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STATUTORY INSTRUMENTS

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**2008 No. 228**

**The School Finance (England) Regulations 2008**

**PART 1**

**INTRODUCTION**

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the School Finance (England) Regulations 2008 and come into force on 29th February 2008.

(2) These Regulations apply in relation to the financial years beginning on 1st April 2008, 1st April 2009 and 1st April 2010.

(3) These Regulations apply only in relation to England.

(4) In these Regulations—

“the 1996 Act” means the Education Act 1996(1);

“the 1998 Act” means the School Standards and Framework Act 1998;

“the 2000 Act” means the Learning and Skills Act 2000(2);

“the 2002 Act” means the Education Act 2002(3);

“the 2005 Act” means the Education Act 2005(4);

“the 2006 Act” means the Education and Inspections Act 2006(5);

“the 2006 Regulations” means the School Finance (England) Regulations 2006(6);

“admission number” means the number of pupils in any relevant age group intended to be admitted in any school year as determined by an admission authority in accordance with section 89A of the 1998 Act(7);

“capital expenditure” means expenditure of a local authority which falls to be capitalised in accordance with proper practices, or expenditure treated as capital expenditure by virtue of any regulations or directions made under section 16 of the Local Government Act 2003(8);

“central expenditure” means the total amount deducted by a local education authority from their schools budget;

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(1) 1996 c.56.

(2) 2000 c.21.

(3) 2002 c.32.

(4) 2005 c.18.

(5) 2006 c.40.

(6) S.I. 2006/468, as amended by S.I. 2007/365.

(7) This is the definition inserted by regulation 2(1) of the Education (Determination of Admission Arrangements) (Amendment) (England) Regulations 2002 (S.I. 2002/2896) into the Education (Determination of Admission Arrangements) (England) Regulations 1999 (S.I. 1999/126).

(8) 2003 c.26. Regulations made under this section in relation to England are the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 (S.I. 2003/3146 as amended by S.I. 2004/534, 2004/3055 and 2007/573).

“CERA” means capital expenditure which an authority expect to charge to a revenue account of the authority within the meaning of section 22 of the Local Government Act 2003;

a “combined service” is a service funded partly from central expenditure, and partly from other budgets of the authority or contributions from other bodies;

“Dedicated Schools Grant” is a grant of that name paid to a local education authority by the Secretary of State under section 14 of the 2002 Act;

“expenditure on the schools specific contingency” is central expenditure deducted for the purpose of ensuring that monies are available to enable increases in a school’s budget share after it has been allocated where it subsequently becomes apparent that—

- (a) a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school’s budget share,
- (b) an increase in the school’s budget share is due in accordance with the local education authority’s formula,
- (c) a determination or redetermination of the school’s budget share authorised by the schools forum or the Secretary of State has led to such an increase, or
- (d) such an increase is necessary for the purpose of correction of errors,  
and where such circumstances were unforeseen when initially determining the school’s budget share;

“funding period 1” is the financial year beginning on 1st April 2008;

“funding period 2” is the financial year beginning on 1st April 2009;

“funding period 3” is the financial year beginning on 1st April 2010;

“gifted and talented pupils” means pupils in primary or secondary schools identified as such by a local education authority by virtue of the fact that they are demonstrating, or have the potential to develop, ability in one or more subjects, leadership skills, or organisational skills at a level significantly ahead of other children in their year group;

“key stage 4” means the fourth key stage of the National Curriculum for England comprising the requirements and entitlements described in sections 85 and 85A of the 2002 Act<sup>(9)</sup>;

a “local education authority’s formula” has the meaning in regulation 9;

“LSC” is the Learning and Skills Council for England<sup>(10)</sup>;

a reference (however framed) to a maintained nursery school, a community, foundation or voluntary school or a community or foundation special school includes a proposed school which, on implementation of proposals for the establishment of the school, will be such a school, and which has a temporary governing body;

a reference to a particular class or description of expenditure in relation to maintained schools and to pupils registered at such schools includes any expenditure of that class or description as the authority may incur in relation to Academies<sup>(11)</sup>, and to pupils registered at Academies;

“Performance Reward Grant” is a grant of that name paid to a local authority under section 31 of the Local Government Act 2003 to reward the authority for improvements in local services;

“PFI scheme unitary payment” means a charge payable by a local education authority under a private finance transaction, as defined in regulation 16 of the Local Authorities (Capital Finance) Regulations 1997<sup>(12)</sup>;

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<sup>(9)</sup> Section 74(1) of the 2006 Act substitutes section 85 and inserts new section 85A of the 2002 Act.

