
STATUTORY INSTRUMENTS

1995 No. 936

The Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1995

PART 1

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1995 and shall come into force on 1st April 1995.

(2) These Regulations apply in relation to the financial year beginning on that date.

Interpretation

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

“the 1988 Act” means the Education Reform Act 1988(1) ;

“the 1993 Act” means the Education Act 1993;

“financial year in question” means the financial year beginning in 1995;

“local education authority” means

- (a) in relation to any primary or secondary school and any financial year relating to such a school, the local education authority for the area in which the school is situated; and
- (b) in relation to any special school and any financial year relating to such a school, the local education authority by which the school was maintained immediately before it became a grant-maintained special school;

“preceding financial year” means the financial year beginning in 1994;

“pupils with statements of special educational needs” means pupils for whom statements of their special educational needs are maintained under section 168 of the 1993 Act;

“the 1994 Regulations” means the Education (Grant-maintained Schools) (Finance) Regulations 1994(2) ;

“school” means a grant-maintained school situated in England the governing body of which was incorporated under Chapter II, Chapter IV pursuant to proposals published by promoters under section 49, or Chapter IX of Part II of the 1993 Act or a grant-maintained special school situated in England not being such a school established in pursuance of proposals made by the funding authority under section 183 of the 1993 Act;

“the 1994 Special Schools Regulations” means the Education (Grant-maintained Special Schools) (Finance) Regulations 1994(3) .

(1) 1988 c. 40.

(2) S.I. 1994/938.

(3) S.I. 1994/2111.

Status: This is the original version (as it was originally made).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

(2) Expressions used in these Regulations set out in the first column of the following table shall have the meanings attributed to them by the provisions set out opposite thereto in the second column, references to regulations being references to regulations of these Regulations—

aggregated budget	section 33(4)(b) of the 1988 Act
allocation formula	section 38(2) of the 1988 Act
capital grants	section 83(1) of the 1993 Act
change in the characteristics of the school	regulation 6(10)
comparable maintained school	regulation 6(6)
date of implementation of the proposals	section 37(2) of the 1993 Act
delegated budget	section 33(6)(b) of the 1988 Act
financial year	section 305(1) of the 1993 Act
general schools budget	section 33(4)(a) of the 1988 Act
maintenance grant	section 81(1) of the 1993 Act
relevant authority	regulation 27(2)
relevant date	regulations 20(7) and 32(7)
relevant expenditure	regulation 18(3)
relevant percentage	regulation 10(2)
scheme	section 51(2)(a) of the 1988 Act(4)
school's budget share	section 51(2)(b) of the 1988 Act
special purpose grants	section 82(1) of the 1993 Act.

(3) In these Regulations references to a school becoming a grant-maintained school are references to a school acquiring grant-maintained status Under Chapter II, Chapter IV pursuant to proposals published by promoters under section 49 or Chapter IX of Part II of the 1993 Act or becoming a grant-maintained special school under Part 2 of the Education (Grant-maintained Special Schools) Regulations 1994(5) .

(4) For the purposes of these Regulations, a school becomes a grant-maintained school on the date of implementation of the proposals in respect of the school under Chapter II, IV or IX of Part II of the 1993 Act.

(5) In these Regulations references to primary or secondary schools do not include such schools which are special schools.

(6) 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.

(4) Section 51(2)(a) was amended by section 274(4) of the Education Act 1993.

(5) S.I. 1994/653; amended by S.I. 1994/1231.

Revocation and transitional provisions

- 3.—(1) The 1994 Regulations and the 1994 Special Schools Regulations are revoked.
- (2) Notwithstanding the provisions of these Regulations—
- (a) the Education (Grant-maintained Schools) (Finance) Regulations 1989⁽⁶⁾ ("the 1989 Regulations") shall continue to apply for the purposes of—
 - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a primary or secondary 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 (within the meaning of those Regulations) of a primary or secondary school in respect of that year;
 - (b) the Education (Grant-maintained Schools) (Finance) regulations 1990⁽⁷⁾ ("the 1990 Regulations") shall continue to apply for the purposes of—
 - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a primary or secondary 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 (within the meaning of those Regulations) of a primary or secondary school in respect of that year;
 - (c) the Education (Grant-maintained Schools) (Finance) Regulations 1991⁽⁸⁾ ("the 1991 Regulations") shall continue to apply for the purposes of—
 - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a primary, or secondary 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 (within the meaning of those Regulations) of a primary or secondary school in respect of that year;
 - (d) the Education (Grant-maintained Schools)(Finance) Regulations 1992⁽⁹⁾ ("the 1992 Regulations") shall continue to apply for the purposes of—
 - (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a primary or secondary school for the financial year ending on 31st 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 (within the meaning of those Regulations) of a primary or secondary school in respect of that year;
 - (e) the Education (Grant-maintained Schools Finance Regulations 1993⁽¹⁰⁾ ("the 1993 Regulations") shall continue to apply for the purposes of—

⁽⁶⁾ S.I. 1989/1287.

⁽⁷⁾ S.I. 1990/549; amended by S.I. 1990/2279 and S.I. 1991/353.

⁽⁸⁾ S.I. 1991/353.

⁽⁹⁾ S.I. 1992/555; amended by S.I. 1992/1095.

⁽¹⁰⁾ S.I. 1993/568; amended by S.I. 1993/843.

- (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a primary or secondary school for the financial year ending on 31st March 1994, and
 - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority (within the meaning of those Regulations) of a primary or secondary school in respect of that year;
- (f) the 1994 Regulations shall continue to apply for the purposes of—
- (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a primary or secondary school for the financial year ending on 31st March 1995, and
 - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the local education authority (within the meaning of those Regulations) of a primary or secondary school in respect of that year;
- (g) the 1994 Special Schools Regulations shall continue to apply for the purposes of—
- (i) determining, apportioning and redetermining the amount of maintenance grant payable in respect of a special school for the financial year ending on 31st March 1995, and
 - (ii) determining (and revising) the total amount of maintenance grant which the Secretary of State may recover from the former maintaining authority (within the meaning of those Regulations) of a special school in respect of that year.
- (3) Paragraph (1) is without prejudice to the continued operation after 31st March 1995 of any requirements imposed by the Secretary of State or the funding authority 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, 1992, 1993 and 1994 Regulations and the 1994 Special Schools Regulations.

PART 2

MAINTENANCE GRANT—SCHEME REPLICATION

Application of Part 2

4. This Part applies for the purpose of determining the amount of maintenance grant payable in respect of—
- (a) a primary school which is not a primary school referred to in regulation 27(1)(b);
 - (b) a secondary school which is not situated in the area of a relevant authority within the meaning of Part 3;
 - (c) a secondary school situated in such an area which becomes a grant-maintained school after 1st April in the financial year in question; or
 - (d) a special school.

Determination of amount of maintenance grant

5.—(1) Subject to regulation 17, the amount of maintenance grant payable for the financial year in question in respect of a school whose maintenance grant falls to be determined under this Part shall be the sum of the following amounts—

- (a) an amount determined in accordance with (as the case may be) regulation 6, 7, 8 or 9;
- (b) an amount determined in accordance with regulation 10 (or that regulation as it has effect in accordance with regulation 11 or 12);
- (c) an amount determined in accordance with regulation 13(1); and
- (d) (where applicable) an amount determined in accordance with regulations 14, 15 and 16.

(2) Where in the opinion of the funding authority 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 funding authority to determine as the amount of maintenance grant payable for the financial year in question such amount as appears to them to be fair and reasonable having regard in particular to the local education authority's scheme.

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

6.—(1) Subject to regulations 7 and 9, this regulation applies in the case of a school which became a grant-maintained school on or before 1st April in the financial year in question.

