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STATUTORY INSTRUMENTS

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**1998 No. 799**

**EDUCATION, ENGLAND AND WALES**

**The Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1998**

<i>Made</i>	- - - -	<i>26th March 1998</i>
<i>Laid before Parliament</i>		<i>27th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

In exercise of the powers conferred on the Secretary of State by sections 244(2), 245, 246(1) and (2), 247(2) and (6), 257 and 569(4) and (5) of the Education Act 1996<sup>(1)</sup> the Secretary of State for Education and Employment hereby makes the following Regulations:

**PART 1**

**GENERAL**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1998 and shall come into force on 1st April 1998.

(2) These Regulations apply in relation to the financial year beginning on that date.

(3) Subject to paragraph (4), these Regulations apply in respect of—

(a) grant-maintained schools situated in England; and

(b) grant-maintained special schools situated in England not being such schools established in pursuance of proposals made by the funding authority under section 339(2) of the 1996 Act.

(4) These Regulations do not apply in respect of grant-maintained schools which are established pursuant to proposals under section 211 or 212 of the 1996 Act (proposals for establishment of new schools) except to such a school which is established—

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(1) 1996 c. 56. Sections 244 to 258 apply to grant-maintained special schools and their governing bodies by virtue of regulation 23 of the Education (Grant-maintained Special Schools) Regulations 1994, S.I. 1994/653, as substituted by regulation 11 of the Education (Grant-maintained Special Schools) (Amendment) Regulations 1994, S.I. 1994/1231 and read with paragraph 1(4) of Schedule 39 to the 1996 Act. For the meaning of “regulations” see section 579(1) of the 1996 Act.

- (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<sup>(2)</sup>.

## Interpretation

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

“the 1996 Act” means the Education Act 1996;

“Central AMG” means the amount determined under regulation 8 or under that regulation as it has effect by virtue of regulation 13, as the context may require;

“Direct AMG” means the amount determined under regulation 6, 7, 12 or 19;

“financial year in question” means the financial year beginning in 1998;

“local education authority” means—

- (a) in relation to any grant-maintained primary or secondary school and any financial year relating to such a school, the local education authority for the area in which the school is situated;
- (b) where such a school is situated in the area of more than one local education authority, the local education authority determined by the Secretary of State under the 1997 Regulations or, if no such determination was made, such local education authority as the Secretary of State, after consultation with those local education authorities concerned, may determine; and
- (c) in relation to any grant-maintained special school and any financial year relating to such a school,
  - (i) the local education authority by which the school was maintained immediately before it became a grant-maintained special school, or
  - (ii) where that authority is the subject of a structural or boundary change (or both such changes) within the meaning of section 14 of the Local Government Act 1992<sup>(3)</sup> effected by an order made under section 17 of that Act, such other local education authority as the Secretary of State may, after consultation with that authority, notify to that authority and to the funding authority in writing;

“preceding financial year” means the financial year beginning in 1997;

“pupils with statements of special educational needs” means pupils for whom statements of their special educational needs are maintained under section 324 of the 1996 Act;

“the 1997 Regulations” means the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1997<sup>(4)</sup>;

(2) Expressions used in these Regulations set out in the first column of the following table shall have the meanings attributed to them by the provisions set out opposite thereto in the second column, references to regulations being references to regulations of these Regulations—

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aggregated budget	section 101(3)(b) of the 1996 Act
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(2) Those grant-maintained schools established pursuant to proposals under section 211 or 212 of the 1996 Act in respect of which these Regulations do not apply are covered by the Education (New Grant-maintained Schools) (Finance) Regulations 1998 (S.I. 1998/798).

(3) 1992 c. 19.

(4) S.I. 1997/996.

allocation formula	section 106(2) of the 1996 Act
capital grants	section 246(1) of the 1996 Act
change in the characteristics of the school	regulation 6(14)
comparable maintained school	regulation 6(10)
date of implementation of the proposals	sections 200(2) and 217 of the 1996 Act
financial year	section 579(1) of the 1996 Act
general schools budget	section 101(3)(a) of the 1996 Act
maintained school	regulation 6(10)
maintenance grant	section 244(1) of the 1996 Act
relevant date	regulation 29(7)
relevant expenditure	regulation 16(3)
relevant percentage	regulation 8(2)
scheme	section 101(1) of the 1996 Act
school's budget share	section 101(3)(c) and (6) of the 1996 Act
special purpose grants	section 245(1) of the 1996 Act.

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(3) In these Regulations references to a school becoming a grant-maintained school are references to a school acquiring grant-maintained status or being established as a grant-maintained school under Part III of the 1996 Act or becoming a grant-maintained special school in pursuance of Part 2 of the Education (Grant-maintained Special Schools) Regulations 1994<sup>(5)</sup>.

(4) 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 Part III of the 1996 Act.

(5) In these Regulations references to primary or secondary schools do not include such schools which are special schools.

(6) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered Part, regulation or Schedule is a reference to the Part, 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.

### **Revocation and transitional provisions**

**3.—**(1) The 1997 Regulations are revoked.

(2) Notwithstanding the provisions of these Regulations—

- (a) the Education (Grant-maintained Schools) (Finance) Regulations 1990<sup>(6)</sup> shall continue to apply for the purposes of—
  - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a school as therein defined situated in England for the financial year ending on 31st March 1991, and

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<sup>(5)</sup> S.I. 1994/653; amended by S.I. 1994/1231 and read with paragraph 1(4) of Schedule 39 to the 1996 Act.

<sup>(6)</sup> S.I. 1990/549; amended by S.I. 1990/2279, 1991/353.

- (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority (within the meaning of those Regulations) of such a school in respect of that year;
- (b) the Education (Grant-maintained Schools) (Finance) Regulations 1991(7) shall continue to apply for the purposes of—
  - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a school as therein defined situated in England for the financial year ending on 31st March 1992, and
  - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority (within the meaning of those Regulations) of such a school in respect of that year;
- (c) the Education (Grant-maintained Schools) (Finance) Regulations 1992(8) shall continue to apply for the purposes of—
  - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a school as therein defined situated in England for the financial year ending on 31st March 1993, and
  - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority (within the meaning of those Regulations) of such a school in respect of that year;
- (d) the Education (Grant-maintained Schools) (Finance) Regulations 1993(9) shall continue to apply for the purposes of—
  - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a school as therein defined situated in England for the financial year ending on 31st March 1994, and
  - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority (within the meaning of those Regulations) of such a school in respect of that year; and
- (e) the 1997 Regulations and those regulations made under section 244 of the 1996 Act(10) applying in relation to the financial years beginning in 1994, 1995 and 1996 shall continue to apply for the purposes of—
  - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a school as therein defined situated in England for the financial year to which they applied, and
  - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the local education authority (within the meaning of those Regulations) of such a school in respect of that year.

