
STATUTORY INSTRUMENTS

2014 No. 3352

**The School and Early Years Finance
(England) Regulations 2014**

PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the School and Early Years Finance (England) Regulations 2014 and come into force on 12th January 2015.

(2) These Regulations apply in relation to the financial year beginning on 1st April 2015.

(3) These Regulations apply in relation to England.

(4) In these Regulations—

“1962 Act” means the Education Act 1962**(1)**;

“1989 Act” means the Children Act 1989**(2)**;

“1996 Act” means the Education Act 1996**(3)**;

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

“2002 Act” means the Education Act 2002;

“2003 Act” means the Local Government Act 2003**(4)**;

“2005 Act” means the Education Act 2005**(5)**;

“2006 Act” means the Education and Inspections Act 2006**(6)**;

“2009 Act” means the Apprenticeships, Skills, Children and Learning Act 2009**(7)**;

“2010 Act” means the Academies Act 2010**(8)**;

“2014 Act” means the Children and Families Act 2014**(9)**;

“2013 Regulations” means the School and Early Years Finance (England) Regulations 2013**(10)**;

(1) 1962 c.12.

(2) 1989 c.41.

(3) 1996 c.56.

(4) 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.

(5) 2005 c.18.

(6) 2006 c.40.

(7) 2009 c.22.

(8) 2010 c.32 as amended by section 53(7) of the Education Act 2011 (c.21).

(9) 2014 c.6.

(10) S.I. 2013/3104.

“2014 Early Years Regulations” means the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014⁽¹¹⁾;

“2008 Document” means the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State on 19th May 2008⁽¹²⁾;

“2012 Document” means the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State on 27th March 2012⁽¹³⁾;

“2014 Document” means the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State on 31st March 2014⁽¹⁴⁾;

“2014 ARA” means the document entitled “2014 Key Stage 2 Assessment and Reporting Arrangements”⁽¹⁵⁾ containing provisions made under Article 11 of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003⁽¹⁶⁾, made under section 87(3) of the 2002 Act;

“academic year” means any period commencing with 1st August and ending with the next 31st July;

“all-through schools” means those primary or secondary schools known by this title where pupils may join the school at an age of between three and five years and remain at the school until the age of between 16 and 19 years;

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

“central expenditure” means, in respect of the funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 or, in respect of the previous funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 of the 2013 Regulations;

“CERA” means capital expenditure which a local authority expects to charge to a revenue account of the authority within the meaning of section 22 of the 2003 Act;

“community early years provision” means prescribed early years provision provided by the governing body of a maintained school under section 27(1) of the 2002 Act to children other than pupils at the school, where the local authority has chosen to fund such provision;

“the Early Years Foundation Stage Profile” has the meaning given in section 2 of the 2008 Document, the 2012 Document or the 2014 Document, as the context specifies more particularly;

“early years provision” has the meaning given in section 20 of the Childcare Act 2006⁽¹⁷⁾;

“early years pupil premium” means funding supplied by the Department for Education for the purpose of early years provision to children who meet the criteria in regulation 16(11);

“EHC plan” has the meaning given in section 37(2) of the 2014 Act;

(11) S.I. 2014/2147.

(12) Available at: <http://webarchive.nationalarchives.gov.uk/20130401151715/http://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00261-2008>

(13) Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271631/eyfs_statutory_framework_march_2012.pdf

(14) Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335504/EYFS_framework_from_1_September_2014_with_clarification_note.pdf

(15) Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278150/2014_KS2_assessmentandreportingarrangementsARA_DIGITAL_HO.pdf

(16) S.I. 2003/1038, amended by S.I. 2009/1585, 2010/290, 2011/2392, 2013/1513; there are other amending instruments but none is relevant.

(17) 2006 c.21.

