

This Statutory Instrument has been amended by S.I.1993/843 which is printed herein as pages 23 and 24 and is being issued free of charge to all known recipients of S.I. 1993/568.

STATUTORY INSTRUMENTS

1993 No. 568

EDUCATION, ENGLAND AND WALES

**The Education (Grant-maintained
Schools) (Finance) Regulations 1993**

<i>Made</i>	- - - -	<i>9th March 1993</i>
<i>Laid before Parliament</i>		<i>10th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</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 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 1993 and shall come into force on 1 April 1993.

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⁾;

(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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

“the 1992 Regulations” means the Education (Grant-maintained Schools) (Finance) Regulations 1992⁽⁵⁾; 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(10)
delegated budget	section 33(6)(b)
financial year	section 235(1)
financial year in question	regulation 4(3)
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)
preceding financial year	regulation 6(5)
relevant date	regulation 15(7)
relevant expenditure	regulation 13(3)
relevant percentage	regulation 8(2)
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 and transitional provisions

3.—(1) The 1992 Regulations are hereby revoked.

(2) Notwithstanding the provisions of these Regulations,

(4) S.I. 1991/353.

(5) S.I. 1992/555, as amended by S.I. 1992/1095.

- (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 31 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;
 - (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 31 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 31 March 1991;
 - (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 31 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;
 - (d) the 1992 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 31 March 1993, 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 31 March 1993 of any 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, 1991 and 1992 Regulations.

PART 2

MAINTENANCE GRANT

Determination of amount of maintenance grant

- 4.—(1) Subject to regulation 12, the amount of maintenance grant payable to the governing body of a school 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 or 9;
 - (c) an amount determined in accordance with regulation 10(1); and
 - (d) (where applicable) an amount determined in accordance with regulation 11.

(2) Where in the opinion of the Secretary of State precise calculation for the purpose of determining any of the amounts referred to in paragraph (1)—

- (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,

paragraph (1) shall have effect as if it required the Secretary of 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.

(3) In these Regulations references to the financial year in question are references to the financial year in respect of which the determination of maintenance grant is made.

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

5.—(1) Subject to regulations 6 and 7, this regulation applies in the case of any school whose incorporation date falls on or before 1 April in the financial year in question.

(2) 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.

(3) Where—

- (a) at any time 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 at any time before the relevant date in relation to the school as initially determined (whether that is the date specified in regulation 17(1) or such other date as may be determined in accordance with regulation 17(2)), 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 (2), 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 preceding financial year.

(4) Where—

- (a) by the application of the allocation formula a part of a school's budget share is determined by reference to—
 - (i) an amount of expenditure attributable to each registered pupil of each relevant age 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, the amount or amounts of expenditure so attributable shall be deemed by the Secretary of State, in applying the allocation formula for the purpose of determining the amount under paragraph (2), to be the amount or amounts determined in accordance with paragraph (5).

(5) For the purposes of paragraph (4), 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.

(6) Subject to paragraphs (7), (8) and (9), references in this Part 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.

(7) 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 (2), 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.

(8) 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 (7), it is to be further assumed that a comparable maintained school is capable of being a charity.

(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.

(10) 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 thereat.

6.—(1) In any case where the school’s incorporation date falls before the financial year in question, the Secretary of State may if he thinks fit, instead of determining an amount under regulation 5(2), determine an amount in accordance with paragraph (4).

(2) Subject to paragraph (3), the Secretary of State shall consult the former maintaining authority and the governing body of the school before deciding whether, pursuant to paragraph (1), to determine an amount in accordance with paragraph (4).

(3) Paragraph (2) shall not apply in any case where it appears to the Secretary of State that, in relation to the financial year in question, 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.

(4) Where the Secretary of State decides to determine an amount in accordance with this paragraph he shall determine an amount 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 31 March 1993, was determined in respect of the school under (as the case may be) regulation 5, 6, 7, 15(3) or 16(3) of the 1992 Regulations for that year; or

(ii) in the case of a school whose incorporation date falls after the financial year ending on 31 March 1993, is determined in respect of the school under (as the case may be) this paragraph or regulation 5, 7 or 13(3) 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.

(5) In these Regulations references to the preceding financial year are references to the financial year immediately preceding the financial year in question.