(3) Paragraph (1) is without prejudice to the continued operation after 31st March 1998 of any requirements imposed by the Secretary of State or the funding authority on a governing body of a school situated in England to whom payments in respect of maintenance grant, capital grant and special purpose grant have been made under one or more (as the case may be) of the regulations made under section 247 of the 1996 Act(11).

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(7) S.I. 1991/353.

(8) S.I. 1992/555; amended by S.I. 1992/1095.

(9) S.I. 1993/568; amended by S.I. 1993/843.

(10) The relevant Regulations are S.I. 1994/938, 1994/2111, 1995/936 (amended by 1995/1554) and 1996/889.

(11) The relevant Regulations are S.I. 1989/1287, 1990/549 (amended by 1990/2279 and 1991/353), 1991/353, 1992/555 (amended by 1992/1095), 1993/568 (amended by 1993/843), 1994/938, 1994/2111, 1995/936 (amended by 1995/1554) 1996/889 and 1997/996. See the effect of paragraphs 1(3) and 2(1) of Schedule 39 to the 1996 Act.

## PART 2

### MAINTENANCE GRANT

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

4.—(1) The amount of maintenance grant payable for the financial year in question in respect of a school in respect of which these Regulations apply—

- (a) in the case of a school which becomes a grant-maintained school on or after 1st April in the financial year in question pursuant to proposals published under section 212 of the 1996 Act, shall be the aggregate of the following amounts—
  - (i) an amount (Direct AMG) determined in accordance with regulation 19,
  - (ii) an amount (Central AMG) determined in accordance with regulation 8 (or that regulation as it has effect in accordance with regulation 13 (apportionment)), and
  - (iii) an amount determined in accordance with regulation 10 (Section 11 funding), regulation 11 (as it has effect in accordance with regulation 20(1)) or regulation 20(2) (school meals), regulation 22 (contingencies) and regulation 23 (nursery education),subject, in the case of such a school which becomes a grant-maintained school after 1st April in the financial year in question, to apportionment under regulation 21; and
- (b) in any other case, subject to regulation 5 (which provides for the amount of maintenance grant payable for secondary schools in Rutland) and regulation 15 (which provides an alternative method of determining the amount of maintenance grant for schools which became grant-maintained schools in the financial year in question), shall be the aggregate of the following amounts—
  - (i) an amount (Direct AMG) determined in accordance with (as the case may be) regulation 6, 7 or 12,
  - (ii) an amount (Central AMG) determined in accordance with regulation 8 (or that regulation as it has effect in accordance with regulation 13 (apportionment)),
  - (iii) an amount (transitional funding) determined in accordance with regulation 9,
  - (iv) an amount determined in accordance with regulation 10 (Section 11 funding), regulation 11 (school meals) (or that regulation as it has effect in accordance with regulation 14 (apportionment)), regulation 22 (contingencies) and regulation 23 (nursery education),
  - (v) (where applicable) an amount determined in accordance with regulations 24, 25 and 26, (additions or deductions representing unspent sums from previous budget shares, budget deficits from previous years and deductions from current year's budget share), and
  - (vi) (where applicable) an amount determined in accordance with regulations 27 and 28 (deductions representing excessive surpluses in previous years and excessive severance payments).

(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 local education authority's scheme.

### **Secondary Schools in Rutland**

5.—(1) The funding authority shall determine as the amount of maintenance grant payable for the financial year in question in respect of the schools listed in the first column of the following table, the amount set out opposite thereto in the second column—

	£
Uppingham Community College, Rutland	1,626,086
Casterton Community College, Rutland	1,695,438
Vale of Catmose Community College, Rutland	1,536,111.

(2) Where regulation 30 (adjustments) applies and the funding authority decide to redetermine the amount of maintenance grant payable in respect of a school referred to in paragraph (1), the amount of the maintenance grant as so redetermined shall be such amount as the Secretary of State may redetermine for the purposes of this regulation and of section 244(2) of the 1996 Act.

### **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(12), 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.

#### **Alternative method of determining Direct AMG for a complete financial year by reference to historic data**

7.—(1) Subject to paragraph (2), in any case where the school became a grant-maintained school before 1st April in the financial year in question, the funding authority may if they think fit, and after



consulting the local education authority and the governing body of the school, instead of determining an amount under regulation 6(3), determine an amount in accordance with paragraph (3).

(2) This regulation shall not apply in the case of a school which is situated in the area of a local education authority which, by or in consequence of a structural or a boundary change (or both such changes) within the meaning of section 14 of the Local Government Act 1992, effected by an order made under section 17 of that Act, is not the local education authority which maintained it in the preceding financial year.

(3) Where the funding authority decide to determine an amount in accordance with this paragraph they shall determine an amount by—

- (a) taking the amount which was determined under regulation 6, 7, 12 or 19 of the 1997 Regulations as the amount of maintenance grant, comparable to a maintained school's budget share, payable in respect of the school for the preceding financial year; and
- (b) adjusting that amount by such amount as appears to them 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 local education authority in respect of the schools maintained by them occurring since that financial year; and
  - (ii) any significant change in the characteristics of the school occurring as aforesaid or which it appears to them is likely to occur before the end of the financial year in question.

### **Determination of Central AMG**

**8.—**(1) Subject to regulation 13 (apportionment), the funding authority shall determine an amount for Central AMG which is equal to the relevant percentage of the aggregate of the amount determined in respect of the school for Direct AMG.

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

### **Transitional funding**

**9.—**(1) The funding authority shall determine an amount for transitional funding which is equal to the amount, if any, by which the school's protected level of funding in respect of the preceding financial year, determined in accordance with Schedule 2, is greater than the school's adjusted maintenance grant for the financial year in question, determined in accordance with Schedule 2.

(2) Where it appears to the funding authority that, by reason of the particular circumstances of the school, the amount determined in accordance with paragraph (1) is too low, they may, after consultation with the local education authority and the governing body of the school, increase it by such amount as they consider to be fair and reasonable having regard to all the circumstances of the case.

### **Section 11 funding**

**10.—**(1) Subject to paragraph (2), the funding authority shall determine in respect of the period in the financial year in question during which the school is a grant-maintained school ("the period in question"), the amount, if any, which it appears to them, were the school maintained by the local education 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(13) 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 or grant from any of the European Communities.

