
STATUTORY INSTRUMENTS

1992 No. 555

EDUCATION, ENGLAND AND WALES

**The Education (Grant-maintained
Schools) (Finance) Regulations 1992**

<i>Made</i>	- - - -	<i>6th March 1992</i>
<i>Laid before Parliament</i>		<i>9th March 1992</i>
<i>Coming into force</i>	- -	<i>1st April 1992</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 1
GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Grant-maintained Schools) (Finance) Regulations 1992 and shall come into force on 1st April 1992.

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);

“the 1991 Regulations” means the Education (Grant-maintained Schools) (Finance) Regulations 1991(4);

(1) 1988 c. 40.
(2) S.I.1989/1287.
(3) S.I. 1990/549, amended by S.I. 1990/2279 and S.I.1991/353.
(4) S.I. 1991/353.

“financial year” has the meaning assigned to it by section 235(1) of the Act, and references to “the financial year in question” are references to the financial year in respect of which the determination of maintenance grant is made under these Regulations; and

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

(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 grants	section 79(3)(b)
change in the characteristics of the school	regulation 5(8)
delegated budget	section 33(6)(b)
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 17(1)
relevant expenditure	regulation 15(5)
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 part, regulation or Schedule is a reference to the part, 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 and transitional provisions

3.—(1) The 1991 Regulations are hereby revoked.

(2) 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 that year; and
- (b) the 1990 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 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 a school in respect of the financial year ending on 31st March 1991; and
- (c) the 1991 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 1992, 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 that year.
- (3) Paragraph (1) is without prejudice to the continued operation after 31st March 1992 of the requirements imposed by the Secretary of State on a governing body to whom payments in respect of maintenance grant, capital grant and special purpose grant have been made under one or more of (as the case may be) the 1989, 1990 and 1991 Regulations.

PART 2

DETERMINATION OF AMOUNT OF MAINTENANCE GRANT WHERE THE FORMER MAINTAINING AUTHORITY ARE REQUIRED TO PREPARE A STATEMENT UNDER SECTION 42 OF THE ACT

Determination of amount of maintenance grant

4.—(1) This Part 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 the provisions of Part 4.

(2) Subject to regulation 13, the amount of maintenance grant payable in a case to which this Part applies for the financial year in question shall be the sum of the following amounts—

- (a) an amount determined in accordance with (as the case may be) regulation 5, 6 or 7;
- (b) an amount determined in accordance with (as the case may be) regulation 8, 9 or 10;
- (c) an amount determined in accordance with regulation 11; and
- (d) (where applicable) an amount determined in accordance with regulation 12.

(3) Where in the opinion of the Secretary of State precise calculation for the purpose of determining any of the amounts referred to in paragraph (2)—

- (a) would be impracticable;
- (b) would not significantly affect the amount; or
- (c) would be disproportionately costly having regard to the complexity of the calculation and the likely effect on the amount, State to determine as the amount of maintenance grant payable for the financial year in question such amount as appears to him to be fair and reasonable having regard in particular to the former maintaining authority's scheme.

Determination of an amount in respect of a comparable maintained school's budget share

5.—(1) Subject to regulations 6 and 7, the Secretary of State shall determine an amount which he is satisfied is or approximates to an amount which the former maintaining authority could have determined, by the application (subject to the following provisions of this regulation) of the allocation formula in their scheme in relation to a comparable maintained school covered by the scheme, as such a school's budget share for the financial year in question.

(2) Where—

- (a) before the beginning of the financial year in question the allocation formula included provision for taking into account a particular characteristic of a school which will affect the needs of the school as distinct from those of other schools which do not share that characteristic; and
- (b) the scheme has been varied or replaced before the relevant date in relation to the school (as initially determined) and for the financial year in question—
 - (i) no such provision is included in the allocation formula; or
 - (ii) the proportion of a comparable maintained school's budget share derived from the application of that provision would be less than it would have been had the scheme not been varied or replaced,

the allocation formula shall be deemed, for the purposes of determining the amount under paragraph (1), to include such provision as it had effect immediately before the scheme was so varied or replaced:

Provided that the Secretary of State shall add to, or subtract from, any sum derived from the application of the said provision such amount as appears to him to be fair and reasonable having regard to any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of schools maintained by them occurring during or since the financial year immediately preceding the financial year in question.

