
STATUTORY INSTRUMENTS

1991 No. 353

EDUCATION, ENGLAND AND WALES

**The Education (Grant-maintained
Schools) (Finance) Regulations 1991**

<i>Made</i>	- - - -	<i>27th February 1991</i>
<i>Laid before Parliament</i>		<i>28th February 1991</i>
<i>Coming into force</i>	- -	<i>1st April 1991</i>

In exercise of the powers conferred on the Secretary of State by sections 79, 81 and 232(5) of the Education Reform Act 1988⁽¹⁾ the Secretary of State for Education and Science hereby makes the following Regulations:

PART I
GENERAL

Citation, Commencement and Extent

1.—(1) These Regulations may be cited as the Education (Grant-maintained Schools) (Finance) Regulations 1991 and shall come into force on 1st April 1991.

(2) With the exception of regulation 3(1), these Regulations extend to England only.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires—

“the Act” means the Education Reform Act 1988;

“the 1989 Regulations” means the Education (Grant-maintained Schools) (Finance) Regulations 1989⁽²⁾;

“the 1990 Regulations” means the Education (Grant-maintained Schools) (Finance) Regulations 1990⁽³⁾;

“school” means a grant-maintained school (within the meaning of the Act).

⁽¹⁾ 1988 c. 40.

⁽²⁾ S.I.1989/1287.

⁽³⁾ S.I. 1990/549, amended by S.I. 1990/2279.

(2) The following table shows provisions defining or otherwise explaining expressions used in these Regulations (other than provisions defining or explaining an expression used only in the same regulation or Schedule), references in the second column thereof to sections and regulations being, respectively, references to sections of the Act and regulations of these Regulations—

aggregated budget	section 33(4)(b)
allocation formula	section 38(2)
capital grant	section 79(3)(b)
change in the characteristics of the school	regulation 4(12)
delegated budget	section 33(6)(b)
financial year	section 235(1)
former maintaining authority	sections 74(8) and 104(1)(i) and (6)
general schools budget	section 33(4)(a)
incorporation date	section 104(3)
maintenance grant	section 79(1)
relevant date	regulation 7(1)
relevant expenditure	regulation 5(5)
relevant part of the amount determined in respect of a school under regulation 5(4) of the 1990 Regulations	regulation 4(6)(c)
scheme	section 51(2)(a)
school's budget share	section 51(2)(b)
special purpose grants	section 79(3)(a).

(3) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered, and
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

Revocation, amendment and transitional provisions

3.—(1) In the 1990 Regulations—

- (a) after paragraph (1) of regulation I there shall be inserted the following paragraph—
“(2) These Regulations extend to Wales only.”; and
- (b) paragraphs (2) and (3) of regulation 3 are revoked.

(2) Nothing in paragraph (1) shall affect, as respects England, the continued operation after 31st March 1991 of the requirements imposed by the Secretary of State on a governing body of a school to whom payments in respect of maintenance grant, capital grant or special purpose grant have been made under the 1989 or 1990 Regulations, or both.

(3) Notwithstanding the following provisions of these Regulations,

- (a) the 1989 Regulations shall continue to apply for the purposes of—

- (i) determining, apportioning and redetermining the amount of maintenance grant payable by the Secretary of State to the governing body of a school for the financial year ending on 31st March 1990, and
 - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority of a school in respect of the financial year ending on 31st March 1990; and
- (b) the 1990 Regulations shall continue to apply as respects England for the purposes of—
 - (i) determining, apportioning and redetermining the amount of maintenance grant payable by the Secretary of State to the governing body of a school for the financial year ending on 31st March 1991, and
 - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority of the school in respect of the financial year ending on 31st March 1991.

PART 2

GRANTS

Determination of amount of maintenance grant

4.—(1) This regulation applies for the purpose of determining the amount of maintenance grant payable by the Secretary of State to the governing body of a school for a financial year in respect of which the former maintaining authority are required to prepare a statement under section 42 of the Act, and is subject to regulations 7, 8, 9 and 10.

(2) Subject to paragraphs (3) and (4), the Secretary of State shall determine in relation to the financial year in question an amount which he is satisfied is or approximates to an amount which the former maintaining authority could have determined, by the application of their allocation formula in relation to a comparable maintained school covered by their scheme, as such a school's budget share.

- (a) (3) (a) Without prejudice to paragraph (4) below, this paragraph applies in the case of any school whose incorporation date is after 1 April in the financial year in respect of which the determination of maintenance grant under this regulation is made (referred to in this paragraph as "the current financial year").
- (b) In any case to which this paragraph applies the Secretary of State shall determine the amount referred to in paragraph (2) in accordance with subparagraph (c) below.
- (c) The Secretary of State shall determine an amount which appears to him to be equal to that amount of the school's budget share for the current financial year which had not been expended immediately before the school's incorporation date by the governing body of the school (before it acquired grant-maintained status) in exercise of their powers under section 36(5) of the Act.
- (a) (4) (a) Where it appears to the Secretary of State that, in relation to the financial year in question, a comparable maintained school's budget share would have been determined wholly or mainly by reference to expenditure (whether actual, estimated, notional or otherwise characterised) for the purposes of that school in a previous financial year,
 - (i) in the case of a school which was a grant-maintained school at any time in the preceding financial year, he may determine the amount referred to in paragraph (2) above in accordance with sub-paragraph (b);

