

1990 No. 1989

EDUCATION, ENGLAND AND WALES

The Education (Grant) Regulations 1990

Made - - - - - 5th October 1990
Laid before Parliament 17th October 1990
Coming into force - 7th November 1990

In exercise of the powers conferred by sections 100(1) and (3) and 111A of the Education Act 1944(a), section 4(1) and (3) of the Education Act 1967 (b), section 50(1) and (3) of the Education (No. 2) Act 1986(c) and section 213(1) and (2) of the Education Reform Act 1988(d) and vested in the Secretary of State(e) the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Grant) Regulations 1990 and shall come into force on 7th November 1990.

Interpretation and construction

2.—(1) In these Regulations—

“approved expenditure” means expenditure which is approved by the Secretary of State for the purposes of the payment of grant;

“capital expenditure” means expenditure on or in connection with—

- (a) the acquisition of any interest in land or buildings;
- (b) the provision or alteration of buildings; or
- (c) the provision of furniture or equipment otherwise than in the course of periodic maintenance;

“grant” means a grant in pursuance of these Regulations;

“loan” means a loan in pursuance of regulation 9; and

(a) 1944 c.31; section 100 was extended by paragraph 3 of Schedule 2 to the Sex Discrimination Act 1975 (c.65) and section 100(1)(b) was amended by section 213(3) of the Education Reform Act 1988 (c.40). Section 111A was inserted by section 229 of that Act.

(b) 1967 c.3.

(c) 1986 c.61. For the expression “prescribed” see section 67(3) of the Education (No. 2) Act 1986 and section 114(1) of the Education Act 1944.

(d) 1988 c.40.

(e) S.I. 1964/490, 1970/1536, 1978/274.

“Universities Funding Council” means the body established by section 131 of the Education Reform Act 1988.

(2) Except when the context otherwise requires, a reference in these Regulations to a regulation is a reference to a regulation contained therein and a reference in a regulation to a paragraph is a reference to a paragraph of that regulation.

Rate of grant

3. Save as mentioned in regulation 8, any grant may be of an amount constituting reimbursement of the approved expenditure to which it relates or of a lesser amount determined by the Secretary of State.

Payment of grant

4. Payments of grant shall be made at such times and in such instalments as the Secretary of State thinks appropriate.

Revocation and amendment

5.—(1) The Regulations specified in the Schedule hereto are hereby revoked:

Provided that nothing in this regulation shall affect any condition or requirement imposed by or under any of the Regulations so revoked.

(2) The Direct Grant Schools Regulations 1959(a) shall continue to have effect with the amendment made by regulation 2(2) of the Education (Grant) Regulations 1983(b) (insertion of Regulation 10A).

PART II

PAYMENT OF GRANTS

Special Schools

6. The Secretary of State may pay grants to persons other than local education authorities by whom special schools are maintained or proposed to be maintained in respect of approved expenditure incurred by them for the purposes of, or in connection with, the provision (or proposed provision) of education in special schools.

Further and higher education institutions

7.—(1) Subject to paragraph (3), this regulation applies to institutions which provide further education or higher education (or both) including institutions providing such education for persons who have learning difficulties.

(2) For the purposes of this regulation a person has a “learning difficulty” if—

- (a) he has a significantly greater difficulty in learning than the majority of persons of his age; or
- (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided for persons of his age in such institutions as are mentioned in paragraph (1) or any class thereof,

but a person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of language) which has at any time been spoken in his home.

(3) This regulation does not apply to—

- (a) any institution conducted for profit;
- (b) any institution provided by a local education authority;

(a) S.I. 1959/1832, amended by S.I. 1963/1379, 1965/1, 1968/1148, 1972/1678, 1973/1535, 1978/1145, 1980/1861, 1981/1788, 1983/74 and 1987/1182.

(b) S.I. 1983/74, amended by S.I. 1987/1126.

- (c) any institution whose activities are eligible for funding by the Universities Funding Council except the Open University;
- (d) any institution within the PCFC funding sector.