(2) The funding authority shall determine an amount which appears to them to be equal or approximate to an amount which the local education 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 a particular factor; and
- (b) the scheme has been revised, varied or replaced under section 35 of the 1988 Act⁽¹¹⁾ at any time before the relevant date in relation to the school as initially determined in accordance with regulation 20(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 so revised, varied or replaced,

the allocation formula shall be deemed, for the purposes of determining the amount under paragraph (2), to include such provision for taking into account any such factor as it had effect immediately before the scheme was so revised, varied or replaced:

Provided that the funding authority shall add to, or subtract from, any sum derived from the application of the said provision such amount as appears to them to be fair and reasonable having regard to any increase or decrease in the actual or planned level of spending of the local education 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—

⁽¹¹⁾ A new section 35 was substituted by section 274(2) of the Education Act 1993.

- (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 funding authority, 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 funding authority 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 funding authority shall decide, adjusted by such amount or amounts as appears or appear to them 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 local education 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 funding authority will be likely to occur before the end of the financial year in question.

(6) Subject to paragraphs (7), (8) and (9), references in this Part to a maintained school are references to a school maintained by the local education authority in question, and references to a comparable maintained school are—

- (a) in the case of a primary or secondary school, references to a maintained county school, any characteristics of which relevant for the purposes of any formula of a kind referred to in paragraph (2) are identical to any such characteristics of the grant-maintained school and are references (in particular) to a school—
 - (i) the number of registered pupils in each age group at which is identical to the number of such pupils in each age group at the grant-maintained school, and
 - (ii) any other factors affecting the needs of which (including, in particular, the number of registered pupils at the school who have special educational needs and the nature of the special educational provision required to be made for them) are identical to any other factors affecting the needs of the grant-maintained school; and
- (b) in the case of a special school, references to a maintained special 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 special 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 funding authority shall, in applying the allocation formula for the purpose of determining the amount under paragraph (2), apply the 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 local education 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.

7.—(1) In any case where the school became a grant-maintained school before 1st April in the financial year in question, the funding authority may if they think fit, and after consulting the local education authority and the governing body of the school, instead of determining an amount under regulation 6(2), determine an amount in accordance with paragraph (2).

(2) Where the funding authority decide to determine an amount in accordance with this paragraph they shall determine an amount by—

- (a) taking the amount which was determined under the 1994 Regulations or, in the case of a special school, the 1994 Special Schools Regulations as the amount of maintenance grant payable in respect of the school for the preceding financial year; and
- (b) adjusting that amount by such amount as appears to them 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 local education authority in respect of the schools maintained by them occurring since that financial year; and
 - (ii) any significant change in the characteristics of the school occurring as aforesaid or which it appears to them is likely to occur before the end of the financial year in question.

8.—(1) Subject to regulation 9, this regulation applies in the case of a school which becomes a grant-maintained school after 1st April in the financial year in question.

(2) In any case to which this regulation applies the funding authority shall determine an amount in accordance with paragraph (3).

(3) The funding authority shall determine an amount which appears to them to be equal or approximate to that amount of the school’s budget share for the financial year in question in respect of which, immediately before the school became grant-maintained, sums had neither been deducted by the maintaining local education authority in accordance with their scheme nor made available pursuant to section 36(2) and (3)(12) of the 1988 Act, or, if made available, had not been spent by the governing body of the school in exercise of their powers under section 36(5) of the 1988 Act.

9.—(1) This regulation applies in the case of a school which becomes a grant-maintained school on or after 1st April in the financial year in question pursuant to proposals published by promoters under section 49 of the 1993 Act.

(12) Section 36 was amended by section 12(6) of the Further and Higher Education Act 1992 (c. 13) and section 307 of, and paragraph 125 of Schedule 19 to, the Education Act 1993.

(2) The funding authority shall determine an amount which appears to them to be equal or approximate to an amount which the local education 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) Paragraphs (3), (7), (8) and (9) of regulation 6 shall also apply to this regulation.

Determination of an amount as a percentage addition

10.—(1) Subject to regulations 11 and 12, the funding authority 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 6, 7, 8 or 9.

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

Cash protection

11.—(1) Subject to paragraphs (3) and (4), paragraph applies in the case of a school which became a grant-maintained school before 1st April in the financial year in question and in respect of which the amount first referred to in regulation 10(1) or, where the funding authority determine an amount under regulation 13(8) or (9) in respect of the school, the sum of those amounts is less than—

(a) as respects a primary or secondary school—

(i) subject to (ii) below, 80.01% of the amount which was determined in respect of the school for the financial year beginning on 1st April 1993 under (as the case may be) regulation 8 (or that regulation as it has effect in accordance with regulation 9) or regulation 13(4) of the 1993 Regulations; or

(ii) if no amount was so determined under the 1993 Regulations or if the amount so determined is less than the amount which was determined in respect of the school for the financial year beginning on 1st April 1994 under (as the case may be) regulation 9 (ignoring for this purpose the effect of regulation 10) or regulation 15(4) of the 1994 Regulations, 88.9% of the amount so determined under the 1991 Regulations; or

(b) as respects a special school less than 88.9% of the school's budget share for the preceding financial year determined under the 1994 Special Schools Regulations.

(2) In any case to which this paragraph applies, regulation 10 shall have effect as if it required the funding authority to determine—

(a) in a case referred to in paragraph (1)(a)(i), an amount equal to 80.01% of the amount which was determined in respect of the school for the financial year beginning on 1st April 1993;

(b) in a case referred to in paragraph (1)(a)(ii) or (b), an amount equal to 88.9% of the amount which was determined in respect of the school for the financial year beginning on 1st April 1994 under the aforementioned regulations of the 1994 Regulations or under the 1994 Special Schools Regulations (as the case may be).

(3) Paragraph (4) applies where a school, which became a grant-maintained school before 1st April in the financial year in question, is significantly enlarged, as part of proposals involving the discontinuance of another school which also became a grant-maintained school before 1st April in the financial year in question, and in respect of the first mentioned school the amount first referred to in regulation 10(1) or, where the funding authority determine an amount under regulation 13(8) or (9) in respect of that school, the sum of those amounts is less than—

(a) subject to sub-paragraph (b) below, 80.01% of the amount which was determined in respect of both the schools referred to above for the financial year beginning on 1st April 1993

under (as the case may be) regulation 8 (or that regulation as it has effect in accordance with regulation 9) or regulation 13(4) of the 1993 Regulations; or

- (b) if no amount was so determined under the 1993 Regulations or if the amount so determined is less than the amount which was determined in respect of both the schools referred to above for the financial year beginning on 1st April 1994 under (as the case may be) regulation 9 (ignoring for this purpose the effect of regulation 10) or regulation 15(4) of the 1994 Regulations, 88.9% of the amount so determined in respect of both the schools referred to above under the 1994 Regulations.

(4) In any case to which this paragraph applies, regulation 10 shall have effect as if it required the funding authority to determine such amount as appears to them to be fair and reasonable, being not less than the amount first referred to in regulation 10(1), or, where the funding authority determine an amount under regulation 13(8) or (9) in respect of the school, the sum of those amounts, and not more than—

- (a) in a case referred to in paragraph (3)(a), an amount equal to 80.01% of the amount which was determined in respect of both schools for the financial year beginning on 1st April 1993;
- (b) in a case referred to in paragraph (3)(b), an amount equal to 88.9% of the amount which was determined in respect of both schools for the financial year beginning on 1st April 1994.

Apportionment of amount of percentage addition

12.—(1) This regulation applies in the case of a school which becomes a grant-maintained school after 1st April in the financial year in question.

(2) Where this regulation applies, regulation 10 shall have effect as if it required the funding authority to determine the relevant percentage of the amount determined in accordance with the following formula—

$$\frac{(A \times J)}{B}$$

, where

J is the amount of the school's budget share for the financial year in question or the amount determined in respect of the school in accordance with regulation 9, and

A and B represent the matters respectively denoted by those letters in regulation 21(2).

