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STATUTORY INSTRUMENTS

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**1995 No. 936**

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

**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<sup>(1)</sup> 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—
  - (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—

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

- (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)(2) 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.

(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

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(2) 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.

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—

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

, 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<sup>(3)</sup>, 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<sup>(4)</sup> in respect of posts approved by the Secretary of State for the purpose of making grants in respect of such 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)

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

<sup>(4)</sup> 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.

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—

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

, 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<sup>(5)</sup> 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

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(5) [S.I. 1994/323](#).

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.