7.—(1) This regulation applies in the case of any school whose incorporation date is after 1 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.

Determination of an amount as a percentage addition

8.—(1) Subject to regulation 9, the Secretary of State shall determine an amount which is equal to the relevant percentage of the amount determined in accordance with, as the case may be, regulation 5, 6 or 7.

(2) In these Regulations the relevant percentage is the percentage determined in accordance with Schedule 1 to these Regulations.

9.—(1) This regulation applies in the case of any school—

- (a) whose incorporation date falls in or before the financial year ending on 31 March 1993; and
- (b) in respect of which the amount first referred to in regulation 8(1) is less than the amount which was determined in respect of the school for the financial year ending on 31 March 1993 under (as the case may be) regulation 8, 9, 10(4), 15(5) or 16(4) or (5) of the 1992 Regulations.

(2) In any case to which this regulation applies, regulation 8(1) 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 1993 under (as the case may be) regulation 8, 9, 10(4), 15(5) or 16(4) or (5) of the 1992 Regulations.

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

10.—(1) Subject to paragraph (2), the Secretary of State shall determine the amount which is the sum of the amounts determined in accordance with paragraphs (3) to (6).

(2) In any case where the Secretary of State determines an amount under regulation 6, paragraph (1) shall have effect as if it required him to determine an amount equal to the amount referred to in paragraph (3).

(3) 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 former maintaining authority's planned expenditure for the financial year in question 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 preceding financial year determined by the Secretary of State;

G is the total of the authority's planned expenditure for the financial year in question 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 preceding financial year determined by the Secretary of State.

(4) In paragraph (3),

“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.

(5) The Secretary of State shall determine the amount which it appears to him, had the school continued to be maintained by the authority, could have been allocated for the purposes of the school in accordance with the authority’s scheme in respect of contingencies.

(6) 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 to which, 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 or 7.

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

11.—(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 financial year 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

12.—(1) Notwithstanding the provisions of regulation 4, the Secretary of State may, in the case of a school whose incorporation date falls in the financial year in question, determine the amount of maintenance grant payable to the governing body of the school for the financial year in question in accordance with the following provisions of this regulation.

(2) In any case to which this regulation applies, 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 regulations 13(1) and 14.

(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 the amount

of maintenance grant payable in respect of the school for the financial year in question in accordance with this regulation.

13.—(1) The Secretary of State shall determine an amount which is the sum of the amounts determined in accordance with paragraphs (2), (4) and (5) subject to any adjustment made in accordance with paragraph (6).

(2) 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 in the preceding financial year.

(3) Schedule 2 shall have effect for the purposes of determining the amount of relevant expenditure incurred by the authority in that year.

(4) The Secretary of State shall determine an amount which is equal to the relevant percentage of the amount determined in accordance with paragraph (2); and Schedule 1 shall have effect for the purposes of determining the relevant percentage.

(5) 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 10(3); and for the purposes of this paragraph the expressions used in regulation 10(3) shall have the meanings assigned to them by regulation 10(4).

(6) The sum of the amounts determined in accordance with paragraphs (2), (4) and (5) 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.

14. The Secretary of State shall determine an amount equal to the amount which would have been determined in respect of the school in accordance with regulation 11 if the amount of maintenance grant for the school were to be determined under regulation 4.

Relevant date

15.—(1) Subject to paragraphs (2) and (3) and regulation 18, any amount required to be determined by the Secretary of State under this Part shall be determined on the information available to him on the relevant date.

(2) In paragraph (1), the relevant date means 31 March in the preceding financial year or, for the purposes of determining the amount of maintenance grant payable in respect of any school for any financial year, such other date as the Secretary of State may determine.

(3) The Secretary of State may, in any case where he considers it appropriate to do so, redetermine the relevant date.

(4) Where—

- (a) the Secretary of State determines in accordance with paragraph (2) that, in respect of any school for any financial year, the relevant date should be a date other than 31 March in the preceding financial year, or
- (b) he redetermines the relevant date in accordance with paragraph (3),

he shall notify the governing body of the school and the former maintaining authority in writing of that fact.

(5) 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 amount 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.

(6) 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.