Determination of an amount in respect of school meals, contingencies, nursery education and expenditure due to ethnic minority population

13.—(1) Subject to paragraph (2), the funding authority shall determine the amount which is the sum of the amounts determined in accordance with paragraphs (3) to (9).

(2) In any case where the funding authority determine an amount under regulation 7, paragraph (1) shall have effect as if it required them to determine an amount equal to the amount referred to in paragraph (3).

(3) Subject to paragraph (4), the funding authority shall determine an amount in respect of the provision of school meals calculated by the application of the following formula—

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

, where

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

F is the total of the local education 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 funding authority;

G is the total of the local education 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 funding authority.

(a) (4) (a) In the case of a school which becomes a grant-maintained school on or after 1st April in the financial year in question, pursuant to proposals published by promoters under section 49 of the 1993 Act, the formula in paragraph (3) shall apply but "S" shall be the number of registered pupils at the school who bought meals at the school on a date in the financial year in question (which may be no later than a date in the second term of the school year) determined by the funding authority.

(b) Without prejudice to regulation 22, until such time as the funding authority are able to determine an amount by the application of the formula in paragraph (3), as modified by this paragraph, having regard to the date determined by them for the purposes of "S", the funding authority shall determine such amount in respect of the provision of school meals as appears to them to be fair and reasonable.

(5) In paragraph (3)—

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

“planned expenditure” means the initial amount appropriated by the local education 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 or all special schools maintained or formerly maintained by the authority required to be covered by a statement for the year under section 42 of the 1988 Act⁽¹³⁾, according as to whether the school is a primary school, a secondary school or a special school.

(6) The funding authority shall determine the amount which it appears to them, were the school maintained by the local education authority, could have been allocated for the purposes of the school in accordance with the authority's scheme in respect of contingencies.

(7) Where the school provides education for junior pupils who have not attained the age of five years, the funding authority shall determine an amount in respect of such provision which they are satisfied is fair and reasonable having regard in particular to the extent to which, in their opinion, the cost of such provision ought to be met from the amount determined in accordance with (as the case may be) regulation 6, 8 or 9.

(8) Subject to paragraph (9), the funding authority shall determine the amount (if any) which it appears to them, were the school maintained by the local education authority, could have been allocated for the purposes of the school in accordance with the authority's scheme in support of expenditure of the kind referred to in section 11 of the Local Government Act 1966⁽¹⁴⁾ in respect of posts approved by the Secretary of State for the purpose of making grants in respect of such

⁽¹³⁾ Section 42 was amended by section 275(1) and 307(3) of, and Schedule 21 to, the Education Act 1993.

⁽¹⁴⁾ 1966 c. 42, as substituted by section 1(1) of the Local Government (Amendment) Act 1993 (c. 27). Section 11 is extended by section 211 of the Education Reform Act 1988 to which there are amendments not relevant to these Regulations.

expenditure, not being expenditure expected to be offset by income received as central government grant or grant from any of the European Communities.

(9) If no such amount as referred to in paragraph (8) could have been so allocated for the financial year in question the funding authority shall determine the amount which could have been so allocated for the last financial year, if any, in which any amount could have been so allocated.

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

14.—(1) This regulation applies where the school becomes a grant-maintained school on or after 1st April in the financial year in question.

(2) In any case to which this regulation applies the amounts to be added together for the purpose of determining the amount of maintenance grant payable in respect of the school under regulation 5 shall include an amount determined in accordance with paragraph (3).

(3) The funding authority shall determine the amount which appears to them to be equal or approximate to that amount of the school's budget share for any financial year prior to the financial year in question in respect of which sums had neither been deducted by the maintaining local education authority in accordance with their scheme nor made available pursuant to section 36(2) or (3) of the 1988 Act, or, if made available, had not been spent by the governing body in exercise of their powers under section 36(5) of that Act.

Determination of an amount in respect of a budget deficit in previous financial years

15.—(1) This regulation applies where the school becomes a grant-maintained school on 1st April in the financial year in question.

(2) In any case to which this regulation applies the amounts to be added together for the purpose of determining the amount of maintenance grant payable in respect of the school under regulation 5 shall have deducted from them an amount determined in accordance with paragraph (3).

(3) The funding authority, having consulted the former maintaining local education authority and the governing body of the school, shall determine such amount, if any, as appears to them to be fair and reasonable, in respect of any deficit incurred by the school in respect of its budget share in any previous financial year, having regard, in particular, to the following matters—

- (a) the existence and the terms of any agreement in writing between the governing body of the school and the maintaining local education authority regarding the repayment of such deficit;
- (b) the existence in the relevant scheme of provision permitting schools to anticipate their budget shares for the following year in order to finance planned items of expenditure; and
- (c) evidence that the maintaining local education authority took steps to reduce schools' budget shares where deficits have occurred and did not allow schools to carry over deficits from one year to the other with no planned reduction.

Determination of an amount in respect of sums deducted from a school's budget share

16.—(1) This regulation applies in the case of a school which becomes a grant-maintained school after 1st April in the financial year in question.

(2) In any case to which this regulation applies the amounts to be added together for the purpose of determining the amount of maintenance grant payable in respect of the school under regulation 5 shall include an amount determined in accordance with paragraph (3).

(3) The funding authority, having consulted the former maintaining local education authority and the governing body of the school, shall determine such amount, if any, as appears to them to be fair

and reasonable, being all or part of any sum deducted from the school's budget share for the financial year in question by the maintaining local education authority in respect of any deficit incurred by the school in respect of its budget share in any previous financial year, having regard, in particular, to the following matters—

- (a) the existence and the terms of any agreement in writing between the governing body of the school and the maintaining local education authority regarding the repayment of such deficit;
- (b) the existence in the relevant scheme of provision permitting schools to anticipate their budget shares for the following year in order to finance planned items of expenditure; and
- (c) evidence that the maintaining local education authority took steps to reduce schools' budget shares where deficits have occurred and did not allow schools to carry over deficits from one year to the other with no planned reduction.

Determination of amount of maintenance grant otherwise than under regulation 5

17.—(1) Notwithstanding the provisions of regulation 5, the funding authority may, in the case of a school which becomes a grant-maintained school in the financial year in question, determine the amount of maintenance grant payable in respect of the school for that year in accordance with the following provisions of this regulation.

(2) In any case to which this regulation applies, the amount of maintenance grant payable in respect of the school for the financial year in question shall be the sum of the amounts determined in accordance with regulations 18(1) and 19.

(3) The funding authority shall consult the local education authority and the 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.

18.—(1) The funding authority shall determine an amount which—

- (a) in the case of a primary or secondary school, 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); and
- (b) in the case of a special school, is the sum of the said amounts subject to the application of the formula set out in paragraph (7).

(2) The funding authority shall determine an amount which appears to them to be equal or approximate to the amount of relevant expenditure incurred by the maintaining local education 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 funding authority shall determine an amount which is equal to the relevant percentage of the amount determined in accordance with paragraph (2).

(5) The funding authority shall determine an amount in respect of the local education 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 13(3); and for the purposes of this paragraph the expressions used in regulation 13(3) shall have the meanings assigned to them by regulation 13(5).

(6) The sum of the amounts determined in accordance with paragraphs (2), (4) and (5) may be adjusted by such amount as the funding authority are 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 local education authority in respect of the schools maintained by them occurring during or since the end of the preceding financial year; and
- (b) any significant change in the characteristics of the school occurring as aforesaid or which it appears to the funding authority will be likely to occur before the end of the financial year in question.

(7) The funding authority shall determine the amount calculated by the application of the following formula—

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

, where

E is the amount determined in accordance with paragraph (1) (a);

A, B and F represent the matters respectively denoted by those letters in regulation 21(2).

19. The funding authority shall determine—

- (a) an amount equal to the amount which would have been determined in respect of the school in accordance with regulations 14, 15 and 16 if the amount of maintenance grant for the school were to be determined under regulation 5; and
- (b) where, if the amount of maintenance grant for the school were to be so determined, an amount would have been determined in respect of the school in accordance with regulation 13(8) or (9), that amount.