(2) If no such amount as referred to in paragraph (1) could have been so allocated in respect of the period in question the funding authority shall determine—

- (a) the amount which could have been so allocated in respect of an equivalent period in the last financial year, if any, in which any amount could have been so allocated; or
- (b) if no such amount as is referred to in sub-paragraph (a) above could have been so allocated such amount as appears to them to be fair and reasonable, being not more than half of the amount of “approved expenditure” which they estimate will be incurred by the governing body of the school for the period in question.

(3) In paragraph (2)(b) “approved expenditure” means expenditure of the kind referred to in section 11 of the Local Government Act 1966 both in respect of posts and of an amount approved by the Secretary of State for the purpose of making grants in respect of such expenditure.

### Calculation of an amount in respect of the provision of school meals

11.—(1) Subject to regulations 14 (apportionment) and 20 (schools becoming grant-maintained in the financial year in question pursuant to proposals published under section 212 of the 1996 Act), the funding authority 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 on a date in the preceding financial year determined by the funding authority;

F is the amount which, in the opinion of the funding authority, the local education authority will spend in the financial year in question in providing meals to pupils in receipt of free school meals at relevant schools, excluding any such expenditure falling within their aggregated budget;

P is the number of registered pupils in receipt of free school meals at relevant schools on a date in the preceding financial year determined by the funding authority;

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 funding authority;

G is the amount, which may not be less than zero, which, in the opinion of the funding authority, the local education authority will spend in the financial year on school meals, other than free school meals, at relevant schools and excluding—

- (i) expenditure to be met from any charges for such meals, and
- (ii) expenditure falling within their aggregated budget; 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 funding authority.

(2) In paragraph (1) “relevant schools” means all primary or all secondary schools or all special schools maintained or formerly maintained by the authority required to be covered by a statement for the year under section 122(2) of the 1996 Act, according as to whether the school is a primary school, a secondary school or a special school.

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(13) 1966 c. 42, as substituted by section 1(1) of the Local Government (Amendment) Act 1993 (c. 27). Section 11 is extended by section 211 of the Education Reform Act 1988 (c. 40) to which there are amendments not relevant to these Regulations.

**Determination of Direct AMG for part of a financial year**

12.—(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, other than a school which does so pursuant to proposals published under section 212 of the 1996 Act (where regulation 19 applies).

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

(3) The funding authority shall determine an amount which appears to them to be equal or approximate 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 maintaining local education authority in accordance with their scheme nor made available pursuant to section 116(2) and (3) of the 1996 Act, or, if made available, had not been spent by the governing body of the school in exercise of their powers under section 116(5) of the 1996 Act.

**Determination of Central AMG—apportionment for schools becoming grant-maintained part way through a financial year**

13.—(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 (determination of Central AMG) shall have effect as if it required the funding authority to determine the relevant percentage of the amount determined in accordance with the following formula—

$$\frac{(A \times J),}{365}$$

where

J is the amount of the school’s budget share for the financial year in question or, in the case of a school which becomes a grant-maintained school pursuant to proposals published under section 212 of the 1996 Act, the amount determined in respect of the school in accordance with regulation 19, and

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.

**Apportionment in respect of the provision of school meals for schools becoming grant-maintained part way through a financial year**

14.—(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 other than a school which does so pursuant to proposals published under section 212 of the 1996 Act (where regulation 20 applies).

(2) Where, in the case of any school to which this regulation applies, the amount of maintenance grant is determined in accordance with regulation 4(1)(b), the amount of maintenance grant payable in respect of the provision of school meals determined under regulation 11 for the financial year in question shall be apportioned in accordance with the following formula—

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

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;

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

C is the amount determined in accordance with regulation 11 (school meals);  
 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 1st April—31st July	F = 1.0
date of implementation of the proposals 1st August—31st December	F = 1.015
date of implementation of the proposals 1st January—31st March.	F = 1.02

**Alternative method of determination of maintenance grant by reference to historic data for schools which become grant-maintained in the financial year in question**

15.—(1) The funding authority, in the case of a school which becomes a grant-maintained school in the financial year in question, may, subject to paragraph (2), instead of making a determination under regulation 4(1)(b), determine the amount of maintenance grant payable in respect of the school for that year in accordance with the following provisions of this regulation.

(2) This regulation shall not apply in the case of a school which is situated in the area of a local education authority which, by or in consequence of a structural or a boundary change (or both such changes) within the meaning of section 14 of the Local Government Act 1992, effected by an order made under section 17 of that Act, is not the local education authority which maintained it in the preceding financial year.

(3) 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 16(1) and 17.

(4) The funding authority shall consult the local education 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.

16.—(1) The funding authority 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 funding authority shall determine an amount which appears to them to be equal or approximate to the amount of relevant expenditure incurred by the maintaining local education authority in respect of the school in the preceding financial year.

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

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

(5) The funding authority 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, F, P, S, G and B represent the matters respectively denoted by those letters in regulation 11.

(6) The sum of the amounts determined in accordance with paragraphs (2), (4) and (5) may be adjusted by such amount as the funding authority are 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 local education authority in respect of the schools maintained by them occurring during or since the end of the preceding financial 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.

17. The funding authority shall determine—

- (a) an amount equal to the amount which would have been determined in respect of the school in accordance with regulations 24, 25 and 26 (additions or deductions representing unspent sums from previous budget shares, budget deficits from previous years and deductions from current year's budget share) if the amount of maintenance grant for the school were to be determined under regulation 4(1)(b); and
- (b) where, if the amount of maintenance grant for the school were to be so determined, an amount would have been determined in respect of the school in accordance with regulation 10 (Section 11 funding), that amount.

**Apportionment of maintenance grant determined by reference to historic data for schools which became grant-maintained after 1st April in the financial year in question**

18. Where in the case of a school which becomes a grant-maintained school after 1st April in the financial year in question the amount of maintenance grant is determined in accordance with regulation 15 (which provides for the determination of the amount of maintenance grant by an alternative method to that provided for in regulation 4(1)(b)), 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 16(1);

G is the amount or amounts determined in respect of the school in accordance with regulation 17; and

A, B, and F represent the matters respectively denoted by those letters in regulation 14(2) (apportionment of provision for school meals).

**Determination of Direct AMG for a school which becomes grant-maintained in the financial year in question pursuant to proposals published under section 212 of the 1996 Act**

19.—(1) This regulation applies in the case of a school which becomes a grant-maintained school on or after 1st April in the financial year in question pursuant to proposals published under section 212 of the 1996 Act(14).

(2) Subject to paragraph (3), in any case to which this regulation applies, the funding authority shall determine an amount (Direct AMG) which appears to them to be equal or approximate to an

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(14) These Regulations do not apply to those grant-maintained schools established pursuant to proposals under section 212 of the 1996 Act to which the Education (New Grant-maintained Schools) (Finance) Regulations 1998 (S.I. 1998/798) apply, see regulation 1(3) and (4) of these Regulations.

