
STATUTORY INSTRUMENTS

2003 No. 453

**The Financing of Maintained
Schools (England) Regulations 2003**

PART 2

SCHOOLS' BUDGET SHARES : MAIN PROVISIONS

Determination of budget shares

3. This Part and Part 3 apply for the purposes of determining the amount which a local education authority may determine as a maintained school's budget share for the financial year beginning on 1st April 2003.

Allocation of individual schools budget

4. A local education authority shall allocate in the financial year beginning on 1st April 2003 in accordance with this Part and Part 3 all of their individual schools budget for that financial year as the budget shares of schools which they maintain.

Timing of determination of budget shares

5.—(1) The amount of a school's budget share for the financial year beginning on 1st April 2003 shall be initially determined by the local education authority before the beginning of that financial year.

(2) A local education authority may decide not to initially allocate all of their individual schools budget in accordance with this Part in the form of budget shares at the beginning of the financial year and instead to retain an amount for the purpose of redeterminations or the correction of errors but such amount must be used for that purpose or distributed to schools as required by regulation 21(5) before the end of the financial year.

Consultation

6.—(1) Subject to paragraph (2), a local education authority shall consult the governing body and head teacher of every school which they maintain about any proposed changes in relation to the factors and criteria that were taken into account, or the methods, principles and rules that were adopted, in their formula under the 2002 Regulations in the financial year beginning on 1st April 2002 (including any new factors, criteria, methods, principles or rules).

(2) Paragraph (1) shall not apply to changes made pursuant to regulation 5(2), 15, 20, 21(5) or 22.

(3) Consultation under this regulation shall take place in sufficient time to allow the outcome to be taken into account in the determination of the authority's formula and in the initial determination of schools' budget shares before the beginning of the financial year.

(4) The requirement to consult in paragraph (1) can be satisfied by consultation which takes place during the financial year beginning on 1st April 2002 before the coming into force of these Regulations.

(5) A local education authority shall inform all those who were consulted of the outcome of the consultation.

Formula for determination of budget shares

7.—(1) A local education authority shall determine before the beginning of the financial year beginning on 1st April 2003, and after the consultation referred to in regulation 6, the formula which they will use to determine schools' budget shares in that financial year having regard to the factors, criteria and requirements set out in this Part and in Part 3.

(2) A local education authority shall have regard to the desirability of such a formula being simple, objective, measurable and predictable in effect, and clearly expressed.

(3) A local education authority may not use factors or criteria in their formula under this Part which make an allowance, in whole or in part, for—

- (a) any amount allocated to the school from school standards grant paid to the authority under section 14 of the 2002 Act; or
- (b) any amount included in the school's budget share for the year beginning 1 April 2002 by virtue of Part IV of the 2002 Regulations; or
- (c) any education standards grants, received by the authority pursuant to section 14 of the 2002 Act or section 484 of the 1996 Act, paid in respect of capital projects, of an amount determined by the Secretary of State by reference to a formula, and decisions about the spending of which the authority are required to delegate to the governing bodies of schools.

(4) Subject to regulation 28 (additional arrangements approved by the Secretary of State), a local education authority shall use the formula determined under paragraph (1) in all determinations and redeterminations of budget shares in respect of the financial year.

Pupil numbers

8.—(1) In determining budget shares for primary and secondary schools, a local education authority shall take into account in their formula the number of registered pupils at those schools on such date or dates as may be determined by the authority in accordance with regulation 9, weighted if the authority consider it appropriate in accordance with paragraph (5).

(2) For the purposes of paragraph (1), the number of registered pupils does not include—

- (a) pupils in places which the authority recognise as reserved for children with special educational needs or (except where the local education authority chooses not to exercise their discretion under regulation 11 in respect of children in nursery classes) for children in nursery classes; or
- (b) in relation to the funding of boarding accommodation only, pupils in boarding accommodation at boarding schools other than special schools;
- (c) pupils in respect of whom grant is payable to the authority by the LSC; or
- (d) pupils in classes in respect of which funding is allocated under regulation 12(4).

- (a) (3) (a) An authority may in determining budget shares for special schools, or for primary or secondary schools with places which the authority recognise as reserved for children with special educational needs or for children in nursery classes, take into account in their formula the number of registered pupils at those special schools or the number of pupils in those reserved places at primary or secondary schools on such date or dates as

may be determined by the authority, weighted if the authority consider it appropriate in accordance with paragraph (5).