“eligibility for free school meals” means eligibility for free lunches under section 512ZB of the 1996 Act⁽¹⁸⁾;

“excluded early years provision” means early years provision provided by a provider—

- (i) which is an independent school (other than an Academy) which does not meet the standards prescribed under section 157(1) of the 2002 Act or section 94 of the Education and Skills Act 2008⁽¹⁹⁾ in relation to the spiritual, moral, social and cultural development of pupils at the school; or
- (ii) which the local authority has reasonable grounds to believe—
 - (aa) does not actively promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
 - (bb) promotes, as evidence-based, views and theories which are contrary to established scientific or historical evidence and explanations;

“exempt early years provider” means a provider of exempt early years provision;

“exempt early years provision” means early years provision which is not included in prescribed early years provision for the purposes of section 7(1) of the 2006 Act by virtue of regulation 2(2) of the 2014 Early Years Regulations;

“expenditure on the schools specific contingency” is central expenditure deducted for the purpose of ensuring that monies are available to enable an increase in a school’s budget share after it has been allocated and where it subsequently becomes apparent that a governing body has incurred expenditure which it would be unreasonable to expect it to meet from the school’s budget share, which may include expenditure in relation to—

- (iii) schools in financial difficulty;
- (iv) the writing off of deficits of schools which are discontinued, excluding any associated costs and overheads;
- (v) new, amalgamating or closing schools; or
- (vi) circumstances which were unforeseen when the school’s budget share was initially determined;

“funding period” means the financial year beginning on 1st April 2015;

“home school” means, in respect of a pupil, a school which is the shortest distance in a straight line from the pupil’s home and which admits pupils of the pupil’s age and sex, other than—

- (vii) a selective school;
- (viii) a special school; or
- (ix) an independent school which is not an Academy;

“hospital education” means education provided at a community special school or foundation special school established in a hospital, or under any arrangements made by the local authority under section 19 of the 1996 Act (exceptional provision of education), where the child is being provided with such education by reason of a decision made by a medical practitioner, and “hospital education places” shall be read accordingly;

“IDACI” means the Income Deprivation Affecting Children Index referred to in the document named “English Indices of Deprivation 2010” published by the Department for Communities and Local Government⁽²⁰⁾;

⁽¹⁸⁾ Section 512ZB was inserted by section 201(1) of the 2002 Act and amended by section 28 of, and paragraph 16(3) of Schedule 3 to, the Welfare Reform Act 2007 (c.5), section 26(1)(a) to (e) of the Child Poverty Act 2010 (c. 9) and section 31, and paragraph 39(a) and (b) of Schedule 2 to, the Welfare Reform Act 2012 (c.5).

⁽¹⁹⁾ 2008 c.25.

⁽²⁰⁾ Available at: www.gov.uk/government/publications/english-indices-of-deprivation-2010

“IDACI score” means the score allocated to a child under IDACI;

“key stage” means the key stage of the National Curriculum for England comprising the requirements and entitlements described in sections 84, 85 and 85A of the 2002 Act⁽²¹⁾ and “key stage 1”, “key stage 2”, “key stage 3” and “key stage 4” mean, respectively, the first, second, third and fourth key stages referred to in those sections;

“learning difficulty assessment” has the meaning given in section 13(5) of the 1996 Act⁽²²⁾, and a reference to a person being subject to learning difficulty assessment has the meaning given in section 13(4) of the 1996 Act⁽²³⁾;

“looked after child” means a person who, for the purposes of the 1989 Act, is a child looked after by a local authority, and references to the authority looking after the child are to be read accordingly;

“middle school single sum formula” is $A \times (B/C) + D \times (E/C)$ where—

- (x) A is the amount allocated per school by the authority under paragraph 1(a) of Schedule 3 (primary single sum);
- (xi) B is the number of primary-age year groups in the school;
- (xii) C is the number of year groups in the school;
- (xiii) D is the amount allocated per school by the authority under paragraph 2(a) of Schedule 3 (secondary single sum); and
- (xiv) E is the number of secondary-age year groups in the school;

“non-domestic rate” has the meaning given in section 54 of the Local Government Finance Act 1988⁽²⁴⁾;

“prescribed early years provision” means early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006;

“previous funding period” means the financial year beginning on 1st April 2014 and “previous funding periods” means such funding periods as the context specifies more particularly;

“proper accounting practices” means those accounting practices which a local authority is 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⁽²⁵⁾;

“provider”, in relation to prescribed early years provision, includes a governing body of a maintained school or a relevant early years provider;

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

“pupil premium” means the amount allocated by a local authority from the pupil premium grant to a school under the terms and conditions of the grant;

“pupil premium grant” is a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of pupils who are entitled to a pupil premium;

(21) Sections 85 and 85A were substituted for section 85, as originally enacted, by section 74(1) of the 2006 Act.