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 complete financial year in question.

(3) Where the allocation formula determines a part of a school's budget share by reference to the number of registered pupils at the school on a date or dates which are before the date on which the school became a grant-maintained school, the funding authority may in determining the number of registered pupils at the school for the purposes of paragraph (2) substitute for that date or dates a date or dates in the first school term during which the school was a grant-maintained school.

(4) Paragraphs (4), (5), (9), (11), (12) and (13) of regulation 6 (allocation formula) shall also apply to this regulation.

**Determination of an amount in respect of the provision of school meals for a school which becomes grant-maintained in the financial year in question pursuant to proposals published under section 212 of the 1996 Act**

**20.**—(1) In the case of a school which becomes a grant-maintained school on or after 1st April in the financial year in question pursuant to proposals published under section 212 of the 1996 Act, the formula in regulation 11 (school meals) shall apply but "S" shall be the number of registered pupils at the school who bought meals at the school on a date in the financial year in question determined by the funding authority.

(2) Without prejudice to regulation 30 (adjustments), until such time as the funding authority are able to determine an amount by the application of the formula in regulation 11, as modified by this regulation, having regard to the date determined by them for the purposes of "S", the funding authority shall determine such amount ("the estimated amount") in respect of the provision of school meals as appears to them to be fair and reasonable and if the amount subsequently determined in accordance with the said formula is different from the estimated amount, they may revise their determination accordingly (whether or not this reduces the amount of maintenance grant payable in respect of the school for the financial year in question).

**Apportionment of maintenance grant determined under regulation 4(1)(a) for a school which becomes grant-maintained pursuant to proposals published under section 212 of the 1996 Act**

**21.** The amount of maintenance grant payable for the financial year in question in respect of a school which becomes a grant-maintained school after 1st April in the financial year in question, pursuant to proposals published under section 212 of the 1996 Act, shall be the amount determined in accordance with regulation 4(1)(a) apportioned in accordance with the following formula—

$$\frac{(A \times C \times F)}{(B)} \quad \text{--} \quad \frac{(A \times D)}{(B)} \quad \text{.} \quad \text{+ E.}$$

where

A, B and F represent the matters respectively denoted by those letters in regulation 14(2) (apportionment of provision for school meals);

C is the amount determined in accordance with regulation 11 (as it has effect in accordance with regulation 20(1)) or regulation 20(2) (school meals);

D is the sum of the amounts determined in accordance with regulation 19 (Direct AMG); and

E is the amount determined in accordance with regulation 8 or that regulation as it has effect in accordance with regulation 13 (apportionment) (Central AMG), regulation 10 (Section 11 funding), regulation 22 (contingencies) and regulation 23 (nursery education).

## **Contingencies**

**22.** The funding authority shall determine the amount which it appears to them, were the school maintained by the local education authority, could have been allocated for the purposes of the school in accordance with the authority's scheme in respect of contingencies.

## **Nursery Education**

**23.** Where the school provides education for junior pupils who have not attained the age of five years, the funding authority shall determine an amount in respect of such provision which they are satisfied is fair and reasonable having regard in particular to the extent to which, in their opinion, the cost of such provision ought to be met from the amount determined in accordance with (as the case may be) regulation 6, 12 or 19 (Direct AMG).

## **Determination of an amount representing the unspent sum of a previous financial year's budget share**

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

(2) In any case to which this regulation 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(1) (b) shall include an amount determined in accordance with paragraph (3).

(3) The funding authority shall determine the 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.

## **Determination of an amount in respect of a budget deficit in previous financial years**

**25.—(1)** Subject to paragraph (4), this regulation applies in the case of a school which becomes a grant-maintained school between 1st April 1995 and 1st April 1998 inclusive.

(2) In any case to which this regulation 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(1) (b) shall have deducted from them such amount, if any, determined in accordance with paragraph (3).

(3) The funding authority, having consulted the 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—

- (a) 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;
- (b) 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;
- (c) 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;

- (d) 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
- (e) the amount, if any, previously determined in respect of the school by the funding authority in accordance with regulation 15(3), 16(3) or 30(10) of the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1995<sup>(15)</sup> (“the 1995 Regulations”), regulation 25(3), 26(3) or 42(6) of the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1996<sup>(16)</sup> (“the 1996 Regulations”) or regulation 25(3), 26(3) or 45 of the 1997 Regulations.

(4) This regulation shall not apply in the case of a school if the funding authority, in accordance with regulation 15(3) of the 1995 Regulations, regulation 25(3) of the 1996 Regulations or regulation 25(3) of the 1997 Regulations, determined no amount in respect of that school.

#### **Determination of an amount in respect of sums deducted from a school’s budget share**

**26.**—(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) In any case to which this regulation 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(1) (b) shall include such amount, if any, determined in accordance with paragraph (3).

(3) The funding authority, having consulted the 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, being all or part of any sum deducted from the school’s budget share for the financial year in question by the maintaining local education authority 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—

- (a) 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;
- (b) 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;
- (c) 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; and
- (d) 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.

#### **Excessive surpluses**

**27.**—(1) The funding authority shall determine the amount which appears to them to be equal or approximate to that amount of the school’s maintenance grant and 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—

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<sup>(15)</sup> S.I. 1995/936; amended by 1995/1554.

<sup>(16)</sup> S.I. 1996/889.



- (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 amounts to be added together for the purpose of determining the amount of maintenance grant payable in respect of the school under regulation 4(1) shall have deducted from them 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).

### **Excessive severance payments**

**28.**—(1) This regulation applies in a case where the funding authority are, after consultation with the governing body of the school, 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 or wholly improper.

(2) Where this regulation 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(1) shall have deducted from them such part of the payment referred to in paragraph (1) as the funding authority regard as excessive or, where they are of the opinion that the payment is wholly improper, the whole of the payment.

### **Relevant date**

**29.**—(1) Subject to regulation 37 (relevant date for the purposes of a redetermination of the amount of maintenance grant), any amount required to be determined by the funding authority under this Part 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 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**

**30.**—(1) Without prejudice to paragraph (5) but subject to regulation 36 (transfer of site), this paragraph applies where—

(a) 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—

- (i) any change in the characteristics of the school,
- (ii) any change in the level of spending by the local education authority, or
- (iii) any other change affecting the needs of the school,

the amount so payable should be revised; or

(b) 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.

(2) In any case to which paragraph (1) applies, the funding authority 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 their determination accordingly.

(3) Subject to paragraph (4), paragraph (2) shall not enable the funding authority to 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.