(3) Where—

- (a) by the application of the allocation formula a part of a school's budget share is determined by reference to either—
 - (i) an amount of expenditure attributable to each registered pupil of each relevant age group or falling within each relevant age group;
 - (ii) an amount or amounts (as the case may be) of expenditure attributable to any unit of measurement adopted for any factor included in the allocation formula; or
 - (iii) the amount or amounts (as the case may be) of expenditure attributable to any other such factor; and
- (b) the proportion that any such amount is of a comparable maintained school's budget share is less in the financial year in question than it would have been in a previous financial year, deemed by the Secretary of State, in applying the allocation formula for the purpose of determining the amount under paragraph (1), to be the amount or amounts determined in accordance with paragraph (4).

(4) For the purposes of paragraph (3), the Secretary of State shall determine as the amount or amounts of expenditure so attributable for the purposes of the allocation formula the amount or amounts so attributable in such previous financial year as the Secretary of State shall decide, adjusted by such amount or amounts as appears or appear to him to be fair and reasonable having regard, in particular, to—

- (a) any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of schools maintained by them occurring during or since that year; and

- (b) 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.

(5) Subject to paragraphs (6), (7) and (8), references in this Part (other than in regulation 10) 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—

- (a) 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
- (b) 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.

(6) Where the allocation formula includes provision for taking into account the amount of any non-domestic rate payable in respect of a school, the Secretary of State shall, in applying the allocation formula for the purpose of determining the amount under paragraph (1), apply that provision as if the amount of the non-domestic rate payable was—

- (a) in the case of a school which was a charity before becoming a grant-maintained school, that payable in respect of a comparable maintained school which is a charity; and
- (b) in the case of a school which was not a charity before becoming a grant-maintained school, that payable in respect of a comparable maintained school which is not a charity.

(7) 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; and, for the purposes of paragraph (6), it is to be further assumed that a comparable maintained school is capable of being a charity.

(8) References in these Regulations to any change in the characteristics of the school include, in particular, references to any change in the number of registered pupils there at.

(9) In this regulation—

“charity” means an institution established for charitable purposes only;

“factor” means, in relation to the allocation formula, any circumstance, fact or matter affecting the needs of individual schools and subject to variation from school to school which is to be taken into account in accordance with the allocation formula; and

“relevant” in relation to “age” and “age group” means an age group separately treated in the allocation formula for the purposes of determining that part of each school's budget share which is to be determined by reference to numbers of registered pupils.

6.—(1) This regulation applies in the case of any school whose incorporation date is after 1st April in the financial year in question.

(2) In any case to which this regulation applies the Secretary of State shall not determine an amount in accordance with regulation 5(1); but he shall determine an amount in accordance with paragraph (3).

(3) 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 financial year in question in respect of which either sums had not yet been made available pursuant to section 36(2) and (3) of the Act, or, if made available, had not been spent, 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.

7.—(1) This regulation applies in the case of a school, which was a grant-maintained school at any time in the financial year preceding the financial year in question, where it appears to the Secretary of State that, in relation to the financial year in question, the 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.

(2) In any case to which this regulation applies, the Secretary of State may decide not to determine an amount in accordance with regulation 5, but instead to determine an amount in accordance with paragraph (3).

(3) Where the Secretary of State decides to determine an amount in accordance with this paragraph he shall determine an amount in respect of a comparable maintained school's budget share by reference to the school's maintenance grant for the financial year preceding the financial year in question, adjusted by such amount as the Secretary of State is satisfied is fair and reasonable having 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 during or since the end of the immediately preceding financial year, and
- (b) 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.

Determination of an amount as a percentage addition

8. Subject to regulations 9 and 10, the Secretary of State shall determine an amount which is equal to 15 per cent. of the amount determined in respect of the school in accordance with, as the case may be, regulation 5, 6 or 7.

9.—(1) Without prejudice to regulation 10, this regulation applies in the case of any school—

- (a) whose incorporation date falls in or before the financial year ending on 31st March 1992;
- (b) in respect of which maintenance grant was determined for that financial year under regulation 4, 5 or 6 of the 1991 Regulations; and
- (c) in respect of which the amount first referred to in regulation 8 is less than the amount which was determined in respect of the school under (as the case may be) regulation 4(5), 5(6) or 6(6) of the 1991 Regulations for the financial year ending on 31st March 1992.

(2) In any case to which this regulation applies, regulation 8 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 under (as the case may be) regulation 4(5) or (6), 5(6), or 6(6) or (7) of the 1991 Regulations for the financial year ending on 31st March 1992.

10.—(1) In any case to which this regulation applies the Secretary of State shall not determine an amount in accordance with regulation 8 or 9; but he shall determine an amount in accordance with paragraph (4).