(22) Subsection (5) of section 13 was inserted by section 59 of, and paragraphs 1 and 2 of Schedule 2 to, the 2009 Act.

(23) Subsection (4) of section 13 was inserted by section 59 of, and paragraphs 1 and 2 of Schedule 2 to, the 2009 Act.

(24) 1988 c.41.

(25) This definition is taken from section 21 of the 2003 Act and regulation 31 of the Local Government (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146).

“relevant early learning goals” means the early learning goals in the prime areas in section 1 of the 2014 Document and also the early learning goals of reading; writing; numbers; and shape, space and measures in section 1 of that document;

“relevant early years provider” means a provider of prescribed early years provision, other than the governing body of a maintained school;

“relevant early years provision” means prescribed early years provision provided by a relevant early years provider;

“school census” means the record of individual pupil information supplied by local authorities to the Secretary of State under section 537A of the 1996 Act⁽²⁶⁾;

“second closest school” means, in respect of a pupil, the school which is the second shortest distance in a straight line from the pupil’s home and which admits pupils of the pupil’s age and sex, other than—

(xv) a selective school;

(xvi) a special school; or

(xvii) an independent school which is not an Academy;

“selective school” means a school where all the pupils in the school are selected by ability or by aptitude;

“sixth form grant” means a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of sixth form pupils, on condition that it is passed on to a particular school;

“special Academy” means an educational institution which meets the requirements of section 1A(2) of the 2010 Act;

“special educational needs” has the meaning given in section 20(1) of the 2014 Act;

“specific grant” means any grant paid to a local authority under conditions which impose restrictions on the particular purposes for which the grant may be used other than—

(xviii) a grant named “Dedicated Schools Grant”, paid to a local authority by the Secretary of State under section 14 of the 2002 Act, or

(xix) any sixth form grant;

“unavoidable costs” means costs which must be incurred by virtue of a statutory requirement;

“Year 1” means the school year in which the majority of pupils attain the age of six;

“Year 2” means the school year in which the majority of pupils attain the age of seven;

“Year 3” means the school year in which the majority of pupils attain the age of eight;

“Year 4” means the school year in which the majority of pupils attain the age of nine;

“Year 5” means the school year in which the majority of pupils attain the age of ten;

“Year 6” means the school year in which the majority of pupils attain the age of eleven.

(5) In these Regulations—

(a) a reference to a determination or redetermination of a budget share or amount to be allocated is a reference to such a determination or redetermination for the funding period, unless otherwise stated;

(b) a reference to an Academy’s “predecessor school” is a reference to—

(i) the school that was discontinued and which that Academy replaced, or

⁽²⁶⁾ Section 537A was inserted by section 140(1) of, and paragraph 153 of Schedule 30 to, the 1998 Act.