- (ii) in the case of any school which was not a grant-maintained school at any time in that year, he may determine the amount of maintenance grant payable in respect of the school in accordance with sub-paragraph (c).
- (b) In any case to which sub-paragraph (a)(i) applies, the Secretary of State may determine the amount referred to in paragraph (2) by reference to its maintenance grant for that year, adjusted by such amount as the Secretary of State is satisfied is fair and reasonable having regard to, among other things—
 - (i) any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of the schools maintained by them occurring during or since the end of the immediately preceding financial year, and
 - (ii) any significant change in the characteristics of the school occurring as aforesaid or which it appears to the Secretary of State will be likely to occur before the end of the financial year in relation to which grant is being determined.
- (c) in any case to which sub-paragraph (a)(ii) applies, the Secretary of State shall determine the amount of maintenance grant payable in respect of the school in accordance with regulation 5(3) to (8), save that—
 - (i) in the definition of “relevant schools” in regulation 5(7)(b), for the reference to “section 50” there shall be substituted a reference to “section 42”, and
 - (ii) in any case to which, apart from this sub-paragraph, paragraph (8) would apply, there shall be added to the amount of maintenance grant determined in respect of the school an amount determined in accordance with that paragraph,
 and paragraphs (5) to (7) below shall not apply.
- (5) Subject to paragraph (6), the Secretary of State shall determine an amount which is equal to 16 per cent. of the amount determined in respect of the school in accordance with, as the case may be, paragraph (2), (3) or (4)(b).
 - (a) (6) (a) This paragraph applies in the case of any school—
 - (i) whose incorporation date falls in or before the financial year ending on 31 March 1991;
 - (ii) in respect of which maintenance grant was determined for that financial year under regulation 4 or 5 of the 1990 Regulations; and
 - (iii) in respect of which the amount determined in accordance with paragraph (5) above would be less than the amount which was determined in respect of the school under regulation 4(4) of the 1990 Regulations or, as the case may be, less than the relevant part of the amount determined in respect of the school under regulation 5(4) of the 1990 Regulations for the financial year ending on 31 March 1991.
 - (b) In any case to which this paragraph applies, paragraph (5) shall have effect as if it required the Secretary of State to determine an amount equal to the amount which was determined in respect of the school for the financial year ending on 31 March 1991 under regulation 4(4) of the 1990 Regulations, or (as the case may be) the relevant part of the amount determined in respect of the school for that year under regulation 5(4) of the 1990 Regulations.
 - (c) In this paragraph and in regulation 6(7), a reference to the relevant part of the amount determined in respect of a school under regulation 5(4) of the 1990 Regulations is a reference to that part of the amount which is calculated by the application of the following part of the formula in regulation 5(4)(b) of the 1990 Regulations—

$$\frac{(N \times E)}{(T)}$$

- (a) (7) (a) Subject to any addition made by virtue of paragraph (8), the amount of maintenance grant payable in respect of a school for the financial year in respect of which the determination under this regulation is made shall be the sum of the amounts determined in accordance with, as the case may be, paragraphs (2) and (5), (3) and (5) or (4)(b) and (5), together with such amounts as are determined in accordance with sub-paragraphs (b), (d) and (e) below.

- (b) The Secretary of State shall determine an amount in respect of the provision of school meals calculated by the application of the following formula—

$$\frac{(M \times F)}{(P)} + \frac{(S \times G)}{(B)},$$

, where,

M is the number of registered pupils in receipt of free school meals at the school;

F is the total of the authority's planned expenditure for the year in providing meals to pupils in receipt of free school meals at relevant schools;

P is the number of registered pupils in receipt of free school meals at relevant schools;

S is the number of registered pupils at the school who bought meals at the school on a date in the immediately preceding financial year determined by the Secretary of State;

G is the total of the authority's planned expenditure for the year on school meals, other than free school meals, at relevant schools and excluding expenditure to be met from any charges for such meals; and

B is the number of registered pupils at relevant schools who bought meals at those schools on a date in the immediately preceding financial year determined by the Secretary of State.

- (c) In sub-paragraph (b),

“number of registered pupils” means the number of pupils on a school's register on a date determined by the Secretary of State;

“planned expenditure” means the initial amount appropriated by the authority for meeting expenditure at all relevant schools excluding any such expenditure falling within their aggregated budget; and

“relevant schools” means all primary or all secondary schools maintained or formerly maintained by the authority required to be covered by a statement for the year under section 42 of the Act, according as to whether the school is a primary or secondary school.

- (d) The Secretary of State shall determine an amount which appears to him to be such amount as the school, had it continued to be maintained by the authority, would have been eligible in accordance with the authority's scheme to receive in respect of contingencies.

- (e) Where at the school there is provision of education for junior pupils who have not attained the age of five years, the Secretary of State shall determine an amount in respect of the provision of education for such pupils at the school which he is satisfied is fair and reasonable having regard in particular to the extent that, in his opinion, the cost of providing education for such pupils at the school is to be met from the amount determined in accordance with paragraph (2) or, as the case may be, paragraph (3) above.