(2) This regulation applies in any case where—

- (a) before the relevant date in relation to the school (as initially determined) either the former maintaining authority or the governing body of the school request in writing that a determination is made under this regulation; and

- (b) it appears to the Secretary of State that, on the relevant date in relation to the school (as initially determined), at least 15 per cent. of either—
- (i) primary maintained schools in the area of the former maintaining authority (rounded up to a whole number); or
 - (ii) secondary maintained schools in the area of the former maintaining authority (rounded up to a whole number),
- (a) (3) (a) For the purposes of paragraph (4), the Secretary of State shall calculate the percentage that the amount determined in accordance with sub-paragraph (b) below is of the amount determined in accordance with sub-paragraph (c) below (referred to in this regulation as “the relevant percentage”).
- (b) The Secretary of State shall determine an amount by the application of the following formula—

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

where

A is the amount of the former maintaining authority’s general school’s budget for the financial year in question which, in the opinion of the Secretary of State would remain after deducting from it—

- (i) their aggregated budget for the year;
- (ii) the authority’s planned expenditure on those heads or items specified in Schedule 1;
- (iii) the authority’s planned expenditure on the provision of school meals; and
- (iv) any amount appropriated for meeting expenditure in respect of contingencies:

Provided that in determining the amounts under paragraphs (ii) to (iv) the Secretary of State shall exclude any such expenditure, or, in the case of expenditure in respect of contingencies, any amount appropriated by the authority for meeting such expenditure, falling within their aggregated budget;

B is the number of registered pupils on a date determined by the Secretary of State at all primary schools or all secondary schools maintained or formerly maintained by the former maintaining authority (according as to whether the school is a primary school or a secondary school) which are required to be covered by a statement for the financial year in question under section 42 of the Act; and

C is the number of registered pupils on that date at all such schools whether primary or secondary.

- (c) The Secretary of State shall determine an amount which appears to him to be equal to the amount of the authority’s aggregated budget which is available for allocation to all primary schools or all secondary schools maintained or formerly maintained by them which are required to be covered by the authority’s scheme for the financial year in question, according as to whether the school is a primary school or a secondary school.
- (4) The Secretary of State shall determine an amount which is equal to the relevant percentage of the amount determined in respect of the school in accordance with, as the case may be, regulation 5, 6 or 7.
- (5) In paragraph (2), references to primary maintained schools and secondary maintained schools are references to (as the case may be) primary schools or secondary schools which are—
- (a) county or voluntary schools; and
 - (b) grant-maintained schools.

Determination of an amount in respect of school meals, contingencies and the provision of nursery education

11.—(1) The Secretary of State shall determine the amount which is the sum of the amounts determined in accordance with paragraphs (2) to (5).

(2) 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 total number of registered pupils in receipt of free school meals at the school;

F is the total of the former maintaining 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.

(3) In paragraph (2),

“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 school or a secondary school.

(4) The Secretary of State shall determine the amount which it appears to him the governing body of 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.

(5) Where the governing body of the school provides education for junior pupils who have not attained the age of five years, the Secretary of State shall determine an amount in respect of such provision which he is satisfied is fair and reasonable having regard in particular to the extent that, in his opinion, the cost of such provision ought to be met from the amount determined in accordance with (as the case may be) regulation 5, 6 or 7.

Determination of an amount representing the unspent sum of a previous financial year's budget share

12.—(1) This regulation applies where—

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

(b) in a previous or previous financial years the school (before it acquired grant-maintained status) had a delegated budget under a scheme made by the former maintaining authority.

(2) In any case to which this regulation applies, there shall be added to the amount of maintenance grant payable in respect of the school under regulation 4 an amount determined in accordance with paragraph(3).

(3) The Secretary of State shall determine the amount which it appears to him is equal to that amount of the school's budget share for any financial year prior to the financial year in question in respect of which either sums were not made available pursuant to section 36(2) or (3) of the Act, or, if made available, were not spent by the governing body in exercise of their powers under section 36(5) of the Act.