- (ii) the maintained school which converted into that Academy in accordance with section 4 of the 2010 Act;
- (c) a reference to a “governing body” of a school includes the management committee of a pupil referral unit;
- (d) a reference to an inspection under section 5 of the 2005 Act includes a reference to an inspection under section 8 of that Act (other inspections) which has been treated by the Chief Inspector as an inspection under section 5;
- (e) a reference to the number of pupils at a particular key stage is a reference to the number on 2nd October 2014, unless otherwise stated;
- (f) a reference to “pupils or children” in regulations 15 and 16 is a reference to—
 - (i) in respect of a nursery school, the pupils at the school;
 - (ii) in respect of a nursery class, the pupils in the class;
 - (iii) in respect of a prescribed early years provider, the children receiving prescribed early years provision from the provider;
 - (iv) in respect of a relevant early years provider, the children receiving relevant early years provision from the provider;
 - (v) in respect of an exempt early years provider, the children receiving exempt early years provision from the provider; and
 - (vi) in respect of community early years provision, the children receiving such provision at the school;
- (g) a reference to “pupils” includes only those pupils who are recorded on the school census as either—
 - (i) registered solely at that school, or
 - (ii) registered at more than one school, but attending that school for most of their time, except in regulations 15(5), 15(6) and 16 where “pupil” means a registered pupil⁽²⁷⁾;
- (h) a reference to “schools” in Schedules 1 and 2 includes maintained schools and Academies except where the context requires otherwise;
- (i) a reference to “special educational needs transport costs”, for the purposes of paragraph 4(d) 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 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 it are equal to, or greater than, the costs of such transport; and
- (j) a reference to “termination of employment costs”, for the purposes of paragraph 4(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.

Revocation

2. The School and Early Years Finance (England) Regulations 2012⁽²⁸⁾ are revoked on 1st April 2015.

⁽²⁷⁾ “Registered pupil” is defined in section 434(5) of the 1996 Act.

⁽²⁸⁾ S.I. 2012/2991.

Amendments

- 3.—(1) The Schools Forums (England) Regulations 2012⁽²⁹⁾ are amended as follows.
- (2) In regulation 1(3)—
- (a) after the definition of “Academies member”, insert—
- ““alternative provision Academy” means an educational institution which meets the requirements of section 1C of the Academies Act 2010⁽³⁰⁾”;
- (b) after the definition of “governor”, insert—
- ““mainstream Academy” means an educational institution which meets the requirements of section 1A(1) of the Academies Act 2010;”;
- (c) after the definition of “senior member of staff”, insert—
- ““special Academy” means an educational institution which meets the requirements of section 1A(2) of the Academies Act 2010;”.
- (3) In regulation 4(2)(b), omit “if there are any Academies in the authority’s area”.
- (4) In regulation 4(6), for “(10)” substitute “(10C)”.
- (5) After regulation 4(10), insert—
- “(10A) At least one Academies member must be a representative of a mainstream Academy.
- (10B) If there are any special Academies in the authority’s area, at least one Academies member must be a representative of a special Academy.
- (10C) If there are any alternative provision Academies in the authority’s area, at least one Academies member must be a representative of an alternative provision Academy.”.
- (6) For regulation 6, substitute—

“6 Academies members

- (1) Academies members representing mainstream Academies must be elected to the schools forum by the proprietors of mainstream Academies in the authority’s area.
- (2) Where there is only one mainstream Academy in the authority’s area, the proprietor of that Academy must select the person who will represent it on the schools forum.
- (3) Academies members representing special Academies must be elected to the schools forum by the proprietors of special Academies in the authority’s area.
- (4) Where there is only one special Academy in the authority’s area, the proprietor of that special Academy must select the person who will represent it on the schools forum.
- (5) Academies members representing alternative provision Academies must be elected to the schools forum by the proprietors of alternative provision Academies in the authority’s area.
- (6) Where there is only one alternative provision Academy in the authority’s area, the proprietor of that alternative provision Academy must select the person who will represent it on the schools forum.”.
- (7) In regulation 10(1)(a), after “special educational needs”, insert—
- “, and in particular—
- (i) the places to be commissioned by the local authority in different schools and other institutions, and

⁽²⁹⁾ S.I. 2012/2261, amended by S.I. 2012/2991, 2013/3104.

⁽³⁰⁾ 2010 c.32; sections 1A and 1C were inserted by section 53(7) of the Education Act 2011.

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

(ii) the arrangements for paying top-up funding to schools and other institutions”.

(8) In regulation 10(1)(b), after “otherwise than at school”, insert—

“, and in particular—

(i) the places to be commissioned by the authority and by schools in pupil referral units and other providers of alternative provision, and

(ii) the arrangements for paying top-up funding to pupil referral units and other providers of alternative provision”.