

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, SCHEDULE 16. (See end of Document for details)

SCHEDULES

SCHEDULE 16 **E+W**

Section 101

FUNDING OF MAINTAINED SCHOOLS

- 1 In this Schedule “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31).

Commencement Information

- I1** Sch. 16 para. 1 partly in force; Sch. 16 para. 1 not in force at Royal Assent see s. 125; Sch. 16 para. 1 in force for E. at 1.11.2005 by [S.I. 2005/2034](#), [art. 8](#)
- I2** Sch. 16 para. 1 in force at 1.4.2010 for W. by [S.I. 2010/735](#), [art. 2\(d\)](#)

Power to provide for budgets to relate to period other than financial year

- 2 (1) Section 45 of the 1998 Act (maintained schools to have budget shares) is amended as follows.
- (2) In subsection (1) for “financial year” substitute “ funding period ”.
- (3) After subsection (1A) insert—
- “(1B) In this Chapter “funding period” means a financial year or such other period as may be prescribed.”
- (4) In subsection (2)—
- (a) for “45A and” substitute “ 45A to ”, and
- (b) for “financial year” substitute “ funding period ”.

Commencement Information

- I3** Sch. 16 para. 2 partly in force; Sch. 16 para. 2 not in force at Royal Assent see s. 125; Sch. 16 para. 2 in force for E. at 1.11.2005 by [S.I. 2005/2034](#), [art. 8](#)
- I4** Sch. 16 para. 2 in force at 1.4.2010 for W. by [S.I. 2010/735](#), [art. 2\(d\)](#)

Determination of budgets

- 3 (1) Section 45A of the 1998 Act (determination of specified budgets of [^{F1}local authority]) is amended as follows.
- (2) In subsection (1)—
- (a) for “financial year” substitute “ relevant period ”, and
- (b) for “that year” substitute “ that period ”.
- (3) After subsection (1) insert—

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“(1A) In subsection (1) “relevant period” means a financial year or such other period as may be prescribed.”

(4) In subsection (2)—

- (a) for “financial year” substitute “ funding period ”, and
- (b) for “that year” substitute “ that period ”.

(5) After that subsection insert—

“(2A) The amount referred to in subsection (2) includes the amount of any grant which is appropriated, for meeting the expenditure mentioned in that subsection, in accordance with a condition which—

- (a) is imposed under section 16 of the Education Act 2002 (terms on which assistance under section 14 of that Act is given) or any other enactment, and
- (b) requires that the grant be applied as part of the authority's schools budget for the funding period.”

(6) In subsection (3)—

- (a) for “financial year” substitute “ funding period ”, and
- (b) for “that year” (in both places) substitute “ that period ”.

(7) After subsection (4) insert—

“(4A) Regulations under subsection (3) may also make provision—

- (a) enabling any expenditure falling outside any classes or descriptions of expenditure prescribed by virtue of subsection (4)(a) to be deducted from the authority's schools budget if the deduction of such expenditure is authorised, on the application of the authority, by the authority's schools forum or the Secretary of State, and
- (b) enabling any limit or condition that would otherwise apply by virtue of subsection (4)(b)(i) or (ii) to be varied or excluded, on the application of the authority, by the authority's schools forum or the Secretary of State.”

(8) Omit subsections (5) and (6).

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 13(2)**

Commencement Information

- I5** Sch. 16 para. 3 partly in force; Sch. 16 para. 3 not in force at Royal Assent see s. 125; Sch. 16 para. 3 in force for E. at 1.11.2005 by [S.I. 2005/2034](#), **art. 8**
- I6** Sch. 16 para. 3 in force at 1.4.2010 for W. by [S.I. 2010/735](#), **art. 2(d)**

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“45AA Power to require [^{F2}local authorities] in England to determine schools budget

- (1) Regulations may require a [^{F1}local authority] in England, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
 - (a) authorise or require [^{F1}local authorities] in England to take account of matters arising after the initial determination of their schools budgets for any funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and
 - (b) require notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the [^{F1}local authority].