- (b) An authority may, in determining budget shares for primary schools, take into account in their formula the number of pupils at those primary schools funded under Regulation 12(4) on such date or dates as may be determined by the authority, weighted as the authority consider it appropriate in accordance with paragraph (5).

(4) If the authority estimate the number of registered pupils at a school they must consult the head teacher of the school.

(5) A local education authority may weight pupil numbers according to any or all of the following factors—

- (a) age, including weighting according to key stage or year group;
- (b) whether a pupil is provided with nursery education by a school;
- (c) in the case of pupils aged under five, their exact age when admitted to the school;
- (d) in the case of pupils aged under five, whether they have been admitted to the school in excess of planned admission limits agreed with the authority;
- (e) in the case of pupils aged under five, hours of attendance;
- (f) special educational needs;
- (g) whether the pupil is attending a middle school;
- (h) whether a pupil at a school is also attending an institution within the further education sector; and
- (i) whether the pupil is in a class in respect of which funding is allocated under regulation 12(4).

(6) A local education authority may adjust the number of registered pupils used to determine or re-determine a school's budget share where it is appropriate to do so in order to take into account, wholly or partly, the permanent exclusion of a pupil from the school or the admission of a pupil following his permanent exclusion from another school maintained by a local education authority.

Dates for ascertaining pupil numbers

9.—(1) Where the authority determine only one date for the purposes of regulation 8(1) that must be a date which falls—

- (a) before 1st April 2003; and
- (b) in the school year in which 1st April 2003 falls.

(2) Where the authority determine more than one date for the purposes of regulation 8(1) then—

- (a) one of those dates must satisfy paragraph (1) above;
- (b) of the other date or dates—
 - (i) no date may be earlier than the beginning of the school year in which 1st April 2003 falls;
 - (ii) the authority may determine a date or dates which are in the future and estimate the number of registered pupils at the school on that date or those dates.

(3) Paragraphs (1) and (2) (restrictions on choice of dates for the purposes of regulation 8(1)) shall not apply in relation to pupils in nursery or reception classes whom the authority take into account under regulation 8(1) (pupils in nursery classes not occupying places which the authority recognise as reserved for such pupils or any pupils in reception classes).

Pupil numbers: Dual registration

10. Where a pupil is, in accordance with regulations made under section 434 of the 1996 Act(1) a registered pupil at more than one school then that pupil shall be treated as being a full-time pupil at each such school unless the authority expressly provide otherwise in their formula.

Places

11. In determining budget shares for—

- (a) special schools;
- (b) primary or secondary schools with places which the authority recognise as reserved for children with special educational needs or for children in nursery classes; or
- (c) schools with boarding accommodation,

the local education authority may take into account in their formula the number of places which they wish to fund at those special schools, the number of places of the kind described above at those primary or secondary schools or the amount of boarding accommodation which they wish to fund and in the case of sub-paragraphs (a) and (b) above may take account of the special educational needs in question.

Infant Class Funding

12.—(1) In determining budget shares for schools, a local education authority may take into account in their formula the limitation on infant class sizes under regulations made pursuant to section 1 of the 1998 Act(2) in accordance with paragraphs (2) to (4).

(2) In determining budget shares for schools, a local education authority may, in respect of the period from 1 April 2003 to 31 August 2003, allocate additional funding for infant classes by the same method as used in the financial year beginning 1 April 2002 to distribute grant paid to the authority under section 3 of the 1998 Act in respect of expenditure incurred to secure compliance with regulations referred to under paragraph (1).

(3) Where, as a result of the regulations referred to in paragraph (1) there are fewer than thirty children in any infant class at any school, a local education authority, in making provision under paragraph (1), may include in that school's budget share an amount of money in respect of each place in any infant class which is not funded as a result of other provisions in these Regulations, provided that this amount of money shall be the same in respect of each such place at any one school.

(4) In determining the budget share of any school, a local education authority may include an amount of money in respect of any infant class at that school.

(5) For the purposes of this regulation, the number of classes required at any school to fulfil the requirements imposed by the statutory provisions referred to in paragraph (1) shall be determined by the local education authority.

Differential funding

13.—(1) A local education authority shall use factors or criteria which differentiate between different categories or descriptions of schools in so far as the functions of the governing bodies of those schools justify such differentiation but may not otherwise do so except as required or expressly permitted by these Regulations.

