

**1999 No. 698**

**EDUCATION, ENGLAND AND WALES**

**The Education (Grant-maintained and Grant-maintained  
Special Schools) (Grants) (England) Regulations 1999**

<i>Made</i> - - - -	<i>6th March 1999</i>
<i>Laid before Parliament</i>	<i>10th March 1999</i>
<i>Coming into force</i>	<i>31st March 1999</i>

In exercise of the powers conferred on the Secretary of State by sections 244(2), 245, 246(1) and (2), 247, 257 and 569(4) and (5) of the Education Act 1996<sup>(a)</sup> the Secretary of State for Education and Employment hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Education (Grant-maintained and Grant-maintained Special Schools) (Grants) (England) Regulations 1999 and shall come into force on 31st March 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<sup>(b)</sup>;

“the 1998 Regulations” means the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1998<sup>(c)</sup>.

(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.

budget share	section 47(1) of the 1998 Act;
capital grants	section 246(1) of the 1996 Act;
financial year	section 579(1) of the 1996 Act;
maintenance grant	section 244(1) of the 1996 Act;
special purpose grants	section 245(1) of the 1996 Act.

**Revocation and savings**

3.—(1) Subject to paragraph (2) below, the 1998 Regulations and the Education (New Grant-maintained Schools) (Finance) Regulations 1998<sup>(d)</sup> are hereby revoked.

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<sup>(a)</sup> 1996 c. 56. Sections 244 to 258 apply to grant-maintained special schools and their governing bodies by virtue of regulation 23 of the Education (Grant-maintained Special Schools) Regulations 1994, S.I. 1994/653, as substituted by regulation 11 of the Education (Grant-maintained Special Schools) (Amendment) Regulations 1994, S.I. 1994/1231 and read with paragraph 1(4) of Schedule 39 to the 1996 Act. The application of sections 245, 246 and 247 has been modified by S.I. 1998/2670 and 1999/274. For the meaning of “regulations” see section 579(1) of the 1996 Act.

<sup>(b)</sup> 1998 c. 31.

<sup>(c)</sup> S.I. 1998/799.

<sup>(d)</sup> S.I. 1998/798.

(2) Paragraph (1) is without prejudice—

- (a) to the continued operation after 30th March 1999 of any requirements imposed by the Secretary of State or the funding authority on a governing body of a school situated in England to whom payments in respect of maintenance grant, capital grant or special purpose grant have been made under one or more (as the case may be) of the regulations made under section 247 of the 1996 Act<sup>(a)</sup>; or
- (b) to the imposition after 30th March 1999, under section 247(1) of the 1996 Act, on a governing body of a school situated in England to whom any payments in respect of maintenance grant, capital grant or special purpose grant have been made on or before that date, of requirements—
  - (i) specified in the regulations referred to in sub-paragraph (a) above as requirements which may be imposed by the funding authority on governing bodies to whom such payments are made, or
  - (ii) determined in accordance with those regulations by the funding authority.

### **Capital grants**

4.—(1) Subject to paragraph (2) below, the Secretary of State may, on or after 1st April 1999, pay capital grants in respect of expenditure of a capital nature of a class or description specified in Schedule 1 to these Regulations incurred or to be incurred by the governing body of a grant-maintained or grant-maintained special school situated in England.

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

### **Special purpose grants**

5.—(1) The Secretary of State may, on or after 1st April 1999, pay special purpose grants in respect of expenditure of any class or description specified in Schedule 2 to these Regulations incurred or to be incurred by the governing body of a school which is, or was immediately before 1st September 1999, a grant-maintained or grant-maintained special school situated in England, in respect of any expenses so specified being expenses which it appears to the Secretary of State the governing bodies of such schools cannot reasonably be expected to meet from the schools' budget shares.

(2) Special purpose grants may be paid on a regular basis in respect of expenditure of a recurrent kind or by reference to expenditure incurred or to be incurred on particular occasions or during any particular period.

### **Requirements which may be attached to payment of special purpose grants(b)**

6.—(1) The requirements set out in paragraph (2) below are specified as requirements which may be imposed by the Secretary of State on governing bodies to whom payments of special purpose grants are or have been made, whether by him or by the funding authority.

(2) The requirements referred to in paragraph (1) above 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;
- (b) a requirement that such a payment shall be so applied before a date specified by the Secretary of State; and
- (c) a requirement that any such payment shall be repaid to the Secretary of State in whole or in part if any assumption on the basis of which it was paid has, in the opinion of the Secretary of State, proved to be incorrect.