8. The Secretary of State may pay grants to the governing bodies of institutions to which regulation 7 applies in respect of approved expenditure incurred or to be incurred by them for the purposes of, or in connection with, the provision (or proposed provision) of further education or higher education (or both):

Provided that grant in respect of approved capital expenditure incurred or to be incurred by the governing body of Trinity College, Carmarthen, shall not exceed 85% of the approved expenditure.

Loans

9. Where grant in respect of approved capital expenditure is paid to the governing body of Trinity College, Carmarthen, the Secretary of State may make a loan to that body of an amount not exceeding 15% of the approved capital expenditure to which the grant relates.

Courses of adult education

10.—(1) The Secretary of State may pay grants to any body mentioned in paragraph (2) in respect of approved expenditure incurred or to be incurred by them in providing tuition for the purposes of any course of adult education included in a programme approved by the Secretary of State for the purposes hereof.

(2) The bodies referred to in paragraph (1) are—

- (a) any association having as its principal object, or one of those objects, the promotion throughout England and Wales of education for adults;
- (b) any district committee of such an association.

(3) In the case of a district committee of the Workers' Educational Association, the power to pay grants under this regulation shall extend to approved expenditure incurred or to be incurred by them in connection with any such course as is referred to in paragraph (1).

Other educational services provided by national associations

11. The Secretary of State may pay grants to any association referred to in regulation 10(2)(a) in respect of approved expenditure incurred or to be incurred by them for the purposes of, or in connection with, the provision (or proposed provision) of educational services other than expenditure in providing, or in connection with the provision of, a course of adult education included in a programme approved by the Secretary of State for the purposes of regulation 10.

Informal vocational, social, physical and recreational training

12. The Secretary of State may pay grants to persons other than local education authorities in respect of approved expenditure incurred or to be incurred by them for the purposes of, or in connection with, the provision (or proposed provision), whether as part of wider activities or not, of vocational, social, physical and recreational training provided (or to be provided) otherwise than in any educational institution and otherwise than for profit.

Training of youth leaders and community centre wardens

13. The Secretary of State may pay grants to the governing body of the University of Durham and to any national youth organisation in respect of approved expenditure incurred or to be incurred by them in providing courses for the training of youth leaders and community centre wardens.

Learned Societies

14.—(1) The Secretary of State may pay grants to any body mentioned in paragraph (2) (being bodies whose object or main object is, in his opinion, the promotion of

learning or research) in respect of approved expenditure incurred or to be incurred by them for the purposes of any of their activities.

(2) The bodies referred to in paragraph (1) are—

- (a) the body corporate constituted by Royal Charter and known at the date of these Regulations as the British Academy for the Promotion of Historical, Philosophical and Philological Studies;
- (b) the body corporate constituted by Royal Charter and known at the date of these Regulations as the Royal Society of London for improving Natural Knowledge;
- (c) the United States Educational Commission in the United Kingdom established by the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America, dated 22nd September 1948(a) (the Fulbright Commission).

Certain educational services and research

15.—(1) The Secretary of State may pay grants to persons other than local education authorities in respect of approved expenditure incurred or to be incurred by them—

- (a) for the purposes of, or in connection with, the provision (or proposed provision), whether by them or any other person, of educational services of an administrative, advisory, inforamatory, organising or training character, or
- (b) for the purposes of, or in connection with, the provision (or proposed provision) of education by any other person in (i) any school or (ii) any institution providing further education or higher education (or both).

(2) The Secretary of State may pay grants to persons other than local education authorities in respect of approved expenditure incurred or to be incurred by them for the purposes of educational research.

Training abroad of teachers and others

16.—(1) The Secretary of State may pay grants to persons other than local education authorities in respect of approved expenditure incurred or to be incurred by them by way of payments to any person mentioned in paragraph (2) for the purpose of facilitating at a place outside the United Kingdom—

- (a) that person's training or further training with a view to his continuing to be employed in education whether in his existing or a different capacity;
- (b) the provision of experience (whether or not within education) which is likely to benefit that person in the capacity in which he is employed, or
- (c) the study by that person of matters connected with, or related to, education.