- (a) (8) (a) This paragraph applies where—

- (i) the determination of maintenance grant in respect of a school is for the financial year in which the school's incorporation date falls; and

- (ii) in the financial year preceding the financial year to which the determination of maintenance grant relates (in this paragraph referred to as “the preceding financial year”) the school (before it acquired grant-maintained status) had a delegated budget under a scheme made by the former maintaining authority.
 - (b) In any case to which this paragraph applies, there shall be added to the amount of maintenance grant payable in respect of the school under paragraph (7) an amount determined in accordance with sub-paragraph (c).
 - (c) The Secretary of State shall determine an amount which appears to him to be such amount as is equal to that amount of the school’s budget share for the preceding financial year which was not spent by the governing body of the school in exercise of their powers under section 36(5) of the Act.
- (9) Where precise calculation for the purpose of determining any of the amounts referred to in paragraphs (2) to (8) in the opinion of the Secretary of State would be impracticable, would not significantly affect the amount or would be disproportionately costly having regard to the complexity of the calculation and the likely effect on the amount, the Secretary of State may determine as the amount of maintenance grant payable in respect of the school for the financial year in question such amount as appears to him to be fair and reasonable in the light of the former maintaining authority’s scheme having regard to any information which is available to him.
- (a) (10) (a) Subject to paragraph (11), references in this regulation to a maintained school are references to a school maintained by the former maintaining authority concerned, and references to a comparable maintained school are references to a maintained county school, any characteristics of which relevant for the purposes of any formula of a kind referred to in paragraph (2) are identical to any such characteristics of the grant-maintained school and are references (in particular) to a school—
 - (i) the number of registered pupils in each age group at which is identical to the number of such pupils in each age group at the grant-maintained school; and
 - (ii) any other factors affecting the needs of which (including in particular, the number of registered pupils at the school who have special educational needs and the nature of the special educational provision required to be made for them) are identical to any other factors affecting the needs of the grant-maintained school.
 - (b) For the purposes of sub-paragraph (a) above the number of registered pupils (and the number of such pupils who have special educational needs) at the grant-maintained school is that number (in each case) determined by the Secretary of State as a number which appears to him to be or to approximate to a number of registered pupils which could under the authority’s scheme have been used in applying the allocation formula under the scheme for initial determination of the school’s budget share for the financial year in question, had the school continued to be maintained by the authority.
- (11) For the purposes of this regulation, it is to be assumed that there is a comparable maintained school covered by the former maintaining authority’s scheme whether or not there is in fact such a school.
- (12) References in paragraph (4)(b), regulation 5(8), regulation 6(5)(b) and regulation 10(1), to any change in the characteristics of the school include, in particular, references to any change in the number of registered pupils thereat.

5.—(1) This regulation applies for the purpose of determining the amount of maintenance grant payable by the Secretary of State to the governing body of a school in any case where—

- (a) the determination of maintenance grant is for a financial year other than one in respect of which the former maintaining authority are required to prepare a statement under section 42 of the Act, and

- (b) the school's incorporation date falls in the financial year in respect of which the determination of maintenance grant is made.
- (2) This regulation is subject to the provisions of regulations 7, 9 and 10.
- (3) The sum of the amounts determined in accordance with paragraphs (4), (6) and (7) shall, subject to any adjustment made in accordance with paragraph (8), be the amount of maintenance grant payable to the governing body of the school for the financial year in respect of which the determination under this regulation is made.
- (4) The Secretary of State shall determine an amount which he is satisfied is equal to the amount of relevant expenditure incurred by the former maintaining authority in respect of the school for the financial year ending last before the incorporation date of the school.
- (5) The reference in paragraph (4) to relevant expenditure is a reference to the amount of expenditure incurred by the authority in that year in respect of the school on the heads or items specified in Schedule 1, but does not include any expenditure on the heads or items specified in Schedule 2.
- (6) The Secretary of State shall determine an amount which is equal to 16 percent. of the amount determined in accordance with paragraph (4).
- (a) (7) (a) The Secretary of State shall determine an amount in respect of the authority's planned expenditure on the provision of school meals calculated by the application of the following formula—
- $$\frac{(M \times F)}{(P)} + \frac{(S \times G)}{(B)}$$
- , where,
- M, F, P, S, G and B represent the matters respectively denoted by those letters in regulation 4(7)(b).
- (b) In this paragraph,
- “number of registered pupils” means the number of pupils on a school's register on a date determined by the Secretary of State;
- “planned expenditure” means the initial amount appropriated by the authority for meeting expenditure at all relevant schools; and
- “relevant schools” means all primary or all secondary schools maintained or formerly maintained by the authority required to be covered by a statement for the year under section 50 of the Act, according as to whether the school is a primary or secondary school.
- (8) The sum of the amounts determined in accordance with paragraphs (4), (6) and (7) may be adjusted by such amount as the Secretary of State is satisfied is fair and reasonable having regard to, among other things—
- (i) any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of the schools maintained by them occurring during or since the end of the financial year ending last before the incorporation date, and
- (ii) any significant change in the characteristics of the school occurring as aforesaid or which it appears to the Secretary of State will be likely to occur before the end of the financial year in relation to which grant is being determined.
- 6.—**(1) This regulation applies for the purpose of determining the amount of maintenance grant payable by the Secretary of State to the governing body of a school in any case where—