(7) References in these Regulations to the relevant date are references to the date referred to in paragraph (2) unless the relevant date has been redetermined in accordance with paragraph (3) in which case it is a reference to that date as redetermined.

Apportionment of maintenance grant

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

(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 10(3); and

D is the sum of the amounts determined in accordance with regulations 7, 8, 10(5) and (6) and 11;

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 = 1.015
incorporation date 1 January–31 March	F = 1.02.

(3) Where in respect of any such school the amount of maintenance grant is determined in accordance with regulation 12, 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 regulation 13(1);
G is the amount determined in respect of the school in accordance with regulation 14; and
A, B, and F represent the matters respectively denoted by those letters in paragraph (2).

Adjustments

17.—(1) Without prejudice to paragraph (5), this paragraph applies where—

(a) after determining the amount of maintenance grant payable in respect of any school for any financial year in accordance with these Regulations it appears to the Secretary of State that, by reason of—

- (i) any change in the characteristics of the school,
- (ii) any change in the level of spending by the former maintaining authority, or
- (iii) any other change affecting the needs of the school,

the amount so payable should be revised; or

(b) the Secretary of State is satisfied that his determination of the amount of maintenance grant payable in respect of any school for any financial 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.

(2) Subject to paragraph (3), in any case to which paragraph (1) applies, the Secretary of State may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with these Regulations and, if the amount so redetermined is different from the amount previously determined, revise his determination accordingly.

(3) Subject to paragraph (4), paragraph (2) shall not enable the Secretary of State to revise his determination of maintenance grant so as to reduce the amount of grant payable to the governing body of the school concerned for the financial year in question.

(4) The Secretary of State may revise his determination of maintenance grant so as to reduce the amount payable where—

- (a) that determination was made in ignorance of, or was based on a mistake as to, some material fact; and
- (b) such ignorance or mistake was not attributable to an act or omission of the former maintaining authority.

(5) Where it appears to the Secretary of State that, by reason of any extraordinary circumstances, the amount of maintenance grant determined in respect of a school for any financial year is insufficient to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, he may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with paragraph (6), and revise his determination accordingly.

(6) Where the Secretary of State decides to redetermine the amount of maintenance grant by virtue of paragraph (5), he shall redetermine that amount by adding to it such amount as appears to him to be necessary for the purpose of enabling the governing body adequately to carry out their functions with respect to the conduct of the school.

(7) Where in accordance with this regulation the Secretary of State revises the amount of maintenance grant payable in respect of any school for any financial year he shall give notice thereof to the governing body of the school and to the former maintaining authority.

(8) 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.

Application of relevant date provisions to a redetermination of the amount of maintenance grant

18.—(1) In its application for the purposes of any redetermination under regulation 17 of the amount of maintenance grant payable in respect of a school for any financial year, regulation 15 shall have effect subject to the following provisions of this regulation.

(2) Where the redetermination of maintenance grant under regulation 17(2) is made on one or more of the grounds specified in paragraph (1)(a) of that regulation the Secretary of State may take into account for the purposes of the redetermination any information received by him after the relevant date which relates to any of the reasons for making the redetermination.

(3) Where the redetermination of maintenance grant under regulation 17(2) is made on the grounds, specified in paragraph (1)(b) of that regulation, that the Secretary of State is satisfied that his determination was made in ignorance of, or was based on a mistake as to, some material fact, he may take into account any information received by him after the relevant date which relates to that fact.

(4) Where in accordance with paragraphs (2) and (3) any additional information is taken into account by the Secretary of State for the purposes of redetermining grant under regulation 17(2), he may take that information into account for the purposes of making any further redetermination under that regulation.

(7) Regulation 15 shall not apply where a redetermination is made by the Secretary of State in accordance with regulation 17(5) and (6).

Requirements which may be attached to payment of maintenance grant

19.—(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 3

CAPITAL AND SPECIAL PURPOSE GRANTS

Capital grants

20. 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

21.—(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

22.—(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 4

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

Determination of amount to be recovered

23.—(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 1 April 1993 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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulations 8(2) and 13(4)

DETERMINATION OF THE RELEVANT PERCENTAGE

1. This Schedule applies for the purposes of determining the relevant percentage under regulation 8(1) or 13(4).

2. For the purposes of regulation 8(1), the relevant percentage in respect of any school for any financial year is whichever is the greater of the percentages determined for the school in accordance with paragraphs 4 and 5.