(1) The relevant Regulations, as at the date that these Regulations are made, are the Education (Pupil Registration) Regulations 1995 (S.I.1995/2089) which remain in force by virtue of paragraph 1 of Schedule 39 to the 1996 Act. Amending instruments are S.I. 1997/2624 and S.I. 2001/2802.

(2) The Education (Infant Class Sizes) (England) Regulations 1998 (S.I. 1998/1973).

(2) A local education authority shall use factors or criteria which differentiate between a school and other schools of the same category or description if such differentiation is justified by reference to the choice that that school's governing body have made as to the inclusion in their school's budget share of funding in respect of expenditure of the kinds referred to in paragraphs 15(a) and (b), 25 or 27 of Schedule 2 to the Budget Regulations.

(3) A local education authority are not required to use factors or criteria in their formula which differentiate between—

- (a) primary and secondary schools, and special schools;
- (b) schools whose pupils are in different age ranges,

but they may do so.

(4) If a local education authority choose to use a particular factor or criteria to delegate funding to all or some of the schools which they maintain, and a school which it is proposed to discontinue during the financial year did not receive funding in accordance with that factor or criteria in the financial year beginning on 1 April 2002, then this regulation shall not require the local education authority to delegate such funding to that school in accordance with that factor or criteria but they may do so.

Additional factors or criteria

14.—(1) Subject to regulation 13 (differential funding), a local education authority may, in determining budget shares for schools which they maintain, take into account in their formula, as they consider appropriate, any or all of the factors or criteria set out in Schedule 1.

(2) A local education authority shall, in determining budget shares for both primary and secondary schools which they maintain, take into account in their formula a factor or factors based on the incidence of social deprivation among pupils registered at all such schools if they have no factor elsewhere in their formula which is based on such incidence.

(3) A factor included in an authority's formula pursuant to paragraph 17 of Schedule 1 is not, for the purpose of paragraph (2), a factor based on the incidence of social deprivation among pupils registered at a school.

(4) In determining budget shares for schools, an authority may, in respect of the period from 1 April 2003 to 31 August 2003, allocate additional funding for pupils in key stage 2 by the same method as used in the financial year beginning 1 April 2002 to distribute grant paid to the authority in respect of such pupils under regulations made pursuant to section 484 of the 1996 Act(3).

Sixth form funding

15.—(1) A secondary school's budget share for the financial year beginning on 1st April 2003 shall include an amount ("the Amount") equal to any sum notified to the local education authority by the LSC as being the allocation ("the Allocation") in respect of that school's sixth form contained within grant payable to the local education authority under section 7 of the 2000 Act. The Amount shall include, on a net basis:

- (a) any portion of the Allocation for the academic year beginning on 1st August 2003 which is in respect of a period falling within the financial year beginning on 1st April 2003;
- (b) any amount specifically allocated in respect of an increase in amounts payable under the Teachers' Pensions Regulations 1997(4) for the financial year beginning on 1st April 2003;

(3) The Education Standards Fund (England) Regulation 2002 (S.I. 2002/510). Under section 18(2) of the 2002 Act, the power to pay grants under section 484 of the 1996 Act is with effect from 1 April 2003 exercisable only in relation to Wales. Grant in relation to key stage 2 pupils in respect of the financial year beginning 1 April 2003 is paid under section 14 of the 2002 Act, although the Education Standards Fund Regulations 2002 are saved until 1 April 2004.

(4) S. I. 1997/3001.

- (c) any portion of the Allocation for the academic year beginning on 1st August 2002 which is in respect of a period falling within the financial year beginning on 1st April 2003, including any adjustment not already made to that sum in accordance with the Financing of Maintained Schools (England) (Amendment No.3) Regulations 2002⁽⁵⁾;
- (d) any other adjustment to that part of the Allocation for the academic year beginning on 1st August 2002 which was in respect of a period falling within the financial year beginning on 1st April 2002, where the authority was notified of such adjustment by the LSC after 28 February 2003.

(2) A local education authority may, in determining budget shares, use a factor which allocates funding in respect of sixth forms.

(3) A local education authority may, in determining budget shares for schools with sixth forms, reduce the amount payable to each such school (using factors other than those authorised by regulation 8) under the formula used by the authority to determine that school's budget share by a sum representing that element which is duplicated in the Allocation under paragraph (1).