- (a) the determination of maintenance grant is for a financial year other than one in respect of which the former maintaining authority are required to prepare a statement under section 42 of the Act, and
 - (b) the school was a grant-maintained school before the financial year in respect of which the determination of maintenance grant is made.
- (2) This regulation is subject to the provisions of regulations 7, 9 and 10.
- (3) The sum of the amounts determined in accordance with paragraphs (4), (6) and (8) shall be the amount of maintenance grant payable to the governing body of the school for the financial year in respect of which the determination under this regulation is made.
- (4) The Secretary of State shall determine an amount which is produced by taking—
- (a) in the case of any school whose incorporation date falls in the financial year ending on 31 March 1990, the amount which was determined in respect of the school for that financial year under regulation 3(2) of the 1989 Regulations, or
 - (b) in the case of any school whose incorporation date falls in the financial year ending on 31 March 1991, the amount which was determined in respect of the school for that financial year under regulation 5(2) of the 1990 Regulations, and
- adjusting that amount by such amount as appears to him to be fair and reasonable having regard to, among other things, the matters set out in paragraph (5) below.
- (5) For the purposes of paragraph (4) the Secretary of State shall have regard to, among other things—
- (a) any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of the schools maintained by them occurring since the financial year in which the school acquired grant-maintained status; and
 - (b) any significant change in the characteristics of the school occurring as aforesaid or which it appears to him is likely to occur before the end of the financial year in relation to which grant is being determined.
- (6) Subject to paragraph (7), the Secretary of State shall determine an amount which is equal to 16 per cent. of the amount determined in respect of the school in accordance with paragraph (4).
- (7) (a) This paragraph applies in the case of any school—
- (i) whose incorporation date falls in the financial year ending on 31 March 1991;
 - (ii) in respect of which maintenance grant was determined for that financial year under regulation 5 of the 1990 Regulations; and
 - (iii) in respect of which the amount determined in accordance with paragraph (6) would be less than the relevant part of the amount which was determined in respect of the school under regulation 5(4) of the 1990 Regulations for the financial year ending on 31 March 1991.
- (b) In any case to which this paragraph applies, paragraph (6) shall have effect as if it required the Secretary of State to determine an amount equal to the relevant part of the amount which was determined in respect of the school under regulation 5(4) of the 1990 Regulations for the financial year ending on 31 March 1991.
- (8) (a) The Secretary of State shall determine an amount in respect of the authority's planned expenditure on the provision of school meals calculated by the application of the following formula—

$$\frac{(M \times F)}{(P)} + \frac{(S \times G)}{(B)}$$

, where,

M, F, P, S, G and B represent the matters respectively denoted by those letters in regulation 4(7)(b).

- (b) In this paragraph, “number of registered pupils”, “planned expenditure” and “relevant schools” shall have the meanings assigned to them by regulation 5(7)(b).

7.—(1) Subject to paragraphs (2) and (3) below, the amounts referred to in, as the case may be, paragraphs (2), (3), (4)(b) and (7) of regulation 4, paragraphs (4) and (7) of regulation 5, or paragraphs (4) and (8) of regulation 6 shall be determined by the Secretary of State on the information available to him on a date determined by him and notified by him to the former maintaining authority (referred to in this regulation as “the relevant date”).

(2) The Secretary of State may redetermine the relevant date in any case where he considers it appropriate to do so and shall in any such case notify the former maintaining authority of the redetermined date.

(3) Where there is not available to the Secretary of State on the relevant date (or that date as redetermined in accordance with paragraph (2) above) sufficient information as will, in his opinion, allow him to determine any of the amounts referred to in, as the case may be, paragraphs (2), (3), (4)(b) and (7) of regulation 4, paragraphs (4) and (7) of regulation 5, or paragraphs (4) and (8) of regulation 6 he may determine the amount of maintenance grant payable in respect of the school on such basis as appears to him to be fair and reasonable.

(4) The Secretary of State shall not be required to take account of any information made available to him after the relevant date (but before the date of his determination) for the purposes of determining the amount of maintenance grant payable in respect of a school for the financial year in question.

8. Notwithstanding the provisions of regulation 4 but subject to regulations 7, 9 and 10 the Secretary of State may, after consulting the governing body or prospective governing body (as the case may be) of the school and the former maintaining authority, determine the amount of maintenance grant payable by him to the governing body of a school for a financial year in respect of which the former maintaining authority are required to prepare a statement under section 42 of the Act in accordance with the provisions of regulation 5(3) to (8), or, as the case may be, regulation 6(3) to (8) save that—

- (a) in the definition of “relevant schools” in regulation 5(7)(b) (including that definition as it is applied for the purposes of regulation 6(8)), for the reference to “section 50” there shall be substituted a reference to “section 42”;
- (b) in regulation 6(7), for the reference to “the relevant part of the amount which was determined in respect of the school under regulation 5(4) of the 1990 Regulations” there shall be substituted a reference to “that amount which was determined in respect of the school under regulation 4(4) of the 1990 Regulations”; and
- (c) in any case to which regulation 4(8) would apply were the amount of maintenance grant in respect of the school to be determined in accordance with regulation 4, there shall be added to the amount of maintenance grant determined in respect of the school the amount which would be determined in accordance with regulation 4(8).