3. For the purposes of regulation 13(4), the relevant percentage in respect of any school for any financial year is the percentage determined in accordance with paragraph 4.

4. For the purposes of this paragraph, the percentage is that specified—

(a) where the school is a primary school, in the second column of the table, or

(b) where the school is a secondary school, in the third column of the table,

opposite the reference in the first column of the table to the local education authority which is the former maintaining authority in relation to the school.

<i>Local Education Authority</i>	<i>Primary</i>	<i>Secondary</i>
Avon County Council	19·5	12·7
London Borough of Barking and Dagenham	13·1	9·8
London Borough of Barnet	18·6	13·0
Barnsley Metropolitan Borough Council	16·0	10·4
Bedfordshire County Council	18·3	13·5
Berkshire County Council	11·9	7·9
London Borough of Bexley	14·2	9·4
Birmingham City Council	21·2	13·9
Bolton Metropolitan Borough Council	14·2	9·3
Bradford City Council	14·6	11·6
London Borough of Brent	13·5	8·9
London Borough of Bromley	13·4	9·2
Buckinghamshire County Council	16·9	11·6
Bury Metropolitan Borough Council	10·8	7·6
Calderdale Metropolitan Borough Council	16·2	11·7
London Borough of Camden	14·6	10·9
Cambridgeshire County Council	11·4	7·6

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Local Education Authority</i>	<i>Primary</i>	<i>Secondary</i>
Cheshire County Council	13·4	9·2
Common Council of the City of London	24·9	24·9
Cleveland County Council	14·2	10·1
Cornwall County Council	13·2	9·1
Coventry City Council	23·0	15·5
London Borough of Croydon	14·6	10·1
Cumbria County Council	15·0	9·9
Derbyshire County Council	15·7	9·9
Devon County Council	13·5	9·2
Doncaster Metropolitan Borough Council	17·8	11·8
Dorset County Council	16·1	11·3
Dudley Metropolitan Borough Council	18·0	12·9
Durham County Council	16·3	11·0
London Borough of Ealing	16·7	12·2
East Sussex County Council	19·1	12·5
London Borough of Enfield	14·5	10·3
Essex County Council	14·4	9·1
Gateshead Metropolitan Borough Council	17·4	12·1
Gloucestershire County Council	13·8	11·6
London Borough of Greenwich	24·8	18·9
London Borough of Hackney	33·6	22·9
London Borough of Hammersmith and Fulham	27·1	19·8
Hampshire County Council	15·5	10·2
London Borough of Haringey	19·5	14·6
London Borough of Harrow	17·6	12·4
London Borough of Havering	18·1	11·4
Hereford and Worcester County Council	14·8	11·3
Hertfordshire County Council	15·3	10·6
London Borough of Hillingdon	16·5	11·6
London Borough of Hounslow	16·4	13·0

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Local Education Authority</i>	<i>Primary</i>	<i>Secondary</i>
Humberside County Council	16·2	11·2
The Council of the Isles of Scilly	15·0	7·5
Isle of Wight County Council	16·0	12·4
London Borough of Islington	20·3	16·1
The Royal Borough of Kensington and Chelsea	28·9	19·6
Kent County Council	16·5	10·9
The Royal Borough of Kingston upon Thames	15·2	10·3
Kirklees Metropolitan Borough Council	16·6	11·0
Knowsley Metropolitan Borough Council	17·6	11·7
London Borough of Lambeth	25·3	17·5
Lancashire County Council	15·5	10·3
Leeds City Council	14·4	11·2
Leicestershire County Council	17·8	12·2
London Borough of Lewisham	27·0	19·8
Lincolnshire County Council	15·2	9·8
Liverpool City Council	16·6	9·8
Manchester City Council	14·6	9·4
London Borough of Merton	17·8	13·2
Newcastle upon Tyne City Council	17·4	12·0
London Borough of Newham	21·7	13·3
Norfolk County Council	11·5	7·6
North Tyneside Metropolitan Borough Council	17·1	12·1
Northamptonshire County Council	12·3	8·4
Northumberland County Council	11·8	9·4
North Yorkshire County Council	15·8	10·6
Nottinghamshire County Council	16·8	12·5