Relevant date

20.—(1) Subject to regulation 25, any amount required to be determined by the funding authority under this Part shall be determined on the information available to them on the relevant date.

(2) In paragraph (1), the relevant date is such date as the funding authority may determine and different dates may be determined for different cases or classes of case.

(3) The funding authority may, in any case where they consider it appropriate to do so, redetermine the relevant date.

(4) Where—

- (a) the funding authority determine the relevant date, in respect of any school for the financial year in question, in accordance with paragraph (2); or
- (b) they redetermine the relevant date in accordance with paragraph (3), they shall notify the governing body of the school and the local education authority in writing of that fact.

(5) Where there is not available to the funding authority on the relevant date sufficient information as will, in their opinion, allow them to determine any amount referred to in paragraph (1) they may determine the amount of maintenance grant payable in respect of the school on such basis as appears to them to be fair and reasonable having regard to the information available to them on the relevant date.

(6) The funding authority shall not take into account any information made available to them after the relevant date (but before the date of their 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 this Part 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

21.—(1) This regulation applies in the case of a school which becomes a grant-maintained school after 1st April in the financial year in question.

(2) Subject to paragraph (4), where in respect of any such school the amount of maintenance grant is determined in accordance with regulation 5, the amount of maintenance grant payable in respect of the school for the financial year in question shall be apportioned in accordance with the following formula—

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

, where

A is the number of days in the financial year falling on or after the date on which the school becomes a grant-maintained school;

B is 365;

C is the amount determined in accordance with regulation 13(3);

D is the sum of the amounts determined in accordance with regulations 8, 10 (or that regulation as it has effect in accordance with regulation 12) and regulations 13(6) to (9) and 14, 15 and 16; and

F bears the value ascribed to it in the Table below according to the date on which the proposals in respect of the school were implemented—

date of implementation of the proposals 1st April-31st July	F=1.0
date of implementation of the proposals 1st August-31st December	F=1.015
date of implementation of the proposals 1st January-31st March	F=1.02

(3) Where in respect of any such school the amount of maintenance grant is determined in accordance with regulation 17, the amount of maintenance grant payable in respect 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 18(1);

G is the amount or amounts determined in respect of the school in accordance with regulation 19; and

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

(4) Where in respect of any such school which becomes a grant-maintained school pursuant to proposals published by promoters under section 49 of the 1993 Act, the amount of maintenance grant is determined in accordance with regulation 5, the amount of maintenance grant payable in respect of the school for the financial year in question shall be apportioned in accordance with the following formula—

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

, where

- A, B and F represent the matters respectively denoted by those letters in paragraph (2);
- C is the amount determined in accordance with regulation 13(3), as modified by paragraph (4) of that regulation;
- D is the sum of the amounts determined in accordance with regulations 9, 10 (or that regulation as it has effect in accordance with regulation 12) and regulation 13(6) to (9).

Adjustments

22.—(1) Without prejudice to paragraph (5) but subject to paragraphs (9) and (10), this paragraph applies where—

- (a) after determining the amount of maintenance grant payable in respect of any school for the financial year in question in accordance with this Part it appears to the funding authority that, by reason of—
 - (i) any change in the characteristics of the school,
 - (ii) any change in the level of spending by the local education authority,
 - (iii) any other change affecting the needs of the school, or
 - (iv) the level of spending by the local education authority on any matter included in accordance with regulation 4(a) of the Education (School Financial Statements) (Prescribed Particulars etc.) Regulations 1994(15) in Part 1 of the authority's statement prepared under section 42(6) of the 1988 Act for the financial year beginning in 1994 exceeding the planned level of spending on that matter included in accordance with Schedule 1 to those Regulations in Part 1 of the authority's statement prepared under section on 42(3) of that Act for that year,

the amount so payable should be revised; or

- (b) the funding authority are satisfied that their determination of the amount of maintenance grant payable in respect of any school for the financial year in question 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) In any case to which paragraph (1) applies, the funding authority 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 their determination accordingly.

(3) Subject to paragraph (4), paragraph (2) shall not enable the funding authority to revise their determination of maintenance grant so as to reduce the amount of grant payable in respect of the school concerned for the financial year in question.

(4) The funding authority may revise their determination of maintenance grant so as to reduce the amount payable where—

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

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

(6) Where the funding authority decide to redetermine the amount of maintenance grant by virtue of paragraph (5), they shall redetermine that amount by adding to it such amount as appears to them 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 or regulation 23 or 24 the funding authority revise the amount of maintenance grant payable in respect of any school for the financial year in question they shall give notice thereof to the governing body of the school and to the local education authority.

(8) A determination which has been revised in accordance with this regulation or regulation 23 or 24 may be further revised in accordance with this regulation or those regulations and may be so further revised notwithstanding that the funding authority are satisfied that the revised determination was not made in accordance with these Regulations.

(9) Where, after the funding authority have determined under this Part the amount of maintenance grant payable in respect of any school for the financial year in question, the school is transferred to a new site in the area of another local education authority (not being a relevant authority within the meaning of Part 3), the provisions of this Part shall apply for the purposes of redetermining the amount of maintenance grant payable in respect of the school for that year as if the school had not been so transferred.

(10) Where, after the funding authority have determine under Part 3 the amount of maintenance grant payable in respect of any school for the financial year in question, the school is transferred to a new site in the area of another local education authority (not being a relevant authority within the meaning of Part 3), the provisions of that Part shall continue to apply for the purposes of redetermining the amount of maintenance grant payable in respect of the school for that year as if the school had not been so transferred.

23.—(1) This regulation applies in the case of a primary or secondary school which provides full-time education suitable to the requirements of pupils within an age range which spans from between 5 and 7 years of age inclusive to between 16 and 18 years of age inclusive.

(2) Where it appears to the funding authority that the amount of maintenance grant determined in respect of a school to which this regulation applies for the financial year in question is insufficient because of the nature of such a school to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, they may after consultation with the local education authority and the governing body of the school redetermine the amount of maintenance grant payable in respect of the school for the year and revise their determination by adding such amount as appears to them to be fair and reasonable for the purpose of enabling the governing body adequately to carry out their functions with respect to the conduct of the school.

(3) Regulation 22(7) and (8) shall apply to revisions of maintenance grant under this regulation.

Schools situated in the area of a local education authority which is not the area of the former maintaining authority

24.—(1) Where a primary or secondary school is situated in the area of a local education authority which is not the area of the local education authority which maintained it immediately before it became a grant-maintained school, the funding authority may redetermine the amount of maintenance grant payable in respect of the school for the year and revise their determination by adding to or deducting from the amount so determined such sum as, having consulted the governing

body of the school and the local education authority, appears to them to be fair and reasonable in all the circumstances having regard in particular to the differences between the scheme of the former maintaining local education authority and the scheme of the local education authority in whose area the school is situated.

(2) Regulation 22(7) and (8) shall apply to revisions of maintenance grant under this regulation.

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

25.—(1) In its application for the purposes of any redetermination under regulation 22 of the amount of maintenance grant payable in respect of a school for the financial year in question, regulation 20 shall have effect subject to the following provisions of this regulation.

(2) Where the redetermination of maintenance grant under regulation 22(2) is made on one or more of the grounds specified in paragraph (1)(a) of that regulation, the funding authority may take into account for the purposes of the redetermination any information received by them after the relevant date which relates to any of the reasons for making the redetermination.

(3) Where the redetermination of maintenance grant under regulation 22(2) is made on the grounds, specified in paragraph (1)(b) of that regulation, the funding authority are satisfied that their determination was made in ignorance of, or was based on a mistake as to, some material fact, they may take into account any information received by them 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 funding authority for the purposes of redetermining grant under regulation 22(2), they may take that information into account for the purposes of making any further redetermination under that regulation.