(4) In determining budget shares for schools with sixth forms, a local education authority may reduce the Amount referred to in paragraph (1) by an amount not exceeding one-third of the difference between that amount and the Real Terms Guarantee amount for the school as notified by the LSC, where the latter amount is lower than the former amount.

(5) For the purposes of paragraph (4), the Amount referred to in paragraph (1) does not include any sum representing an amount specifically allocated by the LSC in connection with any increase in amounts paid under the Teachers' Pensions Regulations 1997 in relation to employer contributions to teacher pension costs.

(6) In this regulation, "academic year" means any period of twelve months beginning on 1 August.

(7) In this regulation, "Real Terms Guarantee amount" means the amount notified to the local education authority by the LSC as being the finalised real terms guarantee level for the financial year beginning on 1st April 2003 for the school concerned, incorporating any adjustments to that portion of the real terms guarantee level relating to that part of the academic year beginning on 1st August 2002 which falls within the financial year beginning on 1st April 2003.

16.—(1) A secondary school's budget share for the financial year beginning on 1st April 2003 shall be re-determined by 31 March 2004 pursuant to written notification from the LSC of a revised allocation in respect of the sum referred to regulation 15(1).

Budget share adjustments in relation to the financial year beginning on 1st April 2002: Pupil numbers

17.—(1) This regulation applies to the extent that a school's budget share for the financial year beginning on 1st April 2002 was determined pursuant to regulation 8(1) or (3) of the 2002 Regulations other than in cases where pupil numbers were weighted according to special educational needs.

(2) Subject to paragraph (3), to the extent that a school's budget share for the financial year beginning on 1st April 2002 was—

- (a) determined by reference to an estimate of the number of registered pupils at the school; and
- (b) differences between the estimated number of pupils on those dates and the actual number of pupils at the school on those dates were not taken into account in a redetermination of the school's budget share for that financial year,

(5) S.I. 2002/2868.

the local education authority shall determine that school's budget share for the financial year beginning on 1st April 2003 so as to take into account those differences.

(3) A local education authority may determine a school's budget share so as to make such adjustments which are appropriate to take into account, wholly or partly, any increases in pupil numbers during the course of the financial year beginning on 1st April 2002.

(4) In so far as a determination under this regulation would require the amount that would otherwise be the budget share of a former grant-maintained or grant-maintained special school to be reduced, it may not be reduced by an amount greater than the amount by which the school's budget share for the financial year beginning on 1st April 2002 determined in accordance with regulation 21 (transitional funding) of the 2002 Regulations could have been reduced.

(5) In so far as a determination under this regulation would require the amount that would otherwise be the budget share of a former grant-maintained or grant-maintained special school to be increased, there shall be deducted from that increase any amount for transitional funding determined in respect of the school in the financial year beginning on 1st April 2002 under regulation 21 (transitional funding) of the 2002 Regulations.

Budget share adjustments in relation to the financial year beginning on 1st April 2002 : Non-pupil number factors

18.—(1) This regulation applies to the extent that a school's budget share for the financial year beginning on 1st April 2002 was determined other than pursuant to regulation 8(1) or (3) of the 2002 Regulations or was so determined in accordance with pupil numbers weighted according to special educational needs.

(2) Where—

- (a) there has been a change in the data on the basis of which that determination was made; and
- (b) that change was not taken into account in a redetermination of the school's budget share for the financial year beginning on 1st April 2002,

the local education authority may determine that school's budget share so as to take into account those changes.

(3) In so far as a determination under this regulation would require the amount that would otherwise be the budget share of a former grant-maintained or grant-maintained special school to be reduced, it may not be reduced by an amount greater than the amount by which the school's budget share for the financial year beginning on 1st April 2002 determined in accordance with regulation 21 (transitional funding) of the 2002 Regulations could have been reduced.

(4) In so far as a determination under this regulation would require the amount that would otherwise be the budget share of a former grant-maintained or grant-maintained special school to be increased, there shall be deducted from that increase any amount for transitional funding determined in respect of the school in the financial year beginning on 1st April 2002 under regulation 21 (transitional funding) of the 2002 Regulations.