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Local Education Authority</i>	<i>Primary</i>	<i>Secondary</i>
Oldham Metropolitan Borough Council	20·6	12·6
Oxfordshire County Council	15·1	11·3
London Borough of Redbridge	20·0	12·6
London Borough of Richmond upon Thames	18·0	14·3
Rochdale Metropolitan Borough Council	14·0	9·0
Rotherham Metropolitan Borough Council	17·7	12·5
St. Helens Metropolitan Borough Council	14·2	9·5
Salford City Council	13·6	8·3
Sandwell Metropolitan Borough Council	19·6	10·5
Sefton Metropolitan Borough Council	13·7	8·5
Sheffield City Council	14·2	9·8
Shropshire County Council	13·7	8·8
Solihull Metropolitan Borough Council	15·6	10·6
Somerset County Council	18·4	12·9
South Tyneside Metropolitan Borough Council	14·7	10·9
London Borough of Southwark	26·8	19·9
Staffordshire County Council	15·8	11·3
Stockport Metropolitan Borough Council	13·4	8·8
Suffolk County Council	12·9	9·5
Sunderland Metropolitan Borough Council	12·8	9·2
Surrey County Council	14·2	9·9
London Borough of Sutton	15·2	10·2
Tameside Metropolitan Borough Council	15·7	10·7
London Borough of Tower Hamlets	29·1	21·6
Trafford Metropolitan Borough Council	17·5	10·3

<i>Local Education Authority</i>	<i>Primary</i>	<i>Secondary</i>
Wakefield Metropolitan District Council	18·0	10·7
Walsall Metropolitan Borough Council	17·8	12·3
London Borough of Waltham Forest	23·3	14·7
London Borough of Wandsworth	16·5	10·8
Warwickshire County Council	12·5	8·3
Westminster City Council	15·5	12·0
West Sussex County Council	15·5	10·6
Wigan Metropolitan Borough Council	18·1	11·5
Wiltshire County Council	19·9	12·5
Wirral Metropolitan Borough Council	13·1	9·0
Wolverhampton Metropolitan Borough Council	22·7	15·1

5.—(1) For the purposes of this paragraph, the Secretary of State shall determine the percentage which the amount determined in accordance with sub-paragraph (2) below is of the amount determined in accordance with sub-paragraph (4) below.

(2) 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 schools' budget for the financial year in question which, in the opinion of the Secretary of State, would remain after deducting from it—

- (a) their aggregated budget for the year;
- (b) subject to paragraph (3) below, the authority's planned expenditure on those descriptions of expenditure listed in paragraph 2 of Schedule 2;
- (c) the authority's planned expenditure on the provision of school meals; and
- (d) any amount appropriated for meeting expenditure in respect of contingencies:

Provided that in determining the amounts under paragraphs (b) to (d) 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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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.

(3) For the purposes of sub-paragraph (2)(b) above, the reference in paragraph 2(d) of Schedule 2 to “the preceding financial year” shall be read as a reference to “the financial year in question”.

(4) 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.

SCHEDULE 2

Regulation 13(3)

RELEVANT EXPENDITURE

1. Subject to paragraph 2, the following heads or items of expenditure are to be included for the purposes of determining in accordance with regulation 13(2) the amount of relevant expenditure incurred by the former maintaining authority in the preceding financial year:

- (a) 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;
- (b) expenditure on books, stationery and other educational equipment for use at the school;
- (c) expenditure on telephones and postage for the purposes of the school;
- (d) examination fees incurred in relation to registered pupils at the school;
- (e) expenditure relating to the school premises, including in particular—
 - (i) heating and lighting;
 - (ii) caretaking and cleaning;
 - (iii) rent, non-domestic rates, water rates and charges for the supply of water or the provision of sewerage services;
 - (iv) insurance; and
 - (v) repairs and maintenance; and
- (f) any other expenditure treated by the authority as forming part of the direct costs of the school.