Determination of amount of maintenance grant otherwise than under regulation 4

13.—(1) Notwithstanding the provisions of regulation 4, but subject to the following provisions of this regulation, the Secretary of State may determine the amount of maintenance grant payable to the governing body of a school for the financial year in question in accordance with the provisions of regulation 15(2) to (7), or, as the case may be, regulation 16(2) to (6) save that—

- (a) in the definition of “relevant schools” in regulation 15(6)(b) (including that definition as it is applied for the purposes of regulation 16(6)), for the reference to “section 50” there shall be substituted a reference to “section 42”;
- (b) in regulation 16(5) there shall be substituted—
 - (i) in sub-paragraph (a)(ii), for the words “regulation 5 or 6” the words “regulation 4, 5 or 6”; and
 - (ii) in sub-paragraphs (a)(iii) and (c), for the words “regulation 5(6) or 6(6)” the words “regulation 4(5), 5(6) or 6(6)”; and
- (c) in any case where, were the amount of maintenance grant in respect of the school to be determined under regulation 4, the Secretary of State would be required to determine an amount pursuant to regulation 12, there shall be added to the amount of maintenance grant determined in respect of the school the amount which would have been determined for the school in accordance with that regulation.

(2) Subject to paragraph (3), the Secretary of State shall consult the former maintaining authority and (as the case may be) the governing body or the prospective governing body of the school before determining pursuant to paragraph (1) the amount of maintenance grant payable in respect of the school for the financial year in question.

(3) Paragraph (2) shall not apply in any case where—

- (a) the school's incorporation date is 1st April in the financial year in question; and
- (b) it appears to the Secretary of State that, in relation to that financial year, a comparable maintained school's budget share, determined by the application of the allocation formula in the former maintaining authority's scheme, 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.

PART 3

DETERMINATION OF AMOUNT OF MAINTENANCE GRANT WHERE THE FORMER MAINTAINING AUTHORITY ARE NOT REQUIRED TO PREPARE A STATEMENT UNDER SECTION 42 OF THE ACT

14. This Part applies for the purpose of determining the amount of maintenance grant payable in respect of a school 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 is subject to the provisions of Part 4.

Determination of an amount of maintenance grant where incorporation date falls in the financial year in respect of which the determination is made

15.—(1) This regulation applies where the school’s incorporation date falls in the financial year in respect of which the determination of grant is made.

(2) The amount of maintenance grant payable to the governing body of the school for the financial year in question shall, subject to any adjustment made in accordance with paragraph (7), be the sum of the amounts determined in accordance with paragraphs (3), (5) and (6).

(3) 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.

(4) The reference in paragraph (3) 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 2, but does not include any expenditure on the heads or items specified in Schedule 1.

(5) The Secretary of State shall determine an amount which is equal to 15 per cent. of the amount determined in accordance with paragraph (3).

- (a) (6) (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 11(2).

- (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.

(7) The sum of the amounts determined in accordance with paragraphs (3), (5) and (6) may be adjusted by such amount as the Secretary of State is satisfied is fair and reasonable having regard, in particular, to—

- (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 during or since the end of the financial year ending last before the incorporation date, and
- (b) 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.

Determination of amount of maintenance grant for school which was a grant-maintained school before the financial year in respect of which the determination is made

16.—(1) This regulation applies in any case where the school was a grant-maintained school before the financial year in respect of which the determination of grant is made.

(2) The amount of maintenance grant payable to the governing body of the school for the financial year in question shall be the sum of the amounts determined in accordance with paragraphs (3), (4) and (6).

(3) The Secretary of State shall determine an amount which is produced by—

(a) taking the amount which—

(i) in the case of a school whose incorporation date falls in or before the financial year ending on 31st March 1992, was determined in respect of the school under regulation 5(4) or, as the case may be, 6(4) of the 1991 Regulations for that year; or

(ii) in the case of a school whose incorporation date falls after the financial year ending on 31st March 1992, is determined in respect of the school under regulation 15(4) for the financial year in which the school's incorporation date falls; and

(b) adjusting that amount by such amount as appears to him to be fair and reasonable having regard, in particular, to—

(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 since the financial year in respect of which the amount referred to in sub-paragraph (a) above was determined; and

(ii) 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.

(4) Subject to paragraph (5), the Secretary of State shall determine an amount which is equal to 15 per cent. of the amount determined in respect of the school in accordance with paragraph (3).

(a) (5) (a) This paragraph applies in the case of any school—

(i) whose incorporation date falls in or before the financial year ending on 31st March 1992;

(ii) in respect of which maintenance grant was determined for that year under regulation 5 or 6 of the 1991 Regulations; and

(iii) in respect of which the amount determined in accordance with paragraph (4) would be less than the amount which was determined in respect of the school under regulation 5(6) or 6(6) of the 1991 Regulations for the financial year ending on 31st March 1992.