(2) The persons referred to in paragraph (1) are—

- (a) teachers;
- (b) youth and community workers(b);
- (c) education welfare officers;
- (d) educational psychologists;
- (e) local education authority inspectors;
- (f) education advisers employed by such authorities; and
- (g) persons employed by such authorities in the administration of the education service provided by them.

(a) Cmd. 7527 (Treaty Series No.69 (1948)). This paper is out of print. Photocopies can be obtained by HMSO from the British Library Lending Division (BLLD). Customers, unless already registered with BLLD, should order via HMSO (Photocopies), PO Box 276, London SW8 5DT, enclosing £2.50 per complete copy required.

(b) The expression "youth and community worker" is defined in section 50(4) of the Education (No. 2) Act 1986 and regulation 3 of the Education (Training Grants) Regulations 1990 (S.I. 1990/1857).

PART III

SUPPLEMENTAL

Conditions of Payment

17. The making of payments of grant or by way of loan shall be dependent on the fulfilment of such conditions as may be specified by the Secretary of State in the case in question.

Requirements to be observed

18.—(1) The persons to whom payments of grant or by way of loan are made shall comply with such requirements (including requirements as to the repayment of grant or the payment to the Secretary of State of other sums related to the value of assets acquired, provided or improved with the aid of grant or interest on sums due to him) as may be specified by the Secretary of State in the case in question.

(2) Without prejudice to the generality of paragraph (1), the persons to whom payments of grant are made—

- (a) shall keep such records and accounts and furnish to the Secretary of State such information, documents, returns and accounts as the Secretary of State may from time to time require;
- (b) shall open to the inspection of the Comptroller and Auditor General the records and accounts kept pursuant to the requirement imposed under sub-paragraph (a) above;
- (c) shall, where grant has been paid in respect of expenditure to be incurred and the expenditure or part of it is not incurred, repay on application made in that behalf by the Secretary of State the grant paid or the proportionate part thereof;
- (d) shall not, where grant has been paid in respect of capital expenditure incurred or to be incurred, dispose of any, or any part of any, asset in respect of which the grant was paid except with the written consent of the Secretary of State and, where any such asset is disposed of, shall pay to the Secretary of State on application made by him such sum as appears to him to represent the value of the asset at the date of its disposal or such lesser sum as may be specified in his application;
- (e) shall open or cause to be opened to inspection by a person being either one of Her Majesty's Inspectors appointed under section 77 of the Education Act 1944 or a person authorised for the purposes hereof by the Secretary of State—
 - (i) where grant has been paid to the governing body of an educational institution, that institution;
 - (ii) where grant has been paid in respect of any educational service or educational research, any premises or other thing used for the purposes of that service or research,

and shall afford to any such person all the facilities he requires for making his inspection.

(3) In this Regulation references to the disposal of an asset include, in the case of land, the granting of any interest in land.

Transitional exemption orders for the purposes of the Sex Discrimination Act 1975

19.—(1) This regulation applies in the case of an institution in respect of which grants are payable under regulation 8 which is—

- (a) a single-sex establishment within the meaning of section 26(1) of the Sex Discrimination Act 1975(a), and
- (b) is designated under section 24(1) of that Act(b).

(2) On the application of the responsible body (within the meaning of section 27 of the said Act of 1975) of such an institution the Secretary of State may make a transitional

(a) 1975 c.65.

(b) Section 24 is amended by paragraph 73 of Schedule 12 to the Education Reform Act 1988.

exemption order authorising discriminatory admissions thereto during a period specified in the order.

- (3) An application for such an order shall specify—
- (a) the transitional period during which the applicants propose that discriminatory admissions should be authorised by the order;
 - (b) the stages by which the applicants propose to move to the position where section 22(b) of the said Act of 1975 is complied with, and
 - (c) any other matters relating to the terms and operation of the order applied for.