(5) Regulation 20 shall not apply where a redetermination is made by the funding authority in accordance with regulation 22(5) and (6).

Requirements which may be attached to payment of maintenance grant

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

(2) The funding authority may determine, for the purposes of the application of section 84(1) and (2) of the 1993 Act to such governing bodies, any requirement referred to in paragraphs 2 to 4 of Schedule 3.

PART 3

MAINTENANCE GRANT—COMMON FUNDING FORMULA

Application and interpretation of Part 3

27.—(1) This Part applies for the purpose of determining the amount of maintenance grant payable in respect of—

- (a) a secondary school situated in the area of a relevant authority which became a grant-maintained school on or before 1st April in the financial year in question; or

(b) a school which is deemed to be a primary school by virtue of the Education (Middle Schools) Regulations 1980(16) but which, in the financial year in question, had, prior to a change in its character, been a secondary school whose maintenance grant was determined under this Part.

(2) In this Part—

“adjusted secondary schools total” in relation to any relevant authority means the amount determined by the funding authority under regulation 30(1);

“CFF floor” in relation to any school means the amount determined for that school under regulation 31;

“CFF share” in relation to any school means the share determined for that school under regulation 30(2); “relevant authority” means any of the following local education authorities—

- (a) The London Borough of Bromley
Calderdale Metropolitan Borough Council
Essex County Council
Gloucestershire County Council
The London Borough of Hillingdon
- (b) The London Borough of Barnet
The London Borough of Brent
Cambridgeshire County Council
The London Borough of Croydon
Cumbria County Council
The London Borough of Ealing
The London Borough of Enfield
Hertfordshire County Council
Kent County Council
The Royal Borough of Kingston upon Thames
The London Borough of Lambeth
Lincolnshire County Council
Surrey County Council
The London Borough of Sutton
Walsall Metropolitan Borough Council
The London Borough of Wandsworth
Wiltshire County Council;

“secondary schools total” in relation to any relevant authority means the amount determined by the Secretary of State under regulation 28(1);

references to grant-maintained secondary schools, except in paragraph (1), include schools referred to in paragraph (1)(b);

references to age bands are references to the age bands described, in relation to the relevant authority in question, in Schedule 4.

Secondary schools total

28.—(1) For the purposes of section 81(2) of the 1993 Act the Secretary of State shall determine for each relevant authority and in respect of the financial year in question the amount which appears to her, after consultation with the authority, to be the appropriate amount of expenditure of a recurrent nature to be incurred on grant-maintained secondary schools situated in the area of the authority and secondary schools maintained by the authority.

(2) For the purposes of paragraph (1) expenditure is “of a recurrent nature” if it is not of a class or description specified in Schedule 7.

(3) The Secretary of State shall notify the funding authority and the relevant authority of the secondary schools total determined by her in respect of that relevant authority.

Determination of amount of maintenance grant

29.—(1) The amount of maintenance grant payable for the financial year in question in respect of a school whose maintenance grant falls to be determined under this Part shall be the sum of the amount determined by the funding authority in accordance with regulation 30(2) or, where regulation 30(3) applies, regulation 30(3)(b) in respect of the school and the year and any amounts determined by them in respect of the school and the year in accordance with regulation 30(3)(c), (4)(c) and (7) to (10).

(2) Where in the opinion of the funding authority 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 funding authority to determine as the amount of maintenance grant payable for the financial year in question such amount as appears to them to be fair and reasonable having regard in particular to the relevant authority’s scheme.

30.—(1) The funding authority shall determine for each relevant authority the amount which remains (referred to in this Part as the “adjusted secondary schools total”) after deducting from the secondary schools total for the authority for that year such amount approximating to 0.2% of that total as appears to the funding authority to be appropriate for the purpose of making provision within that total for redetermining the amounts of the CFF shares of grant-maintained secondary schools situated in the area of the authority and secondary schools maintained by the authority on the grounds referred to in regulation 35(1).

(2) The funding authority shall determine for each grant-maintained secondary school situated in the area of a relevant authority and each secondary school maintained by that authority the amount of the school’s share of the adjusted secondary schools total for that authority and year obtained by dividing that total between those schools in accordance with Schedule 4.

(3) Where the amount of the CFF share for any such school is less than the CFF floor for that school the funding authority shall—

- (a) calculate the amount per pupil (within the meaning of Schedule 4) which would be required, if the amount of the CFF share of each grant-maintained secondary school situated in the area of the relevant authority concerned and each secondary school maintained by them were to be redetermined in accordance with that Schedule (but substituting for the amount per pupil referred to in that Schedule in relation to the authority the recalculated amount per pupil), to produce within the adjusted secondary schools total for the authority for the financial year in question the amount (referred to below as the

“supplementary amount”) required to permit the amount of the CFF share of each school which is less than the amount of its CFF floor or which would be less than that amount if the amount of the CFF share of each school were to be redetermined as aforesaid, to equal the amount of the school’s CFF floor, by adding a share of the supplementary amount to the amount of the school’s CFF share;

- (b) redetermine the amount of the CFF share of each grant-maintained secondary school situated in the area of the relevant authority concerned and each secondary school maintained by them in accordance with Schedule 4 but substituting for the amount per pupil referred to in that Schedule the amount calculated in accordance with sub-paragraph (a) above; and
- (c) add to the amount of the CFF share (as so redetermined) of each school which is less than the amount of its CFF floor the amount by which the latter amount exceeds the former amount.

(4) Where the amount of the secondary schools budget for any relevant authority for the financial year in question (defined in paragraph (5)) exceeds the secondary schools total for that authority and year, the funding authority shall—

- (a) determine the amount (referred to in sub-paragraph (b) below as “the increased amount”) by which that budget exceeds that total;
- (b) determine to two decimal places the percentage which the increased amount is of the secondary schools total for the authority; and
- (c) add to the amount of the CFF share for each grant-maintained secondary school situated in the area of the authority the amount obtained by multiplying the amount of that share by that percentage.

(5) For the purposes of paragraph (4) the amount of an authority’s secondary schools budget for the financial year in question is the sum for that financial year of the amounts specified in sub-paragraphs (a) to (d) below less the amount specified in sub-paragraph (e) below—

- (a) the aggregate of the amounts which the funding authority determine would be the amounts of maintenance grant in respect of all grant-maintained secondary schools situated in the area of the authority if those amounts were determined in accordance with Part 2 and regulation 11 did not apply in the case of any school;
- (b) the aggregate of the budget shares (as initially determined before the beginning of the financial year) of all secondary schools maintained by the authority;
- (c) the aggregate of the amounts which equal the relevant percentage of the budget shares referred to in sub-paragraph (b) above;
- (d) the aggregate of the amounts which it appears to the funding authority would be the amounts determined under regulation 13(3) in respect of all secondary schools maintained by the authority if those schools had been grant-maintained schools to which that regulation applies; and
- (e) where under the relevant authority’s scheme amounts for—
 - (i) pupils with statements of special educational needs,
 - (ii) in the case of Cumbria County Council only, identified pupils with special educational needs who do not have statements and in respect of whom funding is allocated other than on the basis referred to in paragraph 3(k) of Part X of Schedule 4, and
 - (iii) places in schools, other than special schools, for pupils with special educational needs,

are included in the authority's aggregated budget for that year, the aggregate of such amounts for all secondary schools in the area of the relevant authority.

(6) Where, in the case of any school whose maintenance grant for the financial year in question falls to be determined under this Part, it appears to the funding authority that regulation 11 would have applied if that grant had fallen to be determined under Part 2, they shall determine the amount which would have been determined in accordance with regulation 11 in respect of the school (referred to in paragraph (7) as "the protected amount").

(7) In any case to which paragraph (6) applies the funding authority shall add to the amount of the CFF share for the school the amount by which the protected amount exceeds the difference between the amount of that share and the CFF floor.

