
STATUTORY INSTRUMENTS

1997 No. 996

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

PART 2

MAINTENANCE GRANT SCHEME REPLICATION

Determination of Direct AMG for a complete financial year by reference to a comparable maintained school's budget share

6.—(1) Subject to regulation 7 (alternative method of determining Direct AMG where the school became a grant-maintained school before 1st April) and paragraph (2) below, this regulation applies in the case of a school which became a grant-maintained school on or before 1st April in the financial year in question.

(2) This regulation shall not apply in the case of a school which becomes a grant-maintained school on 1st April in the financial year in question pursuant to proposals published under section 212 of the 1996 Act.

(3) In any case to which this regulation applies, and subject to paragraph (9) and to regulation 7, the funding authority shall determine an amount which appears to them to be equal or approximate to an amount which the local education 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.

(4) Where—

- (a) at any time before the beginning of the financial year in question the allocation formula included a particular factor; and
- (b) the scheme has been revised, varied or replaced under section 111 or 114 of the 1996 Act at any time before the relevant date in relation to the school as initially determined in accordance with regulation 29(2), 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 so revised, varied or replaced,

the allocation formula shall be deemed, for the purposes of determining the amount under paragraph (3), to include such provision for taking into account any such factor as it had effect immediately before the scheme was so revised, varied or replaced:

Provided that the funding authority shall add to, or subtract from, any sum derived from the application of the said provision such amount as appears to them to be fair and reasonable having regard to any increase or decrease in the actual or planned level of spending of the local education authority in respect of schools maintained by them occurring during or since the financial year which preceded the financial year in which such revision, variation or replacement occurred.

(5) Where, by or in consequence of a structural or boundary change (or both such changes) within the meaning of section 14 of the Local Government Act 1992(1), effected by an order made under section 17 of that Act, a local education authority (“the transferor authority”) ceases on a particular date to exercise functions in relation to an area, paragraph (4) shall apply as if the scheme of the transferor authority had been the scheme of the authority (“the transferee authority”) by which such functions are exercisable in relation to that area on and after that date and the transferee authority’s scheme was a revision, variation or replacement of the transferor authority’s scheme under section 111 or 114 of the 1996 Act.

(6) Where the local education authority in relation to a grant-maintained special school has been determined by the Secretary of State under part (c)(ii) of the definition of “local education authority” in regulation 2(1), and the allocation formula in that new authority’s scheme contains no provision for taking into account the needs of special schools, paragraph (4) above shall apply as if the scheme of the former maintaining authority had been the scheme of the new authority and the new authority’s scheme was a revision, variation or replacement of that scheme under section 111 or 114 of the 1996 Act.

(7) 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 funding authority, in applying the allocation formula for the purpose of determining the amount under paragraph (3), to be the amount or amounts determined in accordance with paragraph (8).

(8) For the purposes of paragraph (7), the funding authority 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 funding authority shall decide, adjusted by such amount or amounts as appears or appear to them 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 local education 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 funding authority will be likely to occur before the end of the financial year in question.

(9) Where a school which became a grant-maintained school pursuant to proposals published under section 212 of the 1996 Act possesses a characteristic which is relevant to its needs and the allocation formula does not include a factor which relates to that characteristic then the funding authority may, after consultation with the local education authority and the governing body of the school, in determining the amount under paragraph (3) add such an amount in respect of that characteristic as appears to them to be fair and reasonable.

(10) Subject to paragraphs (11), (12) and (13), references in this Part to a maintained school are references to a school maintained by the local education authority in question, and references to a comparable maintained school are—

- (a) in the case of a primary or secondary school, references to a maintained county school, any characteristics of which relevant for the purposes of any formula of a kind referred to in paragraph (3) are identical to any such characteristics of the grant-maintained school and are references (in particular) to a school—
 - (i) 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
 - (ii) 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; and
- (b) in the case of a special school, references to a maintained special school any characteristics of which relevant for the purposes of any formula of a kind referred to in paragraph (3) are identical to any such characteristics of the grant-maintained special school.

(11) Where the allocation formula includes provision for taking into account the amount of any non-domestic rate payable in respect of a school, the funding authority shall, in applying the allocation formula for the purpose of determining the amount under paragraph (3), apply the 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.

(12) For the purposes of this regulation, it is to be assumed that there is a comparable maintained school covered by the local education authority's scheme whether or not there is in fact such a school; and, for the purposes of paragraph (11), it is to be further assumed that a comparable maintained school is capable of being a charity.

(13) 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.

(14) 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.