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STATUTORY INSTRUMENTS

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**2022 No. 27**

The School and Early Years Finance  
(England) Regulations 2022

PART 3

Determination of Budget Shares etc.

CHAPTER 2

Adjustments, Correction of Errors, and Alternative  
Arrangements Authorised by the Secretary of State

**Pupils permanently excluded from, or leaving, maintained schools**

**29.**—(1) Where a pupil is permanently excluded from a school maintained by a local authority (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) (“the excluding school”) the authority must redetermine the excluding school’s budget share in accordance with paragraph (2).

- (2) The excluding school’s budget share must be reduced by  $A \times (B / 52) + C$  where—
- (a)  $A$  is the amount determined by the authority in accordance with this Part that would be attributable to a pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the authority for the full funding period;
  - (b)  $B$  is either—
    - (i) the number of complete weeks remaining in the funding period calculated from the relevant date; or
    - (ii) 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 before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date; and
  - (c)  $C$  is the amount of the adjustment made to the school’s budget share under a financial adjustment order.

(3) Where a pupil has been permanently excluded from the excluding school and is admitted to another school maintained by a local authority (other than a special school, a pupil referral unit, or to a place which the authority has reserved for children with special educational needs) (“the admitting school”) in the funding period, the authority must redetermine the admitting school’s budget share in accordance with paragraphs (4) and (5).

- (4) The admitting school’s budget share must be increased by an amount which is not less than  $D \times (E / F)$  where—
- (a)  $D$  is the amount by which the authority reduced the budget share of the excluding school, or would have reduced the budget share if that school had been maintained by the authority,

except that any reduction in the excluding school's budget share made under a financial adjustment order must not be taken into account for these purposes;

- (b)  $E$  is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and
- (c)  $F$  is the number of complete weeks remaining in the funding period calculated from the relevant date.

(5) In redetermining the admitting school's budget share, the authority may increase it by any amount up to the amount of the adjustment made to the excluding school's budget share under a financial adjustment order.

(6) Where a permanently excluded pupil is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than  $G \times (H / I)$  where—

- (a)  $G$  is the amount by which the authority reduced the school's budget share under paragraph (2);
- (b)  $H$  is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and
- (c)  $I$  is the number of complete weeks remaining in the funding period calculated from the relevant date.

(7) Paragraphs (1) and (2) also apply where a pupil leaves a maintained school (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(8) For the purposes of paragraph (2)(a), the amount attributable to a pupil is the sum of the amounts determined in accordance with the authority's formula, by reference to pupil numbers rather than by reference to any other factor or criterion not dependent on pupil numbers except that where a sixth form grant is payable in respect of the pupil in question, the amount attributable to that pupil in the funding period is £4,188 in respect of the period within the funding period up to and including 31st July 2022 or £4,542 in respect of the period within the funding period beginning on 1st August 2022.

(9) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority ("the excluding school"), the local authority must redetermine the excluding school's budget share in accordance with paragraph (10).

(10) The excluding school's budget share must be reduced by  $J \times (K / 52)$  where—

- (a)  $J$  is the amount of the pupil premium allocated to the excluding school for the funding period in respect of that child; and
- (b)  $K$  is either—
  - (i) the number of complete weeks remaining in the funding period calculated from the relevant date; or
  - (ii) 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 before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date.

(11) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority and admitted to another school maintained by a local authority ("the admitting school") in the funding period, the authority must redetermine the budget share of the admitting school in accordance with paragraph (12).

(12) The admitting school's budget share must be increased by an amount which is not less than  $L \times (M / N)$  where—

- (a)  $L$  is the amount by which the authority reduced the budget share of the excluding school or would have reduced the budget share had that school been maintained by the authority;
- (b)  $M$  is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and
- (c)  $N$  is the number of complete weeks remaining in the funding period calculated from the relevant date.

(13) Where a permanently excluded pupil in respect of whom a pupil premium is payable is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than  $O \times (P / Q)$  where—

- (a)  $O$  is the amount by which the authority reduced the school's budget share under paragraph (10);
- (b)  $P$  is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and
- (c)  $Q$  is the number of complete weeks remaining in the funding period calculated from the relevant date.

(14) Paragraphs (9) and (10) also apply where a pupil in respect of whom a pupil premium is payable leaves a maintained school for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(15) For the purposes of this regulation—

- (a) "the relevant date" is the sixth school day following the date on which the pupil has been permanently excluded; and
- (b) "a financial adjustment order" means an order for the adjustment of a school's budget share made under regulation 25(5)(b) of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012(1) in respect of the exclusion of the pupil from the excluding school.

### **Correction of errors and changes in non-domestic rates**

**30.**—(1) A local authority may at any time during the funding period redetermine a maintained school's budget share, or the amount allocated to a relevant early years provider, for the funding period or any previous funding period in order to correct an error in a determination or redetermination made under these Regulations or any previous regulations made under sections 47 or 47ZA of the 1998 Act, whether arising from a mistake as to the number of pupils at the school or otherwise, and any such redetermination will take effect in the next financial year following the funding period.

(2) A local authority may redetermine a school's budget share to take into account any changes in that school's non-domestic rate liability in relation to the funding period or any previous funding period.

(3) In so far as any redetermination under paragraph (1) would require the amount that would otherwise have been the budget share of a school to be reduced, it may not be reduced to a figure which is lower than that which could have been allocated to that school under the Regulations in force during the funding period in which the error occurred.

**Alternative arrangements approved by the Secretary of State**

**31.**—(1) Subject to paragraph (2), on application by a local authority, the Secretary of State may authorise the authority to—

- (a) disregard the limits referred to in paragraph 3 of Schedule 2 when deducting any expenditure referred to in regulation 8(4) (historic commitments);
- (b) disregard regulation 8(7) (determination of the individual schools budget for the funding period and limit on increase in central expenditure);
- (c) deduct any expenditure referred to in regulation 8(12)(a) (expenditure falling outside Schedule 2);
- (d) alter the operation of regulation 11(3) (additional expenditure on children with special educational needs);
- (e) determine (including redetermine) budget shares of schools maintained by it;
- (f) determine (including redetermine) amounts to be allocated in respect of nursery classes in schools maintained by it;
- (g) determine (including redetermine) amounts to be allocated to relevant early years providers in its area;
- (h) include additional factors or criteria in its formula under regulation 10(1) (formula for determining budget shares) where the nature of a school's premises exceptionally gives rise to significant additional cost;
- (i) include additional factors or criteria that the authority proposes to include in its formula under regulation 10(3) (early years single funding formula);
- (j) alter the operation of regulation 23 (minimum funding guarantee) and Schedule 4 in respect of particular schools;
- (k) vary any or all of the year group values D, E or F set out in regulation 22(4) for all the schools that are subject to the formula decided by the authority under regulation 10(1);
- (l) alter the operation of regulation 22 (minimum per pupil amount) in respect of particular schools;
- (m) disregard regulation 13 (pupil numbers);
- (n) alter the operation of regulation 27 (new schools, merged schools and closing schools) in respect of particular schools;
- (o) alter the operation of paragraphs 14 (primary population sparsity) and 15 (secondary population sparsity) of Schedule 3 in respect of particular schools; and
- (p) alter the operation of regulation 24 (early years 95 per cent requirement).

(2) The Secretary of State may authorise the matters in paragraph (1) to such extent as he or she may specify in accordance with arrangements approved in place of the arrangements provided for by these Regulations.