are satisfied that the revised determination was not made in accordance with these Regulations.

Deemed primary schools and deemed secondary schools

52.—(1) This regulation applies in the case of a school referred to in regulation 39(1)(b) or (d) (middle school deemed to be a primary or secondary school).

(2) Subject to regulation 54 (transfer of site), where it appears to the funding authority that the amount of maintenance grant determined in respect of a school to which this regulation applies for the financial year in question is insufficient because of the nature of such a school to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, they may after consultation with the local education authority and the governing body of the school redetermine the amount of maintenance grant payable in respect of the school for the year by adding to it such amount as appears to them to be fair and reasonable for the purpose of enabling the governing body adequately to carry out their functions with respect to the conduct of the school.

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

Error contingency amount for primary schools

53.—(1) Subject to regulation 54 (transfer of site), where the funding authority are satisfied that their determination of the amount of the CFF share for any primary school for that 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, they may, before 1st October in the financial year in question, redetermine that amount in accordance with the provisions of this Part and, if the amount so redetermined is different from the amount previously determined, revise their determination for that school and, if appropriate, for all schools in the area of that primary relevant authority and adjust the contingency amount for that primary relevant authority accordingly.

(2) Subject to regulation 54 (transfer of site), where, in the case of any primary relevant authority, paragraph (3) applies, the funding authority shall, as soon as practicable after 1st October in the financial year in question, redetermine the amount of maintenance grant payable in respect of each primary school situated in the area of the authority by adding to it the amount determined in respect of the school in accordance with paragraph (5).

(3) This paragraph applies where on 1st October in the financial in question—

(a) it appears to the funding authority that the available amount in respect of the relevant authority is less than the contingency amount in respect of that authority; or

(b) the funding authority have not redetermined—

(i) the amount of maintenance grant payable in respect of any primary school situated in the area of the relevant authority for that year on the grounds referred to in paragraph (1) (redetermination because of mistake); or

(ii) the amount of the CFF share for any primary school maintained by that authority for that year (or the sum of that amount and any amounts to be added to it in accordance with the preceding provisions of these Regulations, as the case may be) on those grounds.

(4) For the purposes of this regulation and Schedule 7—

the “available amount” means the amount which equals the difference between the contingency amount for that year and the aggregate of any amounts referred to in paragraph (3)(b) which have been redetermined on the grounds referred to in that paragraph; and

the “contingency amount” means the amount (“the error contingency”) deducted from the primary schools total for the authority for that year under regulation 42(2), including any amount added to that error contingency under regulation 43(1)(d).

(5) For the purposes of paragraph (2) the funding authority shall determine for each grant-maintained primary school situated in the area of the relevant authority and each primary school maintained by that authority the amount of the school's share of, where paragraph (3)(a) applies, the available amount, or, where paragraph (3)(b) applies, the contingency amount obtained by dividing that amount between those schools in accordance with Schedule 7.

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

Transfer of site

54.—(1) Where, after the funding authority have determined under this Part the amount of maintenance grant payable in respect of any school for the financial year in question, the school is transferred to a new site in the area of another relevant authority, regulations 50, 52, 53 and 57 shall apply as if the school had not been so transferred.

(2) Where, after the funding authority have determined under Part 2 the amount of maintenance grant payable in respect of any school for the financial year in question, the school is transferred to a new site in the area of a relevant authority, the provisions of that Part shall continue to apply for the purposes of redetermining the amount of maintenance grant payable in respect of the school for that year as if the school had not been so transferred.

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

55.—(1) In its application for the purposes of any redetermination under regulation 50, 53 or 57 of the amount of maintenance grant payable in respect of a school for the financial year in question, regulation 49 shall have effect subject to the following provisions of this regulation.

(2) Where the redetermination of maintenance grant under regulation 50 is made on one or more of the grounds specified in paragraphs (2) to (6) of that regulation the funding authority may take into account for the purposes of the redetermination any information received by them after the relevant date which relates to any of the reasons for making the redetermination.

(3) Where in accordance with paragraph (2) any additional information is taken into account by the funding authority for the purposes of redetermining grant under regulation 50, they may take that information into account for the purposes of making any further redetermination under that regulation.

(4) Regulation 49 shall not apply where a redetermination is made by the funding authority in accordance with regulation 50(13) and (14).

Requirements which may be attached to payment of maintenance grant

56. Regulation 38 applies for the purposes of this Part as it applies for the purposes of Part 2.

Pupil number contingencies in the London Borough of Brent

57.—(1) The funding authority shall, as soon as practicable after 1st October in the financial year in question, redetermine in accordance with, and so far as required by, the following provisions of this regulation the amount of maintenance grant payable in respect of each school situated in the area of the London Borough of Brent (“the authority”) whose maintenance grant falls to be determined under this Part.

(2) If, on 1st October in the financial year in question, it appears to the funding authority that the GM contingency amount is greater than or equal to the aggregate of pupil increase amounts for each

school whose maintenance grant falls to be determined under this Part in the area of the authority then the funding authority shall redetermine the amount of maintenance grant payable in respect of each such school (in so far as required by the following provisions of this paragraph) by adding to it—

- (a) the pupil increase amount for that school; and
 - (b) where the GM contingency amount is greater than the aggregate of pupil increase amounts, an amount determined in accordance with paragraph (3).
- (a) (3) (a) The funding authority shall determine in respect of each school whose maintenance grant falls to be determined under this Part in the area of the authority the number appearing to them to be the number of registered pupils at the school on 16th January 1997.
- (b) The funding authority shall determine the aggregate of the numbers determined in accordance with sub-paragraph (a) above.
 - (c) The funding authority shall determine the amount obtained by dividing the GM contingency amount, less the aggregate of pupil increase amounts, by the number determined under sub-paragraph (b) above.
 - (d) The funding authority shall determine, as the amount to be added under paragraph (2)(b), the amount obtained by multiplying the amount determined under sub-paragraph (c) above by the number of registered pupils at the school determined under sub-paragraph (a) above.

(4) If, on 1st October in the financial year in question, it appears to the funding authority that the GM contingency amount is less than the aggregate of pupil increase amounts for each school whose maintenance grant falls to be determined under this Part in the area of the authority then the funding authority shall redetermine the amount of maintenance grant payable in respect of each such school (in so far as required by the following provisions of this paragraph) by adding to it the amount which is equal to—

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

, where

- A is the GM contingency amount;
- B is the aggregate of pupil increase amounts for each school whose maintenance grant falls to be determined under this Part in the area of the authority; and
- C is the pupil increase amount for the school.

(5) In this regulation—

- “GM contingency amount” means the amount referred to in paragraph 16D(7) of Schedule 5;
- “pupil increase amount” means the pupil increase credit multiplied by the amount per pupil for the authority calculated under paragraph 16D of Schedule 5 or as recalculated under regulation 42(4)(a); and
- “pupil increase credit” means

$$\frac{7}{12} \times (Y \times Z),$$

, where

Y is the number by which the number, appearing to the funding authority to be the number of registered pupils at the school on a date in September 1997 determined by the Secretary of State, exceeds the number appearing to them to be the aggregate of—

- (a) the number of registered pupils at the school on 16th January 1997; and
- (b) 5 per cent of that number or 15 whichever is the smaller; and

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

Z is the number in column (3) opposite the entry for the authority in table 1 in Part VI of Schedule 5.

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