Apportionment of maintenance grant

9.—(1) This regulation applies in the case of any school whose incorporation date falls after 1 April in the financial year in respect of which the determination of maintenance grant under these Regulations is made.

(2) Subject to paragraph (4), where in respect of any such school the amount of maintenance grant is determined under regulation 4, the amount of maintenance grant payable to the governing

body of the school for the financial year in question shall be apportioned in accordance with the following formula—

$$\frac{A \times C \times F}{B} + D,$$

, where,

A is the number of days in the financial year falling on or after the incorporation date of the school;

B is 365 or, where the financial year in question ends during a leap year, 366;

C is the sum of the amounts determined in accordance with regulation 4(7)(b) and (e);

D is the sum of the amounts determined in accordance with regulation 4(3), (5), (7)(d) and (8);

F bears the value ascribed to it in the Table below according to the incorporation date of the school—

incorporation date 1 April-31 July	F=1.0
incorporation date 1 August-31 December	F=1.01 5
incorporation date 1 January-31 March	F=1.02.

(3) Where in respect of any such school the amount of maintenance grant is determined under regulation 5 or 7(3), the amount of maintenance grant payable to the governing body of the school for the financial year in question shall be apportioned in accordance with the following formula—

$$\frac{A \times C \times F}{B}$$

, where

C is the amount of maintenance grant determined in respect of the school in accordance with regulation 5 or, as the case may be, regulation 7(3); and

A, B and F represent the matters respectively denoted by those letters in paragraph (2).

(4) Where in respect of any such school the amount of maintenance grant is determined under regulation 4(4)(c) or 8, the amount of maintenance grant payable to the governing body of the school for the financial year in question shall be apportioned in accordance with the following formula—

$$\frac{A \times C \times F}{B} + G,$$

, where

C is the amount of maintenance grant determined in respect of the school in accordance with regulation 5(3) to (8) (as provided for by regulation 4(4)(c) or, as the case may be, regulation 8);

G is the amount referred to in regulation 4(8) as determined in respect of the school (as provided for by regulation 4(4)(c)(ii) or, as the case may be, regulation 8(c)); and

A, B and F represent the matters respectively denoted by those letters in paragraph (2).

Adjustments

10.—(1) Without prejudice to paragraphs (3) and (4) but subject to paragraph (2), where after determining the amount of maintenance grant payable in respect of any school for any financial year (or any part of such a year) in accordance with these Regulations, it appears to the Secretary of State that, by reason of any change in the characteristics of the school or the level of spending by the former maintaining authority, or otherwise, the amount so payable should be revised, he may redetermine the amount of such grant payable in respect of the school for that year (or any part of

that year) in accordance with these Regulations and, if the amount so redetermined is different from the amount previously determined, revise his determination accordingly and give notice thereof to the governing body of the school and to the former maintaining authority.

(2) Paragraph (1) shall not enable the Secretary of State to revise his determination of maintenance grant payable in respect of a school if the effect of such revision is to reduce the amount of maintenance grant payable in respect of the school for the financial year in question.

(3) Subject to paragraph (4), where the Secretary of State is satisfied that his determination of the amount of maintenance grant in respect of any school for any financial year (or any part of such a year) was made in ignorance of, or was based on a mistake as to, some material fact, or was not in accordance with these Regulations, he may redetermine the amount of such grant payable in respect of the school for that year (or any part of that year) in accordance with these Regulations and, if the amount so redetermined is different from the amount previously determined, revise his determination accordingly and give notice thereof to the governing body of the school and to the former maintaining authority.

(4) Where it appears to the Secretary of State that—

- (a) the circumstances specified in paragraph (3) apply by reason of his ignorance of, or mistake as to, some material fact; and
- (b) such ignorance or mistake was caused by an act or omission of the former maintaining authority,

he shall not by reason of such ignorance or mistake revise his determination under paragraph (3) if the effect of such revision would be to reduce the amount of maintenance grant payable in respect of the school for the financial year in question.

(5) A determination which has been revised in accordance with this regulation may be further revised in accordance with this regulation and may be so further revised notwithstanding that the Secretary of State is satisfied that the revised determination was not made in accordance with these Regulations.

Requirements which may be attached to payment of maintenance grant

11.—(1) The requirement set out in paragraph 1 of Schedule 3 is specified as a requirement which may be imposed by the Secretary of State on governing bodies to whom payments of maintenance grant are or have been made.

(2) The Secretary of State may determine, for the purposes of the application of section 79(7) of the Act to such governing bodies, any requirement referred to in paragraphs 2 to 4 of Schedule 3.

Capital grants

12. The Secretary of State may pay capital grants in respect of expenditure of a capital nature of a class or description specified in Schedule 4 incurred or to be incurred by the governing body of a school.

Special purpose grants

13.—(1) The Secretary of State may pay special purpose grants in respect of expenditure of any class or description specified in Schedule 5 incurred or to be incurred by the governing body of a school—

- (a) for or in connection with the educational purposes so specified, or
- (b) in respect of any expenses so specified being expenses which it appears to the Secretary of State the governing bodies of schools cannot reasonably be expected to meet from maintenance grant.