New and reorganised schools

19.—(1) In the case of—

- (a) a proposed school referred to in regulation 1(5);
- (b) a school proposals for the establishment of which have not been fully implemented;
- (c) a school which is the subject of a significant change of character, a significant enlargement of its premises or a transfer to a new site under the 1996 Act; or
- (d) a school which is the subject of a prescribed alteration within the meaning of the 1998 Act,

the local education authority shall include factors or criteria in their formula which enable them to determine the school's budget share so as to take into account the particular needs of the school or proposed school; and in particular may, in any financial year preceding the financial year in which a school first admits pupils, determine the amount of the budget share as zero.

(2) For the purposes of these Regulations, proposals for the establishment of a school have been fully implemented when the number of pupils admitted to the school in each age group has, in the opinion of the local education authority, reached—

- (a) that number of pupils indicated, when proposals for the establishment of the school were published, as the number of pupils to be admitted to each age group when the proposals were fully implemented; or
- (b) if no such number was indicated, such number as the authority may determine.

Transitional funding

20.—(1) A local education authority shall determine the budget share of a former grant-maintained or grant-maintained special school so as to include an amount for transitional funding.

(2) The amount referred to in paragraph (1) shall not exceed the amount payable to the school under regulation 21(1) of the 2002 Regulations (not taking into account any redetermination made under regulation 22 or regulation 17A of the 2002 Regulations but taking account of the correction of errors and taking into account any additional arrangement approved under regulation 32 of the 2002 Regulations).

(3) Subject to paragraph (2), the amount referred to in paragraph (1) is the amount if any by which the school's protected level of funding in respect of the financial year beginning on 1st April 2003 determined by the local education authority in accordance with Schedule 2 is greater than the school's adjusted budget share for that financial year.

(4) For the purposes of this regulation, a school's adjusted budget share is its budget share determined in accordance with this Part and Part 3 but not taking into account the effect of this regulation and regulations 17 (budget share adjustments: pupil numbers), 18 (budget share adjustments: non-pupil number factors), 22 (excluded pupils), 23, 24 and 25 (additional provisions for re-determinations).

(5) The amount of a school's transitional funding shall not be affected by a net increase during the financial year in that school's adjusted budget share arising out of changes in the numbers of pupils with statements of special educational needs or changes in the needs of such pupils.

Re-determination of budget shares

21.—(1) A local education authority shall include factors or criteria in their formula which enable them, if they so wish, to re-determine a school's budget share during the course of the financial year to take account wholly or partly of—

- (a) changes during the financial year in the number or estimates of the number of registered pupils (including the substitution of actual numbers for estimates) at the school by reference to which the budget share was determined in accordance with regulation 8(1) or (3) other than in cases where pupil numbers were weighted according to special educational needs;
- (b) other changes during the financial year in the data by reference to which the budget share was determined; and
- (c) changes during the financial year in the amount of the authority's individual schools budget.

(2) A local education authority shall redetermine a school's budget share in accordance with paragraph (1)(a) where such a redetermination would result in an increase to the school's budget share, unless the authority, in initially determining the school's budget share, have, for the purposes of regulation 8(1), determined a date or dates under regulation 9(2)(b)(ii).

(3) This regulation is subject to regulation 20 (transitional funding).

(4) A local education authority shall set out in their formula the factors or criteria that they will use, in re-determining schools' budget shares in accordance with paragraph (1), to allocate the planned expenditure referred to in paragraph 31 of Schedule 2 to the Budget Regulations.

(5) Where the local education authority propose to retain part of their individual schools budget pursuant to regulation 5(2) for the purpose of re-determinations or the correction of errors they shall include factors or criteria in their formula which require them to re-determine schools' budget shares before the end of the financial year so as to distribute to schools the unallocated balance of any such retained amount on the basis of pupil numbers in accordance with regulation 8(1) or (3).

(6) A local education authority shall include factors or criteria in their formula which enable them to adjust the number of registered pupils used to determine or re-determine a school's budget share where it is appropriate to do so in order to take into account, wholly or partly—

- (a) any reduction or increase in the school's budget share under regulation 22 (pupils permanently excluded or admitted following a permanent exclusion); or
- (b) any increase in the school's budget share under this regulation in respect of significant increases in pupil numbers funded by the planned expenditure referred to in paragraph 31 of Schedule 2 to the Budget Regulations.

Pupils permanently excluded or admitted following a permanent exclusion

22.—(1) Where a pupil is permanently excluded from a school maintained by a local education authority, the authority shall re-determine the school's budget share for that financial year in accordance with paragraph (2).