(3) The Secretary of State may determine for the purposes of the application of section 247(1) and (2) of the 1996 Act to such governing bodies as are referred to in paragraph (1) above—

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- (a) The relevant Regulations are S.I. 1989/1287, 1990/549 (amended by 1990/2279 and 1991/353), 1991/353, 1992/555 (amended by 1992/1095), 1993/568 (amended by 1993/843), 1994/938, 1994/2111, 1995/936 (amended by 1995/1554), 1996/889, 1997/956, 1997/996, 1998/798 and 1998/799. See the effect of paragraphs 1(3) and 2(1) of Schedule 39 to the 1996 Act.
  - (b) Under section 247 of the 1996 Act, as modified by S.I. 1998/2670, requirements imposed by the Secretary of State in relation to capital grant are not required to be specified in Regulations.

- (a) any requirement referred to in Schedule 3 to these Regulations (requirements as to accounts and financial affairs);
  - (b) any requirement formulated for the purpose of assisting the Secretary of State to be satisfied that a requirement imposed in accordance with paragraph (2) above 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 Secretary of State may require in order to verify the same; and
  - (c) any requirement as to the repayment, in whole or in part, to the Secretary of State of payments made to the governing body in respect of such grant if any other requirement imposed by the Secretary of State in accordance with this regulation subject to which the payments were made is not complied with.
- (4) The Secretary of State may determine for the purposes of the application of that section to such governing bodies as are referred to in paragraph (1) above, requirements as to the payment to the Secretary of State, if any conditions specified in the requirements are satisfied, of the whole or any part of the amount referred to in section 247(7) of the 1996 Act.

6th March 1999

*Estelle Morris*  
Minister of State,  
Department for Education and Employment

## SCHEDULE 1

Regulation 4

### EXPENDITURE OF A CAPITAL NATURE

1. Expenditure of a capital nature is expenditure on, or in connection with—
  - (a) the acquisition, reclamation, improvement or laying out of any land;
  - (b) the acquisition, construction, enlargement, improvement, repair or demolition of any building, wall, fence or other structure, or any playground or other hard-standing;
  - (c) the laying out of playing fields and other facilities for social activities and physical recreation; or
  - (d) the acquisition, installation or replacement of any furniture, plant, machinery, apparatus, vehicles, vessels and equipment,used or intended to be used for the purposes of a school.
2. In paragraph 1 “building” includes any fixtures and fittings affixed to a building.

## SCHEDULE 2

Regulation 5

### EXPENDITURE IN RESPECT OF WHICH SPECIAL PURPOSE GRANTS MAY BE PAID

1. The expenditure in respect of which special purpose grants may be paid is expenditure in respect of expenses which it appears to the Secretary of State the governing bodies of schools referred to in regulation 5 cannot reasonably be expected to meet from the schools’ budget shares being expenses incurred or to be incurred for or in connection with—
  - (a) any costs incurred by the school in respect of Value Added Tax;
  - (b) insurance of the school premises under a contract entered into before 1st February 1999;
  - (c) meeting any urgent need of the school in respect of which the funding authority paid special purpose grant under paragraph 2(c)(v) of Schedule 6 to the 1998 Regulations in the financial year commencing on 1st April 1998;
  - (d) providing special facilities for pupils with behavioural difficulties in respect of which the funding authority paid special purpose grant under paragraph 2(a) of Schedule 6 to the 1998 Regulations in the financial year commencing on 1st April 1998.
2. The expenses referred to in paragraph 1(c) and (d) above must be incurred in the financial year commencing on 1st April 1999.

## SCHEDULE 3

Regulation 6

### REQUIREMENTS WHICH MAY BE ATTACHED TO PAYMENT OF SPECIAL PURPOSE GRANTS

1. Requirements with respect to the maintenance of records and accounts and the furnishing to the Secretary of State of such information, documents, returns and accounts as he may from time to time require.
2. Requirements as to the audit and inspection of records and accounts referred to in paragraph 1 above, including, in particular, requirements as to the inspection of accounts and supporting records by the Comptroller and Auditor General.

## **EXPLANATORY NOTE**

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

These Regulations revoke the Education (Grant-maintained and Grant-maintained Special Schools) (Finance) Regulations 1998 and the Education (New Grant-maintained Schools) (Finance) Regulations 1998. There are savings regarding the requirements that have been, or may be, imposed on governing bodies of schools to whom any payments in respect of maintenance grant, capital grant or special purpose grant have been made.

In addition these Regulations make provision for the payment by the Secretary of State of capital grants in respect of expenditure incurred by the governing body of a grant-maintained or grant-maintained special school. This is expenditure of a class or description specified in Schedule 1 to the Regulations and is of the same nature as provided for under the revoked Regulations.

The Regulations also make provision for the payment by the Secretary of State of special purpose grants in respect of expenditure incurred by the governing body of a grant-maintained or grant-maintained special school, or a former such school. This is expenditure of a class or description specified in Schedule 2 to the Regulations and differs from that provided for under the revoked Regulations.

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