(2) Special purpose grants may be paid on a regular basis in respect of expenditure of a recurrent kind or by reference to expenditure incurred or to be incurred on particular occasions or during any particular period.

Requirements which may be attached to payment of special purpose grants

14.—(1) The requirements set out in paragraph 1 of Schedule 3 and paragraph (2) below are specified as requirements which may be imposed by the Secretary of State on governing bodies to whom payments of special purpose grants are or have been made.

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

- (a) a requirement that any such payment shall be applied for the purpose of defraying expenditure in respect of which it was made and for no other purpose; and
- (b) a requirement that such a payment shall be so applied before a date specified by the Secretary of State.

(3) The Secretary of State may determine for the purposes of the application of section 79(7) of the Act to such governing bodies as are referred to in paragraph (1)—

- (a) any requirement referred to in paragraphs 2 to 4 of Schedule 3;
- (b) any requirement formulated with a view to the Secretary of State satisfying himself that a requirement imposed in accordance with paragraph (2) is being, or has been, complied with including, in particular, requirements as to the furnishing by the governing body of audited statements relating to expenditure in respect of which the grant has been paid together with such accounts, receipts, invoices and other information as he may require in order to verify the same; and
- (c) any requirement as to the repayment, in whole or in part, of payments made to the governing body in respect of such grant if any other requirement imposed by him in accordance with this regulation subject to which the payments were made is not complied with.

PART 3

RECOVERY OF AMOUNTS IN RESPECT OF MAINTENANCE GRANT FROM FORMER MAINTAINING AUTHORITY

Determination of amount to be recovered

15.—(1) Subject to paragraph (2) below, the total amount which the Secretary of State may recover from the former maintaining authority of a school in respect of any financial year beginning on or after 1st April 1991 by virtue of section 81(1) of the Act is the amount determined in accordance with these Regulations as the amount of the maintenance grant payable in respect of the school and financial year in question (as from time to time revised).

(2) The amount which would otherwise fall to be determined in accordance with paragraph (1) above as the total amount recoverable from a former maintaining authority by virtue of section 81(1) of the Act in respect of any school for any financial year may be reduced by an amount not exceeding the amount outstanding in respect of any excess amount recovered from the authority under that section in respect of any previous financial year.

SCHEDULE 1

Regulation 5(5)

HEADS OR ITEMS OF EXPENDITURE FOR THE PURPOSE OF DETERMINING “RELEVANT EXPENDITURE”

The following heads or items of expenditure are to be included when determining “relevant expenditure” for the purposes of regulation 5 except to the extent that any such expenditure falls within any description of expenditure listed in Schedule 2:

1. Salaries of, and other costs attributable to, staff employed to work wholly or partly at the school other than staff employed in the provision of school meals.
2. Expenditure on books, stationery and other educational equipment for use at the school.
3. Expenditure on telephones and postage for the purposes of the school.
4. Examination fees incurred in relation to registered pupils at the school.
5. Expenditure relating to the school premises, including in particular—
 - (a) heating and lighting;
 - (b) caretaking and cleaning;
 - (c) rent, rates, non-domestic rates, water rates and charges for the supply of water or the provision of sewerage services;
 - (d) insurance; and
 - (e) repairs and maintenance.
6. Any other expenditure treated by the authority as forming part of the direct costs of the school.

SCHEDULE 2

Regulation 5(5)

EXCLUDED HEADS OR ITEMS OF EXPENDITURE

The following heads or items of expenditure are excluded for the purpose of determining expenditure on centrally provided services:

- (a) expenditure treated by the former maintaining authority as expenditure of a capital nature;
- (b) expenditure in respect of the repayment of the principal of, the payment of interest on and the discharge of any financial obligation in connection with any loan raised to meet expenditure of a capital nature;
- (c) expenditure which is offset by income received as central government grant in support of specific expenditure;
- (d) expenditure on the following items and on any necessary administrative costs associated therewith:
 - (i) transport of pupils between home and school;
 - (ii) the provision of clothing for pupils;
 - (iii) the granting of scholarships, exhibitions, bursaries or other allowances to pupils over compulsory school age, to enable pupils to take advantage of educational facilities without hardship to themselves or their parents;
 - (iv) expenditure on education welfare officers and educational psychologists;
 - (v) expenditure on additional support provided to schools specifically for pupils with statements of special educational needs in accordance with those statements.

SCHEDULE 3

Regulations 11 and 14

REQUIREMENTS WHICH MAY BE ATTACHED TO PAYMENT
OF MAINTENANCE GRANTS AND SPECIAL PURPOSE GRANTS

1. A requirement that the governing body shall secure, so far as their powers extend, that the school is conducted in accordance with any requirements imposed by or under any enactment including, in particular, any imposed by or under the Act or the instrument or articles of government for the school.

2. Requirements with respect to the maintenance of proper accounts including, in particular, requirements as to—

- (a) the appointment by the governing body of a person who will be responsible to them for the administration of their financial affairs;
- (b) the accounting systems and methods to be adopted by the governing body and the form of their accounts and supporting records;
- (c) internal financial controls including, in particular, requirements as to the procedures to be adopted with respect to the receipt and disbursement of money by the governing body; and
- (d) the publication of the governing body's accounts.