45AB Duty of [^{F2}local authorities] in Wales to determine schools budget

- (1) Before the schools budget deadline in any funding period, a [^{F1}local authority] in Wales must—
 - (a) determine the proposed amount of their schools budget for the following funding period, and
 - (b) give notice of their determination to the National Assembly for Wales and to the governing body of every school maintained by the authority.
- (2) For the purposes of this section “the schools budget deadline”, in relation to an authority in Wales, means the end of January or such other time as may be prescribed.

45AC Power to require [^{F2}local authorities] in Wales to determine schools budget

- (1) Regulations may require a [^{F1}local authority] in Wales, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
 - (a) authorise or require [^{F2}local authorities] in Wales to take account of matters arising after the initial determination of their schools budgets for the funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and

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- (b) require notice of any initial determination or revised determination to be given in accordance with the regulations to the Assembly and to the governing bodies of schools maintained by the [^{F1}local authority].
- (4) Regulations under subsection (1) are not to have effect in relation to an authority's schools budget for any funding period if section 45AB is in force in relation to that funding period.”

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 13(2)**
- F2** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 13(3)**

Commencement Information

- I7** Sch. 16 para. 4 partly in force; Sch. 16 para. 4 not in force at Royal Assent see s. 125; Sch. 16 para. 4 in force for E. for certain purposes at 1.11.2005 by [S.I. 2005/2034](#), **art. 8**
- I8** Sch. 16 para. 4 in force at 1.4.2010 for W. by [S.I. 2010/735](#), **art. 2(d)**

5 For sections 45B and 45C of the 1998 Act substitute—

“45B Power of Assembly to set minimum schools budget for [^{F2}local authority] in Wales

- (1) If it appears to the National Assembly for Wales that, in all the circumstances, the proposed amount of a [^{F1}local authority]'s schools budget for a funding period is inadequate, the Assembly may, within the period of fourteen days beginning with the schools budget deadline in the funding period preceding that funding period, give the authority a notice under subsection (6) or (7).
- (2) In subsection (1), the reference to the proposed amount of a [^{F1}local authority]'s schools budget for a funding period is—
 - (a) if section 45AB is in force in relation to that funding period, a reference to the amount specified in a notice under section 45AB(1)(b), or
 - (b) if regulations under section 45AC(1) are in force in relation to that funding period, a reference to such amount, determined by the authority in accordance with those regulations and specified in a notice required by those regulations to be given to the Assembly, as may be prescribed.
- (3) If at the schools budget deadline in any funding period, a [^{F1}local authority] in Wales have failed to give the Assembly a notice under section 45AB(1)(b) or a notice required as mentioned in subsection (2)(b), the Assembly may, at any time after that deadline, give the authority a notice under subsection (6) or (7).
- (4) In this section “the schools budget deadline”—
 - (a) in a case falling within subsection (2)(a), has the same meaning as in section 45AB, and

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- (b) in a case falling within subsection (2)(b), means the time in the funding period preceding the funding period to which the schools budget relates by which regulations under section 45AC(1) require notice of a revised determination of the schools budget to be given to the Assembly.
- (5) In this section and section 45C “the period under consideration” means the funding period to which the notice mentioned in subsection (2)(a) or (b) relates or, in a case falling within subsection (3), the funding period in relation to which such a notice ought to have been given.
- (6) A notice under this subsection is a notice determining the minimum amount of the authority's schools budget for the period under consideration.
- (7) A notice under this subsection is a notice which—
 - (a) specifies the amount which the Assembly would have determined as the minimum amount of the authority's schools budget for the period under consideration if the Assembly had acted under subsection (4), and
 - (b) states the Assembly's intention to determine the minimum amount of the authority's schools budget for the following funding period.
- (8) A notice under subsection (6) or (7) must include a statement of the Assembly's reasons for giving the notice.
- (9) The Assembly may act under different subsections in relation to different authorities.

45C Effect of notice under section 45B(6)

- (1) The [F1local authority] may, within the period of fourteen days beginning with the date of a notice under section 45B(6), give the National Assembly for Wales notice of their objection to the Assembly's determination, giving reasons for their objection.
- (2) Where the [F1local authority] have given notice of their objection under subsection (1), the notice under section 45B(6) shall cease to have effect, but the Assembly may by order prescribe the minimum amount of the authority's schools budget for the period under consideration.
- (3) The amount prescribed under subsection (2) must not be greater than the amount specified in the notice under section 45B(6).
- (4) An order under subsection (2) may relate to two or more authorities.
- (5) Where—
 - (a) a notice under section 45B(6) has been given to a [F1local authority] and no notice of objection has been given during the period specified in subsection (1), or
 - (b) an order has been made under subsection (2),the [F1local authority] shall determine a schools budget for the period under consideration which is not less than the amount specified in relation to the authority in the notice or order.