2. The heads or items of expenditure referred to in paragraph 1 are not to be included for the purposes of determining the amount of relevant expenditure to the extent that they fall within any of the following descriptions of expenditure, namely—

- (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, where the decision to credit a person with a period of service for the purposes of payment of compensation for premature retirement was made before 1 April in the preceding financial year; and
- (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) education welfare officers and educational psychologists where the expenditure is incurred in connection with the performance of a duty or the exercise of a power by the former maintaining authority which is to be performed or exercised by them both in relation to pupils at schools maintained by them and in relation to pupils at grant-maintained schools; and
 - (v) additional support provided to schools specifically for pupils with statements of special educational needs in accordance with those statements.

SCHEDULE 3

Regulations 19 and 22

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;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (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 20

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 21(1)

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⁽⁶⁾;
 - (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—

⁽⁶⁾ 1984 c. 11; see the Education Support Grant Regulations 1992 (S.I. 1992/3275).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (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 trainees 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:
- 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, co-ordinating, 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;
 - (v) meeting any urgent need of the school which in the opinion of the Secretary of State was 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⁽⁷⁾

(7) *see* the Education (Grants) (Travellers and Displaced Persons) Regulations 1990 (S.I. 1990/306, amended by S.I. 1991/131). With effect from 1 April 1993 these Regulations are to be replaced by the Education (Grants) (Travellers and Displaced Persons) Regulations 1993 (S.I. 1993/569).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

9th March 1993

John Patten
Secretary of State for Education

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 1992. The main changes are in regulation 8 (percentage addition); regulation 15 (relevant date); regulation 17 (adjustments to maintenance grant); and regulation 18 (information to be used in redetermining maintenance grant). The details of these and other changes are set out below.

Part 2 of the Regulations makes provision with respect to the determination of the amount of maintenance grant to be paid to the governing body of a school for any financial year. Under regulation 4, maintenance grant comprises 3 or 4 elements:

(1) an amount in respect of a comparable maintained school's budget share (regulations 5 and 7) or, alternatively, an amount calculated in accordance with regulation 6;

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

(4) where applicable, an amount in respect of the school's budget share for any financial year in which it was maintained by a local education authority and had a delegated budget 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 11).

Regulation 6 applies to schools which become grant-maintained on a date preceding the commencement of the financial year in respect of which maintenance grant is to be determined. In such a case the Secretary of State may, instead of determining an amount under regulation 5, calculate an amount by taking the amount determined in respect of the school in the financial year in which the school's incorporation date fell, and adjusting it by such amount as appears to him to be fair and reasonable. The regulation requires the Secretary of State to consult the former maintaining authority and the governing body of the school before adopting this method of calculating maintenance grant. Consultation is not required where it appears to the Secretary of State that a comparable maintained school's budget share under regulation 5 would have been determined wholly or mainly by reference to expenditure for the purposes of that school in a previous financial year.

Regulation 8 requires the Secretary of State to determine as the percentage addition the "relevant percentage" of the amount determined in respect of the school under (as the case may be) regulation 5, 6 or 7. The "relevant percentage" is the greater of the percentages for the school determined in accordance with the table in paragraph 4 of Schedule 1 or by the Secretary of State in accordance with the provisions of paragraph 5 of that Schedule (which replicate regulation 10(3) and (4) of the 1992 Regulations).

Regulation 9 ensures that the amount determined as a percentage addition is not less than the amount determined under the 1992 Regulations.

Under regulation 12, the Secretary of State may determine as the maintenance grant for a school whose incorporation date falls in the financial year in respect of which the determination is made, an amount which is the sum of the amounts determined in accordance with regulations 13(1) and 14 rather than an amount determined in accordance with regulation 4. Before doing so, however, he is required to consult the former maintaining authority and the governing body or prospective governing body of the school.

Regulation 15 provides that any amount required to be determined by the Secretary of State under Part 2 of the Regulations is to be determined by him on the information available to him on the relevant date. Under regulation 15 the relevant date is either the 31st March immediately preceding the financial year in respect of which the determination of maintenance grant is made, or such other date as may be determined by the Secretary of State in the case in question.

Regulation 17 provides for the adjustment of maintenance grant in the light of subsequent changes or to correct errors. It also provides for the adjustment of maintenance grant where it appears to the Secretary of State that, by reason of any extraordinary circumstances, the amount of maintenance grant is insufficient to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school. Regulation 18 makes provision with respect to the information to be taken into account by the Secretary of State on making a redetermination of the amount of maintenance grant.