3. Requirements as to audit and inspection of the governing body's accounts, including, in particular, requirements as to—

- (a) the procedure to be adopted in appointing and replacing auditors;
- (b) any qualifications the auditors are to possess;
- (c) the duration of auditors' appointments;
- (d) the frequency of audits;
- (e) the functions which are to be performed by the auditors in respect of the school;
- (f) the inspection of accounts and supporting records on request by any person authorised by the Secretary of State; and
- (g) examinations by persons authorised by the Secretary of State or the Comptroller and Auditor General into the economy, efficiency and effectiveness with which the governing body of the school have used their resources in discharging their functions.

4. Such further requirements relating to the conduct of the school's financial affairs as the Secretary of State thinks fit.

SCHEDULE 4

Regulation 12

EXPENDITURE OF A CAPITAL NATURE

1. Expenditure of a capital nature is expenditure on, or in connection with,—

- (a) the acquisition, reclamation, improvement or laying out of any land;
- (b) the acquisition, construction, enlargement, improvement, repair or demolition of any building, wall, fence or other structure, or any playground or other hard-standing;
- (c) the laying out of playing fields and other facilities for social activities and physical recreation; or
- (d) the provision of any furniture, plant, machinery, apparatus, vehicles, vessels and equipment;

used or intended to be used for the purposes of a school.

2. In paragraph 1 above “building” includes any fixtures and fittings affixed to a building.

SCHEDULE 5

Regulation 13

EXPENDITURE IN RESPECT OF WHICH SPECIAL PURPOSE GRANTS MAY BE PAID

1. In this Schedule—

“eligible training” means—

- (a) the training or further training as teachers of persons other than qualified teachers who are employed by the governing body of a school; and
- (b) the further training of any qualified teacher who is employed by the governing body of a school; and

“trainee” means a person undergoing eligible training in respect of whom special purpose grant is being paid under these Regulations.

2. The expenditure in respect of which special purpose grants may be paid is—

- (a) expenditure for or in connection with any of the purposes relevant to schools for which education support grants are for the time being payable by virtue of regulations made under section 1 of the Education (Grants and Awards) Act 1984⁽⁴⁾; and
- (b) expenditure for or in connection with the training of any teacher or other member of the staff of a school including, in particular, expenditure on—
 - (i) tuition fees, examination fees and residential and other charges payable in respect of eligible training;
 - (ii) travelling, subsistence and other incidental expenses of a trainee;
 - (iii) that part of the remuneration of persons whose employment is necessary to free the trainee for training which relates to the period during which their employment is so necessary; and
 - (iv) the cost of providing (including the provision of premises), planning, coordinating, monitoring and evaluating eligible training;

provided that where such costs are incurred for such purposes and for other purposes special purpose grant shall be payable only in respect of such proportion of those costs as is attributable to the provision, planning, coordinating, monitoring or evaluation of eligible training;

- (c) expenditure in respect of expenses which it appears to the Secretary of State the governing bodies of schools cannot reasonably be expected to meet from maintenance grant being expenses incurred or to be incurred for or in connection with—
 - (i) any structural survey which the Secretary of State has required to be carried out in respect of any building used for the purposes of the school;
 - (ii) the dismissal (whether by reason of redundancy or otherwise) or for the purpose of securing the resignation of any person who is or was a member of the staff of the school, and the premature retirement of such a person;
 - (iii) any liability of the school in respect of Value Added Tax;
 - (iv) insurance of the school premises;

(4) 1984 c. 11; see the Education Support Grant Regulations 1990 (S.I. 1990/2518).

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- (v) meeting any urgent need of the school occasioned by circumstances outside the control of the governing body; and
- (vi) the school's acquisition of grant-maintained status and the transfer to the governing body of the responsibility for the conduct of the school, where those expenses are incurred within 12 months of the incorporation date; and
- (d) expenditure of a class or description relevant to schools and for or in connection with the purpose for which grants are for the time being payable by virtue of regulations made under section 210 of the Act⁽⁵⁾.

27th February 1991

Kenneth Clarke
Secretary of State for Education and Science

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace, as respects England, the provisions of the Education (Grant-maintained Schools) (Finance) Regulations 1990. The 1990 Regulations are amended by these Regulations so that they continue to apply to Wales.

The Regulations provide for the calculation of the amount of maintenance grant to be paid, and the kinds of capital and special purpose grants which may be paid, by the Secretary of State to the governing bodies of grant-maintained schools established under the provisions of the Education Reform Act 1988. Maintenance grant is paid to meet expenditure on the normal running costs of the school; capital grant, to meet capital expenditure; and special purpose grant, to meet expenditure incurred on particular educational purposes or expenditure which the governing body could not reasonably be expected to meet out of maintenance grant.

The principal changes introduced by these Regulations are to the methods of calculating the amount of maintenance grant payable to the governing bodies of grant-maintained schools. Changes are also made to the provisions for the apportionment of maintenance grant, to the provisions for revising the amount of maintenance grant, and to the kinds of expenditure for which special purpose grant may be paid.