(2) The school's budget share shall be reduced by the amount $A \times (B/52)$ where—

A is the amount, in the financial year in which the permanent exclusion takes effect (as defined from time to time for the purposes of section 494 of the 1996 Act ("the relevant date")), determined by the authority, in accordance with this Part, to be attributable for the full financial year to a registered pupil of the same age and characteristics as the pupil in question at primary or secondary schools maintained by the authority:

For the purposes of this definition the amount attributable to a registered pupil is the sum of the amounts determined in accordance with the authority's formula as determined in accordance with this Part and Part 3 by reference to pupil numbers rather than by reference to the number of places at the school or any other factor or criteria not dependent on pupil numbers (except that, where the registered pupil in question is a pupil in respect of whom grant is payable to the authority by the LSC, the amount attributable to that pupil shall be £2,700); and

B is the number of complete weeks remaining in the financial year calculated from the relevant date:

EXCEPT that where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age or age group as the pupil in question normally leave that school prior to being admitted to another school with a different pupil age range, B is the number of complete weeks remaining in that school year calculated from the relevant date.

(3) Where a pupil is admitted to a school maintained by a local education authority ("the admitting school") who has been permanently excluded from another maintained school in that financial year the authority shall redetermine the admitting school's budget share in accordance with paragraph (4).

(4) The school's budget share shall be increased by an amount which may not be less than the amount $D \times (E/F)$ where—

D is the amount by which the authority reduce the budget share of the school from which the pupil was permanently excluded or would have reduced it had that school been maintained by the authority;

E is the number of complete weeks remaining in the financial year during which the pupil is a registered pupil at the admitting school;

F is the number of complete weeks remaining in the financial year calculated from the relevant date.

Additional provisions for redeterminations in relation to financial years beginning on or before 1st April 2001: (1) Former grant-maintained or grant-maintained special schools in the period before they became such schools and (2) Schools which were never such schools

23.—(1) A local education authority may in the circumstances described in paragraph (2) redetermine a school's budget share for the financial year beginning on 1st April 2003 to take into account changes in that school's non-domestic rates liability or to correct errors in data supplied by the head teacher or governing body of the school, by reference to which the following were determined—

- (a) the school's budget share within the meaning of the 1996 Act for any financial year beginning on or before 1st April 1998; or
- (b) in the case of a school which is not a former grant-maintained or grant-maintained special school, the school's budget share within the meaning of the 1998 Act for a financial year beginning on 1st April 1999, 1st April 2000 or 1st April 2001.

(2) The circumstances referred to in paragraph (1) are that

- (a) such matters have not already been taken into account in any determination or re-determination of that school's budget share within the meaning of the 1996 Act or the 1998 Act or its maintenance grant (as a former grant-maintained or grant-maintained special school); and
- (b) such redetermination as is proposed could have been made in relation to the preceding financial year in question under the terms of
 - (i) the authority's scheme within the meaning of the 1996 Act in force in that year; or
 - (ii) in the case of the financial year beginning on 1st April 1999, the 1999 Regulations; or
 - (iii) in the case of the financial year beginning on 1st April 2000, the 2000 Regulations or the Financing of Maintained Schools (England) (No 2) Regulations 2000(6); or
 - (iv) in the case of the financial year beginning on 1st April 2001, the 2001 Regulations.

Additional provisions for redeterminations in relation to the financial years beginning on 1st April 1999, 1st April 2000 or 1st April 2001: Former grant-maintained or grant-maintained special schools

24.—(1) A local education authority may redetermine a former grant-maintained or grant-maintained special school's budget share for the financial year beginning on 1st April 2003 to take into account changes in that school's non-domestic rates liability or to correct errors in data supplied by the head teacher or governing body of the school, by reference to which the school's budget share

for the financial year beginning on 1st April 1999, the financial year beginning on 1st April 2000 or the financial year beginning on 1st April 2001 was determined if—

- (a) such matters have not already been taken into account in any determination or re-determination of that school's budget share for any financial year or financial years;
- (b) such re-determination as is proposed could have been made in the financial year beginning on 1st April 1999 (or, as the case may be, either the financial year beginning on 1st April 2000 or on 1st April 2001) in accordance with the 1999 Regulations (or, as the case may be, the 2000 Regulations or the Financing of Maintained Schools (England) (No 2) Regulations 2000 or the 2001 Regulations).