SCHEDULE
REGULATIONS REVOKED

Regulation 5(1)

| <i>Regulations revoked</i> | <i>References</i> |
|--|-------------------|
| The Education (Grant) Regulations 1983 | S.I. 1983/74 |
| The Education (Grant) (Amendment) Regulations 1987 | S.I. 1987/1126 |
| The Education (Grants) (Royal Ballet School) Regulations 1988 | S.I. 1988/240 |
| The Education (Grants) (Grant-Maintained Schools Limited) Regulations 1989 | S.I. 1989/165 |
| The Education (Grants) (Royal Ballet School) Regulations 1989 | S.I. 1989/324 |
| The Education (Grant) (St. Augustine's School) Regulations 1989 | S.I. 1989/736 |

5th October 1990 *John MacGregor*
Secretary of State for Education and Science

5th October 1990 *David Hunt*
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make three categories of provision. First, they revoke and, with modifications, replace the provisions of the Education (Grant) Regulations 1983. They also revoke a number of other Regulations made under section 100(1)(b) of the Education Act 1944, being Regulations which are spent or which authorise grants to be paid to a specified body (regulation 5 and the Schedule).

The Regulations authorise the Secretary of State to pay grants to persons other than local education authorities in respect of expenditure approved by him being expenditure for the purposes of, or in connection with, the provision of—

- education in special schools (regulation 6);
 - education in further or higher education institutions (other than those specified in regulation 7(3)) (regulations 7 and 8);
 - educational services provided by national education associations (regulation 11);
- or

—vocational, social, physical and recreational training provided otherwise than in educational institutions (regulation 12); or
in providing tuition for adult education courses (regulation 10) or courses for the training of youth leaders and community centre wardens (regulation 13).

Regulation 9 authorises the Secretary of State to make loans to the governing body of Trinity College, Carmarthen, in respect of amounts of capital expenditure which cannot be grant-aided under the Regulations.

Regulation 15 authorises the Secretary of State to pay grants to persons other than local education authorities in respect of expenditure approved by him which is, or is to be, incurred (a) for the purposes of educational research, or (b) for the purposes of, or in connection with,

- the provision (or proposed provision) by the grant recipient or another person of educational services of an administrative, advisory, informatory, organising or training character, or
- the provision (or proposed provision) by a person other than the grant recipient of education in any school or further or higher education institution.

Secondly, the Regulations authorise the Secretary of State to pay grants to the bodies promoting learning or research specified in regulation 14(2).

Thirdly, they authorise the Secretary of State to pay grants to persons other than local education authorities in respect of payments to teachers and the other categories of persons employed in, or in connection with, education specified in regulation 16(2) for the purpose of facilitating their training overseas.

The Secretary of State may specify conditions to be satisfied before a grant is paid (regulation 17). The Secretary of State may also specify requirements to be complied with by recipients of a grant. These may include requirements to repay grant or to pay to the Secretary of State sums representing the value of property acquired or improved with grant and to pay interest on overdue sums (regulation 18(1)).

The Regulations require recipients of grant to keep such records and accounts and to furnish such information, documents, returns and accounts to the Secretary of State as he may require, to open their records and accounts to inspection by the Comptroller and Auditor General, to repay on application by the Secretary of State all or part of grant paid in respect of expenditure to be incurred where the expenditure is not, or not wholly, incurred, not to dispose of assets acquired with the aid of grant except with the Secretary of State's written consent, to pay on application by the Secretary of State, where such assets are disposed of, their value or a lesser sum specified by the Secretary of State and to open to inspection any grant-aided educational institution or any premises or thing used for the purposes of grant-aided educational services or research (regulation 18(2)).

Regulation 19 provides for the Secretary of State, in the case of further or higher education institutions in respect of which grant is payable under the Regulations, to make transitional exemption orders for the purposes of the Sex Discrimination Act 1975.