Regulation 4 provides for the calculation of a grant-maintained school's maintenance grant where the financial provision made for schools maintained by the former maintaining local education authority is regulated by a scheme made under section 33 of the 1988 Act. In general, the amount of maintenance grant comprises 3 elements:

- (1) an amount which the Secretary of State is satisfied is or approximates to an amount which the school could have received under the former maintaining authority's scheme had the school continued to be maintained by the authority (regulation 4(2));
- (2) an amount equal to the greater of—
 - (a) 16 per cent. of the amount determined under regulation 4(2); or

(5) see the Education (Grants) (Travellers and Displaced Persons) Regulations 1990 (S.I. [1990/306](#), amended by S.I. [1991/131](#)).

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- (b) where applicable, that amount which was determined in respect of the school under the regulation 4(4) of the 1990 Regulations or, as the case may be, the relevant part of the amount determined under regulation 5(4) of the 1990 Regulations (regulation 4(5) and (6));

(3) an amount in respect of the provision of school meals, and, where appropriate, amounts in respect of the provision of education to junior pupils who have not attained the age of five years and in respect of contingencies (regulation 4(7)).

In the case of schools acquiring grant-maintained status at the beginning of, or during, the financial year in respect of which the determination of maintenance grant is made, there is added to the amount of maintenance grant an amount which appears to the Secretary of State to be equal to the amount of the school's budget share for the preceding financial year which remained unspent by the then governing body of the school (regulation 4(8)). For schools which acquire grant-maintained status during the financial year to which the determination relates, the amount referred to in (1) above is calculated by reference to the amount of the school's budget share which remains unspent at the date of incorporation of the school as a grant-maintained school (regulation 4(3)).

Where under the authority's scheme the amount referred to in (1) above would have been determined wholly or mainly by reference to previous expenditure on the school, maintenance grant may be determined by reference to previous expenditure on the school adjusted to take account of relevant changes in circumstances (regulation 4(4)).

Regulation 5 and regulation 6 provide for the calculation of maintenance grant where the financing provision made for schools maintained by its former maintaining local education authority is not subject to regulation by a scheme made under section 33 of the 1988 Act.

Regulation 5, with Schedules I and 2, applies to schools which acquire grant-maintained status in the financial year in respect of which the determination of maintenance grant is made. Under regulation 5, maintenance grant comprises—

- (a) an amount which the Secretary of State is satisfied represents the amount of expenditure by the former maintaining authority directly on the school in the last financial year before the school acquired grant-maintained status (regulation 5(4) and (5));
- (b) an amount equal to 16 per cent. of the amount referred to in (a) above (regulation 5(6)); and
- (c) an amount in respect of the authority's planned expenditure on the provision of school meals (regulation 5(7)).

These amounts may be adjusted to take account of relevant changes in circumstances.

Regulation 6 applies to schools which acquired grant-maintained status before the financial year in respect of which the determination of maintenance grant is made. The elements comprising maintenance grant under regulation 6 are the same as under regulation 5 except that, in place of (a) above, the Secretary of State is required to determine an amount produced by taking the amount determined in respect of the school under regulation 3(2) of the 1989 Regulations or regulation 5(2) of the 1990 Regulations (depending on the date the school acquired grant-maintained status), and adjusting that amount to take account of relevant changes in circumstances (regulation 6(4)).

Regulation 7 provides that amounts required to be determined by the Secretary of State under regulations 4, 5 and 6 shall be determined by him on the information available to him on a date determined by him and notified to the former maintaining authority (referred to as "the relevant date"). The Secretary of State may redetermine the relevant date where he considers it appropriate to do so. Where there is not available to the Secretary of State on the relevant date sufficient information as will, in his opinion, allow him to determine any of those amounts, he may determine the amount of maintenance grant on such basis as appears to him to be fair and reasonable.

Regulation 8 permits the Secretary of State, after consulting the governing body (or the prospective governing body) of the school and the relevant local education authority, to determine maintenance

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grant for a school, where otherwise regulation 4 would apply, in accordance with regulation 5 or (as the case may be) regulation 6.

Regulation 9 provides for the apportionment of maintenance grant for schools which attain grant-maintained status other than at the beginning of a financial year. Regulation 10 provides for the adjustment of maintenance grant in the light of subsequent changes, or to correct errors.

Regulation 12 and Schedule 4 provide for the payment of capital grants. Regulation 13 provides for the payment of special purpose grants for the kinds of expenditure specified in Schedule 5. A change has been made in these Regulations to include expenditure incurred, or to be incurred, by a governing body in connection with the acquisition by the school of grant-maintained status and the transfer to the governing body of responsibility for the conduct of the school, where that expenditure is incurred within 12 months of the date of incorporation.

Regulations 11 and 14 and Schedule 3 specify requirements, and empower the Secretary of State to determine other requirements, with which the governing bodies to whom payments of maintenance grant or special purpose grant are made are to comply.

Section 81(1) of the 1988 Act empowers the Secretary of State to recover from the former maintaining authority sums in respect of the maintenance grant payable for any financial year to the governing body of a grant-maintained school. Regulation 15 specifies as the total amount which may be so recovered the amount of maintenance grant determined in accordance with the Regulations. This amount is subject to adjustment to reflect any excess paid by that authority in previous financial years.