

**1999 No. 2020**

**EDUCATION, ENGLAND AND WALES**

**The Education (Grants in respect of Voluntary Aided  
Schools) Regulations 1999**

*Made - - - - - 25th June 1999*

*Laid before Parliament 20th July 1999*

*Coming into force 1st September 1999*

In exercise of the powers conferred on the Secretary of State by section 138(7) of, and paragraph 5 of Schedule 3 to, the School Standards and Framework Act 1998<sup>(a)</sup> and of all other powers enabling them in that behalf, the Secretary of State for Education and Employment, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Education (Grants in respect of Voluntary Aided Schools) Regulations 1999 and shall come into force on 1st September 1999.

**Interpretation**

2.—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996;

“the 1998 Act” means the School Standards and Framework Act 1998;

“associated school property” has the meaning given by regulation 4 below;

“eligible expenditure” means qualifying expenditure in respect of which the Secretary of State determines that a grant should be made in any particular case;

“market value” in relation to property means the value which that property might reasonably be expected to fetch on a sale in the open market as determined by the district valuer (within the meaning of section 622 of the Housing Act 1985<sup>(b)</sup>);

“net proceeds of disposal” means the proceeds of disposal of associated school property (other than disposal by way of the grant of a lease) less—

(a) the incidental costs of making the disposal;

(b) any expenditure incurred with the prior approval of the Secretary of State—

(i) on making or keeping the property safe or secure until disposal,

(ii) which is necessary to effect a disposal, other than the incidental costs of making the disposal, or

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<sup>(a)</sup> 1998 c. 31; see section 142(1) for the definition of prescribed.

<sup>(b)</sup> 1985 c. 68; the definition of “district valuer” was substituted by S.I. 1990/434.

- (iii) on the payment of the premiums on any policy of insurance relating to the property; and
- (c) any payments made to the local education authority pursuant to a determination by the Secretary of State under section 60(4) or 62(2) of the 1996 Act or paragraph 2(6) of Schedule 3 or paragraph 3 of Schedule 22 to the 1998 Act.

“relevant school” in the context of the making of a grant means the school or proposed school in respect of which the grant is made.

(2) For the purposes of the definition of “net proceeds of disposal” in paragraph (1) above the incidental costs of making the disposal shall consist of expenditure wholly and exclusively incurred for the purposes of the disposal being fees, commission or remuneration paid for the professional services of any surveyor, valuer, auctioneer, accountant, agent or legal adviser and the costs of transfer or conveyance together with costs of advertising to find a buyer.

(3) In these Regulations except as regards any time before 1st July 1999 references to the Secretary of State shall be construed, in relation to any school situated in Wales, as references to the National Assembly for Wales<sup>(a)</sup>.

### Amount of grant

3.—(1) Subject to regulations 5 and 6 where grant is made in respect of qualifying expenditure of any of the classes or descriptions specified in paragraph (2) below the grant shall be 85% of (A—B) where—

A is eligible expenditure; and

B is,

- (a) in a case where associated school property is disposed of by way of sale (having not been previously disposed of by way of lease), the net proceeds of disposal of such property to the extent that such proceeds have become or are expected to become available to the governing body or to the trustees of the relevant school;
- (b) in a case where associated school property is disposed of by way of lease and the rent of such property has become or is expected to become available to the governing body or to the trustees of the relevant school, the market value of such property.

(2) The classes or descriptions of qualifying expenditure referred to in paragraph (1) above are—

- (a) expenditure in respect of the provision of buildings for a school which has transferred to a new site—
  - (i) under the authority of an order made under section 47 of the 1996 Act before 1st September 1999, or
  - (ii) in circumstances where the transfer to the new site is not a prescribed alteration for the purpose of section 28(2)(b) of the 1998 Act;
- (b) expenditure in respect of the provision of a site and buildings for a school established pursuant to proposals—
  - (i) approved by the Secretary of State under section 43 of the 1996 Act (whether or not an order has also been made under section 46(2) of that Act), or
  - (ii) approved under paragraph 3 or 8 of Schedule 6 to the 1998 Act or determined to be implemented under paragraph 9 of that Schedule;
- (c) expenditure in respect of the provision of a site and buildings for a school consequent on, or necessary for the implementation of, —
  - (i) any proposals published under section 41(2) of the 1996 Act approved by the Secretary of State under section 43 of this Act; or

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<sup>(a)</sup> The National Assembly for Wales was established by section 1 of the Government of Wales Act 1998 (c. 38). All functions of the Secretary of State relevant to these Regulations are transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) with effect from 1st July 1999. Accordingly in relation to Wales references to the Secretary of State in relevant sections of, and Schedules to, the Education Act 1996 and the School Standards and Framework Act 1998 are to be construed as being, or including, a reference to the Assembly; *see* section 43 of the Government of Wales Act 1998.