(8) Where, in the case of any school whose maintenance grant for the financial year in question falls to be determined under this Part, it appears to the funding authority that an amount would have been determined under regulation 13(8) or (9) if that grant had fallen to be determined under Part 2, they shall determine that amount and add it to the amount of the CFF share for the school.

(9) The funding authority shall add to the amount of the CFF share of any school which became a grant-maintained school on 1st April in the financial year in question, an amount which appears to them to be equal or approximate to that amount of the school's budget share for any financial year prior to the financial year in question in respect of which sums had neither been deducted by the maintaining local education authority in accordance with their scheme nor made available pursuant to section 36(2) of (3) of the 1988 Act, or, if made available, had not been spent by the governing body in exercise of their powers under section 36(5) of that Act.

- (a) (10) (a) The funding authority shall deduct from the amount of the CFF share of any school which became a grant-maintained school on 1st April in the financial year in question, an amount determined in accordance with sub-paragraph (b) below.
- (b) The funding authority, having consulted the former maintaining local education authority and the governing body of the school, shall determine such amount, if any, as appears to them to be fair and reasonable, in respect of any deficit incurred by the school in respect of its budget share in any previous financial year, having regard, in particular, to the following matters—
 - (i) the existence and the terms of any agreement in writing between the governing body of the school and the maintaining local education authority regarding the repayment of such deficit,
 - (ii) the existence in the relevant scheme of provision permitting schools to anticipate their budget shares for the following year in order to finance planned items of expenditure, and
 - (iii) evidence that the maintaining local education authority takes steps to reduce schools' budget shares where deficits have occurred and did not allow schools to carry over deficits from one year to the other with no planned reduction.

(11) References in paragraphs (4)(c), (7) to (10) and regulations 33(6) and 35(1) and (3)(b) to the amount of the CFF share for any school include references, where paragraph (3) applies, to the amount of that share as redetermined in accordance with paragraph (3)(b) or to the sum of that amount and the amount added to it in accordance with paragraph (3)(c), as the case may be.

CFF floor

31.—(1) A school's CFF floor shall be the amount determined by the funding authority in accordance with the following provisions of this regulation.

- (a) (2) (a) In the case of a school, other than a school referred to in paragraph (5) or (6), which was a grant-maintained school throughout the preceding financial year, the funding

authority shall determine the amount of the maintenance grant determined (or, subject to sub-paragraph (b) below, if that amount was redetermined in the preceding financial year, the amount as most recently so redetermined) under the 1994 Regulations for the school for that year—

- (i) increased by such amount as appears to the funding authority to be required, where regulation 10(1) of the 1994 Regulations applied for the purpose of determining (or redetermining) that grant, to reflect the amount which would have been determined under regulation 9(1) of those Regulations for that purpose if regulation 10(1) of those Regulations had not so applied, and
 - (ii) reduced by an amount equivalent to any amounts for pupils with statements of special educational needs; or, in the case of Cumbria County Council only, for identified pupils with special educational needs who do not have statements and in respect of whom funding is allocated other than on the basis referred to in paragraph 3(k) of Part X of Schedule 4; or for places in schools, other than special schools, for pupils who have special educational needs; included in the relevant authority's aggregated budget under their scheme as it applied in that year;
- (b) to the extent that the amount of maintenance grant referred to in sub-paragraph (a) above was redetermined as mentioned in that sub-paragraph by reason of any increase or decrease in the number of registered pupils at the school, no account shall be taken of that redetermination for the purposes of that sub-paragraph.
- (3) In the case of a school, other than a school referred to in paragraph (5) or (6), which was not a grant-maintained school at any time during the preceding financial year, the amount is the aggregate of the following amounts—
- (a) the amount of the school's budget share for the preceding financial year as initially determined (or, if that share was revised in the preceding financial year, as most recently so revised)—
 - (i) increased by the amount which it appears to the funding authority would have been the amount required to be determined for the school and that year under regulation 9(1) of the 1994 Regulations if the school had been a grant-maintained school and the relevant percentage for the purposes of that regulation (instead of the percentage determined in accordance with Schedule 1 to those Regulations) had been the percentage determined in accordance with Schedule 1 to these Regulations.
 - (ii) reduced by an amount equivalent to any amounts for pupils with statements of special educational needs; or, in the case of Cumbria County Council only, for identified pupils with special educational needs who do not have statements and in respect of whom funding is allocated other than on the basis referred to in paragraph 3(k) of Part X of Schedule 4; or for places in schools, other than special schools, for pupils who have special educational needs; included in the relevant authority's aggregated budget under their scheme as it applied in that year; and
- to the extent that the amount of the school's budget share referred to above in this sub-paragraph was revised as therein mentioned by reason of any increase or decrease in the number of registered pupils at the school, no account shall be taken of that revision for the purposes of this sub-paragraph;
- (b) the amount which it appears to the funding authority would have been the amount required to be determined for the school and that financial year under regulation 12 of the 1994 Regulations (disregarding any amount which would have been required to be determined under regulation 12(5) of those Regulations in respect of changes in the number of registered pupils at the school), if the school had been a grant-maintained school throughout that year,

apportioned, where proposals under section 12 of the Education Act 1980(17) to cease to maintain the school fall to be implemented on a date in the financial year in question, in accordance with the formula

$$R \times \frac{Q}{365}$$

where—

R is the aggregate amount determined in accordance with sub-paragraphs (a) and (b) above; and

Q is the number of days in that year which precede the date on which the authority are to cease to maintain the school.

(4) In the case of a school, other than a school referred to in paragraph (5) or (6), which became a grant-maintained school after 1st April in the preceding financial year, the sum of the amount referred to in paragraph (2), leaving out of account its apportionment under regulation 18 of the 1994 Regulations, and of the amount referred to in paragraph (3), adjusted in each case pro rata according to the date in that financial year on which the school became a grant-maintained school.

(5) Subject to paragraph (6), in the case of a school situated in the area of a relevant authority referred to in part (a) of the definition in regulation 27(2), the amount referred in regulation 25(3)(a), (b) or (c) of the 1994 Regulations calculated by the funding authority for the purpose of determining that school's CFF share under those Regulations.

(6) Subject to the following provisions of this regulation, the funding authority shall determine in respect of—

(a) all schools situated in the area of Surrey County Council, other than All Hallows School, the amount determined in respect of that school in accordance with paragraphs (2) to (4), as the case may be, but on the basis of amounts for the period 1st September to 31st March in the preceding financial year divided by 0.6 rather than on the basis of that financial year taken as a whole;

(b) All Hallows School, Surrey, £2387,000;

(c) St Anne's School, Enfield, £2203,900;

(d) Dick Sheppard School, Lambeth, £689,397;

(e) Hockerill School, Hertfordshire, £934,808;

(f) Hundred of Hoo School, Kent, £3,508,033;

(g) Axton Chase School, Kent, £2,448,599;

(h) Oakwood Park School, Kent, £1,412,563;

(i) Sittingbourne Community College, Kent, £1,923,326; and

(j) The Ridings School, Calderdale, £1,839,604.

(a) (7) (a) Where it appears to the funding authority that in the preceding financial year the maintenance grant or budget share of a school, situated in the area of a relevant authority referred to in part (b) of the definition in regulation 27(2), was determined on the basis of an incorrect estimate of the numbers of registered pupils at the school for any part of that year and that authority's scheme makes provision for adjustments to be made in relation to incorrect estimates of pupil numbers, then the funding authority shall add to the amount determined in accordance with the foregoing provisions of this regulation in respect of that school an amount calculated in accordance with sub-paragraph (b) below.

(b) The amount is an amount arrived at by—

(17) 1980 c. 20; section 12 was amended by section 31(4) of the Education Reform Act 1988 and section 229 of the Education Act 1993.