(b) In any case to which this paragraph applies, paragraph (4) 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 under regulation 5(6) or, as the case may be, 6(6) of the 1991 Regulations for the financial year ending on 31st March 1992.

(a) (6) (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 11(2).

- (b) In this paragraph, “number of registered pupils”, “planned expenditure” and “relevant schools” shall have the meanings assigned to them by regulation 15(6)(b).

PART 4

MAINTENANCE GRANT — GENERAL PROVISIONS

Relevant date

17.—(1) Subject to paragraphs (2) and (3) below, any amount required to be determined by the Secretary of State under the provisions of Parts 2 and 3 shall be determined on the information available to him on a date determined by him and notified by him to the former maintaining authority (referred to in these Regulations 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 governing body of the school and 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)) sufficient information as will, in his opinion, allow him to determine any of the amounts referred to in paragraph (1) 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 having regard to the information available to him on the relevant date.

(4) The Secretary of State shall not take into account 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.

Apportionment of maintenance grant

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

(2) Where in respect of any such school the amount of maintenance grant is determined in accordance with regulation 4, the amount of maintenance grant payable to the governing body 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 amount determined in accordance with regulation 11(2); and

D is the sum of the amounts determined in accordance with regulations 6, 8 or (as the case may be) 10, 11(4), 11(5) and 12.

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

incorporation date 1st April — 31st July	F=1.0
incorporation date 1st August — 31st December	F=1.015
incorporation date 1st January — 31st March	F=1.02.

(3) Where in respect of any such school the amount of maintenance grant is determined under regulation 15 or 17(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 15 or, as the case may be, regulation 17(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 in accordance with regulation 13, 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 determined in respect of the school in accordance with (as the case may be) regulation 15(2) to (7); and

G is the amount, if any, determined in respect of the school in accordance with regulation 13(1)(c); and

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

Adjustments

19.—(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 so as 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 attributable to an act or omission of the former maintaining authority, 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

20.—(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.

PART 5

CAPITAL AND SPECIAL PURPOSE GRANTS

Capital grants

21. 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

22.—(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

23.—(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 6

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

Determination of amount to be recovered

24.—(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 1992 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.

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SCHEDULE 1

Regulations 10(3)(b) and 15(4)

EXCLUDED HEADS OR ITEMS OF EXPENDITURE

The following heads or items of expenditure are excluded for the purposes of determining an amount under regulation 10(3)(b) or (as the case may be) determining in accordance with regulation 15(4) the amount of relevant expenditure incurred by the former maintaining authority—

- (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 required to meet the liabilities of the former maintaining authority in respect of compensation for premature retirement of—
 - (i) persons formerly employed by them to work at a school maintained by them; or
 - (ii) persons formerly employed by the governing body of a school maintained by them, the purposes of payment of compensation for premature retirement was made before 1st April 1992;
- (e) 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 2

Regulation 15(4)

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 15 except to the extent that any such expenditure falls within any description of expenditure listed in Schedule 1:

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 3

Regulations 20 and 23

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 of 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;
 - (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.

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SCHEDULE 4

Regulation 21

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

SCHEDULE 5

Regulation 22

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⁽⁵⁾;
 - (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, co-ordinating, monitoring and evaluating eligible training; 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, co-ordinating, monitoring or evaluation of eligible training;

⁽⁵⁾ 1984 c. 11; see the Education Support Grant Regulations 1990 (S.I. 1990/2518, amended by S.I. 1991/2943).

- (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;
 - (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⁽⁶⁾.

6th March 1992

Kenneth Clarke
Secretary of State for Education and Science

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to grant-maintained schools situated in England, replace the provisions of the Education (Grant-maintained Schools) (Finance) Regulations 1991.

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 such schools. 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.

Part 2 of these Regulations provides for the calculation of a grant-maintained school's maintenance grant where the financial provision made for schools maintained by the former maintaining authority is regulated by a scheme made under section 33 of the Education Reform Act 1988. In general, the amount of maintenance to be paid to the governing body of the school will be determined in accordance with regulation 4. Under that regulation maintenance grant comprises 3 or 4 elements—

⁽⁶⁾ See the Education (Grants) (Travellers and Displaced Persons) Regulations 1990 (S.I. [1990/306](#), amended by S.I. [1991/131](#)).