(2) In so far as a determination under paragraph (1) would require the amount that would otherwise be the budget share of the school to be reduced, it may not be reduced by an amount greater than the amount by which the school's budget share for the financial year beginning on 1st April 1999 (or, as the case may be, either the financial year beginning on 1st April 2000 or the financial year beginning on 1st April 2001) determined in accordance with regulation 18 (transitional funding) of the 1999 Regulations (or, as the case may be, regulation 18 (transitional funding) of the 2000 Regulations or regulation 20 (transitional funding) of the 2001 Regulations) could have been reduced.

(3) In so far as a determination under paragraph (1) would require the amount that would otherwise be the budget share of a former grant-maintained or grant-maintained special school to be increased, there shall be deducted from that increase any amount for transitional funding determined in respect of the school in the financial year beginning on 1st April 1999 (or, as the case may be, either the financial year beginning on 1st April 2000 or the financial year beginning on 1st April 2001) under regulation 18 (transitional funding) of the 1999 Regulations (or, as the case may be, regulation 18 (transitional funding) of the 2000 Regulations or regulation 20 (transitional funding) of the 2001 Regulations).

Additional provisions for redeterminations in relation to financial years beginning on or before 1st April 1998 : Former grant-maintained or grant-maintained special schools

25.—(1) A local education authority may in the circumstances described in paragraph (2) redetermine a former grant-maintained or grant-maintained special school's budget share for the financial year beginning on 1st April 2003 to take into account changes in that school's non-domestic rates liability or to correct errors in data supplied by the head teacher or governing body of the school, by reference to which the school's maintenance grant (as a grant-maintained or grant-maintained special school) was determined for any financial year beginning on or before 1st April 1998.

- (2) The circumstances referred to in paragraph (1) are that—
- (a) such matters have not already been taken into account in any determination or re-determination of that school's budget share within the meaning of the 1996 Act or the 1998 Act or its maintenance grant (as a grant-maintained or grant-maintained special school);
 - (b) such re-determination as is proposed could have been made in the preceding financial year in question in relation to a school maintained by the authority under the terms of the authority's scheme within the meaning of the 1996 Act in force in that year; and
 - (c) any increase or decrease in the amount of the school's budget share to take into account changes in the school's non-domestic rates liability does not exceed the change in the school's net liability in respect of rates.

(3) In so far as a determination under paragraph (1), arising from adjustments relating to the financial year beginning on 1st April 1998, would require the amount that would otherwise be the budget share of the school to be reduced, it may not be reduced by an amount greater than the

amount by which the school's maintenance grant for that financial year determined in accordance with regulation 9 (transitional funding) of the 1998 Regulations could have been reduced.

(4) In so far as a determination under paragraph (1), arising from adjustments relating to the financial year beginning on 1st April 1998, would require the amount that would otherwise be the budget share of a former grant-maintained or grant-maintained special school to be increased, there shall be deducted from that increase any amount for transitional funding determined in respect of the school in the financial year beginning on 1st April 1998 under regulation 9 (transitional funding) of the 1998 Regulations.

Percentage of “pupil-led” funding

26.—(1) In determining and redetermining budget shares for primary and secondary schools a local education authority shall ensure that their formula provides that at least 75 per cent. of the amount which is their individual schools budget, less the amounts referred to in paragraph (2), is allocated in one or more of the following manners—

- (a) in accordance with regulation 8(1) or (3);
- (b) in accordance with regulation 8(5)(g) or (h);
- (c) in accordance with regulation 12(2), (3) and (4);
- (d) in accordance with any other factors or criteria using pupil numbers which provide for the same funding for pupils of the same age irrespective of the nature of the school which they attend;
- (e) to places in primary schools which the authority recognise as reserved for children in nursery classes;
- (f) to places in primary or secondary schools which the authority recognise as reserved for children with special educational needs;
- (g) for pupils with statements of special educational needs where funding in respect of such pupils forms part of schools' budget shares;
- (h) to places for pupils in boarding accommodation at boarding schools other than special schools;
- (i) in accordance with regulation 14(2), provided criteria are used which refer to the characteristics of pupils or their parents; and
- (j) in accordance with regulation 15.

(2) For the purposes of this regulation the following amounts are to be excluded from the local education authority's individual schools budget—

- (a) the budget shares of special schools;
- (b) any transitional funding determined under regulation 20;
- (c) any part of the individual schools budget retained pursuant to regulation 5(2) for the purpose of re-determinations or the correction of errors in relation to special schools.