(4) The funding authority may revise their determination of maintenance grant 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.

(5) 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 (6), and revise their determination accordingly.

(6) Where the funding authority decide to redetermine the amount of maintenance grant by virtue of paragraph (5), 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.

### **Schools with wide age ranges**

**31.**—(1) This regulation applies in the case of a primary or secondary school which provides full-time education suitable to the requirements of pupils within an age range which spans from between 5 and 7 years of age inclusive to between 16 and 18 years of age inclusive.

(2) 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 and revise their determination by adding 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.

**Schools situated in the area of a local education authority which is not the area of the former maintaining authority**

**32.**—(1) Subject to paragraph (2), where a primary or secondary school is situated in the area of a local education authority which is not the area of the local education authority which maintained it immediately before it became a grant-maintained school, the funding authority may redetermine the amount of maintenance grant payable in respect of the school for the year and revise their determination by adding to or deducting from the amount so determined such sum as, having consulted the local education authority and the governing body of the school, appears to them to be fair and reasonable in all the circumstances having regard in particular to the differences between the scheme of the former maintaining local education authority and the scheme of the local education authority in whose area the school is situated.

(2) Paragraph (1) shall not apply where the circumstances referred to in that paragraph exist only by or in consequence of a structural or a boundary change (or both such changes) within the meaning of section 14 of the Local Government Act 1992(17) effected by an order made under section 17 of that Act.

**Redetermination to take into account local education authority capital expenditure from the revenue account**

**33.**—(1) The funding authority may redetermine the amount of maintenance grant payable in respect of the school for the year and revise their determination by adding to the amount so determined such sum as appears to them to be fair and reasonable having regard to—

- (a) the amount of expenditure of a capital nature incurred by the local education authority in respect of relevant schools;
- (b) the proportion of the total amount of expenditure of a capital nature incurred by the local education authority charged to a revenue account of the authority as defined in section 41(2) of the Local Government and Housing Act 1989(18);
- (c) the amount of capital grants paid to the governing body of the school by the funding authority in the financial year in question.

(2) In paragraph (1)—

“expenditure of a capital nature” means expenditure treated by the local education authority as expenditure of a capital nature;

“relevant schools” means all primary or all secondary schools or all special schools maintained or formerly maintained by the authority required to be covered by a statement for the year under section 122(2) of the 1996 Act, according as to whether the school is a primary school, a secondary school or a special school.

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(17) 1992 c. 19.

(18) 1989 c. 42.

### **Notice of revisions to the governing body and the local education authority**

34. Where in accordance with regulation 20 (redetermination of school meals), 30 (adjustments), 31 (schools with wide age ranges), 32 (schools situated in the area of a local education authority which is not the area of the former maintaining authority) or 33 (capital expenditure from the revenue account) the funding authority revise the amount of maintenance grant payable in respect of any school for the financial year in question they shall give notice thereof to the local education authority and to the governing body of the school.

### **Further revisions**

35. A determination which has been revised in accordance with regulation 30, 31, 32 or 33 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.

### **Transfer of site**

36. 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 local education authority, the provisions of this Part shall 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**

37.—(1) In its application for the purposes of any redetermination under regulation 30 (adjustments) of the amount of maintenance grant payable in respect of a school for the financial year in question, regulation 29 (relevant date) shall have effect subject to the following provisions of this regulation.

(2) Where the redetermination of maintenance grant is under regulation 30(2) on one or more of the grounds specified in paragraph (1)(a) 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 the redetermination of maintenance grant under regulation 30(2) is made on the grounds, specified in paragraph (1)(b) of that regulation, that the funding authority are satisfied that their determination was made in ignorance of, or was based on a mistake as to, some material fact, they may take into account any information received by them 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 funding authority for the purposes of redetermining grant under regulation 30(2), they may take that information into account for the purposes of making any further redetermination under that regulation.

(5) Regulation 29 (relevant date) shall not apply where a redetermination is made by the funding authority in accordance with regulation 30(5) and (6) (redetermination by reason of extraordinary circumstances), 31 (schools with wide age ranges), 32 (schools situated in the area of a local education authority which is not the area of the former maintaining authority) or 33 (capital expenditure from the revenue account).

(6) Where the redetermination of maintenance grant is in accordance with regulation 20 (redetermination of school meals), the funding authority may take into account information received

by them after the relevant date which relates to the number of registered pupils at the school who bought meals at the school on the date determined by the funding authority.

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

**38.**—(1) The requirement set out in paragraph 1 of Schedule 4 (conduct of school) is specified as a requirement which may be imposed by the funding authority on governing bodies to whom payments of maintenance grant are or have been made.

(2) The funding authority may determine, for the purposes of the application of section 247(1) and (2) of the 1996 Act to such governing bodies, any requirement referred to in paragraphs 2 to 4 of Schedule 4 (requirements as to accounts and financial affairs).

### **PART 3**

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

##### **Capital grants**

**39.**—(1) Subject to paragraph (2), the funding authority may pay capital grants in respect of expenditure of a capital nature of a class or description specified in Schedule 5 incurred or to be incurred by the governing body of a school in respect of which these Regulations apply.

(2) In the case of a special school which is established in a hospital, paragraph (1) shall apply only in respect of expenditure of a class or description specified in paragraph 1(d) of Schedule 5.

##### **Special purpose grants**

**40.**—(1) The funding authority may pay special purpose grants in respect of expenditure of any class or description specified in Schedule 6 incurred or to be incurred by the governing body of a school in respect of which these Regulations apply—

- (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 funding authority the governing bodies of such 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 capital or special purpose grants**

**41.**—(1) The requirements set out in paragraph 1 of Schedule 4 (conduct of the school) and paragraph (2) below are specified as requirements which may be imposed by the funding authority on governing bodies to whom payments of capital or 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 funding authority.

(3) The funding authority may determine for the purposes of the application of section 247(1) and (2) of the 1996 Act to such governing bodies as are referred to in paragraph (1)—

- (a) any requirement referred to in paragraphs 2 to 4 of Schedule 4 (requirements as to accounts and financial affairs);
  - (b) any requirement formulated for the purpose of assisting the funding authority to be satisfied 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 the funding authority 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 the funding authority in accordance with this regulation subject to which the payments were made is not complied with.
- (4) The funding authority may determine for the purposes of the application of that section to such governing bodies as are referred to in paragraph (1), requirements as to the payment to the funding authority, if any conditions specified in the requirements are satisfied, of the whole or any part of the amount referred to in section 247(7) of the 1996 Act (subject always, where any payment is made in respect of capital grants, to the provisions of section 247(8) of that Act).