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(1) an amount in respect of a comparable maintained school's budget share (regulations 5 and 7); or where the school was incorporated in the financial year for which grant is being determined ("the financial year in question"), an amount which appears to the Secretary of State to be equal to that amount of the school's budget share in respect of which either sums had not been made available, or not spent immediately before the school's incorporation date (regulation 6);

(2) an amount which is a percentage of the amount referred to in paragraph (1) above (regulations 8 and 10) ("the percentage addition");

(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 11); and

(4) where applicable, the amount of the school's budget share for any financial year prior to the financial year in question in respect of which either sums were not made available or were not spent by the governing body in exercise of their powers under section 36(5) of the Education Reform Act 1988 (regulation 12).

Under regulation 5, the Secretary of State is required to determine an amount which the Secretary of State is satisfied is or approximates to an amount which a comparable maintained school could have received, by the application of the allocation formula in the former maintaining authority's scheme, as that school's budget share. This replicates a provision made in the 1991 Regulations. New provision is made in regulation 5 which affects the way in which the allocation formula is to be applied for the purposes of this regulation. Under regulation 5(2), the Secretary of State is to apply the allocation formula so as to ignore any variations to it, where the scheme has been varied or replaced with the effect that any provision for taking account of a particular characteristic of a school—

(a) is no longer included in the allocation formula; or

(b) is varied so as adversely to affect the proportion of a comparable maintained school's budget share derived from the application of that provision.

Similarly, where there has been any change in any of the amounts attributed to factors in the allocation formula, and the proportion that such amount or amounts is of a comparable maintained school's budget share is less than it was before the change was made, then the Secretary of State is to apply the allocation formula as if no such change had been made (subject to him adjusting the amount or amounts to take account of a change in the level of the former maintaining authority's expenditure and any significant change in the characteristics of the school).

Regulation 5(6) applies where the allocation formula includes provision for taking into account the amount of any non-domestic rate payable in respect of a school. Where the allocation formula includes such provision, the Secretary of State is required, in applying the allocation formula, to do so as if the amount of the non-domestic rate payable was that payable, in the case of a school which was a charity before becoming grant-maintained, by a comparable maintained school which is a charity; and, in the case of a school which was not so a charity, by a comparable maintained school which is not a charity.

Regulation 8 provides for the amount of the percentage addition to be 15 per cent. This is subject, however, to regulations 9 and 10. Regulation 9 applies where the amount determined as a percentage addition would be less than the amount so determined under the 1991 Regulations. In those circumstances, regulation 9 provides that regulation 8 shall have effect as if it required the Secretary of State to determine an amount equal to the amount determined under the 1991 Regulations.

Regulation 10 applies where before the relevant date (as initially determined in accordance with regulation 17) either the former maintaining authority or the governing body of the school requests in writing that a determination is made under this regulation; and it appears to the Secretary of State that on the relevant date in relation to the school at least 15 per cent. of either primary or secondary maintained schools in the area of the former maintaining authority are grant-maintained schools. Where regulation 10 applies the Secretary of State is required to calculate the amount of

the percentage addition by reference to the amount that a sum in respect of the former maintaining authority's general school's budget is a percentage of the amount of the aggregated budget which is available to primary or (as the case may be) secondary schools covered by the authority's scheme.

Regulation 13 enables the Secretary of State to determine maintenance grant in respect of a school not in accordance with regulation 4, but in accordance with regulation 15 or (as the case may be) 16. Before determining maintenance grant pursuant to regulation 13 the Secretary of State is required to consult the former maintaining authority and the governing body or prospective governing body of the school. This requirement does not apply, however, where the school's incorporation date is 1st April in the financial year in question, and it appears to the Secretary of State that, in relation to that year, a comparable maintained school's budget share would have been determined wholly or mainly by reference to expenditure for the purposes of the school in a previous financial year.

Part 3 of these Regulations provides for the determination of maintenance grant where the financing provision made for schools maintained by the former maintaining authority is not subject to regulation by a scheme made under section 33 of the 1988 Act (regulation 14). Regulation 15 and 16 effectively replicate the provisions made by regulations 5 and 6 in the 1991 Regulations except that the amount of the percentage addition is 15 per cent. (regulations 15(5) and 16(4)).

Regulation 17 provides that any amount required to be determined by the Secretary of State under Parts 2 and 3 of these Regulations 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"). Regulation 18 provides for the apportionment of maintenance grant for schools which attain grant-maintained status other than at the beginning of the financial year in question. Regulation 19 provides for the adjustment of maintenance grant in the light of subsequent changes, or to correct errors.

Regulation 21 and Schedule 4 provide for the payment of capital grants. Regulation 22 provides for the payment of special purpose grants for the kinds of expenditure specified in Schedule 5.

Regulations 20 and 23 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 24 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.