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45D Power of Assembly to repeal Wales-only school funding provisions

The Assembly may by order—

- (a) repeal any of the following provisions—
 - section 45AB,
 - section 45AC(4), and
 - sections 45B and 45C, and
- (b) make any amendments of the other provisions of this Chapter which appear to the Assembly to be necessary or expedient in consequence of any repeal made by virtue of paragraph (a).”

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 13(2)**
- F2** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 13(3)**

Commencement Information

- I9** Sch. 16 para. 5 partly in force; Sch. 16 para. 5 not in force at Royal Assent see s. 125; Sch. 16 para. 5 in force for E. at 1.11.2005 by [S.I. 2005/2034](#), **art. 8**
- I10** Sch. 16 para. 5 in force at 1.4.2010 for W. by [S.I. 2010/735](#), **art. 2(d)**

Determination of schools' budget shares

- 6 (1) Section 47 of the 1998 Act (determination of school's budget share) is amended as follows.
- (2) In subsection (1)—
- (a) for “financial year” substitute “ funding period ”, and
 - (b) for “that year” substitute “ that period ”.
- (3) In subsection (2)—
- (a) after paragraph (d) insert—
 - “(dd) authorising or requiring such authorities to take account of matters arising after the initial determination of budget shares for a funding period but before the beginning of the funding period, by redetermining budget shares for that period in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;”
 - (b) in paragraph (e) for “financial year” substitute “ funding period ” and for “year” in sub-paragraphs (i) and (ii) substitute “ funding period ”,
 - (c) after paragraph (f) insert—
 - “(ff) requiring notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the authority in question;”
 - (d) for paragraph (g) substitute—

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“(g) authorising [^{F2}local authorities] in prescribed cases to determine (or redetermine) budget shares, to such extent as may be prescribed, in accordance with arrangements approved by the authority's schools forum or the Secretary of State in accordance with the regulations (in place of the arrangements provided for by the regulations);”.

(4) After subsection (2) insert—

“(2A) The time by which regulations made in pursuance of subsection (2)(a) require an initial determination of schools' budget shares for a funding period to be made may be up to 48 months before the beginning of the funding period.”

Textual Amendments

F2 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 13(3)**

Commencement Information

I11 Sch. 16 para. 6 partly in force; Sch. 16 para. 6 not in force at Royal Assent see s. 125; Sch. 16 para. 6 in force for E. at 1.11.2005 by [S.I. 2005/2034](#), **art. 8** (with [Sch. paras. 3, 4](#))

I12 Sch. 16 para. 6 in force at 1.4.2010 for W. by [S.I. 2010/735](#), **art. 2(d)**

Functions of schools forum

7 In section 47A of the 1998 Act (schools forums) for subsection (3) substitute—

“(3) The purpose of a schools forum is—

- (a) to advise the relevant authority on such matters relating to the authority's schools budget as may be prescribed by regulations under section 45A(3) or by regulations under this subsection, and
- (b) to exercise any function that may be imposed on the schools forum by virtue of section 45A(4A) or 47(2)(g).”

Commencement Information

I13 Sch. 16 para. 7 partly in force; Sch. 16 para. 7 not in force at Royal Assent see s. 125; Sch. 16 para. 7 in force for E. at 1.11.2005 by [S.I. 2005/2034](#), **art. 8**

I14 Sch. 16 para. 7 in force at 1.4.2010 for W. by [S.I. 2010/735](#), **art. 2(d)**

Certain regulations to be subject to affirmative procedure

8 In section 138 of the 1998 Act (orders and regulations), in subsection (5) (orders and regulations that are subject to affirmative procedure) after paragraph (b) insert “or

- (c) the first regulations to be made under section 45AA, or
- (d) the first regulations to be made under section 47 in relation to England after the coming into force of paragraph 6 of Schedule 16 to the Education Act 2005.”.

Changes to legislation:

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