## PART 4

### RECOVERY OF AMOUNTS IN RESPECT OF MAINTENANCE GRANT FROM A LOCAL EDUCATION AUTHORITY

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

**42.**—(1) Subject to paragraph (2) below, the total amount which the Secretary of State may recover by virtue of section 256 of the 1996 Act from a local education authority named in a determination under that section applying that section in respect of any school in respect of which these Regulations apply, in relation to the financial year in question, 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) excluding any amount determined under regulation 33 (capital expenditure from the revenue account).

(2) The amount which would otherwise fall to be determined in accordance with paragraph (1) above as the total amount recoverable from a local education authority by virtue of section 256 of the 1996 Act in respect of any such school for the financial year in question 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

Regulation 8(2)

### DETERMINATION OF THE RELEVANT PERCENTAGE

1. This Schedule applies for the purposes of determining the relevant percentage under regulation 8(1) or 16(4).

2. The relevant percentage in respect of any primary or secondary school is the percentage determined for the school in accordance with paragraph 3 and in respect of any special school is the percentage determined for the school in accordance with paragraph 4. In determining the relevant percentage no account shall be taken of expenditure by the local education authority which is offset by income received other than as central grants or grant from any of the European Communities.

3.—(1) For the purposes of this paragraph, the funding authority shall determine the percentage which the amount determined in accordance with sub-paragraph (2) below is of the amount which appears to them to be equal to the amount of the local education authority's aggregated budget for primary or secondary schools for the financial year in question included in accordance with regulation 3(a) of, and notes (3) and (8) or (4) and (8), as the case may be, in Schedule 1 to, the Education (School Financial Statements) (Prescribed Particulars etc.) Regulations 1995(19) ("the 1995 Regulations"), in Part 1 of the authority's statement prepared under section 122(2) of the 1996 Act for that year ("the statement"), according as to whether the school is a primary school or a secondary school.

(2) The funding authority shall determine an amount by the application of the following formula—

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

where

A is the amount of that part of the local education authority's general schools budget for primary and secondary schools for the financial year in question included in accordance with regulation 3(a) of, and notes (3) and (44) or (4) and (44), as the case may be, in Schedule 1 to the 1995 Regulations in Part 1 of the Statement which, in the opinion of the funding authority, would remain after deducting—

- (a) their aggregated budget for the year; and
- (b) the aggregate of the amounts referred to in paragraph 5.

B is the number of registered pupils on a date determined by the funding authority at all primary schools or all secondary schools maintained or formerly maintained by the local education authority (according as to whether the school is a primary school or a secondary school) which are required to be covered by a statement for the financial year in question under section 122(2) of the 1996 Act; and

C is the number of registered pupils on that date at all such schools whether primary or secondary.

4.—(1) For the purposes of this paragraph, the funding authority shall determine the percentage which the amount determined in accordance with sub-paragraph (2) below is of the amount of that part of the local education authority's aggregated budget which is for special schools for the financial year in question included, in accordance with regulation 3(a) of, and notes (5) and (8) in Schedule 1 to, the 1995 Regulations, in Part 1 of the authority's statement prepared under section 122(2) of the 1996 Act for that year ("the statement").

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(2) The funding authority shall determine the amount remaining after the sum of the amount of the local education authority's aggregated budget referred to in sub-paragraph (1) above and the aggregate of the amounts referred to in paragraph 5 is deducted from the amount of that part of the authority's general schools budget which is for special schools for the financial year in question included, in accordance with regulation 3(a) of, and notes (5) and (44) in Schedule 1 to, the 1995 Regulations, in the statement.

5.—(1) The amounts referred to in paragraphs 3 and 4 are the amounts included in the statement, in accordance with regulation 3(a) of, and the relevant notes in Schedule 1 to, the 1995 Regulations, in respect of the following matters—

- (a) capital expenditure (35);
- (b) capital financing costs (36);
- (c) provision of transport for pupils between home and school (25);
- (d) existing commitments to pay compensation for redundancy, dismissal or premature retirement of staff (40)(b);
- (e) assessing pupils' special educational needs, making special educational provision for pupils with statements of special educational needs and reviewing such statements (13)(a) and (39);
- (f) education welfare services (37);
- (g) educational psychology services (38);
- (h) provision for pupils of clothing, board and lodging and financial support (28);
- (i) expenditure expected to be offset by income received as grant (41)(a)(i) and (b);
- (j) provision of school meals and milk (26)(a) and (b);
- (k) contingencies (31);
- (l) expenditure of the kind referred to in section 11 of the Local Government Act 1966<sup>(20)</sup> not expected to be offset by income received as central government grants or grant from any of the European Communities (41)(a)(ii); and
- (m) expenditure which is expected to be offset by income received from Her Majesty's Chief Inspector of Schools in England (27); and
- (n) provision of education at a school, other than a pupil referral unit, under section 19(1) of the 1996 Act.

(2) For the purposes of sub-paragraph (1) above "the relevant notes" means, in relation to each matter set out in items (a) to (m) in that sub-paragraph, note (5) and the note indicated in respect of that matter.

## SCHEDULE 2

Regulation 9

### TRANSITIONAL FUNDING

1.—(1) This Schedule applies for the purpose of determining the amount of a school's protected level of funding for the preceding financial year and the amount of its adjusted maintenance grant for the financial year in question (the amount by which the former exceeds the latter being the amount of the school's transitional funding under regulation 9).

<sup>(20)</sup> 1966 c. 42, as substituted by section 1(1) of the Local Government (Amendment) Act 1993 (c. 27). Section 11 is extended by section 211 of the Education Reform Act 1988 (c. 40) to which there are amendments not relevant to these Regulations.



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(2) References in paragraph 2 to a numbered regulation or Schedule are references to the regulation or Schedule in the 1997 Regulations bearing that number.

2.—(1) Subject to paragraph 5, the funding authority shall calculate the protected level of funding for the preceding financial year for each school according to the formula  $(a \div b) \times c$ .