<sup>(10)</sup> The Learning and Skills Council for England was established under section 1 of the 2000 Act.

<sup>(11)</sup> Academies are established under section 482 of the 1996 Act. Section 482 was substituted by section 65 of the 2002 Act.

<sup>(12)</sup> S.I.1997/319, as amended by S.I.1998/371, 1999/1852 and 2003/515. The Local Authorities (Capital Finance) (Consequential, Transitional and Savings Provisions) Order 2004 (S.I. 2004/533) contains savings provisions for regulation 16 of the 1997 Regulations.

“practical and applied learning” means education provided to pupils at key stage 4 in a secondary school or elsewhere which prepares them for employment or for a qualification related to a particular employment sector;

“primary or secondary school” means a primary or secondary school which is a community, foundation, voluntary or maintained nursery school;

“proper practices” means those accounting practices which a local authority are required to follow by virtue of any enactment, or which, so far as they are consistent with any such enactment are generally regarded, whether by reference to any generally recognised published code or otherwise, as proper accounting practices to be followed in the keeping of the accounts of local authorities, either generally or of the description concerned<sup>(13)</sup>;

“prudential borrowing” means borrowing money for the purpose of facilitating the modernisation and rationalisation of the school estate, where the revenue savings that will be achieved are equal to or more than the expenditure that will be incurred in borrowing the money;

“PVI providers” means persons other than governing bodies of primary schools, local education authorities or the proprietors of Academies who provide nursery education for three and four year olds for which no charge is made;

“School Standards Grant” is a grant of that name paid to a local education authority by the Secretary of State under section 14 of the 2002 Act;

“school year” has the meaning given to that expression in section 579(1) of the 1996 Act<sup>(14)</sup>; a reference to “special educational needs transport costs”, for the purposes of paragraph 36(e) of Schedule 2, is a reference to the costs of home to school transport for pupils with special educational needs in schools maintained by a local education authority where the authority is meeting such costs because the revenue savings that will be achieved by placing such children in a school maintained by them are equal to, or greater than, the cost of such transport;

“specific grant” means any grant, other than the Dedicated Schools Grant and any grant made by the LSC under section 7 of the 2000 Act, paid to a local authority under conditions which impose restrictions on the particular purposes for which the grant may be used;

“summer term” means the third term of the school year where a school has three terms, or the fifth and sixth terms where a school has six terms;

a reference to “termination of employment costs”, for the purposes of paragraph 36(b) of Schedule 2, is a reference to expenditure relating to the dismissal or premature retirement of, or for the purpose of securing the resignation of, any person employed in a maintained school where—

- (a) the dismissal, premature retirement or resignation occurs after 1st April 2008; and
- (b) the revenue savings achieved by any termination of employment are equal to or greater than the costs incurred.

## Revocation of previous Regulations

2. The Financing of Maintained Schools (England) 2004<sup>(15)</sup>, The LEA Budget, Schools Budget and Individual Schools Budget Regulations 2004<sup>(16)</sup>, and The LEA Budget, Schools Budget and

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<sup>(13)</sup> This definition is taken from section 2 of the Local Government Act 2003 and regulations 25 and 26 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

<sup>(14)</sup> This definition was inserted by section 57(1) of, and paragraph 43 of Schedule 7 to, the Education Act 1997 (c.44).

<sup>(15)</sup> S.I. 2004/3130.

<sup>(16)</sup> S.I. 2004/3131.

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

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Individual Schools Budget (Amendment) (England) Regulations 2005<sup>(17)</sup> are revoked on 1st April 2008.