- (ii) any proposals published under section 28(2)(b) of the 1998 Act to make a prescribed alteration to a school approved under paragraph 3 or 8 of Schedule 6 to the 1998 Act or determined to be implemented under paragraph 9 of that Schedule; or
  - (d) expenditure in respect of alterations (other than those referred to in sub-paragraph (a) or (c)) to the premises of the school.
- (3) In paragraph (1) above references to the proceeds of disposal or to rent becoming available to the trustees of the relevant school include cases where such proceeds or rent becomes available to the trustees by virtue of an order under section 554 of the 1996 Act<sup>(a)</sup>.

#### **Meaning of associated school property**

4. For the purposes of these Regulations associated school property is property other than a teacher's dwelling house which was used for the purposes of or in connection with a school but in consequence of the establishment of, or alteration to the relevant school, is no longer so used.

#### **Mixed trusts etc.**

5.—(1) Where the associated school property was held by a charity established for charitable purposes which are partly educational purposes and partly other purposes the value of B for the purpose of regulation 3 above shall be the proportion of the net proceeds of disposal of the associated school property or, as the case may be, its market value that is determined by the Secretary of State to be attributable to the educational purposes of the charity.

(2) Where—

- (a) the Secretary of State has made an order under section 554 of the 1996 Act relating to an endowment the assets of which are or include the associated school property or its proceeds of disposal; and
- (b) such an order makes provision for the application of part of such assets towards a religious education fund,

the value of B in regulation 3 above shall be reduced by the value of the assets constituting the religious education fund, valued at the date of the establishment of that fund, or, where associated school property is disposed of by way of sale and the fund was established before the date of the sale, at the date of completion of the sale.

#### **Supplementary**

6.—(1) Where at the time a grant is made it appears to the Secretary of State that there is associated school property in relation to the relevant school which has not at the time of making the grant been disposed of, grant shall be made either—

- (a) in accordance with regulation 3, but taking B in the formula in that regulation as the market value of the property; or
- (b) (if the Secretary of State so determines) in accordance with regulation 3, but taking B in the formula in that regulation as zero.

(2) Where paragraph (1) applies and grant was paid in accordance with paragraph (1)(a) the grant shall be made subject to a requirement that—

- (a) if and when the associated school property is disposed of by way of sale (having not been previously disposed of by way of lease); and
- (b) if the net proceeds of disposal are greater than the market value which was taken into account in determining the grant,

the governing body or, as the case may be, the relevant body repay to the Secretary of State the difference between the grant paid and the grant which would have been paid if the grant had been paid after the property had been disposed of.

(3) Where paragraph (1) applies and grant was paid in accordance with paragraph (1)(b) the grant shall be subject to a requirement that if and when the associated school property is disposed of by way of sale the governing body or, as the case may be, the relevant body repay to the

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<sup>(a)</sup> Section 554 is prospectively amended by paragraph 168 of Schedule 30 to the 1998 Act.

Secretary of State the difference between the grant paid and the grant which would have been paid if the grant had been paid after the property had been disposed of.

(4) Where—

- (a) grant was paid in accordance with the provisions of paragraph (1)(a),
- (b) the associated property is disposed of by way of sale (having not been previously disposed of by way of lease), and
- (c) the net proceeds of disposal are less than the market value which was taken into account in determining the grant,

the grant shall be re-determined after the completion of the sale in accordance with regulation 3 and further payment of grant accordingly made by the Secretary of State to the governing body, or, as the case may be, the relevant body.

#### **Revocation and Transitional Provision**

7.—(1) The Education (Grants to Aided and Special Agreement Schools) Regulations 1998(a) (“the 1998 Regulations”) are hereby revoked.

(2) For the purpose of regulation 6(4) of these Regulations any grant paid before 1st September 1999 in accordance with regulation 6(1)(a) of the 1998 Regulations shall be treated as paid in accordance with regulation 6(1)(a) of these Regulations.

22nd June 1999

*Charles Clarke*  
Parliamentary Under Secretary of State,  
Department for Education and Employment

25th June 1999

*Jon Owen Jones*  
Parliamentary Under Secretary of State,  
Welsh Office

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(a) S.I. 1998/1216.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations determine the amount of grant paid under paragraph 5 of Schedule 3 to the School Standards and Framework Act 1998 to the governing body of a voluntary aided school in respect of certain types of expenditure, or to the diocesan authority or school trustees in respect of such types of expenditure incurred on behalf of the governing body. In particular the regulations provide for the proceeds of disposal of “associated school property” (defined in regulation 4) to be taken into account.

These Regulations revoke the Education (Grants to Aided and Special Agreement Schools) 1998 and re-enact the provisions of those regulations with amendments consequential on the new framework for maintained schools contained in Part II of the School Standards and Framework Act 1998.

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