- (i) taking the number which appears to the funding authority to be the number of registered pupils at the school in each age band on the date to which the estimate relates less the estimated number of pupils in each age band on that date multiplied, in the case of all schools other than those falling within paragraph 6(a), by the proportion of the preceding year in respect of which pupil numbers were estimated (expressed as a fraction in the entry for that relevant authority in column 1 of the Table in Schedule 5);
 - (ii) multiplying the amount for each age band under (i) above by the amount set out in, whichever is appropriate of, column 2, 3, 4 or 5 for that age band and in respect of that relevant authority in the Table in Schedule 5; and
 - (iii) multiplying the sum of the amounts derived from (ii) above by the unit cost for age band 3 as shown in column 6 in the Table in Schedule 5.
- (8) The funding authority shall add to the amount determined in respect of each school by the preceding provisions of this regulation an amount calculated by—
- (a) multiplying the number of registered pupils in each age band on 19th January 1995—
 - (i) in the case of schools falling within paragraph 6(a), (f), (g) or (h), less the number of registered pupils which it appears to the funding authority were in each age band on 15th September 1994,
 - (ii) in any other case less the number of registered pupils which it appears to the funding authority were in each age band on 20th January 1994,by the amount set out in, whichever is appropriate of, column 2, 3, 4 or 5 in the Table in Schedule 5 for that age band in respect of that relevant authority, and
 - (b) multiplying the sum of the amounts derived from sub-paragraph (a) above by the unit cost for age band 3 as shown in column 6 in the Table in Schedule 5.
- (9) The funding authority shall multiply the amount determined in respect of each school in accordance with the preceding provisions of this regulation by a figure which is the sum of the amounts determined in respect of all schools to which this regulation applies in the area of the relevant authority in accordance with paragraphs (2) to (6) divided by the sum of the amounts so determined in accordance with paragraphs (2) to (8).
- (10) If the sum of the amounts determined in respect of each school in the area of a relevant authority by the funding authority in accordance with paragraph (9) is greater than the adjusted secondary schools total for that authority then the funding authority shall multiply the amount so determined in respect of each school by a figure which is the adjusted secondary schools total for that authority divided by the sum of the amounts determined in respect of each school in the area of that authority in accordance with paragraph (9).
- (11) In determining for the purposes of this regulation the number which appears to them to be the number of registered pupils at a school on a particular date, the funding authority shall include or exclude, in so far as it appears to them to be appropriate to do so, pupils permanently excluded from the school or provided with education at the school having been permanently excluded from another school which is a grant-maintained school or a school maintained by a local education authority, having regard in particular to any transfer of an amount of funding in respect of that pupil pursuant to section 262 or the 1993 Act.
- (12) The funding authority shall adjust the amount determined in accordance with the foregoing provisions of this regulation by such amount, if any, as appears to them to be fair and reasonable, having consulted the relevant authority, to take into account any transfer of an amount of funding in respect of a pupil pursuant to section 262 of the 1993 Act.

Relevant date

32.—(1) Subject to regulation 37, any amount required to be determined by the funding authority under this Part shall be determined on the information available to them on the relevant date.

(2) In paragraph (1), the relevant date is such date as the funding authority may determine and different dates may be determined for different cases or classes of case.

(3) The funding authority may, in any case where they consider it appropriate to do so, redetermine the relevant date.

(4) Where—

(a) the funding authority determine the relevant date in respect of any school for the financial year in question in accordance with paragraph (2); or

(b) they redetermine the relevant date in accordance with paragraph (3),

they shall notify the governing body of the school and the local education authority in writing of that fact.

(5) Where there is not available to the funding authority on the relevant date sufficient information as will, in their opinion, allow them to determine any amount referred to in paragraph (1) they may determine the amount of maintenance grant payable in respect of the school on such basis as appears to them to be fair and reasonable having regard to the information available to them on the relevant date.

(6) The funding authority shall not take into account any information made available to them after the relevant date (but before the date of their 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 this Part of 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.

Adjustments

33.—(1) Without prejudice to paragraph (10) but subject to paragraph (9) and regulation 36(1) and (2), where, after the funding authority have determined the amount of maintenance grant payable in respect of any school for the financial year in question, any of paragraphs (2) to (5) apply, the funding authority may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with paragraphs (6) to (8).

(2) This paragraph applies where it appears to the funding authority that the number of registered pupils at a school exceeds the number of pupils used for the purposes of determining the amount of its maintenance grant for the financial year in question, and that the relevant authority's scheme makes provision in relation to such increases in pupil numbers at a school.

(3) This paragraph applies where proposals published under section 96 or 97 of the 1993 Act to make a significant change in the character of the school fall to be implemented in the financial year in question.

(4) This paragraph applies where it appears to the funding authority that the relevant authority in whose area the school is situated have increased the amount of their secondary schools budget (within the meaning of regulation 30(5)) for the financial year in question.

(5) This paragraph applies where after determining the amount of maintenance grant payable in respect of any school for the financial year in question in accordance with this Part it appears to the funding authority that, by reason of—

(a) any change in the characteristics of the school,

(b) any other change affecting the needs of the school, or

- (c) the level of spending by the local education authority on any matter included in accordance with regulation 4(a) of the Education (School Financial Statements) (Prescribed Particulars etc.) Regulations 1994(18) in Part 1 of the authority's statement prepared under section 42(6) of the 1988 Act for the financial year beginning in 1994 exceeding the planned level of spending on that matter included in accordance with Schedule 1 to those Regulations in Part 1 of the authority's statement prepared under section 42(3) of that Act for that year,

the amount so payable should be revised.

(6) In any case to which paragraph (3) applies, the funding authority may redetermine the amount of maintenance grant payable in respect of the school for the financial year in question by adding to it the amount calculated by the formula—

$$Z \times \frac{A}{365}$$

where—

Z is the amount which equals the difference between the amount of the CFF share for the school as determined in accordance with regulation 30(2) (or, where that amount has been redetermined for the purposes of redetermining the amount of maintenance grant in accordance with regulation 35(1), that amount as so redetermined) and the amount determined in accordance with paragraph (7); and

A is the number of days in the financial year falling on or after the date on which the proposals referred to in paragraph (3) fall to be implemented.

(7) For the purposes of paragraph (6) the funding authority shall—

- (a) except where the school is situated in the area of a relevant authority referred to in sub-paragraph (b) below, redetermine the total number of funding units for the school in accordance with Schedule 4, substituting, where the proposals referred to in paragraph (3) fall to be implemented after 18th January 1996, for the estimated number of registered pupils at the school required to be determined in accordance with that Schedule the number which the funding authority estimate will be the number of registered pupils at the school on the date on which the proposals fall to be implemented;
- (b) where the school is situated in the area of Essex County Council, Kent County Council, Lincolnshire County Council, Wiltshire County Council, the London Boroughs of Brent, Ealing, Lambeth, Sutton or the Royal Borough of Kingston upon Thames, redetermine the total number of funding units for the school in accordance with Schedule 4, substituting for the number of registered pupils at the school required to be determined in accordance with paragraph 3 of the relevant Parts of that Schedule the number of such pupils which the funding authority estimate will be the number of registered pupils at the school on the date on which the proposals fall to be implemented; and
- (c) multiply the total number of funding units for the school redetermined in accordance with sub-paragraph (a) or (b) above (as the case may be) by the amount per pupil for the relevant authority in whose area the school is situated determined in relation to that authority in accordance with Schedule 4 (or, where that amount has been recalculated in accordance with regulation 30(3)(c), that amount as so recalculated) for the purposes of the initial determination of maintenance grant for the school for the financial year in question.

(8) The funding authority may redetermine the amount of maintenance grant payable in respect of the school for the financial year in question—

- (a) in any case to which paragraph (2) applies, by adding such amount as appears to them would have been payable to the school under the relevant authority's scheme, had the school been covered by the scheme, in relation to such increases;
- (b) in any case to which paragraph (4) or (5) applies, in accordance with the provisions of this Part, and

if the amount so redetermined is different from the amount previously determined, revise their determination accordingly.