(2) For the purposes of the formula in sub-paragraph (1) and subject to sub-paragraph (4), “a”, in the case of a school whose maintenance grant was determined in the preceding financial year in accordance with Part 2 of the 1997 Regulations, other than in accordance with regulation 15, is the aggregate of the following amounts, in each case as last determined or redetermined in respect of the school before 16th December 1997 or, in the case of any special purpose grant, as paid in respect of the school before that date—

- (a) the amount (Direct AMG) determined in accordance with regulation 6, 7, or 19;
- (b) in the case of a school whose Direct AMG was determined in accordance with regulation 12, the amount which appears to the funding authority to be equal or approximate to the amount of the school’s budget share for that financial year;
- (c) the amount (Central AMG) determined in accordance with regulation 8 (or that regulation as it has effect by virtue of regulation 10 (cash protection));
- (d) the amount determined in accordance with regulation 11 (or that regulation as it has effect in accordance with regulation 20(1)) or regulation 20(2) (school meals);
- (e) the amount determined in accordance with regulation 22 (contingencies) in respect of contingencies arising other than from increases in pupil numbers at the school during the course of that financial year;
- (f) the amount determined in accordance with regulation 23 (nursery education);
- (g) the amount added or deducted under regulation 32 (schools situated in the area of the authority which is not the area of the former maintaining authority);
- (h) the amount added under regulation 33 (capital expenditure from the revenue account);
- (i) the amount paid under paragraph 2(f) of Schedule 9 (expenditure for or in connection with the provision at the school of nursery education as defined in section 1 of the Nursery Education and Grant-Maintained Schools Act 1996).

(3) For the purposes of the formula in sub-paragraph (1) and subject to sub-paragraph (4) “a” in the case of a school whose maintenance grant was determined in the preceding financial year under regulation 15, is the aggregate of the following amounts, in each case as last determined or redetermined in respect of the school before 16th December 1997, or in the case of any special purpose grant, as paid in respect of the school before that date—

- (a) the amount determined under regulation 15;
- (b) the amount added under regulation 33 (capital expenditure from the revenue account);
- (c) the amount paid under paragraph 2(f) of Schedule 9 (expenditure for or in connection with the provision at the school of nursery education as defined in section 1 of the Nursery Education and Grant-Maintained Schools Act 1996).

(4) For the purpose of determining the amounts referred to in sub-paragraphs (2) and (3) no account shall be taken of—

- (a) funding for pupils with statements of special educational needs of a kind which the local education authority could have determined, by the application of the allocation formula in their scheme in relation to a comparable maintained school covered by the scheme, as part of such a school’s budget share for all or part of the preceding financial year, in so far as such funding or a corresponding percentage of such funding could not also have been so determined for the equivalent period in the financial year in question;

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- (b) regulations 9 and 17(b) (Section 11 funding);
- (c) regulation 13 (apportionment of Central AMG);
- (d) regulation 14 (apportionment of school meals funding);
- (e) regulations 18 and 21 (apportionment of maintenance grant);
- (f) regulation 22 (contingencies) in respect of contingencies arising from increases in pupil numbers at the school during the course of the financial year;
- (g) regulations 17(a), 24, 25 and 26 (additions or deductions representing unspent sums from previous budget shares, budget deficits from previous years and deductions from current year's budget share);
- (h) regulations 27 and 28 (deductions representing excessive surpluses in previous years and excessive severance payments);
- (i) regulation 31 (schools with wide age ranges).

(5) In the case of a school to which regulation 5(2) of the 1997 Regulations applied (precise calculation of maintenance grant impracticable etc.) the funding authority shall determine as the amount of "a" such amount as appears to them to be fair and reasonable having regard to the amount of maintenance grant which they determined in respect of the school in accordance with the 1997 Regulations and the provisions of sub-paragraphs (2) and (4) above.

(6) For the purposes of the formula in sub-paragraph (1) and subject to sub-paragraph (7), "a", in the case of a school whose maintenance grant was determined in the preceding financial year in accordance with Part 3 of the 1997 Regulations, is the aggregate of the following amounts, in each case as last determined or redetermined in respect of the school before 16th December 1997 or, in the case of any special purpose grant, as paid in respect of the school before that date—

- (a) the amount of the school's CFF share;
- (b) the amount added to the CFF share in accordance with regulation 43(1)(c) (link to budgets);
- (c) the amount added to the CFF share in accordance with regulation 44(1) and (2) (protected amount);
- (d) the amount added to the CFF share in accordance with regulation 44(4) (special educational needs) but only if such funding or the corresponding percentage of such funding is also included in the authority's scheme for the financial year in question;
- (e) the amount added to maintenance grant in accordance with regulation 52 (deemed primary schools and deemed secondary schools);
- (f) the amount added to maintenance grant in accordance with regulation 53 (error contingency amount for primary schools);
- (g) the amount added to maintenance grant in accordance with regulation 57 (pupil number contingencies in the London Borough of Brent);
- (h) the amount paid under paragraph 2(f) of Schedule 9 (expenditure for or in connection with the provision at the school of nursery education as defined in section 1 of the Nursery Education and Grant-Maintained Schools Act 1996).

(7) For the purpose of determining the amounts referred to in sub-paragraph (6) no account shall be taken of—

- (a) revisions under regulation 50(9)(a) where regulation 50(2) (increases in pupil numbers) applies;
- (b) regulations 45, 46 and 47 (deficits in previous financial years and deductions representing excessive surpluses in previous years and excessive severance payments).

3. For the purpose of the formula in paragraph 2(1), "b" is

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- (a) the number appearing to the funding authority, having regard to the allocation formula in the local education authority's scheme, to be the number of registered pupils at the school on 16th January 1997; or
- (b) in the case of a special school, the number of places for which the school is funded under the authority's scheme for the financial year beginning in 1997, or
- (c) where proposals published under section 259 or 260 of the 1996 Act to make a significant change in the character of the school were—
  - (i) implemented wholly or partly in that financial year, and
  - (ii) not funded under regulation 22 or 50(9)(a) of the 1997 Regulations,such number of pupils determined by the funding authority, having consulted the local education authority, being a composite number based on a proportion of the number of registered pupils at the school on 16th January 1997 and a proportion of the number which the funding authority estimate will be at the school at a later date in the financial year beginning in 1997 determined by them.

4. For the purpose of the formula in paragraph 2(1), "c" is the number appearing to the funding authority, having regard to the allocation formula in the local education authority's scheme, to be the number of registered pupils at the school on 15th January 1998 or, in the case of a special school, the number of places for which the school would be funded under the authority's scheme for the financial year in question.

5.—(1) In the case of a special school which has places for both day and boarding pupils, the funding authority shall calculate the protected level of funding for the preceding financial year for the school according to the formula  $((d \div e) \times f) + ((g \div h) \times i)$ , where  $d + g = a$ .

(2) For the purposes of the formula in sub-paragraph (1) above,

- "a" is the amount determined under paragraph 2(2), (3), (5) or (6) as the case may be;
- "d" is that part of "a" which the funding authority determine relates to places for day pupils at the school;
- "g" is that part of "a" which the funding authority determine relates to places for boarding pupils at the school;
- "e" is the number of places for day pupils for which the special school is funded for the preceding financial year;
- "h" is the number of places for boarding pupils for which the special school is funded for the preceding financial year;
- "f" is the number of places for day pupils for which the special school would be funded under the local education authority's scheme for the financial year in question;
- "i" is the number of places for boarding pupils for which the special school would be funded under the local education authority's scheme for the financial year in question.