(9) Where, after redetermining the amount of maintenance grant payable in respect of a school for the financial year in question under any of paragraphs (6) to (8), the funding authority further so redetermine that amount, they shall reduce that amount (as so redetermined) by such amount (if any) as seems to them to be appropriate, having regard to any redetermination of the amount of maintenance grant payable in respect of the school for the financial year in question previously made by them under any of those paragraphs.

(10) Where it appears to the funding authority that, by reason of any extraordinary circumstances, the amount of maintenance grant determined in respect of a school for the financial year in question is insufficient to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, they may redetermine the amount of maintenance grant payable in respect of the school for that year in accordance with paragraph (11).

(11) Where the funding authority decide to redetermine the amount of maintenance grant by virtue of paragraph (10), they shall redetermine that amount by adding it to such amount as appears to them 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.

(12) The funding authority shall adjust the amount of maintenance grant payable in respect of any schools for the financial year in question by such amount, if any, as appears to them to be fair and reasonable, having consulted the relevant authority, to take into account any transfer of an amount of funding in respect of a pupil pursuant to section 262 of the 1993 Act.

(13) A determination which has been revised in accordance with this regulation or regulation 34 or 35(1) may be further revised in accordance with this regulation or those regulations and may be so further revised notwithstanding that the funding authority are satisfied that the revised determination was not made in accordance with these Regulations.

34.—(1) This regulation applies in the case of a school referred to in regulation 27(1)(b).

(2) Subject to regulation 36(1) and (2), where it appears to the funding authority that the amount of maintenance grant determined in respect of a school to which this regulation applies for the financial year in question is insufficient because of the nature of such a school to enable the governing body of the school adequately to carry out their functions with respect to the conduct of the school, they may after consultation with the local education authority and the governing body of the school redetermine the amount of maintenance grant payable in respect of the school for the year by adding to it such amount as appears to them to be fair and reasonable for the purpose of enabling the governing body adequately to carry out their functions with respect to the conduct of the school.

(3) Regulations 33(13) and 36(3) shall apply to revisions of maintenance grant under this regulation.

35.—(1) Subject to regulation 36(1) and (2), where, before 1st October in the financial year in question, the funding authority are satisfied that their determination of the amount of the CFF share for any school for that 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, they may redetermine that amount in accordance with the provisions of this Part and, if the amount so redetermined is different from the amount previously determined, revise their determination and adjust the contingency amount for the relevant authority in question accordingly.

(2) Subject to regulation 36(1) and (2), where, in the case of any relevant authority, paragraph (3) applies, the funding authority shall, as soon as practicable after 1st October in the financial year in question, redetermine the amount of maintenance grant payable in respect of each school situated in the area of the authority by adding to it the amount determined in respect of the school in accordance with paragraph (5).

(3) This paragraph applies where on 1st October in the financial year in question—

(a) it appears to the funding authority that the available amount in respect of the relevant authority is less than the contingency amount in respect of that authority; or

(b) the funding authority have not redetermined—

(i) the amount of maintenance grant payable in respect of any school situated in the area of the relevant authority for that year on the grounds referred to in paragraph (1); or

(ii) the amount of the CFF share for any secondary school maintained by that authority for that year (or the sum of that amount and any amounts to be added to it in accordance with the preceding provisions of these Regulations, as the case may be) on those grounds.

(4) For the purposes of this regulation and Schedule 6—

the “available amount” means the amount which equals the difference between the contingency amount for that year and the aggregate of any amounts referred to in paragraph (3)(b) which have been redetermined on the grounds referred to in that paragraph; and

the “contingency amount” means the amount deducted from the secondary schools total for the authority for that year under regulation 30(1).

(5) For the purposes of paragraph (2) the funding authority shall determine for each grant-maintained secondary school situated in the area of the relevant authority and each secondary school maintained by that authority the amount of the school’s share of, where paragraph (3)(a) applies, the available amount, or, where paragraph (3)(b) applies, the contingency amount obtained by dividing that amount between those schools in accordance with Schedule 6.

(6) Regulations 33(13) and 36(3) shall apply to revisions of maintenance grant under this regulation as therein stated.

36.—(1) Where, after the funding authority have determined under this Part the amount of maintenance grant payable in respect of any school for the financial year in question, the school is transferred to a new site in the area of another relevant authority, regulations 33, 34 and 35 and paragraph (3) shall apply as if the school had not been so transferred.

(2) Where, after the funding authority have determined under Part 2 the amount of maintenance grant payable in respect of any school for the financial year in question, the school is transferred to a new site in the area of a relevant authority, the provisions of that Part shall continue to apply for the purposes of redetermining the amount of maintenance grant payable in respect of the school for that year as if the school had not been so transferred.

(3) Where in accordance with regulation 33, 34 or 35 the funding authority revise the amount of maintenance grant payable in respect of any school for the financial year in question they shall give notice thereof to the governing body of the school and to the local education authority.

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

37.—(1) In its application for the purposes of any redetermination under regulation 33 or 35 of the amount of maintenance grant payable in respect of a school for the financial year in question, regulation 32 shall have effect subject to the following provisions of this regulation.

(2) Where the redetermination of maintenance grant under regulation 33 is made on one or more of the grounds specified in paragraphs (2) to (5) of that regulation the funding authority may take into account for the purposes of the redetermination any information received by them after the relevant date which relates to any of the reasons for making the redetermination.

(3) Where the redetermination of maintenance grant under regulation 35(1) is made on the grounds specified therein that the funding authority are satisfied that their determination was made in ignorance of, or was based on a mistake as to, some material fact, they may take into account any information received by them 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 funding authority for the purposes of redetermining grant under regulation 33 or 35, they may take that information into account for the purposes of making any further redetermination under that regulation.

(5) Regulation 32 shall not apply where a redetermination is made by the funding authority in accordance with regulation 33(10) and (11) or (12).

Requirements which may be attached to payment of maintenance grant

38. Regulation 26 applies for the purposes of this Part as it applies for the purposes of Part 2.

PART 4

CAPITAL AND SPECIAL PURPOSE GRANTS

Capital grants

39.—(1) Subject to paragraph (2), the funding authority may pay capital grants in respect of expenditure of a capital nature of a class or description specified in Schedule 7 incurred or to be incurred by the governing body of a school.

(2) In the case of a special school which is established in a hospital, paragraph (1) shall apply only in respect of expenditure of a class or description specified in paragraph 1(d) of Schedule 7.

Special purpose grants

40.—(1) The funding authority may pay special purpose grants in respect of expenditure of any class or description specified in Schedule 8 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 funding authority 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 capital or special purpose grants

41.—(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 funding authority on governing bodies to whom payments of capital or 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 funding authority.
- (3) The funding authority may determine for the purposes of the application of section 84(1) and (2) of the 1993 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 for the purpose of assisting the funding authority to be satisfied 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 the funding authority 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 the funding authority in accordance with this regulation subject to which the payments were made is not complied with.
- (4) The funding authority may determine for the purposes of the application of that section to governing bodies to whom payments of special purpose grants are or have been made requirements as to the payment of the funding authority, if any conditions specified in the requirements are satisfied, of the whole or any part of the amount referred to in section 84(7) of the 1993 Act.

PART 5

RECOVERY OF AMOUNTS IN RESPECT OF MAINTENANCE GRANT FROM LOCAL EDUCATION AUTHORITY

Determination of amount to be recovered

42.—(1) Subject to paragraph (2) below, the total amount which the Secretary of State may recover by virtue of section 93 of the 1993 Act from a local education authority named in a determination under that section applying that section in respect of any school in relation to the financial year in question 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 local education authority by virtue of section 93 of the 1993 Act in respect of any school for the financial year in question 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 the school in relation to any previous financial year.