6.—(1) Subject to sub-paragraphs (2) and (3), the funding authority shall determine as the adjusted maintenance grant for each school for the financial year in question an amount which is the aggregate of the following amounts—

- (a) the amount (Direct AMG) determined in accordance with regulation 6 or 7;
- (b) the amount (Central AMG) determined in accordance with regulation 8;
- (c) the amount determined in accordance with regulation 11 (school meals);
- (d) the amount determined in accordance with regulation 22 (contingencies) in respect of contingencies arising other than from increases in pupil numbers at the school during the course of that financial year;

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- (e) the amount determined in accordance with regulation 23 (nursery education);
  - (f) the amount added or deducted under regulation 32 (schools situated in the area of the authority which is not the area of the former maintaining authority);
  - (g) the amount added under regulation 33 (capital expenditure from the revenue account);
  - (h) the amount paid under paragraph 2(f) of Schedule 6 (expenditure for or in connection with the provision at the school of nursery education as defined in section 1 of the Nursery Education and Grant-Maintained Schools Act 1996).
- (2) For the purpose of determining the amounts in paragraph (1) no account shall be taken of—
- (a) funding for pupils with statements of special educational needs of a kind which the local education authority could have determined, by the application of the allocation formula in their scheme in relation to a comparable maintained school covered by the scheme, as part of such a school's budget share for all or part of the financial year in question, in so far as such funding or a corresponding percentage of such funding could not also have been so determined for the equivalent period in the preceding financial year;
  - (b) regulation 10 (Section 11 funding);
  - (c) regulation 22 (contingencies) in relation to increases in pupil numbers at the school during the course of the financial year;
  - (d) regulations 24, 25 and 26 (additions or deductions representing unspent sums from previous budget shares, budget deficits from previous years and deductions from current year's budget share);
  - (e) regulations 27 and 28 (deductions representing excessive surpluses in previous years and excessive severance payments);
  - (f) regulation 31 (schools with wide age ranges).
- (3) In the case of a school to which regulation 4(2) of these Regulations applies (precise calculation of maintenance grant impracticable etc.) the funding authority shall determine as the amount of the adjusted maintenance grant such amount as appears to them to be fair and reasonable having regard to the amount of maintenance grant which they determined in respect of the school under these Regulations and the provisions of sub-paragraph (2) above.

### SCHEDULE 3

Regulation 16(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 16(2) the amount of relevant expenditure incurred by the maintaining local education 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;
  - (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; and

- (iii) rent, non-domestic rates, water rates and charges for the supply of water or the provision of sewerage services; and
  - (f) any other expenditure treated by the authority as forming part of the direct costs of the school.
2. The amount of relevant expenditure incurred by the maintaining local education authority in the preceding financial year does not include the aggregate of the amounts referred to in paragraph 5 of Schedule 1.

#### SCHEDULE 4

Regulations 38 and 41

#### REQUIREMENTS WHICH MAY BE ATTACHED TO PAYMENT OF MAINTENANCE, CAPITAL 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 1996 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 funding authority; and
  - (g) examinations by persons authorised by the funding authority 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 funding authority think fit.

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## SCHEDULE 5

Regulation 39

## 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 acquisition, installation or replacement 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 “building” includes any fixtures and fittings affixed to a building.

## SCHEDULE 6

Regulation 40(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 grants for education support and training are for the time being payable to local education authorities by virtue of regulations made under section 484 of the 1996 Act<sup>(21)</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:
 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

<sup>(21)</sup> The current Regulations are the Education (Grants for Education Support and Training) (England) Regulations 1998 (S.I. 1998/656).

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- 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 funding authority 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 funding authority have 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 funding authority was occasioned by circumstances outside the control of the governing body;
  - (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;
  - (vii) the implementation of that part of the curriculum for the school falling outside the curriculum referred to in section 352(1) of the 1996 Act;
  - (viii) the transfer of land to trustees to be held on trust for the purposes of the school pursuant to section 296 of the 1996 Act;
  - (ix) a contract for the provision of property and services to, or for the purposes of, the school, where the provision of the services is linked to and dependent upon the provision of the property; and
  - (x) payment of employer's contributions to the appropriate pension fund under the Local Government Pension Scheme Regulations 1995(22);
- (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 488 of the 1996 Act(23);
- (e) expenditure in respect of expenses which it appears to the funding authority the governing bodies of primary schools with fewer than 180 registered pupils cannot reasonably be expected to meet from maintenance grant being expenses incurred or to be incurred for or in connection with—
- (i) the procurement of professional advice for the purposes of the school; and
  - (ii) staff absences; and
- (f) expenditure for or in connection with the provision at the school of nursery education as defined in section 1 of the Nursery Education and Grant-Maintained Schools Act 1996(24).

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(22) S.I. 1995/1019.

(23) The current Regulations are the Education (Grants) (Travellers and Displaced Persons) Regulations 1993 (S.I. 1993/569; amended by S.I. 1995/543).

(24) 1996 c. 50.

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26th March 1998

*Stephen Byers*  
Minister of State,  
Department for Education and Employment

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## 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 1997 (“the 1997 Regulations”) which are revoked. The Regulations apply, in relation to the 1998—99 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 1998 (S.I. 1998/798). The main changes to the provision made by the revoked Regulations are set out below.

Part 2 of the Regulations now provides for the determination and redetermination of the amount of maintenance grant to be paid to the governing bodies of all schools in respect of which the Regulations apply. This is on a similar basis to that provided for under Part 2 of the 1997 Regulations, save that—

(1) The “relevant percentage” is no longer calculated under Schedule 1 on the basis of data from the preceding financial year. A list of percentages is therefore no longer included in a table in that Schedule. The relevant percentage is to be calculated under Schedule 1 on the basis of data from the current financial year.

(2) The provisions relating to cash protection for Central AMG and Section 11 funding are omitted.

(3) Specific provision is made for the maintenance grant payable in respect of grant-maintained secondary schools in Rutland.

There are no longer equivalent provisions to Part 3 of the 1997 Regulations so as to make different 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 situated in the area of specified authorities.

Regulation 9 and Schedule 2 make transitional provisions to protect the level of funding in the current financial year for those schools whose maintenance grant was determined in the preceding financial year under the 1997 Regulations.

Part 3 of the Regulations provides for the payment of capital and special purpose grants on the same basis as that provided under Part 4 of the 1997 Regulations.

Consequent on section 257 of the 1996 Act, Part 4 of the Regulations, as did Part 5 of the 1997 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.